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CONGRESSIONAL RECORD:

Part 3
2076
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CONTAINING

THE PROCEEDINGS AND DEBATES

OF THE

FORTY-FOURTH CONGRESS, SECOND SESSION.

VOLUME V, part 3

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CONGRESSIONAL RECORD AND APPENDIX.

FORTY-FOURTH CONGRESS, SECOND SESSION.

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CONGRESSIONAL RECORD AND APPENDIX.

FORTY-FOURTH CONGRESS, SECOND SESSION.

that the House be notified that the Senate has determined the objection and is ready to meet the House in joint meeting.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Secretary will execute the order of the Senate.

CREDENTIALS.

Mr. HARVEY presented the credentials of Preston B. Plumb, elected by the Legislature of Kansas a Senator from that State for the term beginning March 4, 1877; which were read and ordered to be filed.

ORDER OF BUSINESS.

Mr. SHERMAN. I ask unanimous consent of the Senate to allow me now to report a bill, with a view to have it printed.

The PRESIDENT *pro tempore*. The Chair cannot entertain any business.

Mr. SHERMAN. Not by unanimous consent?

The PRESIDENT *pro tempore*. No legislative business can be transacted until the commission resumes its session, or the count is concluded.

PERSONAL EXPLANATION.

Mr. DORSEY. Mr. President, I ask unanimous consent to make a brief statement. I was unexpectedly called away yesterday about the beginning of the session, hoping to be able to return before the vote was taken upon the question involving the count of the vote of Louisiana, but unfortunately I was not able to get back. Had I been here I should have voted to sustain the action of the commission.

MESSAGE FROM THE HOUSE.

At five o'clock and thirteen minutes p. m. Mr. G. M. ADAMS, Clerk of the House of Representatives, appeared below the bar and said:

Mr. President, I am directed by the House of Representatives to inform the Senate that the House has passed the following:

Whereas the fact being established that it is about twelve years since the alleged ineligible elector exercised any of the functions of the office of United States commissioner, it is not sufficiently proven that at the time of his appointment he was an officer of the United States: Therefore,

Resolved, That the vote objected to be counted.

Mr. ALLISON. I move that the Senate proceed to the House of Representatives.

The PRESIDENT *pro tempore*. The Chair will observe that the House has given the Senate no notice of its readiness to receive it.

Mr. HAMLIN. Well, we are ready to go.

Mr. SARGENT. They have resolved that the vote ought to be counted; and of course the joint meeting proceeds at once.

The PRESIDENT *pro tempore*. At the suggestion made, the Senate will repair to the House of Representatives.

The Senate (at five o'clock and fourteen minutes p. m.) accordingly proceeded to the Hall of the House of Representatives.

The Senate returned to its Chamber at five o'clock and forty-six minutes p. m., and the President *pro tempore* resumed the chair.

ELECTORAL VOTE OF NEVADA.

The PRESIDENT *pro tempore*. The Senate having withdrawn from the joint meeting on objection being submitted to the certificate from the State of Nevada, the Chair will lay the objection before the Senate to be read by the Secretary.

The Secretary read as follows:

The undersigned, Senators and Representatives, object to the vote of R. M. Daggett, as an elector from the State of Nevada, upon the grounds following, namely:

That the said R. M. Daggett was on the 7th day of November, 1876, and had been for a long period prior thereto, and thereafter continued to be a United States commissioner for the circuit and district courts of the United States for the said State, and held therefore an office of trust and profit under the United States, and as such could not be constitutionally appointed an elector under the Constitution of the United States:

Wherefore the undersigned say that the said R. M. Daggett was not a duly appointed elector and that his vote as an elector should not be counted.

And the undersigned hereto annex the evidence taken before the committee of the House of Representatives on the powers, privileges, and duties of the House, to sustain said objection.

W. H. BARNUM, Connecticut;
WM. A. WALLACE, Pennsylvania;
FRANK HEREFORD, West Virginia;
Senators.

J. R. TUCKER, Virginia,
JOHN L. VANCE, Ohio,
WM. A. J. SPARKS, Illinois,
JOHN S. SAVAGE,
LEVI MAISH,
G. A. JENKS,
WM. M. SPRINGER,
Representatives.

The PRESIDENT *pro tempore*. What is the pleasure of the Senate?

Mr. COCKRELL. Is there any evidence accompanying the objection?

The PRESIDENT *pro tempore*. There is testimony accompanying the objection, and it was not read in the joint meeting.

Mr. COCKRELL. Let it be read here.

The Secretary proceeded to read the testimony, and before concluding was interrupted by

Mr. ALLISON. As we have the substance of this witness's statement now, I ask unanimous consent to waive the reading of the remainder of this paper.

Mr. INGALLS. With the understanding that the whole shall be printed in the RECORD.

The PRESIDENT *pro tempore*. Is there objection to the further reading being dispensed with? The Chair hears none.

Mr. CRAGIN. I would like to inquire who is the gentleman who examines this witness as appears by this record?

The PRESIDENT *pro tempore*. The Chair is informed that the examination was conducted by different members of the House, Mr. FIELD, Mr. BURCHARD, and others. The further reading will be dispensed with, unless there be objection.

Mr. DAVIS. With the understanding that the whole paper shall be printed in the RECORD.

The PRESIDENT *pro tempore*. The understanding is that it be printed in full in the RECORD.

Mr. MCMILLAN. I desire to ask whether there is any authentication to what purports to be testimony taken before the House committee attached to this objection?

The PRESIDENT *pro tempore*. None.

The testimony is as follows:

COMMITTEE ON PRIVILEGES,
Washington, February 9, 1877.

R. M. DAGGETT sworn and examined.

By Mr. TUCKER:

Question. Were you a candidate for the office of presidential elector in the State of Nevada at the presidential election in November, 1876?

Answer. I was.

Q. Were you present in the college at the time of the vote for President and Vice-President?

A. Yes.

Q. Did you cast a vote for President and Vice-President?

A. I did.

Q. For whom did you vote?

A. I voted for Hayes and Wheeler.

Q. Mr. Hayes for President and Mr. Wheeler for Vice-President?

A. Yes, sir.

Q. Are you the messenger who brought the vote to Washington by the appointment of the college?

A. I am.

Q. Did you hold any office under the United States prior to the election?

A. Yes.

Q. What office was that?

A. I was clerk of the Federal courts, the district and circuit courts of the State of Nevada.

Q. When were you appointed?

A. I think in 1868.

Q. Was that under the State government?

A. Yes. Nevada became a State in 1864, I believe.

Q. Do you hold that office now?

A. I do not.

Q. Who holds that office?

A. I think it is a man named McLean.

Q. When was he appointed?

A. I don't know exactly when he was appointed.

Q. By whom were you appointed?

A. I was appointed first by Associate Justice Field, of the circuit court, and subsequently by Judge Sawyer, of the circuit court, and by Judge Hillyer, for the district.

Q. The appointment was made not by the judge, but by the court; was it not?

A. Made by the judge.

Q. In court?

A. No; I believe not. It may have been.

Q. Where were you when you received the appointment?

A. I was in Virginia City, for the circuit court.

Q. How was the appointment notified to you?

A. It was sent to me by mail.

Q. Did you appear in court and take the oath and give the bond required by law?

A. Yes, sir; subsequently.

Q. You were the keeper of the records of the court; was not your appointment made a matter of record in that court?

A. I presume so.

Q. And your qualification was also entered upon the record?

A. Yes, sir.

Q. When did you cease to be the clerk of the court or cease to perform its duties?

A. I ceased on the 6th day of November, the day before the election.

Q. What made you cease to perform its duties?

A. Because it was a question in my mind whether I would be eligible as an elector if I continued to hold the office, and I therefore resigned.

Q. How did you resign?

A. I resigned by telegraph.

Q. A telegram to whom?

A. To Judge Sawyer, in San Francisco, and also to Judge Hillyer, in Carson. I was then living in Virginia City.

Q. Where is Virginia City?

A. It is about twelve miles from Carson.

Q. Carson is the capital where the Federal court holds its sessions?

A. Yes, sir.

Q. Where is the telegram which you sent to either of those judges?

A. I do not know. It is not with me. I did not bring it.

Q. Have you a copy of the telegram?

A. I think not.

Q. Who has? To whom did you send it?

A. I sent it to Judge Sawyer.

Q. Directed to what point?

A. To San Francisco.

Q. Does he live in San Francisco?

A. Well, he is judge of the district comprising those three States, California, Nevada, and Oregon.

Q. Does he reside in San Francisco?

A. Most of the time.

Q. You say you sent a telegram to another judge. Whom?

A. Judge Hillyer, of Carson, the district judge.

Q. And you have no copy of that telegram?

A. I have not. I did not think of saving it.

Q. Did you ever receive an answer to that telegram?

A. I received an answer from Judge Sawyer the same day, about an hour afterward.

Q. Where is that telegram?

A. I left it in Virginia City. I did not think of bringing it; I believe I have it.

Q. Why did not you bring it?

A. Well, I did not know that there would be any question about it.
Q. Did not you know what you were sent for?
A. I was only subpœnaed here two or three days ago.

By Mr. FIELD:

Q. You telegraphed Judge Sawyer on the 6th of November?
A. Yes, sir.
Q. Can you not give the exact words of the telegram?
A. I think I can.
Q. Give the exact words, then.
A. I think the telegram read this way: "Honorable Alonzo Sawyer, San Francisco: I have this day filed my resignation as clerk of the circuit court of the ninth circuit, and request the acceptance of my resignation." I, at the same time that I sent that telegram to Judge Sawyer, sent to Carson my resignation.
Q. No, don't say you sent your *resignation*. I am only asking about the telegram to Judge Sawyer; have you given the whole of that?
A. Yes, sir. I think that is about the substance of it, and I think pretty nearly the words.
Q. You received from him an answer?
A. Yes, sir.
Q. On the same day, about an hour afterward?
A. An hour or two afterward.
Q. That you have got, I suppose?
A. I think it is among my papers in Virginia City.
Q. Do you remember the exact words of that?
A. Pretty nearly.
Q. Give them.
A. "Your resignation as clerk of the circuit court is accepted. Alonzo Sawyer."
Q. Have you ever had any other communication with Judge Sawyer on the subject?
A. I have not.
Q. You have never written him?
A. I never have.
Q. Nor received a letter from him?
A. Never.
Q. You did not send to him a copy of your written resignation?
A. By telegraph?
Q. No. You say you wrote something; you did not send him a copy of that?
A. No. Do you mean send it by mail?
Q. Yes, or any way?
A. I did send it.
Q. How?
A. I sent it to Carson the same day.
Q. I am talking about Judge Sawyer. Did you send to Judge Sawyer any copy or any paper?
A. Yes.
Q. What did you send him?
A. My resignation.
Q. In what form?
A. In the usual form of resignations.
Q. You sent him a copy of your written paper?
A. My written paper; my resignation, you mean?
Q. Yes; don't you understand me? Did you send Judge Sawyer anything in the world but the telegram?
A. Yes.
Q. What else?
A. I sent him my resignation.
Q. You mean a written paper?
A. Yes, sir.
Q. Did you send him the original that was filed, or a copy?
A. I sent him the original; I only made one.
Q. You made one; then you did not file it?
A. I sent it down to be filed.
Q. You sent it to him to file, by mail?
A. I did not send it to San Francisco.
Q. Where did you send it?
A. I sent it to Carson.
Q. Now, I think I got an answer. Did you send anything to Judge Sawyer?
A. Yes.
Q. What?
A. I sent that resignation.
Q. That paper?
A. Yes.
Q. To Judge Sawyer, at San Francisco?
A. I did not say that I did send it to San Francisco.
Q. Well, he was there, was he not?
A. He was there that day, I think.
Q. Then that day did you send it? Did you send it to San Francisco the next day?
A. I did not send it to San Francisco.
Q. At all?
A. Not at all.
Q. Did you ever send the original paper anywhere?
A. Yes.
Q. Where did that go?
A. To Carson.
Q. How did you send that?
A. I sent it by mail.
Q. You mailed it in Virginia City direct to Carson, did you?
A. Yes, sir.
Q. When did you mail it in Virginia City?
A. I mailed it on the 6th.
Q. What time, or hour, on the 6th?
A. Along about eleven o'clock in the day.
Q. When did the next post leave Virginia City for Carson?
A. At about half past two in the afternoon.
Q. You say you telegraphed to Judge Hillyer?
A. Yes, sir.
Q. Have you that telegram?
A. They were very much alike, except the change of the name.
Q. As near as you can remember, were they exactly the same?
A. Yes, sir; precisely the same, with such changes as there would necessarily be in telegraphing to a different person.
Q. Did you receive an answer from him?
A. I did not.
Q. He never answered you at all?
A. No.
Q. By letter or telegraph?
A. No.
Q. Has the circuit court ever been in session since that time?
A. Yes.
Q. When?
A. On the 6th of November.
Q. In session where?
A. In Carson City.
Q. Were you there?
A. I was not.
Q. When were you, next after the 6th of November, in the court?
A. I have not been there since.
Q. Personally, therefore, you do not know who transacted the business, as clerk, in the circuit court on the 7th day of November?
A. I do not.
Q. Did you yourself give any directions about the business of the court to be transacted on that next day?
A. I did not.
Q. Have you ever since?
A. I have not.
Q. Who is doing the business of the clerk?
A. There is a clerk there, Mr. McLean; I have forgotten his first name.
Q. Do you know whether he has been appointed by the circuit court?
A. Yes; I am certain he has.
Q. Well, you understand that he has?
A. Yes, sir.
Q. When was he appointed?
A. That I do not know exactly.
Q. What month?
A. O, he was appointed in November.
Q. Do you know that?
A. Yes.
Q. You know that.
A. Well, I do not *know* it, because I never saw the appointment.
Q. And you have never seen any record of his appointment?
A. No, I never have.
Q. Was Mr. McLean your deputy?
A. No, he was not.
Q. Did your deputy make the entries and keep the minutes of the court until Mr. McLean took possession of the office?
A. I presume he did; I do not know. I never was there afterward.
Q. Did you make any communications to him?
A. I did not.
Q. Where is the paper that you call your written resignation?
A. It must be on file in Carson, in the clerk's office.
Q. That is to say, as far as you know?
A. So far as I know.
Q. Give the language, as near as you can, of that written paper which you call your resignation?
A. I think it was addressed to Judge Sawyer, and ran about in this style: "Having been nominated a presidential elector, I hereby tender my resignation as clerk of the circuit court, ninth circuit, and trust the resignation may be immediately accepted." I think that is about the purport of it.
Q. You inclosed that in an envelope, did you?
A. Yes.
Q. Directed to whom?
A. To Judge Sawyer.
Q. At Carson City?
A. At Carson City.
Q. It was sealed up, directed to Judge Sawyer, and put into the mail?
A. Yes.
Q. Judge Sawyer was then in San Francisco?
A. Yes; he was then in San Francisco.
Q. Do you know of your own knowledge that Judge Sawyer has ever been in Carson City since?
A. Yes.
Q. Were you there?
A. I was not.
Q. Do not you know what I mean by your own knowledge? Did you see him?
A. No, I did not see him.
Q. Very well; you do not know of your own knowledge that he has ever been there since?
A. Not by seeing him.
Q. That is your knowledge. You do not know, then, of your own knowledge that Judge Sawyer ever saw that package or letter?
A. I do not.
Q. You do not know of your own knowledge that it is not now in the post-office?
A. I do not.
Q. Have your accounts as clerk ever been settled?
A. Yes; I think so.
Q. You think so; do you know?
A. I did not attend to the business much; my deputy always did it.
Q. What deputy?
A. Mr. Edwards.
Q. Is he still there?
A. He is in Carson.
Q. Is he still in the office of the clerk?
A. I do not know.
Q. Do you know whether he has ever been out of it?
A. I do not know; I presume he was out of it after I resigned.
Q. Do you know that he was ever out of it? Were you there? Do you know whether he did not attend in court every day and transact business?
A. I do not of my own knowledge.
Q. Did not you as clerk receive money to be deposited to your credit in bank?
A. Frequently.
Q. In what bank?
A. I have forgotten where the deposits were made. We shifted them around quite often.
Q. In different banks?
A. Yes, sir.
Q. Give us the names of some of them?
A. The Bank of California and Wells, Fargo & Co.
Q. What amount of money had you standing in your name or to your credit as clerk of the circuit court of the United States?
A. I think not a dollar.
Q. It had all been previously paid out?
A. Yes.
Q. Paid out for what purposes?
A. Paid out in the regular course of business.
Q. You think there were no moneys on deposit to your credit as clerk at that time?
A. I think not; I am not positive.
Q. Has your bond ever been discharged?
A. Not that I know of.
Q. I repeat now what I asked you before: have your accounts as clerk to your knowledge ever been settled?
A. We made our quarterly settlement.
Q. That is not an answer to my question.
A. You mean since that time.

Q. Have your accounts ever been finally settled?
A. Well, I do not know that there was any accounts to settle.
Q. You received fees?
A. I received fees.
Q. And you were paid through fees?
A. Paid through fees.
Q. Up to a certain amount, or all the fees?
A. Up to a certain amount.
Q. Very well, then, there must have been, of course, an account to be kept of the amount of fees received, and so far as they exceeded the limit you paid them over to the Treasury, didn't you?
A. I should have done so had they ever exceeded the amount.
Q. When were your periodical accounts regularly settled?
A. They were settled semi-annually.
Q. In what months?
A. In June and December, the 31st.
Q. Then you settled an account on the 31st of June, 1876?
A. Yes.
Q. Have you ever settled an account since?
A. I have not.
Q. Could you state, if you were asked, the items on different sides of the account?
A. O, no; I could not.
Q. Have you ever had any communication with Mr. Edwards since the 6th of November?
A. I have not; I have never been in Carson since but once; that was at the meeting of the college, and I did not see him.
Q. Did you have any communication with him on the 6th of November?
A. No, sir; I was in Virginia City.
Q. When first after the 6th of November did you visit Carson City?
A. Not until the meeting of the college.
Q. That was on the 6th of December?
A. I think so.
Q. In what business have you been engaged since?
A. Well, I am in the mining business principally, and always have been.
Q. Do you say that the circuit court has been in session since the 6th of November?
A. Yes.
Q. Was it not the district court?
A. The circuit court was in session also.
Q. Are you sure?
A. I am pretty positive.
Q. What are the times for the meeting of the circuit court in Nevada?
A. I don't remember just now; they made some changes, I think, in the last Congress.
Q. As the law stood on the 1st of November, what was the time for the meeting of the court; not the district, but the circuit court?
A. My opinion is that the circuit court was to meet on the 6th of November. That is my impression now and that is what I thought at the time.
Q. Your impression from what?
A. From the law. The first Monday, I think, in November.
Q. You can easily tell, can you not, by looking at the law?
A. Yes, I can tell.
Q. I wish you would tell us, then, before you leave the city.
A. I will do so.

By Mr. TUCKER:

Q. You did not file the paper that you call your resignation in the clerk's office on the 6th of November?
A. I transmitted it for filing, or rather to the judge.
Q. To Judge Sawyer, at Carson?
A. Yes.
Q. He was that day at San Francisco?
A. I understood that he was.
Q. Well, you got a telegram from him from there?
A. Yes.
Q. How long would it take Judge Sawyer to come by the quickest route from San Francisco to Carson?
A. Twenty hours, I believe.
Q. Coming by steamer?
A. No; by rail.
Q. You do not know when he did come?
A. I do not.
Q. Then if he had left San Francisco on the 6th, he would not get to Carson until what time?
A. He could have got there on the 7th.
Q. What time on the 7th?
A. It would have been along in the evening.
Q. When you communicated with the judges as you say, on the 6th, did you communicate to your deputy, Edwards, that you were no longer clerk of the court?
A. I did not.

By Mr. BURCHARD:

Q. You did not exercise the duties of the clerk since the time of your telegram?
A. I have not.
Q. And they have been performed, as I understand, by a successor appointed by the court?
A. Yes, sir.
Q. Your recollection is, that the district and the circuit court were then in session that day at Carson City?
A. I believe that was the day fixed for it.
Q. Where do I understand you to say Judge Sawyer was?
A. He was in Carson.
Q. Is there a railroad from Virginia City to Carson?
A. Yes, sir.
Q. How far is it in time by rail?
A. Well, the railroad is a little long and pretty crooked, about twenty-four miles; they make it generally in about two hours and a half, sometimes at little less.
Q. The telegram was sent at what time to Judge Hillyer?
A. I think along about noon some time.
Q. You did put your resignation in the mail before the hour of sending the mail from Virginia City to Carson?
A. Yes, in order that it might reach there on that day, the 6th.
Q. Do you remember whether the envelope was addressed to your deputy, or a clerk, or to the judge himself?
A. It was addressed to the judge himself.
Q. And you sent a resignation to each judge, if I understand?
A. To each.

By Mr. FIELD:

Q. Not a written paper to each?
A. Yes, I sent a resignation to each?
Q. The telegram, you said, you sent to each?
A. I sent the resignation also.

By Mr. BURCHARD:

Q. Then you sent a resignation to each of the judges through the mail on the 6th?
A. Yes, and at the same time I telegraphed them that I had so sent it.
Q. And Judge Hillyer was then, as I understand, holding court at Carson City?
A. The circuit court, I think, was to meet.

By Mr. MAISH:

Q. He was the district judge?
A. Yes, sir; but I had understood that Judge Sawyer was in San Francisco. I had learned it from some source and therefore telegraphed to him there.

By Mr. BURCHARD:

Q. In the absence of the circuit judge who holds the circuit court?
A. The district judge.

By Mr. FIELD:

Q. Let me see if I understand you about this resignation directed to the district judge. Did you send exactly the same paper to the district judge that you had sent the circuit judge?
A. Not the same paper.
Q. Was it a copy of the same paper?
A. Pretty nearly.
Q. Can you give the contents of the paper?
A. A moment ago I gave it, and the other was pretty nearly a copy of it, with the exception of such changes as would necessarily be made.
Q. Did you put that in an envelope directed to somebody?
A. I did.
Q. How was it directed?
A. To Judge Hillyer.
Q. Give the direction altogether?
A. "Hon. E. W. Hillyer, U. S. District Judge, Carson City."
Q. Was the inside also directed in the same way to Judge Hillyer?
A. Yes.
Q. With the same designation of office and everything else as in the other?
A. Yes.
Q. You do not know whether he ever received that letter or not?
A. I think he told me he had received it.
Q. That is not evidence; do you *know* it in any way?
A. O, no.
Q. You think that he afterward told you he had received it?
A. Yes, in Virginia City.
Q. When do you think he told you?
A. Well, probably a week after, or possibly two weeks.
Q. You do not know that Judge Hillyer was in Carson City on the 6th or 7th of November, do you? *Knowledge* is what I ask for.
A. I was not there.
Q. Well, you do not *know* then in any way that they were received, either of them?
A. That seems to be the kind of information you want. I do not.
Q. And if he did receive that letter to him, you do not know when he received it?
A. Of course not; I don't know that he received it at all unless I take his word for it.
Q. And you have no information of his having received it within two weeks?
A. What kind of information?
Q. From him?
A. I tell you, I thought he told me so.
Q. Within two weeks he told you that he had received it; that was the information, was it not?
A. Yes, sir. He talked about sending the bankruptcy letters down—they were in Virginia City; that is the reason I happened to be there. He said he would send Mr. McLean up and remove the bankruptcy records. They had been in Virginia City for seven years and I had been attending to that branch of the business.

By Mr. TUCKER:

Q. In your possession?
A. In my possession.

By Mr. FIELD:

Q. And remained in your possession until when?
A. They were locked up until Mr. McLean came up two or three days afterward.
Q. They remained in your possession until two or three weeks after?
A. No, not so long.
Q. For how long?
A. Well, some days.
Q. Some days after the 7th of November they remained in your possession?
A. Yes, sir.
Q. And then you gave them up?
A. Yes.
Q. Were those records locked up on the 6th of November?
A. Yes, they were always locked up.
Q. Did they remain locked—had they been touched?
A. Not that I know of.
Q. Who had charge of them?
A. I had.
Q. Nobody else under you?
A. Mr. Strother, the register in bankruptcy, had an office in the same place, and sometimes he had access to the documents.
Q. Was that bankruptcy business going on all the time from the 6th of November to the 6th of December?
A. It was not. There was no work done in the office or in any part of the office.
Q. Where was that bankruptcy business going on?
A. It was not going on at all.
Q. There was none?
A. There was none.
Q. But Mr. Strother remained there, did he not?
A. He was a register in bankruptcy in the same office.
Q. And he was there all the time?
A. Not all the time.
Q. Well, he was off and on?
A. Off and on.
Q. From the 6th until the present time?
A. Yes, sir.
Q. Was he kept in office by Mr. McLean?
A. He is a register in bankruptcy, appointed by the judge.

By Mr. TUCKER:

Q. When did you mail your letter to Judge Hillyer?
A. I mailed it about the time I sent the dispatch, or pretty soon afterward.
Q. What time did you send the dispatch?
A. Somewhere about twelve o'clock, between eleven and one sometime.

Q. When did the mail leave Virginia City for Carson?
A. I think there are two mails; one in the morning and one at two-thirty p. m. or at one-thirty; I am not sure which—along in the afternoon.

By Mr. BURCHARD:

Q. Is there any special provision of law in regard to the appointment of district or circuit clerk in Nevada?
A. No.
Q. Nothing but the general provision that the clerk shall be appointed for each district court by the judge thereof, and that the clerk shall be appointed for the circuit court by the circuit judge of the same?
A. Yes.
Q. Your appointment was made by the judge?
A. Yes.

By Mr. LAWRENCE:

Q. Did you put on to the two letters that you sent to Carson City the proper postage-stamps?
A. Yes.
Q. What time would those letters reach Carson in the ordinary course of the mail?
A. They ought to have reached there along in the evening of the 6th, about five or six o'clock.
Q. Did the fees of the office or either of your offices ever exceed the limits fixed by law?
A. No. I lost $500 a year running the office for eight years.
Q. At the time you resigned was there any excess of fees above the limit prescribed by law?
A. O, no.
Q. You would owe the Government nothing, then?
A. O, no.

By Mr. BURCHARD:

Q. What do you mean?
A. Well, there was nothing in the office. I had to pay the rent—the Government did not, that is what was the matter—and I kept it on to accommodate a deputy.

By Mr. MCLEAN:

Q. You have spoken of the time of mailing those letters; are you certain you mailed them in time for the evening mail on the 6th?
A. That was my purpose in putting them in; I presumed so at the time; I did not doubt it at the time; exactly at what time the cars went I am now unable to say, but I put them in the office on the supposition that I would get them there in time.

By Mr. LAWRENCE:

Q. You signed your name to both resignations?
A. I did.

By Mr. TUCKER:

Q. How many hours does it take the mail to go from Virginia City to Carson?
A. About two hours and a half, sometimes a little less; it is twenty-four miles by rail.

Mr. JONES, of Nevada. I submit the following resolution:

Resolved, That the vote of R. M. Daggett be counted with the other votes of the electors of Nevada, notwithstanding the objections made thereto.

The PRESIDENT *pro tempore*. The question is on agreeing to this resolution.

The resolution was agreed to.

Mr. HAMLIN. I move that the proper message be sent to the House of Representatives informing them that we are ready to meet that body.

The PRESIDENT *pro tempore*. The Senator from Maine moves that the House of Representatives be notified that the Senate has determined the objection in relation to the elector from Nevada and is ready to meet the House and continue the count.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Secretary will execute the order of the Senate.

Mr. WHYTE, (at six o'clock and twelve minutes p. m.) The House of Representatives having taken a recess until to-morrow morning at ten o'clock, as I presume there can be no further business to-day, I move that the Senate take a recess until that hour.

Mr. EDMUNDS. We do not know that fact.

Mr. MCMILLAN. I am advised that the House have not taken a recess.

Mr. DAVIS. What can we do here if the House has taken a recess?

Mr. HAMLIN. I understand they voted down the motion to take a recess by a majority of twenty.

Mr. WHYTE. I met several gentlemen who told me the House had taken a recess.

Mr. EDMUNDS. Evidence is pretty doubtful these days, Mr. President.

The PRESIDENT *pro tempore*. The Senator from Maryland moves that the Senate take a recess until to-morrow at ten o'clock.

Mr. SARGENT. I hope we shall first ascertain whether the House has taken a recess.

Mr. EDMUNDS. Let us vote down the motion.

The PRESIDENT *pro tempore*. The Chair will state that the Secretary is on his way to the House and will soon be back.

Mr. WHYTE. Very well.

Mr. EDMUNDS. Question.

The PRESIDENT *pro tempore*. Action will be suspended.

Mr. EDMUNDS. I do not want it suspended. I want the motion either voted on or withdrawn.

The PRESIDENT *pro tempore*. The Senator from Maryland has withdrawn his motion.

Mr. STEVENSON. The Clerk informs me that the House have taken a recess, and I move that the Senate also take a recess until to-morrow at ten o'clock.

Mr. EDMUNDS. I hope not. We want to hear from the Secretary of the Senate and find out what the fact is.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves that the Senate take a recess until to-morrow at ten o'clock.

The motion was not agreed to.

Mr. SARGENT. I am informed by the Secretary of the Senate that the House has taken a recess.

Mr. EDMUNDS. Wait and let us hear from the Chair, and let it go into the RECORD in the regular way.

Mr. SARGENT. It is not customary for the Secretary of the Senate to make an official announcement to the body.

Mr. EDMUNDS. I do not expect him to do it, but he will inform the Chair, who sent him, and the Chair will inform us, and it will then be entered in the Journal in the regular way.

The PRESIDENT *pro tempore*. The Chair is informed by the Secretary that the House had taken a recess before he reached the Hall of the House of Representatives.

Mr. SARGENT. Then I move that the Senate take a recess until to-morrow at ten o'clock.

The motion was agreed to; and (at six o'clock and fifteen minutes p. m.) the Senate took a recess until to-morrow, Wednesday, February 21, at ten o'clock a. m.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 20, 1877.

The SPEAKER. The Chair decides that a new legislative day has been reached, and the Chaplain will now offer prayer.

Prayer by the Chaplain, Rev. I. L. TOWNSEND.

The SPEAKER. The Journal of yesterday will now be read.

Mr. WILSON, of Iowa. I think that under our amended rule the intention was that the reading of the Journal should not be had, because it provides that nothing shall take place which might interfere with the meeting of the two Houses.

The SPEAKER. This is not a meeting of the two Houses.

Mr. WILSON, of Iowa. The reading of the Journal would prevent that meeting.

The SPEAKER. The Chair cannot prevent that.

Mr. WILSON, of Iowa. The amended rule says that the Journal shall not be read and that nothing shall be done which will interfere in any way with the meeting of the two Houses. We cannot therefore occupy time in the reading of the Journal.

The SPEAKER. The Chair thinks that nothing except a call of the House is in order before the reading of the Journal, and the House will be compelled to take up the business they have just left immediately after the reading of the Journal as unfinished business.

Mr. WILSON, of Iowa. The Chair will see that the provision in the amended rule says that nothing shall transpire that shall delay the meeting of the two Houses.

The SPEAKER. That surely is not a correct construction of the rule, because it might be the want of a quorum or other matters might delay the meeting. The Chair thinks that the moment a new day is entered upon, the Journal of necessity has to be read and then the unfinished business will come up. This has been the uniform practice.

Mr. WILSON, of Iowa. The amended rule says explicitly that nothing shall be done for the purpose of preventing the meeting of the two Houses or that will prevent the meeting of the two Houses.

The SPEAKER. The Chair overrules the point of order; in fact he thinks that there is no point in it.

Mr. WILSON, of Iowa. With all due deference to the Chair I submit that there is a great deal of point in it.

The SPEAKER. The Chair regrets to differ with the gentleman from Iowa. The Journal will be read.

The Journal of yesterday was then read and approved.

COUNTING THE ELECTORAL VOTE.

The House resumed the unfinished business of yesterday.

Mr. ELLIS obtained the floor, and yielded five minutes to the gentleman from Massachusetts, [Mr. PIERCE.]

Mr. PIERCE. Mr. Speaker, the bill to regulate the counting of the votes for President and Vice-President provides that when the decision of the commission is received upon the returns referred to it, the counting shall proceed in conformity therewith, unless, upon objection being made by a certain number of members, the two Houses shall concur in ordering otherwise, in which case the concurrent order shall govern. Objection having been made in due form to the report of the commission on the returns from Louisiana, we are brought face to face with the question whether the vote of that State shall be counted at all or whether it shall be counted for Hayes or Tilden.

I would gladly avoid the responsibility of passing upon this question if, consistently with the duty which devolves upon me as a member of this House, I could do so; but the responsibility is one which cannot be avoided. It is as great and as solemn as that which rested upon the members of the commission whose report is now before us. We are prevented by constitutional limitations from shifting the burden of our responsibility in this matter to other shoulders. It must

be sustained by each one of us, and so sustained as to satisfy his conscience and his sense of duty to his country.

It is with great diffidence that I venture to dissent from the decision, or rather the recommendation, of the commission; but the rule which it has laid down for the determination of this question is one that I cannot conscientiously indorse. The commission declares that it is not competent to take any evidence to show that persons other than those certified to by the governor of the State, on and according to the determination of the returning officers for elections in a State, had been appointed or that the determination of the returning officers was not in accordance with the truth and the fact.

It could never have been intended by those who established this system of government that there should be no examination, no scrutiny of the returns of the electoral votes as certified by the State authorities. The most careful conservator of State rights would never have objected to an examination by Congress, or by any other national authority, so far as to ascertain whether the electors who sent their votes here to be counted had been chosen and were qualified in the manner provided by the constitution and laws of their State and of the United States.

In the case now under consideration, an offer of evidence was made to show the commission that the returning board of Louisiana was not legally constituted; that the action of the board in canvassing the votes for presidential electors was not in accordance with the laws of the State; that certain of the electors certified to have been chosen were disqualified, both under the provisions of the State constitution and the Federal Constitution. That gross frauds were committed in the canvass of votes is admitted, I believe, by both parties; and it is also admitted that the returning board acted in the discharge of their duties in an arbitrary and illegal manner. If these are not matters which the representatives of all the people, authorized by the Constitution to count the votes and declare the result, can inquire into, then this Government stands on a very insecure foundation. I cannot give my assent to any such declaration. It is contrary to good government; it is contrary to good morals; it tends to weaken the hold of the Government upon the respect and confidence of the people; and the party which gets office by its adoption will be a party founded on a principle dangerous to the perpetuity of the Government.

The evidence which has been presented here, and which the commission by a bare majority refuses to consider, shows a condition of things which justifies and, in my judgment, requires the exclusion of Louisiana from participating in the presidential election. It shows if possible a higher justification for such a course at this time than was shown in 1872, when the vote of the State was excluded by a republican Congress. I am aware, Mr. Speaker, that in the action I now take I stand almost alone among my political associates here, but I should be recreant to my convictions if I neglected to place on the imperishable records of the House my dissent from the rule which it is proposed to establish.

Mr. ELLIS. Mr. Speaker, I have been unavoidably absent during the progress of this debate this morning, and I am not aware of its drift, and therefore cannot be expected to respond to any arguments that may have been uttered by gentlemen on the other side. But this I do know, sir, that at the election held on November 7, 1876, as fair, as full, as peaceable, and as quiet as has ever characterized the elections of any State North or South, Louisiana, by the free voice of six thousand majority of her people, voted for Samuel J. Tilden for President of the United States. But I find to-day, by the voice of this commission, her electoral vote cast for Mr. Hayes. In arriving at that decision, in overthrowing the will of the people of Louisiana, that commission decided, in the first place, that it would not examine into the unconstitutionality of the law creating this returning board; in the second place, it refused to go into the question of fraud; and in the third place, having sworn to decide according to the Constitution of the United States, they, the chosen ministers, the high priests of that Constitution, sat and closed their ears against the expressed voice and will of that Constitution against any proof as to the ineligibility of two of those electors, well known, undisputed, and undoubted.

In the first place, Mr. Speaker, as regards the constitutionality of the election law, it violates grossly—and no lawyer has ever doubted it, and no lawyer will dispute it—articles 10, 73, 94, and 103 of the constitution of the State; and it is a principle of law familiar, known to every neophyte in the profession, that whatever is done in opposition to the declared will of the people through their constitution is an absolute nullity.

But again, sir, the commission refused to hear any proof of fraud. Fraud! it vitiates, it poisons everything; it unclasps the clutches of the most stringently drawn mortgage act from around the realty; it vitiates even the sanctity of the marriage tie. And yet this great Government which was able to summon three millions of men in its defense, which was able to shake the world by the very earthquake of its agony and struggle for self-preservation, nevertheless must fall helpless, puny, and paralyzed before the poison and fraud commended to it by four men whose hands are black with crime, whose souls are scorched with perjury, ay, blacker than Judas Iscariot's, and whom it were base flattery to call villains.

In the last place, as to the eligibility of these electors under the Constitution. These commissioners had sworn to decide according to the Constitution. As I said before, they sat there, its high priests, its chosen ministers, with the sword which is held by this House and by the Senate placed in their hand to guard that Constitution and to guard this Government against all illegal votes in this electoral college. Yet they sate there and refused to hear the most positive and convincing testimony of the ineligibility of two of the pretended electors from Louisiana.

Sir, the deed is done, the crime is accomplished. For four years from the 4th of March next the republican party will hold the shadow of executive power. I say the shadow, because the substance of usurped power is never and can never be realized. The immortal pencil of Gustave Doré has illustrated the legend of the Wandering Jew. You have all seen it. In all the dreary march of years he found no rest, no peace from his crime and its memories. Whether amid the busy haunts of men or in the dim aisles of the forest, whether upon the mountain-top or amid the roar and spray of the ocean storm, there was ever the memory of the crime, the specter of the pale suffering face of the Redeemer, and the accusing voice forever in the wanderer's ear. So it must be with the republican party forever. The spoils of office will not compensate it; the splendors of presidential receptions and levees will not banish its presence; the silence and gravity of cabinet meetings will not banish or hush its accusing voice.

And in four years more this great American people, this wronged and outraged people, will rise in their majesty and will hurl these "drunken guests" at this Thyestean feast from power everywhere, and brand with the indelible brand of infamy these man who have aided, countenanced, abetted, and defended this monstrous crime. [Applause.]

Mr. KELLEY. Mr. Speaker, with you, in common with the overwhelming majority of your party friends in both Houses, and against the wishes and views of most of my party friends in the Senate and this House, I supported the bill which created the electoral commission. And had Judge Davis not been elected to the United States Senate, and in that event had it so happened that my convictions were overruled by the tribunal, I would have acquiesced as the majority of your party friends now propose to do. And I feel that my first duty, brief as is the time allowed me, is to thank the gentlemen, late of the Confederate States, for the conservative tone they are reported to have adopted in your party caucus.

I rejoiced in the adoption of that bill because it averted possible tumult and war. But I now rejoice more fervently because its action is likely to withhold the Presidency, its honors, and the emoluments it dispenses, from becoming now and hereafter a reward to crime. The democratic canvass in republican parishes of Louisiana was one vast series of concerted crimes, and it was such under the directions of the State democratic committee, which recommended the organization of mounted clubs which should mark their power by riding through such parishes. Let me read from the confidential circular of the democratic-conservative State central committee some of its instructions:

> You cannot convince a negro's reason, but you can impress him by positive statements continually repeated.
>
> We recommend * * * that occasionally the ward clubs should form at their several places of meeting and proceed thence to the central rendezvous. Such meeting would tend to produce harmony, besides being an occasion for amusement and interesting ceremonies. Proceedings of this character would impress the negroes with a sense of your united strength.

These instructions were obeyed, and the amusements largely indulged in by the members involved larceny, robbery, arson, rape, and murder. And I reverently thank God that by the probable result under the electoral bill these amusements are not to be incorporated in our future political machinery.

I will mention to gentlemen familiar with the details of the campaign in Louisiana the names of a few of the sufferers there: Dr. Dinkgrave, Benjamin James, Cora Williams, Merriman Rhodes, James Jackson, Randall Driver, Henry Pinkston, Eliza Pinkston. [Laughter on democratic side, checked by the Speaker.] Ay, laugh; it is part of your game to sustain these crimes; I mean of those of you who laugh at and deride him who mentions the names of that murdered man, that mutilated woman, that poor babe. Other names that recall terrible crimes are Primus Johnson and Fred Byrum, and I could give a score of others who are dead or in a condition that they had better be dead, who were the victims of these "amusements and interesting ceremonies."

Neither age nor sex was spared by these clubs when in pursuit of the amusement suggested by the circular of the State committee. The white hairs of Randall Driver, venerable man that he was, did not protect him from the lash, and his slowly cicatrising back showed that it had been lacerated from hips to neck. The yet toothless babe of Eliza Pinkston, torn from her arms, was not too young for the knife of the democratic reformer. [Renewed laughter on democratic side, at once checked by the Speaker.] You may laugh, gentlemen, but the terrible story of the Pinkston family depends upon the testimony of no one witness; there are many collateral facts to sustain it; other witnesses who had fled before the club were concealed where they heard and saw what happened in that scene of horrible brutality and crime. Nor did their sex protect Eliza Pinkston and Cora Williams from the knife, the ax, the bullet, and the lash. They were women and had not the right to cast votes, but they had husbands who were registered republican voters and therefore they suf-

fered. And, sir, if the question were between peaceful fraud and such deeds of violence, I freely admit that I prefer that peaceful fraud shall prevail.

But that sad alternative is not before us. Posterity will vindicate this action of the commission; and I appeal to the gentleman from Massachusetts [Mr. SEELYE] to say at another time whether the decision of that commission is not sustained by the Constitution, is not sustained by the logic of the case, is not sustained by precedents of the most overwhelming and authoritative character, and whether being so sustained it can be fraudulent or even erroneous.

Mr. Speaker, though I may object to hearing the devil quote the Scriptures, I have great respect for the church; and I propose to call the attention of my friend from New York [Mr. COX] to a few words recently written by the democratic chief-justice of the court of appeals of the State of New York, Sandford E. Church, who, while recently qualifying utterances attributed to him, made this statement of his judicial opinion:

I have always expressed the opinion that the authentication of the election of presidential electors, according to the laws of each State, is final and conclusive, and that there exists no power to go behind them.

Mr. COX. According to the law.

Mr. KELLEY. Ay, "according to the law;" and it was a tribunal to decide according to the law that we created. With the Constitution, the law precedents, and the opinion of every well-instructed lawyer, not influenced by the partisan excitement of the hour approving their action, who need defend the reputation of the judges who as members of the bar have overruled the minority of their brethren? The lawyers of our country, of England, and of the British Colonies study our leading cases; and Justices Strong, Miller, and Bradley will find that before six months have passed they will hear the opinion of posterity in the undivided opinion of the bench and bar vindicating the judicial propriety of their judgment.

[Here the hammer fell.]

Mr. PRATT. Mr. Speaker, the Constitution of the United States has again, as in the case of Florida, been vindicated by the decision of the electoral commission now before the House. Again, as in the case of Florida, is this triumph of the Constitution denounced as the victory of fraud and corruption. All the powers of argument and oratory are employed by gentlemen on the other side of the House in the attempt to make it appear that those who sustain this decision are supporting a gigantic fraud, are the champions of a monstrous corruption, and are reaching out their hands to grasp the fruits of successful villainy.

Unjust, unreasonable, and futile as this effort is, it is not altogether unnatural, and ought not, perhaps, to be unexpected. The history of political contests shows that it is a very common thing for a political party, stung by disappointment and maddened by defeat, to resort to the only revenge that is left it by crying fraud and charging corruption upon its successful rival. If the political majority of this House imagines that by this puerile and spiteful answer to the decision of the commission it can weaken the force of the decision or impair the strength and character of the republican party or make for itself a better title to public confidence and respect, then, sir, that party is destined to another disappointment, to another and a worse defeat. The country is not accustomed to listen when a party simply raves over its defeat. This burst of "righteous" indignation from the democratic side of the House will neither surprise nor deceive anybody. That party has for a long time been holding up its hands in "holy horror" at the pretended frauds and corruptions of the republicans, forgetful that the privilege of throwing stones belongs to the party that "is without sin." But, sir, the people have become too accustomed to the stale tableau to be moved or alarmed by it, and it will excite in their minds only the emotion of pitying scorn for the party that has the weakness to publicly exhibit its rage and temper over its defeat.

The democratic party opened the presidential campaign in this Hall more than a year ago by charging fraud and corruption upon the republicans. They have fought it out on that line ever since. They went to the country and were defeated. Then came fresh charges of fraud and new specifications of corruption. Upon these they are now defeated by the decision of the tribunal whose aid they joyfully invoked in the settlement of these questions. And now we have heard on this floor and in this debate the electoral law and commission denounced as one of the frauds and snares of the republican party, an insinuation for which there is not even the shadow of foundation, and made in the very wantonness of injustice, of unfairness, and of spleen.

What is the decision upon which gentlemen have poured out all the vials of their wrath and bitterness? In brief, sir, it is this: that it is not competent for the two Houses of Congress to receive evidence *aliunde* the certificates laid before them by the President of the Senate, for the purpose of impeaching the appointment of electors by a State, and, therefore, that the persons whose appointment as electors was regularly certified by the governor of Louisiana in accordance with the canvass of the votes are the constitutional electors for Louisiana and their votes must be counted.

This decision is the triumph of that provision of the Constitution which reserves to each State the sole right to appoint her electors in the manner directed by her Legislature; a right which constitutes one of the leading features of our constitutional system. A right which the National Government cannot invade without crossing the broadly marked limitations of its power, a right which the democratic party in this House sought to trample under foot and destroy by insisting upon the power and duty of Congress to set aside and nullify the action of Louisiana in the appointment of her electors. Who that is not blind with party fury does not see that a power to penetrate the action of the State of Louisiana, to revise and reverse the result arrived at by the State in the appointment of her electors, is a power to invade, to deny, to destroy the right of the State to appoint her own electors? By what authority will Louisiana he counted for Hayes and Wheeler? By the authority of the State of Louisiana. But suppose Congress should declare the appointment of the Hayes electors void, that the Tilden electors were entitled to cast the vote of the State, and that the State should be counted for Tilden and Hendricks; by what authority would the State be so counted? By the authority of the State? No, sir; she has sent no such a result here. It would not be her voice. If done at all, it could only be done through the usurped authority of Congress. Such a step could only be taken in shameless defiance of the rights of Louisiana and over the ruins of the Constitution we have sworn to support and maintain.

Gentlemen say it is necessary for Congress to exercise this power to prevent fraud. The answer is, we have not the power. We are required to accept the result the State sends here. She has the power to prevent fraud and it is her duty to preserve the purity of her elections. The alleged perpetration of an outrage upon the purity of the ballot-box in a State will not justify us in the perpetration of a greater outrage upon the Constitution of the United States.

Bad and loathsome as fraud is, much as it is to be deplored and condemned wherever it exists, yet I do not hesitate to say that the remedy urged upon us by the democratic party for the alleged frauds in the recent election is worse than the disease. By as much as cool, deliberate, premeditated murder is worse than a local irritation or temporary disease in the human system, by so much is this remedy of the democratic party—a remedy which is the destruction of the Constitution itself—worse than the malady for which it is proposed.

Mr. Speaker, it is well known that to change the result which the State of Louisiana has sent to us is to change the result of the presidential election and to insure the victory of the democratic party. In the presence of this great temptation a desperate effort is being made by that party to smother the voice of that State. We are asked to set aside the votes of Louisiana and to assume and exercise her functions for her. The vote which is about to be taken in this House upon that proposition will disclose to the House and to the country whether gentlemen have within them that virtue which will enable them in this great crisis of the nation's history to rise superior to the influence of party prejudice and feeling, to pursue the simple path of duty amid the bitterness of disappointment and the allurements of political power and of party supremacy, and to set a conspicuous example of that severe fidelity and unhesitating obedience to the law, the Constitution, and public duty, which is the hope, the safety, and the strength of the Republic.

Mr. WOOD, of New York. Mr. Speaker, when this House consented to the passage of a bill to provide for an electoral commission, it was understood in both Houses, by both sides, and generally throughout the country that the questions in dispute between the two great political parties would be judicially and impartially investigated and determined. This was the sole object of that measure; otherwise there would have been no necessity for either House to delegate its powers. Having failed to examine into and to decide those questions by refusing to consider the most important of them, the commission has nullified the object of its creation. Under the circumstances I doubt whether either House of Congress is bound legally or morally to abide its action; and yet while under no obligation I hope it will not refuse to submit.

It may be well asked, whether where a power delegated has not been executed, the duty of executing it as well as the authority to do so does not remain in the original possessor of it. If it were true that the people of the United States had a doubt as for whom or as for what candidates the people of Louisiana and Florida had cast their votes for President and Vice-President, certainly this doubt has not been removed by anything the electoral commission has done. They are as much in the dark on this question as before the commission was instituted. This House had no doubt of the fact when consenting to this tribunal, and so confident was it that the electoral vote of those States had been given for Tilden and Hendricks, it was willing to defer the inquiry and settlement of the question to an arbitration which in its character should be disinterested, impartial, judicial, and non-partisan.

It was to such a body that the House of Representatives supposed it was transmitting its authority. But, sir, we have been mistaken. This court has determined the matter against us without a hearing. The integrity of the elections as conducted and declared has not been inquired into. The *prima facie* case as certified has been accepted as valid without knowing whether the persons who signed and transmitted the certificates purporting to represent the votes of those States had been appointed electors according to the constitution and laws of those States, and the Constitution and laws of the United States. Without desiring to express a harsh judgment upon this omission of a clear duty, as a representative of the people I am compelled to charge that the commission has disregarded the law which

gave it existence, and disappointed general public expectation. It has proved itself to be partisan in character and insufficient in judgment, and without those elevated attributes and that high moral sense which the world had the right to expect from men whose previous reputations justified their selection for this trust.

The judgment of history will record its condemnation of this strange conduct. Indeed I fear these men will not have to wait so long for that decree. It would be charitable to them to hope that posterity, and posterity alone, would deal with acts like these. The present generation, so deeply interested, will not and cannot omit its loud condemnation. A voice will go up from every extremity of this broad land in deprecation and denunciation of those who have thus ignored the rights and interests of the American people.

The patriotism of this House which induced it to forego the exercise of a constitutional right in submitting to an arbitration by which to secure justice, truth, and internal quiet, has been treacherously rewarded by an act of public infamy as criminal in character as it will be far-reaching and universal in its effects. I protest against it. As a Representative I denounce the treachery practiced upon me and my constituents.

Fraud vitiates all contracts, all compacts, all contracts, all compromises, and all agreements, written, moral, or legal. The votes of the so-called electors who sent certificates from the States of Florida and Louisiana, and which have been accepted, are fradulent and false, and hence are void. These men were not chosen electors for those States. Everbody knows this. It has been proven by testimony that has not been and cannot be disputed. The proof is accessible to every person, and was offered to this commission and was rejected; that body would not accept the proof to show this fact. It had the right and power to do so. Under the law as understood by those who framed it, it was constructed for this very purpose; and yet in disregard of the object of its creation, and its plain duty, it accepted the fraudulent certificates covered all over with corruption and forgery, thus becoming parties to an atrocious swindle. The men who have perpetrated this wrong by sanctioning it, sustaining it, and giving it their official indorsement have made themselves participants to the greatest political crime of modern times. Why have they done this? This House demands to know why; the American people demand to know why; and history will ask, with wonder and amazement, why?

Sir, I deeply deplore that within my life-time it has been ascertained that there is no power or authority in this country so high and so pure that the virus of partisan bias cannot infect it; that we have nowhere to flee from this moral pestilence which taints and destroys everything it touches. Though republican in form, ours is a Government of party in spirit and practice. Party is to be found everywhere—in our social organization, our system of education, in our literature, in our religion, in the jury-box, and on the bench. A lifetime of judicial office offers no security against its invasion. Its controlling and all-ruling influence overshadows everything everywhere, at all times, and under all circumstances. God help our country! God preserve our institutions! and God protect what is left of the blessed inheritance derived from the wisdom and virtues of our forefathers!

The SPEAKER. The time allowed for debate having expired, the question will now be taken on the amendment of the gentleman from Illinois, [Mr. HURLBUT.]

Mr. HURLBUT. I withdraw the amendment.

The question recurring on the motion submitted by Mr. GIBSON, it was read, as follows:

Ordered, That the votes purporting to be electoral votes for President and Vice-President which were given by William P. Kellogg, J. Henri Burch, Peter Joseph, Lionel A. Sheldon, Morris Marks, Aaron B. Levissee, Orlando H. Brewster, and Oscar Joffrion, claiming to be electors for the State of Louisiana, be not counted.

Mr. COX and Mr. HOLMAN called for the yeas and nays on agreeing to the motion.

The yeas and nays were ordered.

The question was taken; and there were—yeas 173, nays 99, not voting 18; as follows:

YEAS—Messrs. Abbott, Ainsworth, Anderson, Ashe, Atkins, Bagby, John H. Bagley, jr., Banning, Beebe, Bell, Blackburn, Bland, Bliss, Blount, Boone, Bradford, Bright, John Young Brown, Buckner, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Campbell, Candler, Carr, Cate, Chapin, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Cutler, Davis, De Bolt, Dibrell, Durham, Eden, Egbert, Ellis, Faulkner, Felton, Field, Finley, Forney, Franklin, Fuller, Gause, Gibson, Glover, Goodin, Gunter, Andrew H. Hamilton, Robert Hamilton, Hancock, Hardenbergh, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hartzell, Hatcher, Haymond, Henkle, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Holman, Hooker, Hopkins, House, Humphreys, Hunton, Hurd, Jenks, Thomas L. Jones, Kehr, Knott, Lamar, Franklin Landers, George M. Landers, Lane, Le Moyne, Levy, Lewis, Luttrell, Lynde, Mackey, Maish, McFarland, McMahon, Meade, Metcalfe, Milliken, Mills, Money, Morgan, Morrison, Mutchler, Neal, New, O'Brien, Odell, Payne, Phelps, John F. Philips, Pierce, Piper, Poppleton, Powell, Rea, Reagan, John Reilly, James B. Reilly, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Savage, Sayler, Scales, Schleicher, Schumaker, Seelye, Singleton, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stevenson, Stone, Swann, Tarbox, Teese, Terry, Thomas, Thompson, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Charles C. B. Walker, Gilbert C. Walker, Walling, Walsh, Ward, Warner, Warren, Watterson, Erastus Wells, Whitthorne, Wigginton, Wike, Alpheus S. Williams, James Williams, Jere N. Williams, Willis, Wilshire, Benjamin Wilson, Fernando Wood, Yeates, and Young—173.

NAYS—Messrs. Adams, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Blair, Bradley, William R. Brown, Horatio C. Burchard, Cannon, Cason, Caswell, Conger, Crapo, Crounse, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Eames, Evans, Flye, Fort, Foster, Freeman, Frye, Garfield, Hale, Haralson, Benjamin W. Harris, Hathorn, Hays, Hendee, Henderson, Hoar, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kelley, Kimball, King Lapham, Lawrence, Leavenworth, Lynch, Magoon, McCrary, McDill, Miller, Monroe, Nash, Norton, Oliver, O'Neill, Packer, Page, William A. Phillips, Plaisted, Platt, Potter, Pratt, Robinson, Sobieski Ross, Rusk, Sampson, Sinnickson, Smalls, A. Herr Smith, Strait, Stowell, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Alexander S. Wallace, John W. Wallace, G. Wiley Wells, White, Whiting, Willard, Andrew Williams, Charles G. Williams, William B. Williams, James Wilson, Alan Wood, jr., Woodburn, and Woodworth—99.

NOT VOTING—Messrs. Bass, Burleigh, Buttz, Caulfield, Chittenden, Douglas, Durand, Goode, Frank Jones, Lord, MacDougall, Purman, Rainey, John Robbins, Sheakley, Stephens, Wheeler, and Whitehouse—18.

So the motion of Mr. GIBSON was agreed to.

During the roll-call the following announcements were made:

Mr. CABELL. My colleague, Mr. DOUGLAS, is absent by leave of the House. If he were here he would vote "ay." My colleague, Mr. GOODE, is detained from the House by indisposition. If he were here he would vote "ay."

Mr. J. H. BAGLEY. My colleague, Mr. LORD, is absent on account of a death in his family. If present he would vote "ay."

Mr. BURLEIGH. On this question I am paired with the gentleman from New Hampshire, Mr. JONES, who, if present, would vote "ay," while I should vote "no."

Mr. RAINEY. On this question I am paired with the gentleman from Virginia, Mr. DOUGLAS. If he were present he would vote "ay" and I should vote "no."

The result of the vote was announced as above stated.

Mr. GIBSON offered the following; which was read, considered, and adopted:

Ordered, That the Clerk inform the Senate of the action of this House, and that the House is now ready to meet the Senate in this Hall.

COUNTING THE ELECTORAL VOTE.

At one o'clock and thirty-five minutes p. m. the Doorkeeper announced the Senate of the United States.

The Senate entered the Hall, preceded by its Sergeant-at-Arms and headed by its President *pro tempore* and its Secretary, the members and officers of the House rising to receive them.

The PRESIDENT *pro tempore* of the Senate took his seat as Presiding Officer of the joint meeting of the two Houses, the Speaker of the House occupying a chair upon his left.

Senators INGALLS and ALLISON, the tellers appointed on the part of the Senate, and Mr. COOK and Mr. STONE, the tellers appointed on the part of the House, took their seats at the Clerk's desk, at which the Secretary of the Senate and the Clerk of the House also occupied seats.

The PRESIDING OFFICER. The joint meeting of Congress for counting the electoral vote resumes its session. The two Houses acting separately have considered and decided upon the objections to the decision of the commission upon the certificates from the State of of Louisiana. The Secretary of the Senate will read the resolution of the Senate.

The Secretary of the Senate [Mr. GORHAM] read as follows:

Resolved, That the decision of the commission upon the electoral vote of the State of Louisiana stand as the judgment of the Senate, the objections made thereto to the contrary notwithstanding.

The PRESIDING OFFICER. The Clerk of the House will now read the resolution of the House of Representatives.

The Clerk of the House [Mr. ADAMS] read as follows:

Ordered, That the votes purporting to be electoral votes for President and Vice-President which were given by William P. Kellogg, J. Henri Burch, Peter Joseph, Lionel A. Sheldon, Morris Marks, Aaron B. Levissee, Orlando H. Brewster, and Oscar Joffrion, claiming to be electors for the State of Louisiana, be not counted.

The PRESIDING OFFICER. The two Houses not concurring in a contrary opinion, the decision of the commission stands, and the counting will now proceed in conformity therewith. The tellers will announce the vote of the State of Louisiana.

Senator ALLISON, (one of the tellers.) The State of Louisiana casts 8 votes for Rutherford B. Hayes, of Ohio, for President, and 8 votes for William A. Wheeler, of New York, for Vice-President.

The certificates of Maine, Maryland, and Massachusetts were opened by the Presiding Officer and read; and the electoral votes of those States, no objection being made, were then counted.

The PRESIDING OFFICER. The Chair hands to the tellers the certificate of the electoral vote of the State of Michigan, received by messenger, and the corresponding one received by mail.

Senator ALLISON (one of the tellers) read the certificate *in extenso*.

Mr. TUCKER. I offer objections, signed by Senators and Representatives according to law, to the electoral vote of Daniel S. Crossman, of the State of Michigan, and also send up a duplicate.

The PRESIDING OFFICER. The objection presented by the Representative from Virginia will be read by the Clerk of the House.

Mr. ADAMS, Clerk of the House of Representatives, read as follows:

The undersigned, Senators and Representatives, object to the vote of Daniel L. Crossman as an elector for the State of Michigan upon the grounds following, to wit:

That a certain Benton Hanchett, of Saginaw, Michigan, was voted for and certified to have been elected and appointed an elector for the State of Michigan. That the said Benton Hanchett was on the 7th day of November, 1876, the day of the presidential election and for a long period prior thereto had been, and, up to and after the 6th day of December, 1876, the day on which the electors voted, according

to law, continued to be an officer of the United States, and held the office of United States commissioner under and by appointment of the United States court for Michigan, which was an office of trust and profit under the United States, and that as such officer he could not be constitutionally appointed an elector under the Constitution of the United States.

And further, that by the laws of the State of Michigan there is power to fill vacancies in the office of electors under and by virtue of the following statute, and not otherwise:

"The electors of President and Vice-President shall convene at the capital of the State on the first Wednesday of December; and if there shall be any vacancy in the office of an elector occasioned by death, refusal to act, neglect to attend by the hour of twelve o'clock at noon of that day, or on account of any two of such electors having received an equal and the same number of votes, the electors present shall proceed to fill such vacancy by ballot and plurality of votes, and when all the electors shall appear or vacancies shall be filled as above provided, they shall proceed to perform the duties of such electors as required by the Constitution and laws of the United States."—*Compiled Laws of* 1871; compiler's section, 115.

And the undersigned further state that there was no vacancy in the office of elector for which said Hanchett was voted and to which he was not appointed by reason of the disqualification aforesaid; nor was any vacancy therein occasioned by the death, refusal to act, or neglect to attend of any elector at the hour of twelve o'clock at noon of the 6th day of December, 1876, nor on account of any two electors having an equal vote, nor in any manner provided for by the statute aforesaid. And the undersigned therefore object that the election of Daniel L. Crossman by the electors present at Lansing, the capital of Michigan, on the 6th day of December, 1876, was wholly without authority of law, and was void, and he was not appointed an elector in such manner as the Legislature of Michigan directed.

Wherefore they say that said Daniel L. Crossman was not a duly appointed elector for the State of Michigan, and that his vote as an elector should not be counted.

And the undersigned hereto annex the evidence taken before the committee of the House of Representatives on the powers, privileges, and duties of the House to sustain said objection.

T. M. NORWOOD, Georgia;
WILLIAM A. WALLACE, Pennsylvania;
W. H. BARNUM, Connecticut;
FRANK HEREFORD, West Virginia;
Senators.

A. S. WILLIAMS, Michigan;
J. R. TUCKER, Virginia;
JOHN L. VANCE, Ohio;
J. A. McMAHON,
A. V. RICE,
WILLIAM A. J. SPARKS,
JOHN S. SAVAGE,
LEVI MAISH,
FRANK H. HURD,
Representatives.

COMMITTEE ON PRIVILEGES, *January* 30, 1877.

BENTON HANCHETT sworn and examined.

By Mr. TUCKER:

Question. Where is your residence?
Answer. Saginaw, Michigan.
Q. Were you a candidate for the position of presidential elector in Michigan at the late election?
A. I was.
Q. On what ticket?
A. On the republican ticket.
Q. Were you elected?
A. I was.
Q. Did you vote in the college of electors?
A. I did not.
Q. Were you present?
A. No, sir; I was not present.
Q. Did you absent yourself?
A. I remained away; I did not attend.
Q. For what reason did you remain away?
A. The facts are these: In the spring of 1863, when I was living at Owassee, in the county of Shiawassee, Michigan, some statements were made to me in reference to a man living in an adjoining town, who, I think, sold liquor and paid no taxes under the revenue law. The parties desired me to write to the district attorney, living in Detroit, in reference to the matter. I did so. I received a reply from the district attorney saying that he would have me appointed a commissioner by the United States court, and he inclosed to me instructions what to do in the case. About the same time that I received that I received a letter from the clerk of the court saying that I had been appointed, and, I believe, inclosing the form of oath for me to take as commissioner, and, I believe, I took it and returned it to him. I have no recollection on the subject, but I suppose I did of course. I forwarded instructions to the district attorney in reference to the matter and issued a warrant for the man. He came in and paid it, the matter dropped, and there my services as commissioner ended, to the best of my recollection. It was not an office which I wanted to hold, but I performed that duty. In the fall of 1865 I went from that county to where I now reside, in Saginaw. The matter had entirely passed out of my mind. I have never acted since. Two or three days before the time appointed for the meeting of the electors, my attention was called to the subject in two ways. One was that some person spoke to me and said, "You are a United States commissioner;" and the other was that I had noticed that an objection had been made to one of the electors in New Jersey on that ground. This called my mind to the circumstances which I have related to you, and in order to avoid any doubt that might arise on the subject, I determined not to meet with the electors and did not.
Q. You were, then, duly appointed United States commissioner in 1863, and acted under the appointment by issuing a warrant against a party. Have you ever resigned it?
A. No, sir, I never made any resignation. I declined to act, and that was all there was to it.
Q. How did you decline to act?
A. Some persons applied to me to do further duties as commissioner, and I stated that I would not act.
Q. And you never resigned your position?
A. I never resigned my position formally.
Q. Then you failed to perform the duties of the office after the particular case mentioned?
A. Yes, sir.
Q. But you never resigned the position?
A. I never resigned the position.
Q. Do you know who was appointed in your place in the college of electors?
A. I know by hearsay.
Q. Who was he?
A. Mr. Daniel L. Crossman, of Williamstown.

By Mr. LAWRENCE:

Q. Did you resign the office of elector?
A. No, sir.
Q. You just failed to attend?
A. I just failed to attend.

The PRESIDING OFFICER. Are there further objections to the certificate from the State of Michigan?

There was no further objection.

The PRESIDING OFFICER. An objection having been submitted by the member from Virginia, the Senate will now withdraw to its Chamber that the two Chambers may separately consider and decide upon the objection.

The Senate accordingly withdrew to its Chamber at two o'clock and twenty-five minutes p. m.

The SPEAKER called the House to order.

Mr. SOUTHARD. I move that the House take a recess till ten o'clock to-morrow.

Mr. HALE. I rise to a point of order.

The SPEAKER. The gentleman from Maine rises to a point of order. The gentleman will state it.

Mr. HALE. I make the point of order for the purpose of getting the ruling of the Chair upon it at this stage, it being the first case that has arisen of an objection where there is but one set of certificates. My point is that the House should proceed at once and consider the objection, and at the end of two hours' debate pass upon it by a vote.

The SPEAKER. The gentleman from Maine will be kind enough to point to the part of the law on which he relies.

Mr. HALE. The Chair asked that question before and I give the answer that I gave heretofore—when the point of order was overruled at another stage—that it is found, if at all, in section 4 of the act. I do not need to go over what I have already said upon that point; that I make the point of order upon the general spirit and intent and scope of the act which is intended to prevent delay, which is intended to insure speedy action. And I make the appeal now all the more because of the little time intervening between this time and the 4th of March next, there being but ten legislative days remaining; and if a recess shall be allowed or taken upon each objection in the case of States where there is but one set of returns the whole machinery and operation of the electoral bill is paralyzed and destroyed.

The SPEAKER. The Chair desires to say in reply to the gentleman from Maine that he has nothing to do with the general scope, intent, or purpose of the bill except in so far as he is compelled to rule by the language of the act. The Chair, therefore, having previously ruled upon a similar point, rules now that the motion of the gentleman from Ohio [Mr. SOUTHARD] to take a recess is in order at this stage; and that he believes, as far as he individually can understand it, is the true intent and purpose and scope of the act.

Mr. O'BRIEN. I call for the regular order.

Mr. SAYLER. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SAYLER. I understand that by the action of the House this evening was set apart for the consideration of reports from the Committee on Invalid Pensions. I rise to inquire whether, under the present circumstances, it is competent for the House to take a recess until half past seven o'clock for the exclusive purpose of considering reports from that committee?

The SPEAKER. The Chair intended at the instance of the gentleman from Illinois, [Mr. BAGBY,] and now of course at the instance of the gentleman from Ohio, [Mr. SAYLER,] to suggest that the recess should be until seven and one-half o'clock this evening, so that the pension bills might be considered as it was previously determined that they should be considered by the House. This requires unanimous consent.

Mr. McCRARY. I desire to make a parliamentary inquiry upon that point, and it is whether it is competent for the House to proceed to other business until something has been referred to the commission? That portion of the bill upon which my question is based is to be found at the end of the fifth section of the bill; it provides that—

While any question is being considered by said commission either House may proceed with its legislative or other business.

I apprehend that the Chair will not hesitate to hold that unless something has been referred to the commission neither House can proceed with its other business.

Mr. HALE. That is an additional argument, if the Chair will allow me, that if we go on now and finish up the matter in the two hours some question may be referred to the commission, and then the House can proceed with the business which has been assigned for this evening's session.

Mr. WILSON, of Iowa. I would like to call the attention of the Chair to a ministerial duty imposed upon him under this clause of the first section under which we are operating:

When all objections so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw, and such objections shall be submitted to the Senate for its decision; and the Speaker of the House of Representatives shall, in like manner, submit such objections to the House of Representatives for its decision, &c.

The SPEAKER. If the motion to take a recess is voted down, the Chair would, of course, in compliance with the act, immediately submit to the House the objection which has been raised in joint meeting.

Mr. WILSON, of Iowa. Yes; but can the Chair allow any busi-

ness or motion to intervene between the discharge of that minsterial duty and the presentation of the objection?

The SPEAKER. The gentleman raises in another form the same question which the gentleman from Maine raised. The Chair thinks there can be.

Mr. HALE. Let us have a vote.

Mr. HOLMAN. I rise to a parliamentary inquiry. In the midst of this confusion it was impossible to hear what the ruling of the Chair was.

I wish to inquire whether the Chair rules that we may proceed with legislative business when the commission is not in session?

The SPEAKER. The Chair will cause to be read the concurrent resolution of the two Houses on this subject.

The Clerk read the resolution, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That during the sessions of the commission appointed under the act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877, each calendar day when legislative business shall have been transacted shall, by each House when in session, be considered a day for legislative purposes, and the Journals of the two Houses shall be so kept and dated.

The SPEAKER. The Chair rules that legislative business cannot intervene at this stage of the electoral count except by unanimous consent.

Mr. HOLMAN. One other inquiry; if this motion to take a recess were voted down would it be in order at once, and only in order, to proceed with the consideration of the objection filed upon which the joint meeting separated?

The SPEAKER. The Chair thinks that by unanimous consent the House can take a recess until to-night at 7.30 o'clock to execute the former order of the House. But the Chair rules that, should the House take a recess, when the House shall again assemble, then the objection made to the counting of the vote of the State of Michigan will immediately come up.

Mr. HOLMAN. The language of the original act, the last clause of the fifth section, is as follows:

And while any question is being considered by said commission, either House may proceed with its legislative or other business.

The implication from that would seem to me to be that when the commission is not in session legislative business cannot be transacted.

The SPEAKER. If that construction were correct the majority of the House could interpose legislative business at any time, which would, it seems to the Chair, be an absolute denial of the execution of the law.

Mr. WOOD, of New York. It is unquestionably the fact that the spirit of this law is that when objections are interposed, as at this stage, each House shall proceed to consider those objections, and I do not think it was designed that there should be any interposition of legislation.

Now if the gentlemen who have made these objections, who have filed them and presented them to the joint meeting, are ready to proceed and to state to the House in detail the grounds on which they object, I think we had better wait and determine that question now. I therefore hope that the House will not take a recess so early in the day as this, but that we will remain in session and settle this objection within the two hours allotted to us under the law.

Mr. SOUTHARD. There are many gentlemen in this House who desire to participate in this important discussion. Many of them first learned of this objection when it was read at the desk to-day. [Cries of "Regular order!"] I insist upon my motion for a recess.

Mr. HOLMAN. I call for a division upon that motion. I hope no recess will be taken.

The SPEAKER. The Chair desires to state that he has no volition in this matter; he must entertain motions when made by members if in order. In compliance with that requirement he recognizes the gentleman from Ohio [Mr. SOUTHARD] who moves that the House now take a recess until to-morrow morning at ten o'clock.

Mr. TUCKER. I desire to say in reference to this matter that the motion for a recess does not come from me; that I am prepared to present before the House now my objections and to maintain them. The principles of the electoral bill I think are very clear that where objections are made (and that is the question that now arises) it is competent for either House to take a recess. But I do not desire the recess on my own account, nor did I offer the objection in joint meeting with a view to any dilatory proceeding in this matter. I disclaim any purpose by dilatory action to prevent the execution of this law. [Cries of "Good!" "Good!"] I am prepared to maintain the objections which I with other gentlemen have presented to the House and to the Senate in the joint meeting of the two Houses, and I am prepared to go on now. But if there are other gentlemen in this House who desire time to consider the objection, that is a question for them to consider. I only mean to say that I have nothing to do with the motion for a recess.

Mr. CONGER. Mr. Speaker——

Cries of "Regular order!" "Regular order!"

The SPEAKER. The Chair desires to hear the gentleman from Michigan, if he speaks to a point of order.

Mr. CONGER. "The gentleman from Michigan" can always wait the will of the House, he has been accustomed to that so long. I believe that those who maintain that the vote of the State of Michigan was correctly and legally given are prepared to go on and meet the objection to it at this time.

Mr. SOUTHARD. As I made this motion, I trust I will be indulged to make a single remark further. We are all aware of the great importance of the questions which are now before us; they relate to the succession to the presidential office. The House is composed of a large number of gentlemen; they ought to have time to consider these questions fully, to discuss them fully before the House, in order that the country may know their records, that the record may be made complete and perfect. I for one desire such time; and whether I discuss the question or not I desire this time for consideration. I for one am in no haste to declare through the processes of fraud a man entitled to the presidential chair several days before the Constitution would require the office to be filled——

Cries of "Regular order!" on the republican side.

The SPEAKER. Gentlemen on the left are making the disorder.

Mr. TOWNSEND, of New York. I submit——

The SPEAKER. The Chair is glad the gentleman submits.

The question was then taken upon the motion for a recess; and upon a division there were—ayes 86, noes 163.

Before the result of this vote was announced,

Mr. O'BRIEN, Mr. SOUTHARD, and others called for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and there were—yeas 57, nays 192, not voting 41; as follows:

YEAS—Messrs. Ashe, Banning, Blackburn, Boone, Cabell, John H. Caldwell, William P. Caldwell, Cate, John B. Clarke of Kentucky, Cochrane, Cook, Cowan, Davis, Dibrell, Ellis, Forney, Fuller, Andrew H. Hamilton, Hartridge, Hooker, Humphreys, Hurd, Thomas L. Jones, Knott, Franklin Landers, Lane, Levy, Lynde, McMahon, Meade, Milliken, Money, Morrison, Mutchler, O'Brien, Odell, John F. Philips, Poppleton, Rice, Miles Ross, Sayler, Sheakley, Slemons, William E. Smith, Southard, Sparks Terry, Thomas, Thompson, Throckmorton, Turney, John L. Vance, Walling, Walsh, Whitthorne, Wigginton, and Benjamin Wilson—57.

NAYS—Messrs. Abbott, Adams, Ainsworth, Anderson, Bagby, George A. Bagley, John H. Bagley, jr., John H. Baker, William H. Baker, Ballou, Banks, Beebe, Belford, Bell, Blair, Bland, Bliss, Blount, Bradford, Bradley, Bright, John Young Brown, William R. Brown, Buckner, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Carr, Cason, Caswell, Chapin, Chittenden, John B. Clark, jr., of Missouri, Clymer, Collins, Conger, Crapo, Crounse, Culberson, Cutler, Danford, Davy, De Bolt, Denison, Dobbins, Dunnell, Durham, Eames, Evans, Faulkner, Felton, Finley, Flye, Fort, Foster, Franklin, Freeman, Frye, Garfield, Gause, Glover, Hale, Robert Hamilton, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Henry R. Harris, John T. Harris, Harrison, Hartzell, Hatcher, Hathorn, Haymond, Hendee, Henderson, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Hoar, Hoge, Holman, Hopkins, Hoskins, House, Hubbell, Hunter, Hyman, Jenks, Kasson, Kehr, Kelley, Kimball, King, Lamar, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Lewis, Lynch, Mackey, Magoon, McCrary, McDill, McFarland, Metcalfe, Mills, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Packer, Page, Payne, William A. Phillips, Pierce, Piper, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, John Reilly, James Reilly, Riddle, William M. Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Scales, Schleicher, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Springer, Stenger, Stevenson, Stone, Stowell, Strait, Swann, Tarbox, Teese, Thornburgh, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Robert B. Vance, Waddell, Wait, Alexander S. Wallace, John W. Wallace, Ward, Warner, Warren, Watterson, Erastus Wells, G. Wiley Wells, White, Whiting, Wike, Willard, Alpheus S. Williams, Charles G. Williams, James Williams, Jere N. Williams, William B. Williams, Willis, Wilshire, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, and Yeates—192.

NOT VOTING—Messrs. Atkins, Bass, Caulfield, Cox, Darrall, Douglas, Durand, Eden, Egbert, Field, Gibson, Goode, Goodin, Gunter, Hays, Henkle, Hunton, Hurlbut, Frank Jones, Joyce, Lord, Luttrell, Maish, MacDougall, Miller, Phelps, Purman, Reagan, John Robbins, Roberts, Schumaker, Stanton, Stephens, Waldron, Charles C. B. Walker, Gilbert C. Walker, Wheeler, Whitehouse, Andrew Williams, Woodworth, and Young—41.

So the motion for a recess was not agreed to.

ELECTORAL VOTE OF MICHIGAN.

Mr. TUCKER submitted a resolution; which was read, as follows:

Resolved by the House of Representatives, That Daniel L. Crossman was not appointed an elector by the State of Michigan as its Legislature directed, and that the vote of said Daniel L. Crossman as an elector of said State be not counted.

Mr. TUCKER. Mr. Speaker, the Constitution of the United States provides in the first section of article 2 that—

The Congress may determine the time of choosing the electors and the day on which they shall give their votes.

Congress has determined the day on which electors shall be chosen, and has further provided by the act of 1792 that—

Each State may by law provide for the filling of any vacancies which may occur in its college of electors, when such college meets to give its electoral vote.

That is to say the act of 1792 provided for filling vacancies occurring in the college when it meets—vacancies by death, resignation, absence, or refusal to act. Then in the act of 1845 it was provided that—

Whenever any State has held an election for the purpose of choosing electors and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such manner as the Legislature of such State may direct.

Thus the constitutional provision has been carried into execution by two acts of Congress, one providing for the filling of a vacancy occurring when the electoral college meets, and the other providing for a vacancy occurring, as Mr. Evarts argued the other day before the commission, by the office being vacant; that is, not being filled, whether by reason of nobody being appointed, or by a vacation of the office after having been filled.

It will be seen that the point now arising is not the case of a vacancy occurring at the time the college met, for it made no difference whether Mr. Hanchett was there or not. He had no right to be there; that is the point. He was disqualified for election. The State could not appoint him, for he was a United States officer. The consequence was that the act of the State was futile, in that it did not appoint anybody; and the question of filling the vacancy occasioned by the non-appointment of anybody comes under the act of Congress of 1845, which provides that—

Whenever any State has held an election for the purpose of choosing electors and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such manner as the Legislature of such State may direct.

Now the Legislature of Michigan, in the law which will be found in the first volume of the compiled laws of that State, section 84, page 126, has provided as follows:

The electors of President and Vice-President shall convene at the capitol; and if there should be any vacancy in the office of elector, by death, refusal to act, neglect to attend by the hour of twelve o'clock noon on that day—

Up to that point we have cases where the vacancy arises from the non-assumption of the office by a man entitled—

or on account of any two of such electors having received an equal and the same number of votes.

That is a case when neither is elected; there is a failure to appoint. That is provided for in this law. But that is not Hanchett's case. It will be seen that the Legislature of Michigan provided for filling a vacancy occurring at the meeting of electors by death, resignation, or refusal to act on the part of a man who had been actually appointed, and it has provided for the failure to appoint only in the case where there is an equal vote for two electors. It has made no provision for the failure to appoint a genuine constitutional elector because of the disqualification of the man voted for to hold the office.

Giving to the State the fullest power to regulate this matter of who shall be her electors, I submit that the State of Michigan has made no provision in such a case as that of Hanchett for the appointment of an elector by the college of electors when they meet. In the case of the attempted appointment of a disqualified person by the people to be an elector, there is no provision of law in the State of Michigan for filling such a vacuum as occurred there. I use the term "vacuum" as contradistinguished from "vacancy." A vacancy occurs where a man is once in office or entitled to be in, and has vacated; a vacuum is where the office has never been filled. Now there is no provision in the law of Michigan for a vacuum in the office except in the case where there are two persons who have an equal vote; and that case did not occur here. Hanchett had the certificate of the governor; *and we cannot go behind that.* He had the certificate of the governor that he was appointed. He "smelt a rat," knew he was disqualified, and failed to attend. The college of electors appointed a man in his place, without any authority under the law of Michigan to do so. Now, is Crossman, who was thus chosen, an elector? Shall he be allowed to vote for President and Vice-President?

Whatever may be said at the other end of the Capitol, whatever may be said amidships before the commission, let us of this House say that no man shall have a voice in the election of a President when the Constitution says that he shall be silent. How dare we to permit a man to speak who the Constitution has said shall not speak? How is it that we are to be silent when a man comes up here with such a title as this—that we are to be silent with the oath to support the Constitution resting upon our consciences, because the State chooses to appoint a man an elector who has no right to be one?

Mr. Speaker, I have stated the case very briefly and comprehensively. I believe I have stated the whole of it. The statute of Michigan is incorporated as part of the objection. The evidence in the case is clear and conclusive that Hanchett was appointed United States commissioner a long time ago. He has never resigned; he admits that he has never resigned. He is a United States commissioner so far as we know to this day. He held a Federal office, and was disqualified as an elector.

Gentlemen say, "O, that is a technical matter." A technical matter! A United States commissioner is competent under the law of the United States to be appointed a supervisor of elections; he may therefore under the law of the United States, in exercising such supervision, summon a force to control the very election in which he is a candidate. Federal interference in the appointment of electors by the States was a matter intended to be very carefully guarded against in the Constitution. It has been. Shall we now throw down the barriers that the Constitution has erected and allow any man who has been appointed to an office under Federal influence to cast his vote for the Federal Executive? Why, sir, the man who is President at the other end of the Avenue might be a candidate; he might appoint officers all over the land who would be candidates for the position of elector, and thus he might elect himself through his own subordinates. It is vitally important that Federal interference through the Federal Executive and his appointments should not enter as a virus into the presidential election. Therefore I submit that this is a case in which we are bound to vote that this man has no right to cast an electoral vote.

[Here the hammer fell.]

Mr. CONGER. Mr. Speaker, I do not believe from what the gentleman from Virginia [Mr. TUCKER] has said he himself places any particular reliance upon these objections. I think he endeavors by zeal and warm language and earnest manner to make it appear there is some force in the objection, and would almost make some one not acquainted with him believe he had some confidence in his objection. Sir, it is not the first time great statesmen as well as great lawyers have jumped at a conclusion without knowing the law. My friend reads the Constitution of the United States as to an appointment by the Legislatures of the States and under their direction of electors, and he jumps to the conclusion, red-handed, violently, that the vote of the voters on the day of the election is the constitutional appointment by the Legislature. This assumption is an absurdity——

Mr. TUCKER. The gentleman must not attribute to me that absurdity. He may utter it himself, but he must not attribute it to me.

Mr. CONGER. He jumps to the conclusion that the appointment provided for in the Constitution of the United States is determined under the legislation of the State of Michigan by voters on the day of election.

A MEMBER. That is the law.

Mr. CONGER. That is the fatal error of the gentleman and his very learned colleagues in this House, not only in this but in some other cases.

Mr. SPRINGER. Does not the statutes of the United States require that the electors of President and Vice-President shall be appointed on the first Monday in November in every fourth year succeeding every election of a President and Vice-President?

Mr. CONGER. Let the gentleman possess his soul in patience and I will enlighten him in a moment. [Laughter.]

Mr. SPRINGER. That will be a difficult thing to do, with such a law as that before us.

Mr. CONGER. There are four processes which the Legislature of Michigan have directed in the appointment of electors. One is the vote of the voters on the day of election. That is the principal primary step. Another is the meeting of the board of canvassers, receiving the returns and declaring who has received most votes, and certifying their determination.

Mr. WARREN. Will the gentleman allow me a question?

Mr. CONGER. Allow me my ten minutes in quiet.

Mr. WARREN. I only want to understand whether the gentleman considers that a part of the election process?

Mr. CONGER. I may be thrown off my track by this obstruction from the gentleman from Massachusetts. Now let me proceed. Section 74 provides that for the purpose of canvassing and ascertaining the votes given for President and Vice-President of the United States the board of State canvassers shall meet on a given day for the purpose of ascertaining and determining and recording the votes and results of the election of the electors.

Section 75 provides, and it is the third step, that the secretary of state shall without delay cause a copy of the certified determination of the board of state canvassers declaring the persons elected as such electors—not appointed, but elected as such electors—to be transmitted and delivered by special message or otherwise to each of the persons so declared to be elected, which copy shall be certified under his hand and seal of office.

Then comes the fourth step. The first is the action of the voters; the second the meeting of the board of State canvassers, and their determination; the third the copy of the certified determination of the board of canvassers as to who was elected, and the fourth, the last and final act provided for by our Legislature, is to declare who are, according to the constitutional provisions of the United States, appointed. All the rest is preliminary to the certificate of the determination of the election, and then the electors are to meet, and the process will be found in the law which has been quoted:

The electors for President and Vice-President shall convene at the capitol of the State on the first Wednesday in December, and if there shall be any vacancy in the office of elector, occasioned by death, refusal to act, neglect to attend by the hour of twelve at noon of that day, * * * then the electors shall proceed to fill such vacancy by ballot and plurality of votes, and when all the electors shall have been—

We come now to the time when, under the law of Michigan, the appointment provided for in the Constitution of the United States is complete—

when all the electors shall appear and vacancies shall have been filled as above provided, they shall proceed to perform the duty of such electors as required by the Constitution and laws of the United States.

Now, all these processes the learned gentleman forgot to refer to, but he says the election itself is a final and perfect appointment under the Constitution, or perhaps the determination of the canvass is an appointment, or perhaps the certificate of the secretary of state is an appointment. These, together with the action of the electors when they have met in the electoral college, are all necessary to qualify those persons who have been elected to perform the duties of such electors as required by the Constitution, and that makes the appointment complete.

The State of Michigan was entitled to eleven electors. The office of eleven electors was to be filled by the law. If not filled by election under the return of the canvassers, or by the certified determination of the secretary of state, the law goes on to provide how the offices shall be filled and the appointment under the constitution completed. Will the gentleman pretend that there were not eleven

electoral offices? Will the gentleman pretend that when the electors were assembled there should not have been eleven persons to fill those electoral offices? But one person staid away. He failed to attend, as the returns sent to the President of the Senate show; he failed to attend the electoral college up to the hour of twelve o'clock noon on the day when the electors were to meet.

[Here the hammer fell.]

Mr. BUCKNER obtained the floor.

Mr. CONGER. Mr. Speaker, if the gentlemen on the other side please, I do not know that any other gentleman on our side wishes to speak on this subject, and I suggest that they allow me to finish what I have to say.

Mr. TUCKER. I have no objection myself. I only want to say this——

Mr. CONGER. I will not, then, ask the indulgence of the House further.

Mr. TUCKER. I beg the gentleman's pardon. I only want to give my reason. I understand the rule under the act to be that no member can by leave of the House occupy more than ten minutes. That was my apprehension, and therefore I confined myself to the ten minutes.

Mr. CONGER. I have said all I care to say. The law is plain enough.

Mr. BUCKNER. If the gentleman desires, I will yield him a portion of my time.

Mr. PAGE. I object to any yielding.

The SPEAKER *pro tempore*, (Mr. CLYMER.) It can only be done by unanimous consent if at all, of which the Chair is in doubt.

Mr. BUCKNER. The proposition of the gentleman from Michigan [Mr. CONGER] who has just taken his seat, that the appointment of an elector is made by the governor, is a proposition that I undertake to say never was heard of, never was advanced, never was known or decided, and in fact never was dreamed of until now. And not only so; it is against all the reason, all the propriety of the provision of the Constitution so to hold.

Now, sir, it is a very remarkable fact that this enlightened commission evaded this question when there was no proof of the ineligibility of the elector Humphreys, and when they are called upon to face the facts in Louisiana then it is that they suddenly find out that the appointment of electors is not made by the people, but by the governor and canvassing officers.

Let me say, Mr. Speaker, to the credit of the profession elsewhere and the honor of the judiciary of Rhode Island, where three of the judges were republicans and two were democrats, that they put their seal of condemnation unanimously upon this dogma and this doctrine of this high commission by which they expect to elect Rutherford B. Hayes. That was at a time when there was no motive on the part of these judges to pervert the law to unholy and nefarious purposes. The gentleman says that all this canvassing of returns made the appointment and not the election upon the day of the election by the people. Now, sir, this question came up, as we all know who have read the recent history of this country, before the supreme court of Rhode Island, composed of five judges; the very question that is here involved; and on that question, in opposition to what the gentleman from Michigan now asserts with so much positiveness as being the law, every judge held that the appointment is the election by the people. And not only that, but they say that an ineligible appointment by the people cannot be filled, and the Legislature was called in that State to fill that appointment.

Mr. FOSTER. How was it in Missouri?

Mr. BUCKNER. No such case arose in Missouri. I want to read that opinion for the enlightenment of the gentleman from Michigan; and I am sorry that the very distinguished gentleman from Massachusetts [Mr. HOAR] and the gentleman from Ohio [Mr. GARFIELD] who sit upon this commission are not here. I hope they will read it and inwardly digest it at some future time.

We think—

I read from the opinion in that case—

We think a centennial commissioner who was a candidate for the office of elector and received a plurality of the votes does not, by declining the office, create such a vacancy as is provided for in General Statutes, chapter 11, section 7. Section 7 is as follows—

Let me say that this section is as broad as the Michigan statute—

"If any electors chosen as aforesaid shall, after their said election, decline the said office or be prevented by any cause from serving therein, the other electors, when met in Bristol in pursuance of this chapter, shall fill such vacancies, and shall file a certificate in the secretary's office of the person or persons by them appointed."

Now, in another part of this opinion, it had been decided that the office of United States centennial commissioner was an office of profit and trust under the General Government. The opinion proceeds:

Before any person can decline under this section he must first be elected, and no person can be elected who is ineligible, or, in other words, incapable of being elected. "Resignation," said Lord Cockburn, C. J., in The Queen *vs.* Blizard, Law Rep. 2 Q. B., 55, "implies that the person resigning has been elected into the office he resigns. A man cannot resign that which he is not entitled to and which he has no right to occupy."

We think the disqualification is not removed by the resignation of the office of trust unless the office is resigned before the election. The language of the Constitution is that no person holding an office of trust or profit under the United States shall be *appointed* an elector. Under our law (Gen. Stats., chapter 11, sections 1 and 2) the election by the people constitutes the appointment.

And, sir, under your law, too; and you never heard anything else until it was necessary to make an adverse opinion in order to fraudulently elect Rutherford B. Hayes.

The duty of the governor is to "examine and count the votes and give notice to the elector." He merely ascertains—he does not complete—the appointment. A resignation therefore after the election is too late to be effectual.

We think the disqualification does not result in the election of the candidate next in vote, but in a failure to elect.

Now, further, the American Law Register, from which I am quoting this opinion and which is edited by some of the most distinguished lawyers of the United States, among them Judge Cooley, says in reference to this very question:

The presidential electors being elected by the people derive their title to the office from the vote given on the day of the election. If not qualified to be chosen then they cannot afterward qualify. The certificates they receive of their election confer no title to the office, nor authority to exercise its prerogatives.

They may compel the issuance of the certificates by an appeal to the courts, but it will hardly be said that the courts can confer upon them the title to the office; neither can the governor or other officer who issues the certificate, since the law has not conferred upon him the power of appointment. Not being capable of being chosen at the time the choice was to be made, the candidate could by no after-act give validity to the choice. The Constitution does not say that no person holding an office under the United States shall vote, as an elector, for President and Vice-President, but that no such person shall "be *appointed* an elector." If at the time of the appointment the candidate is holding an office under the United States, the appointment is in violation of this provision of the Constitution, and is void. The language is not that he shall not hold, but that he shall not "be appointed," and operates upon the very first step in the process of holding. He can hold only by appointment, and the Constitution says he shall not be appointed. The ruling in the principal case upon this point seems to be clear both on principle and on authority.

And yet in the face of this opinion of a Rhode Island supreme court, composed of three republicans and two democrats, delivered under circumstances when there was no inducement to swerve them from the path of honesty, of truth, and of law, and corroborated and confirmed by every respectable authority in Europe and America, we witness the melancholy and alarming spectacle of three judges of our highest judicial tribunal, selected by a large majority of both Houses of Congress because of their supposed honesty, learning, impartiality, and freedom from partisan bias, refusing to hear evidence to prove that two of the Louisiana electors were ineligible under the Constitution, and thus in effect deciding that the State can nullify a plain and positive requirement of the Constitution. A more infamous judgment was never made in the history of American jurisprudence.

Well, gentlemen, I do not wonder that you upon the other side of the House hang your heads in shame when you see such attempts made by judges of the Supreme Court to wrest the law from its true purpose and to nullify the Constitution of the United States in order to serve a partisan end.

[Here the hammer fell.]

Mr. CHITTENDEN. Mr. Speaker, the question before the House seems to me to be absolutely free of all difficulty. The law of Michigan provides that the electors shall fill the vacancies of such "as refuse to act." The law of Michigan does not provide that under the Constitution of the United States electors can or shall undertake to determine the eligibility of those who refuse to act. I ask the gentleman from Virginia, [Mr. TUCKER,] who is one of the ablest lawyers in this House, to recognize the fact that the law of Michigan provides that the electors shall fill the vacancies of such as refuse to act, for whatever else there is in the law, there is no qualification of the language quoted which is broad enough to cover the whole ground. There is no question of the eligibility of the elector who refuses to act that can possibly under the Constitution of the United States be brought into the case. I beg pardon of the two hundred lawyers of this House for having ventured to say a word upon this subject; but I appeal to the common intelligence whether the question is worth discussing for one moment. If we have not got through with the commission, if we want to vent our wrath or our compliments upon the commission, let us like straightforward men have the commission before us. But in regard to the rightful authority of the electors of Michigan to fill a vacancy in the case under consideration there can be no question.

Mr. BRIGHT. Mr. Speaker, I desire to say a word upon this subject. It is all embraced in a nutshell. I think that there is no confusion in relation to the legal proposition, if gentlemen will give their attention to well-settled and well-defined legal principles. There are three things which are necessary to constitute a valid election: first, a plurality of votes by legal voters; second, an eligible person to be elected; third, the observance of the forms of law in relation to the election. If there has been a failure in either one of these legal propositions there must be a failure in the election. There may be legal voters, they may cast their votes for an ineligible person, but by so doing they fail to transmit a trust to a person that is capable of taking and capable of exercising the trust. When the vote is once legally given and the trust legally deposited in one capable of executing it, then the law provides that the trust shall not die with the trustee, that the trustee shall not defeat the will of the people, but that the trust shall be transmitted by law into the hands of some other person to be executed.

Then, Mr. Speaker, to come directly to the point. If in this case of Mr. Hanchett, he was ineligible and incapable of holding the trust, why there was no trust created by voting for him, and of course no

trust which could be transmitted to any other person by any other appointment that could be made and known to the law.

Now if there be any legal gentleman either here or elsewhere who can answer this proposition I would like to hear him. He surely can produce, in that case, some legal book that will sustain the adverse proposition that a person incapable of receiving a trust has power to transmit that which the law does not intrust him with. If that be so it is conclusive of this question. Mr. Hanchett never was vested with the trust of the people, and being ineligible, incapable of casting the vote, why the appointing power remained unexercised in the people; it was not transmitted by law to the governor; it was not transmitted by law to the electoral college. They had no power of appointment; they were only the depositaries of the trust which had been vitalized and derived from the people in the appointment which they had made, and not otherwise. I repeat, if that be so, it is conclusive of the question.

Then the question comes up, Mr. Speaker, can we reach the matter here? Why not? The return of the certificate does not reach the eligibility of the elector; it is the Constitution of the United States that reaches that. It is the Constitution which lays the ax to the root of the tree; it is the Constitution which deposits the trust with us to see that it be faithfully executed, and if so we can go behind and there is no bulwark in State laws that can prohibit the exercise of that power.

The law which we have passed, permit me to remark, is plain in its intendment in relation to evidence. What is it? The first proposition is directory and mandatory to the President of the Senate. The second proposition is directory, and as I maintain, mandatory upon the electoral commission. And although the term "may" is used in connection with petitions, depositions, and other papers, that term is a legal term and denotes privilege, power, duty. It is a legal and not an *arbitrary* discretion that is to be exercised. As a legal discretion the term "may" is just as mandatory as the term "shall." An appellate court will reverse just as quickly for an erroneous exercise of a legal discretion as it will reverse for the violation of law in any other particular.

Now, whenever this commission refused to go behind the certificates they violated a provision of the law under which they were acting and nullified it as much as if it had been repealed. According to a well-established principle, whenever any part of a law which is incorporated in an act and is necessary to its existence and without which the will of the Legislature would not have sanctioned any part of the law, it renders the whole law void. (Cooley's Const. Lim., 177.) That being so, the previous findings of the commission were without warrant of law and in violation of the law under which they pretended to be acting. The law intended to open all the doors and invited them to explore all the fields of evidence and find the truth for themselves, instead of stopping at the *presumption* of truth from the certificates of a returning board whose moral putrescence filled the land with its stench and scandalized the very name of republican liberty.

But I intended simply to call the attention of the House to this important fact in the case at present under consideration, that the people by their votes create the electoral trust, but that they did not and could not in this instance, because it is asserted the party was ineligible and incapable of taking and transmitting the trust. It was, therefore, a failure to communicate the trust, and the case was simply a *non-election*, without any curative power in the certificate of the governor or the legal members of the electoral college to create an elector whose predecessor did not derive a legal authority from the people. This an ineligible elector could not do. As he could take nothing, he could give nothing; and the vote should not be counted.

Mr. FOSTER. The remarks that I propose now to submit I expected to make during the pendency of the discussion on the Louisiana question.

Mr. Speaker, the gravity of the present condition of the country as it relates to the selection of a President is such as to create in the minds of the thoughtful and patriotic the deepest solicitude.

By the patriotic action of Congress the joint high commission was created, which is to determine questions of law and of fact in relation to the count of the electoral vote of the States when more than one certificate of election had been sent up to be counted.

This commission has now decided that the eight votes of the State of Louisiana shall be counted for Hayes and Wheeler. That decision is before this House for consideration.

The friends of Tilden and Hendricks honestly believe this decision to be contrary to the law and the facts. They express themselves as believing that a great wrong has been done them.

The friends of Hayes and Wheeler are equally honest in their belief that the decision of the commission is right and just.

It was clear from the beginning that one side must be victorious, and the other side defeated.

For one, I looked upon the passage of the act creating this commission as the grandest act of American history.

I intended to stand by it, whether Hayes won or lost. If Governor Tilden had been successful, I should have heartily and honestly acquiesced in the finding, and his administration would have had my support in all things when it was consistent for me to support it. It is equally the duty of Mr. Tilden's friends, especially those who supported the measure creating the commission, now to carry out its findings in good faith. To this course all good men will agree they are bound by the sacred tie of personal honor.

Mr. ATKINS. Will the gentleman allow me to ask him a question?

Mr. FOSTER. Certainly.

Mr. ATKINS. Does the gentleman maintain that the question is now closed and that Hayes is elected?

Mr. FOSTER. I was arguing in favor of carrying out the finding of the commission in relation to Louisiana.

Mr. ATKINS. The question is not yet fully settled; Oregon is to be heard from.

Mr. FOSTER. This is not a time for mere party exultation. The exultation of the patriot over our escape from the dangers that threatened the peace, prosperity, and happiness of the people of this great country is fitting and proper. In the triumph of peace over disorder and possible civil war, both the successful and defeated parties can unite in exultation. While I do not rejoice simply in a party sense, I do rejoice that one of the purest and most patriotic of our fellow-citizens is to guide the affairs of the people for four years to come.

Representing as I do the district in which Governor Hayes resides, and being a life-long acquaintance of his, I but speak the opinion of all persons who know him when I say that his administration will be wise, patriotic, and just. Notwithstanding whatever else may be said to the contrary here or elsewhere, the people of all sections of the country may confidently expect from him not only fair but generous consideration.

His letter of acceptance is the expression of a man of the broadest and loftiest patriotism. I feel certain I shall be sustained by his acts when I say that his highest ambition will be to administer the Government so patriotically and wisely as to wipe away any and all necessity or excuse for the formation of parties on a sectional basis and all traces of party color lines; that thereafter and forever we shall hear no more of a solid South or a united North. The flag shall float over States, not provinces; over freemen, and not subjects.

When Governor Hayes appealed to the people of the South in his letter of acceptance he addressed them as "my countrymen," and why not his countrymen? And is not the South an integral part of the nation? Are not Southern States the equal of those in the North, East, or West?

It has been said sneeringly and for the purpose of stirring the wild passions of the human heart to bad actions, "that the South under Governor Hayes must submit to an unconstitutional surrender to the republican party." No, sir; no such demand will be made. All that will be expected is the patriotic co-operation of southern patriots in the great work of restoration through the Union, the Constitution, and the enforcement of the laws.

In this great work the representative men of the South have already distinguished themselves for patriotism and statesmanship during the pendency of the present crisis in our history.

Mr. WARREN. I desire to say a single word upon this question. I begin by the admission that I think in equity and in fairness the State of Michigan ought to have her whole vote counted, the vote of all her electors, for Mr. Hayes. But we are here under an oath which requires us to support the Constitution of the United States. Much as I desire that the vote of this elector, Crossman, should be received, I cannot see how it can be consistently with the Constitution and laws. It is not denied, but it is fully admitted, that Mr. Hanchett was a commissioner of the United States and was ineligible as an elector.

Mr. CONGER. That admission has never been made; it is denied entirely.

Mr. WARREN. I have not heard anybody say that that man was not appointed a commissioner.

Mr. CONGER. It is denied in the record, and denied by all.

Mr. WARREN. I do not know but the gentleman from Michigan now denies it, but I did not hear him deny it when he was upon the floor and objected to my asking him a question.

Mr. CONGER. If the gentleman will allow me——

Mr. WARREN. I cannot yield further. I understand the proof is clear and complete from the man's own testimony that he was a United States commissioner. If so, he was ineligible by the express declaration of the Constitution. If that be so, then the office of elector in his case never was filled by the votes of the people at the time and in the manner provided by the Legislature of the State pursuant to the Constitution. The State therefore chose one less elector than it was entitled to.

The question is, how may that defect be remedied? There was no difficulty in pursuing the course marked out by the supreme court of Rhode Island in a substantially similar case. The Legislature acting upon the subject, having been called together for the purpose, could have provided for filling the vacancy; I call it a vacancy for convenience. In Vermont exactly the same course was pursued.

In the State of Michigan there is no provision in the statute for filling out the whole number of electors where there is a failure to elect one or more of them because of the ineligibility of the persons voted for. The only way, therefore, was for the Legislature to do it by special law, and it failed to do it. The electoral college of that State, without the slightest authority of law, has treated this case as coming within one of the contingencies provided by the statutes of Michigan, and, as I understand, put one Mr. Crossman in the place of the ineligible Mr.

Hanchett. That they had no right or authority to do; and the consequence is that Mr. Crossman is not a legal elector, and we, acting under our oaths, have no right to count his vote, for I hold it to be unquestionable, the decision of the electoral commission to the contrary notwithstanding, that the determination of the qualifications of an elector, the determination of the question whether a person borne on the roll of the electoral college is a minor or an alien or a United States officer-holder, must rest with the Houses of Congress that count the vote. There being, therefore, no doubt that we are bound to go into the question—the House having gone into the question—the result being clearly proved, we cannot vote otherwise than to exclude this man's vote; and much as I regret to do it, much as I dislike to have any question of the result of this election determined upon technicalities or even upon so high a matter as a constitutional disqualification which the people of the State have accidentally failed to observe, still I have no alternative but to give my vote in that way unless the discussion shall disclose some defect in the proof of the fact of Mr. Hanchett's ineligibility. I should be only too glad to discover such defect of proof and give the State the benefit of the doubt.

Mr. LAWRENCE. Mr. Speaker, we are dealing now with a naked question of law, and it ought to be determined by this House, not with a view to any particular emergency, but with a view to subserving the public interests and adopting a rule of sound policy.

It is assumed that there was an elector in the State of Michigan, receiving a majority of the votes of the people, who was ineligible, and that by reason of his ineligibility his election was a nullity, and that because there was no election there was no vacancy, there having been no incumbent; and that the Legislature has failed to provide for such a case as this.

Mr. Speaker, the Constitution of the United States devolves upon the Legislature of each State the duty of appointing electors. An act of Congress has determined the time when the election shall be held in the States; and inasmuch as vacancies may afterward occur by resignation, by death, by failure to act, by a tie vote upon the choice of electors, the act of Congress provides that the Legislature of each State may provide for vacancies occurring after the day of the election. The Legislature of Michigan then had power to provide for filling vacancies; and the question which we have to consider is simply this: Upon a fair reading of the statutes has the Legislature of Michigan provided for filling such a vacancy as this, or rather is this a vacancy for which the Legislature has provided?

The statute of Michigan provides for an election of electors of President and Vice-President by popular vote. Section 74 of the general law of that State provides a canvassing board whose duty it is to count the votes as sent up from the several counties and to declare the result. Section 75 provides that—

> The secretary of state shall, without delay, cause a copy of the certified determination of the board of State canvassers, declaring the persons elected as such electors, to be transmitted and delivered by special message or otherwise, to each of the persons so declared to be elected, which copies shall be certified under his hand and seal of office.

It is important to be borne in mind in this case that the canvass was made and this elector alleged to be ineligible was declared to be elected. Following the provision I have already read, section 84 of the General Statutes of the State of Michigan declares:

> The electors of President and Vice-President shall convene at the capital of the State on the first Wednesday of December; and if there shall be any vacancy in the office of an elector, occasioned by death, refusal to act, neglect to attend by the hour of twelve o'clock at noon on that day, or on account of any two of such electors having received an equal and the same number of votes, the electors present shall proceed to fill such vacancy by ballot and plurality of votes.

The language of the statute is, "If there shall be any vacancy in the office of an elector occasioned by death, refusal to act, neglect to attend." This refers to the electors who have been declared elected by the canvass authorized by the statute, no matter whether they are eligible or ineligible. This statute was intended to cover every case of vacancy that could arise, without regard to the cause of the vacancy or the manner in which it had arisen.

Mr. HUBBELL. The gentleman will allow me to ask whether there is any evidence before this House to prove that the elector Hanchett was ineligible?

Mr. LAWRENCE. I will come to that. Of course there is no such proof, because this House is incapable of taking the proof; and more than that the board of canvassers in the State of Michigan was not clothed with the judicial power to take proof upon that question; and because they were not, the statute says they shall declare elected that person who shall have received a majority of the votes cast for electors.

Mr. HUBBELL. Does the gentleman think that the fact of an elector testifying that sixteen years ago he acted as an officer is any evidence that he is now an officer?

Mr. LAWRENCE. Why, Mr. Speaker, the House is not authorized to inquire into the qualifications of electors. It is not competent for us as a returning board (for that is all we are) to make the inquiry at all. Of course, then, there is no legal proof before us.

Mr. SAVAGE. Does the gentleman mean to say that the provision of the Constitution which declares that certain officers shall be ineligible to act as presidential electors is a dead letter?

Mr. LAWRENCE. I mean to say that it is a directory provision, and that, if a person shall be elected notwithstanding the constitutional provision, he is a good officer and his acts are valid. I mean to say what every court in this country has said and what no one has ever controverted. I here defy any gentleman upon this floor to produce a single respectable case in this country which controverts the position that, if an ineligible person takes an office and acts, his acts are valid. And I now here defy any gentleman upon this floor to produce a single respectable case in this country which controverts the position, and that an ineligible officer, if he takes office and acts, that his acts are invalid. There is but one court that has ever held the inquiry can be made by the governor or canvassing officer, and there is a uniform current of authority against that so overwhelming it sinks into utter insignificance and is utterly valueless.

Mr. SAVAGE. Will the gentleman show one respectable authority which says that a disqualified person under the Constitution could hold an office an exercise its functions?

Mr. LAWRENCE. I will; several of them. The gentleman needs enlightenment, and I am glad to enlighten him. Yes, sir; I say that it has been decided in Missouri, in Pennsylvania, in California. Does the gentleman want any more cases?

Mr. SAVAGE. Will the gentleman state one case?

Mr. LAWRENCE. I have them here.

Mr. SAVAGE. Well state them.

Mr. LAWRENCE. I will.

Mr. SAVAGE. Read and tell us what has been decided.

Mr. LAWRENCE. In the case of St. Louis County *vs.* Sparks, 10 Mo., 121—and I commend this to the attention of my friend from Missouri, (Mr. BUCKNER,) who seems to have overlooked the law of his own State as determined by the courts—the court says:

> A statute prescribing qualifications to an office is merely directory, and, although an appointee does not possess the requisite qualifications, his appointment is not therefore void unless it is so expressly enacted.

In Commonwealth *vs.* Cluley, 56 Pa. State Reports, 270, it is shown Cluley received a majority of votes as a candidate for sheriff against McLaughlin, the minority candidate. McLaughlin instituted *quo warranto* proceeding to oust Cluley on the ground that he was ineligible. His honor Judge Strong, now upon this commission, one of the ablest and best men in this country, said in deciding that case:

> The votes cast at an election for a person who is disqualified from holding an office are not nullities; they cannot be rejected by the inspectors, nor thrown out by the return judges; the disqualified person is a person still, and every vote thrown for him is formal.

The SPEAKER. The gentleman's time has expired.

Mr. SAVAGE. Every authority the gentleman has quoted is for me and against him.

Mr. WILSON, of West Virginia. Mr. Speaker, will the American people accept that iniquitous decision rendered by the electoral commission, founded, as it is claimed to be, upon the technical ground of a want of power to inquire into the existence of frauds conceded by the record, which are the most infamous, glaring, and offensive ever perpetrated upon a free people?

The returning board of Louisiana is under the law of that State a close corporation, authorized to perpetuate itself in power by filling any vacancies that may occur among its members. The four members of that board who officiated in counting the vote at the late presidential election are men who have been shown in repeated investigations to be of the most depraved, despicable, and abandoned characters and have received the merited condemnation of both Houses of Congress and of the entire country. Their proceedings in canvassing the returns at the late election are shown by incontrovertible evidence to have been conducted without any regard to truth or justice or law; and the result which they reached, sustained as it has been by a partisan majority of the electoral commission, will select the President of the United States; it is conceded by every fair man to be a willful falsification of the actual vote of the State and a wicked and deliberate lie.

The counsel before the commission representing the democratic party, in a formal offer of evidence, proposed to prove this and more than this. They proposed to prove that certain of the papers upon which the board professed to act were forgeries, conceived and designed by the board itself, and perpetrated by men they had employed for that purpose. They also proposed to prove that the affidavits upon which the board professed to act were deliberate perjuries, committed by men engaged by that board and their co-conspirators to commit them. They also proposed to prove the board transcended even the broad limit of the Louisiana statute by which it was created, and acted without any jurisdiction whatever. They also proposed to prove that the members of this board went into the open political market, and offered to make up the returns in the interest of either party that would pay for them.

All this evidence the commission refused to hear, alleging that it was without power to examine into any of the questions to which it related, admitting that, although true, it would not affect their conclusions and thus proclaiming to the world that the great Republic of the United States was compelled to hug the fraud of these villains to its bosom, and accept as its Chief Magistrate a man whose claim to the presidential position was founded upon this festering iniquity. Such a conclusion will be a disgrace to the country, the consciousness of which in the hearts of the people will make the administration connected with it hateful to every honest man, and present us to the civilized world as a disgraced and dishonored Government.

Our country can stand against the world in arms, and neither foreign attack nor reckless internecine strife can give us any just cause

of alarm for the permanency of our institutions; but when the vile outcasts of society in an unfortunate State of the Union are upheld in their possession of political power, and their frauds in a presidential election are accepted by the Federal Government as justly controlling the election, we have abandoned all adhesion to those great moral principles the observance of which can alone preserve the form or substance of American freedom.

The decision of this commission is a libel upon the Government and a deliberate falsification of its laws and of its powers; and the high and distinguished men who made it will find that it has power enough to drag them and their characters down to the level of the miserable wretches whose action they approve and commend. In the better days of the Republic Judge Story said, in a solemn opinion in the Supreme Court of the United States:

Fraud will vitiate any, even the most solemn, transaction; and an asserted title to property founded upon it is utterly void."

But that was in a day when returning boards were unknown, when military despotisms had not suspended legitimate State authority, and political passions had not soiled the pure ermine of our judges. The law now is the same that he pronounced it to be. Title acquired to any kind of property by fraud, whether to lands or tenements, goods or chattels, or title acquired by fraud to the office of justice or judge, constable or governor, are simply void, and none of them could stand for a moment in a court of justice; but title acquired, says this commission, to the office of President of the United States by fraud, no matter how plainly that fraud may be proved, no matter how infamous may be the character of the men by whom it is perpetrated, and no matter how enormous that fraud may be, is a perfectly valid title to be observed and respected by all men, and the fraud is to be sanctified and embalmed in the political history of the country.

Sir, as an American citizen I spurn such a doctrine and trample this base and infamous decision under my feet. I voted against giving it the approval of this House, for if I voted otherwise I could not look my honest constituency in the face.

Had this commission heard the facts, as they were ordered to do, according to my understanding of the bill under which they were organized, had they taken the evidence offered to them and then decided upon that evidence, I should have felt constrained to give my acquiescence to whatever conclusion they might have reached; but the fact that they have refused to hear any evidence whatever, together with their systematic partisan votes upon every proposition, has satisfied me that their conclusions had been reached before they were qualified as members of the commission.

The leaders of the radical party may, through such means, enjoy a temporary triumph. They will probably inaugurate their candidate, but his seat will not be an easy one, for the receiver of stolen goods is as bad as the thief, and an honest people will visit the men who have thus outraged law, right, justice, and honor, by such measure of retributive justice as was never yet experienced by any political party on the face of the earth.

The Supreme Court of the United States has ever been regarded in this country and Europe as a conspicuously wise, dignified, and impartial tribunal. It has been looked up to as almost sacred. When the country learned that the electoral commission was to be in part composed of judges taken from that court, joy and satisfaction filled the hearts of the people and the conspirators shrank with fear, believing that justice and right were about to triumph. The belief was universal that those judges would give the great questions to be submitted to them as members of the commission an elevated, conscientious consideration; that if fraud existed it would be exposed and condemned; that a conclusion would be reached which every man would be compelled to acknowledge honest and equitable. But to the surprise and disgrace of the country that belief, that sanguine expectation has proved a delusion, and the fact is apparent that the decisions of the commission have been partisan and mercenary.

It is the merest mockery to assert that the electoral vote of Louisiana was rightfully cast for Hayes and Wheeler. Every intelligent man who is at all conversant with the history of the late election in that State knows full well that their claim to that vote is unfounded and fraudulent. As well might it be said that the vote of Massachusetts had been cast for Tilden or that the vote of Maryland had been cast for Hayes. The result of the election in Louisiana was a clear, decided democratic majority. The vote was the largest by 16,000 ever polled in the State. A greater per cent. of the population voted on the 7th day of November last in Louisiana than in any other State in the Union. This is to some extent to be accounted for by the illegal votes cast through the fraudulent manipulations of republican supervisors; but the chief reason why the great body of the people voted is obvious and unmistakable. They were impelled by a sense of wrong, of injustice, and of an oppression which had taxed their forbearance to the utmost extremity. A drunken judge by his midnight order in a cause in which he had no jurisdiction had forced upon them a governor who has since been kept in power against their protest by the military arm of the Government.

It does not lie in the mouth of the republican party to charge that murder, riot, and intimidation prevented a free and fair election. That party had full control of the State. An extreme radical governor was at the head of affairs, a tool in the hands of vicious advisers, and was ever ready to do their bidding and carry out their nefarious schemes. He was aided and sustained by the State constabulary, and these were backed up by United States soldiers. In addition to this force United States deputy marshals were scattered all over the State, eight hundred or more being on duty in New Orleans alone. But this is not all. The courts of the State and their officers were in the hands of the republicans. They had full power and authority to make arrests, institute prosecutions, and secure the conviction of guilty parties. If the various offenses of which gentlemen talk so eloquently on this floor have been committed, I demand to know why the offenders have not been arrested; I demand to know why the records fail to show that prosecutions have been put on foot for their punishment. The imputation that democrats have by intimidation, riot, and murder prevented a peaceful and fair election falls to the ground a malicious slander upon the people of that unhappy and outraged Commonwealth.

Not only did the republicans have control of the civil and military power of the State, but they had control of its entire election machinery also. The governor appointed the supervisors of registration and election for the several parishes, and we have the authority of the special committee of which Hon. WILLIAM R. MORRISON is chairman for the statement that many of the supervisors were appointed from the police and custom-house employés—men of the most disreputable character; so disreputable indeed that even Governor Kellogg disavowed their appointment and saddled the responsibility upon his lieutenant-governor. These men were sent to the various parishes with instructions to register and vote the full strength of their party. Here is a circular that was sent to every supervisor in the State. This one was addressed to the parish of Assumption. The animus that prompted it is so apparent that it needs no comment.

HEADQUARTERS REPUBLICAN PARTY OF LOUISIANA,
ROOMS JOINT COMMITTEE ON CANVASSING AND REGISTRATION,
MECHANICS' INSTITUTE, *September* 25, 1876.

DEAR SIR: It is well known to this committee that, from examination of the census of 1875, the republican vote in your parish is 2,200 and the republican majority is 900.

You are expected to register and vote the full strength of the republican party in your parish.

Your recognition by the next State administration will depend upon your doing your full duty in the premises, and you will not be held to have done your full duty unless the republican registration in your parish reaches 2,200 and the republican vote is at least 2,100.

All local candidates and committees are directed to aid you to the utmost in obtaining the result, and every facility is and will be afforded you; but you must obtain the results called for herein without fail. Once obtained, your recognition will be ample and generous.

Very respectfully, your obedient servant,

D. J. M. A. JEWETT,
Secretary.

SUPERVISOR OF REGISTRAION,
Parish of Assumption, Louisiana.

They were not content with a registration of the actual voters, so that a fair expression of public opinion might be obtained. Their purpose was to secure the election of Hayes and Wheeler at all hazards, by fair means or foul. To this end they made up registration-lists of the living and the dead; of men who were not then and never had been citizens of Louisiana. They even swelled the registration of colored voters to the number of nearly twenty thousand more than resided in the State.

Money and troops were used, frauds were practiced, and the unbridled passions of bad men had full sway. Nothing was left undone to consummate the unholy purpose those wicked conspirators had engaged to accomplish. The election came and passed and to their utter horror the face of the returns in the hands of republican officials showed that the Tilden and Hendricks electors had been appointed by majorities ranging from six to nine thousand.

On the 7th, 8th, and 9th of November it was apparent to every one that the democratic candidates had been triumphantly elected. The country had been thoroughly canvassed and the contest had been characterized by more earnestness and bitterness than had ever been witnessed before. The people settled down into quiet and repose, satisfied then as they always had been theretofore with the popular choice, and awaited the inauguration of the successful candidates. But this repose was of short duration. Party leaders and political schemers commenced plotting to defeat the popular will and by the most shameful and disreputable manipulations to induct the defeated candidate into the Chief Executive office of this Government.

They foresaw that if their party failed then it would be a failure for all time; that it would go down to oblivion's grave, never again to be resurrected.

In their desperation and as a last resort they proclaimed that Louisiana and Florida had appointed Hayes and Wheeler electors, and at once began the work of producing that result, in the face of existing facts which would have caused most men to shrink from such an undertaking as immoral and dishonest.

The election returns of Louisiana went into the hands of the returning board showing on their face a majority of nearly 8,000 for the Tilden electors. They came from the hands of that board showing a majority of nearly 4,000 for the Hayes electors. What brought about this change? Can any honorable man doubt that it was the result of fraud, forgery, and perjury? By it Rutherford B. Hayes is to be made President of the United States. Contemplate the Chief Magistrate of this great country—successor to Washington, Jefferson, Jackson, and Lincoln—holding title to that exalted position through fraud, and through fraud alone!

One word as to the *personnel* of the returning board of Louisiana which threw out 13,000 votes in that State for no other reason than to manufacture a majority for the Hayes electors, an irresponsible board created by an usurping Legislature and made self-perpetuating for party purposes. We saw the members of that board arraigned at the bar of this House for contempt. It may well be doubted whether any tribunal or other body of officials in this or any other country can be pointed out of whom more that is bad and less that is good can be truthfully said.

Wells, Anderson, and Kenner, a trio who will live in history as the most nauseating festers of republican corruption—a perpetual sorrow and humiliation to every American patriot—Wells, a defaulter to his State, a man without character for truth and veracity, who has covered himself all over with infamy by his conduct as a member of that board; Anderson, without character for integrity, branded by a special committee of this House with having defrauded his State while serving her in a representative capacity; Kenner, of whom it were superfluous to say more than that he was indicted for larceny and secured a dismissal of the prosecution after admitting his guilt, when he was promptly made a member of the returning board. This trio and the negro Casanave, whose docile ignorance and stupidity peculiarly fit him for the position of an instrument in their hands, constitute the board who are authorized, as it is claimed, to pass upon the election returns of one of the States of this Union, and to determine what shall and what shall not be counted.

The following table taken from certified copies of duplicate returns made by commissioners of election at each voting-place in the State shows how the vote stood when it went to the hands of the returning board:

Tilden electors received the following votes, to wit:

McEnery	83,712
Wickliffe	83,880
St. Martin	83,676
Poché	83,529
De Blanc	83,667
Seay	83,842
Cobb	83,579
Cross	83,652

and the Hayes electors received the following votes, to wit:

Kellogg	77,152
Burch	77,154
Joseph	74,889
Sheldon	74,844
Marks	75,221
Levissee	75,370
Brewster	75,457
Joffrion	75,597

The board entered upon its duty of canvassing and compiling the vote with a purpose to change the result of the election in Louisiana by throwing out a sufficient number of parishes and polls for that purpose. Previous to its first meeting, the following dispatch passed over the wires from the attorney of the board:

NEW ORLEANS, *November* 16, 1876.

Hon. J. R. WEST, *Washington, D. C.:*

Returns to date leave us majority, throwing out five parishes.

JOHN RAY.

And on the next day the United States marshal, a republican, sent the following dispatch:

The witnessing committee so selected by the President having refused to co-operate with a committee of their political opponents in an effort to have the vacancy in said board filled, and in other efforts to see that the board of canvassers made a fair count of the vote actually cast, the United States marshal sent the following dispatch to the administration United States Senator of Louisiana:

NEW ORLEANS, *November* 17, 1876.

Hon. J. R. WEST, *Washington, D. C.:*

Louisiana is safe. Our northern friends stand firmly by us. The returning board will hold its own.

J. R. G. PITKIN.

And on the 3d of December the United States Marshal Pitkin sent the following dispatch in cipher, and, on oath, says he derived the information as to the result from J. Madison Wells:

NEW ORLEANS, *December* 3, 1876.

Hon. J. R. WEST, *Washington, D. C.:*

Democratic boast entire fallacy. Have northern friends on way North. Answer telegram of this morning; also, have Senate anticipate House on sending committee to investigate outrages. Have seen Wells, who says: "Board will return Hayes sure. Have no fear."

J. R. G. PITKIN.

And this board, faithful to the predictions and promises thus made and faithful to the conspiracy that had for its object the election of Hayes and Wheeler, in utter disregard of right, without the semblance of law or authority, nullified the popular will by rejecting the votes of 13,000 voters in that State. The act was wanton, vicious, and wholly inexcusable, and yet a partisan majority of the electoral commission sanctioned the fraud and approved the wrong. This House did a righteous act that the country will appreciate and applaud when it repudiated and condemned that erroneous and outrageous decision.

I regard the present as the most critical and dangerous period in the country's history. Never before have our republican institutions been put to as great a test as they are now undergoing. Never before have they been so boldly menaced. Gentlemen may sugar-coat the pill as they please; they may present the issue in any form, dressed in any garb that may suit their taste, but the truth is not to be disguised that this is a conflict between constitutional liberty and centralism. We cannot, if we would, shut our eyes to the fact that there is in this country a powerful party who seek the overthrow of our institutions. We see the evidences of it on every hand. Prominent members of the republican party have foreshadowed that policy by various resolutions in this House and in the Senate during the present Congress. They have even ingrafted the idea in the Cincinnati platform upon which Governor Hayes stands and to which he is committed.

It is but a few years since a newspaper styled the Imperialist, as I remember, was published in the city of New York. Its title fully explains its hostility to our present form of government. The projectors of the scheme, finding the people not in a frame of mind to join in the proposed conspiracy against the Government, withdrew it from circulation. Yet, notwithstanding its withdrawal, the policy it proclaimed continues to have advocates, and to-day has the sanction of the leaders of the republican party of the country.

So much has been written and said upon this subject by various gentlemen that I cannot refer to all in the limited time allotted to me, but must content myself with mentioning a few of the most remarkable utterances. I hold in my hand a published letter by William Giles Dix, of Massachusetts, to President Grant in the year 1875, in which the following language is used:

You became President in consequence of the national victory in which you bore a share so honorable and eminent; but, Mr. President, let me entreat you to consider that it was a national, not a federal, victory you won, and that national victory signified the defeat of the Federal Constitution.

Here we have the declaration of a gentleman of scholarly attainments, who avows his hostility to federalism. He names the issue fairly and discusses it ably. But I quote another and more significant passage from the same letter:

Mr. President, since you will not lead, I challenge you to follow. If you will not accept the challenge, then if I shall live I will do all that honorably and earnestly I can to make *a national Government and a national Constitution* the watchwords of a triumphant national party at the next presidential election.

I do not know how far Mr. Dix was authorized to speak for the republican party, but it is evident that by this letter he foreshadowed its policy. The Cincinnati convention, by which Governor Hayes was nominated, announces, among other things, that—

The United States of America is a nation, not a league.

This was the first time, so far as I have been able to ascertain, that any one of all the various parties ever existing in this country had the temerity to declare that this Government was not a league. What is a league?

It is an alliance or confederation between sovereign states. That is what the fathers and founders of this Government intended and claimed to have established, and their work as such has since received the sanction of mankind and excited the admiration of the world until the republican party rejected it.

The distinguishing feature of this Government is that it is a government of checks and balances; that it is a union of States, not a union of the people. The Constitution was adopted by a majority of States in convention assembled, and not by a majority of the popular vote; and to each one of these States is guaranteed a republican form of government, with the power to regulate and control its own affairs in its own way, provided always they do nothing to violate late the Federal Constitution.

Mr. Speaker, what is the object of this new departure? It is the overthrow of our present form of government; that and nothing else.

These are the features of our government that have excited the deadly hostility of the leading spirits of the republican party. They are jealous of the large liberty and sovereign power the people exercise. They see that the only hope they can have of retaining control of the government is to withdraw from the people their sovereignity, to obliterate State lines, abolish local government, and to centralize power in the hands of the rulers, by whatever name they may be called. Already have they commenced the agitation of this question. The National Republican, the organ of the extreme wing of the republican party, in its issue of the 2d of February, referring to the late war, holds the following language:

But since that day there has been a marked change in the sentiment of the people in this respect, and it may be safely asserted that there is now a large majority in favor of a strong National Government, with powers acting directly upon the people, without regard to State lines and limits, whose jurisdiction shall extend to the control of every interest of a national character, unimpeded and unaffected by considerations arising from claims of State sovereignty—a thing which cannot exist in the way of the common welfare, but must yield to the will of the true sovereign.

* * * * * * *

And in view of the sad experiences of the past and the present, it will not be cause for surprise if, upon proceeding to the task of establishing a permanent adjustment of powers between the States and the nation, early to be made, there is decreed such a distribution and modification as will clothe the General Government with full jurisdiction of the election proceedings and all matters appertaining to the Presidency, and a considerable extension of the term of that office.

When the opportunity shall be offered I propose to discuss this question further. The people may as well look the issue squarely in the face. Their rights are imperiled. The Government of their fathers is menaced by an insidious and dangerous foe. If it be not restrained we are to have a centralized, quasi-republican government first and monarchy afterward.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, notified the House that that body was now ready to meet the House and proceed with the counting of the electoral votes for President and Vice-President.

Mr. BURCHARD, of Illinois. Mr. Speaker, the objections submitted in the joint meeting to the vote of the elector Crossman present several questions for the consideration of the House. Under the law of the State of Michigan was there a vacancy to which the elector Crossman could be appointed? Was Hanchett, the elector voted for on the 7th of November, ineligible? Did he hold an office of profit or trust under the United States, and did the vacancy to which Crossman was appointed by the college arise from Hanchett's non-attendance or from his ineligibility? If ineligible to appointment, what effect can it have upon the vote of the college?

Under the Constitution and law, what power in counting has either House to make judicial investigation and decide upon the right of an elector whose vote has been cast and duly certified and returned according to law?

What statements or evidence will each House consider sufficient proof to justify its rejection of a vote thus cast and certified?

In considering some of these questions let me first call attention to the testimony presented to the House in regard to the ineligibility of Hanchett. There is no legal or competent evidence, none which would be admitted or be considered by any respectable court to show that Hanchett held any office of trust. There is the mere verbal statement that Hanchett was appointed; there is no evidence of any commission, nor that he qualified as required by law, no record evidence of any appointment, no copy of the record of the court has been produced. Hearsay and verbal statements cannot be made competent or legal evidence by the vote of a majority of the committee on the privileges, powers, and duties of the House. Disregarding the rules of law, papers, hearsay statements and incompetent testimony may go upon the record and be submitted to the House, but they do not thereby become legal proof or entitled to be considered competent evidence by either House.

If Mr. Hanchett's appointment had been shown, the fact is clearly proved that he did not for a long time perform the duties of the office and did not consider himself as such commissioner.

But laying aside these considerations, which, I think, ought to be decisive of this question, I hold there is no power in this House under the Constitution and laws of the United States to go into a judicial inquiry as to the competency or the ability of the electors to exercise their office. You have no more right than have the inspectors or judges of an election when, after the polls are closed, they count all the votes which have been put into the ballot-box. They have no right to throw out or reject votes actually cast unless the constitution and law of their State expressly invests them with such power. The duty of canvassers, say the courts, is simply to count, not to decide upon the legality of the votes that have been cast.

Where in the law, where in the Constitution do you find any power in this count of the electoral votes to throw out votes that had been actually cast and certified to the President of the Senate, by the electors of a State, and by the executive authority as required by the law?

Mr. SPRINGER. Will the gentleman allow me to answer his question? If a member of Congress were returned as an elector——

Mr. BURCHARD, of Illinois. I will not stop for that. That has been repeated half a dozen times in other places. I challenge you to find such power conferred in any law of the United States. The judicial power of the United States is by express terms of the Constitution vested in the Supreme Court and inferior courts. The law may authorize the counting. It may be performed by the Houses or by a tribunal authorized for that purpose, or by the President of the Senate, or whoever is authorized under the Constitution and the law to count. The constitutional duty here performed is not a canvass even. It is a count which means the enumeration of the votes that are cast, and not a judicial inquiry into the right of the electors to cast the votes.

Did not the supreme court of Florida, which you on your side applaud, decide that under the law and constitution of Florida the canvassing board must canvass the votes that were cast and had no power to exercise judicial functions? And if the canvassing board of a State in counting the votes after they are cast can exercise no judicial power, where in the Constitution do you find the right to exercise that power? You are simply to make an arithmetical enumeration of the votes that are certified by the proper authorities and are sent up here to be counted as appears upon their face.

Mr. SPRINGER. Will the gentleman allow me to answer his question? I would ask the gentleman whether he could have voted as an elector himself, while at the same time he was a member of Congress?

Mr. BURCHARD, of Illinois. That is foreign to the question.

Mr. SPRINGER. It is the question.

Mr. BURCHARD, of Illinois. The question is not whether I could properly act and might not be restrained by legal process from acting, but what can be done by the two Houses under the law when the alleged ineligible elector has voted in the college of his State. Can you invade the secrecy intended by the Constitution in requiring the vote to be by ballot? Can you arraign the electors at your bar and require them each to disclose for whom he voted? Can you make a judicial investigation as to the eligibility of electors?

Upon the question as to the effect of an ineligible elector's vote I desire to cite two other authorities in addition to those presented by the gentleman from Ohio [Mr. LAWRENCE] a few moments ago.

The principle of colorable election holds not only in regard to the right of electing but of being elected. A person indisputably ineligible may be an officer *de facto* by color of election. (Baird *vs.* Bank of Washington, 11 S. and R., 414.)

It is a general principle of the law that ministerial acts of an officer *de facto* are valid and effectual when they concern the public and the rights of third persons, although it may appear that he has no legal or constitutional right to the office. (People, 1 Gil., 529; 5 Gil., 107.)

And this principle is applicable to all cases, unless in the law and the constitution under which the officer or body is acting there is an express provision that the act shall be absolutely void. The Constitution prescribes certain qualifications for an elector. It does not declare that the vote of a disqualified elector shall be void.

Mr. Speaker, I turn to the Constitution itself, and I ask what power is given to decide disputed elections except in cases of contest before either House for a seat therein, when each House is the judge of the election and return of its own members? Do you find any power anywhere in the Constitution authorizing this House to go into an inquiry and decide upon the rights of a citizen to hold an office? Can a legislative body perform judicial functions? Does the presidential count imply the examination of witnesses on the one side and the other? Can mere canvassers—counters—weigh and decide and, as the canvassing board, it is alleged, in Florida attempted to do, throw out votes after such consideration and hearing? We have no such power. This Congress, this House, the two Houses, are not omnipotent. They are bodies created by the Constitution and have no power only as conferred by the Constitution, and their acts are void like the acts of any other body when unauthorized by the Constitution.

If Mr. Hanchett was ineligible—to show which I deny there is any competent proof before the House—his exercise of the duties of the office would not have invalidated his vote so far as this count is concerned. Under the Constitution and laws of the United States there would have been no legal right in this House at this count to have inquired into his eligibility, and no right to reject his vote if he had acted with the college instead of Crossman, who was appointed to fill the vacancy occasioned by his absence.

[Here the hammer fell.]

Cries of "Vote!" "Vote!"

Mr. COCHRANE. Mr. Speaker, I cannot allow this occasion to pass without denouncing in the strongest terms the action of the majority of the joint commission in giving the electoral vote of Louisiana to Hayes and Wheeler. I voted for the electoral bill and I did so with no little pleasure and satisfaction. The people of the whole country hailed the measure as a harbinger of peace. The business interests of the country were suffering by reason of the uncertainty arising out of the late election. Civil war was thought by many to be imminent. Under these alarming circumstances the joint committee of the two Houses presented the electoral bill signed by every member of the committee except Mr. MORTON. Such democrats from the House as Mr. PAYNE, Mr. HEWITT, and Mr. HUNTON, and from the Senate Mr. THURMAN and Mr. BAYARD gave to the bill their most earnest and cordial support. The discussion upon the bill, now a part of the record of Congress, was one of the most remarkable in the history of the House and Senate. The bill was passed by a very large majority, and a sigh of relief went up from our whole people. The dark clouds had disappeared and honest men of all political parties rejoiced in the thought that the commission soon to be created would determine who had been fairly elected President of the United States, Tilden or Hayes. The animus of the republican leaders however soon became apparent. Instead of selecting unbiased conservative men to serve upon the commission they selected, at least in two instances, the most bitter partisans—men who had opposed the bill, denied its constitutionality, and were in every way hostile thereto. The democratic party did not follow this vicious example, but selected men recognized as among the most conservative of the party and all of whom had earnestly advocated the bill. I have neither the time nor inclination to follow the action of the commission in detail. The vote of Florida was given to Hayes by the decision of the eight republican commissioners. Standing upon the merest technicalities and ignoring and disregarding the facts, they gave to Mr. Hayes the electoral vote of a State the majority of whose people had voted for the Tilden electors. This action of the commission merited and received the condemnation of all honest men; but better things were hoped for when Louisiana was reached. All of these hopes, however, have been blasted. The partisan majority upon the commission have again declared that the voice of the majority of the people of a State shall be disregarded and that a premium shall be placed upon corruption and fraud. Fraud and villainy on the part of the returning board were alleged, but evidence of the same was excluded. Perjury, forgery, and bribery were alleged, proof of the same offered. But no; the eight partisan commissioners were there to declare Hayes elected and they proposed to carry out that purpose, although in so doing they trampled upon the Constitution of the United States, disregarded the constitution and laws of the State of Louisiana, and violated the letter and spirit of the law by which the commission was created. They have done their work; counted the vote of Louisiana for their Presi-

dent, but in so doing have blackened the page of American history and cast a shadow upon the civilization, intelligence, and honesty of our day. In the name of the great democracy of my State, and not democracy alone, but of all who love truth and honesty, I do here solemnly enter of record my protest against the outrage which these eight partisans have committed.

In conclusion, I only desire to repel the statement made by some republican papers that the democratic party means to resort to revolutionary measures. I desire to assure gentlemen upon the other side, in spite of the garbled statements of newspapers as to what they allege has occurred in caucus, that neither the democratic party nor any of its members will resort to revolutionary action. If there is any one thing which has marked the career of my party, it is its adherence to the Constitution of the United States and obedience to law. It will be in the present what it has been in the past. A few words more, Mr. Speaker, and I will close. The American people will never ratify or indorse the gigantic fraud which has been perpetrated. Four years of usurped power yet remain for the republican party and then its scepter will depart from it forever.

Mr. BANKS. It does not appear to me, although I am not as well acquainted with the merits of this question and the law upon which it rests as other gentlemen, that there is any substantial proof of the appointment of Mr. Hanchett as a commissioner of the United States. If I heard the testimony rightly as it was read, there is nothing that relates to such an appointment but what he says himself. He states that he was notified that he would be appointed, and subsequently that he had been appointed, and he thinks a form of oath was inclosed to him which he supposes he must have taken, but of which he has no recollection whatever.

There is no testimony, no proof at all that he qualified as a commissioner, or that he ever received a commission; not the slightest.

Mr. LAWRENCE. There is no proof that the court appointed him.

Mr. BANKS. That is shown by the testimony that is presented in support of the objection; but in addition to that there is no proof that he ever qualified if he was even appointed or received a commission. Now, the gentleman from Illinois [Mr. SPRINGER] asks if his colleague, Mr. BURCHARD, could have been appointed an elector, he being a member of Congress. Well, I suppose if a man was told by somebody that he was or would be a member of Congress thirteen years afterward he should say that he thought he might have served, that on that statement of facts, which is precisely the case before us, the gentleman's colleague would not be disqualfied for a presidential elector if he was properly elected to that office. The fact is that there is no proof at all, not a shadow of proof, that this man was appointed or that he accepted the office of commissioner and was qualified for that position by taking the oath prescribed by law for that office. If he did he terminated his office when more than nine years since he refused to serve in that capacity. Being told that he was appointed thirteen years ago, or being appointed for a temporary purpose he terminated his appointment more than nine years ago by refusing to serve in that office. Now, he was appointed a commissioner for a special purpose, and nine years ago refused to serve on the ground that he was not a commissioner, which he was not, and so far as the testimony shows never had been, and if moreover he had moved into another part of the State that was a termination of his official career. There is no proof however, at all, that this man ever was a commissioner of the United States for the State of Michigan, or that he had any right to act. There is not a scintilla of evidence to show that he would now have a legal right to act as a commissioner of the United States in the State of Michigan.

Now in regard to his appointment as elector. The gentleman from Virginia [Mr. TUCKER] has stated as a legal proposition that he was not appointed an elector. Well, sir, what was done by the State of Michigan in regard to his appointment as an elector? The people of Michigan voted for him as a candidate for elector. He had 25,000 majority for that office over his competitor. He was declared elected by the proper officers. He was commissioned as an elector by the governor of the State. That constitutes an appointment so far as the State is concerned. I do not mean to say that upon those facts alone he would be qualified to cast a vote for President and Vice-President. It might have happened that after his appointment by the people of Michigan it was found that he in some manner was disqualified for holding the office. But that disqualification must be shown. It has not been shown, and there is no allegation here that his disqualification is shown and that he ceased to be an elector because he was found to be disqualified. If he had gone on, having been appointed by the people of Michigan and commissioned by the governor, he had acted as an elector and voted for a candidate who was found to be elected, in such a case his disqualification as an elector would have no effect at all, because it was not shown. But it does not seem to have been the fact in this case. No disqualification has been shown, if it ever existed, as I say it did not.

Then, upon this ground alone, he being regularly appointed, commissioned, and recognized by the Government, it was for him to appear or not to appear at the place and time appointed. He did not appear. He refused to serve. He neglected to give his vote or to attend at the time appointed. Then, under the law of Michigan, as several gentlemen have stated, the electoral college of that State had a perfect right to fill the vacancy thus occasioned. The college of electors having authority to fill vacancies in case the persons appointed did not appear at the time appointed by law, the electors who were present would have an undoubted right to decide whether or not a vacancy existed, and if found to exist to take the proper measures to fill it as provided by law.

There is nothing to show, not a particle of evidence, not a scintilla of proof, that this man was ever appointed to the office of commissioner of the United States, except the admission that he makes himself, that he thinks that he was informed that he would be appointed, and that he thinks he may have taken the oath according to the form sent to him, but that he has no recollection of it. Beyond that there is no testimony to prove that he was appointed or had ever qualified as a commissioner, or became under the law an officer of the United States. If that had been the facts the record of his appointment and qualification could be easily produced. It has not been produced. On these grounds I have no hesitation in voting against the objection.

Cries of "Vote!" "Vote!"

Mr. SPARKS. I did not expect to detain the House with any remarks of mine upon the question now under consideration, and would not have done so except for remarks which have been made by the gentleman from Ohio, [Mr. FOSTER.] I was forcibly impressed by the remarks and fully believe the statement made by the gentleman from Michigan [Mr. CONGER] that it is not expected that anything will or can be accomplished by the objections offered in the present case. In fact, sir, it seems to me that nothing is accomplished by any objection offered in any case. It makes no difference what the basis of the objection is, it is ignored, dodged, or evaded, and the court goes on to the consummation of a gigantic fraud, while truth and the honest votes of the people are denied a hearing. The case now under consideration has this of substance in it: A man in Michigan held an office under the Government of the United States and admitted before one of the select committees of this House that such was the fact; that at the time of his appointment and now he was and is a United States commissioner. The Constitution says that "no man shall be appointed an elector who was then holding an office of trust or profit under the Government of the United States." But this is a light case. It seems to make little difference when it is predetermined that the object is to be accomplished, that is, that Hayes is to be inaugurated, whether the Constitution stands in the way or not.

The gentleman from Ohio [Mr. FOSTER] has given us quite a little dissertation upon the patriotism of the republican candidate for the Presidency, and he tells us that he will make an excellent, good President. My opinion is that he *will be* inaugurated; and if he is we all, of course, would like for him to make a good officer. But, sir, I doubt the patriotism of any man who will take the highest office in the Republic when it is thrust upon him by fraud, and this man knows that if he gets the Presidency it comes to him by and through undisguised fraud. He may make an excellent President notwithstanding all this, but he has to wade through too much filth in attaining it to inspire the confidence that he will do so.

I was struck some time ago by the remarks of the gentleman from New York, [Mr. TOWNSEND,] who in speaking of Governor Tilden sneeringly alluded to him as the "little man of Gramercy Park." Now, sir, after this patriotic citizen (Mr. Hayes) is inaugurated let us picture the "little man of Gramercy Park" visiting him. The White House and its surroundings are duly appreciated. The distinguished honors of the high office, are commented upon, its emoluments and powers fully discussed, and all that. But when the visitor takes up his hat to go he says: "Sir, one quarter of a million more of the people of this country (your fellow-citizens and mine) voted that all this should be mine than voted that it should be yours." Now, Mr. Speaker, on an occasion like this whose shoes would you rather fill, those of the man in possession or those of the visitor? I confess, sir, that I would rather be in those of "the little man of Gramercy Park." And, sir, further and stronger than that, he could say to his host "I had a clearly defined and unmistakable majority of the electoral votes of this country but through your rascally, scoundrelly, fraudulent returning boards you have defrauded me of them and thereby taken my honestly won office from me."

Sir, have I overdrawn this picture? Am I not right in this? And has not the gentleman from Ohio [Mr. FOSTER] told us so through a report of his concurred in by his political associates? Has he not told us that this identical Louisiana returning board is a fraud? Has he not declared that its "acts were illegal, arbitrary, &c.?" And has he not insinuated that its members were a villainous, unprincipled set of scoundrels? I am not using his language, but in substance I insist that he has done this.

Why, sir, look at it; this man Wells, the president of that board, the soul and spirit of the whole thing, is shown in this report—signed by Mr. FOSTER, of Ohio, and Mr. Phelps, of New Jersey, leading republicans, and indorsed, I believe, by one of the eminent commissioners, [Mr. HOAR]—to have been a perjurer. It is not said in these words, but it is fairly deducible from the language of the report. I have no time to read it, but will simply direct attention to the report known as the Foster report, second session of the Forty-third Congress. Now let any man read it and he will see that these republicans in that report clearly indicate their conviction that this man Wells committed perjury in making an affidavit that was false in respect to intimidation, &c., in a certain parish, Rapides, I think.

Mr. WELLS, of Mississippi. Will the gentleman allow me to ask him a question?

Mr. SPARKS. No, sir, of course not; I have not time, and if I should answer you it would do you no good. You would still go it blindly and vote wrong anyhow.

I pass now, sir, to another authority in relation to the infamy of this president of the Louisiana returning board. It is the letter of Lieutenant-General Sheridan, which was read in the House some time ago at the instance of my friend from Ohio, [Mr. BANNING,] chairman of the Committee on Military Affairs, in which General Sheridan denounces him as a "dishonest, corrupt man," a "trickster," and "a man without one honest friend," &c. And, sir, the Lieutenant-General is a well-known republican, a gentleman whose acts do not all meet my approval, and yet among his faults, whatever they have been, lying is not one of them.

And again, sir, it is proven that the presiding genius of this board is a forger, for the proof of which I refer to the testimony taken before the committee of the House on the "privileges, powers," &c., of the House. Littlefield, one of the clerks of the board, positively swears that by Wells's order the original return from Vernon Parish was secretly changed and altered by erasing 128 votes from the Tilden electors and adding them to the Hayes electors, besides other alterations and forgeries committed upon that return. This original return I now have on behalf of that committee in my possession for safe-keeping, and it clearly shows all that I have alleged with respect to the alterations and changes. And that it was done by Wells or by his connivance or direction is shown not only by Littlefield's testimony but by certified statements and copies of papers from the board accompanying it.

Again, sir, it is charged that he is a swindling, corrupt scoundrel, and that he corruptly attempted to sell out the vote of Louisiana for money. I refer to the testimony of Maddox, taken before that same committee, in which he positively swears to these facts and is corroborated partly by other testimony, but specially by Wells's genuine letters (admitted to be such) now in possession of the committee; two of them addressed to Maddox, and one addressed to his friend Senator WEST.

Sir, I challenge any man to read these letters, taken in connection with Maddox's testimony, and come to any conclusion other than that he was corruptly attempting to put up the vote of Louisiana in the market to the highest bidder.

It is also shown, sir, that in that board, whose final count and determination was secret and closed to all persons but the members and their chosen tools as clerks, four of said clerks were then under indictments (three of them being for perjury) and an additional one charged with murder.

Such is a fair statement of one of these returning boards whose acts are decided by our "high commission" to be beyond scrutiny or investigation, and the result of which, aided by the certificate of a pretended governor who according to the report of a republican congressional committee is himself a usurper and the creature of a gigantic fraud, is to inaugurate this patriotic gentleman into the Presidency; and he and his friends who have urged it now accept the situation without a blush.

[Here the hammer fell.]

Mr. W. B. WILLIAMS. I desire to occupy a few minutes upon this question. It is quite surprising to me to witness the ease with which our friends on the other side roll the word fraud under their tongue, at the very time they are attempting to defraud the people of the State of Michigan of one of its electors who received a majority of 25,000 votes; and that, too, upon the purest and most naked technicality that was ever submitted to a tribunal of this kind, if this House is a tribunal.

It is claimed that the electoral college of Michigan had no power to fill the vacancy occasioned by the absence of Mr. Hanchett on the day appointed for the electoral college to meet and cast its votes. That is the whole question before the House, a pure naked legal question. It is conceded here by the evidence produced, evidence provided by the laws of the United States—here permit me to say that there is no law of the United States providing for any other evidence—it is conceded and proved by the evidence provided for by the law of the United States that Hanchett was duly elected an elector of the State of Michigan and duly authorized and qualified, so far as the legal evidence before this House is concerned, that is, the certificate of the governor of the State, to act as such elector.

This certificate of the governor verifies and authenticates the action of the State board of canvassers.

What evidence is there, then, to disqualify him from exercising that right? Upon what evidence are we discussing the question here? The supreme court of the State of Michigan has held, and it is the settled law of that State, that the certificate of the board of canvassers is *prima facie* evidence of the right of a person to hold the office, and that it cannot be controverted except by a judicial tribunal, or by the voluntary surrender of the office. I will read an extract from a decision in 16 Michigan Reports:

> The certificate of election, whether *rightfully* or *wrongfully* given, confers upon the person holding it the *prima facie* right of *holding* for the term; and this *prima facie* right is subject to be defeated *only* by his voluntary surrender of the office, or by a judicial determination of the right.

Assuming for the sake of argument that Mr. Hanchett was ineligible, which I deny, he received that certificate; and the evidence before the electoral college was that he was entitled to act as an elector. In his absence the electoral college exercised the power which had been conferred upon it by the Legislature—a power which cannot be questioned by this House, because it is a matter of constitutional right—and elected to this office Mr. Crossman, whose vote is here objected to.

Now, the proceedings there were all regular. The evidence provided for by law, the evidence recognized by our supreme court as evidence of the right of Mr. Hanchett to hold the office, had been granted, and he was entitled to exercise the franchises of the office. He absented himself, and another person was duly elected in the manner prescribed by the statute. Therefore I insist that, whether Mr. Hanchett was ineligible or eligible, the question does not and cannot arise here.

But let us glance for a moment at the evidence submitted here to show his ineligibility. What is it? That in 1863 for a special purpose he accepted an authority from the circuit court of the eastern district of the State of Michigan to act as commissioner; that he performed the duty for which he accepted the office, the only duty he ever did perform in regard to the office. He was appointed for a particular locality—for the city of Owasso, in the county of Shiawassee—under the provision of the act of 1817 which authorized the circuit courts to appoint officers for different localities. He performed that duty in 1863; but in 1865 he left that county; he removed to another portion of the State, and from that time to this has never exercised or performed any of the duties of the office of circuit court commissioner in that district. The question is then, is he ineligible? Was he ineligible on the 7th day of November last? I claim that he was not, under the law. He was appointed for a particular duty in a particular place; he performed that duty and removed from that place; and he has not held the office, exercised its franchises, or performed its duties since 1863. If the evidence brought here can be used at all, if there is any mode by which that evidence can be brought in here, any rule which will permit it to come in, still it does not prove that on the 7th day of November last he was holding and *de facto* exercising the office of circuit court commissioner for the eastern district of Michigan.

I claim, therefore, that in fact there is no evidence here to warrant the assumption that Mr. Hanchett was ineligible. I claim, further, that even if he was ineligible his certificate, regularly issued, was sufficient evidence for the electoral college to act upon; that the office of elector to which he was chosen was vacant when he did not appear at the time and in the manner specified by law, and therefore the other electors had a legal and just right to do exactly what they did: to elect Mr. Crossman as his successor; and Mr. Crossman's vote is just as much entitled to be counted by the two Houses of Congress as any other vote from the State of Michigan.

[Here the hammer fell.]

Mr. SPRINGER. I yield for a few moments to my colleague, [Mr. CAMPBELL.]

Mr. CAMPBELL. Mr. Speaker, I gave a cheerful and earnest support to the bill creating the electoral commission, believing it the best way of escape out of what seemed an inextricable difficulty in which the result of the late presidential election had become involved. The composition of the commission was well calculated to inspire the hope that fraud should not be shielded by mere legal technicalities, and that we should have an equitable and unpartisan judgment, accompanied by such good and sufficient reasons for the conclusions reached as to meet the approval of fair-minded men of all parties.

But, Mr. Speaker, I confess that the action of the commission in refusing to consider the evidence of fraud in the election in the State of Louisiana has not met my hopes and expectations. My disappointment is not that by the judgment of the commission the candidate of the one or other of the parties is placed in the presidential chair, but because from all the information I have in reference to the election in that State, I am forced to the conclusion that it is not only tainted with fraud, but so saturated with corruption that equity and good conscience demand that the vote of that State should be excluded from the count—to count it for either candidate is to offer a premium for corruption and fraud. Mr. Speaker, while I accept as a finality and shall acquiesce in the judgment of the commission, I cannot, in view of all the facts connected with the case and of my sense of duty, sanction by my vote the conclusions reached by the commission.

Mr. SPRINGER. I wish to say a few words in reply to the remarks of the gentleman from Michigan, [Mr. CONGER.] He advanced the position that the appointment of an elector consists of various acts: first, the election by the people; second, the canvass of the votes by the returning board; and, thirdly, the certificate of the governor.

To show the absurdity of that proposition, it is only necessary to call the gentleman's attention to the act of Congress which provides that—

> Electors of President and Vice-President shall be appointed in each State on the Tuesday next after the the first Monday in November in every fourth year succeeding every election of President and Vice-President.—*Revised Statutes*, section 131.

This is the time provided by law for the appointment of electors, and no other time is provided for their appointment except in a subsequent section (134) providing for the contingency of a failure to make a choice on the day prescribed by law. In such a contingency the electors may be appointed on a subsequent day in such manner as the Legislature of the State may direct.

Not only does the statute fix the appointment upon the day of the popular election, but the decisions of all the courts that have ever passed upon this question are to the same purport, and particularly the decision of the supreme court of Rhode Island in the case of Mr. Corliss, an elector voted for at the last election. The court in that case held:

The language of the Constitution is that no person holding an office of honor, trust, or profit under the United States shall be appointed an elector. Under our law the election of the people constitutes the appointment. The duty of the governor is to examine and count the votes and give notice to the electors. He merely ascertains; he does not complete the appointment.

This is the unanimous decision of the supreme court of Rhode Island; and it is in harmony with the law that has always been recognized in this country that the appointment of electors is made by the people, and not by returning boards.

Mr. CONGER. But that is a different statute from ours in Michigan.

Mr. EAMES. Will the gentleman yield to me for a moment?

Mr. SPRINGER. Yes, sir.

Mr. EAMES. The case of Rhode Island has been referred to by the gentleman from Massachusetts [Mr. WARREN] and the gentleman from Missouri [Mr. BUCKNER.]

Mr. SPRINGER. I yielded for a question; not for a speech.

Mr. EAMES. Then I will simply make this statement: there were two questions determined by that court——

Mr. SPRINGER. I cannot yield unless the gentleman desires to ask me a question.

Mr. EAMES. The gentleman will allow me to say that the statements made on the floor as to the decision in Rhode Island are not entirely accurate. The language of the statute of Rhode Island upon which the decision was made differs from the law of Michigan.

Mr. SPRINGER. Well, if the gentleman desires it he can have the whole decision printed in the RECORD and then every gentleman can read it for himself.

Now, one word in reference to the election of ineligible persons to office. The Senate of the United States in the case of General Shields, who was chosen a Senator from the State of Illinois, held that his election was entirely void for the reason that the Constitution of the United States provided that no person shall be a Senator who shall not have been nine years a citizen of the United States when elected. General Shields not having been, when elected, a citizen of the United States for nine years, the Senate declared the election void and the seat vacant. (1 Bartlett, 606.)

I wish to make one further remark in reply to my colleague from Illinois, [Mr. BURCHARD,] who has expressed such a horror of going behind the returns, and thinks it wholly unconstitutional to do so.

In the year 1800 a bill passed both Houses of Congress, but failed to become a law on account of a disagreement between the Houses as to whether it should require both Houses to reject an electoral vote or both to count it. It received the sanction, however, of both Houses of Congress in its main features. Several of the leading members of Congress at that time were members of the Federal convention that framed the Constitution of the United States or members of the State Legislatures that ratified it. John Marshall, afterward Chief-Justice of the Supreme Court of the United States, was also a member of Congress at that time, which was only eleven years after the adoption of the Constitution; and he with others equally distinguished as expounders of the Constitution supported the bill of 1800, which provided a mode of counting the votes for President and Vice-President, and created a grand committee similar to the electoral commission and with like powers. Section 8 of that bill is as follows:

SEC. 8. *And be it further enacted*, That the grand committee shall have power to inquire, examine, decide, and report upon the constitutional qualifications of the persons voted for as President and Vice-President of the United States; upon the constitutional qualifications of the electors appointed by the different States, and whether their appointment was authorized by the State Legislature or not or made according to the mode prescribed by the Legislature; upon all petitions and exceptions against corrupt, illegal conduct of the electors, or force, menances, or improper means used to influence their votes, or against the truth of their returns, or the time, place, or manner of giving their votes.

The powers of this grand committee were the powers of the two Houses of Congress, and were such powers and such only as the Constitution of the United States conferred on them, for the act of legislation could neither enlarge nor limit the powers which the Constitution conferred.

This bill, although it did not become a law, for the reasons I have stated, was nevertheless a legislative interpretation and recognition of the power of the two Houses to go behind the certificates of the governor and the action of the returning boards, when counting the electoral vote. The grand committee had expressly power to compel the attendance of witnesses and to punish witnesses for refusing to appear when summoned. This bill received the sanction of both Houses of Congress in the year 1800, and for seventy-seven years neither House of Congress has, by formal action, sanctioned a different doctrine until the Senate approved the decision of the electoral commission in the Florida case, and subsequently in the Louisiana case yesterday. The doctrine that no evidence can be received by the two Houses *aliunde* the papers laid before them by the President of the Senate is a new heresy, invented for a particular purpose and for this occasion only. If the governor of Illinois and the canvassing board of that State had from partisan motives thrown out the votes of a half dozen counties in my colleague's district, and had certified to the election of the Tilden electors, we should have heard such a demand from republicans for going behind the returns as would have aroused the moral sentiment of the nation, and would have caused even judges of the Supreme Court to read the Constitution and to determine the powers of the two Houses quite differently from what is laid down in the decisions in the Florida and Louisiana cases.

But, further, the gentleman from Illinois [Mr. BURCHARD] has himself gone behind the returns in voting to reject the electoral votes of one of the States of this Union. In the case of Georgia four years ago my colleague on the joint committee, [Mr. HOAR,] now a commissioner of this joint commission, offered the following resolution:

Resolved, That in the judgment of the House of Representatives the votes reported by the tellers as having been cast by the electors of the State of Georgia for Horace Greeley, of New York, for President of the United States ought not to be counted, the said Horace Greeley having died before the said votes were cast.

Mr. BURCHARD, of Illinois. There was no such person.

Mr. SPRINGER. How did my colleague find that out? He did not learn it from the face of the returns. O, no, that fact was *aliunde* the papers laid before the two Houses. He had to go to the graveyards of the country and there upon the tombstone of Horace Greeley read the date of his death. That was the only evidence he had. It was a historical fact, as the gentleman from Massachusetts [Mr. HOAR] remarked at the time. The gentleman from Massachusetts and my colleague [Mr. BURCHARD] took cognizance of that fact then without proof, although it did not appear upon the face of the certificate, and voted against counting 3 votes from the State of Georgia for Horace Greeley.

Mr. BURCHARD, of Illinois. How did I vote on the Louisiana case?

Mr. SPRINGER. I will come to the Louisiana case. The gentleman asked how he voted in the case of Louisiana four years ago. I will tell him. When the vote of Louisiana was reached Senator Boreman of West Virginia submitted the following objection:

I object to counting any votes from the State of Louisiana for reasons set forth in the report of the Committee on Privileges and Elections submitted to the Senate on the 10th instant, and printed as Report No. 417 of Forty-Second Congress, third session.

The report of the Committee on Privileges and Elections of the Senate was *aliunde* the papers laid before the two Houses by the President of the Senate.

The gentleman from Ohio, [Mr. GARFIELD,] when the two Houses separated, offered a resolution in the House, as follows:

Resolved, That in the judgment of this House none of the returns reported by the tellers as electoral votes of the State of Louisiana should be counted.

And this resolution was adopted without division; but before it was adopted, Mr. Speer, of Pennsylvania, offered a substitute, as follows:

Resolved, That the vote of the electors of the State of Louisiana, certified to by H. C. Warmoth, governor, should be, in the judgment of this House, counted.

On the vote on Mr. Speer's substitute there were yeas 59, nays 85, and among the nays I do not find the name of my colleague from Illinois, [Mr. BURCHARD,] but I do find the name of the gentleman from Ohio [Mr. GARFIELD] and that of the gentleman from Massachusetts, [Mr. HOAR.] I find nearly all the republican members of the House at that time voting to reject the votes of the State of Louisiana, and thus going behind the returns to do so. The yeas and nays on Mr. Speer's resolution may be of interest at this time to illustrate how easy and constitutional it was only four years ago for gentlemen to go behind the returns and reject the vote of a State, duly certified so far as the face of the returns was concerned, and upon evidence *aliunde* the papers laid before the two Houses by the President of the Senate. The vote on agreeing to Mr. Speer's resolution was as follows:

YEAS—Messrs. Acker, Adams, Ambler, Archer, Arthur, James B. Beck, Boles, Braxton, Burchard, Carroll, Crossland, Dodds, Dox, DuBose, Duke, Farnsworth, Finkelnburg, Getz, Giddings, Golladay, Haldeman, Hancock, Handley, Hanks, Hay, Hereford, Herndon, Hibbard, Holman, Kerr, Ketcham, McIntyre, Manson, McClelland, McHenry, McKinney, Merrick, Morgan, Silas L. Niblack, Perry, Potter, Price, Randall, Read, Ellis H. Roberts, William R. Roberts, Sion H. Rogers, Shober, Slocum, Speer, Storm, Terry, Voorhees, Waddell, Warren, Wells, Willard, Williams of New York, and Winchester—59.

NAYS—Messrs. Averill, Barry, Beatty, Bigby, Bingham, James G. Blair, Buckley, Buffinton, Bunnell, Burdett, Roderick R. Butler, Coburn, Coghlan, Conger, Cotton, Darrall, Dawes, Donnan, Dunnell, Eames, Elliott, Farwell, Charles Foster, Wilder D. Foster, Frye, Garfield, Hale, Halsey, Harmer, Harper, George E. Harris, John B. Hawley, Joseph R. Hawley, Hays, John W. Hazelton, Kellogg, Lamport, Lowe, Maynard, McJunkin, McKee, Merriam, Moore, Morey, Morphis, Leonard Myers, Orr, Packard, Palmer, Isaac C. Parker, Peck, Pendleton, Perce, Peters, Platt, Poland, Porter, Prindle, Rainey, Rusk, Sargent, Sawyer, Scofield, Sessions, Sheldon, Shoemaker, H. Boardman Smith, John A. Smith, Sprague, Starkweather, Stevenson, Stoughton, Stowell, St. John, Sypher, Thomas, Washington Townsend, Turner, Twichell, Tyner, Upson, Wakeman, Waldron, Wallace, and Williams of Indiana—85.

NOT VOTING—Messrs. Ames, Banks, Barber, Barnum, Erasmus W. Beck, Bell, Biggs, Bird, Austin Blair, Boarman, Bright, Brooks, Benjamin F. Butler, Caldwell, Campbell, Clarke, Cobb, Comingo, Conner, Cox, Crebs, Creely, Critcher, Crocker, Davis, Dickey, Duell, Eldredge, Ely, Esty, Forker, Henry D. Foster, Garrett, Goodrich, Griffith, Hambleton, John T. Harris, Havens, Gerry W. Hazelton, Hill, Hoar, Hooper, Houghton, Kelley, Kendall, Killinger, King, Kinsella, Lamison, Lansing, Leach, Lewis, Lynch, Marshall, McCormick, McCrary, McGrew, McNeely, Benjamin F. Meyers, Mitchell, Monroe, Negley, William E. Niblack, Packer, Hosea W. Parker, Edward Y. Rice, John M. Rice, Ritchie, Robinson, John Rogers, Roosevelt, Seeley, Shanks, Shellabarger, Sherwood, Slater, Sloss, Worthington C. Smith, Snapp, Snyder, Stevens, Sutherland, Swann, Taffe, Dwight Townsend, Tuthill, Van Trump, Vaughan, Walden, Wheeler, Whiteley, Whitthorne, Jeremiah M. Wilson, John T. Wilson, Wood, and Young—96.

So the resolution was not agreed to; but the question recurring on the resolution of the gentleman from Ohio [Mr. GARFIELD] to reject the vote of Louisiana, it was passed in the affirmative without division. A similar resolution was passed in the Senate. Senator Trumbull, of Illinois, offered at that time the following as an amendment:

Resolved, That the votes of the electors declared to have been elected as aforesaid by the governor of the State of Louisiana are entitled to be counted.

The resolution, to which Senator Trumbull's was an amendment, was offered by Senator Carpenter, of Wisconsin, and is as follows:

Resolved, That, all the objections having been considered, no electoral vote purporting to be that of the State of Louisiana be counted.

The proceedings in the Senate on the Trumbull amendment and the Carpenter resolution were brief but are nevertheless instructive at this time. I quote from the House compilation on Counting the Electoral Vote, page 405:

Mr. TRUMBULL. I ask for the yeas and nays. It is an important question whether a return in all respects in conformity with law shall be received.

Mr. EDMUNDS. That is debate.

The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 35; as follows:

YEAS—Messrs. Bayard, Casserly, Cooper, Fenton, Ferry of Connecticut, Hamilton of Maryland, Johnston, Kelly, Machen, Ransom, Rice, Saulsbury, Schurz, Sprague, Stevenson, Stockton, Thurman, Tipton, Trumbull, and Vickers—20.

NAYS—Messrs. Ames, Anthony, Boreman, Caldwell, Carpenter, Chandler, Clayton, Cole, Conkling, Corbett, Cragin, Edmunds, Ferry of Michigan, Flanagan, Frelinghuysen, Gilbert, Hamlin, Harlan, Hill, Hitchcock, Howe, Logan, Morrill of Maine, Morrill of Vermont, Morton, Norwood, Nye, Pool, Ramsey, Robertson, Sawyer, Scott, Sherman, Stewart, and West—35.

ABSENT—Messrs. Alcorn, Blair, Brownlow, Buckingham, Cameron, Davis, Goldthwaite, Hamilton of Texas, Lewis, Osborn, Patterson, Pomeroy, Pratt, Spencer, Sumner, Wilson, Windom, and Wright—18.

So the amendment was rejected.

The VICE-PRESIDENT. The question recurs on the resolution of the Senator from Wisconsin, [Mr. Carpenter.]

Mr. THURMAN. I call for the yeas and nays on that.

The yeas and nays were ordered; and being taken, resulted—yeas 33, nays 16; as follows:

YEAS—Messrs. Ames, Anthony, Boreman, Caldwell, Carpenter, Chandler, Cole, Conkling, Corbett, Edmunds, Ferry of Michigan, Flanagan, Frelinghuysen, Gilbert, Hamlin, Harlan, Hill, Hitchcock, Howe, Logan, Morrill of Maine, Morrill of Vermont, Morton, Norwood, Nye, Pool, Ramsey, Robertson, Sawyer, Scott, Sherman, Stewart, and West—33.

NAYS—Messrs. Bayard, Casserly, Cooper, Ferry of Connecticut, Hamilton of Maryland, Johnston, Kelly, Machen, Ransom, Saulsbury, Sprague, Stevenson, Stockton, Thurman, Tipton, and Vickers—16.

ABSENT—Messrs. Alcorn, Blair, Brownlow, Buckingham, Cameron, Clayton, Cragin, Davis, Fenton, Goldthwaite, Hamilton of Texas, Lewis, Osborn, Patterson, Pomeroy, Pratt, Rice, Schurz, Spencer, Sumner, Trumbull, Wilson, Windom, and Wright—24.

The VICE-PRESIDENT. The resolution is agreed to; and the Secretary will at once communicate to the House of Representatives this action of the Senate.

An examination of these votes will reveal the fact that every republican member of the present electoral commission four years ago went behind the returns, voted to reject the votes of Louisiana or Georgia, regularly certified as were the Kellogg returns of this election, and upon evidence *aliunde* the papers laid before the two Houses by the President of the Senate.

The republican members being in a large majority in both branches of Congress said then upon their oaths that the votes of the State of Louisiana should not be counted, and went behind the certificate from that State, regular in form, in order to do that.

Mr. BURCHARD, of Illinois. Why did you not say how I voted?

Mr. SPRINGER. I have already exonerated my colleague from voting against counting the vote of Louisiana, but he did go behind the returns in the case of the State of Georgia, and voted to throw out the three votes from that State cast for Horace Greeley. That is enough to convict my colleague of inconsistency on this point. Republicans then went behind the returns, and my colleague went behind them to exclude votes cast for a dead man, but now he objects on constitutional grounds to going behind the returns to count votes for a live man whose electors were truly and fairly chosen by the people of Louisiana, but fraudulently counted out by a corrupt, illegal, and infamous returning board.

I yield whatever time I have remaining to the gentleman from Pennsylvania, [Mr. JENKS.]

Mr. JENKS. I desire to offer as a substitute for the proposition of the gentleman from Virginia the following:

The Clerk read as follows:

Whereas the fact being established that it is about twelve years since the alleged ineligible elector exercised any of the functions of a United States commissioner, it is not sufficiently proven that at the time of his appointment he was an officer of the United States: Therefore,

Resolved, That the vote objected to be counted.

Mr. JENKS. Mr. Speaker, with reference to that resolution I have only this to say, that the law as announced by the gentleman from Virginia [Mr. TUCKER] and those who have corresponded with him in views, I fully corroborate without any abatement or qualification whatever. But when it appears this man whose vote is objected to has not for twelve years exercised any of the functions of the office of United States commissioner and himself doubtless had forgotten he had been such until after the election, it seems to me the spirit of the Constitution does not require we should exclude the count of that vote. Upon these grounds, and not because I do not approve and fully sustain the position legally taken by the gentleman from Virginia, I offer this substitute.

The question being taken on the substitute offered by Mr. JENKS, it was agreed to.

The question was then taken on the resolution as amended, and it was agreed to.

Mr. CONGER. I object to the preamble.

The SPEAKER. That has already been voted upon as part of the substitute. The Chair thinks the objection of the gentleman from Michigan comes too late.

Mr. WILSON, of Iowa. I desire a separate vote on the preamble.

The SPEAKER. The preamble and resolution would have been susceptible of a separation if the demand had been made in time. But the demand is made too late.

Mr. JENKS moved to reconsider the vote by which the resolution, as amended, was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CONGER. I ask that the Senate be notified of the action just taken by the House.

The SPEAKER. The Chair has directed that that shall be done. The law is very explicit on that point.

LEAVE TO PRINT.

Mr. WILSON, of West Virginia. I was prevented by the fall of the hammer from completing the remarks which I had intended to address to the House on the subject of the electoral vote of Louisiana. I ask that I may be allowed to extend my remarks when they are printed in the CONGRESSIONAL RECORD.

There was no objection, and it was so ordered.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. HOLMAN. I rise to make a parliamentary inquiry: Whether in the present condition of the business of the House it would be competent for the House to receive a report of one of the regular appropriation bills from the Committee on Appropriations at this time?

The SPEAKER. That would not be in order unless unanimous consent is given.

Mr. HOLMAN. I ask for unanimous consent. My only object in making this request is to have the bill printed. I have been seeking to obtain the floor for this purpose.

The SPEAKER. The Chair will at any time and at all times recognize the gentleman from Indiana when he thinks he is permitted to do so under the rules of the House. Yesterday there was objection made to the Chair laying before the House a report from the Committee on Enrolled Bills that certain bills had been duly enrolled.

Mr. HOLMAN. I ask unanimous consent that the Committee on Appropriations be permitted to report the sundry civil appropriation bill for printing only.

Mr. WADDELL. Can that be done, even by unanimous consent, without violation of the law?

Mr. WILSON, of Iowa. I object. The law forbids it. I think we can go on and finish the pending business and then pass the appropriation bills.

Mr. COX. We do not want an extra session.

Mr. HOLMAN. I will then ask that by unanimous consent the sundry civil bill, without being reported from the Committee on Appropriations, be printed in the CONGRESSIONAL RECORD for the information of the House, so that it may be taken up at the earliest moment.

The SPEAKER. The gentleman from Indiana asks unanimous consent that the sundry civil bill now agreed upon by the Committee on Appropriations may be printed in the CONGRESSIONAL RECORD for the information of the House.

Mr. WILSHIRE. I object.

The SPEAKER. Objection is made.

Mr. HOLMAN. Who objects?

The SPEAKER. The Chair stated there was objection.

Mr. HOLMAN. It is well for the House to know who objected.

The SPEAKER. The gentleman from Arkansas [Mr. WILSHIRE] rose in his place and objected.

Some time subsequently,

Mr. WILSHIRE said: I desire to withdraw my objection to printing the sundry civil appropriation bill in the RECORD. I was not aware till after I had made the objection that there was no appropriation for printing it in the usual way to be put upon the files.

The SPEAKER. If there be no further objection, authority is given for the publication in the CONGRESSIONAL RECORD of the sundry civil appropriation bill as agreed upon by the Committee on Appropriations. The gentleman from Indiana will notice that the Chair is compelled to put it in that way, because the bill has not been reported to the House.

Mr. HOLMAN. That is true. The objection was to making the report. I desire to say that, as soon as legislative business can be proceeded with in the House, I will ask permission to report this bill and that its consideration be proceeded with at once.

There being no further objection, the sundry civil appropriation bill, as agreed upon by the Committee on Appropriations, was ordered to be printed in the RECORD. It is as follows:

A bill making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated for the objects hereinafter expressed, for the fiscal year ending June 30, 1878, namely:

PUBLIC PRINTING AND BINDING.

For the public printing, for the public binding, and for paper for the public printing, including the cost of printing the debates and proceedings of Congress in the CONGRESSIONAL RECORD, and for lithographing, mapping, and engraving for both Houses of Congress, the Supreme Court, the Court of Claims, and the Departments, and for the necessary materials, $1,300,000; and out of the sum hereby appropriated, printing and binding may be done by the Congressional Printer to the amounts following, namely:

For printing and binding for the State Department, $15,000; for the Treasury Department, $180,000; for the War Department, $72,000; for the Navy Department, $39,000; for the Interior Department, $135,000; for the Agricultural Department, $9,000; for the Department of Justice, $6,000; for the Post-Office, $105,000; for the Congressional Library, $15,000; for the Supreme Court of the United States, $20,000; for the Court of Claims, $10,000; and for debates and proceedings of Congress, $694,000; and of the sums hereby appropriated for the several Departments, the courts, and for the debates and proceedings in Congress, there shall only be used for the several purposes herein provided the sums specified, and the unexpended balances shall not be used for any other purposes; and there shall be taxed against the losing party in each and every cause pending in the Supreme Court of the United States, or in the Court of Claims of the United States, the cost of printing the record in such case, which shall be collected, except when the judgment is against the United States, by the clerks of said courts respectively, and paid into the Treasury of the United States; but this shall only apply to records printed after the 1st day of October next.

To purchase of the proprietors of the Congressional Globe all the stereotyped plates, the bound and unbound volumes of the said Globe and the copyright of the same, together with the fire-proof building, (located in the rear of the building situated on Pennsylvania avenue and known as the Globe office,) $100,000.

TREASURY DEPARTMENT.

For life-saving and life-boat stations:

For salaries of ten superintendents and one assistant superintendent of the life-saving stations at the following points, namely: On the coasts of Long Island and Rhode Island, $1,500; and on the coast of New Jersey, $1,500; assistant to the superintendent on the coasts of Long Island and Rhode Island, $500; for superintendents on the coast of Massachusetts, on the coasts of Maine and New Hampshire, on the coasts of Virginia and North Carolina, on the coasts of Delaware, Maryland, and Virginia, on the coasts of Lakes Erie and Ontario, on the coasts of Lakes Huron and Superior, and on the coast of Lake Michigan, and for superintendent for the houses of refuge on the coast of Florida, each $1,000, $8,000; in all, $11,500.

For one hundred and fifty keepers of stations, at $200 each, $30,000.

For five keepers of houses of refuge on the coast of Florida, $2,400.

For pay of crews of experienced surf-men at such stations and for such periods as the Secretary of the Treasury may deem necessary and proper, $146,000.

For compensation to volunteers at life-boat stations, $8,160.

For fuel for one hundred and fifty-five stations and houses of refuge, repairs and outfits for the same; supplies and provisions for houses of refuge and for shipwrecked persons succored at stations; traveling expenses of officers under orders from the Treasury Department; and contingent expenses, including freight, storage, repairs to apparatus, medals, stationery, advertising, and miscellaneous expenses that cannot be included under any other head of life-saving stations, life-boat stations, and houses of refuge on the coasts of the United States, $40,000.

Revenue-cutter service:

For the pay of captains, lieutenants, engineers, and pilots, and for rations for the same, and for pay of petty officers, seamen, cooks, stewards, boys, coal-passers, and firemen, and for rations for the same, and for fuel for vessels, repairs and outfits for same, ship-chandlery and engineers' stores for same, traveling expenses of officers traveling on duty under orders from the Treasury Department, commutation of quarters, and contingent expenses, including wharfage, towage, dockage, freight, advertising, surveys, labor, and miscellaneous expenses which cannot be included under special heads, $874,891.10.

JUDICIARY.

For defraying the expenses of the Supreme Court and circuit and district courts of the United States, including the District of Columbia; and also for jurors and witnesses and expenses of suits in which the United States are concerned, of prosecutions for offenses committed against the United States; for the safe-keeping of prisoners, and for defraying the expenses which may be incurred in the enforcement of the act of February 28, 1871, relative to the right of citizens to vote, or any acts amendatory thereof or supplementary thereto, $2,500,000.

For the support and maintenance of convicts transferred from the District of Columbia, $8,000.

For detecting and punishing violations of the intercourse acts of Congress, and frauds committed in the Indian service, in allowing such increased fees and compensation of witnesses, jurors, and marshals and in defraying such other expenses as may be necessary for this purpose, $8,000.

For the detection and prosecution of crimes against the United States, $25,000.

For payment of the necessary expenses incurred in defending suits against the Secretary of the Treasury or his agents for the seizure of captured or abandoned property, and for the examination of witnesses in claims against the United States pending in any Department, and for the defense of the United States in the Court of Claims, $25,000.

Reform School of the District of Columbia:

For the superintendent, assistant superintendent, matron, two teachers, for medicines and physicians' fees, gardener, farmer, baker, night-watchman, seamstress, laborer, and laundress, and four female servants, and for fuel, clothing, and incidentals, $10,000.

For improvements and repairs, $5,000, no part of which shall be expended in the purchase of land.

Metropolitan police:

For salaries and other necessary expenses of the Metropolitan police for the District of Columbia, $150,000: *Provided*, That a like sum shall concurrently be paid to defray the expenses of the said Metropolitan police force out of the treasury of the District of Columbia. The duties devolved and the authority conferred upon the board of Metropolitan police by law, for police purposes in said District, shall extend to and include all public squares or places; and said board is hereby authorized and required to make appropriate rules and regulations in relation thereto.

DISTRICT OF COLUMBIA.

That the Secretary of the Treasury shall reserve of any of the revenues of the District of Columbia not required for the actual current expenses of schools, the police, and the fire department, a sum sufficient to meet the interest accruing on the 3.65 bonds of the District during the fiscal year beginning July 1, 1877, and apply the same to that purpose; and in case there shall not be a sufficient sum of said revenues in the Treasury of the United States at such time as said interest may be due, then the Secretary of the Treasury is authorized and directed to advance from any money in the Treasury not otherwise appropriated a sum sufficient to pay said interest, and the same shall be re-imbursed to the Treasury of the United States from time to time as said revenues may be paid into said Treasury, until the full amount shall have been refunded.

For payment of judgments heretofore rendered in the Court of Claim in favor of the following-named persons, and for the amounts respectively following their names, to wit: Thomas W. Sweeney, $768.81; Horatio Page, $4,453.22; Francis Cole, $208.25; John Campbell, $102.47; Albert Gittings, $133 57; Edward M. Schaeffer, $200; E. S. Houston, for the use of J. H. Bemis, $425.79; in all, $6,292.11.

INTERIOR DEPARTMENT.

For casual repairs of the Interior Department building, $5,000.

Government Hospital for the Insane:

For the support, clothing, and medical and moral treatment of the insane of the Army, Navy, and Marine Corps, and Revenue Cutter service, and of all persons who may have become insane since their entry into the military or naval service of the United States and who are indigent, and of the indigent insane of the District of Columbia, in the Government Hospital for the Insane, $145,000; and one-half of the expense of the indigent persons who may be hereafter admitted from the District of Columbia shall be paid from the treasury of said District: *Provided*, That hereafter such indigent persons shall be admitted only upon order of the executive authority of the said District.

That all sums herein appropriated, or that may be hereafter appropriated, for the support, in whole or in part, of any asylum, charitable or reformatory institution, or society in the District of Columbia, shall be expended under the authority and control of the commissioners of said District, who shall have power to make such regulations in respect thereto as they may deem expedient.

For general repairs and improvements absolutely necessary for the buildings of the institution, $5,000.

Columbia Institution for the Deaf and Dumb:

For the support of the institution, including salaries and incidental expenses, the maintenance of the beneficiaries of the United States, and $500 for the books and illustrative apparatus, $48,000. And the accounting officers of the Treasury are hereby authorized, in the settlement of the accounts of the disbursing agent for the said institution, to give credit for voucher No. 5 in the first quarter of 1876, and for vouchers Nos. 41 and 48 in the second quarter of the same year; said vouchers being receipts for moneys paid for fuel for the use of said institution, if the said accounting officers shall find that said vouchers were for expenditures made for the benefit of said institution.

For the completion of the work on the erection, furnishing, and fitting up the buildings of the institution in accordance with plans heretofore submitted, and for repairs on buildings already completed, $40,000.

Columbia Hospital for Women and Lying-in Asylum:

For the support of the Columbia Hospital for Women and Lying-in Asylum, over and above the probable amount which will be received from pay patients, $16,000.

To complete the iron railing and general repairs, $2,000.

CAPITOL EXTENSION.

Capitol extension: For work on the Capitol, and for general care and repair thereof, $40,000.

For improving the Capitol grounds and for paving roadway and footwalks in the Capitol grounds, $100,000.

For lighting the Capitol, and grounds about the same, including Botanical Garden; for gas, pay of lamp-lighters, gas-fitters, plumbers and plumbing, lamps, lamp-posts, matches, materials for the electrical battery, and repairs of all kinds, $30,000, to be expended under the direction of the Architect of the Capitol.

SURVEYS OF PUBLIC LANDS.

For survey of the public lands and private land claims, $50,000: *Provided*, That the sum hereby appropriated shall be expended in such surveys as the public interest may require, under the direction of the Commissioner of the General Land Office, with the approval of the Secretary of the Interior, and at such rates as the Secretary of the Interior shall prescribe, not exceeding the rate herein authorized: *Provided*, That no lands shall be surveyed under this appropriation, except, first, those adapted to agriculture without artificial irrigation; second, irrigable lands, or such as can be redeemed and for which there is sufficient accessible water for the reclamation and cultivation of the same not otherwise utilized or claimed; third, timber lands bearing timber of commercial value; fourth, coal lands containing coal of commercial value; fifth, exterior boundary of town sites; sixth, private land claims. The cost of such surveys shall not exceed $10 per mile for standard lines, (and the starting point for said survey may be established by trian gulation,) $7 for township and $6 for section lines, except that the Commissioner of the General Land Office may allow for the survey of standard lines in heavily timbered land a sum not exceeding $13 per mile.

That an accurate account shall be kept by each surveyor-general of the cost of surveying and platting every private land claim, to be reported to the General Land Office with the map of such claim; and that a patent shall not issue nor shall any copy of any such survey be furnished for any such private claim until the cost of survey and platting shall have been paid into the Treasury of the United States by the party or parties in interest in said grant or by any other party: *And provided further*, That before any land granted to any railroad company by the United States shall be conveyed to such company, or any persons entitled thereto under any of the acts incorporating or relating to said company, unless such company is exempted by law from the payment of such cost, there shall first be paid into the Treasury of the United States the cost of surveying, selecting, and conveying the same by the said company or persons in interest.

CONTINGENT EXPENSES OF SURVEYORS-GENERAL.

For rent of office of the surveyor-general of Louisiana, fuel, books, stationery, and other necessaries, $1,000.

For rent of office of surveyor-general of Florida, fuel, books, stationery, and other necessaries, $1,000.

For rent of office of surveyor-general of Minnesota, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Dakota, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Colorado, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of New Mexico, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of California, fuel, books, stationery, and other incidental expenses, $2,000.

For rent of office of surveyor-general of Idaho Territory, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Nevada, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Oregon, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Washington Territory, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Nebraska and Iowa, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Montana Territory, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Utah Territory, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Wyoming Territory, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Arizona Territory, fuel, books, stationery, and other necessaries, $1,500.

EXPENSES OF THE COLLECTION OF REVENUE FROM SALES OF PUBLIC LANDS.

For salaries and commissions of registers of land offices and receivers of public moneys, at ninety-eight land offices, $365,483.21.

For incidental expenses of the land offices, $40,175.

For expenses of depositing money received from the sale of public lands, $10,000.

To meet expenses of suppressing depredations upon timber on the public lands, $5,000.

Miscellaneous charitable institutions:

For the support of the National Soldiers' and Sailors' Orphans' Home, Washington City, District of Columbia, including salaries and incidental expenses, to be expended under the direction of the Secretary of the Interior, $10,000.

To aid in the support of the Children's Hospital, Washington, District of Columbia, $5,000.

For the National Association for the Relief of the Colored Women and Children of the District of Columbia, $10,000.

For the Freedmen's Hospital and Asylum in Washington, District of Columbia, namely: For subsistence, $18,000, salaries, and compensation, as follows: Of surgeon, $1,400; of one surgeon and dispensary clerk, $1,000; of engineer, $720; matron, $216; nurses and cooks, $1,800; fuel and light, $3,000; clothing, $3,500; rent of hospital buildings, $2,000; medicines and medical supplies, $1,500; and miscellaneous expenses, $1,000; in all, $34,136.

Smithsonian Institution:

For preservation and care of the collections of the national museum, $13,000.

For fitting up the Armory building for storage of articles belonging to the United States, including those transferred from the international exhibition, and expense of watching the same, $2,500.

Geological and geographical surveys:

For the continuation of the geological and geographical survey of the Territories of the United States, under the direction of the Secretary of the Interior, by Professor F. V. Hayden, $50,000, to be immediately available.

For the completion of the geographical and geological survey of the Rocky Mountain region, including the preparation and publication of maps, charts, and other illustrations necessary for the reports of said survey, by J. W. Powell, under the direction of the Secretary of the Interior, $20,000, to be immediately available.

UNDER THE TREASURY DEPARTMENT.

Public buildings:

Court-house and post-office, Atlanta, Georgia: For continuation of the building, $15,000.

Subtreasury and post-office, Boston, Massachusetts: For purchase of additional land condemned by the courts of the State of Massachusetts, including interest and expenses incident, $181,554.

Custom-house and post-office, Cincinnati, Ohio: For continuation of building, $325,000.

Custom-house and post-office, Fall River, Massachusetts: For purchase of additional land, and continuation of building, $20,000.

Custom-house and post-office, Hartford, Connecticut: For continuation of building, $50,000.

Custom-house and subtreasury, Chicago, Illinois: For continuation of building, $400,000.

Court-house and post-office, Grand Rapids, Michigan: For completion of the building, $20,000.

Court-house and post-office, Trenton, New Jersey: For completing, grading, fences, and furnishing the building, in full for the same, $14,000.

Post-office and court-house, Philadelphia, Pennsylvania: For continuation of building, $325,000.

Court-house and post-office, Raleigh, North Carolina: For completion of building and furnishing, $5,300.

Appraisers' stores, San Francisco, California: For continuation of building, $50,000.

Subtreasury building, San Francisco, California: For completion of building, including additional story, $20,000.

Court-house and post-office, Saint Louis, Missouri: For continuation of building, $400,000.

Court-house and post-office, Parkersburgh, West Virginia: For completion of building, fences, grading, approaches, and furniture, $5,000.

Court-house, custom-house, and post-office, Evansville, Indiana: For completion of building, $20,000.

Court-house, custom-house, and post-office, Nashville, Tennessee: For continuation of building, $13,000.

Custom-house and post-office, Port Huron, Michigan: For fencing, grading approaches, and entire furniture, $10,000.

Treasury building, Washington, District of Columbia: For annual repairs, $20,000.

Repairs and preservation of public buildings: For repairs and preservation of public buildings under control of the Treasury Department, $100,000.

LIGHT-HOUSE ESTABLISHMENT.

Salaries of keepers of light-houses: For salaries of nine hundred and ninety-one light-house and light-beacon keepers and their assistants, $594,600.

Expenses of light-vessels: For seamen's wages, rations, repairs, salaries, supplies, and incidental expenses of twenty-three light-ships and seven relief light-vessels, $230,000.

Expenses of buoyage: For expenses of raising, cleaning, painting, repairing, removing, and supplying losses of buoys, spindles, and day-beacons, and for chains, sinkers, and similar necessaries, $300,000.

Expenses of fog-signals: For repairs and incidental expenses in renewing, refitting, and improving fog-signals and buildings connected therewith, $40,000.

Inspecting lights: For expenses of visiting and inspecting lights and other aids to navigation, including rewards paid for information as to collisions, $4,000.

Supplies of light-houses: For supplying the light-houses and beacon-lights on the Atlantic, Gulf, Lake, and Pacific coasts with oil, wicks, glass chimneys, chamois skins, spirits of wine, whiting, polishing powder, towels, brushes, soap, paint, and other cleansing materials, and for expenses of gauging, testing, transportation, delivery of oil, fuel, and other supplies for light-houses and fog-signals, for books for light-stations, and other incidental and necessary expenses, $350,000.

Repairs of light-houses: For repairs and incidental expenses of refitting and improving light-houses and buildings connected therewith, and for expenses of repairing and keeping in repair illuminating apparatus and machinery, $275,000.

Lighting and buoyage of the Mississippi, Missouri, and Ohio Rivers: For maintenance of lights on the Mississippi, Ohio, and Missouri Rivers, and such buoys as may be necessary, $125,000, to be expended under the direction of the Chief of Engineers of the United States Army.

Light-houses, beacons, and fog-signals.

For erection of pier-head lights on the northern and northwestern lakes, $10,000.

For protecting the site at Grosse Point light near Chicago, Illinois, $5,000.

For establishing a day-beacon on Anita Rock, San Francisco Harbor, California, $2,300.

For establishing day-beacons on the coasts of Maine, New Hampshire, and Massachusetts, $10,000.

For commencing the construction of a light-house at Stannard's Rock, Lake Superior, Michigan, $25,000.

For purchase of additional land, and moving the light-house at Egg Island, New Jersey, $5,000.

For establishing and replacing day-beacons on the coasts of New Hampshire, Maine, and Massachusetts, $10,000.

For rebuilding light-house at Muscle Bed Shoal, Rhode Island, $6,000.

For light-station at Conimicut, Rhode Island, $5,000.

For protecting the site of light-house at Absecom, New Jersey, $5,000.

For rebuilding the frame beacon erected near main light at Tybee Island, Georgia, $3,000.

For building a dwelling and repairing a station at Cape Canaveral, Florida, $4,000.

For protecting the site of Cape Saint Blas light-station, Florida, $2,000.

BUREAU OF ENGRAVING AND PRINTING.

For labor and expenses of engraving and printing, namely: For labor, (by the day, piece, or contract,) including labor of workmen skilled in engraving, transferring, plate-printing, and other specialties necessary for carrying on the work of engraving and printing notes, bonds, and other securities of the United States, the pay for such labor to be fixed by the Secretary of the Treasury at rates not exceeding the rates usually paid for such work; and for other expenses of engraving and printing notes, bonds, and other securities of the United States; for paper for notes, bonds, and other securities of the United States, including mill expenses, boxing, and transportation; for materials other than paper required in the work of engraving and printing; for purchase of engravers' tools, dies, rolls, and plates, and for machinery and repairs of the same, and for expenses of operating macerating machines for the destruction of the United States notes, bonds, national-bank notes, and other obligations of the United States authorized to be destroyed, $800,000.

COAST SURVEY.

Survey of the Atlantic, Pacific, and Gulf coasts: For every purpose and object necessary for and incident to the continuation of the survey of the Atlantic and Gulf coasts and the western coast of the United States, and the Mississippi River to the head of ship navigation, with soundings and observations of deep-sea temperatures in the Gulf Stream and the Gulf of Mexico, and observations of currents along the same coasts, the continuation of the survey of the Pacific coasts of the United States, with soundings and observations of deep-sea temperatures in the branch of the Japan Stream off, and observations of other currents along, the same coasts, and the preparation, engraving, lithographing, and issuing of charts, the preparation and publication of the Coast Pilot and other results of the coast survey, the purchase of materials therefor, and including compensation of civilians engaged in the work, and pay and subsistence of engineers for the steamers engaged on those coasts, $350,000.

Repairs of vessels, Coast Survey: For repairs and maintenance of the complement of vessels used in the Coast Survey, $30,000.

Publishing observations, Coast Survey: For continuing the publications of observations, and their discussion, made in the progress of the coast survey, including compensation of civilians engaged in the work, the publication to be made at the Public Printing Office, $6,000.

General expenses, Coast Survey: General expenses of the Coast Survey, in reference to the Atlantic, Gulf, and Pacific coasts of the United States, namely: For rent of buildings, (excepting the workshops for standard weights and measures,) for offices, workrooms, and workshops, $13,600.

For rent of suboffice in San Francisco, California, $2,000.

For rent of fire-proof buildings, for the safe-keeping and preservation of the original astronomical, magnetic, hydrographic, and other records, the original topographical and hydrographic maps and charts, the engraved plates, instruments, and other valuable articles of the Coast Survey, $5,000.

For fuel for all the offices and buildings, $2,000.

For the transportation of instruments, maps, and charts, the purchase of new instruments, books, maps, and charts, and for gas and other miscellaneous expenses, $9,400.

Metric standard of weights and measures: For construction and verification of standard weights and measures for the custom-houses of the United States and for the several States, and of metric standards for the same, $3,000.

For rent of workshops in building No. 215 South Capitol street, $400.

For rent of fire-proof rooms in building for the safe-keeping and preservation of finished weights, measures, balances, and metric standards, $1,000.

For fuel and lights, $300.

MISCELLANEOUS OBJECTS.

Transportation of United States securities: For transportation of notes, bonds, and other securities of the United States, $25,000.

Expenses of national currency: For paper, engraving, printing, express charges, and other expenses, $150,000.

To enable the Secretary of the Treasury to have the records of captured and abandoned property examined and information furnished therefrom for the use and protection of the Government, $2,500.

For expenses in detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, national-bank notes, and other securities of the United States, and the coinage thereof, and for detecting other frauds upon the Government, $100,000, to be disbursed under the direction of the Secretary of the Treasury.

For compensation in lieu of moieties in certain cases under customs-revenue laws, $100,000.

Propagation of food-fishes: For introduction of shad into the waters of the Pacific and Atlantic States, the Gulf States, and of the Mississippi Valley, and of salmon, whitefish, and other useful food-fishes into the waters of the United States to which they are best adapted, and for continuing the inquiry into the causes of the decrease of food-fishes of the United States, $40,000.

Illustrations for report on food-fishes: For preparation of illustrations for the Report of the United States Commissioner of Fish and Fisheries, $1,000.

For fuel, light, water, and miscellaneous items required by the janitors and firemen in the proper care of the buildings, furniture, and heating-apparatus, such as brooms, mops, brushes, buckets, wheelbarrows, shovels, saws, hatchets, hammers, &c., for all public buildings under control of the Treasury Department, $280,000.

For furniture and repairs of furniture and carpets for all public buildings under control of the Treasury Department, $75,000.

For heating, ventilating, and hoisting-apparatus, and repairs of same, for all public buildings under control of the Treasury Department, $50,000.

For pay of custodians and janitors for all public buildings under control of the Treasury Department, $75,000.

For vaults, safes, and locks, and repair of same, for all public buildings under control of the Treasury Department, $25,000.

For photographing, engraving, and printing plans for all public buildings under control of the Treasury Department, $1,000.

UNDER THE WAR DEPARTMENT.

Armories and arsenals:

For repairs and preservation of grounds, buildings, and machinery of the arsenal at Springfield, Massachusetts, $10,000.

Rock Island arsenal: For a rolling-mill and forging-shop (shop F) for the armory at Rock Island arsenal, Rock Island, Illinois, $50,000.

For an iron-working and finishing shop (shop G) for the arsenal, $30,000.

For general care, preservation, and improvement of sewers, new roads, care and preservation of water-power, of permanent buildings and bridges, including painting, building fences, and grading grounds, and repairs and extension of railroads, and for care and preservation of the Rock Island bridge, and expense of operating and maintaining the draw, $20,000.

For repairs of arsenals, and to meet such unforeseen expenditures at arsenals as accidents or other contingencies during the year may render necessary, $30,000.

Surveys of northern and northwestern lakes and Mississippi River:

For continuing surveys of Lakes Erie and Ontario; determination of points in aid of State surveys and construction of maps; continuation of triangulation south from Chicago and east to Lake Erie; survey of the Mississippi River; and miscellaneous, $75,000: *Provided*, That the proceeds of the sale of the steamers belonging to the survey of the northern and northwestern lakes shall be placed in the Treasury to the credit of the appropriation for said survey, and the whole amount shall be immediately available.

That upon the happening of the contingency on which the Secretary of the Treasury is authorized to issue bonds of the United States in payment to James B. Eads on account of the improvement by a system of jetties at the mouth of the Mississippi River, under and by virtue of the provisions in the act of March 3, 1875, entitled "An act making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes," the Secretary of the Treasury is hereby authorized to pay the sum that shall become due to the said James B. Eads in money instead of the issue of such bonds, and the sum necessary for said purpose is hereby appropriated.

BUILDINGS AND GROUNDS IN AND AROUND WASHINGTON.

Improvement and care of public grounds: For filling in and improving grounds south of Executive Mansion, $3,000.

For ordinary care and extension of greenhouses at the nursery, $1,000.

For ordinary care of Lafayette Square, $1,000.

For care of and improvement of reservation No. 3, (monumental grounds,) $1,000.

For annual repair of fences, $1,000.

For manure, and hauling of the same, $1,000.

For painting iron fences, $2,000.

For repair of seats, $500.

For purchase and repair of tools, $500.

For trees, tree-stakes, lime, and whitewashing, $1,000.

For removing snow and ice, $1,000.

For flowers, pots, twine, and Italian lycopodium, $500.

For abating nuisances, $500.

For care of and repairs to fountains in the public grounds, $500.

For improving various reservations, $2,000.

For purchase of stock for the nursery, and care of the same, $500.

For ordinary repairs to Benning's and the Anacostia and Chain bridges, $1,000.

For pedestal for the statue of General George H. Thomas, the unexpended balance of the sum appropriated for this purpose in the act of July 31, 1876, is hereby re-appropriated and rendered available.

For the naval monument, the unexpended balance of the sum appropriated to be expended under the direction of the Secretary of the Navy for the purpose of completing the statue of "Peace," platform, steps, and circular basin of the naval monument contracted for by the officers of the Navy with Franklin Simmons, by act of July 31, 1876, is hereby re-appropriated and rendered available.

For repairs of the Executive Mansion, refurnishing the same, and fuel for the same, and for care and necessary repairs of the greenhouses, $17,000.

For lighting the Executive Mansion, namely, for gas, pay of lamp-lighters, gas-fitters, plumbers and plumbing, lamps, lamp-posts, matches, and repairs of all kinds, fuel for watchmen's lodges, and for greenhouses at the nursery, $15,000: *Provided*, That the superintendent of meters at the Capitol shall hereafter take the statement of the meters of the several Department buildings in the city of Washington, and render to the proper accounting officers of the Treasury Department the consumption of gas each month in said buildings respectively.

For repairing and extending water-pipes, purchase of apparatus to clean them, and for cleaning the springs that supply the Capitol, Executive Mansion, and War and Navy Departments, $3,000.

Washington aqueduct: For engineering, maintenance, and general repairs, $15,000.

For repairs and care of the telegraph to connect the Capitol with the Departments and the Public Printing Office, $500.

Signal Office:

For expenses of the observation and report of storms by telegraph and signal for the benefit of commerce and agriculture throughout the United States; for manufacture, purchase, or repair of meteorological and other necessary instruments for telegraphing reports; for expenses of storm-signals, announcing probable approach and force of storms; for continuing the establishment and connection of stations at life-saving stations and light-houses; for instrument shelters; for hire, furniture, and expenses of offices maintained for public use in cities or ports receiving reports; for river reports; for books, periodicals, newspapers, and stationery; and for incidental expenses not otherwise provided for, $300,000.

Construction, maintenance, and repair of military telegraph lines: For the construction and continuing the construction, maintenance, and use of military telegraph lines on the Indian and Mexican frontiers; for the connection of military posts and stations, and for the better protection of immigration and the frontier settlements from depredations, especially in the State of Texas and the Territories of New Mexico and Arizona, and the Indian Territory, under the provisions of the act approved March 3, 1875, $15,000.

For geographical surveys of the territory west of the one hundredth meridian, and for preparing, engraving, and printing the cuts, charts, plates, and atlas-sheets for geographical surveys west of the one hundredth meridian, $20,000; which shall be immediately available.

Collection and payment of bounty, prize-money, and other claims of colored soldiers and sailors: For salaries of agents and clerks; rent of offices, fuel, lights, stationery, and similar necessaries; office furniture and repairs; transportation of officers and agents; telegraphing and postage, $10,000.

For payment of costs and charges of State penitentiaries for the care, clothing, maintenance, and medical attendance of United States military convicts confined in them, $15,000.

For publication of the official records of the rebellion, both of the Union and confederate armies, $10,000; to be paid to persons only who are not otherwise employed by the Government.

For care and support and medical treatment of seventy-five transient paupers, medical and surgical patients, in the city of Washington, under a contract to be made with such institutions as the Surgeon-General of the Army may direct, $15,000; to be expended under his direction.

Support of National Home for Disabled Volunteer Soldiers:

For current expenses, including construction and repairs, namely, for Central branch, Eastern branch, Northwestern branch, Southern branch, and for outdoor relief and incidental expenses, $880,000.

For the support of the Leavenworth military prison, at Leavenworth, Kansas, $40,000.

State, War, and Navy Department building:

For continuation of the east wing of the building, and for working-material for the north wing, $350,000; which shall be immediately available, and expended under the direction of the Secretary of War.

For furnishing artificial limbs or appliances, or commutation therefor, and for transportation, $100,000.

For providing surgical appliances for the relief of persons disabled in the military or naval service of the United States not otherwise provided for, $3,000.

For preparation of illustrations to complete the second edition of the Medical and Surgical History of the War, Part III, $25,000.

Navy-yards and stations:

For repairs at the different navy-yards and stations, and preservation of the same, $150,000.

Department of Agriculture:

For labor, manure, repairing concrete walks and laying new concrete walks, purchase of trees for arboretum, and for tools and repairs of mowing-machines; in all, $5,000.

GENERAL MISCELLANEOUS.

To pay Shepherd S. Everett for clerical services in the Committee on War Claims of the House of Representatives, rendered necessary by reports of the commissioners of claims, $400.

To pay Frank W. Millar, page to Sergeant-at-Arms room, House of Representatives, from the 4th day of December, 1876, to March 4, 1877, at the rate of $2.50 per day, $227.50.

That the proper accounting officers of the Treasury Department be, and are hereby, authorized and directed to audit and pass the accounts of such newspapers as published an advertisement for proposals for Indian goods, medical supplies, and groceries, in August and September, 1876, on the basis of the agreements made with the publishers of those newspapers by the Commissioner of Indian Affairs at the time the insertion of the advertisement was ordered; and that the amounts thus found to be due be paid out of the appropriations for the support of the Indian service for the current fiscal year available for payment for advertising.

To pay William C. Nicholls, late assistant treasurer at Chicago, Illinois, at the rate of $5,000 per annum, for the first twenty-seven days in July, 1875, less the amount paid him as cashier for that period, at the rate of $2,500 per annum, $184.94.

To enable the clerk of the Committee on the Public Lands of the House of Representatives to revise, correct, and continue the land map (known as the Centennial map) prepared for the use of said committee, $1,000, and said clerk shall supervise the publication and sale of said map at cost price.

To pay S. S. Strachan for services under the Doorkeeper of the House for the month of August, 1874, to be paid out of the contingent fund of the House, $111.60.

That the sum of $375,000, or so much thereof as may be necessary, be appropriated to pay the amount due to mail contractors for mail service performed in the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Texas, Tennessee, and Virginia in the years 1859, 1860, 1861, and before said States respectively engaged in war against the United States; and the provisions of 3480 of the Revised Statutes of the United States shall not be applicable to the payments herein authorized: *Provided*, That any such claims which have been paid by the Confederate States government shall not be again paid.

The total sum appropriated by this bill is $14,948,595.46.

MICHIGAN ELECTORAL VOTE.

Mr. HOLMAN. I believe a message has been sent to the Senate notifying that body of the action of the House on the objection to one of the electoral votes of the State of Michigan.

The SPEAKER. The Chair has directed the Clerk to communicate to the Senate the resolution adopted by the House.

Mr. HALE. Has the Senate been notified that the House is ready to receive the Senate to proceed with the counting of the electoral vote?

The SPEAKER. The Chair has directed that the Senate be informed of the resolution of the House that the vote be counted.

Mr. HALE. Will the Senate understand that the House is ready to receive that body to proceed with counting the electoral vote, until so notified in terms?

The SPEAKER. The Chair will entertain such a motion.

Mr. HALE. I make that motion.

The SPEAKER. The gentleman from Maine moves that the Clerk be directed to notify the Senate that the House is now ready to receive that body in joint meeting to proceed with the further counting of the electoral vote.

The motion was agreed to.

LEAVE TO PRINT.

Mr. CABELL. I ask leave of the House to have printed in the RECORD some remarks, which I would have addressed to the House this morning on the subject of the electoral vote of Louisiana if I had succeeded in obtaining the floor.

Mr. PAGE. I object.

After an interval,

Mr. PAGE. I will withdraw the objection, having been solicited to do so by several gentlemen. I understand that there are a number of other gentlemen who desire a like privilege.

There was no objection, and the leave was granted.

Mr. MILLIKEN. I ask the same privilege.

There was no objection, and the leave was granted.

Mr. DE BOLT. I ask a like privilege.

There was no objection, and the leave was granted.

Mr. PAGE. I move that any gentlemen who have remarks, if they desire to present them, on the casting of the vote of Louisiana have leave to have them printed as a part of the debates in the CONGRESSIONAL RECORD. [Cries of "No, no!"] If you grant leave to some, why not give the right to everybody?

Several members objected.

COUNTING THE ELECTORAL VOTES.

At four o'clock and forty-five minutes p. m. the Doorkeeper announced the Senate of the United States.

The Senate entered the Hall, preceded by its Sergeant-at-Arms and

headed by its President *pro tempore* and its Secretary, the members and officers of the House rising to receive them.

The PRESIDENT *pro tempore* of the Senate took his seat as Presiding Officer of the joint meeting of the two Houses, the Speaker of the House occupying a chair upon his left.

The PRESIDING OFFICER. The joint meeting of Congress for counting the electoral vote resumes its session. The two Houses retired to consider separately and decide upon the vote of the State of Michigan. The Secretary of the Senate will read the resolution adopted by the Senate.

The Secretary of the Senate read the resolution of the Senate, as follows:

Resolved, That the objection made to the vote of Daniel L. Crossman, one of the electors of Michigan, is not good in law and is not sustained by any lawful evidence.
Resolved, That said vote be counted with the other votes of the electors of said State, notwithstanding the objections made thereto.

The PRESIDING OFFICER. The Clerk of the House of Representatives will now read the resolution adopted by the House of Representatives.

The Clerk of the House of Representatives read the resolution adopted by the House, as follows:

Whereas the fact being established that it is about twelve years since the alleged ineligible elector exercised any of the functions of a United States commissioner, it is not sufficiently proven that at the time of his appointment he was an officer of the United States: Therefore,
Resolved, That the vote objected to be counted.

The PRESIDING OFFICER. Neither House having concurred in an affirmative vote to reject a vote of the State of Michigan, the entire vote of that State will be counted.

Senator ALLISON, (one of the tellers.) In the State of Michigan 11 votes were cast for Rutherford B. Hayes, of Ohio, for President, and 11 votes for William A. Wheeler, of New York, for Vice-President.

The PRESIDING OFFICER. Having opened the certificate from the State of Minnesota, the Chair directs the reading of the same by the tellers in the hearing and presence of the two Houses. A corresponding certificate received by mail is also submitted to the tellers.

Mr. STONE (one of the tellers) read the certificate.

The PRESIDING OFFICER. Are there objections to the certificate of the electoral vote of the State of Minnesota? If there be none the vote of that State will be counted. The tellers will announce the vote of the State of Minnesota.

Mr. STONE, (one of the tellers.) In the State of Minnesota 5 votes were cast for Rutherford B. Hayes, of Ohio, for President, and 5 votes for William A. Wheeler, of New York, for Vice-President.

The PRESIDING OFFICER. Having opened the certificate from the State of Mississippi the Chair directs the reading of the same by the tellers in the hearing and presence of the two Houses. A corresponding certificate received by mail is also submitted to the tellers.

Senator ALLISON, (one of the tellers) read the certificate.

The PRESIDING OFFICER. Are there objections to the certificate of the electoral vote of the State of Mississippi? If there be none the vote of that State will be counted. The tellers will announce the vote of the State of Mississippi.

Senator ALLISON, (one of the tellers.) In the State of Mississippi 8 votes were cast for Samuel J. Tilden, of New York, for President, and 8 votes for Thomas A. Hendricks, of Indiana, for Vice-President.

The PRESIDING OFFICER. Having opened the certificate from the State of Missouri, the Chair directs the reading of the same by the tellers in the hearing and presence of the two Houses. A corresponding certificate received by mail is also submitted to the tellers.

Mr. STONE (one of the tellers) read the certificate.

The PRESIDING OFFICER. Are there objections to the certificate of the electoral vote of the State of Missouri? If there be none the vote of that State will be counted. The tellers will announce the vote of the State of Missouri.

Mr. STONE, (one of the tellers.) In the State of Missouri 15 votes were cast for Samuel J. Tilden, of New York, for President, and 15 votes for Thomas A. Hendricks, of Indiana, for Vice-President.

Senator WHYTE. I propose that by unanimous consent the reading of the certificate of the appointment of the messengers and also of the certificate of the governor of the appointment of the electors be dispensed with and that the tellers merely read the vote as cast in the electoral colleges, unless some gentleman calls for the reading of the certificate, and that unless some gentleman calls for the reading of the certificates the count shall be proceeded with until there is some State that is objected to.

The PRESIDING OFFICER. Is there objection to the suggestion of the Senator from Maryland? The Chair hears none, and the tellers will now read only the list of votes attached to the certificates of electors, omitting the certificate of the governor and of the appointment of the messenger.

Mr. WILSON, of Iowa. I suppose the certificate will be printed in full, as a matter of course?

The PRESIDING OFFICER. It will be printed in full.

Mr. WILSON, of Iowa. Very well, sir.

The PRESIDING OFFICER. Having opened the certificate from the State of Nebraska, the Chair hands it to the tellers, who will announce the vote of that State.

Senator ALLISON, (one of the tellers.) In the State of Nebraska 3 votes were cast for R. B. Hayes, of Ohio, for President, and 3 votes for W. A. Wheeler, of New York, for Vice-President.

The PRESIDING OFFICER. Are there objections to counting the vote of Nebraska? The Chair hears none.

The PRESIDING OFFICER. Having opened the certificate from the State of Nevada, the Chair hands it to the tellers, who will announce the vote of that State. Is there objection to the counting of the vote of that State?

Mr. SPRINGER. I submit the following objection to the counting of the vote of one of the electors of the State of Nevada.

The Clerk of the House read the objection.

Mr. SPRINGER. If there be no objection I ask that the evidence accompanying this objection may be printed in the RECORD, so that we may have an opportunity to examine it. I hope there will be no objection.

The PRESIDING OFFICER. Is there objection to dispensing with the reading of the testimony and to its being printed in the RECORD?

Mr. HUBBELL. I object.

Mr. SPRINGER. I will state that when the two Houses shall separate I think a recess will be taken until to-morrow morning, and in the mean time the evidence will be printed in the RECORD.

The PRESIDING OFFICER. The Chair cannot entertain a motion to take a recess.

Mr. SPRINGER. I did not make the motion.

The PRESIDING OFFICER. Then the Chair misunderstood the gentleman.

Mr. HUBBELL. I withdraw the objection.

The PRESIDING OFFICER. Is there further objection? The Chair hears none. Are there further objections to the certificates of the State of Nevada? The Chair hears none.

The objection submitted by Mr. SPRINGER to the counting of one of the votes of Nevada, and the evidence accompanying the same, are as follows:

The undersigned Senators and Representatives object to the vote of R. M. Daggett as an elector from the State of Nevada upon the grounds following, namely:

That the said R. M. Daggett was on the 7th day of November, 1876, and had been for a long period prior thereto, and thereafter continued to be a United States commissioner for the circuit and district courts of the United States for the said State, and held therefore an office of trust and profit under the United States, and as such could not be constitutionally appointed an elector under the Constitution of the United States.

Wherefore the undersigned say that the said R. M. Daggett was not a duly appointed elector, and that his vote as an elector should not be counted.

And the undersigned hereto annex the evidence taken before the committee of the House of Representatives on the powers, privileges, and duties of the House to sustain said objection.

W. H. BARNUM, Connecticut;
WILLIAM A. WALLACE, Pennsylvania;
FRANK HEREFORD, West Virginia;
Senators.

J. R. TUCKER, Virginia,
JOHN L. VANCE, Ohio,
WM. A. J. SPARKS,
JNO. S. SAVAGE,
LEVI MAISH,
G. A. JENKS,
WILLIAM M. SPRINGER,
Representatives.

COMMITTEE ON PRIVILEGES,
Washington, February 9, 1877.

R. M. DAGGETT, sworn and examined.

By Mr. TUCKER:

Question. Were you a candidate for the office of presidential elector in the State of Nevada at the presidential election in November, 1876?

Answer. I was.

Q. Were you present in the college at the time of the vote for President and Vice-President?

A. Yes.

Q. Did you cast a vote for President and Vice-President?

A. I did.

Q. For whom did you vote?

A. I voted for Hayes and Wheeler.

Q. Mr. Hayes for President, and Mr. Wheeler for Vice-President?

A. Yes, sir.

Q. Are you the messenger who brought the vote to Washington by the appointment of the college?

A. I am.

Q. Did you hold any office under the United States prior to the election?

A. Yes.

Q. What office was that?

A. I was clerk of the Federal courts, the district and circuit courts of the State of Nevada.

Q. When were you appointed?

A. I think in 1868.

Q. Was that under the State government?

A. Yes; Nevada became a State in 1864, I believe.

Q. Do you hold that office now?

A. I do not.

Q. Who holds that office?

A. I think it is a man named McLean.

Q. When was he appointed?

A. I don't know exactly when he was appointed.

Q. By whom were you appointed?

A. I was appointed first by Associate Justice Field of the circuit court, and subsequently by Judge Sawyer of the circuit court, and by Judge Hillyer for the district.

Q. The appointment was made not by the judge but by the court, was it not?

A. Made by the judge.

Q. In court?

A. No, I believe not; it may have been.

Q. Where were you when you received the appointment?

A. I was in Virginia City for the circuit court.

Q. How was the appointment notified to you?

A. It was sent to me by mail.
Q. Did you appear in court and take the oath and give the bond required by law?
A. Yes, sir; subsequently.
Q. You were the keeper of the records of the court; was not your appointment made a matter of record in that court?
A. I presume so.
Q. And your qualification was also entered upon the record?
A. Yes, sir.
Q. When did you cease to be the clerk of the court, or cease to perform its duties?
A. I ceased on the 6th day of November, the day before the election.
Q. What made you cease to perform its duties?
A. Because it was a question in my mind whether I would be eligible as an elector if I continued to hold the office, and I therefore resigned.
Q. How did you resign?
A. I resigned by telegraph.
Q. A telegram to whom?
A. To Judge Sawyer in San Francisco, and also to Judge Hillyer in Carson. I was then living in Virginia City.
Q. Where is Virginia City?
A. It is about twelve miles from Carson.
Q. Carson is the capital where the Federal court holds its sessions?
A. Yes, sir.
Q. Where is the telegram which you sent to either of those judges?
A. I do not know. It is not with me; I did not bring it.
Q. Have you got a copy of the telegram?
A. I think not.
Q. Who has? To whom did you send it?
A. I sent it to Judge Sawyer.
Q. Directed to what point?
A. To San Francisco.
Q. Does he live in San Francisco?
A. Well, he is judge of the district comprising those three States: California, Nevada, and Oregon.
Q. Does he reside in San Francisco?
A. Most of the time.
Q. You say you sent a telegram to another judge? Whom?
A. Judge Hillyer, of Carson, the district judge.
Q. And you have no copy of that telegram?
A. I have not. I did not think of saving it.
Q. Did you ever receive an answer to that telegram?
A. I received an answer from Judge Sawyer the same day, about an hour afterward.
Q. Where is that telegram?
A. I left it in Virginia City; I did not think of bringing it. I believe I have it.
Q. Why did not you bring it?
A. Well, I did not know that there would be any question about it.
Q. Did not you know what you were sent for?
A. I was only subpœnaed here two or three days ago.

By Mr. FIELD:

Q. You telegraphed Judge Sawyer on the 6th of November?
A. Yes, sir.
Q. Can you not give the exact words of the telegram?
A. I think I can.
Q. Give the exact words then.
A. I think the telegram read this way: "Honorable Alonzo Sawyer, San Francisco: I have this day filed my resignation as clerk of the circuit court of the ninth circuit, and request the acceptance of my resignation." I, at the same time that I sent that telegram to Judge Sawyer, sent to Carson my resignation.
Q. No; do not say you sent your *resignation*. I am only asking about the telegram to Judge Sawyer. Have you given the whole of that?
A. Yes, sir; I think that is about the substance of it, and I think pretty nearly the words.
Q. You received from him an answer?
A. Yes, sir.
Q. On the same day, about an hour afterward?
A. An hour or two afterward.
Q. That you have got, I suppose?
A. I think it is among my papers in Virginia City.
Q. Do you remember the exact words of that?
A. Pretty nearly.
Q. Give them.
A. "Your resignation as clerk of the circuit court is accepted. Alonzo Sawyer."
Q. Have you ever had any other communication with Judge Sawyer on the subject?
A. I have not.
Q. You have never written him?
A. I never have.
Q. Nor received a letter from him?
A. Never.
Q. You did not send to him a copy of your written resignation?
A. By telegraph?
Q. No; you say you wrote something; you did not send him a copy of that?
A. No. Do you mean, send it by mail?
Q. Yes, or any way.
A. I did send it.
Q. How?
A. I sent it to Carson the same day.
Q. I am talking about Judge Sawyer. Did you send to Judge Sawyer any copy or any paper?
A. Yes.
Q. What did you send him?
A. My resignation.
Q. In what form?
A. In the usual form of resignations.
Q. You sent him a copy of your written paper?
A. My written paper, my resignation, you mean?
Q. Yes; do not you understand me? Did you send Judge Sawyer anything in the world but the telegram?
A. Yes.
Q. What else?
A. I sent him my resignation.
Q. You mean a written paper?
A. Yes, sir.
Q. Did you send him the original that was filed, or a copy?
A. I sent him the original; I only made one.
Q. You made one; then you did not file it?
A. I sent it down to be filed.
Q. You sent it to him to file, by mail?
A. I did not send it to San Francisco.
Q. Where did you send it?
A. I sent it to Carson.
Q. Now I think I get an answer. Did you send anything to Judge Sawyer?
A. Yes.
Q. What?
A. I sent that resignation.
Q. That paper?
A. Yes.
Q. To Judge Sawyer, at San Francisco?
A. I did not say that I did send it to San Francisco?
Q. Well, he was there, was he not?
A. He was there that day, I think.
Q. Then that day you did not send it. Did you send it to San Francisco the next day?
A. I did not send it to San Francisco.
Q. At all?
A. Not at all.
Q. Did you ever send the original paper anywhere?
A. Yes.
Q. Where did that go?
A. To Carson.
Q. How did you send that?
A. I sent it by mail.
Q. You mailed it in Virginia City, direct to Carson, did you?
A. Yes, sir.
Q. When did you mail it in Virginia City?
A. I mailed it on the 6th.
Q. What time, or hour, on the 6th?
A. Along about eleven o'clock in the day.
Q. When did the next post leave Virginia City for Carson?
A. At about half past two in the afternoon.
Q. You say you telegraphed to Judge Hillyer?
A. Yes, sir.
Q. Have you that telegram?
A. They were very much alike, except the change of name.
Q. As near as you can remember, were they exactly the same?
A. Yes, sir; precisely the same, with such changes as there would necessarily be in telegraphing to a different person.
Q. Did you receive an answer from him?
A. I did not.
Q. He never answered you at all?
A. No.
Q. By letter or telegraph?
A. No.
Q. Has the circuit court ever been in session since that time?
A. Yes.
Q. When?
A. On the 6th of November.
Q. In session where?
A. In Carson City.
Q. Were you there?
A. I was not.
Q. When were you next after the 6th of November in the court?
A. I have not been there since.
Q. Personally, therefore, you do not know who transacted the business as clerk in the circuit court on the 7th day of November?
A. I do not.
Q. Did you yourself give any directions about the business of the court to be transacted on that next day?
A. I did not.
Q. Have you ever since?
A. I have not.
Q. Who is doing the business of the clerk?
A. There is a clerk there, Mr. McLean; I have forgotten his first name.
Q. Do you know whether he has been appointed by the circuit court?
A. Yes; I am certain he has.
Q. Well, you understand that he has?
A. Yes, sir.
Q. When was he appointed?
A. That I do not know exactly.
Q. What month?
A. O, he was appointed in November.
Q. Do you know that?
A. Yes.
Q. You know that?
A. Well, I do not *know* it, because I never saw the appointment.
Q. And you have never seen any record of his appointment?
A. No, I never have.
Q. Was Mr. McLean your deputy?
A. No, he was not.
Q. Did your deputy make the entries and keep the minutes of the court until Mr. McLean took possession of the office?
A. I presume he did; I do not know. I never was there afterward.
Q. Did you make any communications to him?
A. I did not.
Q. Where is the paper that you call your written resignation?
A. It must be on file in Carson, in the clerk's office.
Q. That is to say, as far as you know?
A. So far as I know.
Q. Give the language, as near as you can, of that written paper which you call your resignation?
A. I think it was addressed to Judge Sawyer, and ran about in this style: "Having been nominated as presidential elector, I hereby tender my resignat'on as clerk of the circuit court, ninth circuit, and trust the resignation may be immediately accepted." I think that is about the purport of it.
Q. You inclosed that in an envelope, did you?
A. Yes.
Q. Directed to whom?
A. To Judge Sawyer.
Q. At Carson City?
A. At Carson City.
Q. It was sealed up, directed to Judge Sawyer, and put into the mail?
A. Yes.
Q. Judge Sawyer was then in San Francisco?
A. Yes; he was then in San Francisco.
Q. Do you know of your own knowledge that Judge Sawyer has ever been in Carson City since?
A. Yes.
Q. Were you there?
A. I was not.
Q. Do not you know what I mean by your own knowledge? Did you see him?
A. No; I did not see him.
Q. Very well, you do not know of your own knowledge that he has ever been there since?
A. Not by seeing him.

Q. That is your knowledge. You do not know then, of your own knowledge, that Judge Sawyer ever saw that package or letter?
A. I do not.
Q. You do not know, of your own knowledge, that it is not now in the post-office?
A. I do not.
Q. Have your accounts as clerk ever been settled?
A. Yes, I think so.
Q. You think so; do you know?
A. I did not attend to the business much; my deputy always did it.
Q. What deputy?
A. Mr. Edwards.
Q. Is he still there?
A. He is in Carson.
Q. Is he still in the office of the clerk?
A. I do not know.
Q. Do you know whether he has ever been out of it?
A. I do not know; I presume he was out of it after I resigned.
Q. Do you know that he was ever out of it? Were you there? Do you know whether he did not attend in court every day and transact business?
A. I do not of my own knowledge.
Q. Did not you as clerk receive money to be deposited to your credit in bank?
A. Frequently.
Q. In what bank?
A. I have forgotten where the deposits were made. We shifted them around quite often.
Q. In different banks?
A. Yes, sir.
Q. Give us the names of some of them.
A. The Bank of California, and Wells, Fargo & Co.
Q. What amount of money had you standing in your name or to your credit as clerk of the circuit court of the United States?
A. I think not a dollar.
Q. It had all been previously paid out?
A. Yes.
Q. Paid out for what purposes?
A. Paid out in the regular course of business.
Q. You think there were no moneys on deposit to your credit as clerk at that time?
A. I think not; I am not positive.
Q. Has your bond ever been discharged?
A. Not that I know of.
Q. I repeat now what I asked you before: Have your accounts as clerk, to your knowledge, ever been settled?
A. We made our quarterly settlements.
Q. That is not an answer to my question.
A. You mean since that time?
Q. Have your accounts ever been finally settled?
A. Well, I do not know that there was any accounts to settle.
Q. You received fees?
A. I received fees.
Q. And you were paid through fees?
A. Paid through fees.
Q. Up to a certain amount or all the fees?
A. Up to a certain amount.
Q. Very well, then, there must have been, of course, an account to be kept of the amount of fees received, and, so far as they exceeded the limit, you paid them over to the treasury, did you not?
A. I should have done so had they ever exceeded the amount.
Q. When were your periodical accounts regularly settled?
A. They were settled semi-annually.
Q. In what months?
A. In June and December, the 31st.
Q. Then you settled an account on the 31st of June, 1876?
A. Yes.
Q. Have you ever settled an account since?
A. I have not.
Q. Could you state, if you were asked, the items on different sides of the account?
A. O, no, I could not.
Q. Have you ever had any communication with Mr. Edwards since the 6th of November?
A. I have not; I have never been in Carson since but once; that was at the meeting of the college, and I did not see him.
Q. Did you have any communication with him on the 6th of November?
A. No, sir. I was in Virginia City.
Q. When first after the 6th of November did you visit Carson City?
A. Not until the meeting of the college.
Q. That was on the 6th of December?
A. I think so.
Q. In what business have you been engaged since?
A. Well, I am in the mining business principally, and always have been.
Q. Do you say that the circuit court has been in session since the 6th of November?
A. Yes.
Q. Was it not the district court?
A. The circuit court was in session also.
Q. Are you sure?
A. I am pretty positive.
Q. What are the times for the meeting of the circuit court in Nevada?
A. I don't remember just now; they made some changes, I think, in the last Congress.
Q. As the law stood on the 1st of November what was the time for the meeting of the court, not the district but the circuit court?
A. My opinion is that the circuit court was to meet on the 6th of November; that is my impression now and that is what I thought at the time.
Q. Your impression from what?
A. From the law. The first Monday, I think, in November.
Q. You can easily tell, cannot you, by looking at the law?
A. Yes, I can tell.
Q. I wish you would tell us, then, before you leave the city.
A. I will do so.

By Mr. TUCKER:

Q. You did not file the paper that you call your resignation in the clerk's office on the 6th of November.
A. I transmitted it for filing—or rather to the judge.
Q. To Judge Sawyer at Carson?
A. Yes.
Q. He was that day at San Francisco?
A. I understood that he was.
Q. Well, you got a telegram from him from there?
A. Yes.
Q. How long would it take Judge Sawyer to come by the quickest route from San Francisco to Carson?
A. Twenty hours, I believe.
Q. Coming by steamer?
A. No, by rail.
Q. You do not know when he did come?
A. I do not.
Q. Then if he had left San Francisco on the 6th he would not get to Carson until what time?
A. He could have got there on the 7th.
Q. What time on the 7th?
A. It would have been along in the evening.
Q. When you communicated with the judges, as you say, on the 6th, did you communicate to your deputy, Edwards, that you were no longer clerk of the court?
A. I did not.

By Mr. BURCHARD:

Q. You did not exercise the duties of the clerk since the time of your telegram?
A. I have not.
Q. And they have been performed, as I understand, by a successor appointed by the court?
A. Yes.
Q. Your recollection is that the district and circuit court were then in session that day in Carson City?
A. I believe that was the day fixed for it.
Q. Where do I understand you to say Judge Sawyer was?
A. He was in Carson.
Q. Is there a railroad from Virginia City to Carson?
A. Yes.
Q. How far is it in time by rail?
A. Well, the railroad is a little long and pretty crooked, about twenty-four miles; they make it generally in about two hours and a half, sometimes a little less.
Q. The telegram was sent at what time to Judge Hillyer?
A. I think along about noon sometime.
Q. You put your resignation in the mail before the hour of sending the mail from Virginia City to Carson?
A. Yes, in order that it might reach there on that day, the 6th.
Q. Do you remember whether the envelope was addressed to your deputy or a clerk or to the judge himself?
A. It was addressed to the judge himself.
Q. And you sent a resignation to each judge, if I understand?
A. To each.

By Mr. FIELD:

Q. Not a written paper to each?
A. Yes; I sent a resignation to each.
Q. The telegram you said you sent to each?
A. I sent the resignation also.

By Mr. BURCHARD:

Q. Then you sent a resignation to each of the judges through the mail on the 6th?
A. Yes; and at the same time I telegraphed them that I had so sent it.
Q. And Judge Hillyer was then, as I understand, holding court at Carson City?
A. The circuit court, I think, was to meet.

By Mr. MAISH:

Q. He was the district judge?
A. Yes, sir; but I had understood that Judge Sawyer was in San Francisco; I had learned it from some source, and therefore telegraphed to him there.

By Mr. FIELD:

Q. Let me see if I understand you about this resignation directed to the district judge. Did you send exactly the same paper to the district judge that you had sent the circuit judge?
A. Not the same paper.
Q. Was it a copy of the same paper?
A. Pretty nearly.
Q. Can you give the contents of the paper?
A. A moment ago I gave it, and the other was pretty nearly a copy of it, with the exception of such changes as would necessarily be made.
Q. Did you put that in an envelope directed to somebody?
A. I did.
Q. How was it directed?
A. To Judge Hillyer.
Q. Give the direction altogether.
A. "Hon. E. W. Hillyer, U. S. District Judge, Carson City."
Q. Was the inside also directed in the same way to Judge Hillyer?
A. Yes.
Q. With the same designation of office and everything else as in the other?
A. Yes.
Q. You do not know whether he ever received that letter or not?
A. I think he told me he had received it.
Q. That is not evidence. Do you *know* it in any way?
A. O, no.
Q. You think that he afterward told you he had received it?
A. Yes, in Virginia City.
Q. When do you think he told you?
A. Well, probably a week after, or possibly two weeks.
Q. You do not know that Judge Hillyer was in Carson City on the 6th or 7th of November, do you? *Knowledge* is what I ask for.
A. I was not there.
Q. Well, you do not *know* then in any way that they were received, either of them?
A. That seems to be the kind of information you want. I do not.
Q. And if he did receive that letter to him, you do not know when he received it?
A. Of course not; I don't know that he received it at all unless I take his word for it.
Q. And you have no information of his having received it within two weeks?
A. What kind of information?
Q. From him?
A. I tell you, I think he told me so.
Q. Within two weeks he told you that he had received it; that was the information, was it not?
A. Yes, sir. He talked about sending the bankruptcy letters down; they were in Virginia City; that is the reason I happened to be there. He said he would send Mr. McLean up and remove the bankruptcy records; they had been in Virginia City for seven years, and I had been attending to that branch of the business.

By Mr. TUCKER:

Q. In your possession?
A. In my possession.

By Mr. FIELD:

Q. And remained in your possession until when?
A. They were locked up until Mr. McLean came up, some two or three days afterward.

Q. They remained in your possession until two or three weeks after?
A. No, not so long.
Q. For how long?
A. Well, some days.
Q. Some days after the 7th of November they remained in your possession?
A. Yes, sir.
Q. And then you gave them up?
A. Yes.
Q. Were those records locked up on the 6th of November?
A. Yes, they were always locked up.
Q. Did they remain locked; had they been touched?
A. Not that I know of.
Q. Who had charge of them?
A. I had.
Q. Nobody else under you?
A. Mr. Strother, the register in bankruptcy, had an office in the same place, and sometimes he had access to the documents.
Q. Was that bankruptcy business going on all the time from the 6th of November to the 6th of December?
A. It was not. There was no work done in the office or in any part of the office.
Q. Where was that bankruptcy business going on?
A. It was not going on at all.
Q. There was none?
A. There was none.
Q. But Mr. Strother remained there, did he not?
A. He was a register in bankruptcy in the same office?
Q. And he was there all the time?
A. Not all the time.
Q. Well, he was off and on?
A. Off and on.
Q. From the 6th until the present time?
A. Yes, sir.
Q. Was he kept in office by Mr. McLean?
A. He is a register in bankruptcy, appointed by the judge.

By Mr. TUCKER:

Q. When did you mail your letter to Judge Hillyer?
A. I mailed it about the time I sent the dispatch, or pretty soon afterwards.
Q. What time did you send the dispatch?
A. Some time about twelve o'clock; between eleven and one some time.
Q. When did the mail leave Virginia City for Carson?
A. I think there are two mails, one in the morning and one at 2.30 p. m., or at 1.30—I am not sure which—along in the afternoon.

By Mr. BURCHARD:

Q. Is there any special provision of law in regard to the appointment of district or circuit clerks in Nevada?
A. No.
Q. Nothing but the general provision that the clerk shall be appointed for each district court by the judge thereof, and that the clerk shall be appointed for the circuit court by the circuit judge of the same?
A. Yes.
Q. Your appointment was made by the judge?
A. Yes.

By Mr. LAWRENCE:

Q. Did you put on to the two letters that you sent to Carson City the proper postage-stamps?
A. Yes.
Q. What time would these letters reach Carson in the ordinary course of the mail?
A. They ought to have reached there along in the evening of the 6th, about five or six o'clock.
Q. Did the fees of the office or either of your offices ever exceed the limits fixed by law?
A. No. I lost $500 a year running the office for eight years.
Q. At the time you resigned, was there any excess of fees above the limit prescribed by law?
A. O, no.
Q. You would owe the Government nothing, then?
A. O, no.

By Mr. BURCHARD:

Q. What do you mean?
A. Well, there was nothing in the office. I had to pay the rent—the Government did not; that is what was the matter—and I kept it on to accommodate a deputy.

By Mr. TUCKER:

Q. You have spoken of the time of mailing these letters. Are you certain you mailed them in time for the evening mail on the 6th?
A. That was my purpose in putting them in; I presumed so at the time; I did not doubt it at the time. Exactly at what time the cars went I am now unable to say, but I put them in the office on the supposition that I would get them there in time.

By Mr. LAWRENCE:

Q. You signed your name to both resignations?
A. I did.

By Mr. TUCKER:

Q. How many hours does it take the mail to go from Virginia City to Carson?
A. About two hours and a half; sometimes a little less; it is twenty-four miles by rail.

The PRESIDING OFFICER. The Senate will now withdraw to its Chamber that the two Houses may separately consider and decide upon this objection.

The Senate at five o'clock and forty-five minutes p. m. withdrew to their Chamber.

Mr. WOOD, of New York. I move that the House take a recess until ten o'clock to-morrow morning.

Mr. GARFIELD. I hope the gentleman will let us go on.

Mr. PAGE. If gentlemen on the opposite side of the House are really anxious to get through with the appropriation bills the only way to do it is to go on with the counting to-night until Oregon is reached.

The House divided on the motion of Mr. WOOD, of New York; and on a division there were—ayes 66, noes 82.

Before the result of this vote was announced,

Mr. WOOD of New York, Mr. VANCE of Ohio, and others called for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and there were—yeas 97, nays 88, not voting 105; as follows:

YEAS—Messrs. Atkins, John H. Baker, Banning, Blackburn, Bland, Bright, John Young Brown, Samuel D. Burchard, Cabell, Candler, Cate, Chittenden, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cox, Culberson, Darrall, De Bolt, Durham, Eden, Ellis, Field, Finley, Forney, Foster, Franklin, Gause, Hale, Andrew H. Hamilton, Henry R. Harris, Hartzell, Abram S. Hewitt, Hill, Hoar, House, Humphreys, Hunton, Hurd, Jenks, Kehr, Kelley, Knott, Lamar, Lane, Levy, Lewis, Lynde, Mackey, Maish, Metcalfe, Money, Morrison, Mutchler, Payne, John F. Philips, Poppleton, Rea, Reagan, John Reilly, James B. Reilly, Rice, Riddle, William M. Robbins, Roberts, Sayler, Schleicher, Singleton, A. Herr Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Terry, Thompson, Thornburgh, Martin I. Townsend, Washington Townsend, Tucker, Turney, John L. Vance, Waddell, Waldron, Alexander S. Wallace, Warner, Warren, Erastus Wells, Wigginton, Alpheus S. Williams, Benjamin Wilson, Fernando Wood, and Yeates—97.

NAYS—Messrs. William H. Baker, Ballou, Banks, Blair, Blount, William R. Brown, Horatio C. Burchard, Buttz, Cannon, Cason, Conger, Crapo, Crounse, Cutler, Danford, Davy, Denison, Dunnell, Eames, Evans, Flye, Fort, Freeman, Garfield, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hatcher, Hathorn, Haymond, Henderson, Hoge, Holman, Hoskins, Hubbell, Hunter, Hyman, Joyce, King, Lapham, Lawrence, Leavenworth, Lynch, Magoon, McCrary, McDill, Miller, Monroe, Nash, New, Norton, Oliver, O'Neill, Packer, Page, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Sobieski Ross, Rusk, Sampson, Savage, Seelye, Sinnickson, Smalls, Stevenson, Stowell, Strait, Tarbox, Tufts, Van Vorhes, Wait, Charles C. B. Walker, John W. Wallace, Watterson, G. Wiley Wells, White, Andrew Williams, Charles G. Williams, James Wilson, Alan Wood, jr., and Woodburn—88.

NOT VOTING—Messrs. Abbott, Adams, Ainsworth, Anderson, Ashe, Bagby, George A. Bagley, John H. Bagley, jr., Bass, Beebe, Belford, Bell, Bliss, Boone, Bradford, Bradley, Buckner, Burleigh, John H. Caldwell, William P. Caldwell, Campbell, Carr, Caswell, Caulfield, Chapin, Cowan, Davis, Dibrell, Dobbins, Douglas, Durand, Egbert, Faulkner, Felton, Frye, Fuller, Gibson, Glover, Goode, Goodin, Gunter, Robert Hamilton, Hancock, John T. Harris, Hartridge, Hays, Hendee, Henkle, Goldsmith W. Hewitt, Hooker, Hopkins, Hurlbut, Frank Jones, Thomas L. Jones, Kasson, Kimball, Franklin Landers, George M. Landers, Le Moyne, Lord, Luttrell, MacDougall, McFarland, McMahon, Meade, Milliken, Mills, Morgan, Neal, O'Brien, Odell, Phelps, Piper, Parman, John Robbins, Robinson, Miles Ross, Scales, Schumaker, Sheakley, Slemons, William E. Smith, Stephens, Swann, Teese, Thomas, Throckmorton, Robert B. Vance, Gilbert C. Walker, Walling, Walsh, Ward, Wheeler, Whitehouse, Whiting, Whitthorne, Wike, Willard, James Williams, Jere N. Williams, William B. Williams, Willis, Wilshire, Woodworth, and Young—105.

So the motion was agreed to.

Accordingly (at six o'clock and ten minutes p. m.) the House took a recess until to-morrow morning at ten o'clock.

AFTER RECESS.

The recess having expired, the House was called to order by the Speaker at ten o'clock a. m.

SALE OF TIMBER LANDS IN ALASKA.

Mr. WALLING. On Friday last I submitted a report from the Committee on Public Lands in relation to the sale of certain timber lands in Alaska. At the same time I submitted a request that it be printed in the RECORD, but in the noise and confusion the request I suppose was not heard, and it has not been so printed. I now ask consent for that purpose.

Mr. WILSON, of Iowa. Is it long?

Mr. WALLING. It is not very lengthy. I ask that it be printed in the RECORD in order that the facts it contains may be more directly brought to the attention of those interested.

The SPEAKER. The Chair understands that consent was given, but it was not understood at the time.

Mr. CONGER. Is it the report of a committee?

Mr. WALLING. It is a report from the Committee on Public Lands.

There being no objection, it was so ordered.

The report is as follows:

The Committee on Public Lands, to whom was referred the bill H. R. No. 4260, reported as a substitute H. R. No. 4560, and accompanied the same with the following report:

A memorial, signed by several merchants and business men of San Francisco, was presented to this House during the first session of the present Congress, asking that they be permitted to purchase, at the Government price per acre, a tract of land in the Territory of Alaska, on the islands lying between Sitka and the mainland, for the purpose of enabling them to establish ship-yards and lumber manufacture. This memorial was subsequently followed by a bill introduced at the request of the same parties, who had incorporated themselves, under the laws of the State of California, as the Alaska Ship-Building and Lumber Company. The proposed bill conferred the authority on that corporation to make the purchase mentioned in the memorial.

The committee, being satisfied from the character of the persons whose names were attached to the memorial, and from representations made in relation to the project, that the enterprise was backed by good faith and by the ability and determination (if permitted) to carry it out, have, after such investigation as it has been possible to make, embodied their recommendations in H. R. 4560, as a substitute for H. R. 4260.

Alaska was ceded to the United States in 1867. Although glowing representations were made of the value of the Territory and of its ability to support a large population and varied industries, ten years of opportunity have yielded no return beyond the seal-fisheries of the islands of Saint Paul and Saint George, under lease to the Alaska Commercial Company. Population has diminished until at the present time, except the native Indians and a few traders, there are no inhabitants remaining who have the means of getting away. The Indians even, who previous to the cession had been taught to respect the laws of civilization and in some slight degree to appreciate its advantages, are lapsing into their former ways, with the added corruptions, physical and moral, rather fostered than repressed by the cupidity or license of the few whites who barter for their peltry.

All these facts abundantly appear from the reports and exhibits attached to Executive Document No. 83, made by the Secretary of the Treasury to the first session of the present Congress, on the "Seal-Fisheries in Alaska." Attached to that document is a careful, scientific, and extended report, made by Professor Henry W. Elliott,

a special agent of the Government sent to Alaska for the purpose of obtaining information in regard to the resources and condition of that Territory. He says:

"In this report I have endeavored to give a concise description of the agricultural character of the territory as I have seen it, which thus far might be truthfully summed up in saying that there are more acres of better land lying now as wilderness and jungle in sight, on the mountain-tops of the Alleghanies, from the car-window of the Pennsylvania road, than can be found in all Alaska; and when it is remembered that this land, wild, in the heart of one of our oldest and most thickly populated States, will remain as it now is, cheap and undisturbed, for an indefinite time to come, notwithstanding its close proximity to the homes of millions of energetic and enterprising men, it is not difficult to estimate the value of the Alaskan acres, remote as they are, and barred out by a most disagreeable sea-coast climate, leaving out altogether the great West, and the vast agricultural regions of British America."

In giving more particular description the country is grouped into sections, of which the southern and (agriculturally) most valuable, called "the Sitkan district," extends in its northwesterly and southeasterly dimensions between 55° and 60° of north latitude, about three hundred and fifty miles in the coastwise direction. It is within this district that the memorialists propose to make their experiment of ship-building and lumbering. Of this region the report continues, (page 10 of report:)

"*The Sitkan district.*—Starting from Portland Canal and running north to Cross Sound and the head of Lynn Canal the eye glances over a range of country made up of hundreds of islands, large and small, and a bold mountainous coast, all everywhere rugged and abrupt in contour, and with exception of highest summits, the hills, mountains, and valleys, the last always narrow and winding, are covered with a dense jungle of spruce and fir, cedar, and shrubbery, so thick, dark, and damp that it is traversed only by the expenditure of great physical energy, and a clear spot, either on islands or mainland, where an acre of grass might grow by itself, as it does in the little "parks" far in the interior, cannot be found. In these forest jungles, especially on the lowlands and always by the water-courses, will be found a fair proportion of ordinary timber of the character above designated. The spruce and fir, however, are so heavily charged with resin that they can be used for nothing but the roughest work; the cedar is, however, an excellent article.

* * * * * * *

"Here, under the powerful influence of the great Pacific, winter is never anything but wet and chilly, seldom ever giving the people a week's skating on the small lake back of Sitka. Day after day there are high winds and drizzling rains, with breaks in the leaden sky showing gleams of clear blue and sunlight; and here the agriculturist or gardener has like cause for discouragement, for nothing will ripen; whatever he plants grows and enters on its stages of decay without perfecting. It must, moreover, be remarked that there is but very little land fit even for this unsatisfactory and most unprofitable agriculture, *i. e.*, properly drained and warm soil enough for the very hardiest cereals. There is not one acre of such tillable land to every ten thousand of the objectionable character throughout the larger portion of this area, and certainly not more than one acre to a thousand in the best regions. Grass grows in small localities or areas, wherever it is not smothered by forests and thickets, in the valleys over this whole Sitkan district. Its presence, however, is not the rule, but the exception, so vigorous is the growth of sh and timber; and even did it grow in large amount, the curing of hay is simply impracticable. Although the winters are mild, still there is not enough ranging ground to support herds of cattle throughout the year and have them within control."

After describing the other districts, the report concludes with the following summary, (page 48:)

"In view of the foregoing, what shall we say of the resources of Alaska, viewed as regards its agricultural or horticultural capabilities?

"It would seem undeniable that owing to the unfavorable climatic conditions which prevail on the coast and in the interior, the gloomy fogs and dampness of the former, and the intense protracted severity of the winters, characteristic of the latter, unfit the Territory for the proper support of any considerable civilization.

"Men may, and undoubtedly will, soon live here in comparative comfort, as they labor in mining-camps, lumber and ship-timber mills, and salmon factories, but they will bring with them everything they want except fish and game, and when they leave the country it will be as desolate as they found it.

"Can a country be permanently and prosperously settled that will not in its whole extent allow the successful growth and ripening of a single crop of corn, wheat, or potatoes, and where the most needful of any domestic animals cannot be kept by poor people?

"The Russians, who have subdued a rougher country and settled in large communities under severer conditions than have been submitted to by any body of our people as yet, were in this Territory, after some twenty years at least of patient, intelligent trial, obliged to send a colony to California to raise their potatoes, grain, and beef. The history of their settlement there and forced abandonment in 1842 is well known.

"We may with pride refer to the rugged work of settlement so successfully made by our ancestors in New England, but it is idle to talk of the subjugation of Alaska as a task simply requiring a similar expenditure of persistence, energy, and ability. In Massachusetts, our forefathers had a land in which all the necessaries of life and many of the luxuries could be produced from the soil with certainty from year to year; in Alaska their lot would have been quite the reverse, and they could have maintained themselves there with no better success than the present inhabitants."

The foregoing extended extracts give the latest and most authentic information in regard to this country. It would seem very apparent that this region must remain for an indefinite period in the future, as it has remained hitherto, a worthless waste, unless some inducements are held out to attract associated capital to develop, by large experimental outlays of energy and money, the possibility of turning this inhospitable and uninviting domain to some national use. If the enterprise proposed by the memorialists should prove remunerative, there will remain to the Government millions of acres of similar lands, which would find a market and furnish employment to thousands of mechanics and laborers.

It is unnecessary to refer in this report to the beneficial results that would follow the establishment of ship-building, for it is conceived that, independent of this, it would be to the advantage of the Government to know that climatic and physical obstacles can be so far overcome as that any industry can be successfully and profitably prosecuted in that latest and most questionable of our national real-estate speculations. It is proposed to do this, not only without expense to the Government, but by a sale at the Government price of land now worthless, and which must always remain so until enterprises like this are established.

The island of Kou, upon which the memorialists propose to establish their ship-yard, and upon which and on the shores of the adjacent waters they desire to purchase timber lands, is one of the islands composing the Alexander Archipelago, separated from Baranof Island, on which Sitka is situated, by Chatham Strait; to the east lie successively Kekou Strait, Kaprianhoff Island, Wrangel Strait, Mitgoff Island, Souchoi Channel, and then the main-land. So far as known, it is valueless, except for a belt of timber that fringes its shores and extends up its narrow valleys.

The bill reported herewith authorizes the Alaska Ship-Building and Lumber Company to purchase 100,000 acres of timber lands on this island and neighboring shores, upon paying Government price therefor, and no timber or other material is to be removed from any lands until paid for. The entire number of acres is to be selected and paid for within ten years. Surveys are to be made at the expense of the company, to be credited in payment on the lands purchased, and the company undertakes, within two years, to establish a ship-yard, and complete within that time at least one ship of twelve hundred tons burden, and thereafter to prosecute ship-building vigorously. The guarantee that this will be done lies in the fact that it will be necessary to make a large outlay to build a single ship—so large that, if possible, they must continue that industry or lose the capital invested. If the construction of ships can be profitably continued, this preliminary investment will be sufficient to insure a further prosecution of the enterprise; if unprofitable, the Government ought not to insist upon its further continuance. The survey and the entry and payment of the lands will be made through the land office at Olympia, in Washington Territory. The bill reserves the right in Congress to alter, amend, or repeal the act at any time.

The duty of the United States to the aboriginal inhabitants of that locality has been considered in several reports made by Government agents sent to investigate the condition and resources of Alaska and its inhabitants. They concur in the opinion that (excepting at the fur islands and stations of the Alaska Commercial Company) the withdrawal of the supervision exercised under the former government has been most deleterious, and that no hope of a better state of things can be justly entertained while the Territory is suffered to remain in its present abandoned and lawless condition. Whatever enterprises shall attract an industrious population, and give remunerative employment to such of those people as will labor, will be a step toward their subjection to better influences, and will be evidence to them that the United States is at length willing, not only to encourage industry, sobriety, and morality, but to repress the worse than natural vices into which they are relapsing.

For these and other reasons that will suggest themselves without further extending this report, the committee recommend the legislation proposed by the House bill 4560.

DEFECTIVE LAND ENTRIES.

Mr. LAWRENCE. Mr. Speaker, on the 6th of January I introduced a bill (H. R. No. 4315) for the relief of the holders of defective entries of land. I have several times endeavored to report it to the House, but objection was as often made, and I now ask leave to have printed in the RECORD the bill and some remarks on it, merely for the information of the House. I may be able to report it when there is no time for discussion, and it may be useful to put some facts on record now for the information of the House.

The SPEAKER. If there is no objection, leave will be granted.

No objection was made, and leave was granted accordingly.

The bill is as follows:

A bill for the relief of the holders of defective entries of land.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where an entry has been or may be made by any person, other than corporations, in good faith, at the proper local land office, of any tract of land lawfully subject to entry, which may be informal, irregular, defective, or void, and whenever such entry shall be canceled, the person or persons having made such entry, their heirs, devisees, or assigns shall have the first and preferable right to make a lawful entry of, and procure a patent for, such lands, within one year after notice of such cancellation, as herein required; but nothing herein shall divest any right heretofore acquired.

Whenever any entry or patent shall be canceled, the Commissioner of the General Land Office shall give notice thereof by mail, if practicable, to the person claiming the land under such entry, or, if it be impracticable to ascertain the name and post-office address of such person, then notice shall be given by publication in such manner as said Commissioner may deem proper.

The Commissioner of the General Land Office shall have power to prescribe all proper rules and regulations to carry this act into effect.

Mr. LAWRENCE. This bill was carefully considered by the Judiciary Committee, to which it was referred, and I was authorized to report it to the House with a recommendation that it do pass.

I have made several efforts to do so, but as the committee had not been regularly called, I was met in each case with the one objection which prevented the bill from being acted on by the House. It is a bill of very great importance. I have submitted it to the Commissioner of the General Land Office, and I have his approval of it in a letter from which I make the following extract:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., January 8, 1877.

SIR: I have the honor to acknowedge the receipt of your letter of this date, calling my attention to the bill introduced by you in the House January 7, 1877, and printed on pages 9 and 10 of the CONGRESSIONAL RECORD of January 8, 1877, (H. R. No. 3134,) entitled "A bill for the relief of the holders of defective entries of land." *I have carefully examined the bill and think it very desirable that the same should become a law.* If enacted, provision will be made whereby persons who have made entries in good faith, or their heirs, devisees, or assigns will be enabled to obtain the land, and in many instances secure valuable improvements which they have made thereon, which otherwise might be lost. I, however think proper to call attention to the following provision in the bill, namely: "Whenever any entry or patent shall be canceled, the Commissioner of the General Land Office shall give notice thereof by mail, if practicable, to the person claiming the land under such entry, or, if it be impracticable to ascertain the name and post-office address of such person, then notice shall be given by publication in such manner as said Commissioner may deem proper;" and to remark that the publication provided for should be uniformly made, embracing in each land district all the canceled entries where the name and post-office address are unknown.

* * * * * * * *

Very respectfully your obedient servant,

J. A. WILLIAMSON,
Commissioner.

Hon. WILLIAM LAWRENCE,
House of Representatives.

In the letter the Commissioner also calls attention to the fact that the publication of notice "will involve considerable expense," and he says that "if this provision is retained the passage of the bill should be accompanied by an appropriation of at least $10,000 to defray the same; otherwise it will be impracticable to execute this requirement, there being no funds applicable for the payment of such expense."

This, however, does not affect the merits of the bill and is entirely a matter to be considered when the proper appropriation bills shall be before the House.

I have received a statement which will show the necessity of the bill, as follows:

DEFIANCE, OHIO, *November* 8, 1876.

DEAR JUDGE: I beg leave to send you this epistle containing the statement of a matter in which I am interested and in which I most respectfully solicit your kindly influence at Washington City, in the event that you should deem my case as therein stated entitled to relief at the hands of the officers of the United States. That statement is as follows: On the 16th day of November, 1849, one Barney Arnold, by virtue of land warrant No. 52186, issued to him for his services in the war with Mexico, entered the south half of the northwest quarter of section No. 29, in township No. 1 north, of range No. 4 east, containing eighty acres of land subject to sale at the land office at Lima, Ohio.

He went on to the land immediately and commenced to improve it, and made an improvement thereon by improving part of it. It was subsequently levied upon by an execution against him and sold to one Ezra I. Smith by the sheriff of Paulding County, and Arnold afterward deeded the same tract to Smith, the purchaser, who afterward sold and conveyed it to me; and for several years past a disabled soldier of our late war has been living upon it and improving and cultivating it as its owner under a contract made by me for its sale and conveyance to him.

We have been paying taxes for it for a great many years, in fact ever since the year after it was entered by Arnold, and we have been informed within a month that a gentleman of the name of Charles D. Gilmore, esq., of Washington City, entered it at the land office at Chillicothe on the 2d of October, 1875, in the name of one James H. Chandler, of Missouri, under an act authorizing a soldier who has entered eighty acres in Missouri as a homestead, and filed his final proof of settlement and cultivation to enter eighty acres more of other public land. And I hope that you will permit me to observe, parenthetically, here that this Mr. Gilmore has entered a great deal of such land in Defiance, Henry, Paulding, and Fulton Counties, in this State, for persons supposed to reside in Arkansas and Missouri. Not wishing to permit a difficulty of this kind to pass to my heirs by descent, I wrote to the General Land Office at Washington City in order to procure an exemplified copy of the patent which I supposed the General Government had made for the conveyance of the land to Arnold, and I received a reply thereto on yesterday of which I beg leave to transmit you a copy. It is as follows, with its various initials, figures, &c.:

47. 1621 F. C. L.

[Refer in reply to this initial. H.]

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., October 30, 1876.

SIR: In reply to your letter of the 7th inst., you are informed that the entry of the S. ½ of N. W. ¼ sec. 29, 1 N., R. 4 E., Ohio, which was made November 16, 1849, by the location of warrant No. 52186, 160 acres, in the name of Barney Arnold, appears to have been canceled on the 14th of February, 1852, for the reason, as alleged, that said location was illegal because it covered more than one legal subdivision; and that said warrant was transmitted on the same date to the register at Defiance, Ohio, for delivery to the said locator.

The sum of $1.60, received with your said letter, is herewith returned.

Very respectfully,

— —

I never heard tell of the return of the land warrant until the reception of this communication from the Land Office at Washington, and deem it exceedingly strange if it was received by the register of the land office then located at this place, that I was not informed of it, as I was then well acquainted with Abner Root, esq., our mutual friend, I think, and feel satisfied that he would have mentioned it to me if he had received it. Yet there is a possibility that he may have received it and not mentioned it to Arnold or myself; but it has never been returned to Arnold or myself. The United States still retains it. It then appears, from the statement which I have herein made, that Arnold was actually improving his land and did improve it, and that those now claiming under him kept on improving it in ignorance of the cancellation of the entry and in perfect confidence that the United States Government would convey it, in its own good time, to Arnold; and that, if any error was made in the description of the land when entered by entering it as the S. ½ of N. W. qr. in one description of 80 acres, instead of entering it as the S. W. qr. of the N. W. ¼, and the southeast quarter of the N. W. ¼, in two forty-acre lots, it was made through the neglect of the agents of the United States at the Defiance land office, and not through Barney Arnold, and it thus presents a strong claim for equitable relief at least.

I understand the reason assigned at the General Land Office for the cancellation of the entry to be this, that if Arnold had entered that identical tract of land by two descriptions—that is, in forty-acre lots—his entry would have been valid; but because he entered it by a single description it is invalid.

This would certainly present a strong case for the consideration of a court of equity to have Mr. Chandler declared the trustee of Arnold's assignees, in the fee-simple of the land.

This view is greatly strengthened by the fact that we were in the actual, open, and notorious possession of the land at the time and long before Chandler entered it; and, whatever our claim or right in the land may be, I presume he must be held to a full knowledge of it and of our rights. Again no wrong was done and no injury inflicted upon the United States by entering the land according to its description as entered, a south half which, as given, embraces the two descriptions by which it might have been entered according to its legal subdivisions in forty-acre lots, by north and south lines.

I am inclined to believe that in the earlier and, perhaps, better days of our institutions the General Land Office regarded the law as purely directory, looking rather to convenience and the essence of equity than the technicality of law, so as to do justice and avoid the just reproach of the common law, "*qui hæret in litera, hæret in cortice*," which would attach to a too strict observence of non-essentials.

Entries of land were permitted at an early day by the General Land Office by just such descriptions as Arnold's, and conveyances made therefor.

Thus:

September 15, 1835, a patent was issued by President Jackson to Frederick Ingle for the S. ½ of N. E. qr. of sec. 28, T. 5 N., R. 4 E., as I think will be found by turning to page 167 of vol. 1 of record of patents in the General Land Office.

And October 16, 1835, a patent was issued to Samuel Slater for the S. ½ of N. E. qr. of sec. 32, T. 6 N., R. 1 E., as recorded in same vol., page 475.

And on the same day another patent was issued to Thomas P. Rodman for the N. ½ of S. W. ¼ of sec. 21, T. 5 N., R. 5 E., recorded, perhaps, on page 8 of same vol.

President Van Buren issued patents as follows:

March 15, 1837, to Samuel N. Bucher for N. ½ of S. W. qr. of sec. 11, T. 5 N., R. 4 E.

March 20, 1837, to Chancy Pardy for S. ½ of N. W. qr. of sec. 5, T. 5 N., R. 2 E.

March 18, 1839, to William Swigton for S. ½ of N. W. qr. of sec. 5, T. 5 N., R. 4 E., recorded vol. 13, page 448.

The two latter descriptions are, so far as the subdivision of the section is concerned, precisely as Arnold's.

President Taylor issued patents as follows:

To Daniel English for S. ½ of S. W. qr. of sec. 34, T. 5 N., R. 4 E., on certificate No. 15954.

To John Regil for N. ½ of N. W. qr. sec. 34, T. 4 N., R. 3 E., on certificate No. 16406.

President Tyler issued one to Alfred W. Wilcox for the following, among other described tracts: N. ½ of S. W. qr. of sec. 22, T. 5 N., R. 4 E., recorded, perhaps, in vol. 24, p. 281.

President Fillmore issued one to Jacob Harman for the following, among other tracts: S. ½ of N. W. qr. sec. 36, T. 4 N., R. 2 E., and by same to same for another tract by a similar description.

And coming down later, a patent was issued by President Grant, on the 6th of October, 1874, to John Crozzar, jr., for the N. ½ of S. W. qr. of sec. 20, T. 4 N., R. 2 E., under the homestead act.

All of these entries are in the same land district as Arnold's; and I might here cite almost an indefinite number of other cases in which patents issued on just such entries as Arnold's; but I shall not tire your patience by doing so. It seems to me at least that my case is one to which the applications of the *communis opinio* of Littleton would be proper; and we might apply to it the language of Ellenborough, C. J., as used in Isherwood *vs.* Oldknow, 3 Maule and Selwyn, 397: "It has been sometimes said *communis error facit jus*, but I say *communis opinio* is evidence of what the law is; not where it is an opinion merely speculative and theoretical, floating in the minds of persons, but where it has been made the groundwork and substratum of practice;" and there seems to me to be much good sense in this saying.

Now, as the United States was neither put to an inconvenience nor a loss by the use of the description by which the Arnold entry was made, and inasmuch as a great many entries were before that time made, as well as since then, by similar descriptions, approved by the authorities, and patents issued for them to such an extent as to be the settled practice of the Land Office, I beg leave to suggest that an abrupt refusal to follow it further, after, by years of silence, permitting Arnold and others to repose on the ratification of the purchase, would inflict a great injury on me; and to avoid this the sale to Mr. Chandler ought to be set aside and a patent issued in the name of Arnold for the land.

Hoping that you can, by a representation of all the facts to the proper authority, procure this relief, I remain as ever, your friend,

A. S. LATTY.

Hon. WILLIAM LAWRENCE.

I have also received a letter on the subject of this bill from a gentleman long connected with the General Land Office, as follows:

WASHINGTON, D. C., *February* 5, 1877.

DEAR SIR: I have sent several copies of your bill (H. R. No. 4315) to parties in the West and asked them to urge their members to secure its passage. It will relieve a great many persons who have large equities but who are unfortunately without legal remedy. I know of no bill now before Congress which will work greater benefit without opening the door to any danger of fraud. It is a principle which the General Land Office has heretofore sought to establish, but which could not be done in the absence of law. I sincerely hope you will urge it to its passage.

Very truly,

W. W. CURTIS.

Hon. WILLIAM LAWRENCE,
House of Representatives.

I propose at the proper time to introduce a bill also, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases in which any tract of the public lands subject to sale by private entry at any land office of the United States of America has been entered in one body of eighty acres by the description of a south half or a north half of any quarter section containing one hundred and sixty acres, by virtue of any land warrant duly issued by virtue of any act of Congress, the entry thereof by the description of a south half or a north half of such quarter section, as the case may be, shall be as good and valid in law and equity as if said land warrant had been located upon, or said land had been, by virtue thereof, entered in said land office by the description of two quarter quarter-sections of forty acres each; and in all such cases a patent shall be issued for such south half or north half, as the case may be, to the person or persons who would be entitled to the fee-simple in such land if the same had been entered in two quarter quarter-sections of forty acres each, and such patent, when so issued, shall be taken and held both in law and equity to convey the fee-simple in such land to such person or persons as fully and effectually as if said land had been entered by said two descriptions.

SEC. 2. That in all cases in which a valid land warrant has been heretofore located in the proper land office, upon any public land subject to sale therein by private entry, and such location was afterward by the proper officer in the General Land Office declared to be vacated on account of any defect in the description by which said land was located, and a deed of conveyance was afterward executed therefor to a *bona fide* purchaser, either by the locator of said land or by the order, decree, judgment, or proceeding of any court of law or equity of the United States or any State in any action, suit, or proceeding instituted therein, and to which said locator was a party, the proper officer of the land office shall permit the person or persons who would be entitled to the fee-simple in such land by virtue of said conveyance, order, decree, or judgment of court, if said entry had not been vacated, to enter the same kind and quality of land of any public land subject to sale at private entry at any land office, and a patent shall issue to such person therefor as in other cases.

SEC. 3. This act and all proceedings under it shall be carried into effect under such rules and regulations as may be prescribed by the Commissioner of the General Land Office.

And now, Mr. Speaker, it seems to me the necessity for the bill to which I first called attention of the House is so great and its justice so clear that if it shall be understood there can be no objection to it. So soon as it may be practicable I will ask the House to pass it.

ENROLLED BILLS SIGNED.

Mr. HAMILTON, of Indiana, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 429) for the relief of Charles C. Campbell, of Washington County, Virginia;

An act (H. R. No. 859) for the benefit of Andrew Williams, of Weakley County, Tennessee;

An act (H. R. No. 4251) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1878, and for other purposes; and

An act (H. R. No. 4576) to provide for changing and fixing the boundaries of certain property ceded to the Government of the United States by the city of Memphis, Tennessee.

Mr. HARRISON, from the same committee, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 7) to provide for the sale or exchange of a certain piece of land in the Wallabout Bay, in the State of New York, to the city of Brooklyn.

ORDER OF BUSINESS.

Mr. CROUNSE. I would like to have printed a report from the Committee on Public Lands to accompany a bill.

Mr. CONGER. Whatever can be done by unanimous consent, and that is not strictly speaking business, I will not object to. But I must object to any business being done at this time.

The SPEAKER. Objection being made, the request is not granted.

Mr. CONGER. I call for the regular order.

Mr. CLYMER. It is evident there is not a quorum present; and I move that there be a call of the House.

The question being taken on the motion of Mr. CLYMER, there were—ayes 28, noes 63.

Mr. CLYMER. I call for tellers.

Tellers were ordered; and Mr. BURCHARD, of Illinois, and Mr. CLYMER were appointed.

Before the count for tellers was concluded—

Mr. CLYMER said: I withdraw the call for a further count.

So the motion for a call of the House was not agreed to.

ELECTORAL VOTE OF NEVADA.

The House resumed the consideration of the following objection to the counting of one of the electoral votes from the State of Nevada:

The undersigned Senators and Representatives object to the vote of R. M. Daggett as an elector from the State of Nevada upon the grounds following, namely:

That the said R. M. Daggett was on the 7th day of November, 1876, and had been for a long period prior thereto, and thereafter continued to be a United States commissioner for the circuit and district courts of the United States for the said State, and held therefore an office of trust and profit under the United States, and as such could not be constitutionally appointed an elector under the Constitution of the United States.

Wherefore the undersigned say that the said R. M. Daggett was not a duly appointed elector, and that his vote as an elector should not be counted.

And the undersigned hereto annex the evidence taken before the committee of the House of Representatives on the powers, privileges, and duties of the House to sustain said objection.

W. H. BARNUM, Connecticut;
WILLIAM A. WALLACE, Pennsylvania;
FRANK HEREFORD, West Virginia;
Senators.

J. R. TUCKER, Virginia,
JOHN L. VANCE, Ohio,
WM. A. J. SPARKS,
JNO. S. SAVAGE,
LEVI MAISH,
G. A. JENKS,
WILLIAM M. SPRINGER,
Representatives.

Mr. SPRINGER. I ask that the evidence accompanying this objection be read.

The evidence as already published in the RECORD was partly read, when

Mr. HALE said: As there is now a full House, I ask that the further reading of the evidence be dispensed with.

Mr. SHEAKLEY. I object.

The SPEAKER. The Chair is apprised that there is very little more to be read.

The reading of the evidence was then concluded.

Mr. SPRINGER. I desire to submit the resolution which I send to the Clerk. After it has been read, I wish to make an explanation.

The Clerk read as follows:

Resolved, That the vote of R. M. Daggett, one of the electors of the State of Nevada, be counted, the objections to the contrary notwithstanding.

Mr. SPRINGER. In making the copies of the objection as laid before the joint convention and as sent to the Senate, the Clerk made a mistake in the name of the office. The person whose vote is objected to holds the office of clerk of the district court; but the objections were to the effect that he held the office of commissioner of the circuit and district court. Therefore the evidence does not sustain the objections. The error cannot be corrected by this House because the Senate has passed upon the objection as it went to that body. Hence I have offered this resolution that the vote be counted, notwithstanding the objection.

Two or three gentlemen had desired to speak upon this question, [cries of "Vote!" "Vote!"] and I am unwilling that they should be prived of the opportunity; therefore I yield to the gentleman from Kentucky, [Mr. DURHAM.]

Mr. DURHAM. Mr. Speaker, I believe that during the four years I have been a member of Congress I have never before undertaken to speak when I was satisfied the mind of the House was made up; nor would I do so now if I could have had a few minutes yesterday to say a few things in regard to the great wrong which I think has been done to the State of Louisiana and the whole United States by the decision made by the commission and confirmed yesterday by the Senate. I shall detain the House but a few moments upon the present question; and certainly I cannot be charged with troubling the House a great deal since I have been a member.

I voted against the bill creating this commission. I did it upon two grounds: First, that there was no warrant in the Constitution for creating a body outside of the two Houses for the purpose of counting the electoral votes; and in the second place I regarded the measure as inexpedient. I have not changed my opinion either as to the constitutionality or as to the expediency of that act under which we are now operating; but while I then entered my solemn protest against its passage I desire to say now in all good faith, as was said yesterday by one of my colleagues, that I intend to stand by the act and see that it is carried out in good faith. I believe that it is the duty of the democratic party of this House and of Congress to see that the act is fairly carried out. It is the law of the land let it be constitutional or unconstitutional; and Congress must abide by this act until it is declared unconstitutional by the courts of the country.

I am not disappointed in the judgment of this tribunal. With all due respect to the gentlemen who constitute the tribunal I will say that I believe it was utterly impossible for them as members of this commission to rise above party, party spirit, party agitation, party tactics, and to give any other decision than that which they have given. Consequently I impute no criminality to those gentlemen who as members of the republican party have joined in making that decision. Educated in that party, believing in the correctness of its principles and policy, it was not within their power to rise to the dignity of the occasion and make a different decision from that which they have made. I looked for this result. The most deplorable portion of the whole bill was that feature which forced a portion of one of the co-ordinate departments of the Government of the United States into the pit and mire of party politics.

I did object that you should have taken one or more of the supreme judges of the United States and required them to exhibit their predilections and party education. I do not intend to reflect upon those judges; for I say in all candor to those who may differ with me on this question that I have not more odium to heap upon the judges of the Supreme Court of the United States for this the worst decision that has ever been uttered by any tribunal in the United States than I have for the other members. I repeat that I have no more malediction to hurl against these Supreme Court judges than I have against any other member who constituted the majority of that joint commission, on account of this great crime against the people and their rights. They were republicans, educated as republicans, and it was natural, as I said before, they should not rise above their education so far as grave political questions are concerned. Whatever may be thought of this decision the result shows that they did not rise above partisan considerations.

One other remark so far as the subject under consideration is involved. Here and now I enter my solemn protest against the doctrine promulgated by the majority of that joint commission and sustained by the republican party in this House, and that is that you can elect a man as an elector who is incompetent by the very terms of the Constitution itself, then that he can resign and you can supply his place with another man. What is an election? There is no controversy about the provision of the Constitution that any man who is a Senator or a Representative, or who holds any office of honor or profit under the United States, cannot be appointed an elector. What is an appointment? The groundwork of the whole thing is the casting of the ballots by the people. The election by the people is the groundwork beyond all doubt. Not, I state, because it applies to this case, but I am now combating that dangerous doctrine as laid down by this high commission that because a man may have received even 25,000 majority, as in the case of the elector in the State of Michigan, after the ballots are cast and before he comes to cast his vote as elector for President he can resign and have his place supplied, thereby thwarting the very prohibition of the Constitution itself, and violating its spirit and its essence as well as its letter.

Mr. CONGER. If election alone constitutes appointment of electors, how about the case where the Legislature appoints?

Mr. DURHAM. It is the basis of it, for how can you make appointment without election; how can you supply a place unless there have been votes for somebody? Answer me that.

Mr. CONGER. How in those States where the Legislature appoints directly without any election, or how where they authorize the governor to appoint without election?

Mr. DURHAM. That is constitutional. I am speaking of the law as in this case. I undertake to say, and that is my deliberate judgment, there is in the Oregon case a nullity. There has been no election of the elector, and as this will appear in the Oregon case, I have taken the position in that case there were but two electors elected and no more, and that the defect could not be remedied, the omission could not be supplied, there was no vacancy to fill in the case of the other elector. I do not hold the doctrine with some of my associates on this floor that the next highest man comes in. I believe the spirit of the Constitution is where an ineligible man is voted for it is as it were voting for a man who is dead, or for a man who could not be voted for; and there was an omission and no election at all, and there was no vacancy to be supplied, as in the case of Oregon or any other like case.

I will be pardoned for saying that in this Nevada case this man who was elected as an elector not being a United States commissioner but on the contrary the clerk of the court is not ineligible, but on the contrary is eligible, for the reason that he had in good faith tendered his resignation the day before the election and that resignation was accepted. I will never consent to disfranchise a State upon a mere technicality. Where a State has voted for a man incompetent and ineligible under the very terms of the Constitution itself, then I say there is no right to supply his place.

The authorities on this point are abundant. Cushing in his Parliamentary Law says:

If an election is made of a person who is ineligible, that is, incapable of being elected, the election of such person is absolutely void, &c.

See also Patterson *vs.* Miller, 2 Met. Ky. R., 493; Morgan *vs.* Vance, 4 Bush Ky. R., 323.

These are my views, and under the circumstances I deem it my duty to state them, though briefly done.

[Here the hammer fell.]

Mr. CHITTENDEN. Mr. Speaker, we all knew perfectly well, the whole world knew when the bill for the electoral commission became a law that one side or the other would be bitterly disappointed in the end. Now since neither side is quite happy, there seems to be occasion for all patriotic men to stand firmly together. No thoughtful observer of events can deny that the politics of several of our States are in great confusion. War in its direst aspect, civil war, carpet-baggers, returning boards of doubtful virtue, rogues of every name mixed up with great events and great questions—greater than ever before have been encountered in the history of America—have done their worst, and yet every loyal heart may be thankful that there is not one sign showing that as a people we are worse to-day than our fathers. On the contrary the signs all point in the opposite direction. The same holy writ which my ever humorous colleague [Mr. COX] brought into play so successfully yesterday also says that the supreme Ruler "makes the wrath of man to praise him, and the remainder he restrains."

Now, sir, the wrath and indignation suppressed and restrained on this floor to-day and yesterday reflect and illustrate as nothing ever yet has done in the history of Congress the growing intelligence and the rising moral power of the American people. If the party to which I belong has, as you think, conspired with a swamp patriot of dubious antecedents to place a usurper in the White House in the week after next, you by your conduct have shown that you are not afraid to trust the issue with the people. And you are right. What boots it that seven or eight of the tribunal of fifteen, created for a temporary purpose, may have mistaken their solemn duty under the Constitution and the laws? They shall die to-morrow as a power, and as sure as the sun shall continue to warm and fertilize the earth, if the view you take of their decision is right, the party in power will be put down and you will be lifted up. God reigns forever, and the spirit that has been manifested here in view of this great disappointment shows that the American people and their representatives are intelligent and patriotic enough to accept the situation and accept the decision of a power which they themselves created to avoid an impending calamity.

Now, Mr. Speaker, my simple point is that there is nothing to be gained by the further discussion of this Nevada obstruction; and I hope that we may, in view of the greater questions at issue, proceed to vote and go on with our work.

Mr. TARBOX. It seems alike vain and fruitless to urge objections of this character. The electoral commission has decided substantially that the provision of the Constitution which inhibits the appointment of a Federal office-holder to the office of a presidential elector is virtually abrogated. To be sure, sir, in the Florida case the commission decided that they would entertain evidence as to the eligibility of an elector. But in that case there was not sufficient evidence to prove the ineligibility. In the Louisiana case, where there was evidence by which the fact could be established, they decided it was not within the competence of the commission to take evidence and determine the fact. So, sir, the principle established seems to be, and by it we are compelled to abide—for the Senate sustains the commission—that where there is not evidence sufficient to establish the fact of ineligibility then evidence may be considered and acted upon, but where there is evidence sufficient to show the ineligibility, then no evidence can be entertained; the effect of which in either case and upon either proposition is that any objection which the House may urge is futile. The law is ruled in our favor when we have no facts and against us when the facts are with us.

But, sir, I rose for the purpose of making another suggestion which occurred to me while listening on yesterday to the striking remarks of the distinguished gentleman from Ohio, [Mr. FOSTER,] who, I suppose, can speak from a peculiar knowledge of that which he affirms. He assumed to foreshadow to us the official spirit which will animate the incoming Chief Executive; and he told us that "the people of all sections of the country may confidently expect from him (Hayes) not only fair, but generous consideration." Most gracious sovereign! This sounds to me very much like patronizing the American people. I had cherished the prejudice, sir, that the President of the United States was a public agent and a public servant, not a patron of the people nor the fountain of power. The people of this country do not ask from those who discharge their public trusts generosity or favor. No, sir; they ask but fidelity and justice. I wish the gentleman had been more explicit. Fair-seeming generalities are apt to deceive. He assured us further, sir, that "the flag shall float over States, not provinces; over freemen, not subjects." I wish the gentleman had told us in plain words whether President Hayes, when he comes to the exercise of his great functions, proposes to recognize the government known as the Nicholls government in Louisiana and permit that government, if it can, to support its authority without Federal intervention. Had he done that, we should have had something tangible to tie to.

But, sir, I have confidence in the policy that President Hayes will pursue. I do not depend on his generosity. I do not depend upon his just inclinations. I have a reliance stronger than that, sir, and that is the public sentiment of the American people. No ruler in this country can have a policy of his own and carry it out successfully for any length of time against the plain will of the American people. Much less, sir, can a man wield the scepter in opposition to the public sense of the country when he comes into the possession of that scepter in opposition to the will of the majority of the American people. And so, sir, while we confront that most anomalous fact in republican history—a Chief Magistrate inducted into power in despite of and over the majority of the public will of the country—yet I have faith that public opinion, operating by its moral forces, shall so control the action of the man who occupies the post of highest authority in the land that he must obey its mandate, and rule with his stolen scepter of power only in accordance with the recorded will of his countrymen as declared in the late election; and in that is our hope of public justice, safety, and honor.

Cries of "Vote!" "Vote!"

Mr. SAVAGE. Mr. Speaker, I have heard some regrets expressed by those who gave this bill their support when pending in this House. I am not one of those who share in those regrets. I gave this measure when pending before this body my support. I did it in good faith, and I still stand by that action. If the judges of the Supreme Court, who are members of this commission, have done anything which would show that they do not deserve that confidence which I placed, as a member of this body, in their integrity, it is they who are responsible and to blame for it, and not myself; and I have no regrets at having placed that confidence in the judges of the Supreme Court.

The responsibility rests with them, and not with this House, and not with those who supported this measure when it was pending before this House.

But, sir, there are a few facts which I wish to call the attention of the House to in relation to some propositions of law which have been laid down in this body during the last day or two. The gentleman from Michigan [Mr. CONGER] entertained us with a discussion undertaking to show that the appointment of an elector of the United States was not made at the time the people voted for electors, on the Tuesday after the first Monday in the month of November; at least he said that that was the law so far as the State of Michigan was concerned, and he went on to show us the different steps necessary to be taken in the State of Michigan in order to constitute the "appointment" spoken of in the Constitution and laws of the United States so far as an elector is concerned. The Constitution provides that "Congress may determine the time of choosing electors." They have undertaken to do it. By the act of 1792 they provide "that the electors of President and Vice-President shall be appointed in each State on the Tuesday next after the first Monday in the month of November."

Now, sir, if the State of Michigan does not comply with that act by making the appointment complete on that day, in every case except two excepted cases, which are when there has a vacancy occurred, or when an election has been held on that day and the State has failed to make a choice—with those two exceptions, if the appointment is not complete on the Tuesday next after the first Monday in the month of November, then the State of Michigan has not appointed a single elector, and is not entitled to vote at all on that day. If the appointment of electors was not complete and perfect on the Tuesday next after the first Monday in the month of November last year, then there were no electors appointed from the State of Michigan, and they are not entitled to vote.

But the gentleman from Ohio [Mr. LAWRENCE] undertook to claim that the *de facto* officer, as he argued, was the party who was entitled to cast the vote, and in answer to a question which I propounded to him, he as good as claimed that the provision in the Constitution which provides that no Senator or Representative or other person holding an office of trust or profit under the Government of the United States shall be appointed an elector was a dead letter in the Constitution and did not amount to anything. In support of his proposition he cited two authorities, one of which I have not been able to find this morning on sending to the Library for it, but the other authority I have before me. It is a case where a party has been appointed to an office by the circuit court of the State of Missouri. His appointment was only to last for one year. At the expiration of that year the court appointed another person under a statute which required that the person appointed should be a householder and the appointee was not a householder. Now under these circumstances the person first appointed refused to give up the office and was by force turned out of its occupation and the proceeds and control of the office were turned over to the other party. The party thus dispossessed of the office commenced an action, not against the person who had been appointed in his place, but against the county court, and instead of an action of *quo warranto*, an action of mandamus. The court uses this language:

It has been long held that a mandamus may be issued to restore a person to an office to which he is entitled. (4 Bacon, 500.) But we are not prepared to say that this was a proper case for the interference of the circuit court by mandamus. Various considerations incline us to this opinion. The office was already filled by one who was *de facto* an officer, at least; and it appears to be law that when an office is already filled by a person who is in by color of right, a mandamus is never issued to admit another person, the proper remedy being an information in the nature of a *quo warranto*. (The People *vs.* The Corporation of New York, 3 Johns. Ca., 79;

Angell and Ames on Corporations, 565; The King *vs.* Mayor of Colchester, 2 Durn and East.) It would not be just that Wise's right to the office should be determined on a proceeding to which he was no party. He was the proper person to vindicate his own rights, and a *quo warranto* was the proper mode under the circumstances to try the validity of his appointment.

Now, here was a case in which the court simply decided that it had no jurisdiction to decide the case, and that is the authority brought here by the gentleman from Ohio with such a flourish of trumpets and the statement that no authority in the United States can be found to contradict his position. It is true the court does go on to talk about *de facto* officers and all that sort of thing, but no sane man ever supposed that that had anything to do with or any application to the election of the presidential electors until this case came up. These are the authorities gentlemen on the other side of the House rely upon as proof of the correctness of the position they occupy in this matter. I believe that if the other authority were here it would be as far from sustaining the gentleman from Ohio as the one I have called attention to.

Mr. TOWNSEND, of New York. I desire to say a word in regard to the effect of choosing an elector for President and Vice-President who is not eligible to fill the position. We seem to have adopted the notion here that if a man be elected to an office who is ineligible to that office for some reason or other the election is void, and the acts of that individual, if he assumes the office and goes into the discharge of its duties, must be void. Sir, there is not greater legal nonsense that has ever been uttered by man since society was organized.

Suppose a man be elected to this House, who is declared ineligible by the Constitution; he is an alien for instance; he receives the certificate; he comes here and takes the oath; a bill is brought before the House; the vote is even except for his vote; he votes for the bill and it is passed and it becomes a law; will the lawyers of this House tell me that that law is void because it was subsequently ascertained that this man was ineligible. Suppose that he votes for a Speaker and his vote elects, will it be said that a Speaker has not been elected?

Take the case of those States where the judiciary is elected. A man not naturalized but a resident is chosen to the office of judge. He qualifies, so far as his oath can qualify him, and he goes on for a year discharging the duties of a judge. A thousand cases pass under his jurisdiction and his decisions go upon the record. Is there a lawyer in this House who will stand up here and tell us that the action of that judge is void? Any man would say that a lawyer who would talk in that way was talking nonsense.

Now, sir, coming directly to the point of the matter under discussion, I have no hesitation in saying that if the voters of a State elect an alien as an elector, and that alien under his oath casts his vote for President and Vice-President, that vote must be counted under the Constitution, the people of a State cannot thus be cheated of their vote. It would be competent for the Government of the United States to pass a law to test the capability and eligibility of a man elected in advance of his casting his vote for President and Vice-President. But if the people elect, if the elector qualifies and discharges his duty by voting for President and Vice-President, the matter has then passed beyond the power of a party in the House of Representatives to howl the effect of that vote off the record. It cannot be done. Common sense says to the contrary; the usages of the courts say to the contrary; the usages of the world say to the contrary. Society could not exist upon such a basis. You never would know whether your case was a success or a failure if after its decision the competency of the court could be tried, or the eligibility or appointability of the judge could be questioned.

This commission has done a great many bad things, so my friends on the other side say; but our friends will feel better when they have taken time to think over it. They will find that this commission has not only done what as State rights democrats they ought to be in favor of their doing, but this commission has done what, if they had not done, the world would have sneered and laughed at and despised them for not doing. We had better not be misled.

The gentleman from Virginia [Mr. TUCKER] has found "*a vacuum*" where an attempt was made to elect a man, and the people did elect a man who was not eligible. Now that gentleman ought to know that "*nature abhors a vacuum.*" Common-sense abhors this vacuum, [laughter;] I mean the one that he points out. I use the term in no disrespect to the gentleman from Virginia, for I thoroughly admire his legal acumen and his personal intelligence. But his argument is one of those arguments which common sense will call a vacuum.

Mr. SOUTHARD. I had not intended, Mr. Speaker, to say anything upon this question. I desire, however, to reply briefly to the legal proposition of the gentleman from New York, [Mr. TOWNSEND.] It seems to me that his conclusion rests upon a confusion of ideas or a wrong application of the principle enunciated. Because certain officers as officers *de facto* are permitted to exercise authority, and their acts are held to be valid, *ab inconvenienti*, the gentleman concludes that the act of an ineligible elector is likewise valid. What public convenience would thereby be subserved? The proper choice of President conduces to public good, and the elector is concerned alone in making that choice, and is concerned in no other affairs of the public.

Now if a President of the United States is installed into office by virtue of the illegal votes of ineligible electors, while he so remains President of the United States *de facto*, not *de jure*, his acts would be held to be valid as a matter of public convenience. But that doctrine applies only as a matter of public convenience. The doctrine by no means applies to the selection of an elector, which is but a part of the intermediate process of choosing a President. On the contrary public policy requires and the Constitution has expressly declared that the electors have certain qualifications and be not "ineligible," in the language of the Constitution. If an elector who is ineligible can have his vote considered binding because he has acted at a particular time in the process of making up the vote which is finally to be declared by a further process, if that is to be the doctrine, then anybody or anything may be made an elector, and a President of the United States may be installed into office upon the declaration of votes so given. A President may be thus declared elected who is ineligible to hold the office under the express provisions of the Constitution. Where is the public convenience in this?

If you cannot inquire whether a man be or be not eligible for elector at any time after he has cast a vote in the electoral college of the State, then you cannot inquire whether what purports to be an electoral vote was given by a man or not. If the returning board of a State shall choose to return as elected some unintelligent being, or an idiot or lunatic, and the vote of that being as an elector be recorded, and you can have no power to inquire into its validity, afterward you can have no power to determine whether there be any legality in the vote, and must, therefore, count it for President of the United States.

I say therefore that the doctrine of public convenience which the gentleman from New York [Mr. TOWNSEND] has enunciated does not apply to the case of the choice of an elector, which is an intermediate process in reaching the election of a President.

The question was then taken upon the resolution submitted by Mr. SPRINGER; and it was adopted.

Mr. SPRINGER. I submit the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That the Clerk inform the Senate that the House of Representatives are now ready to receive the Senate in joint meeting and to proceed with the count of the electoral vote.

The SPEAKER. The Chair suggests that the resolution be modified so as to notify the Senate of the action of the House upon the objection.

Mr. SPRINGER. That may be added.

The SPEAKER. With this modification the resolution will be adopted, if there be no objection.

There was no objection.

COUNTING THE ELECTORAL VOTE.

At eleven o'clock and forty minutes a. m., the Doorkeeper announced the Senate of the United States, who then, headed by their President *pro tempore* and accompanied by their Sergeant-at-Arms and Secretary, entered the Hall, the members and officers of the House rising to receive them.

Thr PRESIDENT *pro tempore* of the Senate took his seat as presiding officer of the joint meeting of the two Houses, the Speaker of the House occupying a chair upon his left.

Senators INGALLS and ALLISON, the tellers appointed on the part of the Senate, and Mr. COOK and Mr. STONE, the tellers appointed on the part of the House, took their seats at the Clerk's desk, at which the Secretary of the Senate and the Clerk of the House also occupied seats.

The PRESIDING OFFICER. The joint meeting of Congress for counting the electoral vote resumes its session. The two Houses acting separately having determined the objection submitted to the certificate from the State of Nevada, the Secretary of the Senate will report the resolution of the Senate.

Mr. GORHAM, Secretary of the Senate, read as follows:

Resolved, That the vote of R. M. Daggett be counted, with the other votes of the electors of Nevada, notwithstanding the objections made thereto.

The PRESIDING OFFICER. The Clerk of the House will now report the resolution of the House.

Mr. ADAMS, Clerk of the House, read as follows:

Resolved, That the vote of R. M. Daggett, one of the electors of the State of Nevada, be counted, the objections to the contrary notwithstanding.

The PRESIDING OFFICER. Neither House having decided to reject the vote objected to from the State of Nevada, the full vote of that State will be counted. The tellers will announce the vote of the State of Nevada.

Mr. STONE, (one of the tellers.) The State of Nevada casts 3 votes for Rutherford B. Hayes, of Ohio, for President of the United States, and 3 votes for William A. Wheeler, of New York, for Vice-President.

The count then proceeded. In accordance with the unanimous agreement adopted yesterday in the joint meeting, the certificates were not read in full, but the result of the electoral vote in the following States was announced; and there being no objections to the votes, they were counted as follows:

New Hampshire, 5 votes for Hayes and Wheeler.
New Jersey, 9 votes for Tilden and Hendricks.
New York, 35 votes for Tilden and Hendricks.
North Carolina, 10 votes for Tilden and Hendricks.
Ohio, 22 votes for Hayes and Wheeler.

The PRESIDING OFFICER. Having opened a certificate received by messenger from the State of Oregon, the Chair hands the same to

the tellers to be read in the presence and hearing of the two Houses, with the corresponding one received by mail.

Senator MITCHELL. I ask that all the papers in this case be read in full.

The PRESIDING OFFICER. They will be so read.

Mr. STONE, (one of the tellers) read the certificate and accompanying papers, as follows:

CERTIFICATE No. 1.

UNITED STATES OF AMERICA,
State of Oregon, County of Multnomah, ss:

We, J. C. Cartwright, W. H. Odell, and J. W. Watts, being each duly and severally sworn, say that at the hour of twelve o'clock m. of the (6th) sixth day of December, A. D. 1876, we duly assembled at the State capitol, in a room in the capitol building at Salem, Oregon, which was assigned to us by the secretary of state of the State of Oregon. That we duly, on said day and hour, demanded of the governor of the State of Oregon and of the secretary of state of the State of Oregon certified lists of the electors for President and Vice-President of the United States for the State of Oregon, as provided by the laws of the United States and of the State of Oregon; but both L. F. Grover, governor of the State of Oregon, and S. F. Chadwick, secretary of state of said State, then and there refused to deliver to us, or either of us, any such certified lists or any certificate of election whatever. And being informed that such lists had been delivered to one E. A. Cronin by said secretary of state, we each and all demanded such certified lists of said E. A. Cronin, but he then and there refused to deliver or to exhibit such certified lists to us, or either of us. Whereupon we have procured from the secretary of state certified copies of the abstract of the vote of the State of Oregon for electors of President and Vice-President at the presidential election held in said State November 7, A. D. 1876, and have attached them to the certified list of the persons voted for by us and of the votes cast by us for President and Vice-President of the United States, in lieu of a more formal certificate.

W. H. ODELL.
J. W. WATTS.
JOHN C. CARTWRIGHT.

Sworn and subscribed to before me this 6th day of December, A. D. 1876.

[SEAL.]

THOS. H. CANN,
Notary Public for State of Oregon.

UNITED STATES OF AMERICA,
STATE OF OREGON, SECRETARY'S OFFICE,
Salem, December 6, 1876.

I, S. F. Chadwick, do hereby certify that I am the secretary of the State of Oregon and the custodian of the great seal thereof; that T. H. Cann, esquire, resident of Marion County, in said State of Oregon, was on the 6th day of December, A. D. 1876, a notary public within and for said State, and duly commissioned such by the governor of the State of Oregon, under its great seal, and was duly qualified to act as such notary public by the laws of this State, as it fully appears by the records of this office; that as said notary public the said T. H. Cann had, on the day aforesaid, to wit, December 6, A. D. 1876, full power and authority, by the laws of the State of Oregon, to take acknowledgments of all instruments in writing, and administer oaths; that the annexed certificate is made in conformity with the laws of this State; that the signature thereto of T. H. Cann is the genuine signature of T. H. Cann, notary public; that the seal affixed to said acknowledgment is the official seal of said T. H. Cann, notary public; and that full faith and credit should be given to his official acts as notary public aforesaid.

In witness whereof I have hereto set my hand and affixed the great seal of the State of Oregon the day and year first above written.

[SEAL.]

S. F. CHADWICK,
Secretary of the State of Oregon.

Abstract of votes cast at the presidential election held in the State of Oregon November 7, 1876, for presidential electors.

Counties.	W. H. Odell.	J. W. Watts.	J. C. Cartwright.	Henry Klippel.	E. A. Cronin.	W. B. Laswell.	D. Clark.	F. Sutherland.	B. Carl.
Baker	318	319	319	549	550	549	1	1	1
Benton	615	615	615	567	567	567	77	77	77
Clackamas	949	950	950	724	724	724	17	17	17
Clatsop	432	432	432	386	385	386	....	....	....
Columbia	157	156	157	179	179	179	22	22	22
Coos	571	571	571	512	516	515	....	....	....
Curry	131	131	131	124	124	124	3	3	3
Douglas	1,002	1,002	1,003	847	847	847	43	43	43
Grant	315	314	316	279	279	277	3	3	3
Jackson	585	585	586	827	840	840	5	5	5
Josephine	209	209	209	252	252	252	4	4	4
Lane	949	949	949	946	946	946	33	33	33
Lake	173	173	173	258	258	258	....	....	....
Linn	1,323	1,324	1,323	1,404	1,404	1,404	140	141	140
Marion	1,780	1,782	1,781	1,154	1,154	1,153	24	23	22
Multnomah	2,124	2,122	2,122	1,525	1,528	1,525	2	2	2
Polk	607	608	608	542	542	542	54	55	54
Tillamook	119	119	119	76	76	76	1	1	1
Umatilla	486	486	486	742	742	742	42	42	42
Union	366	366	366	525	525	525	32	32	32
Wasco	491	491	493	621	621	619	....	....	....
Washington	693	692	693	423	424	423	....	....	....
Yamhill	811	810	812	674	674	674	6	6	6
Total	15,206	15,206	15,214	14,136	14,157	14,149	509	510	507

Simpson, 1; Gray, 1; Saulsbury, 1; McDowell, 1.

SALEM, STATE OF OREGON:

I hereby certify that the foregoing tabulated statement is the result of the vote cast for presidential electors at a general election held in and for the State of Oregon on the 7th day of November, A. D. 1876, as opened and canvassed in the presence of his excellency L. F. Grover, governor of said State, according to law, on the 4th day of December, A. D. 1876, at two o'clock p. m. of that day, by the secretary of state.

[SEAL.]

S. F. CHADWICK,
Secretary of State of Oregon.

UNITED STATES OF AMERICA,
STATE OF OREGON, SECRETARY'S OFFICE,
Salem, December 6, 1876.

I, S. F. Chadwick, secretary of the State of Oregon, do hereby certify that I am the custodian of the great seal of the State of Oregon. That the foregoing copy of the abstract of votes cast at the presidential election held in the State of Oregon November 7, 1876, for presidential electors, has been by me compared with the original abstract of votes cast for presidential electors aforesaid, on file in this office, and said copy is a correct transcript therefrom and of the whole of the said original abstract of votes cast for presidential electors.

In witness whereof I have hereto set my hand and affixed the great seal of the State of Oregon the day and year above written.

[SEAL.]

S. F. CHADWICK,
Secretary of the State of Oregon.

List of votes cast at an election for electors of President and Vice-President of the United States in the State of Oregon held on the 7th day of November, 1876.

FOR PRESIDENTIAL ELECTORS.

W. H. Odell received fifteen thousand two hundred and six (15,206) votes.

J. W. Watts received fifteen thousand two hundred and six (15,206) votes.

J. C. Cartwright received fifteen thousand two hundred and fourteen (15,214) votes.

E. A. Cronin received fourteen thousand one hundred and fifty-seven (14,157) votes.

H. Klippel received fourteen thousand one hundred and thirty-six (14,136) votes.

W. B. Laswell received fourteen thousand one hundred and forty-nine (14,149) votes.

Daniel Clark received five hundred and nine (509) votes.

F. Sutherland received five hundred and ten (510) votes.

Bart Curl received five hundred and seven (507) votes.

S. W. McDowell received three, (3,) Gray one, (1,) Simpson one, (1,) and Salisbury one (1) vote.

I, S. F. Chadwick, secretary of state in and for the State of Oregon, do hereby certify that the within and foregoing is a full, true, and correct statement of the entire vote cast for each and all persons for the office of electors of President and Vice-President of the United States for the State of Oregon at the general election held in said State on the 7th day of November, A. D. 1876, as appears by the returns of said election now on file in my office.

[SEAL.]

S. F. CHADWICK,
Secretary of State of Oregon.

UNITED STATES OF AMERICA,
State of Oregon, County of Marion, ss:

We, W. H. Odell, J. C. Cartwright, and J. W. Watts, electors of President and Vice-President of the United States for the State of Oregon, duly elected and appointed in the year A. D. 1876, pursuant to the laws of the United States, and in the manner directed by the laws of the State of Oregon, do hereby certify that at a meeting held by us at Salem, the seat of government in and for the State of Oregon, on Wednesday, the 6th day of December, A. D. 1876, for the purpose of casting our votes for President and Vice-President of the United States—

A vote was duly taken, by ballot, for President of the United States, in distinct ballots for President only, with the following result:

The whole number of votes cast for President of the United States was three (3) votes.

That the only person voted for for President of the United States was Rutherford B. Hayes, of Ohio.

That for President of the United States Rutherford B. Hayes, of Ohio, received three (3) votes.

In testimony whereof we have hereunto set our hands on the first Wednesday of December, in the year of our Lord one thousand eight hundred and seventy-six.

W. H. ODELL.
J. C. CARTWRIGHT.
J. W. WATTS.

UNITED STATES OF AMERICA,
State of Oregon, County of Marion, ss:

We, W. H. Odell, J. C. Cartwright, and J. W. Watts, electors of President and Vice-President of the United States for the State of Oregon, duly elected and appointed, in the year A. D. 1876, pursuant to the laws of the United States and in the manner directed by the laws of the State of Oregon, do hereby certify that at a meeting held by us at Salem, the seat of government in and for the State of Oregon, on Wednesday, the 6th day of December, A. D. 1876, for the purpose of casting our votes for President and Vice-President of the United States—

A vote was duly taken, by ballot, for Vice-President of the United States, in distinct ballots for Vice-President only, with the following result:

The whole number of votes cast for Vice-President of the United States was three (3) votes.

That the only person voted for for Vice-President of the United States was William A. Wheeler, of New York.

That for Vice-President of the United States William A. Wheeler, of New York, received three (3) votes.

In testimony whereof we have hereunto set our hands on the first Wednesday of December, in the year of our Lord one thousand eight hundred and seventy-six.

W. H. ODELL.
J. C. CARTWRIGHT.
J. W. WATTS.

SALEM, OREGON, *December* 6, 1876—12 o'clock m.

This being the day and hour fixed by the statutes of the United States and of the State of Oregon for the meeting of the electors of President and Vice-President of the United States for the State of Oregon, the electors for President and Vice-President of the United States for the State of Oregon met at Salem, the seat of government of said State of Oregon, at twelve o'clock noon of the 6th day of December, A. D. 1876, said day being the first Wednesday in December.

Present, W. H. Odell and J. C. Cartwright.

The meeting was duly organized by electing W. H. Odell chairman and J. C. Cartwright secretary.

The resignation of J. W. Watts, who was on November 7, A. D. 1876, duly elected an elector of President and Vice-President of the United States for the State of Oregon, was presented by W. H. Odell, and, after being duly read, was unanimously accepted.

There being but two electors present, to wit, W. H. Odell and J. C. Cartwright, and the State of Oregon being entitled to three electors, the electors present proceeded to and did declare that a vacancy existed in the electoral college, and then and there, under and by virtue of the provisions of section fifty-nine, (59,) title nine, (9,) chapter fourteen, (14,) of the General Laws of Oregon, (Deady and Lane's Compilation,) the said electors, W. H. Odell and J. C. Cartwright, immediately, by *viva voce* vote, proceeded to fill said vacancy in the electoral college.

J. W. Watts received the unanimous vote of all the electors present, and was thereupon declared duly elected to the office of elector of President and Vice-President of the United States for the State of Oregon.

Whereupon the said electors, on motion, proceeded to vote by ballot for President of the United States.

The whole number of votes cast for President of the United States was three (3) votes.

The only person voted for for President of the United States was Rutherford B. Hayes, of Ohio.

For President of the United States, Rutherford B. Hayes, of Ohio, received three (3) votes.

The said electors then, on motion, proceeded to vote by ballot for Vice-President of the United States.

The whole number of votes cast for Vice-President of the United States was three (3) votes.

The only person voted for for Vice-President of the United States was William A. Wheeler, of New York.

For Vice-President of the United States, William A. Wheeler, of New York, received three (3) votes.

The electors, on motion, then unanimously, by writing under their hands, appointed W. H. Odell to take charge of and deliver to the President of the Senate, at the seat of Government, Washington, D. C., one of the certificates containing the lists of the votes of said electors for President and Vice-President.

On motion, it was ordered that one of the certified copies of the abstract and canvass of the entire vote of the State of Oregon, cast at the presidential election held November 7, A. D. 1876, for electors of President and Vice-President of the United States for Oregon, as certified and delivered to the electors by S. F. Chadwick, secretary of state of the State of Oregon, be attached to each certificate and return of the list of persons voted for by the electors here present for President and Vice-President of the United States.

The electors then adjourned.

W. H. ODELL,
Chairman.
JOHN C. CARTWRIGHT,
Secretary.

We hereby certify that the within and foregoing is a true, full, and correct statement of all the acts and proceedings of the electors of President and Vice-President for the State of Oregon at a meeting of said electors held at Salem, in the State of Oregon, on the 6th day of December, A. D. 1876, at 12 o'clock noon of said day.

W. H. ODELL, *Elector.*
JOHN W. WATTS, *Elector.*
JOHN C. CARTWRIGHT, *Elector.*

SALEM, OREGON, *December* 6, 1876.

We, the duly appointed and elected electors of President and Vice-President of the United States for the State of Oregon, do hereby designate and appoint W. H. Odell to take charge of and deliver to the President of the Senate of the United States, at the seat of Government, to wit, at Washington, District of Columbia, before the first Wednesday in January, A. D. 1877, the certificates and papers relating to the vote for President and Vice-President of the United States, cast by us at Salem, in the State of Oregon, on the 6th day of December, A. D. 1876.

W. H. ODELL.
J. C. CARTWRIGHT,
J. W. WATTS.

Ballots.

For President of the United States, Rutherford B. Hayes, of Ohio.
(Indorsed) W. H. ODELL.
For President of the United States, Rutherford B. Hayes, of Ohio.
(Indorsed) JNO. C. CARTWRIGHT.
For President of the United States, Rutherford B. Hayes, of Ohio.
(Indorsed) J. W. WATTS.
For Vice-President of the United States, William A. Wheeler, of New York.
(Indorsed) W. H. ODELL.
For Vice-President of the United States, William A. Wheeler, of New York.
(Indorsed) JOHN C. CARTWRIGHT.
For Vice-President of the United States, William A. Wheeler, of New York.
(Indorsed) J. W. WATTS.

To the honorable Electoral College in and for the State of Oregon for President and Vice-President of the United States:

Whereas I, J. W. Watts, did receive a majority of the legal votes cast for presidential electors at an election held for President and Vice-President of the United States on the 7th day of November, A. D. 1876, as appears from the official returns on file in the secretary of state's office in and for said State; and whereas there has arisen some doubts touching my eligibility at the time of such election: Therefore, I hereby tender my resignation of the office of presidential elector.

Very respectfully,

J. W. WATTS.

SALEM, OR., *December* 6, 1876.

During the reading,

The PRESIDING OFFICER said: Does the Senator from Oregon desire the reading of the tabular statement accompanying the papers?

Senator MITCHELL. I do not think it will be necessary to read all the figures, but simply the results. I presume the whole will go into the RECORD.

Mr. LANE. I object to any portion being omitted.

The reading was concluded.

The PRESIDING OFFICER. Having opened another certificate received by messenger from the State of Oregon, the Chair hands it to the tellers to be read in the presence and hearing of the two Houses, handing also the corresponding one received by mail.

Senator INGALLS (one of the tellers) read as follows:

CERTIFICATE NO. 2.

STATE OF OREGON, EXECUTIVE OFFICE,
Salem, December 6th, 1876.

I, L. F. Grover, governor of the State of Oregon, do hereby certify that, at a general election held in said State on the seventh day of November, A. D. 1876, William H. Odell received 15,206 votes, John C. Cartwright received 15,214 votes, E. A. Cronin received 14,157 votes for electors for President and Vice-President of the United States. Being the highest number of votes cast at said election for persons eligible, under the Constitution of the United States, to be appointed electors of President and Vice-President of the United States, they are hereby declared duly elected electors as aforesaid for the State of Oregon.

In testimony whereof I have hereunto set my hand and caused the seal of the State of Oregon to be affixed this the day and year first above written.

[SEAL.] LA FAYETTE GROVER,
Gov. of Oregon.

Attest:
S. F. CHADWICK,
Secretary of State of Oregon.

This is to certify that on the 6th day of December, A. D. 1876, E. A. Cronin, one of the undersigned, and John C. Cartwright and William H. Odell, electors, duly appointed on the 7th day of November, A. D. 1876, as appears by the annexed certificate, to cast the vote of the State of Oregon for President and Vice-President of the United States, convened at the seat of government of said State, and for the purpose of discharging their duties as such electors; that thereupon said John C. Cartwright and William H. Odell refused to act as such electors; that upon such refusal the undersigned, J. N. T. Miller and John Parker, were duly appointed electors, as by the laws of Oregon in such cases made and provided, to fill the vacancies caused by the said refusal; that thereupon the said electors, E. A. Cronin, J. N. T. Miller, and John Parker proceeded to vote by ballot, as by law provided, for President and Vice-President of the United States, they being duly qualified to act as such electors, and the electoral college of said State having been duly organized; that upon the ballots so taken Rutherford B. Hayes, of the State of Ohio, received two (2) votes for President, and Samuel J. Tilden, of the State of New York, received one (1) vote for President, and that William A. Wheeler, of the State of New York, received two (2) votes for Vice-President, and Thomas A. Hendricks, of the State of Indiana, received one (1) vote for Vice-President; that the said votes were all the votes cast and the said persons were all the persons voted for. And we further certify that the lists hereto attached are true and correct lists of all the votes given for each of the persons so voted for for President and Vice-President of the United States.

Done at the city of Salem, county of Marion, and State of Oregon, this 6th day of December, A. D. 1876.

E. A. CRONIN,
J. N. T. MILLER,
JOHN PARKER,
Electors for the State of Oregon, to cast the vote of said State for President and Vice-President of the United States.

List of all the persons voted for by the electoral college of the State of Oregon, and of the number of votes cast for each person, at the city of Salem, the seat of government of said State, on Wednesday, the 6th day of December, A. D. 1876, as provided by law, for President of the United States:

Rutherford B. Hayes, of Ohio, received two (2) votes 2
Samuel J. Tilden, of New York, received one (1) vote 1

Attest:

E. A. CRONIN,
J. N. T. MILLER,
JOHN PARKER
Electors.

List of all the persons voted for by the electoral college of the State of Oregon, and of the number of votes cast for each person at the city of Salem, the seat of government of said State, on Wednesday, the 6th day of December, A. D. 1876, as provided by law, for Vice-President of the United States:

William A. Wheeler, of New York, received two (2) votes 2
Thomas A. Hendricks, of Indiana, received one (1) vote 1

Attest:

E. A. CRONIN,
J. N. T. MILLER,
JOHN PARKER,
Electors.

We, the undersigned, duly appointed electors to cast the votes of the State of Oregon for Presidential and Vice-President of the United States, hereby certify that the lists of all the electoral votes of the said State of Oregon given for President of the United States, and of all the votes given for Vice-President of the United States, are contained herein.

E. A. CRONIN,
J. N. T. MILLER,
JOHN PARKER,
Electors.

The PRESIDING OFFICER. Are there any objections to the certificates from the State of Oregon?

Senator MITCHELL. On behalf of the Senators and Representatives whose names are signed thereto, I present an objection to the lists and certificates signed by E. A. Cronin, J. N. T. Miller, and John Parker, claiming to be electors from the State of Oregon, and to the votes cast by them respectively for President and Vice-President.

The PRESIDING OFFICER. The Secretary of the Senate will read the objection submitted by the Senator from Oregon.

The objection was read, as follows:

The undersigned, Senators and members of the House of Representatives of the United States, object to the lists of the names of the electors E. A. Cronin, J. N. T. Miller, and John Parker, one of whom, E. A. Cronin, is included in the certificate of La Fayette Grover, governor of Oregon, and to the electoral votes of said State, signed by E. A. Cronin, J. N. T. Miller, and John Parker, being the certificate second presented by the President of the Senate to the two Houses of Congress in joint convention, for the reasons following:

1. Because neither of said persons, E. A. Cronin, J. N. T. Miller, nor John Parker, was ever appointed elector of President and Vice-President by the State of Oregon, either in the manner directed by the Legislature of such State or in any other manner whatsoever.

2. Because it appears from the records and papers contained in and attached to the certificate of W. H. Odell, John C. Cartwright, and John W. Watts, as presented by the President of the Senate to the two Houses of Congress in joint convention, that said W. H. Odell, John C. Cartwright, and John W. Watts were duly and legally appointed electors for President and Vice-President by the State of Oregon in the manner directed by the Legislature thereof, and duly cast their votes as such.

3. Because it does not appear from the face of the certificate of La Fayette Grover, governor of the State of Oregon, attached to and part of the returns of the votes cast by E. A. Cronin, J. N. T. Miller, and John Parker, that such certificate was issued by the governor to the three persons having the highest number of votes for electors for the State of Oregon, and were duly chosen and appointed by said State, according to the laws thereof; but was issued by him to the persons whom he deemed to be eligible to said appointment, although one of such persons, E. A. Cronin, was not appointed thereto according to the laws of said State.

4. Because it appears from the certificate of S. F. Chadwick, secretary of state, under the seal of the State attached to and made a part of the returns, and certificate of W. H. Odell, John C. Cartwright, and John W. Watts, that said persons, W. H. Odell, John C. Cartwright, and John W. Watts, received the highest number of votes at the election on the 7th day of November, 1876, for the office of electors of President and Vice-President; and that the secretary of state on the 4th day of December, following, officially declared in pursuance of law that they, Odell, Cartwright, and Watts, had received the highest number of votes; and that therefore the certificate of the governor in so far as it omitted to certify the name of John W. Watts as one of the electors appointed, and in so far as such certificate contained the name of E. A. Cronin as one of the electors appointed, fails to conform to the act of Congress in such case made and provided, and the laws of Oregon in that behalf, and that such certificate is, as to said Cronin, without authority and of no effect.

5. Because it appears from both certificates that W. H. Odell and John C. Cartwright, a majority of the electoral college, were duly appointed electors by the State of Oregon in the manner directed by the Legislature thereof; that their record presented to the President of the Senate, and by him to the two Houses of Congress,

shows that a vacancy in the office of elector existed on the day fixed by law for the meeting of the electors, and that such vacancy was filled by the appointment of John W. Watts.

JOHN H. MITCHELL,
A. A. SARGENT,
United States Senators.
WILLIAM LAWRENCE,
HORATIO C. BURCHARD,
JAMES W. McDILL,
Members House of Representatives.

The PRESIDING OFFICER. Are there further objections to the certificates from the State of Oregon?

Senator KELLY. I present objections to the electoral vote for President and Vice-President as cast by J. C. Cartwright, W. H. Odell, and J. W. Watts.

The PRESIDING OFFICER. The objection will be read by the Clerk of the House.

The objection was read, as follows:

In the matter of the electoral vote of the State of Oregon for President and Vice-President of the United States:

The undersigned United States Senators and members of the House of Representatives make the following objections to the papers purporting to be the certificates of the electoral votes of the State of Oregon signed by John C. Cartwright, William H. Odell, and John W. Watts:

I.

The said papers have not annexed to them a certificate of the governor of Oregon as required to be made and annexed by sections 136 and 138 of the Revised Statutes of the United States.

II.

The said papers have not annexed to them a list of the names of the said Cartwright, Odell, and Watts as electors, to which the seal of the State of Oregon was affixed by the secretary of state, and signed by the governor and secretary as required by section 60 of chapter 14, title 9, of the general laws of Oregon.

III.

The said John W. Watts therein claimed to be one of the said electors was, in the month of February, 1873, appointed a postmaster at La Fayette, in the State of Oregon, and was duly commissioned and qualified as such postmaster, that being an office of trust and profit under the laws of the United States, and continued to be and act as such postmaster from February, 1873, until after the 13th day of November, 1876, and was acting as such postmaster on the 7th day of November, 1876, when presidential electors were appointed by the State of Oregon; and that he, the said John W. Watts, was ineligible to be appointed as one of the said presidential electors.

IV.

When the governor of Oregon caused the lists of the names of the electors of said State to be made and certified, such lists did not contain the name of said John W. Watts, but did contain the names of John C. Cartwright, William H. Odell, and E. A. Cronin, who were duly appointed electors of President and Vice-President of the United States in the State of Oregon on the 7th day of November, 1876.

V.

It was the right and duty of the governor of Oregon, under the laws of that State to give a certificate of election, or appointment as electors, to John C. Cartwright, William H. Odell, and E. A. Cronin, they being the three persons capable of being appointed presidential electors who received the highest number of votes at the election held in Oregon on the 7th day of November, 1876.

VI.

The said John C. Cartwright and William H. Odell had no right or authority in law to appoint the said John W. Watts to be an elector on the 6th day of Decem ber, 1876, as there was no vacancy in the office of presidential elector on that day

VII.

The said John C. Cartwright and William H. Odell had no right or authority in law to appoint the said John W. Watts to be an elector on the 6th day of December, 1876, inasmuch as they did not on that day compose or form any part of the electoral college of the State of Oregon as by law constituted.

VIII.

The said John C. Cartwright and William H. Odell had no authority to appoint the said John W. Watts to be an elector on the 6th day of December, 1876, because the said Watts was still on that day the postmaster at La Fayette, in the State of Oregon, and was still on that day holding the said office of profit and trust.

JAMES K. KELLY, of Oregon,
HENRY COOPER, of Tennessee,
LEWIS V. BOGY, of Missouri,
J. E. McDONALD, of Indiana,
J. W. STEVENSON, of Kentucky,
Senators.
DAVID DUDLEY FIELD, of New York,
J. R. TUCKER, of Virginia,
LAFAYETTE LANE, of Oregon,
G. A. JENKS, of Pennsylvania,
ANSEL T. WALLING, of Ohio,
HIESTER CLYMER, of Pennsylvania,
P. D. WIGGINTON, of California,
E. F. POPPLETON, of Ohio,
JNO. L. VANCE, of Ohio,
FRANK H. HURD, of Ohio,
J. K. LUTTRELL, of California,
Representatives.

The PRESIDING OFFICER. Are there further objections to the certificates from the State of Oregon?

Mr. LAWRENCE. I present additional objections to the certificates and papers purporting to be certificates of the electoral votes of the State of Oregon cast by E. A. Cronin, J. N. T. Miller, and John Parker.

Mr. GORHAM, the Secretary of the Senate, read the objection, as follows:

The undersigned, Senators and members of the House of Representatives of the United States, object to the certificates and papers purporting to be certificates of the electoral votes of the State of Oregon cast by E. A. Cronin, J. N. T. Miller, and John Parker, and by each of them, and to the list of votes by them and each of them signed and certified as given for President of the United States and for Vice-President of the United States, for the following reasons:

1. The said E. A. Cronin, J. N. T. Miller, and John Parker were not, nor was either of them, appointed an elector of President and Vice-President of the United States for the State of Oregon.

2. For that W. H. Odell, J. C. Cartwright, and J. W. Watts were duly appointed electors of President and Vice-President of the United States for the State of Oregon, and as such electors, at the time and place prescribed by law, cast their votes for Rutherford B. Hayes for President of the United States and for William A. Wheeler for Vice-President of the United States, and the lists of votes signed, certified, and transmitted by such electors to the President of the Senate are the only true and lawful lists of votes for President and Vice-President of the United States.

3. That the said W. H. Odell, J. C. Cartwright, and J. W. Watts received the highest number of all the votes cast for electors of President and Vice-President of the United States by the qualified voters of the State of Oregon at the election held in said State on the 7th day of November, A. D. 1876, and the secretary of state of the State of Oregon duly canvassed said votes, and made and certified under his hand and the great seal of the State of Oregon and delivered to said W. H. Odell, J. C. Cartwright, and J. W. Watts two lists of the electors of President and Vice-President of the United States elected by the qualified voters of said State at said election, and showing that said W. H. Odell, J. C. Cartwright, and J. W. Watts were the persons having the highest number of votes of said qualified voters at such election and were elected, which certificate is dated the 6th day of December, A. D. 1876, and which has been read before the two Houses of Congress; by reason of all which said Odell, Cartwright, and Watts were the lawful electors of President and Vice-President of the United States for the State of Oregon.

JOHN H. MITCHELL,
A. A. SARGENT,
Senators.
WILLIAM LAWRENCE,
EUGENE HALE,
GEO. W. McCRARY,
N. P. BANKS,
Members of the House of Representatives.

The PRESIDING OFFICER. Are there further objections to the certificates from the State of Oregon? If there be no further objections, the certificates objected to, with the accompanying papers, together with the objections, will now be submitted to the commission for its judgment and decision. The Senate will now retire to its Chamber.

At twelve o'clock and fifty minutes p. m. the Senate withdrew.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By the SPEAKER: Memorial of the Legislative Assembly of Dakota Territory, that settlers upon the public lands set apart for Sioux Indians by executive proclamations of January 11, 1875, and May 20, 1875, be re-imbursed for their improvements made thereon, to the Committee on Public Lands.

Also, resolutions of the Importers' and Grocers' Board of Trade, of New York, indorsing the bill to provide remedies for overcharge of duties on tonnage and imports, to the Committee of Ways and Means.

Also, the petition of citizens of Rose Hill, Nebraska, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

Also, the petition of citizens of Kansas, of similar import, to the same committee.

By Mr. BLAND: A paper relating to the establishment of a post-route from Cuba, Crawford County, to Vienna, Maries County, Missouri, to the same committee.

By Mr. BURCHARD, of Illinois: Two petitions from citizens of Illinois, for cheap telegraphy, to the same committee.

By Mr. FINLEY: A paper relating to the establishment of a post-route from Orlando, Orange County, to Barton, Polk County, Florida, to the same committee.

By Mr. HANCOCK: The petition of H. C. Wood, M. D., of Philadelphia; J. M. Toner, M. D., of Washington; and J. R. Chadwick, M. D., of Boston, to have printed the subject catalogue of the National Medical Library, to the Committee on Printing.

By Mr. HARRIS, of Virginia: The petition of citizens of Augusta County, Virginia, for the repeal of bank-tax laws, to the Committee of Ways and Means.

By Mr. HENKLE: The petition of W. E. Wysham, of Maryland, for the removal of his political disabilities, to the Committee on the Judiciary.

By Mr. HOSKINS: The petition of 68 citizens of Waverly, New York, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

By Mr. HUMPHREYS: The petition of citizens of Indiana, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. HUNTER: The petition of citizens of Woodey's Corner, Parke County, Indiana, of similar import, to the same committee.

By Mr. LEAVENWORTH: The petition of R. G. Wynkoff and 32 other citizens of Onondaga County, New York, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

By Mr. MAGOON: Joint resolution of the Legislature of Wisconsin, favoring the repeal of the act demonetizing silver and the passage of a law for the coinage of the old standard silver dollar and making it a legal tender, to the Committee on Coinage, Weights, and Measures.

By Mr. O'NEIL: Remonstrance of owners and agents of steamships against the passage of the bill (S. No. 1056) concerning commerce and navigation, to the Committee on Commerce.

By Mr. PACKER: Three petitions, signed respectively by W. O. Hickok, John E. Patterson, A. Boyd Hamilton, and 49 others; James S. Stewart and 49 others; and Dougherty Brothers & Coy and 45 others, all citizens of Harrisburgh, Pennsylvania, for an appropriation of $100,000 to be expended in the erection of a new post-office building in that city, to the Committee on Appropriations.

By Mr. PHILLIPS, of Kansas: The petition of citizens of Kansas,

for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. SMITH, of Georgia: Two petitions for post-routes, one from citizens of Calhoun County, Georgia, for a route from Arlington, Calhoun County, to Keyton; the other from citizens of Miller County, Georgia, for a route from Colquitt to Horns Cross Roads, to the same committee.

By Mr. VANCE, of North Carolina: Papers relating to the petition of Elizabeth Sherrill for a pension, to the Committee on Revolutionary Pensions.

By Mr. WALDRON: The petition of Margaret Colbur n and others of Ypsilanti, Michigan, that pensioners be paid from the date of their discharge and that the limitation of the statute as to applications, for pensions be removed, to the Committee on Invalid Pensions.

By Mr. A. S. WILLIAMS: Resolutions of the Board of Trade of Detroit, Michigan, favoring the erection of a light-house and fog-signal upon Stannard Rock, Lake Superior, to the Committee on Commerce.

IN SENATE.

WEDNESDAY, *February* 21, 1877—10 o'clock a. m.

The PRESIDENT *pro tempore*. The recess having expired, the Senate resumes its session.

Mr. SARGENT, (at eleven o'clock and thirty-five minutes a. m.) Mr. President, would it be in order to report from the Committee on Appropriations the deficiency bill, that it may be printed?

The PRESIDENT *pro tempore*. It would not.

At eleven o'clock and thirty-eight minutes a. m. Mr. G. M. ADAMS, Clerk of the House of Representatives, appeared below the bar, and said:

Mr. President, the House of Representatives has passed the following resolution:

Resolved, That the vote of R. M. Daggett, one of the electors of the State of Nevada, be counted, the objections to the contrary notwithstanding.

I am also directed to inform the Senate that the House of Representatives are now ready to receive the Senate in joint meeting to proceed with the count of the electoral votes.

The PRESIDENT *pro tempore*. The Senate will now repair to the Hall of the House of Representatives.

The Senate accordingly proceeded to the Hall of the House of Representatives.

The Senate returned to its Chamber at twelve o'clock and fifty minutes, and the President *pro tempore* resumed the chair.

The PRESIDENT *pro tempore*. The Senate having returned from the joint meeting upon objections submitted to the double certificates from the State of Oregon, which were, with the papers, submitted to the commission, the Senate resumes its legislative business.

ELECTORAL VOTE OF OREGON—ORDER OF BUSINESS.

Mr. MITCHELL. I beg to make a report from the Committee on Privileges and Elections in reference to the inquiry into the Oregon electoral vote. I ask that it be printed in the RECORD.

The PRESIDENT *pro tempore*. The Chair would state that he has been informed the printing can now proceed in the usual manner.

Mr. KERNAN. I do not think it ought to be printed in the RECORD.

Mr. DAVIS. Did I understand the Senator to say in the RECORD?

Mr. MITCHELL. Certainly.

Mr. DAVIS. Is not that very unusual? Of course there is no objection to printing the report in the usual way, but to have it printed in the RECORD is another question.

Mr. KERNAN. It is very long and would take a great deal of space, from what I know of it.

Mr. MITCHELL. I think there should be no objection to the report being printed in the RECORD.

Mr. SARGENT. Reports of committees in both Houses have been printed in the RECORD this session on account of the necessity of their being printed there to be of any use. I remember the report from the House side on Louisiana which covered about one hundred pages was printed in the RECORD. There are special reasons this year why the reports on both sides should be printed in the RECORD in order that they may get the ear of the tribunal.

The PRESIDENT *pro tempore*. The Senator from Oregon desires the report to be printed in the RECORD. Is there objection?

Mr. WITHERS. I object.

Mr. DAVIS. O, yes; there are three or four objections.

The PRESIDENT *pro tempore*. The Chair will submit the question to the Senate. Shall the report made by the Senator from Oregon be printed in the RECORD?

Mr. KERNAN. I desire to be heard a moment on the question of printing the report in the RECORD. Such reports have not been printed in the RECORD heretofore as I understand.

Mr. LOGAN. Will the Senator from New York yield to me to allow me to present a memorial?

Mr. KERNAN. I too have morning business to present. I suggest that we be allowed to submit petitions and memorials first, and then I may resume the floor upon this question, as I desire to be heard upon it.

The PRESIDENT *pro tempore*. Is there objection to the introduction of morning business at this time?

Mr. MITCHELL. I will state that I am compelled to go before the electoral commission immediately and I should like to have this matter disposed of.

Mr. KERNAN. Then I have a word to say upon the question.

Mr. DAVIS. I rise to a question of order. Is not morning business in order?

The PRESIDENT *pro tempore*. Three or four minutes remains of the morning hour as the Chair observes by looking at the clock; and morning business is in order.

Mr. MITCHELL. I supposed I had the floor.

The PRESIDENT *pro tempore*. Morning business is in order.

Mr. MITCHELL. Mine is morning business, the report of a committee.

The PRESIDENT *pro tempore*. So the Chair understands.

Mr. SHERMAN. I think the morning hour should be extended a half hour, because there is a great deal of morning business that we ought to get rid of.

The PRESIDENT *pro tempore*. Petitions and memorials are first in the order of morning business. Is there objection to extending the morning hour to receive morning business?

Mr. WINDOM. Subject to a call for the regular order or for appropriation bills, of course. I am not willing to consent to extend the morning hour unless we can have some understanding that we shall have a night session in case the morning business is extended.

Mr. SHERMAN. The morning hour need not be extended beyond half an hour, and there is morning business which should be presented.

Mr. WINDOM. I will not object to that provided we can have a night session if we do not pass the post-office and legislative appropriation bills this afternoon. If we can get them through to-day we need not have a night session. Can we have an understanding of that kind?

Mr. MORRILL. There is no objection.

The PRESIDENT *pro tempore*. Is there objection to the understanding that the legislative and post-office appropriation bills shall be proceeded with to-day until completed?

Mr. DAVIS. I hardly think the chairman proposes to make that rule now. Let us wait and see what we can do in the progress of the bills.

Mr. WINDOM. I propose that there be a night session unless those two bills can be disposed of before the evening adjournment. If that can be agreed to I have no objection to the extension of the morning hour for half an hour.

Mr. DAVIS. I suggest to the chairman of the Committee on Appropriations that we move on and see what progress we may make. It may be that it will not be necessary to go into a night session.

Mr. WINDOM. The point is I am unwilling to agree to an extension of the morning hour unless we can have an understanding that we shall have a night session if it is necessary, and if it is not necessary it will not be done.

Mr. DAVIS. I suggest to the Senator that probably we can pass the appropriation bills in to-day's session, without a night session, by remaining here until five or six o'clock.

Mr. WINDOM. If we can do that, then there will be no necessity for a night session. The Senate certainly understands that we should have a night session unless those bills can be passed to-day; and I only ask for an agreement to hold a night session on that condition.

The PRESIDENT *pro tempore*. Is there objection to extending the morning hour half an hour?

Mr. WEST. The proposition was put a little differently a moment ago.

The PRESIDENT *pro tempore*. The Senator from Minnesota desires it to be understood that, in case the bills named by him are not concluded, namely, the legislative and post-office appropriation bills, there shall be an evening session.

Mr. DAVIS. I suggest to my friend, the chairman of the committee, that later in the day we can see whether that be necessary. Only an extension of half an hour is asked.

Mr. WINDOM. Then I must object to the extension of the morning hour for half an hour.

The PRESIDENT *pro tempore*. The Senator from Minnesota objects to the extension of the morning hour, and the morning hour has expired.

Mr. SHERMAN. I have an important report which I desire to make; and if necessary I will move to postpone the present and all prior orders for the purpose of presenting it. It would take but a moment to make the report, and it must be made to-day in order to have it printed.

Mr. WEST. If we extend the morning hour that it should be for a definite period, because discussion on the Oregon question might run us into a discussion of three or four hours. Let the Senator from Ohio make a definite proposition to extend the morning hour.

Mr. SHERMAN. We should have a specified time, say not exceeding fifteen minutes.

The PRESIDENT *pro tempore*. The Chair would remind the Senator from Ohio that the Senator from Oregon [Mr. MITCHELL] has the floor also on the question of a report from a committee.

Mr. WINDOM. I will not object to an extension of the morning hour for fifteen minutes; but I desire to express the hope that if we do not finish the appropriation bills we may have consent for an evening session.

Mr. SHERMAN. I will vote with the Senator for that with great pleasure if it is necessary. I desire to make a report now while I am on the floor.

The PRESIDENT *pro tempore*. If the Senator from Oregon insists upon the floor the Chair must recognize him, as he has presented a report from a committee which is under consideration.

Mr. MITCHELL. I cannot yield, because I must go before the commission in a moment.

The PRESIDENT *pro tempore*. The understanding is that the morning hour has been extended for fifteen minutes, if there be no objection. The Chair hears none.

Mr. MITCHELL. I now ask consent that the report on the Oregon electoral votes which I presented be printed in the RECORD.

Mr. SHERMAN. Let that order be made.

Mr. KERNAN. I object.

Mr. CAMERON, of Pennsylvania. I want to add five minutes more to the time allowed for morning business. There is an important bill, which concerns the State Department, that it is important to pass today. I ask that the extension be for twenty minutes.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania desires five minutes additional, fifteen minutes having been agreed upon. Is there objection to the extension? The Chair hears none. The Senator from Oregon asks the printing of his report in the RECORD.

Mr. MITCHELL. I wish to say just one word in reference to this matter. I find in the CONGRESSIONAL RECORD of Febuary 10, in the House proceedings, the whole of the report made by the House Committee on Louisiana Affairs, and a much longer report I think than the one presented by myself from the Senate Committee on Privileges and Elections. I certainly hope that the objection to the printing of this report in the RECORD will be withdrawn by the Senator from New York.

Mr. KERNAN. Mr. President, I feel bound to object to this report being printed in the RECORD on behalf of the minority. I dissent from the report, the conclusions of fact, and the conclusions of law. It is very long. I do not know how many pages it would take of print; but it would take some hours to read it I am satisfied. The decision of the commission, made since this investigation was commenced by the committee, excludes the consideration of evidence taken before the committee, and no part of it can be necessary in their deliberations. The evidence is really not yet closed, unless it is being closed now. There is a little evidence that I desire to produce whenever the investigation is closed by the majority. I understand that the chairman of the committee says that now I can produce it. The report of the majority is not a document that ought to be printed in the RECORD. The reason, as I understand, why those other reports were printed in the RECORD was that there was no appropriation for printing reports in the ordinary way. There is an appropriation for that purpose now; and this report should be printed in the ordinary way; and it should not encumber the RECORD. It would be very unjust to have a report of that character printed in the RECORD as a part of the proceedings of the Congress of the United States. Therefore I think the precedent should never have been established except from necessity, owing to the want of means, and we should not now print in the RECORD what would make an immense document.

Mr. MITCHELL. I know not what the reason was that led to the printing of the House Louisiana report in the RECORD. I do know as a matter of fact that it is in the RECORD; and if the democratic party had the benefit of having their report printed in the RECORD, no matter what the cause was, the same privilege should be accorded to the other side, it seems to me, and I earnestly hope that the objection will not be insisted upon.

Mr. DAVIS. I believe it is known that the cause of printing different reports in the RECORD, both in the Senate and in the House, was because there was an appropriation for printing the RECORD and the appropriation was exhausted for printing reports or doing other printing for Congress. I believe, and I submit to the Chair, that it is out of order to print anything in the RECORD except by unanimous consent, unless the matter is read at the desk. I make the point of order, among other things, that unless any paper is read at the desk, unless unanimous consent is given, it cannot go into the RECORD.

The PRESIDENT *pro tempore*. Any question made in regard to printing shall be submitted to the Senate. The Senate has a perfect right to dictate in what manner a paper shall be printed. The Chair will therefore submit the question to the Senate.

Mr. DAVIS. I submit to the Chair whether or not it has not been the usage of the Senate that no matter should go into the RECORD unless it was read at the desk, unless unanimous consent was given. I ask whether that has not been the usual course in the Senate? I do not believe there is any positive rule on the subject.

The PRESIDENT *pro tempore*. Under the new rule, as the Senator will see, when a question is raised as to printing it shall be submitted to the Senate; and in several cases where it has been asked that papers be printed the question has been submitted to the Senate.

Mr. DAVIS. I know there is a new rule on the subject, but I have just examined that rule, and, in my judgment, it does not cover the case now before us. My recollection is that the usage previously has been that a paper had to be read at the desk to be printed in the RECORD, unless unanimous consent was given to its publication.

The PRESIDENT *pro tempore*. The Chair is correct. The Senator from Oregon has asked that the report be printed in the RECORD, which is not the ordinary mode of printing the reports of committees. The rule requires reports of committees to be printed, and when a question is raised as to the manner in which a report is to be printed, that question is left to the Senate, in case an objection is made. The Chair calls the attention of the Senator from West Virginia to Rule 55, referring to the reports of committees; that is, ordinary printing; but the Senator from Oregon has asked that the report be printed in the RECORD.

Mr. WALLACE. Is not the request of the Senator from Oregon in fact a motion to print additional numbers of the report, and must not that motion under the rule go to the Committee on Printing? Is not that the effect of it?

The PRESIDENT *pro tempore*. The Chair would not so rule. It is not the case of the printing of additional numbers.

Mr. WALLACE. Does it not bring the additional expense? Is it not an addition to the number to be printed by law?

The PRESIDENT *pro tempore*. The Senator from Oregon has not asked that the ordinary number be printed under the rule, and the number in the RECORD would be the ordinary number; so that it would not be an extra number. If, in addition, the Senator from Oregon asked that the report should be printed under the rule, the point made by the Senator from Pennsylvania would be well taken.

Mr. WRIGHT. It seems to me the point of order made by the Senator from West Virginia is this: It is asked that this paper be printed in the RECORD without being read; the Senator from Oregon asks that the paper may go into the RECORD by a vote of the Senate, without having unanimous consent, as the paper has not been read. The point is whether that can be done by a vote of the Senate or otherwise than by unanimous consent, unless the paper shall be read.

The PRESIDENT *pro tempore*. The Chair will answer the Senator from Iowa that the Senator from West Virginia has not made that point of order. The Senator from West Virginia made the point of order that the paper could not be printed in the RECORD without having been read.

Mr. DAVIS. Without first being read at the desk.

The PRESIDENT *pro tempore*. The Senator from West Virginia has not insisted on the reading of the report. If the Senator from West Virginia makes that point, the Chair will of course rule that it must be read.

Mr. DAVIS. I dislike very much to make a suggestion of that kind. Of course the report could be printed in the RECORD in that way, but we know it would take up a great deal of time. I hoped that the Senator from Oregon would have his report printed in the ordinary way, without pressing his request to have it printed in the RECORD; and as that may lead to the necessity of its being read at the desk, I hope, now that he sees there is opposition to printing it in the RECORD, and as it cannot be done, that he will not insist on it further.

Mr. MITCHELL. With all deference to the Senator from West Virginia, I know it can be done. I insist on it because I can have the report read or make it part of my remarks. I know there is objection to printing it in the RECORD, and I know where that objection comes from. There being objection and objection coming from the source it does, I will withdraw my request and let the report be printed in the ordinary way.

The PRESIDENT *pro tempore*. The report will be printed under the rule.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a resolution of the Legislature of the State of Michigan, in favor of an appropriation for the erection of a light-house and steam fog-signal on Stannard's Rock, Lake Superior; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Montana, praying that a portion of the Crow Indian reservation may be restored to the public domain and opened up for settlement; which was referred to the Committee on Indian Affairs.

He also presented a memorial of the Importers and Grocers' Board of Trade of New York, in favor of the passage of House bill No. 4250, to provide remedies for overcharge of duties on tonnage and imports; which was referred to the Committee on Finance.

He also presented a petition of Captain J. N. Stout and 62 others, of Lenawee County, Michigan, praying Congress to pass an act giving to soldiers pensions from the date of their discharge; which was ordered to lie on the table.

He also presented a memorial of the Legislature of Dakota Territory, in favor of the passage of a law re-imbursing the settlers upon the lands set apart by executive proclamation of January 11, 1875, and May 20, 1875, for their improvements made thereon; which was referred to the Committee on Public Lands.

Mr. LOGAN presented a memorial of the Board of Trade of the city of Chicago; which was read and referred to the Committee on Commerce, as follows:

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The undersigned, by order and on behalf of the Board of Trade of the city of Chicago, and representing in large measure the marine interests of the great lakes, beg leave to respectfully represent unto your honorable bodies that a dangerous reef of rocks, known as Stannard's Rock, exists in Lake Superior directly in the usual course of vessels navigating those waters, above Marquette, and that no appropriate light or other appliance exists to indicate the location of said rock and warn mariners of the danger to which they are exposed: Therefore,

Your memoralists respectfully pray your honorable bodies that you will, at the present session, make the necessary appropriation, as asked by the Light House Board, and authorize the early construction of a suitable light-house at the place

indicated, to the end that the perils of navigation, incident to the exceedingly dangerous character of this obstruction, may be abated.

And your memoralists will ever pray, &c.

D. H. LINCOLN, *President.*

Attest:

CHARLES RANDOLPH, *Secretary.*

CHICAGO, ILLINOIS, *February*, 1877.

Mr. KERNAN presented the petition of John Cobb, praying for indemnity out of the Geneva award fund for damages sustained by acts of the cruiser Alabama; which was referred to the Committee on the Judiciary.

He also presented the petition of John Owens, administrator of the goods, chattels, and credits of John H. Verdon, late of the city of New York, praying for indemnity out of the Geneva award fund; which was referred to the Committee on the Judiciary.

Mr. CHRISTIANCY presented a resolution of the Legislature of the State of Michigan, in favor of a light-house and fog-signal on Stannard's Rock, in Lake Superior; which was referred to the Committee on Commerce.

Mr. MCMILLAN. I present a memorial of the executives of various States and Territories, together with scientific men interested in the subject, assembled to consult upon the practical and concerted means for the arrest of the prevalent locust or grasshopper plague, praying for the appointment of a commission to consist of three entomologists and two practical men of experience with the locusts, to examine into the history, nature, and habits of the insects, &c. I move that the memorial be referred to the Committee on Agriculture and that it be printed in the RECORD.

The memorial was referred to the Committee on Agriculture, and ordered to be printed in the RECORD, as follows:

To the honorable the Senate and House of Representatives in Congress assembled:

The memorial of the undersigned, executives of various States and Territories, together with scientific men interested in the subject, assembled to consult upon practical and concerted means for the arrest of the prevalent locust or grasshopper plague, respectfully represents that various portions of the country have been devastated by the insects known as locusts or grasshoppers, at divers periods of the past, for one hundred and fifty years; that during the past twenty years the number and ravages of these insects have increased with alarming rapidity; that many of the settlers in the Western States and Territories have suffered a total loss of crops from the ravages of one species (the Rocky Mountain locust) for four years in succession, and are in consequence reduced to great poverty and distress; that these insects, as history shows, confine their devastation to no one State or section of the country, but have overrun no less than sixteen States and Territories during the year 1876; that by their swift migrations from State to State, destroying millions of dollars of the farmers' hard earnings, crippling the progress of the border States, and retarding the settlement of the Territories, these destructive insects have become a national plague; and it is our profound conviction that an evil which, by impairing the prosperity of agriculture threatens the source of productive industry, deserves the prompt and thorough consideration of the National Government.

Your memorialists therefore respectfully ask—

First. That a commission be appointed by your honorable body at the earliest practicable moment, to consist of three entomologists and two practical men of experience with the locusts, to be appointed by the chief of the geological and geographical survey of the Territories, and approved by the Secretary of the Interior, the duty of which commission it shall be to examine into the history, nature, and habits of the insects, and to suggest such means of destroying them, and such remedies against their ravages, by the offer of bounties for the destruction of their eggs or otherwise, as their investigations shall prove most practicable. And for this purpose that the sum of $25,000 be added to that part of the sundry civil appropriation bill providing for said survey of the Territories, in order to pay the salaries and expenses of such commission.

Second. That the Signal Service be authorized and required to take regular observations of the movements of the insects, of the time, direction, and extent of their flights, the time of the hatching and departure of the young locusts, and other particulars concerning them; and that the information thus obtained of the appearance and progress of the swarms, and such other observations as may prove of practical service, be published with the daily weather reports; and that General Meyer be provided with such additional means and assistance as shall be adequate to the demands of such enlarged operations.

Your memorialists ask this in view of the ravages of the past, and with grave apprehensions for the future, arising from the increased numbers of the pests and the enlarged area in which they have deposited their eggs. They believe that by reason of the winged and evasive movements of the locusts, the limitless field of their operations, and the predatory and mysterious character of their incursions, as well as their countless numbers, these insects constitute an enemy too formidable to be successfully encountered by any single State or community; and they are fully persuaded that the evil has swollen into a scourge of national dimensions, requiring the interposition of the General Government. Your memorialists moreover believe that if it is within your legitimate province to improve our rivers and interior harbors in order to facilitate the movement of crops, the rescue of those crops from the rapacity of a common enemy cannot be less an object of your rightful care, and that the same public policy which encourages internal commerce equally justifies the preservation of those important agricultural products without which there can be no commerce.

All of which is respectfully submitted, and your favorable action thereon urgently solicited. And your petitioners will ever pray, &c.

C. H. HARDIN, *Governor of Missouri.*
PROFESSOR C. V. RILEY,
State Entomologist of Missouri.
JOHN L. BEVERIDGE, *Governor of Illinois.*
PROFESSOR CYRUS THOMAS,
State Entomologist of Illinois.
SAMUEL J. KIRKWOOD, *Governor of Iowa.*
THOMAS A. OSBORN, *Governor of Kansas.*
SILAS GARBER, *Governor of Nebraska.*
ROBERT W. FURNAS,
Ex-Governor of Nebraska.
ALVIN SAUNDERS, *Ex-Governor of Nebraska.*
PROFESSOR C. D. WILBER, Nebraska.
PROFESSOR A. D. WILLIAMS, Nebraska.
JOHN S. PILLSBURY, *Governor of Minnesota.*
PENNOCK PUSEY, Minnesota.
PROFESSOR ALLEN WHITMAN, Minnesota.
JOHN L. PENNINGTON,
Governor of Dakota Territory.
B. F. POTTS, *Governor of Montana Territory.*

Mr. MCMILLAN presented a memorial of the Board of Trade of the city of Minneapolis, Minnesota, praying for the establishment of a post-route and military road from Fort Lincoln to Deadwood City, in the Black Hills; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. CAMERON, of Wisconsin, presented a joint resolution of the Legislature of Wisconsin, in relation to the coinage of the silver dollar; which was referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

Resolved by the senate, (the assembly concurring,) That the Senators and Representatives of the State of Wisconsin in Congress are requested to use all proper endeavors to secure the repeal of the law known as the act demonetizing silver, and to secure such laws as may be necessary to establish the coinage of the old standard silver dollar, and to make it legal-tender for all debts, public and private.

Approved February 16, 1877.

HARRISON LUDINGTON,
Governor.
C. D. PARKER,
President of the Senate.
J. B. CASSADAY,
Speaker of the Assembly.

Mr. CAMERON, of Wisconsin, also presented a joint resolution of the Legislature of the State of Wisconsin, in favor of an appropriation to aid in the completion of the Sturgeon Bay and Lake Michigan Ship-Canal and harbor, and to extend the time for the completion thereof; which was referred to the Committee on Commerce.

Mr. WHYTE presented the petition of John Saunders, of Baltimore, Maryland, praying for the removal of his political disabilities; which was referred to the Committee on the Judiciary.

Mr. CLAYTON presented a petition of officers and citizens of Garland County, Arkansas, praying for the passage of a bill granting to that county a certain portion of the Hot Springs reservation for the use of a court-house; which was ordered to lie on the table.

Mr. SHERMAN presented a petition of citizens of Plain Township, Wood County, Ohio, praying that there may be a pension granted to Robert Spoors; which was referred to the Committee on Pensions.

He also presented a petition of citizens of Ohio, praying the passage of the act allowing pensioners the amount of arrears to which they would be entitled by a removal from the statutes of the unjust limitation which has debarred many from receiving their just dues, and that they shall be entitled to receive in all cases a pension from the date of discharge of the soldier; which was ordered to lie on the table.

He also presented a petition, very numerously signed, of citizens of Warren, Ohio, praying an appropriation for the improvement of the outer harbor at Ashtabula; which was referred to the Committee on Commerce.

He also presented a memorial of citizens of Ohio, remonstrating against the passage of the bill (H. R. No. 3370) to amend the statutes in relation to damages for infringement of patents, and for other purposes; which was referred to the Committee on Patents.

He also presented a petition of citizens of Lancaster, Ohio, praying for the repeal of the tax on banks and banking; which was referred to the Committee on Finance.

Mr. COCKRELL presented a concurrent resolution of the Legislature of the State of Missouri; which was read and referred to the Committee on Indian Affairs, as follows:

STATE OF MISSOURI, *ss:*

I, Michael K. McGrath, secretary of state of the State of Missouri, hereby certify that the annexed pages contain a full, true, and complete copy of a concurrent resolution of the General Assembly of the State of Missouri, entitled "Concurrent resolution instructing Senators and Members of Congress to prevent the removal of Sioux Indians to the Indian Territory," approved February 8, 1877, as appears by comparing the same with the original roll of said resolution now on file, as the law directs, in this office.

In testimony whereof I have hereunto set my hand and affixed my seal of office. Done at office, in the city of Jefferson, this 13th day of February, A. D. 1877.

[SEAL.] MICH'L K. MCGRATH,
Secretary of State.

Concurrent resolution instructing Senators and Members of Congress to prevent the removal of Sioux Indians to the Indian Territory.

Whereas an attempt is being made, by parties acting under some pretended authority from the Government of the United States, to remove the savage tribes of Sioux Indians from their present location and to settle them in the Indian Territory, bordering on the States of Missouri, Kansas, Texas, and Arkansas;

And whereas, by such removal and the location of said savage tribes in the said Indian Territory, great injustice and injury would be done to the cause of civilization and to the trade and business of Saint Louis and Kansas City;

And whereas by locating the said wild tribes of Indians in Indian Territory a large area of the most fertile and productive lands of the Southwest would be permanently withdrawn from settlement or occupation by any useful class of citizens and converted into a haunt of marauders and outlaws, to the serious detriment and peril of the inhabitants upon our western borders;

Resolved by the house of representatives, (the senate concurring therein,) That our Senators be instructed and our Representatives in Congress requested to use all their influence to prevent the removal of said tribes to the Indian Territory.

Resolved, That the secretary of state be requested to forward a copy of these resolutions to each of our Senators and Representatives in the Congress of the United States.

Approved February 8, 1877.

Mr. DAWES presented the petition of Adelia E. Ball and Edwin P. Ball, administrators for the extension of a patent granted to William Ball, deceased, May 27, 1856, for operating steam-stamps; which was referred to the Committee on Patents.

Mr. WALLACE presented a memorial of citizens of Philadelphia, Pennsylvania, remonstrating against the passage of the bill (S. No. 1056) concerning commerce and navigation and the regulation of

steam-vessels and sailing-vessels; which was referred to the Committee on Commerce.

He also presented two petitions of citizens of Harrisburgh, Pennsylvania, praying for an appropriation for the erection of a post-office building at that place; which was referred to the Committee on Public Buildings and Grounds.

He also presented the petition of Lieutenant George W. Leamy, Ninth Pennsylvania Veteran Cavalry, praying for a pension; which was referred to the Committee on Pensions.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. U. S. GRANT, jr., his Secretary, announced that the President had on yesterday approved and signed the act (S. No. 1141) to encourage and promote telegraphic communication between America and Europe.

REPORTS OF COMMITTEES.

Mr. SARGENT, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 4559) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1877, and for prior years, and for other purposes, reported it with amendments.

Mr. HEREFORD, from the Committee on Claims, to whom was referred the bill (H. R. No. 4301) for the relief of A. W. Plymale, of West Virginia, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2847) granting a pension to Lucinda Starnes, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. MERRIMON, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 3745) to prevent the sale and use of adulterated and explosive illuminating oils and other fluids, reported it with amendments.

Mr. SHERMAN, from the Committee on Finance, to whom the subject was referred, reported a bill (S. No. 1267) to aid in the resumption of specie payments; which was read twice by its title.

Mr. WRIGHT. The Committee on Claims have had under consideration the bill (S. No. 1193) for the relief of John W. Schoenecker, James T. Porter, and Henry Finnegrass, and I call the attention of the Committee on Appropriations to the report that I now make. The appropriation asked for the benefit of these persons is recommended by the Treasury Department, and it is recommended by the committee that it be included in the deficiency bill. The Committee on Claims find that the claim ought to be allowed, and they make a favorable report upon the claim and recommend the passage of the bill. I am instructed, however, in reporting the bill with a favorable recommendation to move that the bill with the papers be referred to the Committee on Appropriations.

The PRESIDENT *pro tempore*. The Committee on Claims will be discharged from the further consideration of the bill, and it will be referred to the Committee on Appropriations, if there be no objection.

Mr. COCKRELL, from the Committee on Claims, to whom was referred the petition of T. A. Walker, praying to be re-imbursed for the amount of certain moneys paid by him for clerk-hire while acting as register of the United States land office at Des Moines, Iowa, submitted a report, accompanied by a bill (S. No. 1268) for the relief of Thomas A. Walker.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 1909) for the relief of John W. Chickering, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 3483) to restore John Pulford, lieutenant-colonel United States Army, (retired,) to his former rank on the retired list, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. LOGAN, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 1231) for the relief of the board of trustees of the Antietam National Cemetery, reported it without amendment.

Mr. OGLESBY. I am instructed by the Committee on Public Lands, to whom was referred the bill (H. R. No. 1765) respecting the limits of reservations for town sites upon the public domain, to report it without amendment, and to say that the committee recommend the passage of the bill without amendment. It is an important subject and ought to be acted upon at this session.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (H. R. No. 3681) for the relief of B. B. Connor & Brother, reported adversely thereon; and the bill was postponed indefinitely.

Mr. PADDOCK, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 3566) to authorize the board of trustees of the city of Cheyenne, Wyoming Territory, to enter and purchase for the use of said city certain public lands, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 1205) to authorize the board of trustees of the city of Cheyenne, Wyoming Territory, to enter and purchase for the use of said city certain public lands, reported adversely thereon; and the bill was postponed indefinitely.

Mr. SPENCER, from the Committee on Military Affairs, to whom was referred a resolution of the Legislature of Kansas in favor of payment for losses sustained by citizens of that State through depredations committed by guerrilla bands during the year 1861 and thereafter, submitted an adverse report thereon; which was ordered to be printed, and the committee was discharged from its further consideration.

He also, from the same committee, to whom was referred the bill (S. No. 605) for the relief and re-appointment of Captain Thomas B. Hunt, assistant quartermaster in the United States Army, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

BILL INTRODUCED.

Mr. DENNIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1269) relating to the Washington City and Point Lookout Railroad Company; which was read twice by its title, and referred to the Committee on the District of Columbia.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. SHERMAN. I am directed by the Committee on Finance to report an amendment to the bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes. I call the attention of the committee to this amendment. I move that it be referred to the Committee on Appropriations.

The motion was agreed to.

Mr. ALLISON and Mr. HOWE submitted amendments intended to be proposed by them to the bill (H. R. No. 4559) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1877, and for prior years, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 631) providing for the adjudication and issue of patents in mission-land cases in the State of Oregon and the Territories of Washington, Idaho, and Montana; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 7) to provide for the sale or exchange of a certain piece of land in the Wallabout Bay, in the State of New York, to the city of Brooklyn;

A bill (H. R. No. 429) for the relief of Charles C. Campbell, of Washington County, Virginia;

A bill (H. R. No. 859) for the benefit of Andrew Williams, of Weakley County, Tennessee;

A bill (H. R. No. 4251) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1878, and for other purposes; and

A bill (H. R. No. 4576) to provide for changing and fixing the boundaries of certain property ceded to the Government of the United States by the city of Memphis, Tennessee.

ORDER OF BUSINESS.

Mr. CAMERON, of Pennsylvania. I ask the Senate now to take up the bill to carry out the provisions of the treaty with Mexico. The government of Mexico has made a very great effort to pay a large sum of money to the Government of the United States, and it is thought desirable at the State Department that the transaction should be closed before the present Administration goes out. I move that the Senate take up the bill.

The PRESIDENT *pro tempore*. Is there objection to the motion to proceed to the consideration of the bill indicated by the Senator from Pennsylvania?

Mr. DAVIS. Let the bill be read, subject to objection.

The PRESIDENT *pro tempore*. The motion has been made and a single objection will prevent going to the Calendar.

Mr. WITHERS. Let the bill be read by its title.

The Chief Clerk read the bill (H. R. No. 4629) to provide for the distribution of the awards made under the convention between the United States of America and the republic of Mexico, concluded on the 4th day of July, 1868, by its title.

Mr. WITHERS. There is objection to the consideration of that bill.

The PRESIDENT *pro tempore*. Does the Senator from Virginia object to the motion?

Mr. WITHERS. Yes, sir.

The PRESIDENT *pro tempore*. As the Senator objects to the motion of the Senator from Pennsylvania, the Chair cannot entertain it.

Mr. McDONALD. I ask the Senate to proceed to the consideration of House bill No. 901.

The PRESIDENT *pro tempore*. The twenty minutes allowed for

morning business have expired. Is there objection to the motion of the Senator from Indiana? The Chair hears none.

Mr. WEST. What is the question?

The PRESIDENT *pro tempore*. The Chair would remind Senators that the rule is that when a motion is made to go to the Calendar within the morning hour a single objection prevents the Chair from entertaining a motion for that purpose, and that is why the Chair puts the question, is there objection to the motion?

Mr. WEST. How much of the morning hour is left?

The PRESIDENT *pro tempore*. The Chair has stated that the twenty minutes have expired.

Mr. WEST. I call for the regular order.

The PRESIDENT *pro tempore*. The Senator from Louisiana calls for the regular order.

Mr. McDONALD. I hope the Senator will yield to me.

Mr. WEST. I should like to oblige the Senator, but it is impossible for me to do so.

Mr. McDONALD. It would take but a moment to consider the bill.

Mr. WEST. What is the proposition?

Mr. McDONALD. It is a small bill for the relief of a very honest man, J. E. Robertson, of Indianapolis, Indiana.

Mr. WEST. I am sure that would give rise to debate. I am compelled to call for the regular order.

The PRESIDENT *pro tempore*. The Senator from Louisiana declines to yield, the time having expired granted by the Senate. If there be no objection, the Chair will lay before the Senate the business on his table.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating, in answer to a Senate resolution of February 13, 1877, a statement of appropriations and expenditures, civil and miscellaneous, of the Department of State from March 4, 1789, to June 30, 1876; which was ordered to lie on the table and be printed.

He also laid before the Senate a letter of the Secretary of War, communicating information upon the expediency and utility of constructing a harbor of refuge from ice floods upon the Ohio River in what is known as Mill Bottom, above the city of Newport, on the Kentucky shore, opposite the city of Cincinnati, and recommending an appropriation for that purpose; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of War, transmitting a letter from Colonel B. H. Grierson, protesting against the restoration to his former rank and position of Thomas J. Spencer, late lieutenant Tenth United States Cavalry; which was ordered to lie on the table and be printed.

He also laid before the Senate a letter from the Acting Secretary of the Interior, transmitting, in answer to a Senate resolution of December 29, 1876, a statement of Osage ceded lands sold by the Missouri, Kansas and Texas Railroad Company prior to February 25, 1874; which was referred to the Committee on Public Lands, and ordered to be printed.

AGREEMENT WITH SIOUX INDIANS.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 1185) to ratify an agreement with certain bands of the Sioux Nation of Indians, and also with the Northern Arapaho and Cheyenne Indians.

The amendment of the House of Representatives was on page 1, line 6, after the word "confirmed," to insert the following:

Provided, That nothing in this act shall be construed to authorize the removal of the Sioux Indians to the Indian Territory, and the President of the United States is hereby directed to prohibit the removal of any portion of the Sioux Indians to the Indian Territory until the same shall be authorized by an act of Congress hereafter enacted.

The amendment was concurred in.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles and referred as indicated below:

The bill (H. R. No. 2695) for the relief of S. T. Marshall, of Lee County, Iowa—to the Committee on Claims.

The bill (H. R. No. 4418) to pay William L. Scruggs, late minister at Bogota, from October 10 to November 21, 1876—to the Committee on Foreign Relations.

The bill (H. R. No. 631) providing for the adjudication and issue of patents in mission-land cases in the State of Oregon, and the Territories of Washington, Idaho, and Montana—to the Committee on Private Land Claims.

The following bills were severally read twice by their titles and referred to the Committee on Finance:

A bill (H. R. No. 776) for the relief of James J. Waring, of Savannah, Georgia; and

A bill (H. R. No. 2830) for the relief of Charles Mason.

The following bills were severally read twice by their titles and referred to the Committee on the Judiciary:

A bill (H. R. No. 2697) supplementary to the act entitled "An act to carry into effect the convention between the United States and China, concluded on the 8th day of November, 1858, at Shanghai," approved March 3, 1859, and to give the Court of Claims jurisdiction in certain cases;

A bill (H. R. No. 3654) to relieve William F. Russell, of Florida, of political disabilities;

A bill (H. R. No. 4552) to remove the political disabilities of James Austin McCreight, of Alachua County, Florida;

A bill (H. R. No. 4675) to remove the political disabilities of Henry H. Lewis, of Maryland;

A bill (H. R. No. 4676) to remove the political disabilities of Henry B. Tyler, of Virginia;

A bill (H. R. No. 4677) to remove the political disabilities of William B. Mackall, of Virginia; and

A bill (H. R. No. 4678) to relieve Charles H. Levy, of the State of Louisiana, of his political disabilities.

MAYOR AND CITY COUNCIL OF BALTIMORE.

The bill (H. R. No. 2690) to refund to the mayor and city council of Baltimore certain moneys illegally assessed and collected for internal-revenue tax was read twice by its title.

Mr. WHYTE. I ask the Senator of Louisiana to allow me just one moment to ask for the passage of this bill, to which there can possibly be no objection. It is to refund to the city of Baltimore a sum of money which under the decision of the Supreme Court of the United States was illegally exacted. The court has said that the money should be refunded and it is simply to refund $13,000 which was paid in 1862 under the internal-revenue law. It had the unanimous report of the Committee of Ways and Means in the House. It will not take a minute.

Mr. WEST. I am sure the Senator from Maryland will not call upon me to make an invidious distinction in behalf of his constituents that I was not able to accord to other Senators.

Nothing but a sense of duty as a member of the Committee on Appropriations compels me to adhere strictly to the agreement. I propose myself to lay aside a measure in which I am much interested in order that the public business may proceed.

Mr. WHYTE. If the Senator from Louisiana will bear with me one moment I will state that if this bill should go to the committee it would have to be reported back, there would be a delay of perhaps three or four days, and the opportunity may be lost of getting the bill passed, whereas the bills moved by the Senator from Pennsylvania and the Senator from Indiana are on the Calendar and may be called up at any time.

The PRESIDENT *pro tempore*. Does the Senator object?

Mr. WEST. Yes, sir.

Mr. WHYTE. I appeal to the Senator.

Mr. WEST. I am sorry that I cannot oblige the Senator without doing injustice to another Senator. Let the bill lie over and the Senator can call it up to-morrow morning.

The PRESIDENT *pro tempore*. The bill will lie on the table.

Mr. WHYTE subsequently said: I hope the Senater from Louisiana will give way and allow me to take up the bill from the House which was laid on the table a moment ago.

Mr. WEST. If the Senator will give me the assurance, now that the post-office bill is before the Senate, that the consideration of his bill will require no time, I shall yield.

Mr. WHYTE. It cannot possibly occupy more than three minutes.

Mr. WEST. Very well.

Mr. WHYTE. I move to take up the bill (H. R. No. 2690) to refund to the mayor and city council of Baltimore certain moneys illegally assessed and collected for internal-revenue tax.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the payment of $13,500 due the mayor and city council of Baltimore as interest from the Baltimore and Ohio Railroad Company collected from that company illegally as an internal-revenue tax by Joseph J. Lewis, Commissioner of Internal Revenue, on the 9th day of January, 1864.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PACIFIC RAILROAD ACTS.

The PRESIDENT *pro tempore*. The Chair will call up the unfinished business, which is Senate bill No. 984.

Mr. WEST. I hope now to obtain the consent of the Senate that that bill, known as the railroad bill, may be laid aside without prejudice to its order of business as the unfinished business of the Senate, until the appropriation bills can be disposed of.

The PRESIDENT *pro tempore*. Is there objection to this understanding? The Chair hears none, and it is so ordered.

POST-OFFICE APPROPRIATION BILL.

Mr. WEST. I move now that the Senate proceed to the considera tion of the post-office appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes.

The bill was reported from the Committee on Appropriations with amendments.

The first amendment of the committee was in line 11, to increase the appropriation "for mail depredations and special agents" in the office of the Postmaster-General from $21,500 to $40,000.

The amendment was agreed to.

The next amendment was in line 18, to increase the appropriation

"for preparation and publication of post-route maps" from $20,000 to $30,000.

The amendment was agreed to.

The next amendment was in line 22, to increase the appropriation for advertising general mail-lettings of each State and Territory from $40,000 to $60,000.

The amendment was agreed to.

The next amendment was after line 30, to insert the following:

For miscellaneous items in the office of the Postmaster-General, $1,500.

The amendment was agreed to.

The next amendment was in line 34, under the heading of "Office of the First Assistant Postmaster-General," to increase the appropriation for compensation to postmasters from $7,000,000 to $7,250,000.

The amendment was agreed to.

The next amendment was in line 37, to increase the appropriation "for compensation to clerks in post-offices" from $3,290,000 to $3,390,000.

The amendment was agreed to.

The next amendment was in line 45, to increase the appropriation "for payment to letter-carriers" from $1,750,000 to $1,900,000.

The amendment was agreed to.

The next amendment was in line 53, to increase the appropriation for wrapping-paper from $20,000 to $22,500.

The amendment was agreed to.

The next amendment was in line 58, to increase the appropriation for rent, light, and fuel from $390,000 to $420,000.

The amendment was agreed to.

The next amendment was in line 61, to increase the appropriation for stationery from $45,000 to $55,000.

The amendment was agreed to.

The next amendment was in line 62, to increase the appropriation for miscellaneous and incidental items in the office of the First Assistant Postmaster-General from $50,000 to $100,000.

The amendment was agreed to.

The next amendment was in line 69, under the head of "Office of the Second Assistant Postmaster-General," to increase the appropriation "for transportation by railroad" from $9,000,000 to $9,600,000.

Mr. HAMLIN. After line 70 I move to add the words:

Two hundred and fifty thousand dollars of the same may be used by the Postmaster-General to obtain proper facilities over the great trunk lines of railroads for the railway post-office service during the fiscal year ending June 30, 1878.

Mr. BOGY. I must object to that amendment without some explanation of it.

Mr. HAMLIN. I will give the explanation which induced the committee to offer the amendment. I understand the increase recommended by the Appropriation Committee was founded on two reasons, designed to accomplish two purposes, both of which, I think, will meet the approbation of the entire Senate: First, to have a fund with which service can be placed upon newly constructed railroads. Last year when the appropriations were passed the Senator from Texas, [Mr. MAXEY,] who is not now in his seat, in connection with myself, called the attention of the Senate to the reduced appropriations, and stated to the Senate that the appropriations already made would not enable the Postmaster-General to place service upon roads that should be newly constructed, as the amount then embraced in the bill was only designed to cover existing roads. The results prove that we were correct. I regret that the Senator from Texas is now absent. Several hundred miles, I think, of new railroad during the past year were completed in that State, but the service could not be placed upon them for the reason that there was no appropriation with which to pay for the service; and the transportation of the mails side by side with the railroad is being carried on to-day. For such a reason I understand the Appropriation Committee have increased the amount. Secondly, we had inaugurated what was called a fast system of mails, by which, I think, between New York and Saint Louis, all the regions beyond and all the points radiating from the great trunk roads, and there was a saving (of course the longer the distance the more the saving) of from an hour to forty-eight hours in the delivery of the mails. It was said then that the diminution of the appropriation would destroy all the fast-mail service. It did it, and to-day we are transporting our mails upon a system that existed sixteen years ago, without the slightest advance within the last sixteen years; and the reduction last year accomplished that result.

It was believed by many that the amount paid the railroad companies was in excess of the service which they performed, and there was a commission raised for the purpose of investigating the railroad service. That commission was appointed. They are now doing their duty. They are gathering information from foreign governments in relation to the service. They have not completed their work, and I think they will furnish the legislative body with information that will be very useful. I can only speak my own judgment, but I feel a confidence when I say that from the information so obtained we shall be able to make a new system which shall be a saving to the Government in the transportation of our mails. The Senate will also recollect that at a subsequent period in the session, to meet the exigencies of the occasion, we adopted certain amendments upon the post-route bill to correct the evil. Now, that commission being in existence, I will say that the Committee on Post-Offices and Post-Roads have come to the unanimous conclusion that it is not wise to-day to enter into a system of fast mails, because when we shall have obtained that information, the very best information that can be had in this country and in regard to foreign countries, we shall be ready to adopt a system which I think would be a saving. If we undertake to extend the fast-mail system to-day, we may find ourselves embarrassed when we shall have obtained this information. It is, therefore, I believe, the unanimous opinion of the Postal Committee that it is unwise to do that, but it is also, I think, the unanimous opinion of that committee that it is very wise to do precisely what this amendment of the Appropriation Committee have recommended, with the amendment which I, as their organ, have suggested, to wit, to put postal cars on the large trunk roads. That will not have any connection with fast mails. The amendment as it comes from the Appropriation Committee does not cover the ground.

Mr. WEST. Although it gives the money.

Mr. HAMLIN. It gives the money, but it does not give the power to use it, and the amendment which I have offered gives that power. Senators will recollect that the mails are now transported by weight. A forty-five feet car will carry as much weight as a sixty feet car, with a space in the sixty feet car set apart for distribution. Consequently every railroad in the country will run forty-five feet cars, and with forty-five feet cars the mail cannot be distributed along the line of the road. Let me illustrate. Between Baltimore and Saint Louis, between New York, over either the New York Central or Pennsylvania Railroad, and I take those great roads to illustrate the position, they are now running forty-five feet cars, which do not furnish the room by which the mails can be distributed. They will not furnish any other than the forty-five feet cars because they get the same compensation, such a car carrying as much bulk in weight, and they get their pay in that way, as the larger car.

This amendment proposes not to increase the speed of the mails until we have obtained the best information, but to enable the large trunk lines to place distributing postal cars upon the road; in doing which, while you do not increase the speed of the mail a single moment you will increase the delivery of the mail between the points I have named twenty-four hours. You thus add to the speed, because if the mails are distributed as they go along it saves the distributing in the offices at the termini of the road and at the principal points along the road. The very terminal point would not be benefited by this distribution, as they would only have to distribute, but every point beyond and every point radiating from these roads would be benefited. Every inch of your country beyond Saint Louis, north of Baltimore, or north of New York, would receive a benefit of twenty-four hours simply by placing such postal cars upon the road as would enable the distribution of your mail as it goes along the road.

I think, Mr. President, that the good sense of this body will admit and that the good sense of the American people will demand that the business communications of this country shall travel along our railroads as fast as the passengers may travel; but under the present arrangements the mails must go in bulk, lie over at Saint Louis, lie over at Baltimore, lie over at Cincinnati, lie over at Pittsburgh, lie over at your large points, and be distributed in the post-offices, and there they lie by until the next mail shall go.

It is economy to adopt this amendment. I have given this matter I think pretty careful attention. The additional force required in the post-offices to distribute is an equivalent, probably more than an equivalent, in the expense of distributing the mails as they go along.

For these reasons the Appropriation Committee have, in my judgment, wisely recommended an appropriation to meet these two necessities of the American people: first, that there shall be means to put mail service upon newly constructed roads and, secondly, that by distributing the mails upon the roads there will be a saving equivalent to what was one-half of the saving of the fast mails. For these reasons the Committee on Appropriations have seen fit to increase the appropriation from $9,000,000 to $9,600,000, and the amendment which I have offered simply gives power to the Postmaster-General, without making any more appropriation, to utilize the appropriation the committee have recommended.

Mr. BOGY. Mr. President, the amendment offered by the Senator from Maine, or the Committee on Post-Offices and Post-Roads rather, is not as extensive as the speech of my friend from Maine. It is very possible that I might agree with him so far as his speech goes, but I cannot sustain the amendment. That amendment gives the power to the Postmaster-General to use in a very indefinite way the sum of $250,000. It does not specify that the money shall be used for the purpose of putting these cars upon the roads upon which this distribution is to take place.

Mr. HAMLIN. The Senator is mistaken; it does specify that.

Mr. BOGY. Let the amendment be read again.

Mr. HAMLIN. It is to be used for postal-car service on "the great trunk lines," in the language of my amendment.

Mr. BOGY. Let the Clerk read the amendment.

The PRESIDENT *pro tempore*. The Clerk will read the amendment.

The CHIEF CLERK. The amendment proposed is at the end of line 70 to insert:

Two hundred and fifty thousand dollars of the same may be used by the Postmaster-General to obtain proper facilities from the great trunk lines of railroads for the railway post-office service during the fiscal year ending June 30, 1878.

So as to read, if amended:

For inland mail transportation, namely: For transportation on star routes and by

steamboats, and all other than railroad routes, $6,237,993; for transportation by railroad, $9,600,000; $250,000 of the same may be used by the Postmaster-General to obtain proper facilities from the great trunk lines of railroad for the railway-post-office service during the fiscal year ending June 30, 1878.

Mr. BOGY. The $250,000 are to be used by the Postmaster-General to obtain the proper facilities, and what those are we do not know. It is to be a matter of discretion with him; and I am not myself prepared to say whether it would be proper to have the distribution spoken of. It is very possible it would be, but it is a change of the whole system.

Mr. HAMLIN. Not a bit.

Mr. BOGY. I am not disposed to change the postal system in a bill of this kind at this time. This would put in the hands of the Postmaster-General the sum of $250,000 to obtain postal facilities. What they are we do not know. It does not specify what they are. It may be in the special line of these railroads for the purpose of establishing fast mails, or in any other way that he may decide, which he may believe would facilitate the service. The proper way to make an appropriation is to specify the object of the appropriation, and not to leave it as a matter of discretion to the Postmaster-General.

I remember something about the fast lines, although I am not opposed to fast lines and I favor very much the rapid distribution of mail matter. Notwithstanding, it is a subject that has to be remarkably well guarded or it will lead to very great partiality. It must be guarded with great care. That is the reason why heretofore the fast-mail service has been unpopular. Although I think there are many good things to recommend it, yet it was always for the benefit of one or two places and greatly to the detriment of other places. Therefore the fast-mail service became unpopular, however good it may have been in itself. The same is true in regard to this proposition. It is putting an amount of money in the hands of the Postmaster-General to obtain proper facilities, without saying what they are.

With regard to the first point made by the Senator from Maine in his speech, that it is to enable the Postmaster-General to utilize new railroads that may be built, there cannot be much force in that argument. There are very few railroads being built now, and the sum is so large that it would cover a very large and extended line of railroads. There may be some little extension of railroads in Texas, but perhaps nowhere else. Of course I would be very much in favor of giving to that State all mail facilities possible, but the sum is too large for that purpose.

It seems to me that the whole amendment is very indefinite. It is not as well expressed or as definite as the speech made by my friend from Maine. He speaks a great deal better than he has prepared the amendment, and I would prefer that the amendment should be at least as good as his speech.

Mr. WITHERS. The objection which I have to the amendment suggested by the Senator from Maine to the amendment of the committee is that the idea which influenced the committee in adding to the amount appropriated by the sum of $600,000 was to furnish mail facilities along railroad lines which have now for the first time become open to mail transportation. The extent of that new service we were not of course able definitely to ascertain, but we supposed that this sum (at least that was my idea about it) would suffice to cover it. Now, if from the amount thus increased to furnish that service the sum of $250,000 shall be deducted for the purpose of increasing the facilities for fast-mail service, we diminish to that extent our ability to furnish mails along new lines. I think the whole amount appropriated would not probably be more than sufficient to furnish increased mail facilities to the people along new line, which to my view is a matter of a great deal more importance than the increased facilities for the fast mails alluded to by the Senator from Maine.

Mr. WEST. If the premises of the Senator from Virginia were correct, then the conclusion to which he would ask the Senate would be correct also; but I scarcely think he is in that regard correct.

Mr. WITHERS. I stated that it was not my understanding of it. Of course I cannot go begond that.

Mr. WEST. As I understand from the Postmaster-General, the increase recommended by the committee would accomplish both objects, with the amendment of the Senator from Maine.

Mr. WITHERS. If the Senator from Louisiana states that he has reliable information from the Department that the sum of $600,000 will discharge both services fully, will supply the mail service to all the new lines which demand and require it and leave a surplus sufficient to supply the additional facilities asked by the Senator from Maine, I have no objection to the amendment to the amendment.

Mr. HAMLIN. Mr. President, I can answer that question. I can assure the Senator from Virginia that I have the information that from a computation made by the Department it is believed the gross sum will cover both purposes. I am so told, and I do not doubt it is correct.

If the Senator will pardon me one moment, I want to say a word and only a word, as I am usually pretty brief, in reply to the Senator from Missouri. I want to express my regret at the opposition of the Senator from Missouri to this amendment. I regret that any Senator in this body should not be willing to add a little of the postal facilities of the country to its great business interests, and it is certain that an opposition to this amendment, whether so designed or not, has that precise effect.

One word in relation to the powers of the Postmaster-General, and one word in relation to the phraseology of the amendment; which is not so accurate, clear, and distinct as what I say, says the Senator. Now, I say that that amendment does not give to the Postmaster-General one particle of power in addition to what he now has in relation to the management of the Post-Office Department; by which I mean to be understood that the management of the mails and the regulation of the mail service is a thing within his control. If you make an appropriation, not for fast mails, as my friend from Virginia stated, but for increased railway post-office service—and that is the amendment and it is in better language than I speak—it is not to be used for any other service than postal-railroad service, postal cars, railroad cars with post-offices in them. I know of no language that can define it more clearly. If you make the appropriation in gross, you compel the Postmaster-General to disburse that and designate the lines upon which it shall go, under the existing law that regulates the pay on weight. This simply removes that restriction in the law. It takes the restriction of weight away and allows him to put on a larger car and pay for the additional space we will use and which we must have if we are going to distribute the mail. It gives the Postmaster-General no additional power; it is to remove that restriction, without which your amendment is good for nothing. Is it not a sensible proposition that our mail ought to go along our great trunk roads without asking any greater rate of speed than the cars ordinarily go? That is all that the amendment does.

Mr. MAXEY. Mr. President, both the questions so well presented by the Senator from Maine have been the subject of very serious and laborious consideration by the Committee on Post-Offices and Post-Roads. A paper which was sent to us, I believe, by the superintendent of the railway mail service threw more light upon this subject than any other that I have seen coming from any source. This is not, as the Senator from Missouri puts it, the fast-mail service at all, but it is simply for the purpose of putting on a car sixty feet in length, so arranged as to enable the mail to be distributed, *en route*, between New York and other great commercial points in the East and Chicago, Saint Louis, &c., in the West; so that when the mail reaches these last-named points it is ready distributed on the cars and is passed from the railway mail car to the trains passing west and south and thus no time is lost, instead of being distributed at Saint Louis, Chicago, and so on, as it would be without these facilities, and thus some twelve hours, according to the testimony which we had before us, was thereby saved each way, going and coming. So much then for that.

Now in regard to the appropriation for the additional mail service on new railways. The necessity of that, to my mind, is perfectly apparent. In the State of Texas alone, for example, since last year, there have been added between three hundred and five hundred miles of railway, the last calculation that I noticed was three hundred and thirty-eight miles; and work on new roads there is still going on. I will call attention—I see the Postmaster-General present—to a correspondence which took place between that officer and myself last summer. One hundred and ten miles of new railway were completed last fall, running through the town in which I live, and no arrangement had been made whereby the Postmaster-General was authorized to place the mail upon that new road, the effect of which was that a little hack went on a dirt road alongside the railroad, landing the mail at the termination of the eastern point of our road, Texarkana, about two days after the train got there. I called the attention of the Postmaster-General to that fact, and asked him if the service could not be put upon it. The Postmaster-General advised me that no appropriation had been made to secure that; and it was only through the courtesy of the railroad officers that it was done at all. Since then, by some arrangement made between the Postmaster-General and the railway officers, we have had that service. And this, I apprehend, is equally true of other new roads in Texas, made, as I have stated, within a year past; and new roads are being built or old ones extended all the time.

The last papers that I received from Texas state that the route connecting San Antonio with Galveston direct was completed. New railroads have been made and old ones extended in different parts of the State. It is a necessity in the interest of the people to make an increased appropriation for this railway mail service. Recurring to the time saved by distributing postal cars, I have to say that so far as Saint Louis and Chicago and all those large places are concerned, they are not particularly profited or benefited by placing these distributing mail cars on the roads. The Senator from Missouri, as a citizen of Saint Louis, is not interested in having a sixty-feet car put on the track, but, as a Senator from Missouri, he is interested in all that tends to benefit that portion of his State which lies west and south of Saint Louis, because the trains reach there, I think, at eight o'clock and fifty-five minutes in the morning; the mail is then transferred to the west and south-going trains, and goes right straight along, instead of being distributed at Saint Louis, for the reason that the mail is properly distributed on the cars *en route* to its destination, and it is for this reason, because our main mail from the North and East goes by Saint Louis, that the people of Texas are so interested in having these distributing cars, because by this means they get their mail about twelve hours earlier.

These are the reasons, and precisely like ones applying to other sections, which induce the Post-Office Committee to recommend these appropriations, and I am very much gratified indeed that the Com-

mittee on Appropriations saw proper to insert them. I believe them to be just, wise, and in the interest of the people.

Mr. DAVIS. Mr. President, I think it clear that the additional $600,000 should be added for mail service. The question is, how it should be used, I understand, and I ask the chairman of the Committee on Post-Offices and Post-Roads to correct me if I am wrong, that the intention of his amendment is not to put on additional trains of fast-mail lines, as they are termed, but to give additional mail facilities with the trains at present running. How? By adding, instead of a forty-five feet car, which is probably the length of the car that is now run, a sixty feet car, which will give an opportunity to distribute the mails to a greater extent than at present, as the trains pass along over the different roads, and thus prevent the delay at the terminal points for distribution.

Now, one question that is not clear in my mind is, what is meant by trunk lines—"the main trunk lines," I think, is the language? There are five or six or seven in the country, leading from the seaboard to the western rivers. I should like to see that made a little more definite. At the same time, I do not well see how this amendment can cover it. To a considerable extent it will be left to the judgment of the Postmaster-General. I ask the chairman of the Committee on Post-Offices and Post-Roads what, in his mind, is included in the main routes to the West, or the trunk lines?

Mr. HAMLIN. Mr. President, I think the Senator from West Virginia could not have been in his seat when I first addressed the Senate, because I did illustrate the necessities of this amendment and the propriety of it in relation to the fast-mail service by an illustration of what I thought were the three prominent trunk lines that would receive the attention of the Postmaster-General and everybody else, to wit: Baltimore and Ohio Railroad from New York, by way of Baltimore, to Saint Louis; the Pennsylvania Central and the New York Central Railroads. I regard those as the three prominent trunk lines, and I cannot doubt if we will give the Postmaster-General an appropriation sufficient to enable him to give us postal cars, we will certainly have them on all those lines.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maine to the amendment reported by the Committee on Appropriations.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The PRESIDENT *pro tempore*. The next amendment reported by the Committee on Appropriations will be read.

The next amendment was in line 72, to increase the appropriation for compensation to railway-post-office clerks from $1,125,000 to $1,300,000.

The amendment was agreed to.

The next amendment was in line 74, to increase the appropriation for route-agents from $945,000 to $1,050,000.

The amendment was agreed to.

The next amendment was in line 76, to increase the appropriation for mail-route-messengers from $147,000 to $153,500.

The amendment was agreed to.

The next amendment was in line 78, to increase the appropriation for local agents from $100,000 to $114,000.

The amendment was agreed to.

The next amendment was in line 80, to increase the appropriation for mail-messengers from $600,000 to $700,000.

The amendment was agreed to.

The next amendment was in line 81, to increase the appropriation for mail locks and keys from $16,000 to $18,000.

The amendment was agreed to.

The next amendment was in line 82, to increase the appropriation for mail-bags and mail-bag-catchers from $175,000 to $200,000.

The amendment was agreed to.

The next amendment was in line 85, under the heading of "Office of the Third Assistant Postmaster-General," after the word "postage-stamps," to insert:

Of official stamps, and of newspaper and periodical stamps.

And in line 87, after the word "and," to strike out "twenty-six" and insert "fifty;" so as to make the clause read:

For manufacture of adhesive postage-stamps, of official stamps, and of newspaper and periodical stamps, $150,747.

The amendment was agreed to.

The next amendment was to strike out lines 90 and 91, in the following words:

For manufacture of official stamps and of newspaper and periodical stamps, $24,000.

The amendment was agreed to.

The next amendment was in line 95, to increase the appropriation for the manufacture of stamped envelopes and newspaper-wrappers from $535,878 to $600,000.

The amendment was agreed to.

The next amendment was in line 99, to increase the appropriation for pay of agent and assistants to distribute stamped envelopes and newspaper-wrappers and expenses of agency from $12,000 to $16,300.

The amendment was agreed to.

The next amendment was in line 100, to increase the appropriation for manufacture of postal cards from $250,000 to $300,000.

The amendment was agreed to.

The next amendment was in line 108, to increase the appropriation for office envelopes and for dead-letter envelopes from $25,000 to $35,000.

The amendment was agreed to.

The next amendment was in line 109, to increase the appropriation for ship, steamboat, and way letters from $5,000 to $7,500.

The amendment was agreed to.

The next amendment was to strike out lines 113 and 114, in the following words:

For miscellaneous items in the office of the Postmaster-General, $1,500.

The amendment was agreed to.

The next amendment was in line 177, under the heading of "Office of Superintendent of Foreign Mails," to increase the appropriation for transportation of foreign mails from $230,000 to $240,000.

The amendment was agreed to.

The next amendment was after line 124, to insert the following:

For the commission appointed under the act entitled "An act making appropriations for the service of the Post-Office Department for the year ending June 30, 1877, and for other purposes," approved July 12, 1876, to continue and complete the service required of them by said act, $10,000.

Mr. HAMLIN. Mr. President, I want to add a very brief amendment to that section by inserting, after the word "act," in line 131, the following words:

And to include an examination of mail service, other than by railroad.

I offer that amendment because this commission, in making an investigation into the railroad service—I am very well satisfied that they will not do much with anything else—are already in possession of some information valuable to us, in relation to other kinds of service, and they simply want power to report it as they get it. I hope, therefore, that their powers will be enlarged to that extent.

Mr. DAVIS. I see no objection to that, except that it may continue the commission longer than the time named here.

Mr. HAMLIN. No, not an hour; not a minute.

Mr. DAVIS. With the declaration of the chairman of the Committee on Post-Offices and Post-Roads that it will not continue the existence of the commission, I see no objection to the amendment.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment reported by the Committee on Appropriations was in section 2, line 3, to increase the total appropriation for the Post-Office Department from $2,338,460 to $4,395,375.

The PRESIDENT *pro tempore*. The question is on the amendment which has just been read.

Mr. WEST. Before this amendment is disposed of changing the amount of the deficiency, I move to strike out lines 123 and 124 of the bill, and then the amount in section 2 will be changed by a reduction of that sum.

I would state that this method of appropriating money for the official postage-stamps of the Post-Office Department really amounts to nothing. It is of no benefit to them. They get no revenue from it and it only increases the aggregate of the bill without any object whatever. I would say to my colleagues on the committee, and also to one of the members of the Committee on Appropriations who served with me on the subcommittee, that I have ascertained this fact since we made this report, and the Post-Office Department are quite willing to have this matter stricken out, as it is really of no use to them, and we can thereby reduce the appropriation $750,000.

Mr. DAVIS. Reduce the deficiency, the Senator means to say.

Mr. WEST. Reduce the deficiency, I mean, of course. Therefore I move to strike out lines 123 and 124, in the following words:

For official postage-stamps for the use of the Post-Office Department, $750,000.

The amendment was agreed to.

Mr. WEST. Now, Mr. President, in lieu of the sum of $4,395,375, in lines 4, 5, and 6, of section 2, I move to insert "$3,645,375," which is the deficiency with the $750,000 off. I ask the Clerk to read the amendment as now proposed.

The CHIEF CLERK. The proposed amendment to the amendment is to strike out, in lines 4, 5, and 6, the words "$4,395,375" and insert "3,645,375; so that the section will read:

SEC. 2. That if the revenue of the Post-Office Department shall be insufficient to meet the appropriations made by this act, then the sum of $3,645,375, or so much thereof as may be necessary, be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to supply deficiencies in revenue of the Post-Office Department for the year ending June 30, 1878.

Mr. DAVIS. That is, I take it, just the difference in the total amount of the deficiency made by striking out lines 123 and 124. I ask the Senator having charge of the bill if that is so?

Mr. WEST. You strike out of the body of the appropriation $750,000, and you reduce your deficiency by precisely that amount.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. WEST. Those are all the amendments that the Committee on Appropriations propose to offer.

The PRESIDENT *pro tempore*. The bill is still open to amendment.

Mr. HAMLIN. I am directed by the Committee on Post-Offices and Post-Roads to submit the following amendment, to come in as an additional section:

That the sum of $500,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated, to continue the steamship mail service between San Francisco, Japan, and China, for one year with the Pacific Mail Steamship

Company, upon the terms specified under the act of February 17, 1865, and February 18, 1867, "for transporting a monthly mail from San Francisco, Japan, and China," at the same terms and conditions so far as applicable; and the Postmaster-General is directed to continue said service as herein provided.

Mr. DAVIS. That amendment, as the Senator from Maine has stated, comes from the Post-Office Committee. It was considered to some extent in the Committee on Appropriations, and, without saying what was the action there, I may say it was not recommended by that committee.

I believe that probably some encouragement ought to be given to this line; but I submit to the Senator who offers the amendment whether the amount is not too large. It is in effect continuing a former contract that was made when the line was established, to last ten years, I believe. I am disposed to believe that some encouragement ought to be given to this line, but I am not disposed to vote for so large an amount; and for one I shall have to oppose it if the amount remains as reported.

Mr. HAMLIN. Mr. President, if I were so disposed, I think I could occupy very considerable time in inviting the attention of the Senate to the consideration of this important question. It stretches away beyond any matter relating to postal affairs; it is connected with the commercial prosperity of the country in a very important manner. We occupy to-day the lamentable position of seeing upon the Atlantic nearly all our commerce carried in foreign bottoms, and this has been brought about through the aid which foreign governments have contributed to their own navigation interests, until they have almost literally driven our steamships from the ocean. I hope to see the time when a more liberal spirit will be manifested on our part so as to meet the action of foreign governments in a manner which the best interests of our commerce demand. There is no time, at this session, to go into a full examination of it; but for wise purposes Congress did enter into a contract with this company and agreed to pay them a certain sum of money for transporting the mails between our country and China and Japan, and that company have afloat to-day the best class of vessels to be found, I think, in any part of the world. They were all constructed for naval purposes; every one of them underwent the inspection of naval officers; and on one or two occasions a requisition has been made, when it was supposed there might be a necessity for their use, to have them in readiness. They have performed that service, and we have now a commerce between us and Asia which ought to increase annually; a commerce that comes nearer to us than to any of the European governments, and a commerce that can be made to subserve the best interests of our industries at home. It does seem to me most unwise to refuse to extend a feeble hand, a hand with a slight appropriation, to keep that commerce in the channel in which it belongs, and not allow it to be taken from us by the subsidized vessels of foreign countries. There being no time at this session in which this as a general subject could be considered, the committee deemed it wise only to recommend that the service be continued for a single year, when this, in connection with other subjects, will come up.

We had one other little line from here to Brazil; that is gone; and how are we situated there? Here are all these South American republics at our door; their commerce ought to be ours; we manufacture everything they want and of a better quality than they can get abroad. We ought to have a little sympathy with them from the very character of our institutions as assimilating to theirs; we ought to have an interest in them from our own selfish interests. We talk about a protective tariff. There is a mighty world that we might open up that would afford absolute protection to all our manufactures. That little line to Brazil I believe is no longer in existence. I am told an amendment will be offered in regard to that, and it will receive my most hearty support upon the same rule that I give to this amendment my support. That amendment was not submitted to the committee. If it had been, it would have received my favorable consideration.

It seems to me that we may now in the eye of economy, of the strictest economy, grant fair compensation for mail service; and I say to the Senator from West Virginia that while this company is running a vast number of lines—and you may divide this among them, though we do not deem it advisable to do so, and make the sum very much less for each—this sum is vastly less than would be a fair compensation for the mail service performed by them. True, you may tell me that that mail service does not replenish your Treasury. In reply I can point you to the hundreds of lines inland over the country supplying a sparse population with mails, under what is called "the star system," that do not yield a tenth part of the expense to the Government; and yet while that system affords mail facilities to a population sparsely situated, it aids in opening up and developing your country.

So in relation to this matter. While you do not receive from letters transported a sum adequate for the purpose, yet I do insist that there are other considerations which should come in, equally obligatory upon us as those which apply to what is called the star service on the non-paying routes. It is a subject prolific with thought. It is a subject in which the best interests of all the country are concerned, in my judgment.

But I have no disposition to consume the time of the Senate. I have stated very briefly the considerations which operated upon myself, and, I suppose, upon the committee which directed me to report the amendment.

Mr. BOGY. Mr. President, it was my intention some time ago to propose an amendment to the bill providing for a mail service from the city of New Orleans via different points in the West Indies, and on the coast of South America, and Rio De Janeiro in Brazil. I intended to propose an amendment providing for mail service from that city of $500,000. I think a mail service from the city of New Orleans to South America should be established. We have lost the trade of South America entirely. A letter cannot go now from the city of New York to South America without going by the way of England. The letter cannot go from the city of New Orleans to South America or to the West India Islands without going to the city of New York, and in some cases, going to England to come back to some of the West India Islands, and in every case if it is to be sent to some portion of South America; while the fact is that all the exports from this country to South America are from the valley of the Mississippi, and should find their outlet by the way of New Orleans; but, for the want of shipping facilities, those exports now are not exported, and the consequence is that South America is supplied with goods and everything else from Europe. The little republic of Argentine imports from England the amount of $6,000,000 a year, and from the United States less than $300,000 a year. I could go on citing one republic after another to which the same statement applies. The time has come when we must build up the trade of this country with that vast country there; but I have not had time to prepare my amendment. I have not had time to get the statistics, nor do I believe the Senate or the House are prepared at this time to favor a *projét* of that kind. It is nevertheless one which in time, I think, will be adopted.

Therefore I shall oppose at this time the amendment offered by the Senator from Maine to pay $500,000 for mail service from San Francisco to Japan; but if at the proper time during the next session of Congress the two items can be combined, I shall favor the amendment then if the one I have suggested meets with favor, because both are essentially necessary to this country. The trade between the west coast of Africa and China and Japan should be fostered. The trade between the valley of the Mississippi and South America should be fostered; and it cannot be fostered unless you first sustain the great facilities through which you create shipping facilities. Therefore I will object at this time to the amendment offered by the Senator from Maine; yet at the proper time I shall favor it. I think both objects are important, and both should, at a proper time, be adopted by Congress; but it requires time to mature an amendment; it requires time to get up the statistics to show the limited trade which now exists between us and that country and the vast trade which could exist under a proper system of legislation. I have no doubt myself that South America in time ought to be to the United States what the East Indies have been to England. It is a country of vast extent, of vast resources, and it will give us all its vast trade if we will take the proper steps to secure that trade. As the Senator has said, our institutions are similar, and I think are growing more similar every day. I think we are fast Mexicanizing and South Americanizing our institutions, and on this account I think there is sympathy between us and them.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maine, [Mr. HAMLIN.]

The PRESIDENT *pro tempore* put the question and declared that the ayes appeared to prevail.

Mr. BOGY. I call for a division.

Mr. HAMLIN. Let the question come up in the Senate on the amendment.

Mr. WEST. Reserve it for a special vote in the Senate.

Mr. BURNSIDE. I appeal to the Senator from Missouri to let the amendment pass without further question now.

Mr. HAMLIN. The question will come up in Senate.

Mr. COCKRELL. We will reserve it. I cannot consent to its passing finally without having the yeas and nays upon it.

The PRESIDENT *pro tempore*. The Senator can have it reserved when the bill is reported to the Senate.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. Are there any reserved amendments?

Mr. COCKRELL. Yes. I wish to have reserved the last amendment offered by the chairman of the Committee on Post-Offices and Post-Roads.

The PRESIDENT *pro tempore*. If there are no other reserved amendments, the rest, will be concurred in in gross.

The amendments were concurred in.

The PRESIDENT *pro tempore*. The question is on the reserved amendment, being the amendment offered as in Committee of the Whole by the Senator from Maine, [Mr. HAMLIN.]

Mr. COCKRELL. I ask for the yeas and nays upon that amendment.

The yeas and nays were ordered.

Mr. CHRISTIANCY. Let the amendment be read.

The PRESIDENT *pro tempore*. The Secretary will report the amendment.

The Chief Clerk read the amendment, as follows:

That the sum of $500,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to continue the steamship mail service between San Francisco, Japan, and China for one year with the Pacific Mail Steamship Company upon the terms specified under the act of February 17, 1865, and February 18, 1867, for transporting a monthly mail from San Francisco, Japan, and China, at the

same terms and conditions, so far as applicable; and the Postmaster-General is directed to continue such service as herein provided.

Mr. INGALLS. I desire to vote understandingly upon this subject, and am not able at present with the information before the Senate to say whether I oppose the amendment or whether I favor it. I should like to have some information either from the chairman of the committee or from the Senator who proposed the amendment as to whether this is a new proposition or whether it is merely to carry out an existing contract?

Mr. BURNSIDE. It is a continuation of the old arrangement.

Mr. WEST. That is all.

Mr. BURNSIDE. I merely rose to say to the Senator from Kansas that this contract is a continuation of the old arrangement and provides for entering into a further and a new arrangement. I agree entirely with what the Senator from Missouri says on this subject, and shall vote for any amendment the Senator from Missouri may offer covering the point he has spoken of. I know of my own knowledge that the English people are driving our ships off the seas as rapidly as possible. They have even subsidized a line around the Cape for the trade of the west coast of South America, with a view of preventing that trade from coming across the Isthmus and attracting the attention of the people of the Mississippi Valley and the manufacturers of our country. They are doing everything under the sun they can to drive our steamship lines from the seas, and I shall vote cheerfully for any fair amendment which the Senator from Missouri may offer with a view to subsidizing lines that will get back to us the trade of South America, which I believe really belongs to us.

I see no reason why this amendment should not pass and why we should not continue this temporary subsidy, if you can call it a subsidy. It is simply a payment for carrying the mails, and, I think, not a large payment. Senators desire to see lines established in which their sections of the country are particularly interested, and I trust that, as this is a matter of interest to the whole country, and not to any one section merely, it will meet with favor on all sides.

Mr. DAWES. I may be mistaken about the matter, but I think we had a contract with the Pacific Mail to carry the mails to Japan and China which extended by its terms for ten years, for which we were to pay $500,000 a year for the whole service. That expires, I believe, with the expiration of this fiscal year.

Mr. WEST. No, it expired the 1st of January last.

Mr. DAWES. The whole purpose of the amendment, as I understand it, is to extend the contract one year—that is all—so that the whole service may not fall during any subsequent or different arrangement that it would be proper to enter into on the part of the Department and any service that it would be wise to contract for doing. The argument, as presented by the Senator from Maine, in favor of the extension of this contract for one year is that it is a temporary matter, leaving it open for the Department without a pressure of important necessity and without acting upon limited information to make a contract, so that they would not, as otherwise, be driven into making a contract under pressure, but may go on, as in the past, and complete a more permanent arrangement either with this line or some other line. I think that is the object of the amendment.

Mr. INGALLS. I have a very indistinct recollection that on some previous occasion the subject of the Pacific mail subsidy was before the Senate, and if I recollect correctly upon some reason, at that time adjudged to be sufficient, the contract that had been made with that company was abrogated. As this is confessedly a subject of very great importance and has for a long time engaged the attention of the people and Congress, it seems a little remarkable to me that this amendment should be reported by a member of the committee as an amendment to the bill after the main bill had itself been under consideration and reported with sundry other amendments.

Mr. HAMLIN. It came from the Committee on Post-Offices and Post-Roads.

Mr. INGALLS. The amendment is merely to carry out an existing contract, it is true, but it is an attempt to re-institute or re-inaugurate a contract that for sufficient reason has hitherto been abrogated. It seems to me that it requires some explanation before the Senate should be called to vote upon it.

Mr. DAWES. I do not pretend to be absolutely accurate in my statement, but I do not understand that the contract has been abrogated for any cause. I understand that it expired under its own limitation and was completed. I think that is the fact.

Mr. INGALLS. Let me ask the Senator if the Senate has not on a previous occasion, then, if those are the facts, declined to recognize the contract anew?

Mr. DAWES. The Senator from Louisiana has risen to answer the Senator from Kansas.

Mr. WEST. The confusion in the mind of the Senator from Kansas on this subject arises from the fact that there were two contracts, one, the original contract, for a monthly mail, passed in 1865 and completed in 1867, expiring on the 1st day of January, 1877. During the existence of that contract another contract was awarded by an act of Congress providing for a semi-monthly mail. Under circumstances that are well known to the Senate and to the community the semi-monthly contract was abrogated. The original contract of monthly service lapsed and expired on the 1st day of January, 1877, leaving us with no arrangement with any ocean-mail steamship company to carry our mails from San Francisco to China and Japan.

Mr. INGALLS. Does not this bill provide for the expenses of carrying the mails commencing with the fiscal year that begins July 1, 1877?

Mr. WEST. The bill does that, but the specific amendment provides for the continuation of the old monthly contract and paying no consideration of course, as there should not be any consideration paid, to the abrogation of the semi-monthly contract. It extends the monthly contract for the term of one year until, as the Senator from Massachusetts has correctly said, the Department and Congress can have power to make ample and necessary arrangements.

Mr. DAVIS. That is true; but the Senator well knows that the mail would be carried as all other mails are carried upon the ocean without any arrangement in the bill. In other words, if this amendment should fail, it would not necessarily prevent mails from being carried there as they always have been. It is true the compensation of this line is very limited, and probably they ought to have some encouragement from Congress, but at the same time it does not prevent the mails from being carried as usual, and they may have the same compensation that all other vessels obtain in carrying the mail.

Mr. WEST. In reply to what the Senator has stated I will say that as long as an American line of steamers run between San Francisco and Japan they will be compelled under the statutes of the United States to carry the mails for what is called sea passage, because if the Senator will refer to the Revised Statutes, I cannot remember exactly the section, no American vessel can clear unless the captain certifies to the fact under oath that he is carrying with him such United States mails as may have been offered to him. But is it not possible that we may be left in the same predicament that we have been left in by the Brazil line, and should that occur we have no other line and no other method of communicating with that country. There is another line of steamships, but that is a British line, and once you sacrifice your American line the British line can command its own terms and drive you all around the world to communicate with the trade of China.

Mr. COOPER. Is there not another line of American vessels?

Mr. WEST. No, sir; there is a line of British steamships under an American organization, but very adroitly brought into competition with our American line.

Mr. CHRISTIANCY. I wish to make a suggestion, or rather an inquiry. I wish to know why it becomes necessary here to designate any particular ship or line of ships by which the mail is to be transported, and why the appropriation would not be equally effective without that designation, leaving it to the Postmaster-General to avail himself of such lines as he finds the cheapest and best for the public interest.

The PRESIDENT *pro tempore*. The question is on the amendment made as in Committee of the Whole, on which the yeas and nays have been ordered.

Mr. BOGY. I desire to offer an amendment to the amendment, if in order.

The PRESIDENT *pro tempore*. The Chair will receive it.

Mr. BOGY. As it was written in a very great hurry I will read it myself. I move to add:

That the sum of $500.000 be, and is hereby, appropriated for a monthly mail service from New Orleans to Rio Janeiro; and the Postmaster-General be, and he is hereby, authorized to enter into a contract for this purpose with any party or parties to carry such mails by American built and owned vessels of not less than two thousand tons burden, and of approved construction. and seaworthy.

Mr. WEST. I suggest to the Senator to add after "$500,000" the words "or so much thereof as may be necessary."

Mr. BOGY. Very well.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

Mr. SARGENT. My recollection is that when the Brazilian mail service was begun the contract with the Government of the United States was about one-fifth of the amount named in the amendment. I may be in error, however. I should like to say with reference to the Chinese service that some time since I submitted an amendment providing that in this contract not more than one Chinaman to fifteen registered tons should be transported upon these vessels. I was moved thereto because of my firm belief that the evils inflicted upon the Pacific coast arising from the unlimited influx of the Chinese are greater than any benefits which arise to that coast from our commerce with China. I am still of that opinion, but I think the effect of the adoption of my amendment, provided the provision as amended should be retained in the bill, would be to turn over the business of carrying Chinese to the English ships and that the evil would not be remedied at all, and consequently that no real good would be attained. In order to reach the evil which I had in view, it is necessary that there should be a general change of the law applying to all vessels landing that class of passengers, immigrants, coolies, or whatever they may be designated, upon our shores. I think there is no opportunity to procure legislation as extensive as the subject demands at this session, and the amendment which I proposed would not really I think, on reflection, accomplish my object. Therefore I shall not move it in the Senate.

I understand the proposition which comes from the Post-Office Committee is to continue the contract with the Pacific Mail Steamship Company for one year longer, upon the same terms that they have done that service for nine years past. I shall give my vote for

that proposition, although I have some doubts with reference to it. I realize the fact that it is necessary to have strong steamship lines in order to protect our commerce. They are the pioneers of commerce. By means of subsidy of this character England has carried her trade and her flag to all parts of the world. She is far more liberal in this respect than it is proposed by the amendment the United States Government shall be. The beneficial results have been seen in making the little island of England rich beyond computation, far surpassing for its area any other country on earth. I believe one of the great causes contributing to this result is the wide commerce of England, and one of the means by which that commerce has been attained has been by this system of subsidy to steamship lines from which other commerce grows up.

We have now to a very great extent, by means of this policy pursued by the Government, control of the commerce of the Pacific Ocean. The Atlantic is an English or European mill-pond, and nothing more. We scarcely venture out upon it with our own American lines. The case, however, is reversed in regard to the Pacific, and there the enterprise of our people, aided in this manner by our Government, has been able to seize upon the prominent lines of communication, and commerce is extended there on every hand. We have nearly as much control of the Pacific as England or any European power has of the Atlantic. The statistics show that there has been an increase of duties paid into the Treasury of the United States on account of the commerce built up by the Chinese mail line greater by a million and a half of dollars than the amount of subsidy which has been paid out by the Government to aid in maintaining that line. The Government has made money by it. I believe it would be wise policy for the Government to continue to do so, even if it did not make anything out of it, even if it should be out of pocket by the operation. There is a return to the tax-payers of the Government many fold the loss of the Government in this direction.

For these reasons influencing my mind I shall vote for the amendment.

Mr. MORRILL. Mr. President, I do not know that I shall propose any amendment to this proposition, but it seems to me that subsidies are started for the purpose of building up commerce. I know on the face of it the appropriation is for carrying the mails, but the real purpose is the building up commerce. If this mail-route has cost five millions for the past ten years, it appears to me that the line ought to have reached a condition so healthy as to do the work for something less; and yet it is proposed that we shall pay the precise sum now that we paid ten years ago.

The Senator from California admits that the trade has largely increased. He claims that the Treasury of the United States has benefited by this subsidy by receiving a million and a half where we paid out but half a million. I do not quite so understand it. I suppose that that portion of the trade of China and Japan and the Indies has been transferred to the Pacific from the Atlantic and there has been a consequent diminution of the receipts on the Atlantic. To all this I do not object, but I should like to know for a certainty whether this service cannot be as well and faithfully performed for $300,000 as for $500,000. I have understood that there are other lines offering to carry the mail for the postage. I hardly think it would be fair for us to abandon a line which has built up large, fine steamships and confine them to nothing but the mere postage, and yet it does appear to me that after we have paid this large bonus as a subsidy for ten years the line ought to be able to get along with something less.

Mr. SARGENT. Unless I am in error, there has been no diminution whatever in the receipts of the custom-house upon the Atlantic side. There has been no apparent diminution of business in that direction, but rather an increase, while the gain at the port of San Francisco alone has been a million and a half of dollars more than the amount paid out to this line under this contract for carrying the mails.

Mr. MORRILL. But the Senator will see at once that the trade which goes overland by railroad is of necessity that trade which would have come the other way if it were not for this line.

Mr. SARGENT. I do not know that I concede that to be the case at all. Under the operation of this subsidy, for instance, teas have been very much cheapened. Every one knows that a cheaper article goes more largely into consumption, and that business grows up on account of the greater demand for articles of consumption. A good article of tea ten years ago was worth a dollar and a half and a dollar and seventy-five cents a pound, whereas now it is worth from eighty cents to a dollar a pound, on account of the facilities for getting it.

Mr. BOGY. Ten years ago we got no tea from Japan.

Mr. SARGENT. Ten years ago we got no Japan tea at all, and now we get it in large quantities. This line has developed business and made the articles of Asiatic production which go into consumption cheaper to the people who consume them; and the articles are necessaries of life.

Mr. MORRILL. As the Senator from California expressed some doubt why he proposed to vote for this proposition, I should like to ask him if he does not think that $300,000 would be ample compensation for the services to be rendered hereafter?

Mr. SARGENT. My doubt did not arise on account of the amount. The amount is about one-fourth that which England appropriated for the same purpose. I think the $500,000 which we have given all along is rather a starving amount. My doubt arose from another cause entirely, in which I know the Senator would not sympathize with me at all. I alluded, in speaking of the amendment, to the amendment which I proposed in regard to the conveyance of the Chinese. The Senator is remote from that question at present, at any rate, and I hope that his State always will be remote from it; but it presses upon us of the Pacific with terrible force, for reasons which I have elaborately given heretofore. My doubt sprang from the consideration whether we should not restrict the facilities for landing upon our shores the untold millions of Asia, who do not assimilate with our people, who have no love for our institutions, who do not come here to make a home, who impoverish our working-classes, and bring with them the traditional diseases and vices of paganism. Those are the matters upon which I have doubt, but the application of a restriction upon this line would not prevent these consequences occurring; for if such an amendment were placed upon this bill it would still leave the British ships to bring over Chinese in unlimited quantities and make a profitable trade for them in that direction. I see no object in doing that, although I did at the time I proposed the amendment and had it printed. I see no object in it now, because if they are to come they might as well come by means of one conveyance as another.

Mr. HAMLIN. Mr. President, I wish to say that this same company is now running a line from San Francisco to the Isthmus and another line from San Francisco I think up to the British possessions. The proposition as first presented to the Committee on Post-Offices and Post-Roads was to apply this sum for all foreign service, but there were no lines competing with them. There was no time for a general consideration of the subject, and the committee deemed it advisable simply to continue this contract for one year. Now, if you were to divide it among the three routes it would be a mere pittance indeed; but as there was no time to make any equitable adjustment, and for the fear that we would lose the service entirely and in the end our commerce upon the Pacific would be in that deplorable condition which we witness upon the Atlantic, where nine-tenths of it is done in foreign bottoms, we thought it wise to extend this contract for one year, and in the mean time to make such arrangements as should be wise and proper.

In relation to the amendment submitted by the Senator from Missouri to my amendment I want to say that I am for it, but it ought to have been a little more carefully prepared. I have had no time to look into the statutes; but when the contract with the Pacific Mail was entered into we had stipulations in the contract as to what the company should do. I have hastily drawn an addition to the Senator's amendment which will cover it, though probably not in as good terms as are employed in the statute. I will send it to the Chair, that the Senator may hear it read, and, if it meets his approval, that he may adopt it as part of his amendment to the amendment.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. It is proposed by Mr. BOGY to insert at the end of the pending amendment the following:

And that the sum of $500,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated for a monthly mail service from New Orleans to Rio Janeiro; and the Postmaster-General be, and he is hereby, authorized to enter into a contract for this purpose with any party or parties to carry said mails in American built and owned vessels and of not less than two thousand tons burden, and of approved construction and seaworthy.

The amendment suggested by Mr. HAMLIN is to add to the amendment to the amendment the following:

Said steamships shall be built under the direction and inspection of some naval officer to be designated by the Secretary of the Navy; and the said steamships shall at all times be subject to the use of the Government when demanded at reasonable rates of charter-party therefor.

Mr. BOGY. I accept the amendment.

The PRESIDENT *pro tempore*. The amendment is accepted, and the question is on the amendment to the amendment as modified.

Mr. WEST. I suggest to the Senator from Maine that he extend the qualification of the ships so that ships already constructed may be used. The words are "shall be built."

Mr. HAMLIN. I will say "built or accepted." If they have got them already built it is just as well.

Mr. BOGY. Very well.

The PRESIDENT *pro tempore*. That modification will be made.

Mr. INGALLS. Mr. President, there ought not to be fish made of one and flesh of another. Either the words "or so much thereof as may be necessary" ought to be stricken out of the amendment proposed by the Senator from Missouri [Mr. BOGY] to the amendment offered by the Senator from Maine [Mr. HAMLIN] or the same words should be inserted in the amendment proposed by the Post-Office Committee with regard to the service between San Francisco and Japan. As that amendment now reads there is an absolute appropriation of $500,000 for that specific service to a particular line of steamships. The amendment proposed to the amendment offered by the Senator from Maine provides "that $500,000, or so much thereof as may be necessary, "shall be appropriated for the steamship service between New Orleans and Rio Janeiro. Therefore I suggest that what is sauce for one should be sauce for the other, and if we are to have a specific appropriation of $500,000 for the Pacific mail service there should be $500,000 specifically appropriated for that service from the mouth of the Mississippi River to Brazil.

Mr. HAMLIN. The Senator will see the difference. In the one case it is to extend an existing service that had its existence upon

the terms and conditions stipulated in the contract, and it is proposed to inaugurate another service upon the same terms and conditions; while in the other case it is a new service, a new contract.

Mr. INGALLS. But if the Senator from Maine will permit me, the contract under which the Pacific mail steamship service has heretofore been performed has expired.

Mr. HAMLIN. Precisely.

Mr. INGALLS. That is not, then, a continuation of an old contract, but it is the institution of a new contract. Now it appears to me that if we are to make subsidies or to appropriate moneys for the transportation of the mails, it ought to be done at the least possible expense. If we are to appropriate a specific sum irrespective of the value of the service to be performed for the transportation of the mails from San Francisco to Japan, it is just as proper that we should appropriate the same sum for similar service from New Orleans to Brazil.

Mr. HAMLIN. I understand the Senator to wish to strike out the words "or so much thereof as may be necessary" in the amendment to the amendment.

Mr. INGALLS. Yes, sir.

Mr. SPENCER. I should like to inquire if an amendment is now in order.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made in Committee of the Whole, to which an amendment has been offered by the Senator from Missouri, [Mr. BOGY.] That being in the second degree, another amendment is not in order until the amendment to the amendment is disposed of.

Mr. INGALLS. What is the pending question?

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Missouri. He having accepted the modification made by the Senator from Maine, it becomes his amendment. It will be reported as modified.

The Chief Clerk read the amendment to the amendment as modified.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question recurs on the amendment made as in Committee of the Whole as amended, on which the yeas and nays have been ordered.

Mr. SPENCER. I move to strike out the words "Pacific Mail Steamship Company" wherever they occur in the amendment, and also in regard to the line between New Orleans and Brazil, if that is named, wherever it occurs, and insert "the Postmaster-General shall let to the lowest bidder."

Mr. INGALLS. If the Senator from Alabama will allow me, I will state to him that I have prepared an amendment in the way of a substitute to the amendment offered by the Senator from Maine, which, I believe, will meet his views; it certainly expresses my own. I propose to amend so that it shall read:

That the sum of $500,000, or so much thereof as may be necessary, is hereby appropriated to carry the mails between the United States and China and Japan upon the best attainable terms for monthly service, the same to be let as provided by law, to be carried in American built and owned vessels of not less than two thousand tons burden.

Mr. SPENCER. I withdraw my amendment in favor of the amendment of the Senator from Kansas.

Mr. WEST. There is no objection to that amendment.

Mr. DAVIS. The Senator from Kansas will allow me to suggest that he had better fix some limit and say that the appropriation shall not exceed a certain amount.

Mr. INGALLS. I say "$500,000, or so much thereof as may be necessary."

Mr. DAVIS. For the two lines or for each case?

Mr. INGALLS. For the transportation of the mails between San Francisco, China, and Japan.

Mr. PADDOCK. I suggest to the Senator from Kansas that I understand this line carries the mail to the ports of other countries than those named in his amendment; for instance, to Australia.

Mr. DAVIS. The same line takes the mail also to Oregon, up the Columbia River, I believe, and to other places. The amendment ought to include all, if any.

The PRESIDENT *pro tempore*. The Secretary will report the amendment submitted by the Senator from Kansas, [Mr. INGALLS.]

The CHIEF CLERK. It is proposed to strike out that portion of the amendment relating to the Pacific mail between China and Japan and San Francisco and insert:

That the sum of $500,000, or so much thereof as may be necessary, is hereby appropriated to carry the mails between the United States and China and Japan upon the best attainable terms for monthly service, the same to be let as provided by law, to be carried in American built and owned vessels of not less than two thousand tons burden.

Mr. DAWES. I do not desire to oppose the substitute just offered, but I desire to inquire of the Senator from Kansas if there is an existing law to authorize the letting?

Mr. INGALLS. I think there is.

Mr. SARGENT. I think the Senator is in error in that. The only existing law I know of is the one authorizing the contract to be made with the Pacific Mail Steamship Company.

Mr. DAWES. That contract has expired, and that led me to make the inquiry.

Mr. SARGENT. That is the only existing law. There is no general law to which this amendment could attach, in my judgment.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas [Mr. INGALLS] to the amendment made as in Committee of the Whole as amended.

Mr. HAMLIN. I think the amendment of the Senator from Kansas needs a little amendment, and then I shall not be opposed to it. I think the law is defective, or in other words, I think there is no existing statute under which the Postmaster-General could make such a contract. If the Senator will add the words "and that the Postmaster-General be authorized to make said contract," so that the amendment shall contain the power to do that, I will not object to it.

Mr. INGALLS. The object desired by the Senator from Maine can very readily be obtained by striking out the words "the same to be let as may be provided by law;" so as to read:

That the sum of $500,000, or so much thereof as may be necessary, is hereby appropriated to carry the mails between the United States and China and Japan, upon the best attainable terms for monthly service, to be carried in American built and owned vessels of not less than two thousand tons burden.

However, if the Senator from Maine desires to incorporate his suggestion in additional language, I certainly shall have no objection.

Mr. HAMLIN. I suggest to strike out the words "the same to be let as provided by law," and insert the words:

And the Postmaster-General be, and he is hereby, authorized to contract for such service.

The PRESIDENT *pro tempore*. Does the Senator from Kansas accept the amendment?

Mr. INGALLS. Yes, sir. I do not know what it is, but I accept it.

Mr. HAMLIN. It is to authorize in terms the Postmaster-General to make the contract provided for.

Mr. MERRIMON. That is legislation.

The PRESIDENT *pro tempore*. The Secretary will report the amendment as modified.

The Chief Clerk read as follows:

That the sum of $500,000, or so much thereof as may be necessary, is hereby appropriated to carry the mail between the United States and China and Japan, upon the best attainable terms for monthly service; and the Postmaster-General is hereby authorized to contract for such service, to be carried in American built and owned vessels of not less than two thousand tons burden.

The PRESIDENT *pro tempore*. The question is on the amendment as modified to the amendment made as in Committee of the Whole as amended.

Mr. DAVIS. If the amendment to the amendment should be adopted, would it still be in order to amend the amendment?

The PRESIDENT *pro tempore*. It would be in order to strike out and add. The yeas and nays have been ordered on the amendment made as in Committee of the Whole as modified.

Mr. MERRIMON. I submit whether the proposed amendment is not in fact a violation of the rule which provides that no general legislation shall be incorporated into an appropriation bill.

The PRESIDENT *pro tempore*. It does not change the amount agreed to in committee.

Mr. MERRIMON. It provides, however, in fact that there shall be a mail carried between San Francisco and China and Japan. There is no existing law which provides for it, and without this provision the mail could not be carried under specific contract.

Mr. HAMLIN. I suggest that the amendment has been offered and acted upon in the Senate and the time has passed when the question could be raised, if it were a question to be raised.

The PRESIDENT *pro tempore*. The Chair was about to state that in Committee of the Whole the Senate agreed to a certain amount and like service embraced in the amendment proposed by the Senator from Kansas. Therefore, it is not a new proposition. The amount is not increased, nor is the nature of the service changed. The point of order was not made in Committee of the Whole, and it is too late to make it now.

Mr. MERRIMON. I submit whether the point of order cannot be raised at any time whenever the Senate wishes.

The PRESIDENT *pro tempore*. Under the new rule as to the question of relevancy the Chair will submit to the Senate whether the amendment to the amendment is relevant under the rule. [Putting the question.] The ayes have it, and the Senate decides that the amendment to the amendment is relevant. The question is on the amendment proposed by the Senator from Kansas [Mr. INGALLS] to the amendment made as in Committee of the Whole as modified.

Mr. DAVIS. I move to strike out $500,000 and insert $300,000.

The PRESIDENT *pro tempore*. The amendment to the amendment is in the second degree. The Chair cannot entertain the amendment of the Senator from West Virginia.

Mr. HAMLIN. Let me suggest to my friend from West Virginia that such an amendment is unnecessary, it seems to me, because the amendment only calls for so much of the sum as shall be found to be necessary.

Mr. DAVIS. Still it is the difference of limit between $300,000 and $500,000, and I want to fix the limit definitely. If the amendment is not in order now, I ask if it would be in order if the pending amendment should be adopted.

Mr. HAMLIN. No.

The PRESIDENT *pro tempore*. It would not unless the Senator should move to strike out and insert. If the Senate adopts the amendment it will remain as it is.

Mr. DAVIS. I move to strike out $500,000 and insert $300,000.

The PRESIDENT *pro tempore*. The Chair cannot now entertain another amendment, because the amendment of the gentleman from Kansas [Mr. INGALLS] is now in the second degree.

Mr. DAVIS. Do I understand that there is no way of reaching the object I desire?

Mr. CLAYTON. Vote down the amendment proposing $500,000.

Mr. DAVIS. With great deference to the Chair I think probably on reflection he will see that to strike out and insert would be in order either now or if the amendment should be adopted or rejected.

The PRESIDENT *pro tempore*. What point of order does the Senator make?

Mr. DAVIS. I raise the point for the Chair to rule upon whether my motion to reduce the maximum amount from $500,000 to $300,000 would not be in order.

The PRESIDENT *pro tempore*. The Chair cannot entertain the amendment. If the Senator should move to strike out the whole paragraph, it would then stand as a simple proposition; under what is known as the Carpenter rule it would be a proposition by itself, but to simply move to strike out $500,000 and insert $300,000 would be an amendment in the third degree, and could not be entertained.

Mr. DAVIS. Then I ask the Chair, if the amendment should be adopted, whether an amendment would be in order to strike out "$500,000" and insert "$300,000."

The PRESIDENT *pro tempore*. If the Senator should move to strike out a portion of what has been adopted and insert a little different language which would be different from what had been adopted, the Chair could entertain it.

Mr. HAMLIN. I beg the Chair to pause a moment. When the Senate have adopted an amendment in certain words and it becomes the judgment of the Senate, they cannot change it.

The PRESIDENT *pro tempore*. The Chair states that after the Senate have adopted it, if the Senator should move to strike out and insert other words, the Chair must entertain it. The rule says that when a motion is rejected to strike out and insert, a motion to strike out and insert other words can be entertained.

Mr. HAMLIN. Precisely; but when the Senate have agreed to an amendment inserting words, it stands in the judgment of the Senate and you must reconsider the vote to change it, and that is a rule as old as parliamentary law itself.

The PRESIDENT *pro tempore*. So it does. The Chair and the Senator from Maine do not disagree. The ruling of the Chair is that after this amendment has been adopted, if the Senator from West Virginia should move to strike out a portion of these words and insert other words, the Chair must entertain the motion.

Mr. HAMLIN. Then the Chair and the Senator from Maine do disagree most thoroughly.

Mr. INGALLS. Is it the understanding of the Chair that after this amendment shall be agreed to it is then beyond the power of the Senate to modify it?

The PRESIDENT *pro tempore*. It is not. The Chair has not so ruled.

Mr. INGALLS. I misunderstood the Chair.

Mr. McDONALD. If the motion to strike out and insert is divisible I ask that the question be first taken on the motion to strike out.

The PRESIDENT *pro tempore*. On the amendment of the Senator from Kansas to strike out the amendment of the Senator from Maine and insert what he has proposed?

Mr. McDONALD. Yes, sir.

The PRESIDENT *pro tempore*. The Chair cannot divide that question. If that is the suggestion of the Senator from Indiana the Chair cannot entertain it. A motion to strike out and insert is indivisible. The question is on the amendment of the Senator from Kansas to the amendment to strike out and insert what has been read.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question recurs on the amendment made as in Committee of the Whole as amended, on which the yeas and nays have been ordered.

Mr. DAVIS. Now I move to strike out $500,000 and insert $300,000 in the amendment that has just been voted upon.

The PRESIDENT *pro tempore*. The Chair cannot entertain that. If the Senator moves to strike out "five" and insert eight, it is an increase of the amount and may be entertained. The greater includes the less.

Mr. HAMLIN. Mr. President, I am going to raise no question of order here, but ask the Senate to vote down the motion. The amendment now stands at "$500,000, or so much thereof as may be necessary." If there can be a contract made with the American line for any sum less, it can be done under this provision. It may be that it can be done for $400,000 and cannot for $300,000. I hope the Senator from West Virginia will not insist on his amendment, though it is one out of order from beginning to end.

Mr. DAVIS. My object, of course, can be reached by voting against the amendment, which is now to be voted on as a whole, as I understand it. I understood the Chair, when I made the inquiry of him whether or not the amendment could be amended after having been adopted by the Senate, to answer in the affirmative. Now I understand the Chair to say that if it is moved to increase the amount it can be done, but not if it is to diminish it. Am I correct in that?

The PRESIDENT *pro tempore*. The Chair has before stated precisely that if the Senator moved to strike out and insert other words in the amendment besides those already agreed to, the Chair could entertain it; but the Senator must understand that the agreement of $500,000 would include $300,000, as the greater includes the less. That is the parliamentary usage. If the Senator had moved to strike out and insert different language the Chair would have entertained the motion.

Mr. DAVIS. I have no wish except as to the amount. As to the ruling of the Chair, I believe it is correct in this instance. But, Mr. President, there are now two subjects presented here, one relating to the mail service from New Orleans and the other to the mail service from the Pacific coast. There are perhaps Senators who desire to vote for the one and against the other. Now can that be done or not under the ruling of the Chair? In other words, can a Senator move to have the vote taken on the two propositions separately, or can an amendment be offered to strike out the proposition relating to the Pacific mail?

The PRESIDENT *pro tempore*. If the Senator asks for a division of the two propositions, the Chair will entertain that.

Mr. DAVIS. Yes sir; I do.

The PRESIDENT *pro tempore*. The amendment contains two ideas. The Senator did not before ask for a division of the question.

Mr. DAVIS. I asked the Chair if it be in order. I do ask for a division of the question. I do not wish to consume the time of the Senate; I only ask that the Senate divide the propositions.

Mr. BOGY. I hope there will be no division of this question. If it be necessary to establish a line from San Francisco to Japan, it is surely as necessary to have a line from New Orleans to South America.

The PRESIDENT *pro tempore*. Does the Senator from West Virginia insist on a division?

Mr. DAVIS. No, sir; I withdraw it.

The PRESIDENT *pro tempore*. The question then is on concurring in the amendment as amended, on which the yeas and nays have been ordered.

Mr. COCKRELL. I do not think that the yeas and nays were ordered upon that.

The PRESIDENT *pro tempore*. They were ordered some time ago.

Mr. WEST. But the call was withdrawn, I think.

The PRESIDENT *pro tempore*. Is the call insisted upon?

Mr. BAILEY. Yes, sir; I insist upon it.

The PRESIDENT *pro tempore*. The Senator from Tennessee insists on the yeas and nays being taken. The Secretary will call the roll.

The question being taken by yeas and nays, resulted—yeas 27, nays 18; as follows:

YEAS—Messrs. Allison, Barnum, Bogy, Booth, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conover, Cragin, Dawes, Dennis, Ferry, Goldthwaite, Hamlin, Ingalls, Johnston, Kernan, McMillan, Morrill, Paddock, Patterson, Sargent, West, Windom, and Withers—27.

NAYS—Messrs. Alcorn, Bailey, Clayton, Cooper, Davis, Hereford, Hitchcock, McCreery, McDonald, Maxey, Merrimon, Randolph, Ransom, Robertson, Sherman, Spencer, Teller, and Wright—18.

ABSENT—Messrs. Anthony, Bayard, Blaine, Boutwell, Bruce, Cockrell, Conkling, Dorsey, Eaton, Edmunds, Frelinghuysen, Gordon, Hamilton, Harvey, Howe, Jones of Florida, Jones of Nevada, Kelly, Logan, Mitchell, Morton, Norwood, Oglesby, Saulsbury, Sharon, Stevenson, Thurman, Wadleigh, Wallace, and Whyte—30.

So the amendment was agreed to.

The PRESIDENT *pro tempore*. The bill is still open to amendment.

Mr. WEST. I know of no further amendments to be offered.

The bill was ordered to a third reading, read the third time, and passed.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WINDOM. Mr. President, I move that the Senate proceed to the consideration of the bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes.

The motion was agreed to.

Mr. McDONALD. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Minnesota yield to the Senator from Indiana?

Mr. WINDOM. Mr. President, I am extremely anxious to yield to my good-natured friend from Indiana, but I dare not do it.

Mr. McDONALD. It will take but a minute.

Mr. WINDOM. The Senator says that the bill which he proposes to take up will occupy only a minute. If there is no obection from anybody else, I am willing to yield to him for a minute.

I give notice that I cannot yield any further.

J. E. ROBERTSON & CO.

Mr. McDONALD. I ask consent of the Senate now to proceed to the consideration of the bill (H. R. No. 901) for the relief of J. E. Robertson & Co., of Indianapolis, Indiana.

The PRESIDENT *pro tempore*. Is there objection to proceeding to the consideration of the bill named by the Senator from Indiana? The Chair hears none, and the bill is before the Senate as in Committee of the Whole.

The bill was read. It directs the payment to J. E. Robertson & Co., of Indianapolis, Indiana, of $432.96, or so much thereof as they shall prove to the satisfaction of the Commissioner of Internal Revenue that they have expended in the purchase of revenue-stamps used by them to stamp manufactured tobacco, upon which a tax had been previously paid under the revenue in force at the time of its manu-

facture and sale, but which was made liable to be stamped under the act of July 20, 1868, thus requiring a double tax on the same tobacco.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes.

Mr. WINDOM. I give notice that I cannot yield any further until this bill is disposed of.

The PRESIDNET *pro tempore*. The bill will be read and the amendments will be considered as they are reached in the reading.

Mr. WINDOM. Mr. President, I think I may facilitate the passage of this bill by explaining, in about three minutes, its general provisions. The amount of the bill as it passed the House was $14,979,345.50. The amount as reported by the Senate committee is $16,737,895.89. The increase as made by the Senate committee is $1,758,550.39. The amount of the bill for 1876–'77, the current year, is $15,717,933.30. So that the aggregate of this bill is greater than the appropriations for the current year by $1,019,962.59, and I will very briefly explain wherein this increase consists. Before doing so, however, let me state that the Committee on Appropriations, finding several hundred amendments, adopted a general principle which governs throughout the bill.

There are a great many changes of salaries, the old question which was fought over for two months during the last session of Congress. The Committee on Appropriations have simply reinstated the salaries in every case at what they are the current year; that is, they have taken the compromise measures, so to speak, of last summer as their guide. We have not in a single instance increased a salary over the amount which was fixed by the conferences of last summer. That general principle covers a very large number of the amendments in the bill. As a general rule, the committee have not increased the number of employés; but there are a few exceptions to that rule, to which I will call attention very briefly.

In the Senate, there is an increase of three laborers in the Engineers' Department, there being none during last summer to carry on the work of repairing the heating, ventilating apparatus, &c. In the State Department there has been no increase, but a slight change. There is an increase of two firemen and a reduction of ten charwomen, making a slight saving to the Government. In the Treasury Department, Secretary's Office, there is an increase of eight laborers, for which we have the recommendations of the Department showing that it is absolutely necessary. I will explain them more fully when we reach that point, if it is desired. In the Third Auditor's Office, there is an increase of three laborers. In the Sixth Auditor's Office, there is a considerable increase of the clerical force. Senators will remember that the Sixth Auditor settles all the accounts of the Post-Office Department. We are informed by the Postmaster-General and by the Sixth Auditor that there are some four hundred applications for money-order offices which are refused because there is not sufficient clerical force in the Sixth Auditor's office to settle their accounts; that there will be from one hundred to two hundred more applications during the next year for money-order offices that must be denied unless this increase be given. The money-order offices pay their own way and a small profit to the Government, so that this increase in the Sixth Auditor's Office for that and other purposes connected with the office is not really a charge upon the Government. The increase there is of three clerks of class four, four clerks of class three, nine clerks of class two, and two at $1,000. There is a reduction of three clerks of class one.

In the Treasurer's Office we have made some changes; that is, we have reduced eighteen counters and added some clerks over last year. The reduction in the cost to the Government by these changes is about $3,000. So that I presume that will not be challenged. In the Treasurer's Office, Bureau for the Redemption of National Currency, we have increased the force by two clerks of class four, two clerks of class three, and five clerks of class one. The expense of the Redemption Bureau is paid for by the banks of the country, who send their money there under the law for redemption. It was conclusively shown to the Committee on Appropriations that there is not enough clerical force to do the business, that the banks complain, and as they pay the expense, and not the Government, it is but fair that they have force enough to do the work promptly.

For the Register of the Treasury there is a slight increase of one clerk and one charwoman and a reduction of nine copyists, so that there is an absolute saving of money there.

In the Patent Office there is no change that adds any considerable sum. The reduction there is greater than the increase. In the Post-Office Department there is an increase of seven clerks of class three, five clerks of class two, ten clerks of class one, and ten copyists. When that part of the bill is reached, we have letters from the Department to present, which I think will prove most conclusively to the Senate that the committee has acted wisely in making the increase.

In the Attorney-General's Office one clerk had been omitted and he has been added. For the Solicitor of the Treasury one clerk who was omitted last year, we think by mistake, has been restored.

That is the whole of the increase of the clerical force in the bill over the force of the present year.

I have a statement which I hardly feel like taking the time of the Senate to read, explaining each and every item which goes to make up the increase over the bill of last year. The total increase over the bill of last year is $1,019,962.59; and the explanation of that increase and of several items that I have upon this paper before me, I will not take the time of the Senate to read, but will ask permission to print in the RECORD. I think it will be entirely satisfactory to the Senate.

Items of interest in bill as reported over appropriations for current fiscal year.

Compensation of Senators, $10,000. Increase rendered necessary by admission of Colorado.

Mileage of Senators, $6,000. Partly due to admission of Colorado Senators.

Officers, clerks, and employés of the Senate, $8,564. Due to addition of one clerk to Committee on Privileges and Elections, at $2,250, and to length of session.

Contingent, including clerks to committees during sesson, $15,821. Mainly due to long session: seven months estimated for next year and four months for this year.

Officers, clerks, and employés of the House, $3,570. Increase made by House of Representatives.

Contingent expenses of House of Representatives, $44,072. Increase made by House of Representatives.

Public buildings and grounds, $760. There is a deficiency this year.

State Department, $9,115. The whole of this increase is for printing and distributing Statutes at Large.

Treasury Department, including miscellaneous and contingent, $52,080. This increase is for eight laborers in Secretary's Office, three laborers in the Third Auditor's Office, fifteen clerks in Sixth Auditor's Office, and for clerical force in Treasurer's and Register's Offices.

Internal revenue, $15,000. Salaries and expenses of collection. This bill is $25,000 less than last year's appropriation for same purpose, including the deficiency appropriated at this session.

Mints and assay offices, $131,350. This increase is made up as follows: Fifty-five thousand dollars for repairs of machinery and apparatus of the mint and assay office at New York, and wages of workmen, &c., at mints and assay offices at other places.

District of Columbia, $26,500. This amount is merely a transfer from the sundry civil bill of last year, and is not an increase of appropriation.

War Department, $13,800. Of this amount $12,000 is for rent which was provided for in sundry civil bill last year. Balance is for fuel and increase of contingent in office of Secretary.

Post-Office Department, $87,040. Of this increase $12,800 is for furnishing and fitting up lower story of Post-Office Department, (new;) $20,000 for Postal Guide, provided for in sundry civil bill list. Miscellaneous, $3,000; balance increase of clerical force.

Department of Agriculture, $17,940. This increase is caused by adding $5,000 to item for collecting statistics, and $15,000 to item for purchase of seeds, plants, &c. A reduction of $2,000 in contingent and $60 for clerical force makes the $17,940 net increase.

United States courts, &c., $33,450. Of this amount $26,000 is for expenses of courts in Utah Territory, a portion of which was appropriated in another bill last year, and balance is for salaries of judges.

Department of Justice, $8,500. Increase is occasioned by adding Naval Solicitor, (omitted last year, but provided for in deficiency bill for that year,) and by adding one clerk of class four and one clerk of class one, and also $2,000 to the contingent fund.

Court of Claims, $500. This is for stationery, fuel, and other miscellanies which were deficient the current year.

To pay judgments of Court of Claims, $639,410.59. This amount is for judgments of the Courts of Claims which have been confirmed by the Supreme Court or in which the time for appeal has expired.

Total added, $1,123,472.59. Deduct reductions made in items from appropriations of current year, $103,510. Net increase, $1,019,962.59.

I move now that the five-minute rule be applied to this bill, although I suppose it is hardly necessary.

The PRESIDENT *pro tempore*. Is there objection to the five-minute rule being applied to the bill? The Chair hears no objection, and it is so ordered.

The first amendment reported by the Committee on Appropriations was in line 18, to increase the appropriation for hire of horses and wagons for the Secretary's Office of the Senate from $600 to $1,200.

The amendment was agreed to.

The next amendment was in line 19, to increase the appropriation for the salary of the Chief Clerk of the Senate from $2,500 to $3,000.

The amendment was agreed to.

The next amendment was in line 19, to increase the appropriation for the salaries of the principal clerk, principal executive clerk, minute and journal clerk, and financial clerk in the office of the Secretary of the Senate from $2,500 each to $2,592 each.

The amendment was agreed to.

The next amendment was in line 26, to increase the appropriation for the salaries of the librarian and seven clerks in the office of the Secretary of the Senate from $1,800 each to $2,220 each.

The amendment was agreed to.

The next amendment was in line 28, to increase the appropriation for the salary of the clerk of printing records from $2,000 to $2,220.

The amendment was agreed to.

The next amendment was in line 29, to increase the appropriation for the salaries of five clerks in the Secretary's office of the Senate, from $1,800 each to $2,100 each.

The amendment was agreed to.

The next amendment was in line 30, to increase the appropriation for the salary of the keeper of the stationery from $1,600 to $2,102.40.

The amendment was agreed to.

The next amendment was in line 30, to increase the appropriation for the salary of one messenger in the Secretary's office from $1,200 to $1,296.

The amendment was agreed to.

The next amendment was in line 36, to increase the appropriation for the salary of one special policeman from $1,200 to $1,296.

The amendment was agreed to.

The next amendment was in line 37, to increase the appropriation

for the salary of the secretary to the Vice-President from $2,000 to $2,102.40.

The amendment was agreed to.

The next amendment was in line 41, to increase the appropriation for the salary of the clerk of the Committee on Claims from $2,000 to $2,202.

The amendment was agreed to.

The next amendment was in line 43, to increase the appropriation for the salary of the clerk to the Committee on Commerce from $1,800 to $2,120.

The amendment was agreed to.

The next amendment was in line 45, to increase the appropriation for the salary of the clerk to the Committee on the Judiciary from $1,800 to $2,220.

The amendment was agreed to.

The next amendment was in line 47, to increase the appropriation for the salary of the clerk to the Committee on Private Land Claims from $1,800 to $2,220.

The amendment was agreed to.

The next amendment was to insert after line 48 the following words:

Clerk to the Committee on Privileges and Elections, $2,220.

The amendment was agreed to.

The next amendment was in line 51, to increase the appropriation for the salary of the assistant keeper of the stationery from $1,200 to $1,800.

The amendment was agreed to.

The next amendment was in line 52, to increase the appropriation for the salaries of the Sergeant-at-Arms and Doorkeeper from $4,000 to $4,320.

The amendment was agreed to.

The next amendment was in line 54, to increase the appropriation for the salary of the assistant doorkeeper from $2,500 to $2,592.

The amendment was agreed to.

The next amendment was in line 55, to increase the appropriation for the salary of the acting assistant doorkeeper from $2,000 to $2,592.

The amendment was agreed to.

The next amendment was in line 56, to insert after the word "three" the words "messengers acting as;" so that it will read:

Three messengers acting as assistant doorkeepers, at $1,800 each.

The amendment was agreed to.

The next amendment was in line 59, to increase the appropriation for the salary of the assistant postmaster and mail-carrier from $2,000 to $2,088.

The amendment was agreed to.

The next amendment was in line 60, to increase the appropriation for four mail-carriers from $1,000 each to $1,200 each.

The amendment was agreed to.

The next amendment was in line 61, to increase the appropriation for the salary of the superintendent of the document-room from $1,800 to $2,160.

The amendment was agreed to.

The next amendment was in line 63, to increase the appropriation for the salaries of two assistants in the document-room from $1,200 each to $1,440 each.

The amendment was agreed to.

The next amendment was in line 65, to increase the appropriation for the salary of the superintendent of the folding-room from $1,800 to $2,160.

The amendment was agreed to.

The next amendment was to strike out after the word "dollars," in line 67, the following:

To enable documents in the folding room to be properly stamped on the outside of the envelope with the name of the document inclosed, $500.

The amendment was agreed to.

The next amendment was to increase the appropriation for the salaries of twenty-one messengers, one of whom shall act as upholsterer, from $1,200 each to $1,440 each.

The amendment was agreed to.

The next amendment was in line 74, to increase the appropriation for the salary of the chief engineer from $1,700 to $2,160.

The amendment was agreed to.

The next amendment was in line 76, to increase the appropriation for the salaries of three assistant engineers from $1,200 each to $1,440 each.

The amendment was agreed to.

The next amendment was in line 78, to increase the appropriation for the salary of the assistant engineer in charge of the elevator from $1,200 to $1,440.

The amendment was agreed to.

The next amendment was in line 79, to increase the appropriation for the salary of the conductor of the elevator from $900 to $1,200.

The amendment was agreed to.

The next amendment was in line 81, to increase the appropriation for the salaries of two firemen from $900 each to $1,095 each.

The amendment was agreed to.

The next amendment was in line 82, after the word "each" to insert the following:

Three laborers in the engineer's department, at $720 each.

The amendment was agreed to.

The next amendment was in line 84, to increase the appropriation for the salaries of eight skilled laborers from $840 each to $1,000 each.

The amendment was agreed to.

The next amendment was in line 85, to insert after the word "each" the following:

Ten laborers, at $720 each.

The amendment was agreed to.

The next amendment was in line 86, to strike out before the word "laborers" the word "ten" and insert "twelve;" in line 87, after the word "session" to insert "(which words, 'during the session,' as used in this act, shall be held to mean seven months,);" and in line 88, after the word "at" to insert the words "the rate of;" so that the clause will read:

Twelve laborers, during the session, (which words, "during the session," as used in this act, shall be held to mean seven months,) at the rate of $720 each per annum.

The amendment was agreed to.

The next amendment was in line 92, to increase the appropriation for the salary of the telegraph-operator during the session from $600 to $700.

The amendment was agreed to.

The next amendment was in line 93, to increase the total appropriation for compensation, &c., of officers and employés of the Senate from $145,276 to $179,366.80.

The amendment was agreed to.

The next amendment was in line 97, after the word "including" to strike out the word "two" and insert "five;" in line 100, to strike out "nine thousand five" and insert "fourteen thousand six;" so that the clause will read:

For stationery and newspapers, (including $5,000 for stationery for committees and officers of the Senate and $100 for postage-stamps for the Secretary of the Senate,) $14,600.

The amendment was agreed to.

The next amendment was in line 102, after the word "for" to strike out "twenty-one" and insert "twenty-seven;" in line 103, before the word "dollars" to strike out "five" and insert "six;" and in the same line, after the word "session" to strike out "eighteen thousand nine hundred" and to insert "thirty-four thousand three hundred and forty-four;" so that the clause will read:

For twenty-seven clerks to committees, at $6 per day during the session, $34,344.

The amendment was agreed to.

The next amendment was to increase the total appropriation for the salaries of fourteen pages for the Senate Chamber, three riding-pages, one page for the Vice-President's room, and one page for the office of the Secretary of the Senate, at the rate of $2.50 per day while actually employed, from $8,550 to $10,835; so that the clause will read:

For fourteen pages for the Senate Chamber, three riding-pages, one page for the Vice-President's room, and one page for the office of the Secretary of the Senate, at the rate of $2.50 per day while actually employed, $10,835.

The amendment was agreed to.

The next amendment was in line 130, to increase the appropriation for miscellaneous items for the Senate, exclusive of labor, from $20,000 to $30,000.

The amendment was agreed to.

The next amendment was in line 170, to increase the total appropriation for fuel and oil for the heating-apparatus; for furniture and repairs of furniture; for packing-boxes; for miscellaneous items, exclusive of labor, and for cartage, from $36,460 to $46,460.

The amendment was agreed to.

The next amendment was in the appropriations for the House of Representatives, line 167, to increase the appropriation for the salaries of assistant to chief clerk, assistant to enrolling clerk, resolution and petition clerk, newspaper clerk, superintendent of document-room, index clerk, and librarian, seven in all, from $1,800 to $2,000 each.

The amendment was agreed to.

The next amendment was in line 169, to increase the appropriation for the salary of distributing clerk of the House of Representatives from $1,600 to $1,800.

The amendment was agreed to.

The next amendment was to reduce the appropriation for the salary of stationery clerk of the House of Representatives from $1,600 to $1,500.

The amendment was agreed to.

The next amendment was in line 175, to reduce the appropriation for the salary of one chief engineer from $1,700 to $1,440.

The amendment was agreed to.

The next amendment was line 176, to reduce number of assistant engineers from three to two.

The amendment was agreed to.

The next amendment was in line 173, after the word "each" to insert "one page, at $2.50 per day during the session."

The amendment was agreed to.

The next amendment was in line 185, to increase the salary of one telegraph-operator from $600 to $700.

The amendment was agreed to.

The next amendment was in line 213, to increase the appropriation for the salary of the superintendent of the folding-room from $1,800 to $2,000.

The amendment was agreed to.

The next amendment was in line 215, to increase the appropriation

for the salary of one of the clerks in the folding-room from $1,600 to $1,800.

The amendment was agreed to.

The next amendment was in line 217, after the word "dollars" to strike out the following words:

To enable documents in the folding-room to be properly stamped on the outside of envelopes with the name of the document inclosed, $500.

The amendment was agreed to.

The next amendment was to increase the total appropriation for compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the House of Representatives from $173,820 to $174,990.

The amendment was agreed to.

The next amendment was in line 246, to strike out before the word "dollars" the word "five" and insert the word "six;" and in line 247, after the word "session" to strike out the words "$22,050" and insert $26,712;" so that the clause will read:

For twenty-one clerks to committees, at $6 per day during the session, $26,712.

The amendment was agreed to.

The next amendment was in line 283, to strike out after the word "the," where it occurs a second time, the word "pay" and insert "compensation;" and after line 284 to insert:

Provided, That any amount heretofore received as compensation or expenses shall be deducted therefrom.

So that the clause will read:

That there be and is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to Hon. JOHN Y. BROWN the sum necessary to pay him the compensation and mileages of a member of the Fortieth Congress: *Provided*, That any amount heretofore received as compensation or expenses shall be deducted therefrom.

The amendment was agreed to.

The next amendment was in line 304, to reduce the total appropriation for the Library of Congress from $27,140 to $26,640.

The amendment was agreed to.

The next amendment was in line 333, in the appropriation for public buildings and grounds, before the word "gardener" to strike out "public" and insert "landscape;" and in the same line, after the word "thousand" to strike out "six" and insert "eight;" so that the clause will read:

For landscape gardener, $1,800.

The amendment was agreed to.

The next amendment was in line 338, to increase the total appropriation for the salaries of a foreman and laborers employed in the public grounds from $13,000 to $15,456.

The amendment was agreed to.

The next amendment was in line 344, to increase the appropriation for furnace-keeper in charge of the heating apparatus under the old Hall of the House of Representatives from $800 to $864.

The amendment was agreed to.

The next amendment was to increase the appropriation for the salary for the person in charge of the heating apparatus of the Library of Congress, and other steam-heating apparatus in the central building, from $800 to $864.

The amendment was agreed to.

The next amendment was in line 353, to increase the appropriation for the furnace-keeper at the Executive Mansion from $800 to $864.

The amendment was agreed to.

The next amendment was in line 359, to increase the total appropriation for the furnace-keeper, night-watchman, one night-usher, two day-ushers, and two doorkeepers at the Executive Mansion from $7,700 to $7,764.

The amendment was agreed to.

The next amendment was in line 385, after the words "1876" to strike out the words "September 15" and insert "to October 10;" and in line 386, after the word "1876" to strike out "$420" and insert "$760;" so that the clause will read:

That there be allowed and paid to the two watchmen in the Smithsonian grounds, the two laborers in the Capitol building, one public gardener, and one watchman in Lincoln Square, discharged by reason of the second section of the act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1877, and for other purposes, approved August 15, 1876, a sum equal to the amount of their respective pay from August 16, 1876, to October 10, 1876, $760.

The amendment was agreed to.

The next amendment was in line 390, before the word thousand to strike out "twenty-five" and insert "fifty;" and in the same line, after the word "dollars" to strike out "and section 153 of the Revised Statutes be, and the same is hereby, repealed, so far as the same relates to the salary of the President;" so that the clause will read:

For compensation of the President of the United States, $50,000.

Mr. WRIGHT. Mr. President, I shall not at this time ask a vote upon this amendment proposed by the committee. I do hope that by the time we get the bill into the Senate we shall perhaps have a fuller Senate than we have at present. I give notice, however, that I shall ask a vote of the Senate on this amendment touching the compensation of the Executive when the bill is reported to the Senate.

Mr. WINDOM. In view of the notice given by the Senator from Iowa, I hope the Senate will remain here an hour or two longer than usual, so that we may complete the bill this evening. I fear that we may be in want of a quorum when he shall ask for a vote. If we can pass the bill to-night it can go to a conference committee and a great deal of time may be saved, and if the commission should report the conference committee can act on the bill.

Mr. WRIGHT. One object I had in giving notice was that no one should be taken by surprise. I wish to have a full vote on that amendment.

Mr. COCKRELL. Why not take a vote upon it now?

Mr. SPENCER. I suggest to the Senator from Iowa that we take the vote now and dispose of it.

Mr. WRIGHT. If there be a quorum of the Senate here I have no objection to taking the vote now.

Mr. HAMLIN. We can get a quorum.

Mr. WINDOM. I do not wish to discuss this question. Every Senator understands it perfectly and I wish the vote on the amendment may be taken at once.

Mr. COOPER. Let it be reported.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. The amendment is in line 390, to strike out "twenty-five" and insert "fifty;" and strike out, commencing at the end of the same line, the words "and section 153 of the Revised Statutes be, and the same is hereby, repealed, so far as the same relates to the salary of the President;" so that the clause will read:

For compensation of the President of the United States, $50,000.

Mr. WRIGHT. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 18; as follows:

YEAS—Messrs. Allison, Barnum, Booth, Boutwell, Bruce, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Conover, Cooper, Cragin, Dennis, Dorsey, Goldthwaite, Hamlin, McMillan, Paddock, Robertson, Sargent, Spencer, Teller, Windom, and Withers—23.

NAYS—Messrs. Alcorn, Bailey, Cockrell, Dawes, Ferry, Hereford, Hitchcock, Kernan, McCreery, McDonald, Maxey, Morrill, Randolph, Ransom, Wadleigh, Wallace, Whyte, and Wright—18.

ABSENT—Messrs. Anthony, Bayard, Blaine, Bogy, Burnside, Christiancy, Clayton, Conkling, Davis, Eaton, Edmunds, Frelinghuysen, Gordon, Hamilton, Harvey, Howe, Ingalls, Johnston, Jones of Florida, Jones of Nevada, Kelly, Logan, Merrimon, Mitchell, Morton, Norwood, Oglesby, Patterson, Saulsbury, Sharon, Sherman, Stevenson, Thurman, and West—34.

So the amendment was agreed to.

The next amendment was in line 398, to increase the appropriation for the salary of private secretary to the President of the United States from $3,150 to $3,500.

The amendment was agreed to.

The next amendment was in line 402, to increase the total appropriation for compensation of officers in the office of the President of the United States from $12,400, to $12,750.

The amendment was agreed to.

The next amendment was in line 405, to increase the appropriation for contingent expenses of the executive office, including stationery therefor, from $2,000 to $3,000.

The amendment was agreed to.

The next amendment was in line 410, to increase the appropriation for the salaries of three assistant secretaries of State from $3,150 each to $3,500 each.

The amendment was agreed to.

The next amendment was in line 411, to increase the appropriation for the salary of the chief clerk of the State Department from $2,250 to $2,500.

The amendment was agreed to.

The next amendment was in line 412, to increase the number of clerks of class four from ten to twelve.

The amendment was agreed to.

The next amendment was in line 412, to reduce the number of clerks of class three from six to five.

The amendment was agreed to.

The next amendment was in line 419, to increase the number of firemen in the State Department building from four to six.

The amendment was agreed to.

The next amendment was in line 420, to reduce the number of charwomen from twenty to ten.

The amendment was agreed to.

The next amendment was in lines 422 and 423, to increase the total appropriation for salaries of officers and employés in the office of the Secretary of State from $95,920 to $98,860.

The amendment was agreed to.

The next amendment was in line 425, before the word "chief" to strike out "three" and insert "five;" and in line 426, to strike out "$8,400" and insert "$12,600; so as to make the clause read:

For five chiefs of bureaus and one translator, at $2,100 each, $12,600.

The amendment was agreed to.

The next amendment was in line 431, after the word "repairs," to strike out "three" and insert "four;" in line 433, before the word "thousand" to strike out "seven" and insert "eight;" so that the clause will read:

For proof-reading, and packing the laws and documents for the various legations and consulates, including boxes and transportation of the same, $2,500; for stationery, furniture, fixtures, and repairs, $4,000; for books and maps, $2,000; in all, $8,500.

The amendment was agreed to.

The next amendment was in line 434, to increase the appropriation

for extra clerk hire and copying in the Department of State from $1,000 to $2,500.

The amendment was agreed to.

The next amendment was in line 439, after the word "thousand" to insert "five hundred;" in line 441, after the word "foregoing" to strike out "one thousand two hundred and fifty" and insert "three thousand;" and in line 442, after the word "all" to strike out "17,250" and insert "19,500;" so as to make the clause read:

For contingent expenses, namely: For fuel, $10,000; for lights, $3,000; for repairs, $2,000; for care and subsistence of horses and repairs of wagons and harness, $1,500; and for miscellaneous items, not included in the foregoing, $3,000; in all, $19,500.

The amendment was agreed to.

The next amendment was in line 445, to increase the appropriation for rent of stable and wagon-shed for the new State Department building from $500 to $600.

The amendment was agreed to.

The next amendment was after line 453 to insert the following clause:

For official postage-stamps for the State Department, $15,000.

The amendment was agreed to.

The next amendment was in line 459, to increase the appropriation for the salaries of two Assistant Secretaries of the Treasury from "$4,000 each" to "$4,500 each."

The amendment was agreed to,

The next amendment was in line 461, to increase the appropriation for the salary of the chief clerk and *ex officio* superintendent of the Treasury building from $2,500 to $2,700.

The amendment was agreed to.

The next amendment was in line 463, to increase the appropriation for the salary of one chief of the divison of warrants, estimates, and appropriations from $2,500 to $2,750.

The amendment was agreed to.

The next amendment was in line 465, to increase the appropriation for the salary of one assistant chief of division of warrants, estimates, and appropriations from $2,000 to $2,400.

The amendment was agreed to.

The next amendment was in line 468, to increase the number of clerks of class four in the office of the Secretary of the Treasury from twenty to twenty-three.

The amendment was agreed to.

The next amendment was in line 471, to increase the number of clerks of class three from sixteen to nineteen.

The amendment was agreed to.

The next amendment was in line 471, to increase the number of clerks of class two from fifteen to eighteen.

The amendment was agreed to.

The next amendment was in line 472, to reduce the number of clerks of class one from twelve to eleven.

The amendment was agreed to.

The next amendment was in line 474, to strike out the words:

And five clerks at $900 each.

The amendment was agreed to.

The next amendment was in line 475, to increase the number of laborers from twenty-eight to thirty-six.

The amendment was agreed to.

The next amendment was in line 480, to increase the number of watchmen from fifty to sixty.

The amendment was agreed to.

The next amendment was in line 484, before the word "firemen" to strike out "six," and in the same line after the word "firemen" to strike out at $720 each," and insert "$4,320."

The amendment was agreed to.

The next amendment was in line 487, to increase the total appropriation for the compensation of officers and employés in the office of the Secretary of the Treasury from $263,560 to $287,070.

The amendment was agreed to.

The next amendment was in the clause making appropriations for the consolidated division of loans and currency, before the word "clerks" in line 496, to strike out the word "female;" in line 497, before the word "messengers" strike out "assistant;" in line 498, before the word "dollars," strike out the words "seven hundred and twenty" and insert "eight hundred and forty;" and in line 501, after the word "all" strike out "$87,965.50" and insert "$88,685.50;" so that the clause will read:

For the consolidated division of loans and currency, namely: One chief of division, at $2,500; two assistant chiefs of division, at $2,100 each; ten clerks of class four, and additional pay to three fourth-class clerks, namely, receiving clerk of bonds and two book-keepers, $100 each; six clerks of class three; three clerks of class two; four clerks of class one; thirty-five clerks, at $900 each; six messengers, at $840 each; six laborers, at $720 each; and six laborers, at $2.25 per day each; in all, $88,685.50.

The amendment was agreed to.

The next amendment was in the clause making appropriations for the Office of the Supervising Architect of the Treasury, line 506, after the words "Supervising Architect" strike out "$4,000" and insert "$4,500;" in line 507, after the word "photographer" strike out "$2,000" and insert "$2,250;" in line 508, after the word "dollars" insert "one principal clerk at $2,000;" in line 509, after the words "class four" strike out "at $1,800;" and in line 512, after the word "all" to strike out "$17,390" and insert "$20,140;" so that the clause will read:

Supervising Architect:

In the construction branch of the Treasury: For Supervising Architect, $4,500; chief clerk, $2,250; photographer, $2,250; one principal clerk, at $2,000; one clerk of class four, two clerks of class three, two clerks of class one; one clerk, at $900; and one messenger; in all, $20,140.

The amendment was agreed to.

The next amendment was in line 515, after the words "First Comptroller of the Treasury" to strike out "$4,500" and insert "$5,000;" in line 517, before the word "hundred" to strike out "five" and insert "seven;" in line 518, after the word "thousand" to insert "one hundred;" and in line 521, after the word all" to strike out "$62,600" and insert "$63,700;" so the clause will read:

For First Comptroller of the Treasury:

For First Comptroller of the Treasury, $5,000; deputy comptroller, $2,700; four chiefs of division, at $2,100 each; four clerks of class four; ten clerks of class three; eight clerks of class two; four clerks of class one; six clerks, at $900 each; one messenger; and three laborers; in all, $63,700.

The amendment was agreed to.

The next amendment was in line 524, after the words "Second Comptroller of the Treasury" to strike out "$4,500" and insert "$5,000;" in line 526, after the word "thousand" strike out "five" and insert "seven;" in line 527, after the word "thousand" insert "one hundred;" in line 529, before the word "clerks" strike out "eight female" and insert "nine;" in line 531, after the word "all" strike out "$83,200" and insert "$85,300;" so that the clause will read:

Second Comptroller of the Treasury:

For Second Comptroller of the Treasury, $5,000; deputy comptroller, $2,700; five chiefs of division, at $2,100 each; five clerks of class four; twelve clerks of class three; thirteen clerks of class two; eight clerks of class one; nine clerks, at $900 each; one messenger; and three laborers; in all, $85,300.

The amendment was agreed to.

The next amendment was in line 534, after the word "thousand" to strike out "five hundred;" in line 535, after the word "thousand" to strike out "five hundred" and insert "two hundred and fifty;" in line 536, after the word "thousand" insert "one hundred;" and in line 539, after the word "thousand" to strike out "$48,960" and insert "$48,410;" so that the clause will read:

Commissioner of Customs:

For Commissioner of Customs, $4,000; deputy commissioner, $2,250; two chiefs of division at $2,100 each; two clerks of class four; five clerks of class three; ten clerks of class two; nine clerks of class one; one messenger; and one laborer; in all, $48,410.

The amendment was agreed to.

The next amendment was in line 545, before the word "clerks" to strike out "six" and insert "seven;" in line 546, before the word "clerks" strike out "ten" and insert "eleven;" and in line 547, after the word "all" to strike out "$49,730" and insert "$52,330;" so that the clause will read:

First Auditor:

For the First Auditor of the Treasury, $3,600; deputy auditor, $2,250; four chiefs of division, at $2,000 each; two clerks of class four; six clerks of class three; seven clerks of class two; eleven clerks of class one; one messenger; and two laborers; in all, $52,330.

The amendment was agreed to.

The next amendment was in line 549, to strike out before the word "clerks" the word "two" and insert "three," and in line 551, after the word "all" to strike out "$13,600" and insert "$15,400;" so that the clause will read:

For the division of loans, namely: Three clerks of class four; three clerks of class three; two clerks of class two; and two clerks of class one; in all, $15,400.

The amendment was agreed to.

The next amendment was in line 556, before the word "clerks" to strike out "five" and insert "six;" in line 557, before the word "clerks" to strike out "fifty" and insert "sixty;" in line 558, strike out "ten female clerks, at $900 each;" and in line 560, after the word "all" to strike out "$197,250" and insert "$204,000.50;" so that the clause will read:

Second Auditor:

For Second Auditor, $3,600; deputy auditor, $2,250; five chiefs of division, at $2,000 each; six clerks of class four; twenty-eight clerks of class three; sixty clerks of class two; thirty-five clerks of class one; one messenger; and eight laborers; in all, $204,050.

The amendment was agreed to.

The next amendment was in line 565, before the words "clerks" to strike out "five" and insert "six;" in line 566, before the word "clerks" strike out "fifty" and insert "sixty;" in line 567, before the word "clerks" strike out "ten" and insert "five;" in line 568, before the word "laborers" to strike out "four" and insert "seven," and in line 570, after the words "in all" strike out "$174,050" and insert "$187,510;" so that the clause will read:

Third Auditor:

For Third Auditor, $3,600; deputy auditor, $2,250; five chiefs of division, at $2,000 each; six clerks of class four; fifteen clerks of class three; sixty clerks of class two; thirty-five clerks of class one; five clerks, at $900 each; one messenger; seven laborers; and one charwoman, at $480; in all, $187,510.

The amendment was agreed to.

The next amendment was in line 574, before the word "chiefs" to strike out "two" and insert "three;" in line 576, before the word "clerks" to strike out "twelve" and insert "sixteen;" in line 576, before the word "clerks" to strike out "eight" and insert "nine;"

in line 577, before the word "clerks" to strike out "eight" and insert "nine;" in line 577, before the word "clerks" to strike out "eight" and insert "five;" in line 579, after the words "in all" strike out "$62,930" and insert "$71,230;" so that the clause will read:

Fourth Auditor:
For the Fourth Auditor, $3,600; deputy auditor, $2,250; three chiefs of division, at $2,000 each; two clerks of class four; sixteen clerks of class three; nine clerks of class two; nine clerks of class one; five clerks, at $900 each; one messenger; and two laborers; in all, $71,230.

The amendment was agreed to.

The next amendment was in line 584, before the word "clerks" to strike out "five" and insert "six;" in line 585, before the word "clerks" strike out "four" and insert "five;" in the same line, before the word "clerks" strike out "five" and insert "six;" in line 586, before the words "clerks" strike out "five" and insert "three;" and in line 587, after the words "in all" strike out "$39,110" and insert "$41,510;" so that the clause will read:

Fifth Auditor:
For the Fifth Auditor, $3,600; deputy auditor, $2,250; two chiefs of division, at $2,000 each; two clerks of class four; six clerks of class three; five clerks of class two; six clerks of class one; three clerks, at $900 each; one messenger; and one laborer; in all, $41,510.

The amendment was agreed to.

The next amendment was in line 594, before the word "clerks" to strike out "five" and insert "eight;" in line 595, after the word "fifty" insert "four;" in line 596, after the word "sixty" to insert "nine;" in line 597, before the word "clerks" strike out "forty" and insert "thirty-seven;" in line 598, before the word "assorters" strike out "eighteen" and insert "twenty;" in line 601, after the words "in all" strike out "$289,070" and insert "$311,870;" so that the clause will read:

Auditor of the Treasury for the Post-Office Department:
For compensation of the Auditor of the Treasury for the Post-Office Department, $3,600; deputy auditor, $2,250; eight chiefs of division, at $2,000 each; eight clerks of class four, and, additional to one clerk as disbursing-clerk, $200; fifty-four clerks of class three; sixty-nine clerks of class two; thirty-seven clerks of class one; one messenger; and nineteen laborers; twenty assorters of money-orders, $18,000; also fifteen female assorters of money-orders, at $900 each; in all, $311,870.

The amendment was agreed to.

The next amendment was in line 607, before the word "dollars" to insert "two hundred;" in line 609, before the word "dollars" to strike out "two hundred and fifty" and insert "five hundred;" in line 614, after the word "thousand" insert "two hundred and fifty;" in line 614, after the word "each" strike out "ten" and insert "thirteen;" in line 615, before the word "clerks" strike out "eleven" and insert "thirteen;" in line 616, before the word "clerks" strike out "eight" and insert "nine;" in line 620, after the words "in all" strike out "$145,730" and insert "$156,680;" so that the clause will read:

Treasurer:
For compensation of the Treasurer of the United States, $6,000; Assistant Treasurer, $3,600; cashier, $3,600; assistant cashier, $3,200; chief clerk, $2,500; five chiefs of division, at $2,500 each; one principal book-keeper, at $2,500; one assistant book-keeper, at $2,400; two tellers, at $2,500 each; two assistant tellers, at $2,250 each; thirteen clerks of class four; thirteen clerks of class three; nine clerks of class two; eight clerks of class one; forty clerks, at $900 each: five messengers; five laborers, at $720 each; and seven laborers, at $240 each; in all, $156,680.

The amendment was agreed to.

The next amendment was in line 623, after the word "namely" to strike out "thirteen" and insert "seventeen;" in line 624, before the word "clerks" to strike out "five" and insert "six;" in line 625, before the word "clerks" strike out "six" and insert "five;" in line 625, before the word "clerks" to strike out "eight" and insert "nine;" in line 628, after the words "in all" strike out "$164,000" and insert "$172,600;" so that the clause will read:

For the division of loans, namely: Seventeen clerks of class four; six clerks of class three; five clerks of class two; nine clerks of class one; one hundred counters and copyists, at $900 each; seven messengers; and twenty-six laborers; in all, $172,600.

The amendment was agreed to.

The next amendment was in line 636, before the word "clerks" to strike out "two" and insert "four;" in line 637, before the word "clerks" strike out "two" and insert "four;" in line 638, before the word "clerks" strike out "thirty-five" and insert "thirty-six;" in line 639, before the word "clerks" strike out "twelve" and insert "fifteen;" in line 647, after the words "in all" strike out "$112,336" and insert "$123,336;" so that the clause will read:

For the force employed in redeeming the national currency, namely: For superintendent, $3,500; two principal tellers and one principal book-keeper, at $2,500 each; one assistant book-keeper, $2,400; and two assistant tellers, at $2,000 each; four clerks of class four; four clerks of class three; four clerks of class two; thirty-six clerks of class one; fifteen clerks, at $1,000 each; twenty-six clerks, at $900 each; two messengers; three assistant messengers; three employés, at $432 each; in all, $123,336.

The amendment was agreed to.

The next amendment was in line 648, afer the words "six clerks of class four" to insert "one of whom shall receive $200 additional for services as disbursing clerk, and shall give bond in such amount as the Secretary of the Treasury may determine;" in line 651, before the word "clerks" to strike out "six" and insert "seven;" in line 652, before the word "clerks" strike out "nine" and insert "ten;" in line 653, before the word "copyist" strike out "eight" and insert "six;" and in line 654, after the words "in all" to strike out "$59,050" and insert "$60,450; so that the clause will read:

Register of the Treasury:
For compensation of the Register of the Treasury, $4,000; assistant register, $2,250; six clerks of class four, one of whom shall receive $200 additional for services as disbursing clerk, and shall give bond in such amount as the Secretary of the Treasury may determine; seven clerks of class three; ten clerks of class two; eight clerks of class one; six copyists, at $900 each; one messenger; and three laborers; in all, $60,450.

The amendment was agreed to.

The next amendment was in line 656, before the word "chiefs" to strike out "four" and insert "five;" in line 657, before the word "clerks" to strike out "eight" and insert "nine;" in line 659, before the word "copyist" strike out "sixty" and insert "fifty-eight; in line 661, after the word "messengers" strike out "and;" in the same line, after the word "laborers" insert "and one charwoman at $380;" and in line 662, after the words "in all" strike out "$104,440" and insert "$106,800;" so that the clause will read:

For the division of loans, namely: Five chiefs of division, at $2,000 each; nine clerks of class four; eight clerks of class three; three clerks of class two; four clerks of class one; fifty-eight copyists and counters, at $900 each; four messengers; four laborers; and one charwoman, at $380; in all, $106,800.

The amendment was agreed to.

The next amendment was in line 666, after the words "Comptroller of the Currency" to strike out "$4,500" and insert "$5,000;" in line 667, after the word "thousand" strike out "five" and insert "eight;" in line 668, after the word "thousand" to insert "two hundred;" in line 669, after the word "thousand" to strike out "four" and insert "eight;" in line 670, before the word "clerks" to strike out "six" and insert "eight;" in line 671, before the word "clerks" to strike out "ten" and insert "twelve;" and in line 675, after the words "in all" to strike out "$94,020" and insert "$102,820;" so that the clause will read:

Comptroller of the Currency:
For Comptroller of the Currency, $5,000; deputy comptroller, $2,800; four chiefs of division, at $2,200 each; one stenographer, at $1,800; eight clerks of class four; twelve clerks of class three; nine clerks of class two; eight clerks of class one; twenty-five clerks, at $900 each; three messengers; three laborers; and two night-watchmen, at $720 each; in all, $102,820.

The amendment was agreed to.

The next amendment was in line 680, after the word "at" to strike out "$1,800" and insert "$2,000," and in line 682, after the words "in all" to strike out "$21,140" and insert "$22,340;" so that the clause will read:

For expenses of the national currency, namely: One superintendent, at $2,000; one teller and one book-keeper, at $2,000 each; and one assistant book-keeper, $2,000; fifteen clerks, at $900 each; and one messenger; in all, $22,340.

The amendment was agreed to.

The next amendment was in line 694, before the word "clerks" to strike out "four" and insert "five;" in line 695, before the word "clerks" where it first occurs to strike out "five" and insert "six;" in the same line, before the word "clerks" where it occurs the second time strike out "five" and insert "six;" and in line 699, after the words "in all" to strike out "$37,940" and insert "$42,740;" so that the clause will read:

Bureau of Statistics:
For the officer in charge of the Bureau of Statistics, $2,400; chief clerk, $2,000; five clerks of class four; six clerks of class three; six clerks of class two; four clerks of class one; five copyists, at $900 each; one messenger; one laborer; and one charwoman, at $480; in all, $42,740.

The amendment was agreed to.

The next amendment was after the word "dollars," in line 700, to insert the following:

And for the additional duties imposed upon the Bureau of Statistics by the legislation of the second session of the Forty-third Congress, the sum of $12,000, or so much thereof as may be necessary, is hereby appropriated, to be expended, under the direction of the Secretary of the Treasury, in payment of the services of experts, and for other necessary expenditures connected with the collection of facts relative to the internal and foreign commerce of the United States.

The amendment was agreed to.

The next amendment was in line 710, to increase the appropriation for the salary of the Chief of Bureau of Engraving and Printing from $4,000 to $4,500, and to increase the total appropriations for the Bureau of Engraving and Printing from $19,830 to $20,330.

The amendment was agreed to.

The next amendment was in line 717, after the words "Commissioner of Internal Revenue" to strike out "$5,500" and insert "$6,000;" in line 719, after the word "dollars" to insert "two heads of division, at $2,500 each;" in line 720, before the word "heads" to strike out "seven" and insert "five;" in line 723, after the word "thousand" to strike out "four" and insert "eight;" in the same line, after the word "twenty" insert "five;" in line 724, before the word "clerks" strike out "thirty-five" and insert "forty;" in line 725, before the word "clerks" strike out "twenty-five" and insert "eighteen;" and in line 727, after the words "in all" to strike out "$244,410" and insert "$253,410;" so that the clause will read:

Commissioner of Internal Revenue:
For Commissioner of Internal Revenue, $6,000; one deputy commissioner, $3,200; two heads of division, at $2,500 each; five heads of division, at $2,250 each; one stenographer, $1,800; twenty-five clerks of class four; thirty clerks of class three; forty clerks of class two; eighteen clerks of class one; fifty clerks, at $900 each; four messengers; and ten laborers; in all, $253,410.

The amendment was agreed to.

The next amendment was in line 736, before the word "thousand"

to strike out "six hundred and seventy-five" and insert "eight hundred and forty," and in line 737, after the word "dollars" to strike out the following:

And from and after the 30th day of June next there shall be no more than one hundred and twenty collection districts; and it shall be the duty of the President, and he is hereby authorized and directed, to reduce the internal-revenue districts to not exceeding the number aforesaid, in the manner heretofore provided by law. And the Secretary of the Treasury is hereby authorized and directed to cause a careful examination to be made of allowances to collectors of internal revenue under the provisions of section 3145 of the Revised Statutes, for collection of revenue in the several districts, and to equalize the same, and reduce the aggregate of such allowances not less than 5 per cent. on the amount of the same;

So that the clause will read:

For salaries and expenses of collectors, $1,840,000.

The amendment was agreed to.

The next amendment was in line 758, to increase the appropriation for detecting and bringing to trial and punishment persons guilty of violating the internal-revenue laws, or conniving in such crime, including payments for information and detection, from $50,000 to $60,000.

The amendment was agreed to.

The next amendment was in line 763, to strike out the words "and the several Executive Departments, according to the exigencies of the public service, to be apportioned by the Secretary of the Treasury;" so that the clause will read:

For temporary clerks for the Treasury Department, $60,000: *Provided*, That no part of this sum shall be paid to any officer or employé of the Government as additional compensation.

The amendment was agreed to.

The next amendment was in line 775, to increase the appropriation for arranging and binding canceled marine papers, requisitions, and other important records; sealing ship registers; for foreign postage, newspapers, books, hand-stamps, and repairs of the same, from $10,000 to $12,000.

The amendment was agreed to.

The next amendment was in line 783, to increase the appropriation for care and subsistence of horses for office and mail wagons, including feeding and shoeing, and for wagons, harness and repairs of same, from $3,000 to $3,400.

The amendment was agreed to.

The next amendment was in line 786, to increase the appropriation for ice, buckets, file-holders, book-rests, labor, clocks, and repairs of the same, from $4,000 to $9,000.

The amendment was agreed to.

The next amendment was in line 789, to increase the appropriation for coal, wood, grates, grate-baskets and fixtures, stoves and fixtures, blowers, coal-hods, hearths, shovels, tongs, pokers, matches, and match-safes, from $8,000 to $12,000.

The amendment was agreed to.

The next amendment was in line 791, to increase the appropriation for gas, drop-lights and tubing, gas-burners, brackets and globes, candles, lanterns, and wicks, from $12,000 to $20,000.

The amendment was agreed to.

The next amendment was in line 794, to increase the appropriation for carpets, oil-cloth, and matting, and repairs, cleaning, and laying of the same, from $5,000 to $15,000.

The amendment was agreed to.

The next amendment was in line 799, to increase the appropriation for desks, tables, and chairs, and shelving for file-rooms, and cases, repairs of furniture, boxes, rugs, chair-covers and caning, cushions, cloth for covering desks, locks, screws, hand-saws, turpentine, and varnish, from $12,000 to $25,000.

The amendment was agreed to.

The next amendment was in line 817, to increase the appropriation for the salary of assistant treasurer at New York from $7,200 to $8,000.

The amendment was agreed to.

The next amendment was in line 819, to increase the appropriation for the salary of the deputy assistant treasurer at New York from $3,240 to $3,600.

The amendment was agreed to.

The next amendment was in line 820, to increase the appropriation for the salary of cashier and chief clerk from $3,780 to $4,000.

The amendment was agreed to.

The next amendment was in line 821, to reduce the appropriation for the salary of the chief of the coin division from $4,000 to $3,600.

The amendment was agreed to.

The next amendment was in line 823, to increase the appropriation for the salary of chief of note-payment division from $2,700 to $3,000.

The amendment was agreed to.

The next amendment was in line 824, to increase the appropriation for the salary of the chief of the note-receiving division from $2,700 to $2,800.

The amendment was agreed to.

The next amendment was in line 826, to increase the appropriation for the salary of chief of check division from $2,700 to $2,800.

The amendment was agreed to.

The next amendment was in line 827, to increase the appropriation for the salary of chief of registered-interest division from $2,520 to $2,600.

The amendment was agreed to.

The next amendment was in line 829, to increase the appropriation for the salary of chief of coupon-interest division from $2,250 to $4,000.

The amendment was agreed to.

The next amendment was in line 830, to increase the appropriation for chief of fractional-currency division from $2,250 to $2,400.

The amendment was agreed to.

The next amendment was in line 832, to increase the appropriation for the salary of chief of bond division from $2,160 to $2,250.

The amendment was agreed to.

The next amendment was in line 834, to increase the appropriation for the salary of chief of canceled-check and record division from $1,800 to $2,000.

The amendment was agreed to.

The next amendment was in line 835, to increase the appropriation for the salary of two clerks from $2,160 each to $2,250 each.

The amendment was agreed to.

The next amendment was in line 836, to increase the appropriation for the salaries of six clerks from $1,980 each to $2,100 each.

The amendment was agreed to.

The next amendment was in line 838, to increase the appropriation for the salaries of ten clerks from $1,800 each to $2,000 each.

The amendment was agreed to.

The next amendment was in line 839, to increase the appropriation for the salaries of nine clerks from $1,620 each to $1,800 each.

The amendment was agreed to.

The next amendment was in line 840, to increase the appropriation for the salaries of four clerks at $1,530 each to $1,700 each.

The amendment was agreed to.

The next amendment was in line 842, to increase the appropriation for the salaries of four clerks from $1,440 each to $1,600 each.

The amendment was agreed to.

The next amendment was in line 843, to increase the appropriation for the salaries of two clerks from $1,350 each to $1,500 each.

The amendment was agreed to.

The next amendment was in line 845, to increase the appropriation for the salaries of ten clerks from $1,260 each to $1,400 each.

The amendment was agreed to.

The next amendment was in line 847, to increase the appropriation for the salaries of five messengers from $1,200 each to $1,300 each.

The amendment was agreed to.

The next amendment was in line 849, to increase the appropriation for the salary of keeper of building from $1,620 to $1,800.

The amendment was agreed to.

The next amendment was in line 850, to increase the appropriation for the salary of chief detective from $1,620 to $1,800.

The amendment was agreed to.

The next amendment was in line 852, to increase the appropriation for the salary of assistant detective from $1,260 to $1,400.

The amendment was agreed to.

The next amendment was in line 856, to increase the total appropriation for the office of the assistant treasurer at New York from $137,840 to $148,530.

The amendment was agreed to.

The next amendment was in line 860, to increase the appropriation for the salary of assistant treasurer at Boston from $4,500 to $5,000.

The amendment was agreed to.

The next amendment was in line 861, to increase the appropriation for the chief clerk in the office of the assistant treasurer at Boston from $2,430 to $2,700.

The amendment was agreed to.

The next amendment was in line 863, to increase the appropriation for the salary of paying teller from $2,250 to $2,500.

The amendment was agreed to.

The next amendment was in line 864, to increase the appropriation for the salary of chief interest clerk from $2,250 to $2,500.

The amendment was agreed to.

The next amendment was in line 865, to increase the appropriation for the salary of receiving teller from $1,620 to $1,800.

The amendment was agreed to.

The next amendment was in line 867, to increase the appropriation for the salary of the first book-keeper from $1,530 to $1,700.

The amendment was agreed to.

The next amendment was in line 869, to increase the appropriation for the salary of the second book-keeper, depositor's accounts, from $1,350 to $1,500.

The amendment was agreed to.

The next amendment was in line 870, to increase the appropriation for the salary of the currency clerk from $1,620 to $1,800.

The amendment was agreed to.

The next amendment was in line 872, to increase the appropriation for the salary of specie clerk from $1,350 to $1,500.

The amendment was agreed to.

The next amendment was in line 873, to increase the appropriation for the salary of the assistant specie clerk from $1,260 to $1,400.

The amendment was agreed to.

The next amendment was in line 875, to increase the appropriation for the salaries of two coupon clerks from $1,260 each to $1,400 each.

The amendment was agreed to.

The next amendment was in line 882, to increase the appropriation

for the salary of messenger and chief watchman, from $1,000 to $1,060.

The amendment was agreed to.

The next amendment was in line 884, to increase the total appropriation for the office of the assistant treasurer at Boston from $31,680 to $34,260.

The amendment was agreed to.

The next amendment was in line 887, to increase the appropriation for the salary of the assistant treasurer at San Francisco from $5,000 to $6,000.

The amendment was agreed to.

The next amendment was in line 888, to increase the appropriation for the salary of cashier from $2,700 to $3,000.

The amendment was agreed to.

The next amendment was in line 889, to increase the appropriation for the salary of bookkeeper from $2,250 to $2,500.

The amendment was agreed to.

The next amendment was in line 890, to increase the appropriation for assistant cashier from $1,800 to $2,000.

The amendment was agreed to.

The next amendment was in line 892 to increase the appropriation for the salary of assistant bookkeeper from $1,800 to $2,000.

The amendment was agreed to.

The next amendment was in line 893, to increase the appropriation for the salary of stamp-clerk from $2,160 to $2,400.

The amendment was agreed to.

The next amendment was in line 895, to increase the appropriation for the salary of one clerk from $1,620 to $1,800.

The amendment was agreed to.

The next amendment was in line 896, to increase the appropriation for the salaries of three night-watchmen from $1,000 to $1,200 each.

The amendment was agreed to.

The next amendment was in line 897, to increase the appropriation for the salary of one day-watchman from $900 to $960.

The amendment was agreed to.

The next amendment was in line 898, to increase the total appropriation for the office of the assistant treasurer at San Francisco from $21,230 to $24,260.

The amendment was agreed to.

The next amendment was in line 901, to increase the appropriation for the salary of the assistant treasurer at Philadelphia from $4,500 to $5,000.

The amendment was agreed to.

The next amendment was in line 903, to increase the appropriation for the salary of the cashier and chief clerk in the office of the assistant treasurer, Philadelphia, from $2,430 to $2,700.

The amendment was agreed to.

The next amendment was in line 904, to increase the appropriation for the book-keeper from $2,250 to $2,500.

The amendment was agreed to.

The next amendment was in line 905, to increase the appropriation for the salary of chief interest-clerk from $1,710 to $1,900.

The amendment was agreed to.

The next amendment was in line 907, to increase the appropriation for the salary of assistant book-keeper from $1,620 to $1,800.

The amendment was agreed to.

The next amendment was in line 908, to increase the appropriation for the salary of coin-teller from $1,530 to $1,700.

The amendment was agreed to.

The next amendment was in line 909, to increase the appropriation for the salary of chief registered-interest clerk from $1,710 to $1,900.

The amendment was agreed to.

The next amendment was in line 911, to increase the appropriation for the salary of assistant coupon-clerk from $1,440 to $1,600.

The amendment was agreed to.

The next amendment was in line 912, to increase the appropriation for the salary of fractional-currency clerk from $1,440 to $1,600.

The amendment was agreed to.

The next amendment was in line 914, after the word "thousand," to strike out "three hundred and fifty" and insert "five hundred;" and in line 916, after the word "thousand," to strike out "two hundred and sixty" and insert "four hundred;" so that the clause will read: "Two assistant registered-interest clerks, one at $1,500 and one at $1,400."

The amendment was agreed to.

The next amendment was in line 917, to increase the appropriation for the salary of assistant coin-tellers from $1,260 to $1,400.

The amendment was agreed to.

The next amendment was in line 918, to increase the appropriation for the salary of receiving teller from $1,170 to $1,300.

The amendment was agreed to.

The next amendment was in line 924, to increase the total appropriation for the office of assistant treasurer at Philadelphia from $37,120 to $39,550.

The amendment was agreed to.

The next amendment was in line 927, to increase the appropriation for the salary of assistant treasurer at Baltimore from $4,500 to $5,000.

The amendment was agreed to.

The next amendment was in line 928, to increase the appropriation for the salary of the cashier in the office of the assistant treasurer at Baltimore from $2,150 to $2,500.

The amendment was agreed to.

The next amendment was in line 930, to increase the appropriation for the salaries of three clerks from $1,620 each to $1,800 each.

The amendment was agreed to.

The next amendment was in line 931, to increase the appropriation for the salaries of three clerks from $1,260 each to $1,400 each.

The amendment was agreed to.

The next amendment was in line 935, to increase the total appropriation for the office of assistant treasurer at Baltimore from $22,240 to $23,940.

The amendment was agreed to.

The next amendment was in line 939, to increase the appropriation for the salary of the assistant treasurer at Saint Louis from $4,500 to $5,000.

The amendment was agreed to.

The next amendment was in line 940, to increase the appropriation for the salary of the chief clerk and teller from $2,250 to $2,500.

The amendment was agreed to.

The next amendment was in line 942, to increase the appropriation for the salary of the assistant teller from $1,620 to $1,800.

The amendment was agreed to.

The next amendment was in line 943, to increase the appropriation for the salary of book-keeper from $1,350 to $1,500.

The amendment was agreed to.

The next amendment was in line 946, to increase the total appropriation for the office of assistant treasurer at Saint Louis from $14,720 to $15,800.

The amendment was agreed to.

The next amendment was in line 950, to increase the appropriation for the salary of assistant treasurer at Chicago from $4,500 to $5,000.

The amendment was agreed to.

The next amendment was in line 951, to increase the appropriation for the salary of the cashier from $2,250 to $2,500.

The amendment was agreed to.

The next amendment was in line 953, to increase the appropriation for the salary of the paying teller from $1,620 to $1,800.

The amendment was agreed to.

The next amendment was in line 954, to increase the appropriation for the salary of book-keeper and receiving teller from $1,350 each to $1,500 each.

The amendment was agreed to.

The next amendment was in line 958, to increase the total appropriation for the office of the assistant treasurer at Chicago from $12,480 to $15,060.

The amendment was agreed to.

The next amendment was in line 961, to increase the appropriation for the salary of the assistant treasurer at Cincinnati from $4,500 to $5,000.

The amendment was agreed to.

The next amendment was in line 962, to increase the appropriation for the salary of the cashier from $1,800 to $2,000.

The amendment was agreed to.

The next amendment was in line 963, to increase the appropriation for the salary of book-keeper from $1,620 to $1,800.

The amendment was agreed to.

The next amendment was in line 965, to increase the appropriation for the salary of assistant cashier from $1,350 to $1,500.

The amendment was agreed to.

The next amendment was in line 971, to increase the total appropriation for the office of assistant treasurer at Cincinnati from $14,230 to $15,260.

The amendment was agreed to.

The next amendment was in line 974, to increase the appropriation for the salary of the assistant treasurer at New Orleans from $4,050 to $4,500.

The amendment was agreed to.

The next amendment was in line 975, to increase the appropriation for the salary of cashier from $2,250 to $2,500.

The amendment was agreed to.

The next amendment was in line 976, to increase the appropriation for the salary of receiving teller from $1,800 to $2,000.

The amendment was agreed to.

The next amendment was in line 978, to increase the appropriation for the salary of book-keeper from $1,350 to $1,500.

The amendment was agreed to.

The next amendment was in line 981, to increase the total appropriation for the office of assistant treasurer at New Orleans from $13,230 to $14,280.

The amendment was agreed to.

The next amendment was in line 1012, after the words "class three," to insert "one clerk of class two," and in line 1015, after the word "of," to strike out "fifteen thousand five" and insert "sixteen thousand nine;" so that the clause will read:

Office of the Director of the Mint:

For Director, $4,500; examiner, $2,000; one computer of bullion, $2,000; one assay clerk, $1,800; one clerk of class three; one clerk of class two; one translator, $1,200; one copyist, $900; one messenger; one laborer; making, in all, the sum of $16,960.

The amendment was agreed to.

The next amendment was to insert after line 1031 the following additional clause:

For fitting up an assay laboratory in the office of the Director of the Mint, $500.

The amendment was agreed to.

The next amendment was to insert after line 1032 the following additional clause:

To repair the machinery and apparatus of the coining mints and of the assay-office at New York, and to add some additional machinery, $55,000, or so much thereof as may be necessary, to be available immediately.

The amendment was agreed to.

The next amendment was in line 1044, after the word "thousand" to strike out "four" and insert "five;" in line 1045, after the word "thousand" to insert "two hundred and fifty;" in line 1046, after the word "at" to strike out "one thousand eight hundred" and insert "two thousand;" in line 1048, after the word "and" to strike out "two clerks" and insert "one clerk;" in line 1049, after the word "dollars" to strike out "each;" and in the same line, after the word "all" to strike out "thirty-five thousand seven hundred" and insert "thirty-four thousand eight hundred and fifty;" so that the clause will read:

Mint at Philadelphia:

For salaries of the superintendent, $4,500; for the assayer, melter and refiner, coiner, and engraver, four in all, at $3,000 each; the assistant assayer, assistant coiner, and assistant melter and refiner, at $2,000 each; cashier, $2,500; chief clerk, $2,250; book-keeper and deposit clerk, at $2,000 each; weigh-clerk, $2,000; and one clerk, at $1,600; in all, $34,850.

The amendment was agreed to.

The next amendment was in line 1052, to increase the appropriation for wages of workmen and adjusters in the office of the Mint at Philadelphia from $250,000 to $320,000.

The amendment was agreed to.

The next amendment was in line 1054, to increase the appropriation for incidental and contingent expenses in the office of the Mint from $60,000 to $85,000.

The amendment was agreed to.

The next amendment was in line 1060, to increase the appropriation for the chief clerk of the mint at San Francisco, California, from $2,250 to $2,500; and in line 1063 to increase the total appropriation for assayer, melter, refiner, &c., in the nint at San Francisco, California, from $24,650 to $24,900.

The amendment was agreed to.

The next amendment was in line 1065, to increase the appropriation for wages of workmen and adjusters from $250,000 to $300,000.

The amendment was agreed to.

The next amendment was in line 1068, to increase the appropriation for material and repairs, fuel, lights, chemicals, and other necessaries from $75,000 to $100,000.

The amendment was agreed to.

The next amendment was in line 1075, under the head of "Mint at Carson, Nevada," after the word "weigh-clerk" to strike out the words "one thousand eight hundred" and insert "two thousand;" in line 1077, after the word "thousand" to strike out "six" and insert "eight;" and in line 1078, after the words "in all" to strike out the words "twenty-two thousand nine" and insert "twenty-three thousand five;" so as to read:

For salary of superintendent, $3,000; for assayer, melter and refiner, and coiner, at $2,500 each; chief clerk, at $2,250; cashier and book-keeper, at $2,000 each; weigh clerk, $2,000; voucher clerk and computing clerk, at $1,800 each; assayer's clerk, at $1,200; in all, $23,550.

The amendment was agreed to.

The next amendment was in line 1081, to increase the appropriation for wages of workmen and adjusters from $60,000 to $100,000.

The amendment was agreed to.

The next amendment was in line 1084, to increase the appropriation for materials and repairs, fuel, light, charcoal, chemicals, and other necessaries from $35,000 to $50,000.

The amendment was agreed to.

The next amendment was under the head of "Assay office at New York," in line 1098, after the word "thousand" to insert the words "five hundred;" in line 1101, after the word "thousand" to insert the words "two hundred and fifty;" and in line 1107, after the word "thousand" to strike out the words "one hundred and fifty" and insert "nine hundred;" so as to read:

For salary of superintendent, $4,250; for assayer, $3,000; for melter and refiner, $3,000; chief clerk, $2,500; weighing clerk, $2,500; paying clerk, $2,000; bar clerk, $1,800; warrant clerk, $2,250; two calculating clerks, at $1,800 each; assistant weigh clerk, $1,600; for assayer's first assistant, $2,250; for assayer's second assistant, $2,150; for assayer's third assistant, $2,000; in all, $32,900.

The amendment was agreed to.

The next amendment was in line 1109, to increase the appropriation for wages of workmen from $20,000 to $25,000.

The amendment was agreed to.

The next amendment was in line 1111, to increase the appropriation for acids, copper, coal, lead, &c., from $8,000 to $10,000.

The amendment was agreed to.

The next amendment was in line 1122, under the head of "Assay office at Helena, Montana," after the word "thousand" to insert the words "five hundred;" and in line 1123, after the word "each" to strike out "four" and insert "five;" so as to read:

For salaries of assayer in charge, and of melter, at $2,500 each, $5,000.

The amendment was agreed to.

The next amendment was in line 1129, under the head of "Assay office at Boisé City, Idaho Territory," to increase the appropriation for salary of assayer, who shall perform the duties of melter, from $1,800 to $2,000.

The amendment was agreed to.

The next amendment was in line 1131, to increase the appropriation for wages of workmen, fuel, crucibles, chemicals, &c., from $1,300 to $2,000.

The amendment was agreed to.

The next amendment was under the head of "District of Columbia," in line 1159, after the word "thousand," to strike out the words "seven hundred and fifty" and insert "five hundred;" and in line 1160, after the word "health-officer," to strike out the words "one thousand seven hundred and fifty" and insert "two thousand; so as to read:

Provided, That any two of the above-named offices may be filled by the same person at the discretion of the board; medical sanitary inspector, $1,500; health-officer, $2,000; four clerks, $4,800; five sanitary inspectors, $6,000, &c.

The amendment was agreed to.

The next amendment was under the head of "Government in the Territories," in line 1181, after the word "judges," to strike out the words "two thousand five hundred" and insert "three thousand;" in line 1182, after the word "secretary," to strike out the words "one thousand eight hundred" and insert "two thousand;" and in line 1184, after the words "in all," to strike out the words "twelve thousand three" and insert "fourteen thousand five;" so as to read:

Territory of Arizona:

For salary of governor, chief-justice, and two associate judges, $3,000 each; secretary, $2,000; interpreter and translator in the executive office, $500; in all, $14,500.

The amendment was agreed to.

The next amendment was in line 1191, after the word "at," to strike out the words "two thousand five hundred" and insert "three thousand;" in line 1192, after the word "secretary," to strike out the words "one thousand eight hundred" and insert "two thousand;" and in line 1193, after the word "dollars," to strike out the words "eleven thousand eight hundred" and insert "fourteen thousand;" so as to read:

Territory of Dakota:

For salaries of governor, chief-justice, and two associate judges, at $3,000 each; and secretary, at $2,000, $14,000.

The amendment was agreed to.

The next amendment was in line 1201, after the word "at," to strike out the words "two thousand five hundred" and insert "three thousand;" in line 1203, after the word "at," to strike out the words "one thousand eight hundred" and insert "two thousand;" in the same line, after the word "dollars," strike out the words "eleven thousand eight hundred" and insert "fourteen thousand;" and in line 1204, after the word "dollars," insert the following:

And the proper accounting officers of the Treasury Department are hereby authorized to audit and settle the accounts of Mason Brayman for salary as governor of Idaho Territory from September 18, 1876, the date of his assuming the duties of said office, to November 13, 1876, the same as if he had taken the oath of office in said Territory instead of the District of Columbia.

So as to read:

Territory of Idaho:

For salaries of governor, chief-justice, and two associate judges, at $3,000 each; and secretary, at $2,000, $14,000. And the proper accounting officers of the Treasury Department are hereby authorized to audit and settle the acounts of Mason Brayman for salary as governor of Idaho Territory from September 18, 1876, the date of his assuming the duties of said office, to November 13, 1876, the same as if he had taken the oath of office in said Territory instead of the District of Columbia.

The amendment was agreed to.

The next amendment was in line 1219, after the word "at," to strike out the words "two thousand five hundred" and insert "three thousand;" in line 1221, after the word "at," to strike out the words "one thousand eight hundred" and insert "two thousand;" and in the same line, after the word "dollars," to strike out the words "eleven thousand eight hundred" and insert "fourteen thousand;" so as to read:

Territory of Montana:

For salaries of governor, chief-justice, and two associate judges, at $3,000 each; and secretray, at $2,000, $14,000.

The amendment was agreed to.

The next amendment was in line 1228, after the word "at," to strike out the words "two thousand five hundred" and insert "three thousand;" in line 1230, after the word "at," to strike out the words "one thousand eight hundred" and insert "two thousand;" and in line 1232, after the word "dollars," to strike out the words "twelve thousand three" and insert "fourteen thousand five;" so as to read:

Territory of New Mexico:

For salaries of governor, chief-justice, and two associate judges, at $3,000 each; secretary, at $2,000; and interpreter and translator in the executive office, at $500, $14,500.

The amendment was agreed to.

The next amendment was in line 1241, after the word "at," to strike out the words "two thousand five hundred" and insert "three thousand;" in line 1243, after the word "at," to strike out the words "one thousand eight hundred" and insert "two thousand;" and in the same line, after the word "dollars," to strike out the words "eleven thousand eight hundred" and insert "fourteen thousand;" so as to read:

Territory of Utah:

For salaries of governor, chief-justice, and two associate judges, at $3,000 each; and secretary, at $2,000, $14,000.

The amendment was agreed to.

The next amendment was in line 1252, after the word "at" to strike out the words "two thousand five hundred" and insert "three thousand;" in line 1254, after the word "at" to strike out the words "one thousand eight hundred" and insert "two thousand;" and in line 1255, after the word "dollars" to strike out the words "eleven thousand eight hundred" and insert "fourteen thousand;" so as to read:

Territory of Washington:
For the salaries of governor, chief-justice, and two associate judges, at $3,000 each; and secretary, at $2,000, $14,000.

The amendment was agreed to.

The next amendment was in line 1263, after the word "at" to strike out the words "two thousand five hundred" and insert "three thousand;" in line 1265, after the word "at" to strike out the words "one thousand eight hundred" and insert "two thousand;" and in the same line to strike out the words "eleven thousand eight hundred" and insert "fourteen thousand;" so as to read:

Territory of Wyoming:
For salaries of governor, chief-justice, and two associate judges, at $3,000 each; and secretary, at $2,000, $14,000.

The amendment was agreed to.

The next amendment was under the head of "War Department," in line 1275, after the word "thousand" to strike out the words "two hundred and fifty" and insert "five hundred," and in line 1282, after the word "thousand" to strike out the words "one hundred and thirty" and insert "three hundred and eighty;" so as to read:

For compensation of the Secretary of War, $8,000; one chief clerk, at $2,500; one disbursing clerk, at $2,000; two chief clerks of division, at $1,800 each; six clerks of class four; four clerks of class three; four clerks of class two; twelve clerks of class one; eight messengers; seven laborers; and six watchmen for the Northwest Executive Building; in all $69,380.

The amendment was agreed to.

The next amendment was in line 1289, to increase the appropriation for the purpose of examining the rebel archives, and having copies furnished for the Government, from $5,000 to $6,600.

The amendment was agreed to.

The next amendment was in line 1297, after the word "one" to strike out "six" and insert "eight," and in line 1298, after the word "and" to strike out the words "ninety-two thousand six hundred and forty" and insert "ninety-four thousand three hundred and twenty;" so as to read:

In the office of the Adjutant-General:
One chief clerk, at $2,000; eleven clerks of class four; seventeen clerks of class three; forty-one clerks of class two; one hundred and fifty-one clerks of class one; eight messengers, at $840 each; in all, $294,320.

The amendment was agreed to.

The next amendment was in line 1301, to increase the appropriation for the contingent expenses of the office of the Adjutant-General from $8,000 to $10,000.

The amendment was agreed to.

The next amendment was in line 1308, after the word "three" to strike out the words "one thousand six hundred dollars;" in the same line, after the word "two" strike out the words "female copyists, at $900 each" and insert "clerks of class one; one messenger;" and in line 1310, after the words "in all" to strike out the words "five thousand two hundred" and insert "six thousand six hundred and forty;" so as to read:

In the Bureau of Military Justice:
One chief clerk, $1,800; one clerk of class three; two clerks of class one; one messenger; in all $6,640.

The amendment was agreed to.

The next amendment was in line 1316, after the word "dollars" to strike out "five" and insert "seven;" in line 1317, after the word "four" to strike out the word "ten" and insert "nine;" in line 1318, after the word "twenty" insert "four;" in line 1319, after the word "one" strike out "twenty-five" and insert "twenty," and in line 1326, after the word "and" to strike out the words "forty-six thousand one" and insert "fifty-two thousand four;" so as to make the clause read:

One chief clerk, at $2,000; seven clerks of class four; nine clerks of class three; twenty-four clerks of class two; forty-eight clerks of class one; twenty copyists, at $900 each; one female messenger, at $30 per month; one messenger, at $840; two assistant messengers; six laborers; one engineer, at $1,200; one fireman; five watchmen; and one draughtsman, at $1,800; in all, $152,480.

The amendment was agreed to.

The next amendment was in line 1352, after the word "dollars" to strike out the words "one clerk" and insert "two clerks;" in line 1354, after the word "two" to strike out "four" and insert "six;" and in line 1355, after the words "in all" to strike out the words "sixteen thousand one" and insert "twenty thousand three;" so as to read:

One chief clerk, at $2,000; two clerks of class four; two clerks of class three; two clerks of class two; six clerks of class one; one messenger; one laborer; in all, $20,360.

The amendment was agreed to.

The next amendment was in line 1367, after the word "dollars" to strike out the word "four" and insert "six;" in line 1368, after the word "three" to strike out the word "ten" and insert "fourteen;" in line 1369, after the word "two" to strike out the word "twelve" and insert "nine;" and in line 1370, after the words "in all" to strike out the words "fifty-three thousand two" and insert "fifty-eight thousand eight;" so as to read:

Chief clerk, at $2,000; six clerks of class four; seven clerks of class three; fourteen clerks of class two; nine clerks of class one; one messenger; two watchmen three laborers; in all $58,840.

The amendment was agreed to.

The next amendment was in line 1372, to increase the appropriation for contingent expenses in the office of the Paymaster-General from $2,000 to $3,000.

The amendment was agreed to.

The next amendment was in the clause making appropriations for the office of the Chief of Engineers, line 1374, after the word "dollars" to strike out the word "three" and insert "four;" in line 1376, after the word "two" to strike out the word "four" and insert "three;" and in line 1377, after the words "in all" to strike out the words "twenty-three thousand four hundred" and insert "twenty-four thousand;" so that the clause will read:

One chief clerk, at $2,000; four clerks of class four; three clerks of class three; three clerks of class two; three clerks of class one; one messenger; two laborers; in all, $24,080.

The amendment was agreed to.

The next amendment was in line 1384, to increase the appropriation for contingent expenses of the office of the Chief of Engineers from $2,000 to $3,000.

The amendment was agreed to.

The next amendment was in line 1388, in the appropriations for the War Department buildings to increase the compensation of one engineer in the War Department building from $1,000 to $1,200; and in line 1389, to increase the total appropriation, one engineer, four watchmen, and two laborers in the War Department buildings, from $5,320 to $5,520.

The amendment was agreed to.

The next amendment was in line 1392, to increase the appropriation for labor, fuel, light, and miscellaneous items for the War Department buildings from $6,000 to $7,500.

The amendment was agreed to.

The next amendment was under the head of "Navy Department," in line 1414, to increase the compensation of the chief clerk of the Navy Department from $2,250 to $2,500.

The amendment was agreed to.

The next amendment was in line 1418, to increase the total appropriation for compensation of the Secretary of the Navy, chief clerk, one disbursing clerk, &c., from $31,170 to $31,420.

The amendment was agreed to.

The next amendment was in line 1449, after the word "three," to strike out the words "one clerk" and insert "two clerks;" and in line 1451, after the words "in all," to strike out the words "eight thousand one" and insert "nine thousand five;" so as to read:

Bureau of Ordnance:
For chief clerk, $1,800; draughtsman, $1,800; one clerk of class three; two clerks of class two; one messenger; and one laborer; in all, $9,560.

The amendment was agreed to.

The next amendment was in line 1474, after the word "two," to strike out the word "two" and insert "three;" and in line 1475, after the words "in all," to strike out the words "thirteen thousand five" and insert "fourteen thousand seven;" so as to read:

Bureau of Provisions and Clothing:
For chief clerk, $1,800; one clerk of class four; two clerks of class three; two clerks of class two; three clerks of class one; one messenger; and one laborer; in all, $14,760.

The amendment was agreed to.

The next amendment was in line 1486, after the word "for," to strike out the word "four" and insert "five;" and in line 1487, after the words "in all," to strike out the words "four thousand five hundred and seventy" and insert "five thousand two hundred and ninety;" so as to read:

For one superintendent of the building occupied by the Navy Department, and for five watchmen and two laborers; in all, $3,290.
For incidental labor, fuel, lights, and miscellaneous items for said building, $5,000.

The amendment was agreed to.

The next amendment was in line 1489, after the word "for," to insert the words "incidental labor;" and in line 1490, after the word "building," to strike out the word "three" and insert "five;" so as to make the clause read:

For incidental labor, fuel, lights, and miscellaneous items for said building, $5,000.

The amendment was agreed to.

The next amendment was under the head of "Department of the Interior" in line 1494, to increase the appropriation for the salary of the chief clerk of the Department from $2,250 to $2,500; and in line 1502, to increase the total appropriation for compensation of employés in the office of the Secretary of the Interior from $62,650 to $62,900.

The amendment was agreed to.

The next amendment was in line 1510, after the word "and," to strike out the word "twenty-four" and insert "twenty-eight;" and in line 1512, after the word "direct," to strike out the words "seventeen thousand two hundred and eighty" and insert "twenty thousand one hundred and sixty;" so as to read:

For one captain of the watch, $1,000; and twenty-eight watchmen, to be allotted to day or night service, as the Secretary of the Interior may direct, $20,160.

The amendment was agreed to.

The next amendment was in line 1514, after the word "for" to strike out the word "stationery," and in line 1517, after the word "library" to strike out the word "eight" and insert "seven;" so as to make the clause read:

For furniture, advertising, telegraphing, ice, and miscellaneous items, including new books and books to complete broken sets, and cases and maps for library, $7,000.

The amendment was agreed to.

The next amendment was in line 1519, after the word "superintendent" to strike out the words "at $1,600, five thousand," and insert "six thousand two hundred and fifty:" so as to read:

For expenses of packing and distributing official documents, (including salary of superintendent,) $6,250.

The amendment was agreed to.

The next amendment was after line 1526, to insert the following:

For stationery for the Department of the Interior and its several bureaus and offices, $29,000.

The amendment was agreed to.

The next amendment was after line 1529, to insert the following:

For temporary clerks for the Department of the Interior, $7,000.

The amendment was agreed to.

The next amendment was in line 1535, in the clause making appropriations for the General Land Office, to increase the appropriation for the salary of the recorder from $1,800 to $2,000, and in line 1543, to increase the total appropriation for compensation to employés in the General Land Office from $213,440 to $213,640.

The amendment was agreed to.

The next amendment was in line 1551, to increase the appropriation for maps of the United States (including paper) from $3,000 to $6,000.

The amendment was agreed to.

The next amendment was in line 1552, after the word "diagrams," to strike out the words "stationery, parchment paper for land-patents;" and in line 1559, after the word "telegraphing" to strike out the words "twenty-five thousand" and insert "twenty-one thousand five hundred;" so as to read:

For diagrams, furniture, and repairs of the same, miscellaneous items, including two of the city newspapers, to be filed, bound, and preserved for the use of the office, for the actual expenses of clerks detailed to investigate fraudulent land-entries, trespasses on the public lands, and cases of official misconduct, and for advertising and telegraphing, $21,500.

The amendment was agreed to.

The next amendment was in the appropriations for the Indian Office, in line 1563, after the word "dollars" to strike out the word "four" and insert "five;" in line 1564, after the word "four" to strike out the word "seven" and insert "eight;" in line 1565, after the word "dollars" to strike out the word "nine" and insert "thirteen;" in line 1566, after the word "two" to strike out the word "twelve" and insert "thirteen;" in the same line, after the word "one" to strike out the word "eight" and insert "six;" and in line 1568, after the words "in all" to strike out the words "sixty-one thousand four" and insert "sixty-nine thousand eight;" so as to make the clause read:

Indian Office:

For compensation of the Commissioner of Indian Affairs, $3,000; chief clerk, $2,000; five clerks of class four; eight clerks of class three; one stenographer, at $1,600; thirteen clerks of class two; thirteen clerks of class one; six copyists, at 900 each; one messenger; one assistant messenger; and one laborer; in all, $69,880.

The amendment was agreed to.

The next amendment was in line 1571, after the word "binding" to strike out the word "stationery;" in line 1572, after the word "including" insert the words "price-lists and;" in line 1573, after the word "two" strike out the word "city;" and in line 1574, after the word "office" to strike out the words "five thousand" and insert "three thousand five hundred;" so as to make the clause read:

For blank books, binding, fuel, lights, telegraphing, and miscellaneous items, including price-lists and two newspapers, to be filed and bound and preserved for the use of the office, $3,500.

The amendment was agreed to.

Mr. DAVIS. In line 1590 I move to insert after the word "actual" the words "and necessary;" so as to read:

For actual and necessary expenses of clerks detailed to investigate suspected frauds and attempts at fraud, as provided by law, $40,000.

Mr. WINDOM. The Senator is a little out of order; but there is no objection to it. The amendments of the committee are usually acted upon first. I have no objection to it, however, and it may as well be acted on now.

Mr. DAVIS. I knew I was out of order, but it would save time. There is no objection to the amendment, I understand.

Mr. SARGENT. It is all right.

The PRESIDENT *pro tempore*. The Senator will be considered in order. The question is on the amendment of the Senator from West Virginia.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was in the appropriations for the Pension Office, in line 1593, after the word "for" to strike out the words "stationery, $6,000 for;" so as to read:

For carpets, mats, furniture, awnings, and repairs of the same, $2,000; for fuel, gas, engraving and retouching plates; for bounty-land warrants, printing and binding the same, engraving and printing pension certificates; for repairs of building; and for other necessary expenses of the office, including two daily newspapers, $4,500; in all, $12,500.

The amendment was agreed to.

The next amendment was in line 1603, after the word "thousand" to insert the words "five hundred;" in the same line, after the word "commissioner" to strike out the words "two thousand seven hundred and fifty" and insert "three thousand;" in line 1606, after the word "at" to strike out the words "two thousand seven hundred and fifty" and insert "three thousand;" in line 1617, after the word "dollars" to strike out the word "four" and insert "five;" in line 1622, after the word "languages," to strike out the word "fifteen" and insert "twenty-one;" in the same line, after the word "and" strike out the word "twenty-five" and insert "thirty-five;" in line 1624, after the word "twenty" insert "five;" in line 1629, after the word "for" to strike out the word "four" and insert "six;" in line 1630, after the word "for," to strike out the word "three" and insert "four;" in line 1632, after the word "for," to strike out the word "forty-five" and insert "forty;" in line 1634, after the word "each" to insert "three folders and pasters, at $480 each;" and in line 1635, after the word "and" to strike out the words "forty-seven thousand nine hundred" and insert "eighty-four thousand five hundred and forty;" so as to read:

United States Patent Office:

For compensation of the Commissioner of the Patent Office, $4,500; for assistant commissioner, $3,000; for chief clerk, $2,250; three examiners-in-chief, at $3,000 each; examiner in charge of interferences, $2,500; trade-mark examiner, $2,250; twenty-two principal examiners, at $2,500 each; twenty-two first assistant examiners, at $1,800 each; twenty-two second assistant examiners, at $1,600 each; twenty-two third assistant examiners, at $1,400 each; one machinist, $1,600; five clerks of class four, (one of whom shall receive $200 additional for services as financial clerk, and shall give bond in such amount as the Secretary of the Interior may determine;) five clerks of class three, one of whom shall be translator of languages; twenty-one clerks of class two; and thirty-five clerks of class one; also for twenty-five permanent clerks, at $1,000 each; for forty copyist clerks, at $900 each; for three skilled draughtsman, at $1,200 each; for one messenger and purchasing-clerk, $1,000; for one skilled laborer, $1,200; for six attendants in model-room, at $1,000 each; for four attendants in model-room, at $900 each; for forty laborers, at $720 each; for six laborers, at $600 each; three folders and pasters, at $480 each; in all, $384,540.

The amendment was agreed to.

The next amendment was in line 1639, after the word "for" to strike out the words "stationery for use of office;" as to read:

For contingent and miscellaneous expenses of the Patent Office, namely: For repair of model-cases, stationary portfolios for drawings, furniture and labor connected therewith, repairing, papering, painting, carpets, ice, advertising, books for library, moneys refunded, printing engraved patent-heads, international exchanges, plumbing, gas-fitting, extra labor on indexes and abstracts for annual reports, fitting rooms, and other contingencies, $60,000.

The amendment was agreed to.

The next amendment was in line 1653, after the word "draughtsmen" to strike out "twenty-five" and insert "forty;" and at the end of the clause to strike out "the work to be done under the supervision of the Commissioner of Patents, who shall receive competitive bids therefor;" so as to make the clause read:

For photolithographing, or otherwise producing copies of drawings of current and back issues of the office and for sale, including pay of temporary draughtsmen, $40,000.

The amendment was agreed to.

The next amendment was in line 1660, to increase the appropriation for "photolithographing, or otherwise producing plates for the Official Gazette, including pay of employés engaged on the Gazette, and for making similar plates," from $20,000 to $30,000.

The amendment was agreed to.

The next amendment was in line 1666, after the word "done" to strike out the following words:

In the city of Washington, if as cheaply as elsewhere, under competitive bids, under the supervision of the Commissioner of Patents, subject to the approval of the Secretary of the Interior.

And in lieu thereof to insert:

Under the supervision of the Commissioner of Patents in the city of Washington, if it can be there done at reasonable rates; and the Commissioner of Patents, under the direction of the Secretary of the Interior, is authorized to make contracts therefor.

So as to make the clause read:

For photolithographing, or otherwise producing copies of the weekly issues of drawings, to be attached to patents and copies, $25,000; the work of the said photolithographing, or otherwise producing plates and copies, referred to in this and the two preceding paragraphs, to be done under the supervision of the Commissioner of Patents and in the city of Washington, if it can be there done at reasonable rates; and the Commissioner of Patents, under the direction of the Secretary of the Interior, is authorized to make contracts therefor.

The amendment was agreed to.

The next amendment was in line 1676, to increase the appropriation for tracings of drawings preparatory to photolithographing back issues from $10,000 to $35,000.

The amendment was agreed to.

The next amendment was in line 1686, after the word "namely" to strike out the words "stationery, $1,500;" and in line 1698, after the words "in all" to strike out the words "twelve thousand nine" and insert "eleven thousand four;" so as to read:

For contingent expenses, namely: cases for library, $500; library, $1,000; current educational periodicals, $250; other current publications, $225; completing valuable sets of periodicals and publications in the library, $200; telegraphing and expressage, $200; collecting statistics, and writing and compiling matter for annual and special reports, and editing and publishing circulars of information $8,000; fuel and lights, $275; office furniture, $.50; contingencies, $500; in all, $11,400.

The amendment was agreed to.

The next amendment was in line 1701, to increase the appropriation for compensation of surveyor-general of Louisiana from $1,800 to

$2,000; and in line 1703, to increase the compensation for clerks in his office from $2,000 to $3,000.

The amendment was agreed to.

The next amendment was in line 1704, to increase the compensation of surveyor-general of Florida from $1,800 to $2,000.

The amendment was agreed to.

The next amendment was in line 1707, to increase the appropriation for compensation of surveyor-general of Minnesota from $1,800 to $2,000, and for the clerks in his office from $3,000 to $5,500.

The amendment was agreed to.

The next amendment was in line 1711, to increase the appropriation for compensation of surveyor-general of the Territory of Dakota from $1,800 to $2,000, and for the clerks in his office from $2,500 to $4,300.

The amendment was agreed to.

The next amendment was in line 1716, to increase the appropriation for surveyor-general of Colorado from $2,500 to $3,000, and for the clerks in his office from $3,000 to $3,600.

The amendment was agreed to.

The next amendment was in line 1719, to increase the appropriation for surveyor-general of the Territory of New Mexico from $2,500 to $3,000.

The amendment was agreed to.

The next amendment was in line 1721, to increase the appropriation of the surveyor-general of California from $2,750 to $3,000, and for the clerks in his office from $8,000 to $12,000.

The amendment was agreed to.

The next amendment was in line 1724, to increase the appropriation for the surveyor-general of the Territory of Idaho from $2,500 to $3,000, and for the clerks in his office from $2,500 to $3,000.

The amendment was agreed to.

The next amendment was in line 1728, to increase the appropriation for surveyor-general of Nevada from $2,500 to $3,000, and for the clerks in his office from $2,500 to $3,500.

The amendment was agreed to.

The next amendment was in line 1731, to increase the appropriation for the surveyor-general of Oregon from $2,250 to $2,500 and for the clerks in his office from $3,000 to $4,500.

The amendment was agreed to.

The next amendment was in line 1736, to increase the appropriation of the surveyor-general of the Territory of Washington from $2,250 to $2,500 and for the clerks in his office from $3,000 to $4,500.

The amendment was agreed to.

The next amendment was in line 1741, to increase the appropriation for the clerks in the office of the surveyor-general of Nebraska and Iowa from $3,000 to $3,600.

The amendment was agreed to.

The next amendment was in line 1743, to increase the appropriation for surveyor-general of the Territory of Montana from $2,750 to $3,000, and in line 1744 to reduce the appropriation for the clerks in his office from $4,000 to $3,000.

The amendment was agreed to.

The next amendment was in line 1746, to increase the appropriation for surveyor-general of the Territory of Utah from $2,750 to $3,000 and for the clerks in his office from $2,500 to $3,600.

The amendment was agreed to.

The next amendment was in line 1751, to increase the appropriation for surveyor-general of the Territory of Wyoming from $2,750 to $3,000 and for the clerks in his office from $3,000 to $4,000.

The amendment was agreed to.

The next amendment was in line 1755, to increase the appropriation for surveyor-general of the Territory of Arizona from $2,750 to $3,000 and for the clerks in his office from $3,000 to $3,200.

The amendment was agreed to.

The next amendment was to strike out from line 1758 to line 1767, inclusive, in the following words:

That public lands situated in States in which there are no land offices may be entered at the General Land Office, subject to the provisions of law touching the entry of public lands; and that the necessary proofs and affidavits required in such cases may be made before some officer competent to administer oaths, whose official character shall be duly certified to by the clerk of a court of record; and moneys received by the Commissioner of the General Land Office for lands entered by cash entry shall be covered into the Treasury.

The amendment was agreed to.

The next amendment was in line 1787, under the head of "Post-Office Department," after the word "thousand" insert the words "one hundred;" in line 1794, after the word "four" strike out the word "sixty-three" and insert "seventy;" in the same line, after the word "three" to strike out the word "forty-eight" and insert "fifty-three;" in line 1795, after the word "two" to strike out the word "sixty-five" and insert "seventy-five;" in line 1976, after the word "fifty" insert "seven;" in line 1800, after the word "each" to strike out the word "seven" and insert "eleven;" in line 1802, after the word "dollars" to strike out "nine" and insert "fourteen;" in line 1803, after the word "each" to strike out the word "twenty-seven" and insert "thirty-seven;" and in line 1813, after the word "and" to strike out the words "43,240" and insert "85,780;" so as to read:

Chief of division of free delivery, $2,100; superintendent of blank agency, $1,800; assistant superintendent of blank agency, $1,600; four assistants of blank agency, $1,200 each; two assistants of blank agency, $900 each; stenographer, $1,800; seventeen clerks of class four; seventy clerks of class three; fifty-three clerks of class two; seventy-five clerks of class one; fifty-seven female clerks, at $900 each; one messenger to Postmaster-General, $900; three messengers to Assistant Postmasters-General $840 each; eleven assistant messengers, $720 each; captain of the watch, $1,000; fourteen watchmen, at $720 each; thirty-seven laborers, $720 each; one engineer, $1,400; one assistant engineer, $1,000; one carpenter, $1,200; one assistant carpenter, $1,000; one fireman, who shall be a blacksmith, $900; one fireman, who shall be a steam-fitter, $900; one fireman, $720; three female laborers, $480 each; and for temporary clerks, $10,000; making, in all, $485,780.

The amendment was agreed to.

The next amendment was in line 1817, after the word "stationery" to strike out the word "nine" and insert "ten;" in line 1821, after the word "painting" to strike out the word "two" and insert "five;" in line 1828, after the words "miscellaneous items" insert "$8,000;" and in the same line, immediately following, to strike out the word "including" and insert "for;" in line 1829, after the words "Official Postal Guide" to strike out "18,400" and insert "20,000;" and in line 1831, after the words "in all" to strike out the word "60,000" and insert "72,400;" so as to make the clause read:

For contingent expenses of the Post-Office Department: For stationery, $10,000; fuel for the General Post-Office building, including the Auditor's Office, $7,400; for gas, $5,000; plumbing and gas-fixtures, $3,000; telegraphing, $3,000; painting, $5,000; carpets, $3,000; furniture, $5,000; keeping of horses and repair of wagons and harness, $1,200; hardware, $1,200; and for rent of house numbered 915 E street, northwest, $1,800; and for miscellaneous items, $8,000; for publication of copies of the Official Postal Guide, $20,000; in all, $72,400.

The amendment was agreed to.

The next amendment was after line 1831 to insert the following:

For furnishing and fitting up and for plumbing and gas-fixtures for the new basement story of the Post-Office Department building, $12,800, to be available immediately.

The amendment was agreed to.

The next amendment was in line 1838, under the head of "Department of Agriculture," after the word "clerk" to strike out the words "two thousand" and insert "one thousand eight hundred;" in line 1843, after the word "statistician" to strike out the words "two thousand" and insert "one thousand eight hundred;" and in line 1846, after the word "dollars" to strike out the words "lady superintendent of flower-seed room, $900;" in line 1850, after the word "four" to strike out the word "three" and insert "four;" in line 1851, after the word "three" to strike out the word "four" and insert "five;" in line 1859, after the word "and" to strike out "seven" and insert "eight;" and in line 1860, after the words "in all" to strike out the words "sixty-two thousand and twenty" and insert "sixty-four thousand six hundred and forty;" so as to read:

For compensation of the Commissioner of Agriculture, $3,000; chief clerk, $1,800; entomologist, $2,000; chemist, $2,000; assistant chemist, $1,400; superintendent of experimental gardens and grounds, $1,800; statistician, $1,800; disbursing clerk, $1,600; superintendent of seed-room, $1,600; librarian, $1,400; botanist, $1,800; microscopist, $1,800; three clerks of class four; four clerks of class three; five clerks of class two; six clerks of class one; engineer, $1,200; superintendent of folding-room, $1,200; two copyists, at $900 each; two attendants in the museum, $1,000 each; one messenger, at $840; two assistant messengers, at $720 each; one carpenter, at $960; two watchmen; and eight laborers; making, in all, $64,640.

The amendment was agreed to.

The next amendment was in line 1869, after the word "seventy" to insert the word "five;" and in line 1873, to strike out "seventy-five" and insert "eighty;" so as to make the clause read:

For purchase and distribution of new and valuable seeds and plants, $75,000; for expense of putting up the same, including purchase of one paper-box machine, for labor, bagging-paper, twine, gum, and other necessary materials, $5,000; in all, $80,000.

The amendment was agreed to.

The next amendment was in line 1876, to increase from $5,000 to $10,000 the appropriation "for the purchase of garden and field seeds for distribution in those States which in 1876 were ravaged by grasshoppers or locusts."

The amendment was agreed to.

The next amendment was in line 1881, to increase from $3,000 to $5,000 the appropriation "for labor on experimental garden, and for flower-pots, repairs to greenhouse, and purchase of new plants and seeds for the same."

The amendment was agreed to.

The next amendment was in line 1884, to increase from $1,000 to $2,000 the appropriation for collecting and modeling specimens of fruits and vegetables, and collecting and preparing specimens for the museum and herbarium.

The amendment was agreed to.

The next amendment was in line 1894, to increase from $1,000 to $1,300 the appropriation for chemicals and apparatus for the use of the microscopist.

The amendment was agreed to.

The next amendment was in line 1911, to increase the appropriation for marshal of the Supreme Court of the United States from $2,500 to $3,500.

The amendment was agreed to.

The next amendment was in line 1935, after the word "courts" to insert "including compensation of the United States district attorney;" so as to read:

For defraying the contingent expenses of the courts, including compensation of the United States district attorney, and the fees, per diem, and traveling expenses of the United States marshal in the Territory of Utah, with the expenses of summoning jurors, subpœnaing witnesses, of arresting, guarding, &c.

The amendment was agreed to.

The next amendment was in line 1947, to increase the appropriation

for the expenses of the courts, &c., of the Territory of Utah from $20,000 to $26,000.

The amendment was agreed to.

The next amendment was in line 1955, after the word "dollars" to insert the words "naval solicitor, $3,500;" in line 1957, after the word "thousand" to insert the words "five hundred;" in line 1958, after the word "thousand" to strike out "five" and insert "seven;" in line 1959, after the word "thousand" to insert the words "two hundred;" in line 1960, after the word "thousand" to strike out the word "six" and insert "eight;" in the same line, after the word "hundred" insert the word "dollars;" in line 1961, after the word "dollars" to strike out the word "three" and insert "five;" in line 1962, after the word "dollars" to strike out the words "two clerks" and insert "one clerk;" and in line 1966, after the words "in all" to strike out the words "seventy thousand three" and insert "seventy-seven thousand one;" so as to read:

Office of the Attorney-General:

For compensation of the Attorney-General, $8,000; solicitor-general, $7,000; three assistant attorneys-general, at $5,000 each; one assistant attorney-general of the Post-Office Department, $4,000; solicitor of internal revenue, $4,500; naval solicitor, $3,500; examiner of claims, $3,500; law-clerk and examiner of titles, $2,700; chief clerk, $2,200; stenographic clerk, $1,800; one law clerk, $2,000; five clerks of class four; additional for disbursing clerk, $200; one clerk of class two; two clerks of class one; five copyists; one telegraph-operator, at $1,000; one messenger; one assistant messenger; two laborers; and two watchmen; in all, $77,140.

The amendment was agreed to.

The next amendment was in line 1971, after the word "Department," to strike out "one" and insert "three;" in line 1972, after the word "thousand," to insert "five hundred;" in line 1974, after the word "necessaries," to strike out the words "six thousand;" and in line 1975, after the words "in all," to strike out the word "ten" and insert "fourteen;" so as to read:

For contingent expenses of the Department, namely: For furniture and repairs, $1,000; for law and miscellaneous books for the library of the Department, $4,000; for stationery, $2,500; for miscellaneous expenditures, such as telegraphing, fuel, lights, labor, and other necessaries, $7,500; in all, $14,000.

The amendment was agreed to.

The next amendment was in line 1977, to increase from $500 to $1,000 the appropriation for care and subsistence of horses and repairs of wagons and harness.

The amendment was agreed to.

The next amendment was in line 1979, to increase from $10,000 to $14,000 the appropriation for the rent of the four floors of the building occupied by the Department of Justice.

The amendment was agreed to.

The next amendment was in line 1984, after the word "thousand" to insert the words "five hundred;" in line 1986, after the word "dollars" to strike out the word "two" and insert "four;" in line 1988, after the word "two" to strike out the word "three" and insert "two;" and in line 1989, after the words "in all" to strike out the words "twenty-three thousand seven" and insert "twenty-six thousand six;" so as to make the clause read:

Office of the Solicitor of the Treasury:

For compensation of the Solicitor of the Treasury, $4,500; assistant solicitor, $3,000; chief clerk, $2,000; four clerks of class four; two clerks of class three; two clerks of class two; two clerks of class one; one messenger; and one laborer; in all, $26,600.

The amendment was agreed to.

The next amendment was under the head of "Court of Claims," in line 1999, after the word "thousand" to insert the words "five hundred," and in line 2003, after the word "thousand" to insert the words "five hundred;" so as to make the clause read:

For stationery, books, fuel, labor, postage, and other contingent and miscellaneous expenses, $2,500; for reporting the decisions of the court, clerical hire, labor in preparing and superintending the printing of the twelfth volume of the Reports of the Court of Claims, to be paid on the order of the court, $1,000; in all, $3,500.

The amendment was agreed to.

The next amendment was after line 2004, to insert the following:

To pay judgments of the Court of Claims, $639,410.59.

The amendment was agreed to.

The next amendment was to strike out section 2, in the following words:

SEC. 2. That the sums respectively appropriated by this act for the salary or compensation of officers and employés therein named shall be the salary and compensation of such officers or employés.

The amendment was agreed to.

The PRESIDENT *pro tempore*. This concludes the amendments of the Committee on Appropriations.

Mr. WINDOM. On page 13, lines 290 and 291, under the head of "Public Printer," I move to strike out "twelve thousand nine hundred" and insert "thirteen thousand four hundred;" so as to read:

For compensation of the Public Printer at the rate of $3,600 per annum, and of the clerks and employés in his office, $13,400.

I have only two or three little amendments that I wish to offer.

The amendment was agreed to.

Mr. WINDOM. On page 14, line 322, under the head of the "Botanic Garden," I move to strike out "three thousand" and insert "four thousand five hundred;" so as to read:

For improving the garden, procuring manure, tools, fuel, and repairs, and purchasing trees and shrubs, under the direction of the Library Committee of Congress, $4,500.

That is the amount which was appropriated last year.

The amendment was agreed to.

Mr. WINDOM. On page 77, in line 1877, after the word "dollars," I move to insert the words "to be available immediately;" so as to read:

For the purchase of garden and field seeds for distribution in those States which in 1876 were ravaged by grasshoppers or locusts, $10,000, to be available immediately; the same to be deducted from the foregoing appropriation.

The amendment was agreed to.

Mr. WINDOM. On line 1663, page 68, after the word "copies," I move to strike out the word "twenty-five" and insert "thirty;" so as to read:

For photolithographing, or otherwise producing copies of the weekly issues of drawings, to be attached to patents and copies, $30,000; the work of the said photolithographer, or otherwise producing plates and copies, referred to in this and the two preceding paragraphs, &c.

The amendment was agreed to.

Mr. WINDOM. On line 1671, in the appropriation for photolithographing drawings attached to patents, &c., I move to strike out the words:

In the city of Washington, if it can be done at reasonable rates.

Mr. SARGENT. I do not think that is a judicious amendment.

Mr. WINDOM. I do not insist upon it. I thought that was unanimously agreed upon in committee.

Mr. SARGENT. I think it would be rather an injudicious amendment.

Mr. WINDOM. I will withdraw it.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. DAVIS. Out of order as I was reminded a few moments ago I offered an amendment.

The PRESIDENT *pro tempore*. The Senator was decided to be in order.

Mr. DAVIS. I would inquire if the amendment which I offered was made at the time?

The PRESIDENT *pro tempore*. The amendment was made.

Mr. DAVIS. I intended to say something on that subject, but the lateness of the hour prevents me, and the words "and necessary" being added, which gives an opportunity to the committee of conference to change it if a change is necessary, I refrain from offering myself the amendment which I intended. So much for that. Now, after line 1904, I propose an amendment which I think probably will meet with no objection. I have a letter from the Commissioner of Agriculture, which is very short, to sustain it and which I shall ask the Clerk to read, for it will explain the amendment. The amendment has been considered by the Committee on Agriculture, and also it has been before the Committee on Appropriations. I move to insert after line 1904:

For the erection of a gallery around the museum of the Agricultural Department for the reception of the contributions to it by the representatives of foreign governments at the Centennial, $2,500.

The PRESIDENT *pro tempore*. The letter referred to by the Senator will be read.

The Chief Clerk read as follows:

To the Committee on Appropriations of the Senate:

A very extensive contribution has been made to the museum of the Agricultural Department by the representatives of foreign governments and by some of our own States. Their value is not less than $100,000, if they could be purchased at all. Our present museum, which contains five thousand square feet, as at present occupied will not contain them. I have had an estimate made by Architect Cluss, who reports to me that a gallery may be added to the present museum which would add three thousand square feet to our surface room and would be sufficient for the reception of the contributions referred, and that such gallery would cost $2,500. I have no means of making any other disposition of these contributions; and they will be lost unless they are thus cared for. I therefore ask for the following amendment to the bill making appropriations to this Department.

Respectfully,

FREDK. WATTS,
Commissioner of Agriculture.

Mr. SARGENT. There is no objection to that amendment.

The amendment was agreed to.

Mr. KERNAN. I wish to offer an amendment and I will state briefly what I wish to accomplish by it. I move to strike out from line 729 to line 734 inclusive in the following words:

For dies, paper, and stamps, $466,000; said engraving and printing to be done in the Bureau of Engraving and Printing of the Treasury Department, to be expended under the direction of the Secretary of the Treasury, provided the cost does not exceed the price paid under existing contracts.

And in lieu thereof to insert:

For dies, paper, and stamps, $466,000; said engraving and printing to be done in the Bureau of Engraving and Printing of the Treasury Department unless it can be done at less cost under private contract, the cost in no case to exceed the price paid under existing contracts, to be expended under the direction of the Secretary of the Treasury.

My information is that this work has been done since 1874 and is still being done under contract by certain companies, some three or four of them. The bill as it reads proposes that the work shall be done by the Government in its own office. The amendment provides that the work shall be done by the Government, unless it can be done at less cost under private contract, and that in no event shall the cost by contract exceed what the existing contract is now. My information about these contracts is that they were made in 1874, when prices were higher than now, and if this amendment should prevail, these companies which have contracts with the Government and other

companies will compete and the work will be satisfactorily done and at a very much lower figure than it is done now, and perhaps lower than the Government can do the work itself.

My information is not direct, however, that this change is asked for by the head of the Treasury Department. I hope we will leave the law as it is, so that the work shall be done by contract unless it can be done in the Treasury Department cheaper than it is now being done. My information and belief is that if the amendment prevails the work may be done as it is now under contract with the American Bank Note Company, the Continental Bank Note Company, and the Columbia Bank Note Company, which are competent and skillful companies, and have done the work satisfactorily. I think it is wise in every case not to attempt to get up a bureau and to hire men and buy dies and buy what they must necessarily provide themselves with to do this work, and therefore I hope the amendment will prevail.

Mr. WINDOM. I am very anxious to complete the bill to-night, and think it very important that it should be done. Not being entirely clear as to the merits of the amendment, if it is agreeable to the Senator from New York, I will consent, and ask the Senate to consent, to his amendment, and the matter may be fully investigated in the conference committee.

Mr. STEVENSON. Is this amendment in order? I differ with the Senator from New York so widely in his views about the Government employing outside companies and placing the Government at the mere beck and power of these companies that I shall raise the question of order on the reception of the amendment.

Mr. KERNAN. I believe it is in order.

The PRESIDENT *pro tempore*. The amendment does not increase the appropriation, neither is it a new appropriation, and it is in order.

Mr. WITHERS. I am opposed to the amendment on principle. The Government has provided at great expense a large amount of most costly machinery and is paying the highest salaries for the most skilled workmen and keeping them here at expense for the use of the Government to do this particular kind of work; and I think while that is the case it is wrong policy to let the work be put out under private contract or given to private companies when the Government is itself provided with all the appliances and means, secured at great cost, for doing identically this work.

Mr. KERNAN. My information is different. Of course I should like to be corrected if I am wrong, but my information is that this work has been done since 1874 and is being done now under contract. The amendment which I have proposed provides that it shall be continued with these companies if the cost does not exceed the price paid under existing contracts. But one of the reasons suggested to me (for I am not familiar with the subject myself) by different persons, a member of the other House among others, who is familiar with the subject, is that instead of the Government being provided with costly apparatus, if it undertakes to do this work there will have to be provided a great deal of costly apparatus.

On principle I believe that wherever there are responsible companies or individuals who will do manufacturing work for the Government, as a rule it is better to employ them than to have a bureau where everybody knows that the men in charge are pressed to put in political favorites instead of skilled workmen. Therefore the work must be done at less cost than the Government can do it or else the amendment would not be effective. I think that all these attempts to get men in charge in the Treasury Department to do work which foreign countries employ some of these very companies to do is a mistake in principle as it is extravagant. The amendment is in the interest of what I believe to be real economy, and I trust it will prevail.

Mr. STEVENSON. I have only a word to say to the Senator from New York, and that is that the late Secretary of the Treasury, who ought to have had some experience, opposed such an amendment. I heard him say that it would be a great mistake. I heard him say that whenever the Government puts out such work under contract it is putting the Government at the power of these companies. The gentleman says they have no skilled workmen in the Treasury. I am amazed at such a statement as that. With all the bank-notes that this Government has issued during the war, with all the means and appliances in every department of printing and engraving, I had supposed that we stood in the very front rank, and it is the first time I have ever heard it stated that the printing at the Treasury was not equal to any printing anywhere else. As I have heard, and I know of my own personal knowledge, so far as some artisans engaged in the Treasury Department are concerned, they have not any superior, and I stand by the testimony of more than one Secretary of the Treasury. If the Government has gone to this expense and has the appliances, why not keep up the work at the Department? I hope the amendment will not prevail.

Mr. KERNAN. If the Senator will pardon me, of course on such a question the opinion of the Secretary of the Treasury would have great weight, but are we speaking about bank-notes? I would ask the chairman of the committee if this matter does not relate to the work for the Commissioner of Internal Revenue?

Mr. WINDOM. It is for internal revenue stamps.

Mr. INGALLS. It is about the same thing, however.

Mr. KERNAN. Then I should like to know how it is the work is being done under contract. These internl-revenue stamps, as I understand, now are being furnished by contract. My amendment provides that the work must be done in the bureau unless it can be done at less cost under private contracts. The work is now being done under contract, as I understand. I am not talking about greenbacks. I have heard no complaint that the work was not done well, but on the contrary my information is, though not from the head of the Department, that it is being done cheaper, and if there was an opportunity to make new contracts now and have the companies compete, it would be cheaper still than under the existing contract. The amendment which I propose provides that if they can do it as cheap in the Treasury Department it shall not be given out under contract, and the work would not go to these companies. The amendment provides for doing the work in the Bureau of Engraving and Printing of the Treasury Department unless it can be done at less cost under private contract. It is an important amendment. I do not say it shall be done cheaper by the Government, but if the Government can do it as cheap the amendment leaves it to them to do it there, unless it can be done cheaper under private contract. I think if the companies are doing the work now satisfactorily we should not put it back into the Treasury unless they can do the work as cheap in the Treasury as these parties will do it. Of course I only state my opinion. I spoke of unskilled men, but I did not say that there were not skilled men in the Treasury. I did say as every Senator knows that in this Bureau of Printing and Engraving in the Treasury there is a great pressure, and people are put there who are more or less incompetent, and they are put in through favoritism, and not on account of their skill. I do not believe that is a good mode of carrying on the Government.

Mr. WITHERS. I will state to the Senator that the class to which he alludes are simply placed in the subordinate positions, but I reassert that the Government has in its employment the most skilled labor that it is possible to command and secure upon that particular class of work. These revenue-stamps which are now being printed by contract, as the Senator very truly says, require a much less amount of skill in the preparation of them than the greenbacks and bank-notes which are now printed by the Department. That they are now printed under contract is because of the immense influence brought to bear by these wealthy corporations which was sufficient to induce Congress to divide the work and give them a part of it. A year or two ago when the same subject was under consideration the intelligence derived from the Secretary of the Treasury and the chief of the Bureau of Engraving and Printing was that the work would be done much more conveniently and at less expense and just as well or better than if taken by these private contracts, and I think myself while it might be a question as to which were the best course to adopt, the Government having adopted the principle of doing this work itself and under its own supervision and having secured the necessary labor and machinery, they ought to carry it on.

Mr. STEVENSON. I wish to say a single word to my friend from New York. I have had some little experience in this matter. I once looked into it. It may be that these companies underbid the Government now. It is a trick of the trade for them to underbid the Government so that the Government shall give up the work, and when the Government has given up all the materials and all their skilled labor then these companies put up the price three times as high as it was before. We have heard of that sort of thing before. The object of putting down these bids is to take away the work from the Government, to persuade us to take away this printing that they may raise their prices afterward. If the Government has skilled labor enough to print and engrave such bank-notes as we have seen in circulation and in such illimitable amounts in the last ten years, it seems to me almost an absurdity to say that the Government cannot print these internal-revenue stamps. It does not require half the skill to print internal-revenue stamps that it requires to print bank-notes.

But I answer the Senator by telling him that I know the Secretary of the Treasury who preceded the present incumbent attempted to get the entire printing done in the Treasury. He believed it was right; he believed it was economical; he believed that they had the right to do the work; that they had the clerks who could distribute it without any increased force, and you would not have to send off by express work which could be done in the Department. I know that my friend desires economy, but I say to him in all frankness, when we have had the experience and testimony of the Secretary before one of the committees of the other branch of Congress, with his idea of the capacity of the Department to do the work, it seems to me unwise legislation to take away from that Department these skilled workmen and these appliances and to allow private companies to raise their prices on us. What guarantee have we that the companies will not do that? What security have we that that would not be done?

The PRESIDENT *pro tempore*. The Senator's five minutes have expired.

Mr. KERNAN. The Government has the same security that a man has——

The PRESIDENT *pro tempore*. No further debate is in order by the Senator on this amendment. The question is on the amendment proposed by the Senator from New York, [Mr. KERNAN.]

The amendment was rejected.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. HITCHCOCK. I desire to offer an amendment to which I am sure the honorable chairman of the committee will not object and I am sure no Senator here will object to it. On page 77, line 1876, I move

to strike out the word "ten" and insert "thirty;" so as to increase the appropriation "for the purchase of garden and field seeds for distribution in those States which in 1876 were ravaged by grasshoppers or locusts" from $10,000 to $30,000. The amount appropriated in the former bill was $30,000 and the effect was very good, and it is certainly as small an amount as there is any reason or propriety in giving.

Mr. WINDOM. The Senator from Nebraska knows my weakness in that direction, and I think he ought not to appeal to me. I think, however, we cannot sustain an amendment at $30,000, deducting it from the appropriation for seeds in the previous paragraph.

Mr. HITCHCOCK. I think that is a proper deduction, and that Congress should make the same appropriation that it made before independently of the other appropriation for the distribution of seeds. They made the appropriation before, and the effect was good.

Mr. WINDOM. I am aware of the necessity of the amendment, and will go with the Senator as far as any other Senator will.

Mr. SARGENT. Would it not be better to strike out the succeeding words, "the same to be deducted from the foregoing appropriation?"

Mr. HITCHCOCK. I would be very glad to make that modification of my amendment, if it is agreeable to the Senate.

Mr. DAVIS. The Senator certainly does not mean to deprive the whole country of a large proportion of the seeds that have been distributed annually heretofore, and apply it to a particular section of country. The bill already takes from that appropriation $10,000.

Mr. HITCHCOCK. That has been made already; but my amendment would make it independent of that appropriation as I have accepted the suggestion of the Senator from California.

Mr. INGALLS. I very heartily concur with the amendment offered by the Senator from Nebraska. I know as well as he does the wants of the section of the country which during the past two or three years has been ravaged by locusts; and it is the most fertile, the most populous, and one of the most valuable portions of this entire country, comprising a very large proportion of the entire valley of the Mississippi. The agricultural products of that region have been damaged to the extent of not less than forty millions of dollars annually for several years last past; and it is certainly a very small contribution that Congress can make to furnish them with the means of seeding their ground anew. I hope there will be no objection to the amendment. I am sure it is one that will commend itself to the consideration of every Senator.

Mr. WINDOM. I certainly make no objection to it.

Mr. INGALLS. It will commend itself, I am confident, to the approbation and judgment of the entire country.

Mr. DAVIS. Let the amendment be read.

The PRESIDENT *pro tempore*. The Secretary will report the amendment.

The CHIEF CLERK. In line 1876 it is proposed to strike out "ten" and insert "thirty" and to strike out the words "the same to be deducted from the foregoing appropriation;" so as to read:

For the purchase of garden and field seeds for distribution in those States which in 1876 were ravaged by grasshoppers or locusts, $30,000, to be available immediately.

Mr. DAVIS. That is a very extravagant amount. If the Senator will make it $20,000 I shall not object to his amendment.

Mr. HITCHCOCK. I believe $30,000 is too small.

Mr. DAVIS. It is an extravagant amount. Other portions of the country have suffered, as well as the West, not from grasshoppers so much but from the army-worm and other things which have destroyed the crops in other sections, and I see no reason why a particular section of the country should be singled out and favored.

Mr. SARGENT. Make it $25,000.

Mr. HITCHCOCK. I will agree to make it $25,000.

Mr. DAVIS. Very well.

Mr. WITHERS. No, sir.

Mr. DAVIS. If it is in order, I will move to strike out $30,000 and insert $20,000.

Mr. INGALLS. O, no.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from West Virginia to the amendment of the Senator from Nebraska to fix the appropriation at $20,000.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the Senator from Nebraska.

The amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

Mr. SARGENT. I move that the Senate proceed to the consideration of executive business.

Several SENATORS. O, no.

Mr. SARGENT. We ought to have about five minutes of executive session. There are matters that ought to be referred to committee.

Mr. COCKRELL. I do not object.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session the doors were re-opened, and (at five o'clock and fifty minutes p. m.) the Senate took a recess until to-morrow, Thursday, February 22, at ten o'clock a. m.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 21, 1877.

The Senate having withdrawn,

The SPEAKER (at twelve o'clock and fifty-one minutes p. m.) again called the House to order, and said: The Chair decides that a new legislative day now commences. The Chaplain will offer prayer.

Prayer by the Chaplain, Rev. I. L. TOWNSEND.

The Journal of yesterday was read and approved.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. HOLMAN, from the Committee on Appropriations, reported a bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes; which was read a first and second time.

Mr. KASSON. Let all points of order be reserved on the bill.

The SPEAKER. Points of order will be reserved.

Mr. HOLMAN. This is the same bill which is printed in the RECORD this morning. I propose to move that the House resolve itself into Committee of the Whole for the purpose of considering this bill, but there are several gentlemen who wish to submit business to which there will be no objection and which will occupy no time. I am willing to yield for this purpose.

ELECTION IN SOUTH CAROLINA.

Mr. SAYLER. The committee appointed to investigate the recent election in South Carolina have directed me to submit a report and to ask that it be printed and recommitted. I am also directed to ask that the report may be printed in the RECORD, so that it may be of use to members at once. In the same connection I ask that the minority, whose views are not quite prepared, may have leave to report hereafter at any time.

Mr. FOSTER. And that the minority report when presented be printed in the RECORD.

Mr. SAYLER. There is no objection to that.

The SPEAKER. If there be no objection, the report just presented by the gentleman from Ohio [Mr. SAYLER] will be ordered to be printed and recommitted, and also printed in the RECORD; and leave will be granted to the minority of the committee to report at any time hereafter, and have their views printed in the RECORD.

There being no objection, it was ordered accordingly.

The report presented by Mr. SAYLER is as follows:

REPORT OF THE MAJORITY OF THE COMMITTEE.

The select committee of the House to investigate the recent election in the State of South Carolina, appointed under a resolution of the House, passed on the 4th day of December, 1876, in the following words, to wit:

"*Resolved*, That three special committees, one of fifteen members to proceed to Louisiana, one of six members to proceed to Florida, and one of nine members to proceed to South Carolina, shall be appointed by the Speaker of the House to investigate recent elections therein and the action of the returning or canvassing boards in the said States in reference thereto, and to report all the facts essential to an honest return of the votes received by the electors of said States for President and Vice-President of the United States, and to a fair understanding thereof by the people; and that for the purpose of speedily executing this resolution the said committee shall have power to send for persons and papers, to administer oaths, to take testimony, and, at their discretion, to detail subcommittees, with like authority to send for persons and papers, to administer oaths, and to take testimony; and that the said committees and their subcommittees may employ stenographers, clerks, and messengers, and be attended each by a deputy sergeant-at-arms; and said committees shall have leave to report at any time, by bill or otherwise"—

beg leave to submit the following report:

Your committee, upon their appointment, proceeded at once to South Carolina, and arrived at Columbia Thursday, December 7. They immediately took means to obtain copies of all the proceedings before the courts of the State and United States, growing out of the recent election and the count of the votes cast thereat, and also copies of all the election laws of the State.

ELECTION LAWS.

By legislative enactment each county is divided into election precincts, there being in all four hundred and ninety-two precincts in the thirty-two counties of the State. The county commissioners of election appoint three managers for each precinct, who preside at the election, receive the votes, and at the close of the polls proceed publicly to count the same and make a return of the vote, before separating to the county commissioners of election, together with the ballots. The three county commissioners of election who constitute a county board of canvassers, are appointed by the governor; all of the returns of the precinct managers are made to them, and they proceed to canvass the votes of the county, by precincts, as they appear by the returns of the managers. Having ascertained the result for the whole county, it is returned, under their hands, with all the papers, to the board of State canvassers. Two of each precinct managers and two of each county commissioners were republicans and one on each board a democrat. Very clearly neither of the three boards had anything but a purely ministerial duty to perform: the managers to count the votes and make due return thereof and the commissioners of election to aggregate the returns of the precinct managers and make a true return of such aggregation to the board of State canvassers.

THE BOARD OF STATE CANVASSERS

was composed of the secretary of state, comptroller-general, attorney-general, State auditor, State treasurer, adjutant-general and inspector, and chairman of the committee on privileges and elections of the house of representatives. Of these the secretary of state, comptroller-general, and State treasurer were candidates for re-election, and as such passed upon all the questions involved in their own election. Their duty was, "upon certified copies of the statements made by the board of county canvassers, to proceed to make a statement of the whole number of votes given at the election for the various officers and for each of them voted for, distinguishing the several counties in which they were given." Upon "such statements, they shall then proceed to determine and declare what persons have been, by the greatest number of votes, duly elected to office." They shall also "have power and it is made their duty to decide all cases under protest or contest that may arise, when the power to do so does not by the constitution reside in some other body." The constitution provides specifically for only two cases for deter-

mining elections. One is that of governor and lieutenant-governor, when the returns are to be sent to the speaker of the house of representatives, who is to open and publish them in the presence of the house and senate, and in case of contest the same is to be decided by the General Assembly. The other is the election of members of the house of representatives and senate, when "each house shall judge of the election, returns, and qualifications of its own members." It is clear that the best possible way of obtaining the result of the votes cast in South Carolina at the last election was from the returns of the managers of election at the different precincts. Those officers were to count the votes publicly as soon as the polls closed, and make a certificate of such count before separating. Of course these returns would be the best way of ascertaining the votes cast if they were made honestly and with truthfulness. Your committee obtained statements of the result of the vote for presidential electors in each precinct in the State from the secretary of state, where any could be placed on file.

MISSING RETURNS.

At first there was an entire absence of managers' returns from more than thirty precincts. From time to time during the investigation some of the absent returns were found, so that there were but twenty-five precincts for which no returns were produced. The committee also obtained a copy of a statement of the vote of the State, as canvassed by the State board from the returns of the county commissioners, and compared it with those returns from each county, and it was found to be correct. It was proven, indeed admitted, that when the State board commenced their canvass they not only took the result as given by the county canvassers but also the result from the canvass of the managers' returns from the different precincts, and proceeded to canvass by precincts through the first six counties. In these counties the results obtained from the precinct returns were materially different from the results as given by the county commissioners' returns, and were such as to elect one or two electors on the democratic ticket instead of the whole of the republican ticket. At this point the State canvassers decided to abandon the canvass by precinct returns. This was done against the protest of those representing the democratic party. A request in writing was also made in behalf of the democrats for permission to examine the precinct returns and take copies of them, but this was refused.

THE VOTE CAST.

Your committee by testimony supplied the place of all the missing returns, so that they were enabled satisfactorily to show the vote as it was cast and counted in each precinct. Many mistakes and irregularities were found in the different returns. Some of them were signed by one and some by two managers; but if all the returns affected by such irregularities were rejected, it would not change the result. There were several cases where no votes appeared to be cast for some of the candidates and others where the votes were returned as having been cast for Hayes and Wheeler and Tilden and Hendricks instead of for the electors. It was proven in all such cases that the votes were properly cast for the electors. The result by thus ascertaining the votes cast at all the precincts, and correcting the mistakes made by the managers in the returns, is as follows:

REPUBLICAN ELECTORS.

Bowen	92,093
Winsmith	92,123
Johnson	92,140
Hurley	92,122
Nash	92,097
Cook	92,110
Meyers	92,124

DEMOCRATIC ELECTORS.

Baker	91,240
McGowan	91,262
Harrington	91,236
Ingram	91,246
Wallace	91,246
Erwin	91,247
Aldrich	61,200

This gives Bowen, who received the smallest vote on the republican ticket, 92,093 votes, over McGowan, who received the largest vote on the democratic ticket, 91,262 votes, a majority of 831. Your committee believe that they have obtained with substantial accuracy the number of votes cast, so far as it can be obtained from the present managers' returns, but no opinion is advanced upon the truth and accuracy of these returns.

The law of South Carolina passed in 1875 divided the counties into precincts and provided that all the elections should be held at the voting-precincts so established. It established in the

COUNTY OF ABBEVILLE

seventeen voting-precincts, naming Abbeville Court House and fifteen other places. Thus, although it was enacted that there should be "seventeen voting-precincts as follows," the names of but sixteen were given. The same mistake was made in the several statutes in some of the other counties. In several of the other counties provision was made for from two to four voting-places in the county seat, usually called the "court-house," as "Abbeville Court House," in the county of the same name, but in all these instances they were carefully specified as Nos. 1, 2, 3, 4. Previous to the election the commissioners of election for this county, having no manner of power by law in the premises, in addition to the voting-precincts provided in the statute at Abbeville Court House, ordered another precinct to be established in the same town called No. 2. This action was protested against by the democratic member of the board of commissioners, who also took the opinion of counsel and presented it to his associates, setting forth such action to be illegal and unauthorized, but the two republican commissioners persisted and the voting-place was established, and 432 votes were there cast for the republican electors and 10 for the democratic electors, giving a majority of 422 to the republicans. Your committee are of the opinion that this voting-place was illegal and unauthorized, and that no votes cast there should be received or counted.

ROBBINS'S PRECINCT.

An attempt was also made by the board of State canvassers to count the vote alleged to have been given at the precinct of Robbins in the county of Barnwell. No returns by any managers of election were claimed to have been made to the county board, and no vote from that precinct was ever counted by the county canvassers. A paper purporting to be a return, signed by only one of the managers, and by another person never appointed as manager, and by a republican supervisor under the law of Congress, was sent to the secretary of state, who, when the State board was canvassing the counties by precincts, produced this paper from the package containing the genuine returns of Barnwell County, as if it had been sent with the others. The attention of the board was called to the fact that this return was irregular and void, and had not been received from the county canvassers, and it was not counted at that time. The facts in reference to the election at this precinct are these: The polls were opened about eight o'clock a. m., and kept open until between twelve and one o'clock, when the polling-place was fired into from the edge of the brush. About fifteen shots were fired. During the forenoon a large portion of the democratic vote had been polled. At the time of the firing there were four whites and three colored persons in the polling-place. The whites were men of standing and property in the neighborhood. The polling-place was abandoned because of the firing, and the voting ceased. One witness, who is not contradicted, testified that a short time before the firing began he saw five or six negroes, armed with guns, in the edge of brush in the direction from whence the firing came. His attention was attracted by the guns, as all parties had agreed that no guns should be carried on the day of election. Several witnesses testified when the voting was thus abandoned about half the usual votes of the precinct had been cast. All the people and officers of election immediately left, and nothing further was done at the regular voting-place, and no return of the votes cast there was ever made. The return which was sent to the secretary of state, and produced by him among the genuine precinct returns, was signed as above stated. This return gave the republican ticket 1,317 votes, and none for the democratic ticket. The only manager signing it could not be obtained as a witness, although many efforts were made to procure his attendance. One witness testified that he was ill, but the committee are satisfied that this was a pretense and that he was evading the subpœna, not wishing to testify. The republican supervisor, Mott, who signed the returns, testified that Burt and Allen opened the polls about one o'clock p. m. at an abandoned school-house, from a quarter to half a mile removed from the legal polling-place, and closed it from five to six o'clock. That during this time 1,317 voters deposited their ballots, and that each person separately took the oath before voting. No polling-list was produced showing the names of those voting. No person in the neighborhood knew of such poll being opened, or heard of it, until several days afterward, and no person saw or heard anything of this usual assemblage of voters, although respectable witnesses from the neighborhood were called. The vote cast at Robbins in 1874 was 366, and the supervisor at that election testified that this was the full vote of both parties. If the 1,317 votes claimed to have been cast at the Robbins poll are added to the vote of the county, there will be about 800 more votes cast than there were voters in the county in 1875. Not a single person of the thirteen hundred and seventeen, who, it is claimed, cast their votes at the deserted school-house, could be found to testify that he was one of them who voted. The committee are satisfied that no voting took place at the school-house, and the whole matter was purely a fabrication and fraud for the purpose of affecting the election in the county and State. There was no evidence that the democrats had any motive for breaking up the poll, and it is hardly to be supposed that the whites would fire into the polling-places when a majority of those present consisted of their own friends. The testimony that a squad of armed blacks was seen in the brush, from where the firing came, a very short time before it began, was not controverted, and your committee are satisfied it was true, and that the intention was, on the part of persons interested in the county vote, to break up the regular poll, and then substitute fraudulent votes and return, just as the attempt was made. Your committee consider it highly improbable, indeed impossible, that 1,317 voters could have voted in from three to four hours, each one taking an oath, and that such an assemblage could have gathered in the neighborhood and not have been known to those residing there. The number of votes cast is also incredibly large. Four times the number cast in 1874, when a full vote was polled, cannot be explained or accounted for. It was proven that another polling-place, Canaan's Fair Church, adjoining Robbins, did not hold an election, and it was claimed that the voters from that place might have voted at Robbins. No attempt, however, was made to substantiate this assertion. There were several other precincts as near Canaan's Fair Church as Robbins, and the usual vote of that precinct is only about two hundred, so that if all had voted at the school-house, together with all the voters of Robbins, one-half the number returned could not be accounted for. But, admitting the facts as claimed, the return is utterly illegal and ought not to be counted. But one out of the three managers was present, and the election was not held at the place prescribed by law. Your committee are satisfied that no votes were ever cast as claimed, and that no second polling-place was ever opened, and that the whole return was a fraud gotten up to insure the election of county and State candidates on the part of the republicans.

REGISTRATION.

The constitution of South Carolina, adopted in 1868, provides in article 8, section 3, "that it shall be the duty of the General Assembly to provide, from time to time, for the registration of all electors." The General Assembly and the entire State government, from the time of the adoption of the constitution down to the present day, has been wholly under the control and in possession of the republican party. Notwithstanding the mandate of the constitution, the General Assembly has persistently refused to "provide for any registration of voters." It has made many laws regulating elections, and the manner of conducting them—indeed, the whole machinery of elections has been carefully provided for, except the single measure most important to protect the purity of the ballot-box, and the only one specifically named in the constitution. Not only has registration been omitted, but other provisions have been made, which, taken in connection with this omission, can only be accounted for upon the supposition that the party in power has designedly refused to perform a constitutional duty, for fraudulent and corrupt purposes—indeed, to enable it to keep possession of the government. The different counties, as has been stated, are divided into precincts, one into as many as fifty or more, many into from fifteen to thirty, and none into less than seven. By the law enacted by the General Assembly, instead of registering, any voter can vote at any precinct in the county of which he is a resident. If any better method could be devised to render easy the perpetration of frauds on the ballot-box by repeating, in fact, to encourage them, your committee has failed to discover it. There is no doubt that where there are large numbers of colored voters there is much repeating, it being almost impossible to identify such voters. Under such circumstances it is worthy of your consideration, whether any officials who are to participate in the election of a chief magistrate, or in making laws for the whole country, should be recognized when they only claim an election when the constitutional mandate to provide for a registration of voters has been utterly disregarded. Take the case of the presidential electors claiming to have been elected in November last. Their vote may decide who shall be Chief Magistrate of five and forty millions of people, most of them not citizens of South Carolina. Before they can exercise such a right ought it not to be determined whether they have been appointed in compliance with or in defiance of law? They are to be appointed by the State, in such manner as the Legislature may direct. No doubt the Legislature may choose them, because the Legislature represents the State—(and is the State for such a purpose)—but if the Legislature does not appoint them, then the only other manner in which the State can appoint them under a republican form of government is by the votes of the citizens thereof, under the provisions of law. The appointment must be by the State; the Legislature can only direct the manner of appointment, but the appointment must still be by the State. There are but two ways in which the State can appoint; one is by the Legislature, and one by the choice of its citizens entitled to vote under the constitution. In this case the appointment by the State is by the election of the voters. In order that such appointment should be legal, it must be in compliance with the constitution and not in conflict with it.

But in this case the constitution requires that the Legislature shall provide for a registration of voters, to prevent fraud at elections, and the Legislature undertakes to provide for the appointment of electors by vote of the people without registration. It would seem clear that this was not an appointment by the State when it was in conflict with the constitution. It may well be that so far as the State itself is concerned and its own officers, a failure to establish registration would not vitiate the election. It may well be said that the Legislature represents and in part is the State, and if they refuse to perform their duty it is the refusal of the people, and so the election should not fail. But different considerations apply to members of Congress and presidential electors. Those officers are to take part in making laws for the whole country, or electing its Chief Magistrate. The constitution of the State, the organic law, provides and requires a registration

of voters in order to preserve the purity of elections. Can officers elected without compliance with the requirements of the organic law be permitted to affect the rights of others outside the State? Why not require a compliance with the State's own organic law before permitting them to control in part the rights of the rest of the country by their action? They have been elected in violation of the highest law; can they on such an election claim to exercise the powers of the office? If a statute had provided for a registration, and they had been elected without any, it is clear that such an election would have been invalid. Why is a statute to be held more sacred than the constitution itself under which the statute is made? It has been repeatedly held by this House in cases of contested elections, and the same has been held in almost every State, that if the laws require a registration and none is made in any particular voting-precinct, the votes of such precinct must be thrown out. In one case where the registration was made, though not used at the election, it was declared void; although it was proven that no person voted whose name was not on the registration, strict justice and any rule of fairness, a proper regard for the purity of elections would seem to demand that if a State by its constitution from public policy, and to protect the purity of elections, required a registration of voters, and none was had, that no person elected in violation of such mandate of the constitution to participate in making laws or electing a Chief Magistrate for the whole country should be recognized as legally chosen. Before South Carolina claims, through her Representatives, to help make laws for the people of her sister States, or through her electors to participate in the election of a President of the Republic, she ought in justice to be held to comply with the provisions of her own constitution to secure a just and honest election. Every consideration of public policy, where the very existence of a government like ours must depend on preserving the purity of the ballot, would require that any election held in willful violation of a constitutional provision, made only to secure honest voting, should be treated as void and of no effect. That the recent election in South Carolina was held in violation of the mandate of the constitution is clear. That it was so held that the party in power might better retain its hold on the government your committee have no doubt. That great frauds were committed there by reason of such refusal to set up the great safeguard of registration your committee think is equally clear. Under these circumstances it is for the House of Representatives to consider what effect is to be given to an election so held.

MILITARY INTERFERENCE.

It was proven that a large number of United States soldiers were stationed in many different places in South Carolina for some weeks previous to the election and remained until after it. The pretense of thus stationing troops in the State and keeping them there until after the election was to preserve the peace and prevent violence growing out of the political issues to be passed upon by the people at the election. The fact of troops being sent to the State was used to overawe the colored people and prevent them from voting the democratic ticket. They were told the troops had been sent there to compel the blacks to vote the republican ticket and to shoot all those who voted for the democrats. Their presence undoubtedly had its influence and effect on the election. One of two propositions is true beyond question. Either the troops were sent to South Carolina without any legal and justifiable cause, for political purposes and to overawe a portion of the voters, or there was a state of violence and turbulence amounting to insurrection against the State, and which the State authorities could not deal with and restrain. If either proposition is taken as the true one, no election was held in that State, certainly for members of Congress and presidential electors, who are to participate in making laws for or choosing a Chief Magistrate for the rest of the country should be recognized as valid. If the troops were sent there without legal cause for political purposes, to control the election, to overawe the voters, clearly an election held under such circumstances should not stand for a moment. To uphold it would be at war with all sense of right and would shock every fair mind. An election to be valid must be free. No awe of military power at an election to interfere with or in any way to control or influence it should be tolerated for a moment. On the contrary, if there was such a state of turbulence and violence, amounting to insurrection against the State government, which the authorities could not put down and restrain except by calling in the aid of United States troops, your committee think it clear that an election held under such circumstances cannot be taken to be valid. In no sense is it a free election where an insurrection exists against the State government that can only be kept down by national troops. The people are not in a condition to take part in legislating for the whole country or in electing its Chief Magistrate. An election under such circumstances would be worse than a fraud: it would bring our institutions into disgrace and contempt.

PROCEEDINGS IN THE COURTS.

As has been before stated, the committee obtained copies of all the proceedings in the courts growing out of the election and counting the votes cast thereat. The first was a proceeding in behalf of The State at the relation of Sims and others, claiming to have been duly elected to certain State officers, *vs.* The Board of State Canvassers, for writs of mandamus and prohibition directing that board to aggregate the county commissioners' returns and give the certificates of election according to such aggregation, and prohibiting them from deciding contests and protests in reference to any office voted for. Such proceedings were had in that case that the court ordered the board to aggregate the county canvassers' returns for all State officers except governor and lieutenant-governor and return a statement of such aggregation into court. This was done. The court then issued a writ of peremptory mandamus to the board, commanding them to declare duly elected to the offices of senators and members of the house of representatives the persons who by the returns of the board to the court had received the greatest number of votes therefor, and to deliver a certified statement thereof to the secretary of state, who was to make a proper record thereof and transmit a copy thereof, under his seal of office, to each person declared thereby to be elected and a like copy to the governor, and to make a like copy to be printed in one or more newspapers. A writ of mandamus was issued and served on the members of the board. Before it was actually served on them, but when they knew the proceedings were still pending before the supreme court and after they had passed a resolution which was filed in the case that "they would not act on any proposition until the question of their powers and duties was decided by the supreme court," the board issued certificates of election to all members of the General Assembly who had the highest number of votes except to those from two counties, to whom they refused to give any certificates; and they then dissolved the board. This refusal was made upon *ex parte* statements only and affidavits, no opportunity being given to the parties interested to be heard, to examine the persons making the affidavits, or to contradict them, indeed no proof being offered of the genuine character of the affidavits acted on. This act gave a majority of both branches of the Legislature to the republicans. Giving the certificates as ordered by the court would have given the house of representatives to the democrats, with a majority in joint convention with the senate. For this act the members of the board were declared to be in contempt and were ordered to pay a fine and be imprisoned. A writ of *habeas corpus* was sued out from the circuit court of the United States, and the members of the board were thus liberated during its pendency. Finally judgment was given on that writ discharging the petitioners from the commitment. The committee have no doubt that the duties of the board of State canvassers, so far as counting the votes for members of the General Assembly was concerned, was purely ministerial, whatever may have been their duty and right as to the other officers. The act, as has been stated, only gave them the right to decide protests and contests "when the power to do so does not by the constitution reside in some other body." The constitution expressly provides that "each house shall be the judge of the election, returns, and qualifications of its own members." The words, "of the election-returns," are significant not of the election but of the returns of the election, clearly indicating that the election-returns themselves were to be judged of by the house. The statute incidentally intended to except the members of the Assembly from the power to decide protests or contests by the State board of canvassers because by the constitution the "power to do so resided in another body." The committee has no doubt that the court had full power and authority to compel the board to perform this purely ministerial duty, and that the interference of the judge of the circuit court was unauthorized by law and his proceedings therein and the opinion by which he attempted to justify his judgment are calculated to throw discredit on the administration of justice and weaken the confidence of the people in the courts.

A proceeding in the nature of a *quo warranto* was also instituted in the supreme court in favor of the democratic electors against the republican electors. This has been recently dismissed. There was also a petition for a mandamus at the relation of William Wallace, the speaker of the democratic house of representatives, against the secretary of state, to order the delivering of the returns of votes for governor and lieutenant-governor to him as provided for by the constitution, he claiming to be the speaker of the only legal house, and that the other house was an illegal body and had no authority as a part of the General Assembly. The court decided that Wallace was the speaker of the only legal house of representatives and that the other body was illegal, with no authority as a part of the General Assembly; in fact, usurpers. Before the service of process, however, the votes had been delivered to the speaker of the illegal body claiming to be the house, that house had counted them, rejecting the votes from two counties entirely on *ex parte* affidavits and declaring Chamberlain elected. And on such a declaration he was inaugurated and kept in office entirely by the authority and power of United States troops. The State-house was also taken possession of with the aid of United States troops by this body (declared to be illegal by the highest court of the State) and was held by them, a body of soldiers being quartered in it night and day until the final adjournment of this body. Thus the military power of the United States was used to uphold the authority of a body declared to be usurpers by the highest court of the State. It would be difficult to imagine a greater crime against liberty and law than thus using the soldiers of the United States to force an usurping governor and Legislature upon the people. The committee think that the employment of the soldiers of the United States in South Carolina for this purpose of sustaining a usurping legislature and executive against the judgment of the highest court of the State, one of the gravest crimes that can be committed under a government like ours, and it cannot be condemned in terms too strong.

CONTEST FOR THE STATE GOVERNMENT.

Another writ of *habeas corpus* was issued from the circuit court in behalf of Peter Smith, a convict, who had been pardoned by Governor Chamberlain, and whom the superintendent of the penitentiary refused to discharge on the ground that Chamberlain was not the legal governor. The judge refused the discharge. He found as a fact however, that General Hampton was legally elected; that the house of representatives of which Mackey was speaker was an illegal body, wholly without authority to count the votes and declare Chamberlain to be elected; but that he held over until his successor was legally inaugurated, and that General Hampton, although legally chosen, had not been legally inaugurated. No question has ever been made that General Hampton did not receive from eleven to twelve hundred majority of the votes cast, applying to the counting the same rules adopted by the committee in ascertaining the votes cast for electors. He has substantially been declared legally and constitutionally entitled to the office by the highest court in the State, composed entirely of republicans, and by the decision of the circuit court judge, also a republican. The action of the house of representatives in declaring Governor Chamberlain elected has been decided by the same courts to be illegal, and that the members of that body were usurpers of the rightful authority which belonged to the body of which Wallace is speaker. This usurping legislative body and the governor were put into power and kept there by the military force of the United States. Had that force not been used the decision of the highest court would have been upheld, the rightful Legislature and governor would have been inaugurated in peace, and the present conflict would not have arisen. A great wrong against the whole spirit and policy of our institutions has been committed by thus using the troops of the United States, first, to impose upon one of those States a usurping executive and Legislature never chosen by the people, and then to maintain them in power against right and law. In the judgment of your committee this has been done in South Carolina.

INTIMIDATION AND VIOLENCE.

Much evidence was taken before the three subcommittees upon the subject of intimidation and violence previous to and during the election. Evidence was also introduced to prove that there had been many homicides and other wrongs committed upon colored people by the whites, which had never been punished by process of law. The condition of affairs in the State for the last ten years has been such that much turbulence and disorder would be natural and to be expected. The government has been completely and entirely in the hands of and under the control of the republicans, in every department, executive, legislative, and judicial. It would be difficult to conceive of a worse government than the one that has cursed this State for the last ten years. Its debt has been increased, its treasury has become bankrupt and its credit ruined. An instance of this came to the knowledge of the committee. Copies of papers from the secretary of state's office were requested by the committee as soon as they could be obtained, and the answer was that work on them could not be done at night, as the gas company had cut off the gas, refusing to furnish it on the credit of the State. The superintendent of the lunatic asylum also gave notice while your committee was there that the inmates must be discharged, as the State had neither money nor credit to furnish supplies. It is understood that this want was afterward supplied by the voluntary payment of taxes to Governor Hampton. Of course taxes have been so increased as to become ruinous to property-holders. It is claimed by republicans themselves that no protection for the lives and property of colored people has been afforded by the republican governments. It was to be expected from the condition of affairs at the close of the war, when not only the mass of the people were reduced to comparative poverty, but society itself was disorganized, that there would be much disorder and violence. Under the best possible conditions of government, to suddenly emancipate the slaves, who were in a majority and necessarily from their condition unfitted either by education or habit to exercise the right and franchise of governing themselves or others, would be attended by difficulties great enough if the highest wisdom governed all parties. A few unprincipled men from the Northern States, together with a still smaller number of worse men, natives of the State, taking advantage of the ignorance and prejudice of the negroes, obtained power, which they used, not to give protection to the people, but for their own aggrandizement. Perhaps the best evidence of the utter unfitness of the State government for the last ten years is furnished by this claim of the republicans that it has not protected the blacks, who are in a majority, from great wrongs and violence, which to a certain extent is true. If the government cannot protect the majority of the people, it is a conclusive reason for surrendering up its trust to other hands. This state of things of course created great bitterness of feeling throughout the State, and undoubtedly found expression in some unjustifiable acts. Your committee is satisfied that all the democratic candidates, headed by General Hampton and the State committee, the organ of the party, together with all the influential men, exerted their whole influence in favor of a peaceful canvass and a perfectly free election. This is quite apparent from the testimony and speeches of General Hampton and the testimony of Colonel Haskell, chairman of the democratic State committee, General Connor, General Butler, and others. That there was great intimidation and

violence resorted to by the blacks toward their own people to prevent them from voting the democratic ticket was proven beyond question. Your committee has no doubt, upon the evidence, that a much larger number of blacks were kept from voting the democratic ticket by the threats, violence, and intimidation from people of their own race than were prevented from voting the republican ticket by a resort to like measures on the part of the whites. Many cases of threats and actual violence were proven as coming from colored people to deter men of their own race from voting with the democrats. Women utterly refused to have any intercourse with men of their own race who voted against the republicans. One instance was proven of the actual desertion by a wife with the children of a husband because he made campaign speeches for the democrats. An examination of the vote in detail will show conclusively that no large number of voters were kept from voting in any way. The colored people cast a larger vote for the republicans than ever before, and a larger proportion of the voters actually voted than in any other State. The increase of votes was no more where the democrats controlled than in those places where the republicans were largely in the majority. Both parties cast votes at every voting-place, and there was no precinct where there were not some colored republican votes.

The testimony coming from the officers of the Army is very significant and important in this connection. It not only shows that there was no considerable intimidation or violence, either before or at the election, but it is in direct conflict with most of the testimony of the colored people called to testify as to the same places. It is the strongest proof of the utter unreliability of the witnesses called to prove intimidation of the blacks by the whites.

OATH-BOUND SOCIETIES.

To prevent the colored people from voting the democratic ticket they were enrolled in secret societies, called the Laborers' League, formerly the Union League. All the members of these societies are compelled to take an oath to support the republican party and vote the republican ticket. These societies are numerous. It was not ascertained what were the other objects of these organizations, nor what penalties were incurred by a violation of the oath. The State, too, was crowded, in addition to the Army, with United States deputy marshals and supervisors of election. Fully fifteen hundred of these officials were stationed on election day at the various precincts in the State. Many of these men certainly acted as electioneering agents for the party in power. Many, if not most, of them were so ignorant that they could not read their own commissions and the printed instructions issued by the Attorney-General. They were unfitted in every way to be charged with preserving the peace of the community at a time of so much excitement. Indeed the whole influence of the State government and its officials, and of all the United States office-holders, was brought to bear on the people to carry the election for the republican party. In addition a considerable portion of the Army of the United States was freely used for some weeks before the election, together with the cloud of deputy marshals, to accomplish the same purpose. In this connection your committee feel bound to say that the conduct and bearing of the officers and soldiers of the United States was both prudent and wise. Although their presence was made available to overawe the colored voters and prevent them from voting against the republicans, yet as a general thing, so far as your committee could ascertain, neither the officers nor men did anything to give encouragement to such a belief. That a people impoverished by ten years of bad government were enabled to throw a clear majority against their oppressors, in the largest vote ever cast, and under such circumstances, is the best evidence of the absolute necessity felt for a change. Your committee believe that in no other way can peace, prosperity, and protection to all, particularly to the colored race, be so surely restored and securely established in South Carolina as by recognizing the government legally elected by the people, of which General Hampton is the head, as the *de facto* as well as the *de jure* State government. It is pledged before the whole country to mete out exact justice and protection equally to blacks and whites, and it will have the power and strength to do so, while the present government, like its predecessors, has no power to protect the people and is so utterly weak that nothing but the moral power of the support of the General Government keeps it in existence a single day. Take this wrongful support from Chamberlain's unlawful government, and it will quickly vanish, like dew before the sun, and no longer disturb the peace of an oppressed and long-suffering people.

ALLEGED ATTEMPT TO BRIBE AN ELECTOR.

After the return of the committee, at the suggestion of some member thereof, Nash, one of the electors from South Carolina, was summoned as a witness. He testified that Colonel Childs, president of the South Carolina National Bank, sent for him on the day the electoral college organized and offered him a large sum of money to obtain the vote of three State senators to seat certain other members of the senate, and also $10,000 to promise to vote for Mr. Tilden in the electoral college and $40,000 more when it was consummated. Nash says that he refused the offers; that he was urged by Childs, and finally agreed to meet him again at another time to discuss the question, but that he failed to do so. He testified that he left Childs on entirely friendly terms, and that his friendly relations and intercourse have never been changed in the slightest degree or interrupted by this gross attempt to buy him like an article of merchandise in the market. This testimony was uncorroborated. Colonel Childs was summoned, but the committee received a certificate from his attending physician that he was unable to attend on account of illness. He has made an affidavit denying the testimony of Nash. Your committee attach no credit or weight to Nash's testimony. A person who could permit such an offer to be made to him without resenting it, on the contrary consenting to meet the proposer a second time to consult about it, and who had kept up his friendly relations with the person who had made so wicked and disgraceful a proposition, would most certainly have taken the $50,000 if it had been within his power to do it. Besides your committee is satisfied that a person who has so little sense of decency, honesty, and propriety as to openly confess that so disgraceful an offer, the most insulting, decidedly, one could receive, did not alter his friendly feelings toward or relations with the person making it, cannot be trusted or believed with safety. Evidently he is so wanting in self-respect, in a sense of duty, in all idea of what constitutes honesty, right, and even common decency that it would be utterly unsafe to put the slightest reliance on his statements, uncorroborated by other testimony.

REPORTS OF SUBCOMMITTEES.

Your committee also present the following reports of the majority of each of the two subcommittees that proceeded to Charleston for the purpose of taking testimony. Said reports are fully concurred in and made part of the report of the majority of the committee.

MILTON SAYLER, Ohio.
J. G. ABBOTT, Massachusetts.
ALEX. G. COCHRANE, Pennsylvania.
JOHN R. EDEN, Illinois.
THOS. L. JONES, Kentucky.
JNO. F. PHILIPS, Missouri.

REPORTS OF SUBCOMMITTEES.

To Hon. MILTON SAYLER, *Chairman:*

The subcommittee which went to Charleston, and of which Hon. ALEXANDER G. COCHRANE, chairman, and Hon. THOMAS L. JONES constituted a majority, submit the following report:

The subcommitte arrived in Charleston on the 20th of December, and immediately proceeded with an investigation of the election. Their inquiry embraced three counties, to wit: Charleston, Colleton, and Georgetown, but the great mass of the testimony taken relates to the conduct of the election in the first of these counties. The time was limited in which the committee was required to complete its labors and the means of communication with Georgetown and Colleton Counties very poor. This will account for the comparatively small amount of testimony taken in reference thereto; but sufficient evidence was taken to indicate very clearly that what was true of the election in Charleston County was equally true of the other counties referred to. In all of these counties (situate in what is known as the "low country") the blacks greatly outnumber the whites. It was therefore very evident that that party only could be successful in the political struggle which received the negro vote. The leaders of both the democratic and republican parties fully appreciated this fact. Prior to the last election the negroes as a mass had voted the republican ticket. There was, however, great dissatisfaction among them with the party leaders. The effort of the democrats was to take advantage of this dissatisfaction, while the republicans were determined to hold the vote. In the last canvass the first great effort since the war was made by the democratic party. Theretofore the democrats had joined with the more conservative element of the Republican party in the support of republicans more acceptable than those running upon the regular ticket, and no real struggle had ever been made to influence or secure the vote of the blacks. But in the last canvass each party had placed its nominees in the field, the lines between the parties were drawn, and each put forth its strength. To influence the negroes and secure their votes it became necessary that they should be made acquainted with the claims which each party had upon them for their support and hence arose what were known as

JOINT DISCUSSIONS.

That is to say, meetings would be called, at which democratic and republican speakers would attend. The time would be equally divided and the claims of the various candidates and of the parties would be presented by their respective adherents.

Charles H. Simonton, chairman of the democratic county committee of Charleston, speaks in his evidence of these joint discussions. He says, (see pages 125 and 126:)

"As soon as I was appointed the chairman of the executive committee, being well aware of the enormous majority in color against us in this county, I saw that the only possible chance for the democratic party was, by a policy of conciliation, to endeavor to win over the men to our side. I was very much encouraged in the conclusion to which I had arrived by the fact that there were already in Charleston a large number of colored people whom we knew as free people, who had always been free, the descendants of free persons, who were strongly in sympathy with the democratic party, and whose aid I certainly could calculate upon in carrying out this purpose which had been devised. I made every effort, therefore, to reach the colored people. * * * I then thought that possibly they might be persuaded by means of argument, listening to the expression of our kind feeling toward them. I desired to satisfy them that the great apprehension which seemed to exist in their minds that the democratic party was determined to deprive them of their privileges, and especially of their freedom, could be answered. In order to carry out that purpose I sought an interview with the chairman of the republican executive committee of this county and proposed to him that in all of the appointments which he had previously made for discussions by one party in this county we should be allowed to join, and that these discussions, instead of being *ex parte*, should be joint discussions. My relations with the chairman of that committee, Mr. Bowen, are of somewhat a pleasant character. He is the sheriff of this county, and I am a practicing lawyer here, and our official relations had always been pleasant. We had a frank, full conversation in regard to this matter, and in it we agreed that the joint discussion should go on; that I should be informed as to every meeting which the republicans were to have, and that at all those meetings I would be allowed to attend with such speakers as I thought proper, and the time should be divided."

Mr. C. C. Bowen, chairman of the republican county committee of Charleston, in his testimony, says, (see page 158:)

"I went down to Colonel Simonton's office here on Broad street, and had an interview with him. There was no one there but himself and myself, and we talked over the situation generally and agreed that we would have joint discussions at all the places where I had called meetings."

The meetings at which the joint discussions took place were mainly republican meetings, and were attended almost entirely by negroes. The suggestion that the democrats should have an opportunity to be heard came from the democratic leaders. When the joint discussions were agreed upon it was understood that no armed men should attend on either side. Colonel Simonton, in his testimony, (see page 126,) says:

"Both of us concurred in the propriety of this rule, that those meetings should be attended by none but unarmed men. Owing to the fact that the white population of this county is exceedingly sparse, Mr. Bowen also concurred in the suggestion that I made to him, that I should send up with our speakers several white persons from the city, who should be, as it were, their supporters in the audience, applaud them when the time came, and call attention to the strong points; but both of us concurred in the agreement that neither of these gentlemen that went up should go with any arms at all. Under this agreement these joint discussion were held."

Mr. Bowen also says, (see page 158:)

"It was also agreed that the men should not go there armed."

This agreement as to joint discussions was entered into early in October—about the 10th. Prior to this time there had been joint discussions at Strawberry Ferry in September, Mount Pleasant on the 6th of October, and again at Strawberry Ferry on the 7th of October; but these discussions were the result, not of any arrangement between the democratic and republican committees, but by the permission of Mr. Bowen and at the solicitation of individual democrats living at the places where the meetings were held. At the first Strawberry Ferry meeting both the whites and blacks were armed with guns. There was some disorder but no violence upon either side. There were about three hundred and fifty or four hundred negroes at this meeting, and about two hundred or two hundred and fifty whites. Theodore G. Barker, in speaking of the armed men at the meeting, (see page 74,) says:

Question. I understood you to say awhile ago that in reference to this Strawberry meeting you went there on a boat; you took some arms, and while you were landing you saw Mr. Bowen, their leader, surrounded by a large number of negroes: he went up to the church, and when he took the stand to address them, he said something about arms when he was speaking, and thereupon you said that you were not the aggressors in that respect; that you took arms there because they had taken arms previously?

Answer. I said that the first arms that have appeared on this hill to-day are in the hands of your followers, and we had notice that all of your followers were summoned to this meeting to come with their arms, and that the threat had been given out throughout the country that the colored democrats would be prevented from attending the meeting. He admitted that the first arms that appeared on that hill that day were in the hands of his own men, and he went on to say that he discouraged it.

At the Mount Pleasant meeting there was no violence either upon the part of the whites or blacks. As to arms, Mr. Bowen (see page 171) says:

Question. Were there any guns at Mount Pleasant in possession of the white men?

Answer. No, sir. No guns in the possession of anybody, either white or black.

At the second Strawberry Ferry meeting some of the negroes had guns, as also had some of the white men who had gone down from Charleston upon the boat, but they did not take them ashore or show them at any time during the meeting. It is quite evident from the whole testimony that the only purpose the whites had in taking these arms was to protect themselves if necessity required, and to give encouragement and protection to such democratic negroes as might be at the meeting. After these meetings came the agreement between Colonel Simonton and Mr. Bowen before referred to, and in pursuance of this agreement five meetings for joint discussion were held, namely, Johns Island on October 11, Wadmelaw Island on October 12, again at John's Island on October 13, Edisto Island on October 14, and Cainhoy on October 16. It appears from all the evidence that the whites attending all these meetings scrupulously observed the agreement made by Colonel Simonton, that they should not carry arms, while it is equally apparent that the agreement in that regard was violated by the negroes. Joseph Barnwell, a member of the Charleston bar, in his testimony (see page 49) says:

On another occasion I attended a meeting on John's Island. We were to have a joint discussion there, and we took Mr. Bowen and all his speakers up with us. When we got to the meeting, (we marched about four miles to get there,) we found at least three hundred blacks assembled; of that number at least one hundred and twenty-five had arms—muskets. The twenty-five white men who were with me had to go up to the stand through columns on either side.

Q. Through columns of blacks?

A. Yes, sir; columns of blacks, drawn up on either side, some with rifles and some without, and some with sticks. I was the first democratic speaker, and while I was speaking four sentinels were pacing up and down about ten yards right behind me.

Attention is also called to the following admissions of Mr. Bowen. He (see page 171) says:

Question. On the 11th of October a meeting was held on John's Island?
Answer. Yes, sir.
Q. That was a quiet, orderly meeting?
A. Well, yes, sir.
Q. Had the white men arms?
A. Yes, sir; pistols; nothing but pistols.
Q. Had the negroes their guns?
A. Probably a hundred or more.

Again, on the same page the witness says:

Question. On the 13th of October there was a meeting at John's Island?
Answer. Yes, sir.
Q. Did the white men have guns?
A. No, sir.
Q. Did the negroes have guns?
A. Yes, sir; twenty or twenty-five guns.

At most of these meetings some of the whites carried their pistols. This, however, they claimed not to be a breach of the agreement, which they asserted applied only to men being armed with guns. It does not appear from the evidence that any protest was made against the carrying of pistols. The design of Colonel Simonton and Mr. Bowen was evidently to prevent a recurrence of an occasion like that of the first Strawberry meeting, where bodies of men on both sides took their loaded guns to the meeting and when under the circumstances a trifling thing might have led to serious difficulty. The pistols were carried only by an individual here and there, doubtless upon both sides, and were not displayed by their owners. Notwithstanding this breach of agreement on the part of the negroes (and other matters which will hereinafter appear) however the joint discussions went on until the 16th of October, when at Cainhoy they were brought to a sudden termination. The tragic events which occurred upon that day will long be remembered with horror by the whites of South Carolina. On Monday morning, October the 16th, a boat carrying perhaps a hundred or a hundred and fifty white men and twenty or thirty blacks started for the little town of Cainhoy, beyond which, at the distance of perhaps three miles, a meeting was to be held and a joint discussion to be conducted. Among the passengers upon the boat were Mr. O'Connor, a candidate for Congress, Mr. Jervey, a member of the Charleston bar, and a negro named Delaney; these were to be the democratic speakers. Mr. Bowen, a negro named McKinley, and a negro named Cyrus Guillard, were also aboard. These were to be the republican speakers. Apparently the best of feeling prevailed and there was nothing to create even a suspicion of the dreadful events which were so soon to follow. The boat arrived at its destination about two o'clock p. m. The visitors were welcomed by their friends upon the shore who awaited their coming. All sorts of vehicles were pressed into service, and it was not a great while before the whole party was at the place appointed for the meeting. A long table had been procured for use as a stand for the speakers. Two chairmen were chosen, one to introduce the republican and the other the democratic speakers, and the discussion soon commenced. Mr. Jervey was the first speaker. He occupied about thirty minutes of time, and then McKinley, the colored republican speaker, was introduced. The latter had not spoken more than twenty words when the first step was taken toward the massacre which followed. The committee will not attempt to describe in its own language the terrible events which occurred, but will give them in the language of one of the eye-witnesses, Mr. George Rivers Walker. Mr. Walker's testimony (see pages 214, &c.) is as follows:

By the CHAIRMAN, (Mr. COCHRANE:)

Question. What is your age?
Answer. Twenty-nine.
Q. What is your profession?
A. I am a lawyer.
Q. Do you practice in Charleston?
A. I am senior member of the firm of Walker & Bacot, practicing lawyers in Charleston.
Q. Are you a son of the English consul?
A. I am.
Q. How long have you practiced here?
A. I left Hartford in 1869, and have been practicing here since.
Q. Where were you born?
A. I was born in South Carolina. I was brought up in England and the North.
Q. Will you state, sir, whether you were at the meeting held at Cainhoy?
A. I was.
Q. Did you go up on the boat?
A. I did, sir.
Q. Will you just state what occurred in detail and in its regular order from the time you left the wharf here until after the riot?

A. At the wharf in Charleston I found a steamer engaged, as I understood, by the democratic party. It being a beautiful day, and on account of the free trip up the river, quite a number of boys (I lay stress on the word "boys," because the number of persons was large but the number of men was comparatively small) and young men were on board. The steamer waited at the wharf, and, in fact, put back, for Mr. Bowen, the leading republican of this county.

Q. How many were on board?
A. By my calculation, there were in all one hundred and fifty went up on that steamer, democrats and republicans.
Q. How many men were on board?
A. Judging from the number of men that staid up there to do picket duty, there could not have been more than sixty men at the most.
Q. And those were not, all told, more than one hundred and fifty?
A. I should think not. I would not like to be positive on this point, because my attention was not called to the matter, but that is my impression; and my impression is derived from the number that came down. Mr. Bowen came aboard and a large number of well-known negro bullies. My attention was called at the time to the bad character of bullies that were getting aboard with him. Everything, however, seemed to be perfectly peaceful. We went up the river, republicans and democrats, chatting together peaceably, without the slightest sign of any ill feeling. We arrived at Cainhoy, and still everything was very peaceable. We got into the ambulance and rode up three miles to the brick church. When we reached the brick church Mr. Bowen and his party had preceded us and were already there. The meeting was called to order and some speaking occurred.
Q. Who spoke?
A. Mr. Jervey, the democratic candidate for solicitor.
Q. Was there a colored man in your party named Delany?
A. There was; a democratic colored speaker. He had been a major in the United States Army.
Q. What do you know, if anything, about a report that he was to speak there?
A. Major Delany was to speak at the meeting.
Q. Do you know whether the negroes at that place expected him to speak, from what they said at the time?
A. From what negroes said to me afterward, I know it.
Q. Well, were those negroes who thus spoke to you persons who were upon the ground there?
A. Yes, sir; I heard it constantly spoken of among the negroes not to allow Delany to speak; and I know, also, as a matter of fact, that the negroes not only at that meeting, but at several other preceding meetings which I had attended, seemed to be very hostile to any negro democrat speaking; the cry was that any white man had a right to be a democrat, "but no damned black man had."
Q. Did Mr. Jervey conclude his speech?
A. Mr. Jervey concluded his speech, and a colored man by the name of McKinley then got up to speak; he was what I would call a conservative-republican; as soon as he began speaking there was a commotion in the crowd. There seemed to be an objection to him; evidently he was taken for a democrat. I heard him say in effect, if not in actual words, "Listen to me; I's your friend." Before I go any further permit me to show you from a diagram the situation of the crowd. [The witness here drew a diagram of the grounds and indicated the position of the different parties, the buildings on the ground, &c.]

I have just given you a small diagram here of the situation. The horses were hitched on either side of the church and somewhat to the front; the speaker's stand was almost opposite the church. The old house was to the left of the stand about forty or fifty feet as you faced the church, and the vestry to the right. A road ran by the vestry and in front of the old house. When the speaking began I retired over to the church and was standing directly in front of the church when the attack began which I am about to narrate. The crowd was all around the stand. I was entirely out of the crowd, perhaps two hundred feet away from them. I could just barely hear the speaker, but heard McKinley, over the murmurs of the crowd, cry out, "Listen to me, I's your friend," or words directly to that effect. The commotion continued; in a few moments I heard a shot. This commotion was by the old house chiefly, between the house and the stand. A little of the commotion might have been at the other end of the house, but it seemed to me to be chiefly at the stand. Some one near me called out, "A horse has broken loose;" and I looked over intently to see at what spot it had occurred, when I heard this pistol-shot. I will call your attention to the fact that some distance back of the old house there were some pine trees, and directly behind the house, and more toward the road, there was a pool of water or small swamp. In a moment, in a shorter time than I can describe, standing at the church where I could distinctly see, I saw the whites withdraw toward the vestry in great disorder. The negroes, on the contrary, fell back a few feet and appeared more quickly than I have told it here, in perfect skirmish order, every man with a musket—not an arm appearing the moment before. They evidently had their guns placed in the bushes about four feet apart, and every man seemed to know his position the very moment the signal was given; I allude to the firing of the pistol.

Q. You say they appeared with their muskets. What did they do?

A. They fired volley after volley into the flying white men. I walked from the church to the vestry, calling on the white men to rally; but they being totally unarmed, with the exception of a trifling number of pistols, (there was scarcely a man on the ground with anything but the smallest kind of a pistol, and the most of them being boys were without even that,) which, opposed to muskets in the hands of negroes behind pine trees, were utterly useless. When I reached the vestry I found a small body of men, say fifteen or twenty, rallying behind it, and in some order, but no better armed. Just before reaching the vestry I saw Abram Smith, now a member of the State Legislature of South Carolina, on the stand, firing upon unarmed men who were flying to their horses hitched to the right of the church. As they ran he fired three shots from a revolver. I drew my pistol, aimed it at him, but it would not go off. I was about to fire on him when a democrat at my right knocked my arm down and said, "Nobody is shot; don't kill him." I then called out to Smith, "If you fire again I will shoot you;" and he held up his hands and ran into the swamp. At that time I had seen no one killed. I will here state that, standing at the church door, had the old negro Lachicotte, fallen where I afterward saw his body, to the right of the meeting, it would have been a miracle if I had not seen it.

I will state, before I proceed further in my narrative, that intelligence was brought to me by a party of young men immediately upon my arrival on the ground that there were a number of guns hidden in a chimney in the old house. They came to me, accustomed to take my advice in other matters, for advice as to what they should do with regard to these guns. I instructed them to closely watch the guns, but not to touch them unless there were an attack or direct signs of treachery.

An ex-officer of an organization known as the Butler Guards was present with these young men and evidently had them under his command—when I say under his command I mean that they obeyed him—and the men on the ground informed me that he followed my advice rigidly and gave no order for the seizure of the guns, nor were they seized until the negroes were advancing upon the squad of white men on a bayonet charge. When I reached the vestry, coming from the church, I found Mr. Bowen among the men at the vestry. He seemed to be eager to go over to the republican negroes, and repeated two or three times, "Will no one go with me and make peace?" After hearing him I at once volunteered. He accepted my offer, saying to me, "Stop the democrats firing." I turned around and called out in a very loud voice, "Gentlemen, cease firing, as Mr. Bowen and myself are going over to stop this row," or words to that effect. The democrats immediately ceased firing. I took Mr. Bowen's arm and we walked across the ground arm in arm. The negroes seeing us also stopped firing, and there was an absolute cessation of all hostilities.

When we had reached the negroes Mr. Bowen began speaking to them. Apparently he was endeavoring to stop the row. At this time Cyrus Guillard, a negro of a most incendiary character, rushed by, saying, "Mr. Bowen, we can't listen to you now," and urged the negroes to recommence firing on the whites; and I solemnly swear that, without a shot being fired by the whites, without the slightest cause for any hostility whatsoever, the negroes began refiring on these unarmed men volley after volley; and although I had gone among them as a messenger of peace, I heard suddenly behind me, "Shoot the son of a bitch." I jumped behind a pine tree, and three shots were immediately fired. I then, dodging from tree to tree, returned to the vestry, the whole party of negroes firing at me while doing so.

When I reached the vestry I said to the men there present "Men, all we can do now is to defend ourselves." At that moment I saw the present sergeant-at-arms to the other committee shot in the back and three or four others wounded. The negroes fired muskets loaded with buck-shot, duck-shot, nail-heads, and cut-up pieces of lead-pipe, apparently. I was wounded in the leg.

It was impossible, however, we being in the cleared ground in front of the church, and for the most part so utterly unarmed, to resist the hail-storm which was poured into us; and we had to retire and leave our wounded to the mercies of the negroes. We went to Cainhoy, sent home most of the boys and some of the wounded, who had managed to get off the ground. I do not think there were more than twenty of us, there may have been thirty, who remained that night at Cainhoy to protect the village. I sent out two faithful colored men to bring in the wounded, providing a buggy for them. I performed both picket and hospital duty that night, and saw the mutilated dead and wounded brought in. Old Mr. Simmonds, a very old man, was lifted out of the buggy dead on one trip. His head was cut open with some instrument, such as an ax or hatchet; he was shot through the body, and every bone in his body apparently broken with the stocks of the muskets, for as they moved him the bones could be heard crushing against each other.

I am not certain about the names of all the others. King, it was, however, who with other fatal wounds and cuts, had one which I distinctly remember. His arm seemed to have been cut into by an ax, one cut down in one slanting direction and another in another direction, taking a slip out of the bone; the balance of the arm seemed to hang by the muscles alone, and this had evidently been twisted around, I suppose, for the purpose of giving pain. He died a few minutes after he was brought in. McNeil, or Daley, I forget which it was, had a number of cuts—five, I think, I didn't count them—but I saw his head all cut open from an ax or hatchet. Daley was also cut up more or less. Both of these died within twenty-four hours. Most of them died that night; in fact, with the exception of Walter Graddock, I know of no wounded man who was left among them who escaped. Walter Graddock was a boy—a mere boy. He was most horribly hacked up, and his eye was protruding most fearfully, as if it had been gouged out, when we saw him next morning. I don't know whether he has lost his eye or not; I have not heard.

There was one other, I remember; his name was Pregnal. He was fearfully used, and, I understand, escaped because he was thought to be dead. He is here to-day, though, and can tell his own story. I saw him outside.

The question naturally suggests itself, was the

CAINHOY MASSACRE PRECONCERTED?

As bearing upon this question the committee refer to several important matters which appeared in evidence:

First. *There was an absence at the meeting of negro women and children.*

This fact was singular, because all of the meetings which had been held previously were marked by the presence of negro women. Indeed, the whole evidence indicated that the women were more interested in the political canvass than the men. They not only attended the meetings, but on election day were present in large numbers at the polls. Among the blacks gathered around the stand at Cainhoy no women were to be seen. Mr. Walker, in speaking of the matter, (see page 217,) says:

Question. How many negroes were present?

Answer. Those with me estimated them at about three hundred. I do not think there were a less number than of the whites, but they were all men. At every other meeting I ever attended the negro women were present. The women and children were kept out of the way at this meeting, for some unknown reason.

There was some evidence as to three negro women being in the old building in which the whites discovered the guns. The witness Smith (see page 253) says:

There was three women in an old building to the left that appeared like it was a place some time back to drive carriages in.

Question. Where was the building with reference to the platform?

Answer. To the left. The women ran out and says, "The democrats has those republicans' guns."

These were the only women present.

Second. *From the time of the organization of the meeting until the first shot was fired the negroes preserved an ominous silence.*

At all previous meetings there had been more or less noise and confusion. The negroes had frequently interrupted the speakers by asking questions, &c. The undisputed evidence is that at Cainhoy scarcely a word was to be heard from one of the assembled blacks. The witness Smith, (called by the minority on the committee,) in his evidence (see pages 254 and 255) says:

Question. During the speaking, up till the time when the cry was heard that you spoke of, you are positive that there was great order observed by the colored people?

Answer. Yes, sir; as I afore said, I never seed a better-behaved meeting than that.

Q. You have had some experience in this campaign?

A. O, yes, I always went around, and spoke some myself.

Q. And you were struck with the singular good order that was preserved?

A. Yes, sir; I was listening to the speaking myself.

Q. You did not hear any singing, or whistling, or hollooing?

A. Not even talking among themselves—just listening to the speaker.

Q. There seemed to be a perfect silence?

A. A perfect silence. You could a'most hear a pin drop on the floor.

Q. You were struck with that at the time?

A. Yes, sir.

Mr. Bowen (see page 161) says:

"Mr. Jervey was the first democratic speaker. That meeting was unusually quiet up to that time. Mr. Jervey spoke his twenty-five minutes and got down, and the most of the time you could have heard a pin fall. It had been the most quiet meeting I had seen; that is, there was no interruption."

Third. *Just as McKinley commenced speaking one of the negroes near the stand fired a pistol in the air.*

It will be remembered that prior to this and at the time there was perfect silence, nothing had occurred to create ill-will between the whites and blacks. Mr. Jervey's speech had been a mild and conciliatory one, McKinley, who was speaking, was a colored man and a republican, and yet suddenly and without previous warning a negro fires a pistol in the air, with what purpose?

Attention is here called to the testimony of Mr. C. C. White, a white man, who was present at the meeting and who was severely wounded. He says, (see pages 238 and 239:)

Mr. Bowen mounted the stand and addressed the crowd. I think his remarks were addressed more particularly to the colored people that were assembled there, and he pressed upon them, I think fairly and squarely, the necessity of keeping order and quiet, and begged them not to make any noise or disturbance while the speaking was going on, as an agreement had been made between the two parties to have a friendly discussion and that neither party should be interrupted through their speaking. After these few remarks Mr. Jervey took the stand.

Question. Who was he?

Answer. A democratic speaker; a white man. He spoke about thirty minutes. That was the time allotted by agreement. I think he was called to time by the watch. He withdrew, and a colored man by the name of McKinley followed.

Q. Who was he?

A. A colored man that belongs to Charleston. He is in the conveyance office in this city.

Q. He was a republican?

A. Yes, sir; he hardly spoke more than two or three sentences. I was standing with my hand on the table he was speaking from, and in a line beyond him, with the stand to the left. The crowd was divided, the republicans on the left of the stand and the democrats were on the right.

Q. Then the republicans were toward this old building?

A. Yes, sir.

Q. The democrats were on the opposite side?

A. Yes, sir.

Q. How far away was the old building from the stand?

A. Well, I should judge it was about forty feet, perhaps. The rear of the republicans was almost on a line with the building, and they were almost in front of it, so that I could see behind the republicans. I could see through the opening of the building, the space under the roof. After McKinley had spoken a sentence or two, in fact as he began to speak, I saw a decided commotion among the colored people. I went up closely, to pay marked attention to the effect the speaking would have upon the colored people, and as soon as he got on the stand I saw a decided commotion, like a dissatisfaction, among them; and about the time he had made two or three remarks this commotion began. I think his first remark was, "My colored friends, I have arrived to speak in your interest." That was all the further he got. At that time I saw some of the men that went up on the boat with us; and it appears they discovered some rifles, and they picked them up, and as they held them in their hands I saw a colored man discharge a pistol.

Q. Where was he?

A. He was near the corner of the old building. I could not tell you exactly whether he was just beyond it or nearer to me, but I saw him distinctly.

Q. In the air?

A. It was apparently elevated at an angle, say of about thirty-five or forty degrees, and as he fired the pistol he sang out, "Look out, look out!" and in an instant, almost, the rush of the colored people was made to the swamp in the rear, and in a very short time I saw quite a number—I should think forty or fifty people—rushing in that direction, and a great many of them, if not all, armed with guns, which they commenced to fire with. While this rush was being made, these men that had these guns in their hands, as the party attempted to rush to the house, held the position of "ready," and cried, "Stand back, stand back!" almost simultaneous with the firing of the pistol. At the very minute that pistol was fired there was a mutual separation of the political parties, and they separated, as near as I can remember, about a hundred yards or more. I saw at once the disadvantage that we were laboring under, for going up the little boys were firing at chips in the water, and I went around among them requesting them not to do it; and knowing there were no other arms among us except pistols, I thought it was folly to attempt to keep up firing with pop-guns, and I walked between the two parties and held up my arms and pleaded with all the boys for peace and quietness. While in that position, I saw six or eight men rapidly advancing toward me with their guns. In the direction of them, a little to my right, was a cluster of trees. They were in a comparative thicket, and the open ground was behind us. The cluster of trees was a little to the right, between me and them, and I found I would have to retreat, and I made a quick step to these trees, calculating to wheel and run, and as I had about got the trees in line, I wheeled and made a run, and as I did the volley fired, and I was struck by three balls.

Fourth. *The negroes took their loaded guns to the meeting and concealed them.*

As to this fact there is no dispute. The guns concealed in the swamp and thicket, as well as those hidden in the chimney of the "old house," were placed there by the negroes. It is not proven or even alleged that a single gun was taken to Cainhoy by the whites.

Fifth. *The report of the pistol was followed by the report of a gun from the swamp, and immediately the negroes emerged from the swamp in regular skirmish line, while those around the speakers' stand retreated in a body toward their friends.*

If the negroes had from any cause been seized with a sudden panic would their actions have been marked with such precision and method?

Mr. Bowen, in his testimony, claimed that under the agreement with Colonel Simonton the members of an organization known as the Butler Guards were not to be permitted to attend these joint discussions. He alleged that the members of this organization were men and half-grown boys of very bad character, and their attendance at meetings might result in difficulty. Undoubtedly some of the men who had formerly belonged to that organization did attend the meeting at Cainhoy, but their attendance was evidently without the knowledge or consent of the democrats. It is not pretended that any of the democratic leaders either invited them or knew of their presence. Mr. Bowen says that he recognized some of these men not long after he had gotten aboard the boat, but he does not allege that he made any protest or called the attention of the democratic leaders to the fact, although these men were present at the meeting. The committee do not believe that their presence had anything to do with the trouble which occurred. Mr. Bowen, it is true, seeks to place all responsibility for the trouble upon the shoulders of these men, but under all the evidence such a conclusion is utterly without warrant. If Mr. Bowen and the colored man Smith are to be believed, then Mr. Walker, Mr. White, Dr. Grimke and Mr. Magill are to be disbelieved. The last four witnesses are men of high character. Mr. Walker, upon cross-examination, gives the following account of himself:

"I was brought up out of this country; I studied my profession in Massachusetts. There I acquired a profession and a respect for republicans—*bona fide* republicanism. I have with one exception voted the republican ticket in every campaign, and that exception was in the Seymour and Blair campaign. I voted then for Seymour and Blair, and voted the democratic ticket at this last election. With the exception of those two I have voted the republican ticket at every election. I have always been regarded. I believe, as an exceedingly conservative man until this last election. When Hampton was nominated I was a strong Chamberlain man, and for long after Chamberlain was nominated. When this campaign began I would more readily have voted for Mr. Chamberlain than for Mr. Hampton, and it was only after the treatment that I found the whites were receiving here at the hands of the negroes and the negro leaders that I felt it my duty as an honest man to support Hampton, and that I entered so fervently into this campaign."

Dr. Grimke has been a practicing physician in the city of Charleston for sixteen years. Mr. Magill is a book-keeper, and a very intelligent witness, while Mr. White (who is by occupation a pilot) has been engaged in business for many years, and is fifty-one years of age. No evidence was taken before the committee which tended to cast a cloud upon the evidence of these witnesses. In this respect, however, Mr. Bowen was not so fortunate. On cross-examination he admitted that he had some years ago been charged with "murder." That he was imprisoned upon that charge for about ten months. That he was not tried upon the charge until within the last two years. That he was tried before a judge who was elected by a republican Legislature; by a jury composed entirely of negroes, and the case of the Commonwealth presented by a republican prosecutor. Mr. Bowen tells the story of the trial (and a very remarkable one it was) in the following language, (see pages 177 and 178:)

Question. How long after you were discharged from custody did the trial take place?

Answer. Several years.

Q. How many years?

A. The trial was a year ago last June. Since I have been sheriff. A certain party trumped up the charge with the intention of holding it over me, and when they got that far I forced them to a trial.

Q. You were tried for what?
A. I was tried for murder, and they undertook to use this man Grimes against me.
Q. Did he appear as a witness?
A. O, yes; they brought him here and I insisted on his being kept in jail; they succeeded in getting him away and would not allow him to be tried afterwards.
Q. Did you appear as a witness?
A. Yes, sir.
Q. Did he allege that you had been the instigator of the affair?
A. Yes, sir; he made four different statements. These parties were my political enemies. They went after Grimes in Georgia, and put him in jail and got an affidavit out of him and let him out of jail when they found they could not do anything with me without getting Grimes's head in also; and he went off with their connivance.
Q. Did he swear on the trial that you had employed him to do the shooting?
A. Yes, sir.
Q. Was the jury white or colored?
A. It was colored. The verdict was given without their leaving the box. The solicitor himself admitted that he had no cause. The judge was a democrat by the name of Shaw. The trial took place in Georgetown County, and the first proposition made by my enemies was that the court would continue the case until some special term after the next regular term. I saw that they wanted to hold it over me. I employed counsel and insisted on a trial, and I finally got the time fixed for a trial.
Q. Is the judge who tried the case living yet?
A. Yes, sir.
Q. Did he instruct the jury to find a verdict for you?
A. He did; the solicitor says, "Well, I submit the case without argument;" and my counsel says, "No;" and the solicitor then got up and says, "Your honor, I'll admit that we have no case;" and the judge then instructed the jury to find a verdict of acquittal.
Q. By whom had the judge been appointed?
A. He had been elected by the Legislature.
Q. By a democratic or republican Legislature?
A. We have not had any democratic Legislature since reconstruction.

Mr. Bowen had for a time during the war been in the confederate army. He was tried by a court-martial for "conduct unbecoming an officer and a gentleman," and dismissed from the army. In relation to these charges he says, (see page 177:)

Question. What were these charges?
Answer. O, they brought a great many trifling charges against me—some for conduct unbecoming an officer and a gentleman. I had on several occasions asked for a leave of absence, and failed to get it for a long time. Others could get what I could not. I finally succeeded in getting a leave of absence for ten days. Everybody knew that that would not last me until I could get where I wanted to go. I took it, though. When it got out I sat down and extended it myself, and they took offense at it, and discharged me for it. I was very glad of it.
Q. Were there any other charges than that?
A. O, lots of them.
Q. What were they?
A. Forgery, bigamy, and so on, and I can remember I had an orderly sergeant in my company. I recollect that they charged him with being Mephistopheles and alleged that I was under his influence. It was a common report in that battalion, and it was know by everybody here that if we had ever gone into battle that at least two or three of the rifles in the battalion would have been aimed at Major White. He was one of those overbearing, domineering men that never consider the men under him; putting a ball and chain on his men was a common amusement for him. It was a wonder that he lived as long as he did. I will say this under oath, that I had nothing to do with the killing.

Major White (whom it was alleged Bowen had procured to be assassinated) preferred the charges before the court-martial. Smith, the negro witness, is a member of the colored body which styles itself "the Legislature of South Carolina." The part which he took at "Cainhoy" is thus described by the witnesses:

Mr. Jervey, in his testimony, (see pages 259 and 260,) says:

Question. You are a member of the bar in the city of Charleston and a democrat?
Answer. I am, sir.
Q. You are the gentleman who made the first speech at the Cainhoy meeting?
A. Yes, sir; and the only speech there.
Q. I want to ask you, sir, whether you saw Mr. Abram Smith, the republican member of the present so-called legislature, with any weapon in his hand during the disturbance which occurred there?
A. I did, sir; I saw him with a pistol.
Q. Where was he?
A. He was standing on the platform from which we had spoken.
Q. Just state what he did?
A. I saw him fire three shots toward a party of white men, about as far as from here to the corner of the room away from him, [about fifteen feet.] By the time he had fired the third shot, I myself placed my hand on my pistol and said to him, "Don't fire again or I will shoot you."
Q. Did you see Mr. Walker in that neighborhood at that time?
A. Yes, sir; he was standing near me, and I heard him make the same threat.

The witness White (see page 240) says:

Question. Were there any men on the platform at that time?
Answer. There was one man got upon the platform and fired his pistol three times.

By the CHAIRMAN, (Mr. COCHRANE:)

Q. Who was that?
A. A man by the name of Smith. I asked afterward, and was told that his name was Smith.

The testimony of Mr. Walker corroborates these witnesses.

After Cainhoy there was no more joint discussions. The republican leaders were troubled no longer by democratic speakers making appeals to the negroes. The massacre at Cainhoy, whether preconcerted or not, certainly had the effect of exciting the negroes and driving back into the republican ranks many who until that time were inclined to vote the democratic ticket. The race issue was raised, and the result can readily be imagined. In reference to this matter Mr. Walker says:

"From the incendiary character of the speeches of Cyrus Guilliard and Abram Smith and other negro leaders, I have more than reason to believe that there was a determination, as soon as it was found out how popular Hampton was, to stir up strife, in order to create a race-feeling between black and white. At the beginning of the campaign I went out into Christ Church Parish and was listened to kindly by hundreds and hundreds of negroes, and had every reason to believe that the parish would give a large democratic vote. After Cainhoy, with the exception of two or three negroes in the village, there was scarcely a negro democrat to be found in the parish." (See pages 221 and 226.)

Having thus noticed the matter of joint discussions, their termination, and the effect of the same, we come to the matter of

RIFLE CLUBS.

There were quite a number of military organizations in Charleston County which had existed for a number of years. They are spoken of by Mr. Barnwell in his testimony. He says, (see page 50:)

Question. What club was it to which you sent for assistance, or the members of which you sent to notify that if there was trouble you would like them to attend?
Answer. The Carolina rifle club.
Q. There is a social club called the Carolina Club. Is that the club?
A. Yes, sir.
Q. Is it a recent organization?
A. No, sir; it was organized seven years ago.
Q. What was the purpose of the organization?
A. Purely for social purposes, sir. Then, gradually, as they were not prevented by the State government, they grew into a sort of militia; that is to say, they came out in uniform, and even the United States troops used to turn out with us. Governor Chamberlain presented a flag to the Washington Light Infantry, which was an organization exactly like ours.
Q. How large was that club?
A. I think at that time it had about ninety men.
Q. Had they an armory?
A. I think so at that time, sir.
Q. Are there other clubs of that character?
A. Yes, sir; the Washington Light Infantry, the German Fusileers, (that was founded in 1776, and re-organized after the war,) the Palmetto Guard, the German Hussars, the Washington Artillery, and quite a number of other clubs, sir, by quasi consent, were allowed to go on and parade; and gradually, as time went on, a rivalry sprung up between them. They got better uniforms, and they became the citizen soldiery, and were so addressed by Governor Chamberlain. They were the ones that welcomed the company from Boston, with whom they turned out here on the 28th of June.
Q. What is the number of these clubs altogether?
A. I do not think that they have had more than six or seven or eight hundred men altogether; but I cannot answer positively about that.
Q. They are still in existence?
A. I believe not, sir. They were disbanded.
Q. Had they an order from the President or Governor Chamberlain disbanding them?
A. From both, sir.
Q. The organizations existed at the time of the 6th of September riot?
A. Yes, sir.
Q. Did you see yourself and do you know the facts which you have stated?
A. Yes, sir; I know all that I have stated. I have always qualified my statements, separating that which I knew from that which had been told me.

By Mr. JONES:

Q. Were there any statutes allowing the organization of those rifle clubs?
A. One or two rifle clubs had original charters and organized under them, and others organized under charters from the clerk of the court, whilst others organized as purely social organizations.
Q. Did you understand that Governor Chamberlain recognized these clubs here?
A. Surely, sir.
Q. Was he a member of them?
A. He certainly was an honorary member of one of them, and he was entertained by them, and addressed them as the citizen soldiery in my presence.

In addition to these well-known and long-established military organizations in the early part of the campaign, there had sprung up quite a number of local organizations. The white men in the different wards of the city and in the country precincts met together, chose their officers, and organized into clubs, each member owning the rifle or musket which he carried. The purpose for which the whites organized these clubs was twofold: First, in order to protect themselves and their families from violence at the hands of the blacks; and second, to afford protection to all negroes who might desire to attend democratic meetings or avow democratic sentiments. In determining the necessity for the existence of such armed organizations it must not be forgotten that the negroes greatly outnumbered the whites, and furthermore, that a vast number of the blacks were supplied with State arms, and banded together under the name of

"THE STATE MILITIA."

In speaking of the militia, Mr. Walker says, (see pages 219 and 220:)

Chamberlain had surrounded us with his armed militia, and, as I understood it, there were different ward organizations for defense, and the Butler Guards were one of them.

* * * * * * *

Q. What is the State militia?
A. So far as I have seen it, the State militia is, as a rule, with the exception of a few companies here in the city, composed of the most ignorant negroes that can be found throughout South Carolina. They are most thoroughly armed, and in their ranks there is not to be found a single respectable white man, with very rare exceptions.

* * * * * * * *

Q. Then it was an organization authorized by the laws of the State, was it not?
A. I believe it was. I have never examined the militia laws.
Q. Now, the Butler Guards was a part of that local force voluntarily organized for defense against the legal military organization of the State government?
A. My answer to that is this: I live in a little town in the country. That town has been threatened with being burned by the negroes over and over again in the last six months. The negro militia have assaulted white men over and over again. They have charged upon and attempted to kill me simply because I had a personal quarrel with one black man, and they have charged through the streets of Mount Pleasant with their bayonets fixed, charged upon unarmed white men and women simply because a white man had had a quarrel with a colored man. We had no means of defense. And down here even republican white men belong to these various military organizations, purely for purposes of defense.

Mr. Barker in his evidence (see page 70) says:

"In Charleston the militia was entirely in the hands of the colored republicans; they were distributed about at the various precincts in small bodies and formed the nucleus upon which negroes rallied with such weapons as guns, sticks, clubs, and sticks with bayonets on the end of them, that constituted the armed force at different precincts on election day, and they frequently appeared at their meetings, before the election, threatening those who declared themselves at all on the democratic side."

Mr. R. J. Magill (see page 236) says:

Question. Now I wish you would state, if you please to leave the Cainhoy matter, what occurred, if anything, at the John's Island meeting.
Answer. Well, sir, there were about twenty or twenty-five of us who went there. It was a joint discussion, and Mr. Bowen went with us. We had a five-mile tramp to the speaking place. We had been informed by Colonel Simonton that we must carry no rifles, because he had made an agreement to that effect. When we reached the place we found that the republican speakers had gone on with the meeting, and to our surprise we found two companies of militia drawn up in line with their muskets, and at least 30 per cent. armed with old swords and every conceivable weapon. Bowen ordered them to leave, and they marched down to a house twenty or thirty yards away, and there they stood during the whole meeting. The whole

time Colonel Young was making his speech a negro sitting in front of him in a cart covered him with his musket.

General Hunt, in his official report, makes the following significant statement. (See page 202.) The time of which he speaks was during the second Charleston riot. He says:

"In one case he found a negro who attempted to shoot a white man, and therefore disarmed him, the man objecting to give up his musket, as it was State arms. The musket was brought to the citadel guard-house."

It will be readily perceived upon a perusal of this and other testimony taken by the committee that the whites had some foundation for their fear of personal violence at the hands of the blacks. This fear, however, was not so much the incentive to the organization of these rifle clubs as was the desire on the part of the white people to afford protection to those negroes who desired to act and vote with them. Whether such protection was necessary will be better determined when we come to another part of this report. In the latter part of September or the beginning of October Governor Chamberlain issued a proclamation commanding these rifle clubs to disband. There can be no doubt that the letter of this order was complied with. The guns were taken from their armories by their individual owners, and in many instances the organization was abandoned. Some of the clubs retained their organization, however, but existed rather for social than military purposes. In some cases they retained their officers and had regular days of meeting. There can be no doubt that the individual members of these clubs held themselves in readiness to act in case of any great and sudden emergency, and when so called upon it was quite natural that they should act together, under competent officers, and with somewhat of military precision. Indeed they did so act upon several occasions after the date of the proclamation, notably in the case of the Charleston riots, one of which occurred upon the 6th of September, and the other upon the day after the election in November. The first of these riots is known as the "King-street riot," and awakened such alarm in the minds of the people that business was practically suspended throughout the city of Charleston for two days. This riot commenced upon the night of September 6. It originated in an effort on the part of the negroes to inflict violence upon others of their race who had been speaking at a democratic meeting. Attention is here called to the testimony of Thomas Lewis, a negro called by the minority on the committee. This testimony illustrates the condition of the mind of the negroes and the necessity that white men should afford protection to colored democrats.

The witness (see page 184) says:

Question. How long did he speak?

Answer. He spoke for an hour; but I wouldn't like to say all his remarks, though I can't.

Q. Well, what happened after his speech?

A. After his speech then the row commenced, and he was guarded home by a thousand white men, else he would have been killed that night, certain, because I had a pistol and I was going to blow his brains out myself, as he was coming out of the door, but a policeman stopped me.

By the CHAIRMAN, (Mr. COCHRANE:)

Q. This man Rivers used very bad language about Mr. Bowen?

A. Yes, sir.

Q. And Governor Chamberlain?

A. Yes, sir; and even General Grant—uncommon and imprudent language, the awfulest language that he could use.

Q. He stated that they stole public money, and all such declarations as that, and you colored people did not propose to stand it any longer?

A. No, sir; we didn't propose to stand it any longer; we had been standing it long enough.

Q. You proposed to get up and blow his brains out, and if he were to get up again, and called Mr. Bowen, or Governor Chamberlain, or General Grant thieves, that you will go after him and kill him if you can?

A. Yes, sir; I will if I possibly can.

Q. And your purpose in following Rivers up the street was to kill him if you could?

A. Yes, sir.

Q. And if the white men had not been there around him, you would have killed him?

A. Yes, sir; he would have been a dead man.

By Mr. BANKS:

Q. Did you talk with these fifteen other men about what you were going to do?

A. Yes, sir. John Mitchell was one of them. He was a constable; and he will be here to make his statement. He's gone to bring some person to the jail now.

By the CHAIRMAN, (Mr. COCHRANE:)

Q. You fifteen men understood each other pretty well?

A. Yes, sir.

Q. And you talked it over and you came to the agreement that any one of you would kill Rivers if you could?

A. Yes, sir; if we could.

Q. Did you have arms?

A. I did, sir.

Q. Did the other men have pistols also?

A. Yes, sir.

Q. And the understanding was that any one of you would kill him if you could?

A. Yes, sir.

By Mr. BANKS:

Q. Did you see any other man shot that night?

A. Yes, sir; young Mr. Buckner. He is the man that Mr. Barnwell shot that night.

By Mr. JONES:

Q. From what you know of the sentiments of republicans here of your own color, do you think that they entertain the same feelings that you do?

A. I am certain of it, sir.

By the CHAIRMAN, (Mr. COCHRANE:)

Q. John Mitchell was one of your party, and he made this agreement with you?

A. Yes, sir.

Q. And you all agreed together to kill him?

A. Yes, sir, certainly; to kill him for his argument.

As has been stated, after the proclamation of the governor the rifle clubs disbanded. Nowhere does it appear that in the testimony, nor was it ever alleged, that these rifle clubs ever committed an act of violence. True it is that Mr. Cunningham, the mayor of the city, was (in his evidence) very bitter in his denunciation of these clubs, but even he admitted upon cross-examination that he did not know of an instance during the campaign where they resorted to violence. The committee are of opinion that the presence of the members of these clubs on the night of the 6th and the morning of the 7th of October prevented a continuance of what would have turned out to be a most bloody riot. The police force of the city of Charleston was unable to keep the peace. More than half of the members of the force were negroes, who, instead of seeking to prevent riot and bloodshed, were at times themselves guilty of the most outrageous conduct. General Hunt in his official report, (see page 202,) in speaking of the riot of November 8, says:

"I sent for the troops to the citadel to hurry down, for I could now hear the firing and saw it was extending westwardly along Broad street. So soon as I reached the court-house, I found the firing was heavy near King street, and started toward it, when a policeman ran out of the station-house and asked me to come in there. Immediately three or four negroes on the north side came off the side-walk and told me to keep on if I desired, for that I "would be safe anywhere." I, however, at the request of the policeman, went to the station-house, where the officer in charge was getting out his men, and he appealed to me for assistance in such terms as led me to believe he felt himself too weak to control the riot. By this time a number of gentlemen, young and old, had arrived and offered their services to me. I informed the police officer that the troops were on their way, but if he desired the service of these citizens they were at his disposal. He said he would be glad to have them; they fell in with his force, and as I was giving some directions he interposed, saying in substance that the matter was in his hands. He then started off, when I almost immediately had complaints that the policemen were firing on and bayoneting quiet white people. The troops soon after arrived at the station-house, and additional armed white citizens also reported. Some one of the civil authorities, as I supposed, I do not remember who, then told me that it was essential that the latter should be sent back to their homes. I declined sending these armed men on the streets, but told him they would be placed where they would produce no bad effect, and directed them to take position behind the troops and to remain there, which direction they followed implicitly."

It will be observed that the whites during this exciting time were present striving to keep the peace.

The results which flowed from the proclamation of Governor Chamberlain disbanding all military organizations among the whites were most injurious. The negroes, who had hoped for protection, lost all heart, and felt that they no longer had the freedom of voting for the men whom they felt would look to their interests. In speaking of the effect produced by the proclamation of the governor, Mr. Mills (see page 131) says:

There was a very large number of colored men who had voted for their republicanism who were now anxious to affiliate with us, and who were now ready to enroll themselves in the democratic clubs, but the first requirement was that they should be assured of physical protection. They expressed extreme apprehension, especially out of the city, if they should enroll themselves in these democratic clubs; they were afraid of being maltreated.

Q. By whom?

A. By the colored republicans; their own republican party, and race, unless we could give them that assurance of protection. That matter was called very specially to my attention; so much so that I was the member of the committee that prepared and submitted to the committee an announcement to the colored people pledging our personal honor that we would give them all the protection that was in our power if they associated themselves with us. I think that Colonel Simonton has described much more fully than I could do the effect of that throughout the county. I think that what broke down or checked for the first time that disposition on the part of the colored people to enroll themselves (for it was growing and swelling as you always find those things; it was extending from the leading men to the subordinates, and they were getting a certain pride in the matter of membership in these clubs) was this: The first thing that militated against them was the proclamation of the governor ordering all organizations called rifle clubs to disperse, and treating as violators of law any bearing of arms publicly. I think from that time that the colored people lost heart and faith in the ability of the democrats to give them protection, because I think it is a matter capable of the most perfect demonstration that the order of the governor and the President, harsh as we considered it to be, was implicitly and absolutely obeyed. There was no violation of it in spirit or letter, and we therefore felt, and we recognized that these people felt, that they had not the same protection that they had before, because the militia of the State was composed exclusively of colored men. They retained their arms and carried them to the public meetings. I have myself been at a public meeting when the white men present had no arms visible and where the colored men marched up under arms. When the proposition was made to disarm them Bowen himself said they should march off the grounds. We said, "No; let them stay." We were afraid of no violence when we were in pursuit of a peaceable object.

Mr. Barker also says: (See page 68.)

After the proclamation of Governor Chamberlain and the proclamation of President Grant, the temper of the republican leaders and of their followers changed very much. There was in this county perfect good-nature in the conduct of the canvass, and we were progressing, as we thought, very well in the influence upon the colored people to vote the democratic ticket; but after that the whole temper of the campaign was changed, and the intimidation began, or increased, and up to the time of the election——

Q. Intimidation of whom?

A. By the colored people of the colored people. They did not intimidate any white people. They threatened the negroes in every way from joining the democratic party or showing any sympathy for the democratic party, or voting for the democratic party. The efforts of those who were competing with the republicans were entirely paralyzed. They appealed to race prejudices.

Q. Who did?

A. The republicans. They insisted upon their party allegiance. They treated them as deserters of their race and of their party, and of their political friends, and brought to bear upon them the most tremendous pressure—a combination of the Union League and the power of the political organization which followed the Union League.

Q. What was that power—the Union League?

A. Yes, sir; after the emancipation the colored people of this State generally were brought into the Union League, and they were bound over by very solemn formula and oaths to adhesion to that organization.

* * * * * * * *

Q. What evidences have you seen of the fact that such an oath was administered?

A. The evidence of that came in different directions from negroes who expressed their sympathy with the white people with whom they lived, yet up to the point of voting against the republican party they said, "We cannot do that because we took an oath."

There is no doubt that the negroes were bound by an oath to support the nominees of the republican party. Attention here is called to the evidence of the negro witness "Prince Albert." This man was a somewhat prominent republican and was employed on election day as one of the "republican rallying committee." In his testimony (see pages 118 and 119) he says:

Q. Did you ever take an oath to support the republican party?

A. I swore the last time.

Q. When did you take an oath that you would support the republican party?

A. About three months ago.

Q. Who did you take the oath before?

A. Before Lieutenant-Governor Gleaves.

Q. And you swore before him that you would support the republican party?

A. Yes, sir, I did.

Q. Where was the oath administered you?

A. Down in Archdale street, across town, in our ward meeting.

Q. How many other negroes took the oath there?

A. So many that I couldn't commence to tell you; over six hundred, white and colored.
Q. How many white men?
A. More than I can remember. I aint got no particular remembrance of it.
Q. How many negroes?
A. Over six hundred. It is more than that, because they have had to take that oath every meeting that they called. Every meeting that was called was open for new members every night till the election.
Q. And then they had to take an oath to support the republican party?
A. O, yes, sir. They were not compelled, but they were asked.
Q. What was the oath; what did you swear?
A. The oath was this: "You do solemnly swear to protect and defend the constitution of the republican party, so help you God;" and I forget. there was some other things, such as don't give out no secretness of this club, but something or 'nother of that kind; I couldn't give it exactly, but it is something just that way.
Q. It was, in substance, that you would vote the republican ticket and do all you could to support the republican cause?
A. Yes, sir; that was as I understood it.
Q. You understood from the oath that when you took it you would be bound to vote the republican ticket, and you would be bound to do whatever you could for the republican cause?
A. Yes, sir.
Q. You say that there were a great many negroes that were sworn in the same way?
A. Yes, sir.
Q. Every negro that came to the club would have to sign this oath?
A. I didn't say that they would have to sign this oath, but they signed the constitution.
Q. Did most of the negroes in Charleston belong to these clubs?
A. The majority of them did.
Q. Did all of these republican clubs have the same kind of an oath?
A. It is very likely that all had the same oath. I never visited all the ward meetings. I visited wards 2, 3, and 4, and they all had the same oath.
Q. There was also a provision in the oath that you would not betray any of the secrets of the club?
A. Yes, sir.
Q. Under this oath that you took you would have felt yourself bound to vote for any person who might have been nominated on the republican ticket?
A. Yes, sir.
Q. It did not make any difference who it was?
A. Yes, sir.

By Mr. JONES:

Q. Was not that part of the oath?
A. Yes, sir; all the nominees of the republican party. We made up our minds to vote the straight ticket and all the names on that ticket.

By the CHAIRMAN, (Mr. COCHRANE:)

Q. You say that the lieutenant-governor was there?
A. Yes, sir; he administered the oath.
Q. How many negro men were there connected with your club?
A. I can't remember exactly, but according to the number which was registered there in the ward, it run up between six hundred and seven hundred.
Q. And every one of those six or seven hundred men took the same oath that you did?
A. Yes, sir; he took the same oath in my presence every time that I was there.
Q. They would not allow any one to belong to the club unless he took that oath?
A. No, sir.
Q. Were these meetings held in secret?
A. No, sir; they were public meetings. Anybody could come, but if they didn't feel a desire to take any part with us, he was requested to go out. He could come in as a visitor, but when the time came for particular business we asked him to go out. When we got through initiating new members, then we opened the door and they came in again.
Q. What was the initiation?
A. Only to take that oath.
Q. What was the nature of the business what was done in these clubs?
A. Why, the business that was done in this club was only to state who the officers, &c., should be whom you got to vote for, and to not let any member go out on the street and have any public discussion about what took place in the club.
Q. You were not allowed to tell outside that you took the oath?
A. You could speak about taking the oath, but you wasn't to tell what the oath was.
Q. Who was the president of your club?
A. The president was Aaron Williams.
Q. Was he a white or a colored man?
A. He was a white man.
Q. What was his business?
A. I don't know his business.
Q. Is he in office?
A. No, sir; he didn't occupy any position in this city.
Q. Have you worked any since you were discharged, except the day that you worked for the rallying committee?
A. I worked five hours one afternoon.
Q. Who was that for?
A. That was for a Mr. Michael, on the southern wharf where the Dictator, the Florida boat, lands.
Q. Is Mr. Michael a democrat?
A. I don't know whether he is a democrat or republican.
Q. Do you know of a great many republican negroes in Charleston working for democrats?
A. Yes, sir; there are a great many working for them now.
Q. You never heard any oath administered to these men since the election? You never saw any white men administer it?
A. You never took an oath, but they wanted you to take an oath.
Q. That one man?
A. Those three that I went to.
Q. Did they want you to take it?
A. No, sir; they only spoke to me concerning it; but my employer did, and I said to him that he couldn't get my vote if he was to give me $5,000 cash in my hand and $20 a day. He said, "No intimidation; no intimidation."
Q. You would not violate this oath that you took in this club if a man came to you and gave you a hundred dollars a day?
A. Not for a thousand dollars a day. According to the oath they couldn't do anything to you; but at the same time to be truthful as a truthful man I wouldn't take $2,000 a day.
Q. In other words, in taking this oath that the lieutenant-governor had administered to you, you felt as a matter of conscience that you could not vote anything but the republican ticket without violating your oath and violating your conscience?
A. Yes, sir.

Before leaving this matter of the general conduct of the election, the committee desire to call attention to, and condemn, an abuse which existed, namely, the employment and use of

DEPUTY SHERIFFS.

Mr. Bowen, the sheriff of Charleston County, just prior to the election appointed a large number of persons styled "deputy sheriffs." The appointment of these persons was without warrant or authority of law. They were all republican negroes, and were placed at the polls throughout the city of Charleston on election day, and were invested by Bowen with the power to make arrests. This power did not seem to be in any way limited, nor was it subservient to any higher authority. The liberty of the citizen was only subject to their caprice. On the day of election these men assembled in large numbers at the polls, wearing badges, and exhibited the utmost partisan malignity. Reference is here made to the following testimony: Mr. Mills, after the election, prepared a written protest, which he published. This protest he produced before the committee and made it a part of his testimony. One part of this protest was as follows. (see page 132:)

"That there were present at the aforesaid voting-precincts large numbers of persons claiming to be deputy sheriffs, and wearing badges so designating them, (such pretended deputy sheriffs having been appointed by the sheriff of the county in direct violation of law, and being without any lawful office or authority,) who, pretending to act under color of such office, did, by intimidation and threats of violence, prevent and stop many persons from voting the said democratic ticket, by which unlawful violence and intimidation of said pretended deputy sheriffs the result of the election was changed."

In his testimony (see page 133) Mr. Mills says:

By the CHAIRMAN, (Mr. COCHRANE:)

Question. The statements which you have read from the paper, if I understand you correctly, are read from a copy of a paper which you filed with the board of county canvassers, after the election?
Answer. Yes, sir; based upon affidavits, many of which I took from known and reliable witnesses. I was appointed one of a committee composed of George Lamb Buist and Rudolph Siegling, besides myself, to draft this paper.
* * * * * * *
Q. Are you satisfied of the correctness of that statement, at this time?
A. In the main, I am. I do not know that I can establish each one of those precincts. As I have stated, I have drawn that on the plan of an indictment, but I have no doubt of the truth of those general statements.
Q. Are you satisfied that those deputy sheriffs of whom you have spoken served to decrease the democratic vote and increase the republican vote?
A. I have the most decided impression on that point. Perhaps it may be well to state that that is a hobby with me—opposition to those deputy sheriffs—for I have been at it every election that we have had since 1868; I have always opposed it.
Q. State what effect they had?
A. They acted as party-rallyers, while they worked clothed with a badge which gave them a certain official authority. They were partisan, and violently partisan.
Q. Were there any democrats appointed?
A. No, sir. At the last election in Charleston that was prevented by the commissioners of elections. In the municipal election the commissioners of election were charged with the entire duty of preserving the peace, and our commissioners therefore controlled the sheriffs; while in the general election our commissioners of election have no such power.
Q. Was there anything in the law which authorized the appointment of these deputy sheriffs?
A. In my judgment, there was nothing; they were appointed in open violation of law.
Q. By whom were they appointed?
A. By the sheriff of the county.
Q. Who is the sheriff?
A. Mr. Bowen, who was the candidate for re-election, and also a candidate for presidential elector.
Q. And a prominent republican?
A. The head of the republican executive committee of the county.
Q. Were they all appointed from one party?
A. All from one party.
Q. And that the republican party?
A. Yes, sir; and I think I may say all colored people, or nearly so

Mr. Barker (see page 70) says:

"They were aided on election day by a large force in the city of Charleston and elsewhere—constables, or rather deputy sheriffs—who were ignorant colored people, wearing badges of office under the appointment of Bowen, the sheriff of the county, and exercising the power of arrest at will of any one that they chose, without reference to the committal of any offense. They were assisted by the same class of persons, wearing the badges of deputy United States marshals, under the appointment of Mr. Wallace, and the exercise by these two sets of persons, who were entirely partisan, all appointed on one side, was always directed against the democrats, and it created a thorough and entire intimidation of that portion of the colored vote which was at all disposed to vote the democratic ticket. The exceptions were men of rare courage, or those who were under the absolute protection of individual white men. The militiamen, who had arms from the State, furnished by republican military commanders or militia officers, in numerous instances presented themselves at the polls in armed force, and controlled the voters to a very large extent."

The witness Patrick Philip Toole (see pages 150 and 151) says:

By the CHAIRMAN, (Mr. COCHRANE:)

Question. What is your age?
Answer. Thirty-five, sir.
Q. Where do you reside?
A. In this city, sir.
Q. How long have you resided here?
A. Since 1864, I think, just a few days after the evacuation.
Q. What is your business?
A. Milling; I have a planing-mill and lumber-yard.
Q. Where is your mill?
A. On the west side of Charleston, sir; on the Ashley River, right opposite here.
Q. Have you an office?
A. Yes, sir; I have two stores, or salesrooms, in Hayne street, Nos. 20 and 22. We make doors, sashes, and blinds, and everything connected with buildings, besides building buildings.
Q. From what State did you come here?
A. From New York State, sir.
Q. Were you born there?
A. No, sir.
Q. Where were you born?
A. I was born in Ireland.
Q. How long did you reside in New York State?
A. Well, I have been there since 1846. I was about three years old when I came over. I am not quite thirty-five, but will be that age the early part of next year.
Q. Were you in the Army?
A. I was, sir; in the Federal Army.
Q. How long did you serve?
A. One year, sir.
Q. In what brigade?
A. Well, sir, I was in two or three brigades. I was in the Sixty-fourth New

York, Colonel John Cochrane's regiment. Major Schaler, of New York, was our lieutenant-colonel. We were known as the "Chasseurs."

Q. What are your politics? Have you been voting any stated ticket or not?

A. I have voted generally a split ticket until this last election.

Q. When Governor Chamberlain ran before, whom did you vote for?

A. I voted for Green. Green was a reform republican. Before that I had voted for Moses.

Q. Were you at the polls on election day?

A. I was there part of the time.

Q. How long were you there?

A. I was there probably an hour or so in the morning and about two or three hours in the afternoon.

Q. Please state what poll you voted at?

A. I voted at the first precinct, ward 4, I think.

Q. Now state what occurred, if anything.

A. Well, sir, we were running the mill that day, and I told my hands, as I generally did, to make it as short a time as possible in voting: that I was going to vote about eight or nine o'clock, and if they wanted to vote they could come along and vote with me. Some of them did, and some of them staid behind. There was one of our men who was arrested after he voted.

Q. Was he a white or colored man?

A. He was a colored man named John Hall.

Q. What did you employ him at?

A. At laboring work in the yard.

Q. Now detail to us all the circumstances of the arrest; what was said by him and all the circumstances attendant upon the case.

A. When we got in line to vote, this man Hall stuck very close to me and looked very much frightened, and on my looking around to see the cause of it, I saw several colored men opposite to him, near him, making gestures and looking at him, and so on. Seeing that he was somewhat alarmed, I told him to stand still and not be afraid. After he voted, he was taken possession of by those deputy constables or sheriffs.

Q. Did he vote the democratic ticket?

A. Well, I could not say that; I suppose he did. He was accused of voting the same ticket that I did, which was the democratic ticket. He was accused before and afterward of voting the democratic ticket.

Q. After he had voted what occurred?

A. He was taken possession of and was going to be arrested by those black deputy sheriffs. I got between them and tried to reason with them about the folly of arresting him.

Q. What did they say and what did other colored men say, if anything?

A. Well, they said that he voted the democratic ticket, and that he did so under my request. They made an attempt to take him out of the line, however, before he got to the ballot-box, those same men did. You see you had to stand off the length of this room [twenty-five feet] from the ballot-box.

Q. What else did they say about his voting the democratic ticket?

A. They got very violent. They were all armed with clubs and sticks, and so on; and the white men there said he should not be arrested. The majority of the blacks, seeing a few take hold of him, were encouraged to interfere, and there would have been a general fight if I had not begged them to stand back and let the man be arrested. Before that, however, the deputy United States marshal told these constables to stand back and let the man alone; that if he did vote the democratic ticket they had no right to arrest him. Those deputy sheriffs took him away from the marshals altogether, and just at that period a fight was very imminent, and I begged the marshals to let him go and let him be arrested to quiet the crowd and keep off a fight. I did it for peace sake. Of course I got cursed just as much as he did.

By Mr. JONES:

Q. What did they do with him?

A. They took him to the city jail.

By Mr. BANKS:

Q. What was the charge against him?

A. That he was under age. They accused him of being only eleven or twelve years of age. So they took him to jail, and from there he was sent before the United States commissioner.

By the CHAIRMAN, (Mr. COCHRANE:)

Q. You followed him down, did you?

A. Yes, sir; I went with him.

Q. What occurred before the commissioner?

A. Well, the commissioner held some whispered conversation there with the attorney-general of the State, this man Stone. Later on the attorney-general called the commissioner out of the room where we were, into the hall, and had some conversation with him out there, I suppose, and he came in and looked at us two or three times, and the commissioner finally came in and asked this man some question in regard to his name and age, and so on, and asked me if I would be responsible for him; that is, to have him whenever the commissioner would call for him; and I told him I would. After giving that verbal guarantee they let him go and reminded me that they would hold me responsible for the man.

Q. Have they called on him to answer since?

A. No, sir.

Q. Was he twelve years old?

A. Well, he was doing a man's work and receiving a man's wages. I considered him a man. I hire him for a man, and pay him for a man.

By Mr. JONES:

Q Do you think he is twenty-one years old?

A. I think he is over twenty-one.

By the CHAIRMAN, (Mr. COCHRANE:)

Q. Has he whiskers?

A. Yes, sir; he has some hair on his upper lip.

Q. This man alleged that he was only twelve years of age?

A. Eleven, I think.

Q. That was the deputy sheriff?

A. Yes, sir. During all that time there were threats made by those surrounding him, and he was pointed out to the crowd.

Q. What effect did this action of the deputy sheriff's in this case, and the general course which they pursued during the day, have upon the negro voters, that you know?

A. We had to send this man and one other colored man who voted the democratic ticket down back of the mill under a guard. We had to beg the white men on the place to take them down.

By Mr. JONES:

Q. Why?

A. We were afraid they would be torn to pieces. Some evenings later I let them go to go home, and kept my eye on them as far as I could.

Q. From what you saw at the polls of the action of these deputy marshals and others advocating the interests of the republican party, would you consider it safe for a colored man to vote the democratic ticket?

A. No, sir; I would not. I do not suppose there would have been a colored man in Charleston who would have voted the democratic ticket that day if there had not been whites at their back. The supposition was that I voted it, and I was cursed myself for voting it. I was among them when they acted in this manner.

Q. What was the action of the deputy sheriffs whom you saw during the hour that you were at the polls in the morning and the two hours that you were there during the afternoon? And I ask this without reference to the case you have given.

A. Well, the deputy sheriffs were interfering: bringing these men up to vote the republican ticket. That seemed to be their duty. They were all armed with clubs of some kind or another—either a rough-hewn piece of stick or something else. They were anything but peacemakers.

Having thus considered some of the leading matters connected with the general conduct of the election, the committee direct attention to a matter bearing upon which a large amount of testimony was taken, and the importance of which will at once be perceived. The matter referred to is the

INTIMIDATION OF DEMOCRATIC BY REPUBLICAN NEGROES.

From all the testimony taken the committee are satisfied that had the negroes been permitted to vote as they desired the result would have been the election of the democratic electors. A reference to the testimony cannot fail to satisfy an unbiased mind that such would have been the result. In the "low country," both before and upon the day of the election, almost every kind of violence was resorted to in order to prevent negroes from voting the democratic ticket. Threats were first employed, and where they failed to produce the desired effect the most cruel and barbarous measures were resorted to; negroes were stripped naked, beaten with whips and clubs, and in some cases cut with knives or razors, their only offense being that they had resolved to vote the democratic ticket. The negroes, maddened by the report circulated by unscrupulous party leaders that if the democratic party should be successful in electing its candidates they would again be reduced to slavery, were like so many ferocious animals. At some of the voting-precincts the voters were nearly all negroes. Upon election day they assembled at the polls armed with shot-guns, rifles, muskets, swords, knives, bayonets on sticks, and almost every other conceivable weapon, shouting, cursing, and threatening; swearing that they would (to use their language) kill any "damned democratic nigger that offered to vote." As the negro voter approached the polls he would be set upon by these armed men. If he had a democratic ticket in his hand it was taken from him, a republican ticket substituted, and the voter marched up to the ballot-box with clubs brandished over his head and compelled to deposit his ticket in the presence of his assailants.

It was by such means that the voice of the people was stifled and large majorities rolled up for the men who have brought ruin and disaster upon every business interest in South Carolina, impoverished her people, made her treasury bankrupt, banished from the faces of her children the smile of hope and left in its stead a settled gloom and despair. Testimony was taken as to the actions of the negroes at the following precincts, Charleston County, Red-top Church precinct.

The following extracts from the testimony will indicate how the election was conducted there. (See pages 13, 14 and 15.)

A. M. LATHAM sworn and examined.

By the CHAIRMAN, (Mr. Cochrane:)

Question. What is your age, sir?

Answer. Forty-nine.

Q. Where do you live?

A. I live in South Carolina.

Q. How long have you lived in South Carolina?

A. Since 1851, sir; twenty-five years.

Q. Where were you born?

A. I was born in Scotland, sir.

Q. Is there a precinct in Saint Andrews Parish known as Red-top Church precinct?

A. Yes, sir.

Q. Are you engaged in any business in that precinct?

A. Yes, sir.

Q. What?

A. Mining phosphates.

Q. How long have you been engaged in business there?

A. I used to plant rice and cotton there since 1868, but for the last three years I have been mining phosphates.

Q. Did you go to the Red-top Church precinct on last election day?

A. I did, sir.

Q. What time did you reach the polls?

A. Before six in the morning.

Q. Before they opened?

A. Before they opened.

Q. What time did the polls open?

A. Six o'clock.

Q. Where was the voting conducted?

A. At Red-top Church; in the church.

Q. What position, if any, did you occupy on that day?

A. I was democratic supervisor of election.

Q. At that place?

A. Yes, sir; at that place.

Q. At the time the polls opened about how many negroes were there?

A. There might have been from a dozen to eighteen.

Q. Well, sir, did others come?

A. Yes, sir.

Q. Singly or in bands?

A. They came occasionally in bands and sometimes singly.

Q. Were they armed; and, if so, with what?

A. Most of them had bludgeons; some had guns.

Q. Did you see any one with bayonets?

A. I saw some bayonets tieds on poles or sticks.

Q. How many managers of election were there?

A. Three.

Q. How many colored men?

A. Two of them were colored men and one was a white man.

Q. Two colored republicans and the white man was a democrat?

A. Yes, sir.

Q. And was there a republican supervisor?

A. Yes, sir.

Q. Was he white or black?

A. He was a white man.

Q. Well, sir, I wish you would go on now and state from that point, in your own language and without questions from me, what occurred during the day, giving the events, as near as you can, in their order.

A. About, I should say, a few minutes after I entered the church and the polls were opened, the box was examined by the people to see that it was all right. I proposed to the managers of election that but one person should be admitted to the church at a time, for the purpose of having a fair election; and the managers agreed that it was right enough, and requested the marshals to clear the church. By that time there were a great many in the church, and the people would not go out, so the

managers didn't insist upon it. The church then became filled with people who crowded all around the box.

Q. What kind of people?

A. Colored people; all colored people, sir.

Q. Did they surround the box?

A. They were all around the box, close to it, and packed all around it; and a short time after that there was a boy came up to vote by the name of Jenkins, and I challenged the vote.

Q. How old was he?

A. He seemed to be about sixteen years of age—perhaps from thirteen to sixteen—and the crowd became very unruly at my objecting to his vote.

By Mr. JONES:

Q. You challenged the boy on account of his age?

A. I challenged his age, sir.

By the CHAIRMAN, (Mr. COCHRANE:)

Q. Well, sir, proceed.

A. The crowd became very unruly about my expressing myself as dissatisfied with the vote, and they brought forward his father, and his father said that he was in his twenty-first year. I told him that that would not do; that he must be twenty-one years and out, and proceeded to swear his father; and they got perfectly obstreperous.

Q. What did they do?

A. They crowded all around me with sticks and hollered, "Take him out; bring him out;" and, of course, I was unable to challenge any more.

Q. Did the boy vote?

A. Yes, sir.

By Mr. JONES:

Q. Did you protest against it?

A. I did, sir.

By the CHAIRMAN, (Mr. COCHRANE:)

Q. Were there any others?

A. There were many others, sir, but I could not protest after that; it was as much as my life was worth. Some democratic negroes came in to vote then, and among others my foreman, James Grant. He voted and showed his ticket.

Q. What ticket did he vote?

A. The democratic ticket; and the people became very much annoyed about that, apparently, and were for assaulting him; indeed, they expressed themselves so violently that they frightened the man. He wanted to go away, and he slipped out, and no sooner did he get out than they got after him, and they run him about two hundred yards.

Q. Were you present when any further difficulty occurred?

A. I was not present when they caught the man.

Q. Did you see Grant the next day?

A. I did, sir. He was very much cut up.

Q. What was his condition?

A. When I saw him he was lying in bed, and he told me he was unable to turn over.

Q. How many cuts were there about his head?

A. Well, sir, I think there may have been three or four. There certainly was one very bad one on the brow and head, and a very bad one across the top, and another in the back of his head; probably three or four cuts.

Q. Were there any other injuries or wounds about his person?

A. He was very badly cut in the knee, stabbed with a knife. I saw the cut. It was a very bad one.

Q. Any other cuts?

A. Another cut in the arm.

Q. Now, go back to the polls and tell us what followed after Grant ran out.

A. After that some little time went by before another man came in to vote—Peter Lucas.

Q. Was he a colored man?

A. He was a colored man and a pronounced democrat. He had been in my service for years and had always voted the democratic ticket. Well, they got after Lucas as he was going in, and they marched him up to the door with bludgeons over him, and he came to me and asked me what he should do. I remarked to him that I thought he had better sit down a little while and not vote at present; just to wait a little while. He was afraid to stay, and went and put in his ticket. He then went out and they got after him again.

Q. Did you see Lucas the next day?

A. I saw him the next day and his head was tied up, and he told me they had all but killed him.

Q. He was cut up, you say?

A. His head was tied up, sir.

Q. Well, now, what further occurred at the polls?

A. Well, sir, at a later period in the day the negroes were around the church all the time, and men and women cursed me. I was kept in the church from six in the morning till eight or nine at night. I could not get out.

Q. What more, if anything, was done?

A. There was a man by the name of John Brown, a democratic negro, got into the church with me in the morning, and he could not get out; and one man came up there and cursed him for a son of a bitch and that he wanted to knock his brains out. He didn't come into the church, but he came over to the door.

By Mr. BANKS:

Q. Did you see him?

A. I saw him and heard him.

By Mr. JONES:

Q. Whom did he curse?

A. He cursed Brown.

Q. Who was Brown?

A. He was a democratic negro. He was afraid to vote and never voted.

By the CHAIRMAN, (Mr. COCHRANE:)

Q. Do you know of democratic negroes coming up?

A. Several; a number that told me they were going to vote the democratic ticket were brought up by men, one on each side, with bludgeons. These men came up to the door with them, and told them if they didn't vote the republican ticket, what they would do, and they stood at the door and saw them vote the republican ticket. Men voted the republican ticket that I am satisfied would have voted the democratic ticket if they had been let alone; they told me so afterward.

Q. How many colored women were there about there?

A. There were thirty or forty armed with bludgeons. There was hardly a woman that hadn't a bludgeon, and they were, if anything, worse than the men.

Q. Was there any incident occurred between a negro woman and yourself that day?

A. There was. One of these women took a gun and aimed it in the window. I happened to go to the window and some one called out, "Look at that woman; she is about to shoot you, sir." I looked out and they had just taken the gun from her by that time.

Q. How many democratic votes were there at that poll altogether that day?

A. Four white men and nine negroes voted the democratic ticket—13 votes.

Q. How many republican votes?

A. Two hundred and ninety-seven; in all there were 310.

Q. How many white men were there about the polls on that day?

A. Five.

Q. Who were they?

A. There was one republican supervisor, one democratic manager; there was myself, democratic supervisor, and two others.

Q. Were those two others white democratic voters?

A. Yes, sir.

Q. Will you state whether either of them was detained through fear in the church?

A. Yes, sir; one young man was detained there as long as I was. He remained there the whole day from six in the morning until eight or nine o'clock in the evening.

Q. He was afraid to go out?

A. Yes, sir; I went to the door two or three times, and whenever I saw the crowd surging toward the church I had to get in again.

Q. You made several efforts to get out?

A. Yes, sir.

Q. But was driven back by the threatening attitude of the crowd?

A. Yes, sir.

Q. I wish you would state whether there was great noise and confusion there during the day?

A. A great deal, sir, and the wildest intimidation I ever saw anywhere.

Q. What did the intimidation consist in?

A. There was a band of men marching backward and forward, beating drums, hallooing and screaming, and carrying on with the women in front of the men. I saw a company of men there, with forty or fifty in it probably, and mostly all armed apparently, half of them with bright, shiny rifles, and the others with bludgeons, sticks, and bayonets.

Q. Were these colored people?

A. Yes, sir; all colored people.

Peter Lucas, colored, voted the democratic ticket. He gives the result, as follows, (see page 19:)

Question. What, if anything, did they have in their hands?

Answer. Clubs, sir. I saw them coming, and I knew then they were coming after me, and I ran across the swamp and they run me down and cotched me, and then they fetched me up at the Red Top again, at about two hundred yards from it, and then they stripped off my jacket down to my vest and give me about one hundred and fifty lashes with grubs, a switch about as big as my thumb, and they let me go, and in that time a gang of women was seen coming down from the Red Top after me again. Then I run and got away from them.

James Grant (colored) testifies as follows, (see pages 20 and 21:)

Question. Without any questions from me, I want you to go on and state in your way, from the time you voted, what was said or done to you during the day.

Answer. After I got in and voted my ticket, the place where I put my ticket in the box was so crowded that I jumped out of the window; the window was always open. I went out and took a ticket out of my pocket——

Q. What ticket?

A. Democratic, sir; the same that I voted.

Q. How many democratic tickets did you have?

A. I had a good deal, sir. I didn't count them. After I had voted my own and I took the tickets out of my pocket, a young man came up to me that time by the name of Simon Bennett. Simon Bennett said to me, "The crowd is very strong around the door, and if anybody votes the democratic ticket he will be put to death," and says he, "If I can't vote the ticket I won't vote at all." I says, says I, "If you can't vote as you choose fold your ticket up close and show it to no man, and then you can put it in the box; don't show it to no man till you get up to that box." At that time he was standing with me, a little way from the church, and then he commenced walking with me, and I had my ticket in my hand, and the crowd burst right out behind me, and we considered the crowd was coming to get the ticket. I wheeled around and I says to Bennett, "Do you think that crowd is after me?" He says, "I don't know." By that time the crowd was nearly up on me, and I heard one man in the crowd say, says he, "Catch the son of a bitch," and as I looked behind me Simon Bennett broke off and run, and I broke off and run, and then we run down the road a little ways, and we turned the fork of the road that goes up to the O'Hare's plantation. As we turned the fork we saw a crowd coming across the field to cut me off.

Q. Part followed after you and the balance cut you off?

A. Yes, sir; after I turned the fork I seen the crowd cutting me off, but they didn't have closed up on me yet, and I wheeled round and saw that they had me in a ring; then I run round in the ring trying to break out and get away; then the crowd that had cut me off closed up on me, when one man, by the name of Solomon Lyon, struck me and knocked me down.

Q. Where did he strike you?

A. He struck me right in the head. He struck me two blows; one blow staggered me and the last one, in the back of the head, knocked me down.

By Mr. JONES:

Q. What did he strike you with?

A. A green-gum club. As he knocked me down I jumped up and he knocked me down again.

By the CHAIRMAN, (Mr. COCHRANE:)

Q. Where did he hit you that time?

A. All in the same spot, sir. Then I jumped up again and Ben Manigault flew up and says he, "Kill the son of a bitch; he voted the democratic ticket." One man says, "No; don't kill him." Sol Lyon says, "Kill the son of a bitch; he is nearly done died. Kill him at once." I says, "O, do, boys; don't kill me," and I jumped up, and Ben Manigault struck at me again, and as Ben struck at me he fell with the force of his own blow and I jumped up and run toward the bank to get to the road, and Lyon says, "Kill him, kill him; don't leave him; he's nearly dead now;" and he runs up and strikes me on the head again.

Q. What with?

A. The same club, and I grabbed hold to the grass on the dam and crept across the dam and run cross the road, and Rebecca Bennett, she run down the road screaming, and I says, "O, do, darling, save me; save me;" and she run toward me, and she hugged I and I hugged she, and she threw me down, and she was on top of me trying to cover me with her clothes.

Q. I see a long scar on your forehead. How did you get that?

A. Ben Manigault, sir, gave me that.

Q. Was that the last time he struck you?

A. Yes, sir.

Q. Well, now, what did they do, if anything, after Rebecca Bennett threw herself over you and tried to protect you?

A. Sol Lyon struck me a lick then on the right side of the head, and in that time Rebecca, she cotched me and I cotched she, and she threw me under her, and they caught up my leg which was sticking out a piece from her dress, and beat me on my leg, and one of my arms was out, which I cotched she with, and they beat me on my arm too, and some one, to break my hold on she, cut my arm.

Q. How many times?
A. Two times, sir; cut right to the bone.
Q. Suppose you let us see your arm. [The witness exhibited his right arm to the committee and displayed two long cuts near the elbow. The witness also exhibited the cuts on his head, one on the forehead on the top and one at the back of his head, which were not entirely healed.]
Q. Were you cut any place else?
A. Yes, sir; on my knee.
Q. On the knee of what leg?
A. The left leg.
Q. Was that a deep cut?
A. Yes, sir. You know that cap you can twist about on your leg, they cut down to that; and whatever they was cutting it with, slipped, and it went down side of that bone, and went in there. They sawed right across the cap, and the cap went one side and slipped down. That is the chief pain I've got now, and the doctor says it'll be over six months before I can walk good on it, sir.
Q. You are lame now from that wound?
A. Yes, sir.
Q. Go on and state what occurred after you were cut.
A. Rebecca she was on top of me, and she covered up everything except this right arm and left leg, and they cut that; and one woman she came up and struck me in the head, and Rebecca she was hollerin', "Do marster; don't kill him; don't kill him."
Q. You say a woman came up and struck you?
A. Yes, sir.
Q. Well, now, after she struck you, what occurred?
A. Julia Madison, she came up and struck me.
Q. What occurred after that?
A. After that, Rebecca was then hollerin', and they said, "Kill the woman and get the damned nigger out; kill him, for he voted the democratic ticket."

Quite a number of other witnesses, both white and colored, were examined as to the occurrences at this precinct. Reference is made to their testimony without further quotation.

CLUB-HOUSE PRECINCT.

(See pages 1, 2, and 3.)

By the CHAIRMAN, (Mr. COCHRANE:)

Question. Where do you reside?
Answer. I reside in Charleston.
Q. What is your business?
A. I am a lawyer by profession.
Q. Have you any business in Saint Andrew's Parish?
A. Yes, sir; I am the owner of some phosphate-mines in Saint Andrew's Parish; mining phosphate rock.
Q. What is your age?
A. Thirty-seven.
Q. How long have you resided in this State?
A. All my life, sir. I was born here, and except a temporary absence in Europe a year or two, I have always been a resident of the State.
Q. In what voting-precinct are your works situated?
A. Well, I do not know the name of the precinct; the place where the residents of the parish vote is called the "Club-House precinct."
Q. Will you state whether you went to the Club-House precinct on the morning of last election day?
A. Yes, sir; I went up to my place the evening before and spent the night there, and arrived at the precinct about six o'clock, perhaps a few minutes before six, on that morning.
Q. The morning of the election?
A. Yes, sir; the morning of the election.
Q. Whom did you go to the election with?
A. I went in company with Mr. E. T. Legare, who owns a place there a short distance from mine.
Q. When you reached the polls, how many negroes were there?
A. They were just assembling. They were scattered about the roads in the neighborhood, coming in. I suppose perhaps some fifty or so had arrived. I did not estimate the number very accurately, but there were a good many already there.
Q. (By Mr. JONES.) How many had arrived there?
A. I did not make a very careful estimate of them. About fifty were around there; it was early, and they were just coming in from all directions. I passed a good many on the road coming down. They were walking and I was riding.
Q. (By the chairman, Mr. COCHRANE.) You say there were fifty negroes at the polls when you got there?
A. Perhaps about that number.
Q. Well, did the negroes continue to come in?
A. They continued to come in pretty rapidly after that.
Q. From the same direction or different directions?
A. From different directions.
Q. Did they come singly or in bands?
A. Generally in batches; sometimes one or two; generally more than that.
Q. What were they doing?
A. They were just drawing toward the voting-precinct.
Q. I want to know what they were doing.
A. At the poll?
Q. No, sir. In coming in, were they making any noise of any kind?
A. They occasionally yelled, whooped, hooted, and blew horns about the country, but at that early hour the noise was not very great.
Q. Well, sir, in the course of two or three hours, how many negroes were there?
A. Well, after that time they began to come in rapidly; and on one or two occasions, I recollect, in large numbers. One body came rushing down the road at a great rate, yelling and whooping, and all armed, a sort of a company. They just came rushing down the road with a great noise.
Q. How were they armed?
A. They were armed mostly with muskets, most all of them with bayonets on them. Others around the polls were armed with all sorts of things.
Q. Did you see any shot-guns?
A. I do not remember seeing any; perhaps one or two shot-guns, and some had dilapidated rifles.
Q. Any clubs?
A. Clubs, bushes, sticks, old swords, and old bayonets. It struck me that they had a considerable variety of implements with them.
Q. Do you recollect seeing a negro with a club fixed in any special way?
A. I noticed one that struck my attention. It was a large oak wooden club, with nails driven in different directions through it, so that the nails would project on the outside, the head being left out about a half inch, with the spikes projecting all around the club. It was a very singular-looking weapon.
Q. Did you see him shortly after you came to the polls, or how long after?
A. I did not see him or notice him until shortly before we left.
Q. What, if anything, did you hear him say?
A. He passed by Mr. Legare and myself, and was swinging this club in one of his hands. As he passed, he made a rather obscene remark.
Q. What did he say?
A. Well, he says, "If I hit any democrats with this ting, and it don't kill him, Christ will never——."
Q. Now, when a negro would be approaching the polls to vote, what would these negroes standing about the polls do, if anything?
A. They stood around talking and moving about a great deal, going to and fro; and usually, when any new-comers would arrive, they would run down to meet them—half a dozen of them, perhaps—with whatever weapons they might have in their hands. Those who had clubs and arms would run down to meet these new arrivals, and crowd around them, and ask them if they were all right, and such questions, if they had the right ticket, and perhaps carry them tickets, and then they would come up together.
Q. During this time, how were they acting? Were they quiet or disorderly?
A. They were not quiet. There was great exhibition of excitement among them. There was no very positive disorder, because there was no opposition. There was no fighting, because there was not a single negro who voted the democratic ticket, and there was no collision between anybody.
Q. You say not a single negro voted the democratic ticket?
A. At least not up to the time I left.
Q. How long were you there?
A. I was there about three hours.
Q. Until about nine o'clock?
A. Yes, sir.
Q. Do you know of any negroes who wanted to vote the democratic ticket?
A. There were some at my place, who were employed there, who desired to vote the democratic ticket, but very few of them came to the polls. One or two desired to vote the democratic ticket, but were afraid to. One I remember particularly.
Q. What was his name?
A. The one I have in my mind was named Kent.
Q. Well, what, if anything, did you hear said to Kent?
A. He was standing near me, and I observed that he appeared to be very much frightened. He did not stand with the others. He stood to one side, looking very uncomfortable and uneasy, but I did not speak to him because I was afraid I would attract attention to him, and I did not want to do that. There was one man there who had voted, and as he was going off he turned around and called out to somebody in the crowd, "Mind now and watch Kent for me."
Q. Well, how did he vote after that?
A. He voted the republican ticket.
Q. How many negroes do you suppose were there at one time while you were there?
A. Think that the negroes increased in number in the time I came; some came and went away. They were coming and going all the time, but probably there might have been from one hundred to one hundred and fifty at one time. They were a good deal scattered about the woods.
Q. How many of these did you see armed with guns?
A. I suppose about one-third were armed with guns; perhaps a little more.
Q. How many with bludgeons?
A. Well, perhaps as many more, sir. Probably, including all varieties of things, a little more than half of them were armed.
Q. How many democratic votes were polled while you were there?
A. I think there were seven white men there, and each one of them polled a democratic vote.
Q. How many negroes had voted?
A. Well, they voted pretty rapidly, sir. I did not attempt to count them.
Q. Give us your estimate.
A. There may have been one hundred and fifty, sir.

Mr. Legare, another witness, who was present at this precinct, testifies as follows, (see page 8:)

Question. What was the general demeanor of the negroes assembled at that poll?

Answer. I will tell you the plain truth, sir. I have been through the war, and I have been in some pretty close places, but I never felt so uncomfortable in my life as I did that day. If I had undertaken to carry a democratic negro up to vote that day I believe he would have been mobbed, and I would have been mobbed for carrying him up.

FOUR-MILE CHURCH PRECINCT.

(See pages 38 and 39.)

JOHN S. HORLBECK sworn and examined.

By the CHAIRMAN, (Mr. COCHRANE:)

Question. What is your age?
Answer. Thirty-two, sir.
Q. Where do you reside?
A. I reside in the city here.
Q. Do you do business in Christ Church Parish at Four-mile Church precinct?
A. I do business in Christ Church Parish, three miles above that place.
Q. How long have you resided in Charleston?
A. All my life, sir.
Q. Were you born in South Carolina?
A. Yes, sir.
Q. What business are you engaged in?
A. I am planting, and making bricks.
Q. Will you state whether you went to Four-mile precinct on election day?
A. I did.
Q. Last election day?
A. Last election day.
Q. About what time in the morning did you get there?
A. I suppose I got there about a quarter of an hour or twenty minutes before the polls were opened.
Q. How long did you remain there?
A. I remained there until after they closed.
Q. How many negroes were there when you first went?
A. About fifty negroes.
Q. Will you state whether they were armed with anything; and, if so, what?
A. The men had clubs of various descriptions, and of the women some had clubs and some sticks or poles with bayonets stuck on the end of them. There were from fifteen to twenty women there at the time the polls were opened.
Q. State whether any more negroes arrived.
A. During the day they arrived pretty rapidly. Within two hours after the polls were opened the main batch were there.
Q. How many were there?
A. At least two hundred and fifty.
Q. They would keep coming and going, I suppose?
A. Well, in the country the negroes would vote early in the morning, and they rushed to the polls all together, and as a general thing they all leave together. At the election prior to this, when the evening came on, and when the votes were counted, I don't suppose there were twenty present.
Q. How was it at this election?
A. Well, a great many were there when the polls closed.
Q. What, if anything, did you hear these negroes say there that day?
A. When the voting commenced early in the morning, I heard one say that he would "like to see the first negro that would vote the democratic ticket here to-day."
Q. You say they were armed with clubs?
A. Yes, sir; with clubs.

Q. Well, did you hear any threats?
A. I heard similar threats to that during the day.
Q. Did you hear anything said by the negro women?
A. The women were very boisterous and noisy at times, pulling the negroes off the stand and examining their tickets when they went up to vote, saying what they would do if their husbands were to vote the democratic ticket, and that "he better not do it." In one instance I saw one woman shake a club in the face of a man that was there and curse him for a red-bearded son of a bitch. She did it two or three times, following him about the grounds. I told him he had better go away, and I got him off after a while. He said he was afraid she was going to knock him.
Q. When the polls closed what occurred?
A. Well, I can't say when the polls were closed, but when they were about closing—it was about dark in our climate here and I was not allowed inside of the voting-place—it was cold outside, and I was sitting beside a small fire, and after a while I saw guns commence to appear. There were but three white men left there at that time, at least on the outside. I am not speaking of those in the building—the board of election officers. I suppose about half a dozen came out; there were more negroes there, but half a dozen came out with arms and said, "We would like to see anybody come within fifty yards of this place to-night," and I said to my partner, "There is no chance of seeing a fair vote," and we got in the buggy and rode off. The polls were closed a half an hour when we left.
Q. With reference to these crowds of negroes who stood about the polls during the day, I wish you would state what they did as voters would approach.
A. Well, when voters were coming down the road four or five or a half a dozen of their committee would rush after them and give them tickets and ask them if they were all right. In some instances, when they did have tickets they took them away from them. None of the colored men then dared to vote the democratic ticket openly; they did it clandestinely, and to this day they dare not say they voted the democratic ticket.
Q. How many negroes voted the democratic ticket?
A. Fourteen.
Q. How many white persons?
A. Seventeen or eighteen.
Q. How many republicans voted there?
A. About four hundred and sixty or seventy. There was one white republican vote cast.
Q. From what you saw there, I wish you would state whether, in your opinion, it would have been safe for a negro to have voted the democratic ticket?
A. Well, sir, I will tell you; the negroes generally look upon a white man as being a man that will vote the democratic ticket anyhow, but I do not think it would have been safe for a white man to have boasted there that day that he voted the democratic ticket, or any other man there.
Q. Would it have been safe for any negro, not hiding his ticket, to have gone up and put it in the box?
A. It would not, and the reason I say that is this, that, to my knowledge, there were at least fourteen or fifteen hands on my place that had become members of a democratic club, and I was satisfied before the poll opened that we should have seventy-five votes.
Q. What did you base that expectation upon?
A. From general conversation with the people about my place, and with others that belonged to the club. I think there were that many that would have voted the democratic ticket.
Q. Did the negroes, prior to the election, seem to be dissatisfied with the manner in which they had been governed?
A. Very much so. I remember in one instance of being at a democratic barbecue, where there were a hundred and fifty negroes, and they appeared to be very well pleased with what they heard there. Of course they didn't all promise to vote, but a good many told me that they would.
Q. And you attribute their not voting to these negro men being there at the polls, armed, and acting as they did?
A. I would suppose that was the reason; they were afraid to do it. I know of an instance where a boy, up to the night before, said he would vote the democratic ticket at that poll if he died in his steps; but the next day he didn't do it.
Q. He voted the republican ticket?
A. He did. I saw him vote it myself. I was not two feet from him when he put it in.
Q. You spoke of fourteen negroes who voted the democratic ticket, and you said that to this day they are afraid to own it?
A. They are afraid of being knocked down, or bruised, or killed. In fact, I really hesitated about bringing a great many witnesses that could have been brought, for fear of violence after they got back.
Q. You hesitated for fear that if they appeared and made statements before the committee there would be violence offered them?
A. Yes, sir.

Frederick Randall, a colored man, who voted at this precinct, testifies, (see page 42:)

Question. Did they carry the gun along?
Answer. Yes, sir.
Q. What did they do when they got to the poll?
A. They dragged me to the polls shamefully.
Q. Where did you get your ticket?
A. They had the tickets at Mr. McCant's avenue, and when they got up there they presented this ticket, and said, "This is your ticket and you have got to vote it." George Gray said that to me and he stuck to me until I put that ticket in the box.
Q. It was a republican ticket, was it?
A. Yes, sir.
Q. And they did not leave you until you put it in the box?
A. Never an inch, sir, until it was put into the box by me.
Q. What did the crowd of negroes do that were standing up there when you came marching up with these three men?
A. They were always sticking right around there, and there was a great crowd around there hurrahing.
Q. What ticket did you want to vote that day?
A. The democratic ticket, sir.
Q. If they had not marched you up in that way, what ticket would you have voted?
A. My intention was to vote the Wade Hampton ticket.
Q. So you would have voted that ticket if they had not scared you?
A. Yes, sir; I would have done it.

Mr. WILLIAM R. WHEELOCK (see pages 77 and 78) says:

Question. Were you at the polls in the precinct on election day?
Answer. Yes, sir.
Q. What time did you go there?
A. About half past six.
Q. What time did you go away?
A. I left there about five o'clock in the afternoon. I went home during noontime to dinner.
Q. Just tell us whether the negroes at that poll were quiet or otherwise during the day.
A. I saw a number of negroes with arms and guns; there was hardly one there without a club, or a knife, or some old bayonet, or something of that kind.
Q. Did many of them have clubs?
A. Yes, sir.
Q. Were there few or many negroes there.
A. From three to four hundred during the day all the time.
Q. Did you hear any threatening at all of democratic negro voters?
A. I did. I heard a number of them say if any negro voted the democratic ticket they would kill him.
Q. Did you hear any cursing?
A. I did.
Q. Loud talk?
A. A great deal of it.
Q. Were negro women about?
A. Yes, sir.
Q. How many?
A. I should say twenty that were prominent. There were more than that there, but the others were peaceable and quiet, and the fifteen or twenty were noisy and violent. They were armed with knives, or bayonets, or clubs.
Q. What kind of knives?
A. What you would call a butcher-knife. One woman in particular, that I knew, had a large butcher-knife stuck in her apron-belt.
Q. What were they doing?
A. Parading the road there and making a good deal of loud talk.
Q. Did they say anything at all about negro democrats?
A. Yes, sir; they said if they knew any negro who voted the democratic ticket that they would kill him or that they would pound him, and different expressions.
Q. There were other negro women there that were quiet?
A. Yes, sir.
Q. Do you know of any minors voting there?
A. I know one, sir.
Q. Who was he?
A. His name is Orphelus Grant. He goes by two or three different names, but that is what he is called more than by any other; sometimes he is called Jenkins, sometimes he is called Rankin.
Q. What was his age?
A. Eighteen.
Q. How do you know?
A. I know that when I went on to the place he was a boy eight years old, and it has been ten years since I went there.
Q. Do you know any negroes who had expressed their intention of voting the democratic ticket prior to the election?
A. Yes, sir.
Q. How many?
A. Quite a number; at least twenty-five that I know of particularly.
Q. Well, did they vote it?
A. I should judge not; there could not have been more than sixteen that voted the democratic ticket at that precinct.
Q. Do you know why?
A. Well, they said they were afraid to vote it.
Q. Was this afterward?
A. Yes, sir; they said so afterwards; and a great many of them said before that they were afraid to vote it openly.
Q. Since the election did any of them tell you they were afraid?
A. Yes, sir; three of them told me so this morning. They promised me last evening that they would come here before this committee; but they dared not come. They told me that they thought it would not be safe for them to go back on the place again. One of them told me that he would come if I said so, but that he would never go back to the place again. I told him he had better stay where he was. I spoke of those three for the reason that their testimony would have been important, because all three of them were assaulted by the negroes at different times.

By Mr. BANKS:

Q. Did you see it?
A. No, sir; I only have their word for it.

By the CHAIRMAN, (Mr. COCHRANE:)

Q. Do you know of any influence prior to the election being used by republican negroes to prevent democratic negroes from voting?
A. I have often heard them threaten if they did vote what would be done to them. They would threaten to whip, to pound, or to kill them, and so on; there would be different expressions.
Q. What is your business?
A. I have charge of a platation called Woodland, in that parish, and conduct that—settling the estate of my former partner, Alexander Knox. I was with him six years. I have been North for the last three years, and they sent for me last May, at the time of his death, and I came down here to settle the estate, and have been conducting the business since.
Q. I will just ask you, sir, whether these negroes are intelligent or a very ignorant class of people?
A. Well, the majority of them are an intelligent set of laborers.
Q. I am speaking now of their intelligence, not of their capacity to work.
A. Well, none of them are capable of reading or writing at all. They cannot write their names or read, and I don't know of but one or two on that plantation that could do so.

By Mr. JONES:

Q. You are not a native of this State?
A. No, sir; I am not.
Q. Where were you born?
A. In Massachusetts.
Q. How long have you lived in this State?
A. It has been ten years since I first came. I staid here six years and then went away, and was gone three years and a little more. It was in the spring of 1867 when I came here.
Q. How many negroes have you had employed on the Woodland plantation?
A. We have settled on that place, men and women together, about one hundred and fifty. There are not as many as that there now, but when I was here formerly they had that many.
Q. How many have you there now?
A. During the busy season, in the summer, there are a hundred and fifty because we plant a number of vegetables and employ a great many laborers.
Q. Have you been a democrat ever since you have been in this State?
A. No, sir.
Q. Do you belong to the republican party?
A. I do.
Q. You voted the democratic ticket at the last election?
A. I did.
Q. How long have you been with that party?
A. I think that I voted the democratic ticket a year ago—the State democratic ticket.
Q. Have you belonged to the republican party up to two years ago?
A. Yes, sir.

At this point the committee call attention to the report of General Hunt, (see pages 200 and 201:)

"Captain Randolph states that he found neither marshal nor deputy at Beaufort, and that it was reported to him that the United States supervisor was stopped on his way to the polling-place, and upon showing his papers to the negroes, who stopped him, had them taken from him and destroyed and was obliged to fly for his life.

"Lieutenant Adams reports that at Strawberry Ferry a company of colored men, about forty in number, were marched to the polls with arms, under a leader, said to be John Lowery, (colored,) though no riot or disturbance occurred.

"Lieutenant Baldwin states that no disturbance connected with the elections occurred on John's Island; that leading citizens informed him and he believed this was due to the presence of the troops.

"Lieutenant Edgerton reports that no disturbance occurred at Adams Run, and that he has every reason to believe that the presence of the troops prevented a serious one taking place at the polls.

"Lieutenant Jefferson, immediately on his arrival at Walterborough, on the evening of the 6th, in a conference with the United States marshal, Commissioner Glover, the intendant of the town, and the leaders of both political parties, learned that while they had no apprehension of disorder at Walterborough they believed there would be trouble at Blue-house polls. Acting on this, he marched early next morning to that place, and says he has no doubt that their arrival prevented serious trouble. In the last three cases these officers report that the danger arose from the disposition of the republican negroes to interfere with those of their own color who desired to vote the democratic ticket."

There was a good deal of evidence taken by the committee in regard to the conduct of the election in Georgetown and Colleton Counties. In the former of these counties occurred the

LABOR STRIKES

among the negroes, which for a time created great excitement. The leaders in these strikes were also prominent republican politicians, and several of the witnesses testified that the strikes were gotten up not because the negroes wanted or needed higher wages, but for the purpose of precipitating if possible a conflict between the whites and blacks. It appears from the evidence that upon one occasion when the strikers, led by a prominent republican negro named Jack Wineglass, came into the field where the negroes were at work, they proceeded to beat the democratic negroes but suffered the republicans to escape. There was also a great deal of intimidation of democratic negroes in the

CITY OF CHARLESTON.

The testimony of Rivers, the negro who spoke at the democratic meeting on the evening of the King-street riot, is very full upon this subject.

Mr. Barker (see pages 69 and 70) says:

Q. Now, sir, I wish you would state what influence was exercised by the colored men over their colored brethren who might desire to vote the democratic ticket?

A. The younger and bolder of the negro men, those who were more disorderly and were not men of families, and not men of quiet dispositions, were generally the material that were organized to be active agents in the business of intimidation, first in the labor movement and afterward the political intimidation. Boys of seventeen and the more desperate side of the disorderly element of the negro population of older years constituted the body of those who were active in the matter. They went about threatening any negro who would dare to go with the white people, or who would dare to go with the land-owners, or who would not vote the republican ticket, and they were assisted very powerfully in their work by the negro women who were under the influence of the negro preachers, who are generally republicans. The negro preachers were in many instances active politicians. The Rev. R. H. Cain, who is the editor of the Missionary Record, in the city of Charleston, and the republican Congressman-elect from this congressional district, is the strongest man known among them, and the most incendiary. In the early part of the campaign he held a meeting, at which I was not present, but the proceedings of the meeting were published in the paper, at which meeting he appealed to their race prejudices and to those feelings of antagonism to the white people which started the inflammatory element in the campaign. With him were several others, and among them a man, also a negro, who was present at the speaking at this Strawberry meeting, named Hunter. Those people exercised a sway over the women. This sway was increased solely, I suppose, from the fact that the element was so completely ignorant. The combined influence of the religious teachers and the political teachers and leaders carried the most absolute sway over the colored people in this seaboard country. It was so strong that nothing could resist it. Their sway antagonized all the efforts which were made by the opposite side who represented the capitalists, the property-holders, the intelligence, and the general character of the community. There were many touching instances of the struggle between kindly feelings on the part of the colored man in favor of those whom he had lived with all his life and the sway of this party and race obligation which was brought to bear upon him. Those who showed any disposition at all to come over to the democratic side were denounced as traitors to their party and their race. Their political leaders told them that if they went with the white people and with the land-owners, they were voting to put themselves and children back into slavery, their lives were threatened, and exclusion from churches and the social sympathy of their people—everything was brought to bear upon them. Intimidation was exercised more and more as the canvass went on up to the day of the election, and at the time of the election.

Colonel Simonton (see pages 127 and 128) says:

Question. Were these all among the colored people?

Answer. Yes; I doubt whether there was any break in the whites. I found they were very kindly disposed at first. They thought that we were contending only for honest government in the State; that we were trying to see if they would not assist us in driving away from the strongholds of power men who had settled among us, as we thought, simply for office, and they were very kindly disposed, indeed. I received promises of support from nearly every man that I talked to, and those promises were kept up until the Sunday before the election. I do not know what influence was used on that day; that is, I do not know of my own knowledge what influence was used. I do know that the very strongest efforts were made in every pulpit and county, and on Sunday evening and Monday nearly every one of these men either communicated to me in person or sent me a message that he did not dare to carry out these promises; that it was as much as his life was worth.

* * * * * * *

Q. Well, sir, proceed.

A. Well, sir; the result of the election proved that the apprehensions were correct, because they voted in a solid mass against us. The votes of this county were almost altogether upon the line of freeman on one side and freedmen on the other. Those who had been emancipated by the war went against us almost in a solid body and those whose condition was not altered by the war voted with us. At every poll from which I heard during that day there was no difficulty at all, and white men and men who had been free voted the democratic ticket; there was no trouble about it. But in every instance in which a freedman attempted to vote he was resisted and prevented, and either did not vote at all or voted the republican ticket.

* * * * * * *

Q. What, in your judgment, would have been the result of the election if there had been no intimidation and the negroes had been allowed to vote as they saw fit, and according to their own judgment?

A. I think, sir, that if this extraordinary influence to which I have referred had not been brought to bear upon the colored people that the worst result for us would have been a majority in favor of the republican party of about from 2,000 to 2,500 votes in the county. I am satisfied that if we could have gone among them from the beginning and not been driven off by these discussions that we would have carried the county.

Q. Do you know many democratic negroes who voted the democratic ticket prior to the election and who were prevented at this election?

A. I can tell you this: I had in my possession lists of democratic colored clubs all over the county. There were three democratic clubs on John's Island, numbering in one club about forty-five, in another about sixty, and in another possibly about fifty, say one hundred and fifty in all. Well, they were in constant communication with me. I had no agency in getting up the clubs at all, but they had volunteered their services and had come over, and they saw me every day. Well, we got out of those clubs of one hundred and fifty or one hundred and sixty men 6 votes. There was a democratic club at the Red Top Church, in Saint Andrew's Parish, which at one time numbered over sixty-five. I don't think that we got 3 votes at the Red Top Church on the day of election. I know that the president of one of my clubs in Saint Andrew's Parish was assaulted the Sunday before election and badly cut up, and we had to vote him in Charleston.

Q. Who was that?

A. A man named Parker. We had in the parish of Christ Church, where this little village of Mount Pleasant is situated, nearly seventy-five active men, co-operating with the democratic party—all colored men, and of those seventy-five we did not get 20 votes on the day of election. In Saint Thomas and Saint Dennis, as far back as the month of June, I had a very active and lively democratic club that was increasing in its membership, but after the Cainhoy affair every man resigned and voted the republican ticket. In Saint James Santee, the outlying parish in this county, round a little village called McLellansville, we had a majority of voters who were avowed democrats. I had the parish thoroughly canvassed.

By Mr. JONES:

Q. Do you remember how many voters there were in that parish?

A. I will not be positive, but I think there are from six to seven hundred, and we did not get a vote on the day of election. * * * In my own house there was a man between whom and myself there has existed the kindest of feelings, and he was spoken to on the day of the election. I think it was the most piteous scene I ever saw in my life. This servant is a thorough gentleman; his manners are just as good as those of any man you ever saw, and my wife said to him: "Colonel Simonton is a candidate for the senate, and you have been here so long with us that I take it for granted you will vote for him." Well, he hesitated, and then she turned to one of us and said: "Francis feels a little uneasy about voting. Go with him to the polls. I am satisfied that he will vote for us." The negro stood in the middle of the floor and the tears rolled down his cheeks as he replied: "Mrs. Simonton, I would die for master; I would give my wife and children up for him, but I dare not go out of this gate; it would be at the cost of my life."

Mr. Miles (see page 134) says:

Question. If the negroes had not been intimidated or molested, but had been permitted to vote according to their own best judgment in the last election, what, in your opinion, would have been the result in this county?

Answer. We carried the city, as it was, by a small majority. I believe that the result would have been that we would have carried the city by, say, 2,500 majority, and we would have diminished the vote in the county very considerably, so that probably the entire republican majority of the county would have been brought down to about 2,500.

Q Suppose you had been allowed to go out among the colored people—when I say "you" I mean the democratic speakers—and freely speak to them, without threats or violence having been used, from the commencement of the campaign to the conclusion of it, what effect would that have had, in your opinion?

A. It would have had a very decided effect, I should judge, from the professions that were made. It would have given us a large accession of voters.

There was of course throughout the investigation some conflict of evidence. Many ignorant negroes appeared before the committee ready to testify to anything which would tend to relieve them and the leading white and black republicans from the censure and odium which their conduct merited. But the committee has based the conclusions at which it has arrived upon the testimony of unbiased men, and men of character, relying upon negro evidence only when it was sufficiently corroborated. They are fully justified in their conclusions by the weight of the evidence.

The committee also call attention to the large

INCREASE OF THE VOTE IN CHARLESTON COUNTY.

Mr. Barker (see page 70) says:

Question. About what is the population of this city and district?

Answer. The population of Charleston City, I believe, is estimated about fifty thousand, and the population of the county has been variously estimated at eighty thousand, including the city. I don't think that any accurate census has ever been taken since the war.

Q. Do you remember the votes given in the county altogether?

A. Twenty-three thousand, I think, were about the figures in round numbers, of which 15,000 were stated to be republican and 8,000 democratic.

Q. Well, sir, what do you suppose would have been the vote of this county and city if none of this intimidation which you have described had been exercised over the people?

A. I should suppose that the best judgment upon that subject could be formed from the previous vote. I think that the legitimate vote of the county would not be more than 15,000 or 16,000.

Colonel Simonton (see page 129) says:

Question. Your attention had not been called to the extraordinary large vote according to the population at the last election?

Answer. O, yes, sir; I have always been satisfied that our vote was four or five thousand beyond its legitimate number.

Q. What led you to form that opinion?

A. The vast increase of the vote in the city over two years ago. I think that the legitimate vote of Charleston was thrown before eleven o'clock on the day of election, and that every other vote that went into the box after eleven o'clock was illegitimate. It is impossible to stop repeating in a population like ours.

Q. Why do you think it is impossible to stop the repeating?

A. Well, sir, if you have had much experience with colored men, you will know that you cannot tell one colored man from another, especially if you see him for the first time. You cannot tell a negro man from a negro woman if they are dressed in the same clothing.

Q. You think that is the reason chiefly?

A. That is one reason, and a very good reason. We have no check on that at all. There is no registration in this State to fix the residence of a voter, and then it is a class of population that floats from one ward to another.

Q. They are not required to vote in the same ward?

A. No, sir, they are not required to vote in the ward of their residence at all.

Q. Do you know of any boats passing repeatedly that day from Charleston here to the islands and up the river landings in the same county?

A. Early in the morning a very large number of voters, or rather a very large number of men who could vote, passed from Charleston and went over in Christ

Church Parish across Cooper River. A large number came from the direction of James and John's Island in Saint Andrews, on Ashley River, and if you were to examine the vote down in the last poll in this city at the Union Star engine-house in ward 2 you would find that an enormous vote was polled there early in the morning.

In the protest which Mr. Mills published just after the election, and which he made a part of his evidence, the following paragraph appears, (see page 133:)

"That gross and unparalleled fraud was practiced in the casting of the vote of said county, large numbers of persons under age having been allowed by the managers to vote at every precinct, and many voters having illegally and fraudulently voted repeatedly at the different voting-precincts, the total vote in said county purporting to have been cast at said election amounting to 4,000, or more than there are qualified voters resident in said county, and that such fraud and repeating and voting of minors and other unqualified voters was practiced by the republican party, which was opposed to the democratic party, the supporters of these petitioners, by which fraud and repeating and illegal votes the result of the election was changed."

There was a good deal of testimony taken as to what was known as the

PREFERENCE POLICY.

It had been alleged that the whites had banded together under a compact not to employ any negro who did not vote the democratic ticket. The committee are satisfied that some individuals in the city of Charleston did discharge republican negroes because of their politics, but they are also satisfied that this policy was limited in its scope and confined to comparatively few persons. A number of witnesses (perhaps eight or ten) appeared before the committee and testified that they had been discharged from employment because they were republicans. It was also proven that one of the democratic daily papers (the News and Courier) advised the adoption of this policy, and that at various public democratic meetings resolutions were adopted to like effect. But while this is true, the evidence shows that the policy referred to was not adopted to any great extent.

In speaking of the matter, Colonel Simonton says, (see pages 128 and 129:)

Question. I want to ask you whether you know of any system having been adopted by the whites to discharge colored men in their employ unless they agreed to vote the democratic ticket?

Answer. The matter was brought up in the committee of which I was a member. It had been suggested by one or two persons, and I think one of our newspapers, that no man should be employed unless he was a democrat. The question was propounded to us by the owner of a very large wharf property, who employed a very large number of negroes, and who wanted from the committee an expression of their opinion with regard to that policy, and the committee, after a very full discussion, refused to countenance any policy of that kind.

Q. Do you know whether any such policy was adopted to any extent?

A. I think that such policy was inaugurated partially. Some gentlemen who employed negroes determined to employ none but negroes who promised to vote with them; but I am satisfied that it was not carried out to any extent at all. It was the result of individual action upon the part of some persons. * * * I had an opportunity myself of advising a gentleman who has charge of Mr. Adger's wharves with reference to this same policy. Mr. Adger has four large wharves, and he does as much business as any cotton-factor in the city. The chief wharfinger came to me to consult me as to retaining a colored man who is an ardent republican. I asked him if he had anything to do with the King-street riot. He said no. I asked, "Is he a loud-mouthed politician, discussing on the wharf openly?" He said, "No; but he is an open and avowed republican, a bitter opponent of the democratic party;" and I advised him not to discharge him.

Q. I will ask you at this point if there were any republicans, loud-mouthed republicans, who were talking constantly and losing their time, who were discharged?

A. In some instances men were discharged who were connected openly with the riots that I have spoken of—men who openly and constantly express their sympathy with the people who were engaged in those riots and defended them. They were discharged not because they were republicans, but because we supposed they were endangering the peace of the community. I do not think if those riots had not taken place that you would have ever heard of any man's discharge because of his political sentiments.

Mr. Mills (see pages 133 and 134) says:

Question. I will ask you now whether you know of any system having been adopted by the whites of discharging from their employment negroes who would not vote or pledge themselves to vote the democratic ticket?

Answer. I can add but very little to what the chairman of the committee testified in my hearing on that subject.

Q. You have heard the testimony of Colonel Simonton?

A. Yes, sir; it is entirely correct upon that subject. I would state in reference to the matter just spoken of, that I was one of the committee who prepared a report in which we called attention to the laws of the United States for discharging men for political opinions, and the result was a resolution of the executive committee that we decline to give any such advice as that; that the employment of labor was a matter of individual and personal judgment; that the grounds upon which they would employ or would not employ must be left to individuals entirely. I would state that there was a good deal of talk and a good deal in the newspapers about it, but the old adage, "Much cry, and little wool," would apply.

CONCLUSION.

Your committee report, in conclusion, that at no time during the canvass was there any intimidation or attempted intimidation upon the part of the white people. All through the excitement of the campaign, although violence and lawlessness greeted them upon every side, although riot and bloodshed surrounded them, although they saw inoffensive men shot down without provocation or excuse, and no courts of law to punish the offenders, yet amid all they showed a moral heroism which must ever command the highest respect and admiration. In speaking of the immunity from punishment enjoyed by criminals, Mr. Walker says, (see page 224:)

"I made the deliberate charge against Cyrus Guillard of murdering Mr. Simmonds, and presented the charge before a trial justice, who told me it was useless to attempt to arrest Cyrus Guillard, because in the first place the sheriff had already refused to execute warrants for him, and because, also, if arrested, the republican leaders (this was an appointee of Governor Chamberlain who told me this) would not permit the trial to be other than an abortion. Cyrus Guillard was carried around by Mr. Bowen to every political meeting that I ever attended. Mr. Bowen would always get up and make a very conciliatory speech and Guillard would always follow him with a very incendiary one; he would do all he could to stir up the negroes."

Such is the condition of the people of Charleston, a city once the home of learning and the dwelling-place of beauty and of chivalry.

All that was bright and beautiful has given place to desolation and decay. The light which shines elsewhere is denied to this people; the liberty enjoyed by others is not vouchsafed to them; the law which through the North stretches its protecting arms around the person and property of every citizen, however humble, affords no protection to the broken-hearted people of South Carolina. Groping amid the darkness, they are looking for the dawn, looking for the time when they will be relieved from the yoke and burden of rulers who are aliens to their soil, and when they will be relieved from a thralldom worse than death.

ALEXANDER G. COCHRANE.
THOS. L. JONES.

Report of the subcommittee of which Hon. JOHN F. PHILIPS was chairman.

Hon. MILTON SAYLER, *Chairman.*

SIR: The undersigned, constituting a majority of the subcommittee, beg to report that, in pursuance of the resolution of the whole committee, the subcommittee proceeded to the city of Charleston and investigated, as fully as was possible in the time allowed, the conduct of the election, and the incidents and circumstances bearing thereon, in the counties of Charleston and Beaufort.

WHALEY'S CHURCH.

There were 600 votes cast at this precinct, of which only 18 were democratic. Ten or twelve covered the whole number of white men voting at this poll. The weight of the testimony established the fact that this poll was not free, fair, and open. The conduct of the colored republican voters is indefensible, and, on principle, ought to vitiate the entire vote. Republican voters came there in companies armed with guns, and the great body of these 582 republican voters were armed with clubs or bludgeons of such a character as to make them formidable weapons. Here as elsewhere their chief opposition seemed to be against the right of any colored man to vote the democratic ticket. Both before and at the election they made violent threats of severe personal injury, extending to the taking of the life of any colored man who should vote that ticket. Some colored men so disposed to vote were deterred by these threats from voting at all; and in two or three instances colored men were assaulted and set upon in full view of the polls for casting democratic votes. The law of the State prescribing the manner of conducting such election was violated in letter and spirit. For instance, it requires the voting to be by ballot, which "shall be so folded as to conceal the contents, and shall be deposited in the box by the voter," the evident object and intent of the law being to secure a candid expression of the voter's will by enabling him to vote a concealed ballot; whereas the evidence shows that the republican tickets here as at every poll were printed in red ink, with a large eagle plainly discernible through the paper when folded, the only exception found to the character of this ticket being in the city of Charleston, where the "crowing cock" and the representation of a hustings meeting and artillery salutes were printed conspicuously on the back of the ticket. At this (Whaley's) poll especially the voter was required by the outside crowd and the republican managers of the election who administered the oaths to hold up the ticket in his right hand while taking the oath, so that the character of his ticket was known to all. The democrats were not allowed to challenge, so that some minors voted, while the republican rallying committee thronged the poll and examined the ticket of almost every suspected voter, and took away from them the democratic tickets. A number of colored men testified before the committee that they went to the polls with the desire and purpose to vote the democratic ticket, but on account of the violence and threats of the large number of colored republicans they were forced to vote the republican ticket. Mr. Hard, the white democratic manager of election, a gentleman of intelligence and high character, and other white witnesses of equal credibility, testified that between four and five o'clock p. m., an hour and a half before the poll closed, one of the companies of colored republicans marched around the poll, sang "Hold the fort," and fired off their guns, the captain giving the command to reload at once. There is on this point a conflict of testimony as to the time of this occurrence—whether it transpired before or after the closing of the polls—the weight of the evidence, in the judgment of the majority of the committee, being in favor of the position that it occurred about 4.30 p. m.

BIGGIM CHURCH.

At this precinct, about 400 votes were cast, of which the republican ticket received 360 and the democratic ticket 40. This poll was almost a counterpart in its management and the conduct of the republican voters of Whaley's Church. There were about twenty-five whites, a part of whom brought guns with them. The colored republicans were at the polls in companies, armed with guns and clubs, and drilled during the voting, with guns in their hands, around the house in which the election was held. Threats and intimidation prevailed to an alarming extent. One negro orator at a public meeting threatened that if the democrats succeeded to wade knee-deep in blood, declaring that the negroes held the white people at their mercy, for they would draw the trunk doors that held in check the waters, and flood and destroy the rice-fields. Colored men were threatened with corporal punishment and loss of life should they vote the democratic ticket. Numbers of them were thus deterred from either exercising their right of suffrage at all or compelled to do so against their judgment. There was in this neighborhood a democratic club in which there were about sixty colored men, but they became so alarmed on account of threatened violence and proscription that they voted the republican ticket.

STRAWBERRY.

At this precinct the republican ticket received 360 majority. About twelve guns were seen at this place in a buggy. These are supposed to have been the property of white voters, of whom there were about fifty. The colored republicans were armed, and voted with guns in their hands. Captain William Lawrence, after voting his company, marched them off in the direction of Mount Holly precinct, but whether they voted there again is only a matter of conjecture. Access to the poll at Strawberry lay through a gateway, where the republicans leaned their guns against the fences while they deposited their ballots, and though there was here a larger colored democratic vote than at the other precincts named, many of them were intimidated from voting the ticket of their choice. George Sass seems to have been the ruling spirit among the colored people. The evidence shows him to be ignorant, vicious, and proscriptive. Before and at the election his threats were bloody and dreadful. He threatened to flood the rice-fields, and at the polls he declared "that every colored man who voted the democratic ticket was a marked man." He took democratic tickets from voters. Some were frightened into voting the republican ticket, and others were prevented from voting at all. A democratic manager who challenged minors was threatened with being "knocked in the head." One Baalam Barnard, a colored witness introduced by Judge LAPHAM, gave testimony that conveys a faint conception of his gross illiteracy and fierce untamed nature. He best illustrates the lack of individuality in the average colored voter in this section, and how in squads, and under a discipline not to be interfered with, they are voted by their quasi-military commandants. He brought up his company, one hundred and twenty strong, and after stacking arms and supplying them with tickets, he proceeded at their head to the poll, and when a white man named Rhett attacked the rear of this column with offers of democratic ballots, Baalam opened his mouth and said he must not bribe his men, "For I commands these mens!"

FOUR-MILE HOUSE.

Preceding the election the same threats were made here as elsewhere against colored men who should vote the democratic ticket, and one man, John Johnson, was set upon after the election by colored republicans and beaten in a most brutal manner with clubs for the offense of voting the democratic ticket. Dill's Bluff precinct is but a repetition of Four-mile House, and

MOUNT HOLLY

was worse. Between 250 and 300 votes were cast here, all republican save 25 or 30. The republicans were armed with guns in hand all day of election, and a company came up armed and cheering, which is believed to be the same company which left Strawberry precinct, the witnesses being mistaken merely as to the hours of arrival and departure. Guns were fired off by these guardians of elections within fifty yards of the polls. Voters were dragooned and brought to the polls under threats of death and the mob law, and through fear were coerced to vote against their convictions.

CHARLESTON CITY,

in the allotment of work between the subcommittees, was assigned to that of which Hon. A. G. COCHRANE is chairman; but one witness, P. G. Fitz Simmons, a gentleman of unusual intelligence and great probity, residing at Biggim Church, examined by us, details an incident which gives some idea of the temper of the colored people in this city and the terrorism they exercised over those of their race who were disposed to quit the republican party. He went to Charleston before the election, with his democratic club, to attend a political meeting which was to be addressed by General Hampton, candidate for governor. There were some sixty colored men in this club. In Charleston these men were so taunted, jeered at, and threatened by the swarms of colored republicans that they could not be gotten out to the meeting, but they remained in the room where they were quartered all day, huddled up as if struck with panic.

BEAUFORT COUNTY.

The conduct of the election in this county was investigated by this subcommittee as thoroughly as was possible in the time allowed.

MITCHELVILLE PRECINCT.

Four hundred and seventy-six votes were polled here, of which only 10 were democratic. There were, perhaps, twelve or thirteen white men who voted here during the day, but after the morning there were only three or four whites left on the ground. The evidence shows that the conduct of the colored republicans was threatening and riotous to a degree that gave them complete and undisputed control of the ballot. W. S. Drayton, a white man and one of the managers of the election, testified that John McFall was set upon by the mob and driven to seek protection of the managers for distributing democratic tickets. He undertook to read the riot act to them, or the law of the United States, denouncing such conduct at an election for Federal officers. The mob denounced the law as a "damned democratic paper." Told Drayton to go to hell; called him a son of a bitch, and told him if he would come out of the house they would break his head. He appealed to one of his co-managers, Peoples, an old colored man who preached to these people at times, who made an ineffectual effort to quiet them, and was compelled to seek refuge in the house, where he denounced their conduct as shameful. McFall was set upon by negro women, who seem to have attended the polls in this and Charleston County. He was assaulted and beaten with sticks and clubs until his life was in imminent peril. He escaped on condition that he should quit the grounds within ten minutes, not to return until after six o'clock p. m. He took refuge at a farm-house, half a mile distant, where he was followed by a mob of men and women, with "banners flying," yelling and hooting. He was saved from them by being locked up in an outhouse by the colored tenants to whom he applied for protection. W. F. Wilder, a prominent republican, and a recent appointee of Mr. Chamberlain to the office of treasurer of Beaufort County, undertook to extenuate this ill-treatment of McFall by attributing it to the fact that he had attempted to practice an imposition upon the republican voters by distributing democratic tickets with the devices of the republican tickets. The only evidence in support of this allegation is the statement of the witness, Wilder, that McFall admitted to him that he had given out some of these tickets, but stated at the time that they were democratic tickets. We have no testimony of the witness, McFall, as to the truth of this statement, for he had been examined by the committee and gone home before we had any intimation of Wilder's charges. But the committee submit the following facts disclosed by the evidence, in refutation of the conduct of those voters being attributable to such provocation: First, their insulting and threatening conduct toward the two managers, Drayton and Peoples; second, they assaulted another white man, Mr. Politzer, and declared to him and Cline, another white man, "This is republican ground, and no democrat shall vote here;" third, they threatened to kill the whites on the island, and said they would cut to pieces any colored man who voted the democratic ticket; fourth, a white man who had been a sailor, on asking if he could vote there, was assaulted by the colored men as soon as it was discovered that he wished to vote the democratic ticket; fifth, McFall testified that he was personally told by a friendly colored man on arriving at the polls that if he intended to vote the democratic ticket he had better do it before they, the colored men, got there. On their arrival the crowd began at once to curse him as a democrat, declaring that they did not "believe in any damned rebel son of a bitch who had owned slaves coming there to vote the democratic ticket," and that they "would root out every white skin on the island." This witness further says that they would not allow any democratic speaker to come to the island; sixth Mr. McIntire, a white democrat, who had a store near the polls, at whose house McFall staid the night, after the election, was shot by an assassin in the night, the shot being fired through a window into his store. Fortunately he was not killed, but he has since been shot and killed. McFall was driven away and made a prisoner; the sailor left, and so did Politzer; McIntire went to his store; and when the witness Wilder says it was all peaceable after eleven o'clock it is plainly seen that it was the peace of resignation which the wolf proclaims when the keeper is gone and the unsuspecting flock is huddled at his mercy.

PARIS ISLAND.

One hundred and fifty-five votes were polled at this precinct, of which 143 were republican and 12 democratic, and only 6 white votes. The proceedings at this place were characterized by the grossest abuses and the most intolerant spirit. The few colored men who did vote the democratic ticket did so early, before the republicans got in. The republicans were boisterous and tumultuous. They snatched democratic tickets from colored men, dragged them away from the polls, and after handing them republican tickets dragged them back to the polls and made them vote. They utterly ignored and disregarded the United States supervisors of election and United States deputy marshals. They thronged the inside of the house where the managers and ballot-box were, yelling, singing, threatening, and declaring that to be a republican island and vowing to run every democrat off of it. They would force open the hands of colored men and tear up their democratic tickets. Their party zeal was stimulated and their patriotic ardor fired by an appeal to their appetites made by Congressman SMALLS in a bounteous dinner furnished by him, at which no unfed democrat was allowed to satisfy his hunger.

W. H. Niver, a white witness, testified that he was a native of the State of New York and had lived in Beaufort County since the war, pursuing his trade as a carpenter. He had always voted the republican ticket until this year, when, to use his own language, he "could not stand it any longer." He states that tickets were forcibly taken away from colored democrats, and when they did vote they had to do it slyly and slip off home. He was twice assaulted and beaten with fists and clubs in the presence of the officers, and when asked if he had the mob arrested, said, "No; because there was no law or justice in that county." By the sixth section of the election law of this State it is provided "that the polls shall be opened at such voting-places at six o'clock in the morning and closed at six in the evening, and shall be kept open between these hours without intermission or adjournment." The evidence shows that this poll was not opened until seven a. m. and was closed at four p. m., and though it does not appear that there were any applications to vote after four p. m., the fact that it does appear that it was important for some to vote early if they wished to vote at all shows the policy of the law and the necessity of its observance, and the non-observance of which legally vitiates such election.

GREY'S HILL PRECINCT.

There were 467 republican and 9 democratic votes polled at this precinct, and and only 2 white votes. The election here was characterized by violence and intimidation on the part of the republicans. The United States supervisor of election, a white democrat, was assaulted, his commission taken away from him and torn up. They laid claim to the poll as republican property, and threatened to kill any man who voted the democratic ticket. The other white man, B. Van Ness, was one of the managers. He is a native of New York, and had served as a Federal soldier in General Kilpatrick's command. He was sent from the town of Beaufort to act as manager at this precinct, because there was no white man in it who could act. He says the negroes began their clamoring early about democrats voting there. That they were after the supervisor with clubs, and told him (Van Ness) if he went out of the house they would knock his damned brains out. They declared no democrat should vote there, and if any negro voted the democratic ticket they would beat his brains out and bury him in the sands. He sent to Beaufort for troops to protect the polls, but without avail. It is attempted by the minority to show that the occasion of the assault upon Mr. Porteous, the supervisor, was the distribution by him of democratic tickets bearing the devices of the republican tickets. The only witness to sustain this is one F. D. J. Lawrence, colored, of Beaufort, whose *personnel* and method as a witness gives little weight to his credibility. He says he left Beaufort the morning of the election at 5.30 a. m. for Grey's Hill, and arrived at 6.30 a. m. On driving up he found a commotion over this simulated republican ticket found in the hands of Porteous, who was then holding them, mixed up with republican tickets. He is flatly contradicted by his own party friends. Congressman SMALLS testified that he sent this witness from Beaufort to Grey's Hill, distant seven miles, between eight and nine o'clock a. m., after he discovered this simulated ticket in circulation at Beaufort. William Lawrence, the colored manager, says it was two or three hours after six o'clock when F. D. J. Lawrence got there, and all the witnesses, three in number, introduced by the minority contradicted this swift witness, for they state that it was one Hamilton, a colored republican, who could read well, who had those tickets, and the colored men assaulted him, as they allege, for faithlessness to the party; but the white witnesses say the negroes assaulted Hamilton because as chairman of the republican committee he scratched his ticket and voted for one Judd. The evidence shows that Porteous had the straight, undisguised democratic tickets, and that there was no complaint made of him on account of the distribution of tickets. In respect to this matter of the tickets, it may be remarked that the republican party in this county plainly violated the law in the character of their tickets. They were printed in red ink, with the flaming eagle, so that when folded it was plainly distinguishable by the crowd; and in view of the hazards attending the casting of a democratic vote by a colored man, if the simulated ticket was circulated, it may have been the means of enabling him to run the gauntlet of the inquisitorial guards of colored republicans thronging the way to the ballot-box. There was at this poll a third white man, Pat. Hammond, who said he intended to vote the democratic ticket, but he "did not like the looks of things," and he left without voting.

ABRAM P. JENKINS.

The experience and treatment of this colored man constitute a strong indictment against the spirit of lawlessness and proscription prevalent among the colored republicans of Beaufort County. He was a candidate on the democratic ticket for the Legislature, and was the object of a ribaldry and persecution calculated to drive from his convictions a man of less moral courage and heroic fortitude. The evidence shows a specimen threatening letter received by him before the election, containing threats which were subsequently executed. He was cursed and abused; his house was assailed by night and bombarded with brickbats; the democratic club attended by him was invaded and broken up by colored republicans, and these same men interfered with and interrupted the democratic meeting addressed by General Hampton at the town of Beaufort, when the colored democrats tried to stop them, the republican policemen arrested and put in jail the colored democrats, and the chairman had to break up the meeting. At Woodlawn precinct, where he attended the election, there were only 8 democratic votes cast out of 320, although there was a democratic club on this island with fifty-five colored members. On the day of election they were threatened with expulsion from the island. They were compelled to approach the polls through a gate and show their tickets to republican patrols. This precinct was carried by the conservatives two years ago. After the election this man Jenkins was waylaid at night on his way from church where he had gone with his family. He was beaten by a man named Polite, *alias* Barnes, a colored barber, who had threatened to do so prior to the election on account of his politics. He was beaten in a most brutal manner; his face, eyes, nose, and mouth were frightfully battered and smashed, and for weeks he was a creature of suffering and an object of pity. No better illustration of the administration of civil law in South Carolina could be given than in its application to the just cause of this shamefully abused citizen. He applied to the civil magistrate of the town for a warrant for the arrest of his assailant, and was referred to the United States commissioner.

There was a second party aiding this assault by his presence. The United States commissioner recognized the party for his appearance before the United States grand jury at Charleston, which, as has been shown since the committee left there, ignored the bill against Polite, *alias* Barnes.

PETER JOHNSON.

This colored man was threatened before the election for his democratic tendencies, and on the day of election at Lawton Church he voted the democratic ticket. Afterwards he was taken out from his house at night and most cruelly and barbarously whipped with a rawhide. The trial justice issued a warrant for the apprehension of the criminals. They were arrested by the constable and his posse, when the prisoners were rescued by a band of negro men and women, the men being members of a State militia company, armed with guns and bayonets furnished them by the State. One of the assaulting party was killed and one of the constable's *posse*, Mr. Shuman, a white man, was killed and left on the ground. The top of his head was shot off, and the negroes, with savage fiendishness, pulled out his brains with cotton-stalks, and his body was bayoneted and bruised. Another of the posse, Mr. De Loach, a white man, was shot and struck with a gun-stock, until the hammer was buried in his shoulder. He survives, but his condition is critical. The perpetrators of these outrages are said to be in jail, but they have not been tried.

PETER JONES,

a colored man, details the conduct of the so-called rice-strikers, from Colleton County. They passed from plantation to plantation, interrupting labor and compelling the laborers to join them under threats of the cowhide. They whipped this man Jones and told him he must not vote the democratic ticket, and threatened to shoot him on the day of election. He determined to vote the democratic ticket for the first time because Governor Chamberlain did not protect the people from these mobs. They disregarded the officers of the law. They cowhided the deputy sheriff who attempted to arrest them and the trial justice who issued the warrant. He attended the election at

GARDNER'S CORNER,

where 19 democratic votes were cast in a total of 618. There were thirteen whites at this poll. The history of this poll is but a recital of republican violence and intimidation. They waylaid the road and catechised colored men. They took Jones's horse from him and kept it several days. He swears that, to his personal knowledge, some twenty men were deterred from voting the democratic ticket. Republicans attended a democratic meeting to participate, and, to prevent trouble, the democrats abandoned the meeting to them. The election at Lawton Church and at Lawtonville precinct was but a repetition of those already detailed in matters of force and violence. A company of armed militia was at the latter place and voted the republican ticket as handed them by their captain. This company paraded and hurrahed at the poll.

THOMAS E. MILLER

is a republican, with a slight tinge of negro blood, and a member of the Mackey legislature. He was examined by the minority, and his evidence was mainly directed to the details of a quarrel between himself and a family by the name of Ellis. To this he sought to give a political coloring, but the majority of the committee find that this quarrel originated in a trial before a justice of the peace early in the summer, before the canvass had fairly begun in the State, and was wholly personal in its character. He attempted to convey the impression that he was driven from his home by a body of armed white men that came to his house. In this he was guilty of a palpable misrepresentation and a willful misrepresentation of the whole truth. The facts really are that for offensive language used at the justice's trial in respect to the Ellises he was unjustly assaulted and beaten after starting home, and to oblige him, as he declared that he would not again attend at this place of trouble, the trial of another cause in which he was concerned was appointed at or near his house, and the occasion of the assembling of the crowd near his house was to attend this trial. There were a few guns and fowling-pieces among the colored people and whites assembled. He represented in his testimony that he was driven from his home. He was a tenant. His occupation was that of a politician, in which he had been engaged for four years. He left this place and went a short distance to Grahamville, in the same county, where he owned land and where all of his relatives lived. He was back in the neighborhood of Lawtonville through the summer. He spoke there and was elected to the Legislature, and afterward seems to have turned his personal quarrel to good political advantage.

THE INCREASE OF THE VOTE IN BEAUFORT COUNTY

at this election is something remarkable.

The vote of this county in 1874 was 6,854. In 1876 it was 9,878, an increase of 3,024. The census of this county for 1870 gives the population at 36,098, which gives a ratio of 1 vote for every 3⅔ of the inhabitants. The evidence, instead of giving any explanation of this voting phenomenon, rather tends to show that the population of the county is staid—without influx or efflux. Hon. Mr. SMALLS in his testimony undertook to parry the force of this suspicious fact against the integrity of the election here by saying that it was but little more than the vote of 1870. We present a tabulated statement of the votes of this county since and including 1870:

	1870.	1872.	1874.	1876.
Republican	6,142	4,995	4,778	7,604
Opposition	994	1,445	2,076	2,274
Majority	5,143	3,550	2,702	5,330
Total	7,141	6,440	6,854	9,878

The increase of the vote of 1876 over that of 1870 is 2,737. When it is borne in mind that in 1870 the famous war was fought between Bowen and De Large, candidates for Congress, and that two noted republican politicians of this county, Williams and Langley, were sent to the penitentiary for stuffing ballot-boxes, the force of Hon. Mr. SMALLS's explanation is hardly perceptible.

THREATS TO DISCHARGE EMPLOYÉS.

The minority of the committee constantly endeavored to establish the fact that attempts were made to influence the votes of colored laborers by threats of dismissal from the service of democratic employers. The question was asked of nearly all the white men and many of the colored men examined as to their knowledge of such threats, and all, with two or three exceptions, contradicted the imputations. The witness Miller said he heard one white man justify the measure and heard one colored democratic orator in a speech say that if he were the white employers he would do it, inasmuch as the colored men arrayed themselves against the whites. He and a colored witness named Wheeler, a lawyer of recent immigration from Philadelphia, claimed to have seen numbers of families from the upper country hunting homes since the election, but had no personal knowledge as to the fact of their discharge on political grounds. Two colored men in the city of Charleston testified to having been discharged for political reasons, one before and the other since the election.

INTERFERENCE AT POLITICAL MEETINGS.

At Charleston the minority introduced and examined two witnesses relative to the democratic clubs interfering in armed force during the early part of the canvass and demanding an equal division of the time with the republicans at meetings called by them at Edgefield and an adjacent county. The investigation of the affairs in that locality was left to the subcommittee sitting at Columbia, which was near those counties; and why this evidence was introduced at Charleston, two hundred miles away, with no reasonable means of introducing rebutting testimony, is not apparent. Especially is this a matter of criticism when the principal witness introduced is Mr. Thompson, the editor of the republican paper, owned in part by Mr. Chamberlain, and his organ at Columbia, and who left there one night while the subcommittee was there in session, testified in Charleston, and returned to Columbia the next night. The affairs of that county we properly remit to the proper subcommittee.

NO VIOLENCE ON THE PART OF DEMOCRATS.

It is a matter to be observed that in all the evidence taken by this committee touching Charleston and Beaufort Counties not one single instance is in proof of any threat made or violence offered by any democrat at the polls. The polls were completely under the official and physical control of the republican party. The county commissioners, who constituted the canvassing board of the county, are the appointees of the governor of the State and his partisans, some of whom were themselves candidates for office, as in the case of Timothy Hurley, of Charleston, who was a commissioner and a candidate for presidential elector on the Hayes ticket. He canvassed his own vote and retained the custody of the ballot-boxes of the county, just as the State canvassing board were in part candidates for the highest State offices.

THE PRECINCT MANAGERS

are the appointees of the county commissioners. The character and qualifications of these managers can only be appreciated by seeing and interrogating them. Two of them are invariably colored men and republicans. They are generally unfit and incompetent for such an important trust. Many of them can neither read nor write and are grossly ignorant. Many of them are mere boys in appearance, twenty-one or twenty-two years old, without property, and heedless of responsibility. To these the custody of the ballot-boxes and returns were committed after the election to be delivered in three days to the commissioners of election. The ballots are not numbered, so that it is impossible to determine in the case of the substitution of a ballot whether the voter deposited or somebody else.

REGISTRATION.

Section 3 of article 8 of the constitution of the State provides that "it shall be the duty of the General Assembly to provide from time to time for the registration of all voters." It was adopted in 1868. The Legislature of the State has never obeyed this mandatory provision of the constitution, though as shown by public documents demand has time and again been made upon it to enact a registration law. Voters are allowed to vote at any precinct in the county or at any ward in a city, and with the difficulty of identifying the colored voters, owing to their similarity in appearance and lack of individuality, the facilities for repeating are at once apparent.

CONCLUSION.

In view of the facts developed by the evidence, we are warranted in stating as our solemn conclusion that had the law been observed and enforced in Charleston and Beaufort Counties so as to secure and protect the voters in the free, honest, and untrammeled exercise of their right of suffrage, the result of the vote cast in these counties alone would have been such as to have destroyed the majorities claimed by the State board of canvassers to have been given in the State to the Hayes and Wheeler electors.

J. F. PHILIPS.
JOHN. R. EDEN.

REMOVAL OF DISABILITIES OF ROBERT H. CHILTON.

Mr. TUCKER. I ask unanimous consent of the House to introduce for passage at this time a bill (H. R. No. 4681) for the removal of the political disabilities of Robert H. Chilton, of the State of Georgia. There is a petition accompanying the bill.

The bill, which was read, provides (two-thirds of each House concurring therein) for the removal of political disabilities imposed upon or incurred by Robert H. Chilton, of the State of Georgia, under or by virtue of the fourteenth amendment to the Constitution of the United States.

Mr. CONGER. Let the petition be read.

The Clerk read as follows:

To the Congress of the United States:

The undersigned, Robert H. Chilton, respectfully asks for the removal of all his disabilities under or by virtue of the fourteenth amendment to the Constitution of the United States. He was an officer in the United States Army and resigned in 1861 and took a commission in the army of the Confederate States, whereby he has incurred disabilities which he prays may be removed by act of Congress.

ROBERT H. CHILTON.

There was no objection, and the bill was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, was accordingly read the third time, and passed, two-thirds concurring therein.

RECIPROCITY.

Mr. WARD. I desire, Mr. Speaker, to state to the House that at the last session I presented a joint resolution (H. R. No. 14) authorizing the appointment of commissioners to ascertain on what terms a mutually beneficial treaty of commerce with Canada can be arranged, which is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, requested to appoint three commissioners, by and with the advice and consent of the Senate, to confer with other commissioners duly authorized by the government of Great Britain, or whenever it shall appear to be the wish of that government to appoint such commissioners, and to investigate and ascertain on what basis a treaty of reciprocal trade, for the mutual benefit of the people of the United States and the Dominion of Canada, can be negotiated; and to report the results of their investigations to the President of the United States.

The subject was made a special order for the third Tuesday in May after the morning hour, and from day to day thereafter until disposed of, not to interfere with the regular appropriation bills. I opened the debate on that day; but during the last session the appropriation bills and other legislation prevented a discussion and further action on this important resolution. I now find the time of the present session has been so much occupied by the presidential count and will be hereafter by the general appropriation bills that it will be impossible for me to bring that joint resolution before the House for consideration and action, and therefore I now request by unanimous consent I may be allowed to print in the RECORD as part of the proceedings the remarks I intended to submit in closing the debate on that subject if it should have taken place.

Mr. KASSON. I understand the gentleman from Vermont [Mr. JOYCE] desires the same privilege shall be extended to him.

Mr. KELLEY. I desire also to have leave to print a rejoinder if I should find it necessary.

Mr. JOYCE. That is what I wish to do.

Mr. WARD. I have no objection, so far as I am concerned, as gentlemen would of course have debated the question when it came up and should be allowed the privilege of publishing what they have to say.

Mr. JOYCE. It was understood by the gentleman from New York and myself that I should have an opportunity to answer him when the matter came up for consideration.

Mr. KELLEY. I expected to participate in the debate, and if part of it is to be printed without being uttered, I do not see why my views should not also be spread upon the record.

Mr. CONGER. My colleague, Mr. DURAND, (who is absent from the House on account of sickness,) has a report and some remarks on this subject which he also should be permitted to print, and I ask the same privilege for myself.

The SPEAKER. If the Chair may be allowed to make a suggestion in this regard, perhaps it would be better for the five gentlemen desiring permission to print their remarks upon this subject to withhold their request for the present and make some arrangement for the order in which the remarks may appear.

Mr. KELLEY. Let me suggest, Mr. Speaker, that perhaps the subject will keep until the next Congress, and therefore I shall object to any printing.

Mr. HEWITT, of New York. I hope not; as some members asking

to have their remarks printed, which cannot be delivered for the want of time, may not be here at the next session of Congress.

Mr. KELLEY. I am perfectly willing that the debates should be printed, if both sides can be printed together.

The SPEAKER. That is the request; that each side may have opportunity to print its views on the subject.

Mr. BRADLEY. I suggest that motion be enlarged so that every member desiring to be heard on the pending bill, and not having the opportunity, may have the privilege to print his remarks in the RECORD.

The SPEAKER. The Chair does not think that motion is in order. He understands the gentleman from Pennsylvania withdraws his objection?

Mr. KELLEY. Certainly, I withdraw my objection if the understanding is the privilege shall be accorded to both sides.

The SPEAKER. The Chair hears no objection, then, to the five members who have been indicated having the privilege to print in the RECORD their remarks on the subject indicated.

Mr. HENDEE. I desire also to be included in the privilege to print.

The SPEAKER. The Chair hears no objection, and the gentleman will be included with the others in the privilege accorded to print remarks in the RECORD.

NAVIGATION OF THE MISSISSIPPI RIVER.

Mr. RUSK, by unanimous consent, introduced a bill (H. R. No. 4682) to carry out the provisions of an act entitled "An act for the further security of the navigation of the Mississippi River," approved March 3, 1876; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

HENRY VOELTER.

Mr. BANKS, by unanimous consent, introduced a bill (H. R. No. 4683) for the relief of Henry Voelter; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

DISTRICT TAX BILL.

Mr. NEAL, by unanimous consent, from the Committee for the District of Columbia, reported back the bill (H. R. No. 4554) for the support of the government of the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes, with amendments by the Senate, and moved that the House non-concur in the amendments of the Senate and ask for a committee of conference.

The motion was agreed to.

Mr. NEAL moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LITTLE HELL GATE.

Mr. HEWITT, of New York, by unanimous consent, introduced a bill (H. R. No. 4684) to declare Little Hell Gate not a navigable channel and to accord the assent of the United States to the filling up of the same; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

L. M. NORTHCUTT.

Mr. JONES, of Kentucky, by unanimous consent, introduced a bill (H. R. No. 4685) for the relief of L. M. Northcutt, of the county of Kenton, State of Kentucky; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

LIEUTENANT THEODORUS B. M. MASON.

Mr. FAULKNER. I ask unanimous consent to report back from the Committee on Foreign Affairs, for present consideration, the joint resolution (S. No. 17) authorizing Lieutenant Theodorus B. M. Mason, of the United States Navy, to accept a silver medal from the King of Italy.

Mr. PIPER. I object.

AGRICULTURAL REPORT FOR 1876.

Mr. VANCE, of Ohio, from the Committee on Printing, reported the following concurrent resolution; which was read, considered, and adopted:

Resolved by the House of Representatives, (the Senate concurring.) That there be printed 300,000 copies of the report of the Commissioner of Agriculture for 1876; 224,000 copies for the use of the House of Representatives, 56,000 copies for the use of the Senate, and 20,000 copies for the use of the Department of Agriculture.

Mr. VANCE, of Ohio, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELIZABETH SHERRILL.

Mr. VANCE, of North Carolina, by unanimous consent, introduced a bill (H. R. No. 4686) granting a pension to Elizabeth Sherrill, widow of Ute Sherrill, a soldier of the revolutionary war; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

JOHN W. SKILES.

Mr. CABELL, by unanimous consent, from the Committee on War Claims, reported back with a favorable recommendation the bill (H. R. No. 4411) for the relief of John W. Skiles; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

NEW TERRITORY OUT OF BLACK HILLS.

Mr. KIDDER, by unanimous consent, presented a memorial of the Legislative Assembly of the Territory of Dakota, to Congress, remonstrating against the establishment of a new Territory out of the Black Hills; which was referred to the Committee on the Territories, and ordered to be printed in the RECORD.

The memorial is as follows:

A memorial to Congress remonstrating against the establishment of a new Territory out of the Black Hills.

Your memorialists, the Legislative Assembly of the Territory of Dakota, would most respectfully represent:

Whereas a bill has been introduced in your honorable body creating a Territory out of the section of country known as the Black Hills;

And whereas said section of country is situated in Southern Dakota and adjacent to the fine agricultural lands of the Missouri River Valley;

And whereas said section of country is within one hundred and thirty miles of the Missouri River, a great natural highway and the most practicable outlet for the products of said country, and by far the nearest route by which the Black Hills can be reached;

And whereas the population of said country is transient, being miners, and the extent of the mineral resources has not yet been established;

And whereas a bill has passed the Senate of the United States creating the Territory of Huron out of the northern portion of Dakota, and the southern portion, including the Black Hills, will not have an area as large as most of the Western States;

And whereas the Legislative Assembly of the Territory of Dakota has already passed laws establishing courts, organizing counties, laying out roads from the Missouri River, and appropriating money for the improvement of the same;

And whereas your memorialists in view of the facts do not deem it to the best interests of the people of the Black Hills or the Territory of Dakota that a new Territory should be created of the Black Hills: Therefore,

Your memorialists would most earnestly pray that such new Territory be not created.

Approved February 10, 1877.

JOHN L. PENNINGTON,
Governor.

RE-IMBURSEMENT OF SETTLERS ON PUBLIC LANDS.

Mr. KIDDER also, by unanimous consent, presented a memorial of the Legislative Assembly of the Territory of Dakota, to Congress, asking that settlers upon the lands set apart by executive proclamations of January 11, 1875, and May 20, 1875, be re-imbursed for their improvements made thereon; which was referred to the Committee on Public Lands.

RAILROAD FROM YANKTON TO BLACK HILLS.

Mr. KIDDER also, by unanimous consent, presented a memorial of the Legislative Assembly of the Territory of Dakota, to Congress, asking for a grant of land to aid in the construction of a railroad from Yankton, via Bon Homme and Springfield, to the Black Hills, Dakota Territory; which was referred to the Committee on Railways and Canals.

LEGISLATIVE ASSEMBLY OF DAKOTA.

Mr. KIDDER also, by unanimous consent, presented a joint resolution of the Legislative Assembly of the Territory of Dakota, relative to changing the time of meeting of the Legislative Assembly, and for an extra session in 1878; which was referred to the Committee on the Territories.

NAVIGATION OF RED RIVER OF THE NORTH.

Mr. KIDDER also, by unanimous consent, presented a memorial of the Legislative Assembly of the Territory of Dakota, asking for an appropriation to improve the navigation of the Red River of the North; which was referred to the Committee on Commerce.

SAN FRANCISCO, CALIFORNIA.

Mr. HARDENBERGH, by unanimous consent, from the Committee on Military Affairs, reported back with an adverse recommendation the bill (H. R. No. 4180) to declare the true intent and meaning of an act entitled "An act to relinquish the interest of the United States in certain lands to the city and county of San Francisco, California," and moved that the same be laid on the table and that the accompanying report be printed.

The motion was agreed to.

ELI BASKINS.

Mr. HARDENBERG also, by unanimous consent, from the Committee on Military Affairs, reported back with an adverse recommendation papers in the case of Eli Baskins, late of Company A, Tenth Regiment Tennessee Volunteers; and the same was laid on the table, and the accompanying report ordered to be printed.

HENRY G. HEALY.

Mr. HARDENBERGH also, by unanimous consent, from the Committee on Military Affairs, reported back with an adverse recommendation the bill (H. R. No. 4495) for the relief of Henry G. Healy, late lieutenant-colonel of the Sixty-fifth Regiment New York Volunteers; and the same was laid on the table, and the accompanying report ordered to be printed.

LIEUTENANT C. A. CUTLER.

Mr. HARDENBERGH also, by unanimous consent, from the Committee on Military Affairs, reported back with an adverse recommendation the bill (H. R. No. 3164) for the relief of Lieutenant C. A. Cutler; and the same was laid on the table, and the accompanying report ordered to be printed.

ORDER OF BUSINESS.

Mr. HOLMAN. I think I should limit the suspension of my motion to allowing bills and other matters to be introduced for reference. If general business is allowed to come in it would occupy the whole day.

The SPEAKER. The gentleman from Indiana objects to further business by unanimous consent, except the introduction of bills, &c., for reference.

Mr. O'BRIEN. I enter a general objection.

Mr. WOOD, of New York. I ask unanimous consent to offer a resolution for reference to the Committee on Appropriations.

The SPEAKER. The gentleman from Maryland objects absolutely.

Mr. O'BRIEN. I do.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. HOLMAN. I now move that the rules be suspended, and that the House resolve itself into Committee of the Whole House for the consideration of the sundry civil appropriation bill. And pending that motion, I move that all general debate on the bill be limited to five minutes.

The motion to limit debate was agreed to.

The motion that the House resolve itself into Committee of the Whole was also agreed to.

So the House resolved itself into Committee of the Whole on the state of the Union, (Mr. BUCKNER in the chair,) and proceeded to consider the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes.

The CHAIRMAN. The House is in Committee of the Whole on the state of the Union on the bill making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes, and all general debate upon this bill is limited to five minutes.

Mr. HOLMAN. I ask that by unanimous consent the first reading of the bill be dispensed with.

There was no objection, and it was so ordered.

The Clerk proceeded to read the bill by paragraphs for amendment.

The following paragraph was read:

For printing and binding for the State Department, $15,000; for the Treasury Department, $180,000; for the War Department, $72,000; for the Navy Department, $39,000; for the Interior Department, $135,000; for the Agricultural Department, $9,000; for the Department of Justice, $6,000; for the Post-Office, $105,000; for the Congressional Library, $15,000; for the Supreme Court of the United States, $20,000; for the Court of Claims, $10,000; and for debates and proceedings of Congress, $694,000; and of the sums hereby appropriated for the several Departments, the courts, and for the debates and proceedings in Congress, there shall only be used for the several purposes herein provided the sums specified, and the unexpended balances shall not be used for any other purposes; and there shall be taxed against the losing party in each and every cause pending in the Supreme Court of the United States, or in the Court of Claims of the United States, the cost of printing the record in such case, which shall be collected, except when the judgment is against the United States, by the clerks of said courts respectively, and paid into the Treasury of the United States, but this shall only apply to records printed after the 1st day of October next.

Mr. TOWNSEND, of Pennsylvania. I offer the following amendment, to come in at the close of that paragraph:

For compiling, under the direction and supervision of the Postmaster-General, a history of the Post-Office Department from its origin to the present time, including a catalogue of the Postmasters-General, with a brief account of their services, the history of the reduction of postage to its present rates, ocean postage, international postage, railway mail service, appliances for the use, security, and celerity of the mails, and such other matters as will show the progress of our national postal system.

Mr. HOLMAN. I make the point of order upon that amendment that it is new legislation.

The CHAIRMAN. The Chair understands that the amendment comes within the rule which prohibits new legislation upon an appropriation bill, and the Chair therefore sustains the point of order.

Mr. TOWNSEND, of Pennsylvania. The amendment has reference entirely to the Post-Office Department, and I do not think it can be considered new legislation,

The CHAIRMAN. The Chair sustains the point of order.

Mr. TOWNSEND, of Pennsylvania. Then I offer the following amendment to come in after the words "for the Post-Office, $105,000:"

Provided, That a sum not exceeding $2,000 of this item of appropriation may be used, under the direction and supervision of the Postmaster-General, for compiling a history of the Post-Office Department from its origin to the present time, including a catalogue of the Postmasters-General with a brief account of their services, the history of the reduction of postage to its present rates, ocean postage, international postage, railway mail service, appliances for the use, security, and celerity of the mails, and such other matters as will show the progress of our national postal system.

Mr. HOLMAN. I make the same point of order upon that amendment that I made upon the last. It is subject to the point that this is new legislation.

The CHAIRMAN. The Chair sustains the point of order.

Mr. WILSON, of Iowa. I desire to ask the gentleman who has charge of this bill a question. I see that there is an appropriation for the printing of the Agricultural Department of $9,000. Is there a provision anywhere in this bill for printing the report of the Agricultural Department for the year 1876, just ordered this morning by the House?

Mr. VANCE, of Ohio. The appropriation is sufficient to cover the printing of that report.

Mr. WILSON, of Iowa. Very well.

The Clerk resumed the reading of the bill, and read as follows:

To purchase of the proprietors of the Congressional Globe all the stereotyped plates, the bound and unbound volumes of the said Globe and the copyright of the same, together with the fire-proof building, (located in the rear of the building situated on Pennsylvania avenue and known as the Globe office,) $100,000.

Mr. CONGER. I make the point of order that that is new legislation

Mr. PIPER. I rose to make the same point of order, and to move to strike out the clause.

The CHAIRMAN. The Chair sustains the point of order, that this is new legislation and therefore the clause will be stricken from the bill.

The Clerk resumed the reading of the bill, and read as follows:

For life-saving and life-boat stations:

For salaries of ten superintendents and one assistant superintendent of the life-saving stations at the following points, namely: On the coasts of Long Island and Rhode Island, $1,500; and on the coast of New Jersey, $1,500; assistant to the superintendent on the coasts of Long Island and Rhode Island, $500; for superintendents on the coast of Massachusetts, on the coasts of Maine and New Hampshire, on the coasts of Virginia and North Carolina, on the coasts of Delaware, Maryland, and Virginia, on the coasts of Lakes Erie and Ontario, on the coasts of Lakes Huron and Superior, and on the coast of Lake Michigan, and for superintendent for the houses of refuge on the coast of Florida, each $1,000, $8,000; in all, $11,500.

Mr. CONGER. I move to amend that paragraph by striking out in the last line "$1,000" and inserting in lieu thereof "$1,500;" so as to make these salaries $1,500 instead of $1,000.

Mr. Chairman, this bill provides for superintendents on the coasts of Long Island and Rhode Island $1,500, and on the coast of New Jersey $1,500, and it provides for the superintendents of life-saving stations at all other places a salary of only $1,000. There is no reason for the distinction whatever. The superintendents on the lake service especially have from four to seven stations, some as far as seven hundred miles apart, which their duty requires them to visit frequently during the whole season of navigation, and especially during the season of storms. There is no reason for the distinction. There is a reason why these officers who have charge of the life-saving stations for which we are making appropriations of over one and a half million dollars should be competent men, and they should be well paid for that most laborious service for which they are engaged. I think all those gentlemen here, and that embraces almost the entire delegation in Congress who have commerce in their States or commerce in which their States are directly or indirectly engaged, have a direct and vital interest in passing this amendment, in order that the life-saving stations, which after years of labor we have procured for part of the Atlantic coast and on the Pacific coast where there were none, and especially for the great lakes, where there were none until this last year, should have competent officers upon these stations. If there are any places of this description where the salary should be small, it should be at those points where the three or four stations under the superintendent are close together and easy of access, and yet these are the ones which are given by this bill not only $500 a year greater salary but have assistants to aid them in their labor. I ask for a vote on my amendment.

Mr. HOLMAN. We have followed the estimates. I think it is the opinion of the Committee on Appropriations that the amount here named is sufficient for the service performed.

Mr. CONGER. Let me reply to that. I doubt its being the opinion of the committee. I know it is not the opinion of some of the members. It is an old appropriation increased in two cases.

Mr. HOLMAN. Let us have a vote.

The question was taken upon the amendment of Mr. CONGER; and upon a division there were—ayes 29, noes 58.

Before the result was announced,

Mr. CONGER said: No quorum has voted, and I feel compelled to call for a further count.

Tellers were ordered; and Mr. CONGER and Mr. HOLMAN were appointed.

The committee again divided; and the tellers reported that there were—ayes 38, noes 72.

Mr. PIPER. No quorum has voted, and as this is an important matter I insist upon a quorum voting.

The CHAIRMAN. The tellers will retain their places, and members who have not voted are requested to vote, so that the committee may not find itself without a quorum.

The tellers continued the count, and reported that there were—ayes 53, noes 96.

So the amendment was not agreed to.

The Clerk resumed the reading of the bill, and read the following:

For one hundred and fifty keepers of stations, at $200 each, $30,000.

Mr. CONGER. I move to amend the clause just read by striking out "$200" and inserting "$750." I desire the attention of the committee for a moment while I make a statement upon this subject.

Mr. HOLMAN. I make the point of order that the law fixes the salary of these station-keepers, and an increase would be a change of existing law, and therefore is not in order.

Mr. CONGER. The law fixes this salary, as it does every other salary, by a clause in an appropriation bill. This whole system was introduced by being ingrafted upon an appropriation bill. That is the way in which all these salaries have been fixed, by provisions in

appropriation bills. And under the rule salaries may be increased in appropriation bills; the rule is not changed in that respect. The Chair will recollect that the object of the new rule was that salaries might be decreased in appropriation bills. It was never questioned that salaries might be increased in appropriation bills. I ask for a ruling on the point of order, and then I will submit some remarks.

The CHAIRMAN. The Chair overrules the point of order.

Mr. CONGER. I wish to call the attention of the committee to the character of the duties performed by these officers. They are called here "keepers of life-saving stations." They are the local superintendents of the stations; they are the captains of the boat-crews who manage the life-boats, who use mortars that send the ball and rope from the shore to the sinking ship; who go out in the storm at the peril of their lives every time that they attempt to save the lives of others. These "keepers of the life-saving stations" give the word of command, exercise the discretion, the care, the prudence necessary to be exercised by the captains of these crews.

The committee will see that the second paragraph proposes to pay $40 a month to every sailor employed in these crews; $480 a year. But it is proposed to pay to the man who is their captain, their leader, the experienced man, the only valuable man, $200 a year the year round. I have conversed with four of these general superintendents of life-stations, and I learn that neither on the Atlantic coast nor on the lakes are they able to find men fit for the performance of these duties who will take these offices, who will be captain of the crews of these life-boats and go out in the storm to save life for the sum of $200 a year. It is a mockery, a paltry device.

When these officers were established they were merely resident on shore, living in the house, keeping possession of it; they had no other duties to perform. But now under the law they are captains of the crews, they are efficient officers of the service, and there is a reason why the compensation should be increased.

The officer in charge of this bureau, Mr. Kimball, than whom there is not a more faithful or a more careful officer in the service of the Government, in his annual report and in a special report to the Committee on Appropriations, has made the statement that this increase was absolutely necessary in order to make the service effective.

Mr. HOLMAN. If I had had time to look up the statutes, of course the point of order which I made upon this amendment would have been sustained. The law fixed the salary of these officers at $200 a year; not of all these persons, because some of them have been provided for incidentally in appropriation bills. But the original law of 1873 establishing this system fixed the salary at $200 a year. I have the law before me.

The CHAIRMAN. The Chair relied upon the statement of the gentleman from Michigan [Mr. CONGER] that these salaries had been fixed in the appropriation bills.

Mr. CONGER. Is this point of order to be opened again? If so I want to be heard upon it.

Mr. HOLMAN. I refer to the matter in order to show that this salary was fixed in 1873 and it has been deemed sufficient ever since. It is estimated for on this basis by the Secretary of the Treasury this year and it is now sought to be increased. The law as found in sections 4242 and 4243 of the Revised Statutes is as follow:

SEC. 4242. The Secretary of the Treasury may establish such stations on the coasts of Long Island and New Jersey—

The law provides afterward for other stations—

for affording aid to shipwrecked vessels thereon, and may make such changes in the location of the existing stations, and make such repairs and furnish such apparatus and supplies, as may, in his judgment, be best adapted to the preservation of life and property from such shipwrecked vessels.

SEC. 4243. The Secretary of the Treasury may appoint, at each of the stations established under the provisions of the preceding section, a keeper, at a compensation not exceeding $200 a year, and a superintendent, who shall also have the powers and perform the duties of an inspector of the customs for each of the coasts therein mentioned; and he shall give such keepers and superintendents proper instructions relative to the duties to be required of them.

That was the act of 1854. The act of 1873 provides that—

The Secretary of the Treasury may appoint a keeper for each of the ten life-saving stations on the coasts of Cape Cod, Massachusetts, and Block Island, Rhode Island, whose compensation shall be at the rate of $200 per annum, and may employ crews, &c.

Now, Mr. Chairman, I hope the committee will understand that the law has fixed the compensation at $200; and the Secretary of the Treasury estimates on that basis; but in spite of these estimates, which we have strictly followed, the gentleman from Michigan proposes to increase the salaries of these keepers of life-saving stations, who, I understand, are employed only a small portion of the year. That is all I have to say.

Mr. CONGER. I move to amend the amendment by striking out the last word. Even what the gentleman has just read from the Revised Statutes is taken from an appropriation bill—a bill like that which we are now considering. But, sir, there are only ten stations referred to in that provision. There are more than one hundred and fifty stations besides those to which that provision refers—stations established by new laws to which that provision has no reference. The stations to which that provision refers are specified local stations at places where officers have their homes and pursue other business. Since the adoption of that provision the law has been enlarged by the establishment of more than one hundred and fifty life-saving stations, a large portion of which are on desolate coasts, far removed from habitable ground, and where no other avocation can be followed.

Besides that the law has increased the duty of these men by making them captains of crews. Under the former law they were merely occupants of houses to take care of the property. While the duties of these officers have been enlarged, their compensation has not been increased.

I repeat that the chief of the bureau in charge of this service, Mr. Kimball, has in his annual report recommended an increase of pay to these keepers who are by law made captains of crews. He has sent a special urgent communication to the Committee on Appropriations, asking them to bring it to the attention of the House, which they have refused to do. It is time that the committee should report to this House what the Department recommends on questions in which the property and lives of citizens of the United States are at stake every hour, and not smother such communications in committee. I know this to be true because I have seen the report.

Mr. HOLMAN. All I have to say is that the appropriation in the bill is in accordance with the recommendation of the Secretary of the Treasury. We have reported every dollar which he recommended to be appropriated for this purpose. I call for a vote.

The question being taken on the amendment of Mr. CONGER, it was not agreed to.

Mr. CONGER. I move to amend by striking out "$200" and inserting "$500." I desire to continue my remarks.

Mr. HOLMAN. I renew my point of order upon this amendment. My point is that by express provision of law, not by simple appropriation in an appropriation bill, these stations have been established and the salaries fixed at $200 per annum. It will be observed that the gentleman's motion applies to all the life-saving stations, of which there are one hundred and fifty-five. As to a part of them the salary by express law is fixed at $200, while as to the others the compensation of $200 is fixed by simple appropriation. As to the latter I do not contend that the salaries are fixed by law.

The act of 1873 provides as follows:

The Secretary of the Treasury may appoint a keeper for each of the ten life-saving stations on the coasts of Cape Cod, Massachusetts, and Block Island, Rhode Island, whose compensation shall be at the rate of $200 per annum, and may employ crews of experienced surfmen at such stations and for such periods as he may deem necessary and proper, and at such compensation as he may deem reasonable, not to exceed $40 per month for each person to be employed.

Now, inasmuch as some of these salaries are fixed by law at $200, I submit that the gentleman's amendment, so far as it applies to these, is out of order as changing existing law and not in the interest of economy.

Mr. CONGER. I will not ask for the ruling of the Chair upon the point of order. I withdraw my amendment and move to amend by inserting the following:

For one hundred and fifty keepers of stations at $500 each, where the salary of said keepers is not otherwise provided for by law.

Now I desire to go on and make some remarks.

Mr. HOLMAN. I concede that this amendment is in order.

Mr. CONGER. I was saying that the officer of this Government who is more especially in charge of the live-saving stations has within the last four weeks made a special report on this subject, in addition to his report as transmitted to this House with the annual report of the Secretary of the Treasury; and he has thus urged Congress to make an appropriation sufficiently large to pay a salary of $750 to light-station keepers, to whom new duties have been assigned and who have to perform the most perilous service in connection with these life-saving stations. The committee have not seen fit to adopt that motion, and therefore I ask for a vote on the proposition to increase it to $500 where not otherwise limited by law. I tell gentlemen to-day there is not a practical, useful captain of crews on all our coasts or all our lakes who will not take that paltry salary for exposure of his life night and day, in storm and tempest, to save the lives of others during the year. Their lives are worth too much to be paid for by a government like ours with the paltry sum of $200, when the very men they command, their crews, are paid by law $40 a month each while they are asked to serve for $200 a year, having all the responsibility, all the care, the greater danger, the greater knowledge, the greater skill. I submit to the House if the millions of dollars which have been spent in this magnificent effort to save the property and the lives of our citizens endangered on our coasts be worth preserving, then this most effective arm of the service should be paid a reasonable compensation.

Now I will not dwell on that. If this does not convince the mind of every man who is in favor of life-saving stations and has a desire to preserve life and property, that some change should be made in the salaries of these officers, then I know not what language can.

Mr. HOLMAN. A single word. It is well known, Mr. Chairman, these persons are only employed during the stormy season of the year; perhaps not to exceed a month during the whole year are they actively employed. The Secretary of the Treasury, who is as well informed on this subject as the gentleman from Michigan—the Secretary of the Treasury with all the facts before him does not recommend an increase of this salary.

Mr. CONGER. I move to amend by striking out the last word. I assert here, as I have before, that the Secretary of the Treasury does recommend the increase of this salary. He indorses the report of the chief of the bureau of life-saving stations, Mr. Kimball. Mr. Kimball has made two distinct, separate reports on this subject, and this committee not only fails to bring forward these reports for us to see

or to report upon them, but the gentleman has now the effrontery to deny what I have asserted, saying the Secretary of the Treasury has never recommended an increase of the pay of these officers. Sir, there is a point where impudence becomes sublime, and my friend from Indiana has reached it. [Laughter.]

Mr. HOLMAN. There is a point where insolence becomes ridiculous and most shameful in any legislative body, and the gentleman from Michigan has reached it.

Mr. CONGER. Then I have reached my friend from Indiana.

Mr. HOLMAN. But I wish to say this: I have stated to the committee that the Secretary of the Treasury in his estimates to Congress does not recommend this increase and the Committee on Appropriations have simply followed the recommendation of the Secretary of the Treasury. I now call for a vote.

The CHAIRMAN. The amendment to the amendment will be considered as withdrawn.

The question recurred on Mr. CONGER'S amendment.

The committee divided; and there were—ayes 44, noes 56.

Mr. CONGER. I demand tellers on this. I wish we could have the yeas and nays, so gentlemen might be put upon the record.

Mr. HOLMAN. Yes, sir; we will stand by the Secretary of the Treasury.

Mr. CONGER. I think we will have them some time before we get through.

Tellers were ordered; and Mr. CONGER and Mr. HOLMAN were appointed.

The committee divided; and the tellers reported—ayes 74, noes 86.

So the amendment was rejected.

The Clerk read as follows:

For the support and maintenance of convicts transferred from the District of Columbia, $8,000.

Mr. PIPER. I move to strike that out for the purpose of understanding why $8,000 is required to be appropriated to transport convicts from the District of Columbia.

Mr. HOLMAN. The convicts in this District are sent elsewhere to penitentiaries in the States, and are of course supported by the Federal Government. This appropriation is merely for that purpose. It is an annual appropriation.

Mr. HALE. It has always been made.

Mr. HOLMAN. Certainly.

Mr. PIPER. To what penitentiaries are these convicts sent?

Mr. HOLMAN. Generally to the penitentiary in Albany, but sometimes to the penitentiary of Maryland.

Mr. PIPER. I will withdraw my motion to strike out, and move to reduce the appropriation to $4,000. There must be a great many convicts in this District to cost $8,000.

Mr. HOLMAN. That will answer my purpose. I wish the gentleman would provide in his amendment for charging the remaining $4,000 for the District of Columbia. Of course I cannot antagonize him when he is in an economical mood, but I shall be glad to inquire of the gentleman from California whether he has any information on the subject which would justify any such reduction?

Mr. PIPER. I have no information, and that is precisely what I rose to secure from the gentleman from Indiana; that is, how many convicts are transported from this District to other penitentiaries in the several States, and what it costs *per capita* to transport them? Of course the chairman of the Committee on Appropriations knows all the details of this business, and I should like to be informed before I vote why the means of the Government are required to this extent for this purpose.

Mr. HOLMAN. It is impossible, Mr. Chairman, to foretell the number of persons who will be convicted in this District in the next fiscal year. The number, of course, necessarily varies in different years. The proper Department of the Government thinks that $8,000 will be required. If the gentleman from California will propose to appropriate $4,000 out of the public Treasury and let $4,000 be chargeable to the treasury of the District, I think there will be no objection to that.

Mr. CLYMER. In view of the fact that nobody has been convicted in this District for a long time, I think it might be well to reduce the amount. [Laughter.]

Mr. DURHAM. It occurs to me that if the chairman of the Committee on Appropriations will examine the annual report of the Attorney-General, he will find that an appropriation of $4,000 is ample. If I understand the report of the Attorney-General for last year, he only claims to have expended an amount falling short of $3,000 during last year in the transportation of criminals.

Mr. HOLMAN. That may be true; but $8,000 is his estimate for this year. I think it will be safe to accept the amendment of the gentleman from California.

Mr. DURHAM. I have here the language of the Attorney-General in his last annual report. He says:

The law requires the warden to transport to the penitentiary at Albany, New York, the prisoners sentenced by the criminal court of this District to that prison, and to the Reform School of this District such boys as may be sentenced by the courts to that institution.

In discharging that duty the warden has transported ninety-nine convicts to the Albany penitentiary at an actual cost and expense of $2,397.23.

The amount, therefore, is not quite $2,500.

Mr. HOLMAN. I apprehend that the gentleman has not a statement there of the entire expenditure. We had to make this year an appropriation for a small deficiency. I think, however, it will be safe to make the amount $4,000.

Mr. WILSON, of Iowa. I move to amend the amendment by striking out "$4,000" and inserting "$12,000."

I am pretty well satisfied that the criminal docket of this District will be very largely increased instead of diminished during the coming year. Our habit in the last two years of bringing every scoundrel in the country to testify before our investigating committees will lead to this. We have brought here blackguards of each denomination and thieves of every stripe and station; and unless gentlemen who have charge of the administration of the affairs of the District will see to it that they are sent back to the countries from which they come, to be placed in penitentiaries at home, they are altogether likely to be sentenced here and to reach the penitentiary from this District. I am pretty well satisfied, therefore, that the amount reported does not exceed what it is the part of wisdom to provide; and if to be disturbed at all, I would rather increase than diminish it.

The CHAIRMAN. Does the gentleman from Iowa insist on his amendment to the amendment?

Mr. WILSON, of Iowa. I withdraw it.

The question being taken on Mr. PIPER'S amendment, it was agreed to.

The Clerk resumed the reading of the bill, and read the following paragraph:

For payment of the necessary expenses incurred in defending suits against the Secretary of the Treasury or his agents for the seizure of captured or abandoned property, and for the examination of witnesses in claims against the United States pending in any Department, and for the defense of the United States in the Court of Claims, $25,000.

Mr. HALE. I offer the following amendment which was agreed to by the Committee on Appropriations, but has not been inserted in the bill:

Add after the paragraph just read the following:

To enable the Clerk of the House to have prepared for the Public Printer 50 copies of the summary reports of the Commissioners of Claims in cases reported to Congress as disallowed under the act of March 3, 1871, of which 25 copies shall be printed and bound for the use of the Senate, and 25 copies for the use of the House, $1,000.

That is the customary appropriation, which has been by an oversight dropped out of the bill.

The amendment was agreed to.

The Clerk read the following paragraph:

Reform School of the District of Columbia:

For the superintendent, assistant superintendent, matron, two teachers, for medicines and physicians' fees, gardener, farmer, baker, night-watchman, seamstress-laborer, and laundress, and four female servants, and for fuel, clothing, and incidentals, $10,000.

Mr. PIPER. I move to amend by striking out "$10,000" and insert "$8,000." I think some explanation should be made before we are asked to make such an appropriation in gross as this.

Mr. HOLMAN. This amount of $10,000 for this Reform School, which is a Reform School for boys, is the appropriation we have been making for a great many years. We have no information which would justify us in reducing that appropriation.

Mr. PIPER. I see that one item is for a "gardener." I suppose the people to be reformed might do the gardening of the school if they were properly employed.

Mr. HOLMAN. The Government owns a piece of land there that is in cultivation. These boys who are being reformed have of course to be provided for. There is a small market garden in connection with the institution, as we are informed, and this appropriation includes $720 a year for a gardener. I presume the boys are employed, though I am not certain of that fact.

Mr. PIPER. I will modify my amendment and move to strike out "$10,000" and insert "$9,500." The boys can certainly do the gardening."

Mr. CONGER. Before the gentleman from California insists on his amendment, I wish he would specify where this great saving which he proposes comes in; whether it applies to the gardener or to one of the four female servants or to incidentals.

Mr. PIPER, (in his seat.) The gardener.

Mr. CONGER. The gentleman remarks privately that it applies to the gardener. He should have set forth to the world that he means gardener, so that the reduction may not fall upon one of the female servants or other employés. My friend from the golden land of California is accustomed to look upon all these appropriations very carefully. He has never been dazzled with wealth there, nor will he squander this $750 on one of the employés in this Reform School unless it be absolutely necessary; but he should specify what he means in the amendment lest evil fall on one of the female servants. I call upon him to specify.

Mr. PIPER. I specify the gardener.

Mr. HARRISON. I have the floor and I yield my time to the gentleman from Michigan, [Mr. CONGER,] whom we would all like to hear further elaborate this subject. [Laughter.]

The question was taken on Mr. PIPER'S amendment; and it was not agreed to.

The Clerk resumed the reading of the bill, and read as follows:

Capitol extension: For work on the Capitol and for general care and repair thereof, $40,000.

Mr. PIPER. I move to amend that paragraph by striking out $40,000 and inserting in lieu thereof $30,000. As the chairman of the Committee on Appropriations is also chairman of the Committee on Public Buildings and Grounds, I would like to know what extension is being constructed on this Capitol. This appropriation is "for extension of the Capitol and for other purposes." Now the gentleman is so well informed about the details of every Department of this Government that it gives me great pleasure to hear any explanation by him as to the appropriation of the people's money to the various purposes of the bills which he reports to the House.

Mr. HOLMAN. The estimate for this purpose was $60,000. We have reduced the amount $20,000 and I hardly think the amount can be safely reduced below that.

Mr. ATKINS. This is for taking care of the entire building, and not to make additions to it.

Mr. PIPER. The words used are "Capitol extension."

Mr. ATKINS. Last year we appropriated $60,000 for this purpose and this year we propose to appropriate $40,000; that is all.

Mr. HOLMAN. I call for a vote.

Mr. PIPER. I withdraw the amendment.

Mr. LEAVENWORTH. I offer the following amendment, to come in at that point. After the word "thereof" insert the following:

And for putting an elevator in the south wing of the Capitol, under the supervision of the Architect of the Capitol, $50,000.

And strike out $40,000.

Mr. HOLMAN. I think that is new work entirely, and that the amendment is subject to the point of order, that this is an appropriation not authorized by law.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk resumed the reading of the bill, and read as follows:

For improving the Capitol grounds and paving the roadways and footwalks of the Capitol grounds, $100,000.

Mr. PIPER. I move to amend that paragraph by striking out $100,000 and inserting in lieu thereof $50,000. I have, since I have been a member of this House, paid particular attention to the improvements about the grounds of the Capitol. Whether this appropriation is intended for the public grounds about the city or for the grounds around the Capitol building, I am not sufficiently informed to say, but if this appropriation is intended for the purpose of improving the grounds around this Capitol, it is an extravagant appropriation and should be reduced to $50,000. I have observed the character of the workmen employed about these grounds and I know something of the character of this work. I have employed men for years and years in work of this description in large numbers, and assuredly I could funish a Chinaman eighteen years old who would do more work than any six of the men I have seen about these grounds during the last two years. It constitutes an asylum for loafers, for beggars paid out of the public Treasury, under the pretense that they are doing work around these grounds. Consequently if this appropriation is for the grounds about the Capitol $50,000 is more than ample for them, for there is hardly a man who can do a day's work or even half a day's work.

Mr. HOLMAN. The estimate for this purpose was $200,000. The committee has reduced it one-half, and although $100,000 is certainly a large sum to appropriate for such a purpose, the gentleman from California [Mr. PIPER] must remember that the filling in and improvement of the grounds west of the Capitol will require a very considerable outlay of money. There must be some fountains established to perfect the plan, and I do not see well how this expense can be avoided.

I do not think that there is any reason why $200,000 should be appropriated, but I think, perhaps, that $100,000 is not an excessive appropriation, and I hope that after the present year it will be found entirely compatible with the public interest to reduce the appropriation down to $25,000 a year, unless, indeed, Congress enters upon the system of improving the western front, which has been recommended by the gentleman employed by the Government to present plans for the improvement of the grounds around the Capitol. I hardly think it would be safe to reduce this appropriation below $100,000, although I know it is a very large sum for such a purpose.

Mr. PIPER. How much money, in the aggregate, has been appropriated for the improvement of these grounds?

Mr. HOLMAN. O, well, there have been several hundred thousand dollars appropriated; indeed, including the appropriations for the grounds east of the Capitol, the amount has swollen up to millions. This is the smallest appropriation which has been made for this purpose for a great many years. I believe the appropriations for the present fiscal year were $125,000. We have put the amount for the coming fiscal year at $100,000.

Mr. PIPER. Is it not a fact that the stone used around this Capitol is imported from Canada, or Scotland, or Sweden, or some other place remote from the United States?

Mr. HOLMAN. I think that almost all the public buildings in the United States are constructed out of materials from remote points. Canadian stone, from the coast opposite Maine, is used in the construction of the custom-house at Chicago, and, I believe, also on the buildings at Cincinnati and Saint Louis, and a large portion of the granite and marble used about the Capitol has been imported from remote points.

Mr. FOSTER. Where else would it come from?

Mr. PIPER. I insist upon my amendment.

The question was put on the amendment; and on a division there were—ayes 6, noes 26.

Mr. PIPER. As this is a question of $50,000 of the people's money, which my friend from Indiana is especially careful of, I think I must insist that there shall be a quorum. [Cries of "O, no!"] Very well, sir; I will let it go.

So the amendment was not agreed to.

Mr. HARRISON. I offer the following amendment:

For the improvement of the heating and ventilating apparatus of the House of Representatives, to be expended by the Architect of the Capitol, the sum of $33,000; and that the board of United States officers convened by request of the Committee on Public Buildings and Grounds, to advise with it on the subject, be requested to advise the Architect of the Capitol in the premises; and that hereafter the subject of ventilating and heating the House of Representatives be placed under the direction of the Architect of the Capitol.

This morning the Committee on Public Buildings and Grounds by a unanimous vote directed me to draft a bill and prepare a report on the subject of the ventilation of this Hall. I will bring that bill before the House as soon as I can get an opportunity to do so.

For the last twelve months a subcommittee of the Committee on Public Buildings and Grounds has had under careful consideration the subject of ventilating this Hall. We have had in consultation with us a board of United States officers consisting of Professor Henry of the Smithsonian Institution; Mr. Clark, the Architect of the Capitol; Mr. Shuman, in the employ of the Architect of the Treasury Department; Dr. Billings, of the United States Army, and one or two others. We have had before us a large number of experts from the different cities of the United States who have been seeking to have their plans adopted.

During the last summer Dr. Billings visited Europe, where he examined the heating and ventilating apparatus of the House of Commons and the House of Lords in London, of the opera-house in Vienna, the best ventilated building in the world, and also other buildings. After very careful examination and study of this subject, this board within the last few days have submitted to us their report. That report this morning was adopted by the Committee on Public Buildings and Grounds, and as I said I have been directed by that committee to draft a bill to carry it into effect. As the bill will require some little change in the law, I will bring it to the attention of the House as soon as I can do so. In the meantime, in order to have an appropriation for the purpose, I have moved this amendment.

I have been asked to state what is the plan. It is utterly impossible in a five-minute speech to properly explain it. It does not change the present system of ventilation in this Hall. We have found that it would be utterly impossible, without an expense of from $100,000 to $200,000, to change the present system of ventilation. But by perfecting the present upward system of ventilation, by removing from beneath the floor of this Hall about a million of brick which clog up the flues, by bringing the stack of heating apparatus or radiators from far off in the corner of the building by the room of the Committee on Naval Affairs and placing it under this Hall, near the center, by changing the ventilators here and giving each member the direct control of the ventilation of his own seat, it is believed that we will be able to secure a thorough ventilation of the House.

I have the plan in the committee-room, not knowing that the House would go into Committee of the Whole on this bill.

[Here the hammer fell.]

Mr. HARRISON. Is my time up?

The CHAIRMAN. The five minutes time of the gentleman has expired.

Mr. CONGER. Mr. Chairman——

Mr. LANDERS, of Indiana. I desire to ask the gentleman from Illinois [Mr. HARRISON] one question.

Mr. HARRISON. Will the gentleman yield to me to finish my statement?

Mr. LANDERS, of Indiana. After my question. The gentleman says it is not proposed——

Mr. CONGER. I rose to oppose the amendment.

Mr. LANDERS, of Indiana. That is my object.

The CHAIRMAN. The Chair understood the gentleman to rise to ask a question after the time of the gentleman from Illinois [Mr. HARRISON] had expired.

Mr. LANDERS, of Indiana. I rose also to oppose the proposition. I have a right to yield for my question to be answered, have I not, provided it comes out of my time?

The CHAIRMAN. The Chair had not recognized the gentleman.

Mr. LANDERS, of Indiana. I had hoped that the Chair would recognize me.

Mr. CONGER. The gentleman from Illinois [Mr. HARRISON] sometime since very kindly offered to yield his time to me, because he thought I had superior knowledge of a certain subject. I may say that my friend from Illinois, something like the subject which he is discussing here, goes back and forth from one subject to another as the wind, which blows where it listeth and we know not whence it cometh or whither it goeth. [Laughter.] So it is with my friend's discussion on this subject.

The gentleman has for two years by direction of the House been charged with this windy subject. The House knew instinctively who could best take charge of such a subject as that [laughter] and they selected my friend. He has been struggling all that time to obtain

some knowledge, some information by which he could enlighten the House as to the means of ventilating this Hall better than it has been heretofore ventilated. I know he is better prepared than I am to discuss that subject; and with all the grace possible I yield to him the remainder of my time.

Mr. HARRISON. I thank the gentleman. I think there is no man in this House, who needs fresh air more than he. [Laughter.] Sir, in olden time, when the gentleman from Michigan was a baby, he had a sweet smile upon his face. When he came here it was wreathed in smiles; it was lovely to look upon. [Great laughter.] But now see the effect of bad ventilation upon him: always sour, always vinegary.

Mr. Chairman, this is a very serious subject. [Renewed laughter.] I think the House is sufficiently prepared to vote on my amendment. It is utterly impossible, as I have already said, in a few moments and without the plan before me, to explain it. If gentlemen wish an explanation, I will endeavor to give it, if I can be allowed the time. [Cries of "Go on!" "Go on!"] Then I have got consent and I will take advantage of it. [Laughter.]

Mr. CONGER and many others. "Go on!" "Go on!"

Mr. HARRISON. I ask that the report of this committee of officers be read.

The Clerk read as follows:

Second report of the board of United States officers convened by request of the subcommittee on public buildings and grounds to advise with regard to the ventilation of the House of Representatives.

WASHINGTON, D. C., *February* 2, 1877.

The board find that the measures which have been taken to give an increased supply of fresh air to the Hall of the House of Representatives, in accordance with its recommendation in its previous report, have been followed by good results, and that the test of actual experience, during both cold and warm weather, has shown that the Hall can be satisfactorily heated and ventilated with the system now employed, namely, that of upward currents, and that this can be done without causing discomfort to the occupants.

The recommendations of the board heretofore presented were intended to meet the great want existing, namely, that of an increased supply of air, without the production of unpleasant draughts, and also to remove or mitigate certain sources of impurity which were found to exist in the basement of the building.

These recommendations have been only in part carried out, owing to the want of funds, for, although the sum estimated for by the board, namely, $8,000, was duly appropriated from the contingent fund of the House at the close of the last session, yet it appears that this appropriation was only partially available, since the contingent fund was exhausted.

For this reason it has been found impossible by the Architect to provide the means for that increased supply of fresh air to the galleries which the board consider as necessary.

The board has collected information as to the practical results obtained in large halls of assembly in this country and in Europe by the systems of heating and ventilation adopted, and, from these as well as from the observations and experience of its members, it has arrived at certain conclusions as to what should be done looking to the permanent arrangement for heating and ventilating the south wing of the Capitol, which may be stated as follows:

1. That it is not desirable to change the present or upward system of ventilation of the Hall of the House of Representatives for any system of so-called downward ventilation, and it is not possible to apply any so-called natural system of ventilation, by means of windows and openings in the ceiling and walls only, to a large assembly Hall like this.

2. That while the quantity of fresh air which can now be supplied to members on the floor without causing unpleasant draught is probably sufficient under ordinary circumstances, it is desirable that there should be means to increase it when needed.

3. That the supply of air to the galleries should be largely increased, and that there should be means provided for furnishing cooler air to the galleries than is supplied to the floor of the hall.

4. That the system of brick flues beneath the floor of the House should be removed and galvanized iron flues substituted so far as necessary.

5. That a duct should be constructed to bring the fresh air required for the use of the House to the injecting fans from a point on the lower terrace and through an ornamental shaft about thirty feet high.

6. That an attempt should be made to regulate the amount of moisture in the air supplied and to cool the air in warm weather.

7. That for this purpose, as well as for other reasons, the course of the present fresh-air duct should be changed, and the heating-coils removed from their inaccessible and inconvenient position, and that the point for admission of fresh air beneath the floor shall be central instead of in one corner, as at present.

8. That additional means of ventilation should be supplied for the upper lobbies.

9. That an attempt should be made to so arrange a system of outlets for foul air in the roof that the wind can only produce an increased flow of air.

If this can be done successfully the exhaust fans now in use will become available for ventilation of the basement and lobbies.

10. That means of communication by a system of electric signals be provided between the floor of the House and the engine-room.

11. That the whole matter of heating and ventilation of the south wing of the Capitol should be placed under the control of one person who is to be held responsible for their proper working. Under the present system, or rather want of system, the board do not believe that any apparatus can be made to work satisfactorily.

If it is desired that the board shall continue to interest itself in the heating and ventilating of the House, and in the devising of the best means of carrying out its recommendations, it is extremely desirable that the person who is to have charge of the apparatus when completed should be in some way associated with the board, not only to carry out the experiments and observations which it may deem necessary, but to become familiar with what is to be done, and with the apparatus and machinery decided to be best adapted for doing it.

12. Plans have been prepared by the Architect of the Capitol for the alterations recommended, and these are herewith submitted. The total cost of making these changes, and of putting the heating apparatus in good order, including the purchase of 20,000 feet of new steam-pipes, is estimated at $33,000.

All of which is respectfully submitted.

JOSEPH HENRY,
Secretary of the Smithsonian Institution, President of the Board.
THOS. L. CASEY,
Lieutenant-Colonel Corps of Engineers, Member of the Board.
EDWARD CLARK,
Architect United States Capitol, Member of the Board.
F. SCHUMANN,
Civil Engineer, Member of the Board.
JOHN S. BILLINGS,
Surgeon United States Army, Secretary of the Board.

Mr. HARRISON. I believe, Mr. Chairman, I had unanimous consent to finish my remarks on this subject.

Mr. HOLMAN. I have no objection, of course, to the gentleman proceeding; but I believe the five-minute rule cannot be waived in Committee of the Whole.

Mr. WILSON, of Iowa, obtained the floor, and yielded to Mr. HARRISON.

Mr. HARRISON. Mr. Chairman, the plan as suggested here is to get fresh air from a spot out on the terrace, removed from the walls of the Capitol. The cold air, instead of being driven by the fans to the far corner of this building, will be carried to the stacks which will be placed immediately under the Hall and very near to the center. Then the flues under this floor, which are now of brick, and in which, as I have stated before, nearly a million of brick are placed, will be removed. At present this brick-work absorbs the heat; and when it has become heated it is utterly impossible for the engineer to cool it in less than about half an hour. On the other hand, when these bricks become cold, it is utterly impossible to heat them in less than a half an hour. These brick flues will therefore be removed, and will be replaced by flues of galvanized iron. Around this Hall will be a system of ventilation through which the heated air will come. Under each desk will be a ventilator under the control of each member, so that he can prevent draughts from coming directly upon himself, while he cannot prevent the general influx of air around the room.

In addition to this, these officers recommend the attachment of what is called a cold-air duct to one of the engines, by which, when the House becomes too much heated, cold air can be rapidly thrown in and mixed with the warm air, so that the air may come into the Hall thoroughly tempered.

We believe that this system will be a success, though of course to a certain extent it will be an experiment. We have had before our committee men from nearly every city of the Union, wishing to get a contract for perfecting the ventilation of this House. The estimates submitted are in no instance less than $85,000. We submitted all these plans to this committee of experts; we consulted with them; and they have come to the conclusion that the plan they propose to adopt is a feasible, practicable, and economical one.

Mr. WHITE. I understood the gentleman to say that it was necessary to have the brick-work underneath removed in order to perfect our system of ventilation. I want to ask the gentleman whether he does not think that the tobacco-juice and all other sorts of filth now going into these flues ought to be removed?

Mr. HARRISON. The whole substructure under here will be removed and cleaned; and then the system will be so changed that refuse tobacco and other impurities cannot be thrown into the flues.

Mr. WHITE. I wish to inquire further whether it is possible to keep out these impurities under the present system of ventilation, which undertakes to carry the foul air upward.

Mr. HARRISON. It is thoroughly practicable; at least we believe it is so, or we would not recommend this plan.

[Here the hammer fell.]

Mr. WHITE. Mr. Chairman, I have a profound respect for the opinions of the gentleman from Illinois, [Mr. HARRISON.] I always bow my head with deference to gentlemen who offer theories in regard to ventilation. But after two years of experience in regard to this matter—experience in the very midst of the operation of this system—I think that my experience is worth more than the theories of these gentlemen who propose to ventilate this House. And I do not offer my experience alone. I state what every gentleman on this floor must know to be the fact, that around this Hall on the outside are openings for the reception of the pure air which is to be forced into this Hall by driving-fans. This pure air comes over refuse tobacco, cigar-stumps, apple-peelings, and all sorts of filth which the boys from the street see fit to throw into those holes. After the air has been heated it reaches this Hall through these openings here in the floor, and all the foul particles that can be evaporated by this heated air are evaporated, and in this condition the air comes in here for us to breathe. Can anything be more destructive to life or health or comfort than to be confined in such an impure atmosphere?

Again, it is a well-known fact that the air which we breathe out of our lungs is much heavier than the natural air. By the exhaust fans which draw the air upward we undertake to carry off the carbonic-acid gas through the ceiling, to take it out at the roof of the house instead of at the bottom of it. To accomplish this unnatural and life-destructive work we are asked to appropriate the sum of $33,000.

Now, as I understand the gentleman, he does not propose a new system of ventilation. He proposes to continue the old system; and what is it? It is simply to bring this air to us from the outside through the old channels, with the exception that the little holes at the rear of our seats shall be closed. There is to be a register under each desk, which each member may open or shut at pleasure; but if it be the pleasure of two-thirds of the members to close those registers, then the persons in the galleries will have to endure the draught where air is forced in upon them.

Mr. HARRISON. If the gentleman had listened to the report, he would have learned that the gallery will have a system of heating for itself. There are to be flues carried into the gallery.

Mr. WHITE. Notwithstanding the remark of the gentleman, it is nevertheless the truth that these officers propose to get the pure air into this House by bringing it over the same impurities over which it has always been brought in. They propose to continue the same

old plan of pumping the foul air out of this House through the roof, and as it goes upward we naturally get bad air to breathe. We have never yet had pure air in this Hall. You can taste it the minute you get inside the corridors around this Hall. We not only get no natural air, but we get no natural light in this Hall.

I was about to offer an amendment to improve the ventilation of the House at the moment the gentleman from Illinois rose. But if it is proposed to put it into the same old system, to make the same old system more perfect, we will only get more of the bad air we have been getting all along, and I will oppose the amendment and I think the House should vote it down. I ask the amendment be again read.

The amendment was again read.

Mr. HOLMAN. Mr. Chairman, it seemed to me the ventilation of this Hall since the improvements at the last session was quite complete, and we could scarcely hope, even by large appropriations of money, to materially improve that ventilation. Gentlemen have observed this: when the Hall is crowded with people, galleries and all, that the atmosphere seems to become oppressive. But this subject of ventilation is one of such interest that the Committee on the Public Buildings and Grounds, with great unanimity—with entire unanimity with the exception of my views—have favored this appropriation of $33,000. Now, inasmuch as we have appropriated a larger sum than is imperatively required for the improvement of the public grounds, I ask to insert that provision in the bill, if the House shall determine to adopt it, in another form. The bill now provides for the improvement of the Capitol grounds and for paving the roadway and footwalks in the Capitol grounds, $100,000. I move to add to that, "provided, however, that a sum not exceeding $33,000 of this appropriation be used for the improvement," &c., then using the language of the amendment moved by the gentleman from Illinois. I have consulted with such members of the Committee on Appropriations upon the floor, and believe they acquiesce in this proposition. Gentlemen will discover when we come to add up the items making up this appropriation bill it will be found to involve a very large sum of money in the aggregate, and therefore it seems to me no appropriation should be made in this instance increasing those appropriations beyond what is imperatively required. We are satisfied this $33,000 can be deducted from that $100,000 without any embarrassment of the public interest, or without necessarily postponing the completion of the public grounds.

Mr. WHITE. I now ask that the amendment be read as it will stand if amended by the gentleman from Indiana.

The amendment was again read.

Mr. HARRISON. Mr. Chairman, I am willing to accept that as a modification of my own proposition.

Mr. HARRIS, of Massachusetts. Mr. Chairman, I desire very much to vote for an appropriation for the ventilation and heating of this Hall, but I shall never vote a dollar for a system of ventilation which is absurdly wrong-side up. It has been demonstrated, I believe, in some portions of the country, that heated air drawn into the top of a large hall, and the foul air thrown out by pumps at the bottom, give free ventilation. It is known to every gentleman, I suppose, that all the air which we breathe forth from our lungs, all the air thrown out from our bodies, is vitiated and loaded with foul matters. It descends to our feet, and if it be allowed to rise to our lungs we breathe it over and over. When we can let our air in at the top, properly warmed, properly heated, and draw the foul air out by strong pumps at our feet, we will be constantly breathing free air; and until that system is adopted there can be no ventilation and no introduction of pure air into this Chamber which will answer the purpose.

Mr. HARRISON. How do you mean, sir?

Mr. HARRIS, of Massachusetts. I understand they propose to force in heated air at the bottom and force out foul air by some process. I believe if gentlemen will take pains to investigate this subject they will come to the conclusion that any system of ventilation such as is now proposed is absolutely wrong-side up and will not work.

MESSAGE FROM THE SENATE.

The committee informally rose, and a message from the Senate, by Mr. SYMPSON, one of its clerks, announced the passage without amendment of an act (H. R. No. 2690) to refund to the mayor and city council of Baltimore certain moneys illegally assessed and collected for internal-revenue tax.

It further announced that the Senate agreed to the amendment of the House to the bill (S. No. 1185) to ratify an agreement with certain bands of the Sioux Nation of Indians, and also with the Northern Arapaho and Cheyenne Indians.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. HARRISON. I move to strike out the last word, in order to reply to the gentleman from Massachusetts. I will say to the gentleman that this committee has studied this question, and believe what is proposed is not wrong-side up.

A great many persons think that it is the easiest and simplest thing in the world to ventilate a large hall. Men who have been living in a small house, with a large fire-place and windows, where they can move from point to point, and when their backs are freezing turn round and warm their backs, or when their feet are cold can put their feet to the fire, imagine that that system can be brought into this huge establishment. They think also that if we could only get the sunlight—if we could in some way strike out these walls and admit the light of heaven—all would be right. Now, suppose that we were to attempt to strike out these walls. In the first place, strike these down and this vast superstructure, this roof which they support, would fall in upon us. But suppose it could be done safely, we would then throw the atmosphere of this House against the outer walls which are cold where it would become rapidly congealed and fall and cause numerous currents.

But, then they say, "Give us the light of heaven." Why, sir, in the Supreme Court, where they had the light of heaven, they could not stand it and have erected a screen to enable the lawyers who sit there to look at the judges. I do not know but the want of that light of heaven has been the cause of some late decisions; but I will not say anything on that subject.

Mr. Chairman, it is an utter impossibility to connect natural and artificial ventilation together. The two things are as oil and water that cannot be mingled. And if you have natural ventilation with outside windows and large fire-places, then you must have gentlemen moving from point to point, their faces burning and their backs freezing. You could not possibly by any natural system of ventilation heat this room in such a way that men could sit here during the day and keep themselves comfortable. In other large halls such as the great exchanges where men meet to discuss sales for half an hour or so they knock out the roof; but they stand while they are there. They cannot sit; men who sit still must have an equal heat upon them. Where men are moving about it is another thing.

The question was before the committee whether we could have a downward system of ventilation. We found it utterly impractical. Some say, "You do not exhaust the air." The facts are that we can carry out of this building twice as much bad air as we can get fresh air in. Gentlemen say, "Why do you not let the fresh air in?" Fresh air can get into this room in two ways. One is through the shafts which heat and temper it; the other is by opening the doors of this Hall. What would be the result of opening the doors? Draughts would come in through the open doors of the galleries, there would be a rush of air in the gallery, the bad air in rising is immediately cooled, and falls back upon us, and we have to breathe it.

[Here the hammer fell.]

Mr. CLYMER. The subject of the ventilation of this Hall is one full of interest to every member of this House and to the public who are in the habit of visiting it. It is a fact, and indeed a lamentable one, that very large numbers of those of us who are obliged to be here continuously have had our health seriously impaired by the foul condition of the air of this Hall. Therefore there seems to me to be a pressing necessity to adopt some means whereby this evil may be remedied. This being apparent, it is our duty to adopt some plan which will unquestionably secure the end desired. The trouble about that proposed by the gentleman from Illinois, [Mr. HARRISON,] who seems to have studied the subject with care and to have a general idea as to what we should have, is that he is unable to offer us any guarantee whatever of the success of his plan. The committee of which he is a member has called in the advice of experts, and we have before us their suppositions as to what will be the result of the plan proposed by them. But after all they are mere suppositions, and I fear that if we spend this large amount of money we will not be any better off in this respect next session than we are this session.

Now, sir, there is a member of this House, one whose pursuits and habits in life have compelled him to make this subject of ventilation a study, one who has given it more thorough investigation, and one who has dealt with it more practically than any other person in this House and to a larger extent perhaps than most persons in the country whose lives are devoted to subjects of this kind. I have his word that if this House should authorize him—and he is amply responsible for all he offers to do—he will guarantee the perfect and entire ventilation of this Hall so that no man on the floor and no persons who occupy the gallery need complain of it. If we will say that he shall do this, he will never ask of this Government one dollar unless he makes the ventilation perfect and complete. I confess that I would prefer to embrace an offer of this kind, coming from a responsible person, one who understands the subject, rather than try what at best is alleged to be a mere experiment, for the result of which we have no guarantee in the assertion either of the gentleman who proposes it or of those for whom he speaks.

Mr. HARRISON. The gentleman is mistaken in saying that it is an experiment.

Mr. CLYMER. The gentleman will pardon me; he certainly stated in the speech which he made in the early part of this discussion that he could not guarantee its success.

Mr. HARRISON. Of course I cannot guarantee its success.

Mr. CLYMER. I propose to have it done by some one who will guarantee its success and who will take the risk, and if it be not successful we will not be called on to pay a large sum of money for that which will be utterly worthless.

A MEMBER. To what member of Congress did you refer.

Mr. CLYMER. Hon. Mr. HEWITT, of New York.

[Here the hammer fell.]

Mr. ATKINS. I desire to ask the gentleman a question. It is this: If the vitiated atmosphere in this Hall is not produced by the oil-shops, the slop-shops, and cooking-places, and all that kind of thing below us, where?

Mr. HARRISON. No, sir. So far as the vitiated atmosphere, the atmosphere that is deleterious to health is concerned, that has nothing to do with it; but the unpleasant odors in the outer halls are due to that cause.

Mr. ATKINS. I want to say to the gentleman that there are some rooms below this Hall which are used for oiling machinery, and in which there is a great deal of paint, and the atmosphere from those rooms passes right through this Hall and into the committee-rooms.

Mr. HARRISON. That is an entire mistake. The gentleman has been misinformed.

Mr. ATKINS. I am told so by the engineer of the House.

Mr. WHITE. I move to strike out the last word. I object to the amendment as it now stands for two reasons. The first one is that I am opposed to an appropriation of $100,000 for the improvement of these Capitol grounds. The second is that this amendment, which proposes to give $33,000, out of the $100,000 appropriated to the Capitol grounds, for the improvement of the ventilation of the House, would perpetuate a system which has been tried and found wanting. I am aware that very much of this bad ventilation can be attributed to the incompetent engineer that has charge of the heating apparatus of the House. I believe that if we had competent officers the ventilation would be much better; but never, until, as the gentleman from Massachusetts has suggested, this carbonic-acid gas goes in the direction that nature intended it should go—by making it heavier than the natural air—downward, instead of upward—shall we have a complete system of ventilation in this Hall.

I want to say a word to the gentleman from Illinois, [Mr. HARRISON,] who I regret has taken occasion to remind me of the fact that I am used to standing around log-cabin fires in the backwoods, simply because he happened to be born in the "Blue Grass" region of Kentucky and I was not so fortunate as to be born there, and because his subsequent life has been spent in Chicago, where he could see great buildings and the powerful machinery for their ventilation, and smell the Chiagco River. It was never my lot to do that.

Now I want to call the attention of the House to this fact, and it is a fact, that we cannot have this carbonic-acid gas go upward before our faces without having to breathe it. You may say we breathe it in a very much diluted state and in a way that we get very little of it. But no man can tell, no scientist can tell how much or how little it takes of the foul gases that have once been breathed out of the lungs, if breathed in again, to make a man an invalid. The only proper way is to have a system of ventilation that lets the air go out at the bottom and brings in the pure air at the top. This amendment to give $33,000 for the ventilation of this Hall does not propose to do that. It proposes to continue the old system and make a stronger draught to force in more air at the bottom. Yesterday I was cold and wanted a fire made in the cloak-room, but the servant told me that it was utterly impossible to build a fire because the draught down the chimney (which was occasioned by the draught in the House) was so great that the fire would not burn. I want to know whether under this appropriation of $33,000 we shall not increase the draught down the chimneys so as to make it utterly impossible to have fires in the grates lighted at all. I object to the amendment and appeal to the House to vote it down.

Mr. HEWITT, of New York. As my name has been mentioned by the gentleman from Pennsylvania [Mr. CLYMER] I feel constrained to say a word, but the House will see the condition to which I am reduced by the air of this House. I am absolutely unable to make myself heard. I have been under the doctor's care for the last ten days, and I am assured, and I am conscious of it myself, that there is no other cause for it but the impure ventilation of this House.

Now there are no difficulties in the way of ventilating any hall. It is a subject perfectly well understood. There are two systems of ventilation: the one is by the introduction of pure air at the top and the abstraction of impure air at the bottom, and there is the reverse of that system, the introduction of the pure air at the bottom and the abstraction of impure air at the top. They are both in successful operation in many places in this country and also in Europe.

The former system, that which takes the impure air out at the bottom and introduces the pure air at the top, is the system of General Morin, the eminent director of the Conservatoire des Arts et Métiers in Paris. That system has been very largely applied in many public buildings and is invariably successful.

The other system, the system of abstracting the impure air at the top and introducing the pure air at the bottom, is the system in use in the British houses of Parliament, and in many buildings in this country, and it also works very well. As one instance of its admirable working, I can point to the Cooper Institute building in New York City, which has a larger hall than this, which is supplied with fresh air at the bottom and parts with its impure air at the top. The air is forced in and out at such a rate that in two minutes' time every particle of air in the hall can be changed.

The simple secret of the whole matter is that you cannot ventilate unless you get the air. The trouble in this Hall is that you do not get the air. All that it is necessary to do here is to get the air into this Hall, and if the openings are sufficiently large, (and I have no doubt they are, but if they are not they can very readily be made so,) the impure air will pass out.

Just imagine that this Hall is filled with material; it is not a vacant space but it is filled with material substance. This impure air at the bottom must be taken out, must be pushed out of this Hall. If enough air does not come in in time to change it sufficiently to render it safe for life, then the impure air is not pushed out at all, but is left here as a solid mass, as it were, and being heavier than the pure air it sinks to the bottom and we breathe it.

Now if gentlemen think that any member of Congress can ventilate this Hall, they must be like those who think that every man can be a farmer. The proper understanding of the subject of ventilation is an art. I venture to say that those gentlemen who have signed this report are competent experts and know all about what they propose to do; and I have no doubt that if permitted they will accomplish the desired result.

What I wanted to call the attention of the House to is the error which some gentlemen seem to have fallen into, that successful ventilation depends upon the adoption of one or the other of these systems. Good ventilation may be had by either of them.

[Here the hammer fell.]

Mr. SPRINGER. I move to strike out the last word, and I yield my time to the gentleman from New York, [Mr. HEWITT.]

Mr. HEWITT, of New York. I was merely going to add that what is required to get out the impure air from this Hall is a ventilating flue properly heated, so that the pressure which is brought to bear from the engine shall enable this impure air to pass readily out of the room. Of course it will be very easy to apply the system practically to this room; there is no trouble about it. The suggestion of the gentleman from Pennsylvania [Mr. CLYMER] was the result of an accidental conversation only. I have no desire to undertake the ventilation of this Hall.

Mr. CLYMER. I did not suppose the gentleman had.

Mr. HEWITT, of New York. I think it would be entirely improper for any member of Congress to undertake to do any such thing. But I do say, with my experience here for these two sessions, finding that my health is being undermined, and knowing that my usefulness is being destroyed, knowing that my constituents and, I believe, the constituents of every gentleman in this room do not desire that our health shall be impaired, but on the contrary have the grea est possible interest in preserving our health and maintaining our usefulness—knowing all that, I did say that if nothing else could be done I would be glad, and would feel that I had rendered some service in my day and generation, if I could be permitted at my own expense to ventilate this Hall, and I would not expect to be paid back from the public Treasury. And I say now that if gentlemen in this Hall cannot otherwise protect themselves from this bad atmosphere, and will allow me to confer this benefaction upon my country, I may consider it the greatest opportunity of my life, at my own cost and expense, to provide for the proper ventilation of this Hall.

Mr. WHITE. I will offer an amendment that will cover that.

Mr. SPRINGER. I propose to resume the floor for the remainder of my time. I offer as an amendment to the amendment of the gentleman from Indiana [Mr. HOLMAN] that which I send to the Clerk's desk, and after it is read I will thank the Clerk to read the amendment as it will be if my amendment should be adopted.

The Clerk read the amendment to the amendment; which was to strike out all after the word "Capitol," down to and including the word "premises," and to insert in lieu thereof the following: "Upon plans to be furnished by Hon. ABRAM S. HEWITT, and in such manner as he may direct;" so that the amendment, as amended, will read:

Provided further, That a sum not exceeding $33,000 of this appropriation may be used for an improvement in the heating and ventilating apparatus of the House of Representatives, to be expended by the Architect of the Capitol upon plans to be furnished by Hon. ABRAM S. HEWITT, and in such manner as he may direct; and that hereafter the subject of ventilating and heating the House of Representatives be placed under the direction of the Architect of the Capitol.

Mr. HEWITT, of New York. I sincerely hope that this amendment will not be adopted. It would put me in a very false position. I simply state my belief that this commission is composed of men who are quite competent to do this work and that it will be well done by them. I say further that, if it should fail to be properly done by them, I will be willing to accept any responsibility that may be imposed upon me by this House; but it would be very unjust to put that responsibility on me now.

Mr. SPRINGER. I withdraw the amendment to the amendment.

Mr. WHITE. I desire to offer a substitute.

Mr. FORT. Mr. Chairman——

Mr. HOLMAN. I hope that after the gentleman from Illinois [Mr. FORT] is heard the debate on this paragraph will cease by unanimous consent.

Mr. WHITE. I object. I want to offer an amendment.

Mr. HOLMAN. There is no objection to offering an amendment, but we want the debate to stop.

Mr. WHITE. I would like to explain the amendment.

Mr. FORT. Mr. Chairman, experience has taught us that one of the best systems of ventilating this House is the plan of issuing tickets to the galleries. It reduces the number of bellows that are operating upon the atmosphere there, and, in reference to one portion of the gallery, it changes very much the character of the individuals who are engaged in that business. Formerly I fancied, when I approached one portion of this gallery, that I could feel the impurities pouring down upon my head almost as perceptibly as I would water tumbling over a precipice. The trouble has been that the amount of

fresh air coming into the Hall has often been insufficient for the number of persons in attendance.

Mr. HARRISON. I said that last year.

Mr. FORT. And the difficulty is not altogether with the number of persons. The character and condition of the persons occupying the gallery have very often a great deal to do with the condition of the atmosphere that pours down upon our heads from a certain gallery in this House.

This consideration proves to me conclusively that impure air must descend. It is impossible to make the impurities in the atmosphere go upward except by an atmospheric current. Hot air will rise as a balloon will rise; cold air will go downward as a cannon-ball goes downward. But the impurities in the atmosphere will not rise unless carried up by a current. We must have currents.

In my judgment nature can ventilate this Hall cheaper and better than all the machinery which gentlemen can apply. What we most want is to have pure air come in around this Hall; and without attempting to resort to machinery or mechanical contrivances we must spend a great deal of money in order to get sufficient quantities of air into this Hall to supply such an audience as we often have here when the galleries are full. The remedy must in a great degree consist in bringing in pure air and letting the impurities pass out with the current. As the gentleman from New York said, you can drive out impure air, but you must do it with a current. Impure air, even though heated, will not rise unless you have a current.

Mr. WHITE. I move to amend by inserting the following:

That the proposition of the gentleman from New York [Mr. HEWITT] be, and is hereby, accepted by the House.

We have been told by the gentleman in charge of this bill [Mr. HOLMAN] that it appropriates a very large sum of money. Yet we are asked to give $100,000 for the improvement of the pavements, walks, and grounds around this building. Seeing that it is more necessary to improve the inside of the cup or platter than to polish the outside, the gentleman has kindly consented that $33,000 of this $100,000 should be appropriated to the ventilation of this Hall. The purposed mode of improvement is admitted to be a theory—the vision of some scientist or of several perhaps. It is also indorsed by the distinguished gentleman from New York, [Mr. HEWITT,] who says he believes the system proposed in the report will be a success. But it is not denied that the plan is simply an experiment. Now the gentleman from New York has kindly offered to take this experiment upon his own shoulders. He has led us to believe that these charges about the great amounts of money which the democratic party spent in the late election did not touch him; that he is left whole with an abundance of means; and he proposes to benefit his race by improving the ventilation of the Hall occupied by the representatives of the people. I say allow him to do it. If you do not you will have upon your heads the curse of having given $33,000 to carry out a mere experiment, the money expended upon which will prove to be worse than thrown away. I say, allow the gentleman from New York to come in and take this responsibility upon his own shoulders. If he fails, his name will go down to history as a failure; if he succeeds, posterity will honor him. But in either event the Government will save $33,000.

Mr. HARRISON. I rise to oppose the amendment. I am sorry to say I do not know whether my friend from Kentucky [Mr. WHITE] meant this for a joke or not. If he did, it was a good one. If he meant it for a castigation of the gentleman from New York, I think that gentleman can afford to let it go. The bray will come back and break upon his own ears, not upon those of the gentleman from New York.

Now I want to say one word. This is a serious matter. They say that this proposition is an experiment. The Senate, sir, has exactly the same plan we have here and it is a success, only the Senate's Hall being smaller, the flues adequate, and the ducts large enough, they get a sufficiency of air. Go to the Senate Chamber, and when you open the door you will find the current of air coming out of the Senate into the corridor. Stand at yonder door or any one of these doors in this Hall, and the current comes from without. Here we have to put screens before our doors to prevent gentlemen who sit in the neighborhood of them from being made sick. In the Senate the air comes in warm and tempered, and presses out, and so strong is it that when you go into the corridor of the Senate you will feel the pure air coming toward you. Why is that? The gentleman from Kentucky, [Mr. WHITE,] bred away up in the mountains of Kentucky, where in the houses when the chinks drop out the air pours in and they have health, where a back-log is put on and turned around like you would turn a turkey on a spit——

Mr. WHITE. Does the gentleman mean to say I was born in the "pea-vine region" of Kentucky, for if he does——

Mr. HARRISON. I was born there myself if you were not, and if you were you ought not to be ashamed of it. Now, in getting the foul air out, the exhaust of this House is so large that instead of having air coming from below and pressing out we have to keep the air from the corridors. The exhaust of this House is one hundred and eighty thousand feet a minute, whereas the air driven in only gives about forty or fifty or sixty thousand feet when severely pressed. The consequence is that with the exhaust-fan run to its capacity or in the neighborhood of its capacity the air from the corridors rushes in and makes draughts. Our proposition is to give the ability to the atmosphere from without to be brought into the stacks, the radiators heated and tempered, and then when it gets impure to pass out.

Mr. WHITE. I hope the gentleman from Illinois will not take his seat without yielding to me after what he has said.

Mr. HOLMAN. I believe I have the floor.

Mr. BANKS. Before debate is closed I wish to be heard.

Mr. HOLMAN. I move by unanimous consent all debate on the pending paragraph be considered as closed when the gentleman from Massachusetts has completed what he has to say.

The CHAIRMAN. The Chair hears no objection, and that will be considered as agreed to.

Mr. BANKS. Now, Mr. Chairman, while the proposition of the gentleman from New York is a very liberal one, yet it seems to me if the ventilation of this Hall is to be perfected, the Government is able, and ought to take upon itself the expense and responsibility of it. Therefore I hope the gentleman from Kentucky will withdraw his amendment.

Mr. WHITE. I certainly will if the gentleman from Massachusetts will yield a moment to me to say a word.

Mr. BANKS. I will yield to the gentleman from Kentucky before my time has expired.

Mr. WHITE. But I wish to say it now, and say it to the gentleman from Illinois who referred to me in his five-minute speech—I only want one word.

Mr. BANKS. Very well; I will yield to the gentleman for one word. Say it now before the time is gone.

Mr. WHITE. I say the gentleman from Illinois in taunting me with being born in the hills of Kentucky, in the "pea-vine district," instead of the "blue grass" or lower silurian limestone region of Kentucky, as he was, is unkind in this——

Mr. HARRISON. I take it all back if the gentleman feels so bad about it.

Mr. WHITE. I am not ashamed of the "pea-vine" district; I am proud of it. But if I had lived so long by that sweet-smelling river Chicago, as the gentleman has, then I could live on anything and would not need any ventilation, and therefore I do not wonder he introduces such an abominable system after he himself has lived there so long.

Mr. BANKS. Now, Mr. Chairman, the difficulties we encounter in this Hall in regard to ventilation were imposed upon us by scientific men. We had scientific men from all parts of the world. The architects of the British houses of Parliament were here, and spent a whole year, and whatever scientific men could do they have done for us, and about as much as any scientific men will do hereafter. The difficulty is, this is an iron box within a stone box. There are twenty-five or thirty feet between the outside walls of this Chamber and the outside walls of the building; and no natural light and no natural air ever did or ever can come into this Chamber. How can it be made a suitable place for the daily assembling of from four hundred to fourteen hundred people? I do not believe bringing currents of air into this Chamber from the outside can remedy the difficulty; nor do I believe these currents of air can be disposed of so as not to be dangerous to members of the House and to the ladies and others seated in the galleries. There is a current of air that is strong enough to sweep away an ordinary person in some parts of the gallery where the wives and children of the members daily congregate; and if you bring in air enough to make a ventilation for all these people, you will have a force of the currents that will be just as dangerous to those who encounter it as the foulness of the air itself.

But as the committee has considered the subject maturely, and as I know the gentlemen who have charge of the inquiries into this matter are well acquainted with the subject, and as the expense of the experiment will be trifling, I hope it will be made; and that if it fail we will then do what is necessary to be done, bring this Chamber to the air and light of heaven, which are better than any scientific man ever made, better than that which the honorable gentleman from New York [Mr. HEWITT] proposes to make or can make. Let us go to the outside and bring in the air and light of heaven, which the Cooper Institute, to which he refers and whose ventilation he approves, enjoys, and with which every building on the face of the earth is accommodated where there is a free and pure air. Meanwhile I am willing to vote for the report of the gentlemen who have examined this matter.

Mr. HEWITT, of New York. I wish to explain, in regard to the great hall of the Cooper Institute, that it has no access to the outer air. It is a tight box, into which the air is forced by power and out of which the air goes by a ventilating flue. It is a case in point. The great hall of the Cooper Institute has no access to the outer air except that forced into it by power.

Mr. BANKS. The hall of the Cooper Institute is used for two or three hours in an evening, fifteen hundred or two thousand people congregating in it and going away after an hour or two. I have no doubt that fresh air can be supplied in the way the gentleman speaks of for a limited time, but we are here from four to six hours every day.

Mr. WHITE. I withdraw my amendment.

The CHAIRMAN. The question is on the amendment of the gentleman from Illinois [Mr. HARRISON] as modified on the suggestion of the gentleman from Indiana, [Mr. HOLMAN.]

Mr. WHITE. I hope the gentlemen who have this matter in charge

will divide the amendment so that we can vote on the $33,000 for ventilating, and then afterward on the other matter.

The CHAIRMAN. Debate is not in order.

Mr. WHITE. My object is that no part of the $67,000 proposed in this amendment may go to the improvement of these public grounds.

Mr. HOLMAN. Move to reduce the appropriation of $100,000.

Mr. WHITE. I move to reduce the $100,000 to $33,000. I do it for the reason——

The CHAIRMAN. Debate is not in order. The gentleman will put his amendment in writing.

Mr. WHITE. I offer the following amendment:

Strike out "$100,000," and insert "$33,000."

The question being taken on Mr. WHITE'S amendment to the amendment, it was not agreed to.

The question being taken on Mr. HARRISON'S amendment as modified, there were—ayes 48, noes 14; no quorum voting.

Mr. WHITE. I call for a further count.

Tellers were ordered; and Mr. WHITE and Mr. SPRINGER were appointed.

The committee again divided; and the tellers reported—ayes 84, noes 39.

Mr. WHITE. A quorum has not voted. I do not, however, make a point on that, but shall ask for a vote in the House.

So further count not being called for, the amendment was agreed to.

Mr. LEAVENWORTH. I offer the following amendment.

After the word "grounds" insert the following:

And for putting an elevator in the south wing of the Capitol, to be done under the direction of the Architect of the Capitol.

Mr. HOLMAN. I am compelled to insist upon the point of order that this is new work.

The CHAIRMAN. The Chair sustains the point of order.

Mr. LEAVENWORTH. Will the Chair allow me to say that this differs from my former amendment? This stands on precisely the same footing as the amendment just adopted. It is not subject to the objection made to it by the gentleman from Indiana. It makes no additional appropriation.

The CHAIRMAN. The Chair misunderstood the object of the amendment. It is in order.

Mr. LEAVENWORTH. It is a most extraordinary fact that the American Congress should have spent tens of millions of dollars on this building which we occupy; that we should have adorned it with the most elaborate frescoing found anywhere on the continent; that we should have spent hundreds of thousands of dollars in beautifying it architecturally; and that we are now spending hundreds of thousands of dollars in buying additional grounds and beautifying them; and yet that we should be denying ourselves the most common comforts that modern civilization has produced.

Every public building of any importance, every hotel that is put up in any city on the continent, every store in which a large amount of business is transacted, every factory which is built in the country, every large edifice which is erected for the purpose of being rented, four stories high, is provided with an elevator. It has become a necessity. It is not one of the luxuries of life, like those for which we have expended here so many millions of dollars, but is one of the ordinary comforts of life. But yet we deny ourselves this convenience and comfort; for we are, in this building, like people in a fourth story. This is substantially the fourth story, although we call it the second; for each flight of stairs is equal to two flights in an ordinary building. Ascending to the second story of this building is equivalent to ascending to the fourth story of any ordinary building. And yet we deny to ourselves the convenience and comfort of an elevator in getting to the second floor of this building. We deny the same conveniences to every person that attends this House. There is not a hotel in this country in which one-quarter of the number of ladies go up stairs daily as ascend to these galleries every day, and yet we deny to our mothers, our sisters, our wives, and all the ladies of this country the necessary convenience which an elevator affords to them. We have an elevator at the other end of the Capitol, and the additional expense of running this elevator will be nothing. I call the attention of the House to the letter of the Architect of the Capitol, which I send to the Clerk's desk and ask to have read.

Mr. ATKINS. I rise to a question of order. The gentleman's time has expired.

Mr. HOLMAN. I raised a question of order on this proposition, and in the midst of the confusion I presume the Chair did not understand it. It was that this is independent legislation on an appropriation bill. It is entirely immaterial whether it appropriates money or not. It is legislation on an appropriation bill and it does not reduce expenditures, but conceding that it reduced expenditures it would not be in order. It is independent legislation and not in the line of retrenchment. Rule 120 of the House is very imperative on this subject. This bill is certainly large enough not to be loaded down with independent provisions.

Mr. SPRINGER. The one hundred and twentieth rule has reference to amendments which change existing law, and if an amendment changes existing law it must be in the line of retrenchment to make it in order. But this amendment does not change existing law, and therefore that rule does not apply to it.

The CHAIRMAN. The amendment is in order.

Mr. CONGER. Then I rise to oppose the amendment, and I yield my time to the gentleman from New York, [Mr. LEAVENWORTH.]

Mr. LEAVENWORTH. I call for the reading of the letter.

The Clerk read the letter, as follows:

ARCHITECT'S OFFICE, UNITED STATES CAPITOL,
Washington, D. C., January 31, 1877.

SIR: In reply to yours of the 29th instant, I beg leave to state that I have examined the south wing of the Capitol in reference to the location of a passenger elevator.

In my judgment, the most suitable place is at the south end of the eastern corridor, near the entrance to the room of the Committee on Appropriations, and convenient to the bronze stairway.

The estimated cost of the elevator, together with that of changing the position of doorway where necessary in the rooms in each story, is as follows:

For elevator	$6,000
For carrying steam-pipe to elevator	300
For constructing well-hole and tiling floors to correspond with present patterns	2,500
For changing doorways in rooms and painting the rooms, rendered necessary by the change	500
	9,300

The cost of running an elevator will be but little beyond the salary of the attendant.

Very respectfully, your obedient servant,

EDWARD CLARK,
Architect of the United States Capitol.

Hon. E. W. LEAVENWORTH.

Mr. LEAVENWORTH. Mr Chairman, the only expense which is involved by the amendment now offered is not an expense in addition to the appropriation; it merely defines the mode in which a portion of the appropriation shall be expended, and when the elevator has been put in there is the entire expense. You already have the engineer; you have the engine also; you have all the conveniences; you have the power, and it is only necessary to apply the power to the elevator. That is all the additional expense there is. The entire additional expense which would be involved in running the elevator would not amount to $3 a day.

I am myself running an elevator in the city of Syracuse, and it is run in addition to heating the building with steam. I have in my hand an estimate from the engineer who runs the elevator and warms the building with steam, in which he estimates the entire additional expense of running the elevator at $2.54 a day, giving all the items of expense. I say that the additional expense of running this elevator would not exceed $3 a day, and that it would be the greatest public convenience that could be added to this building.

[Here the hammer fell.]

Mr. HOLMAN. I only wish to say that the elevator at the other end of the Capitol, which, after great hesitation, we allowed, has cost the Government not less than $5,000 a year from the year that it was first established, including the many alterations that have been made, the engine, the engineer, and the conductor. And in view of the large sum appropriated by this bill the Committee on Appropriations ask the House to vote down this amendment.

Mr. BANKS. I move to strike out the last word. The proposition presented is certainly well worth the consideration of the House. There is no portion of their labor more worrisome upon members of this House than that of getting here during a large portion of the year, and especially during a large portion of the long session.

Now the elevator since it was first invented has of its own force been adopted in almost every public building in all parts of the country. I know perfectly well the man who invented it and without any effort to give it popularity it has now been adopted and is being adopted in all the public buildings, in all the hotels, and in a great many private houses in this country, and will be ultimately in other countries. Now where there are so many persons obliged to come here, upon what theory or reason can it be said that they shall be compelled every day to walk up and down these four flights of stairs which we are obliged to travel, many of us, from other causes which have been spoken of here, in ill-health and many advanced in years? It seems to me that this is one of the absolutely necessary expenses that we should incur.

Now, what has been said by the gentleman from Indiana [Mr. HOLMAN] may be strictly true. It may cost $5,000 to run the elevator at the other end of this building, but it does not cost $5,000 nor $1,000 to run the elevators that are used in hotels, in stores, and in commercial establishments, and there is no reason in the world why it should cost more than $1,000 at the outside to run an elevator for a year at this end of the Capitol. I hope the House, in consideration of the advantages and comforts to be derived from an elevator and of the thanks they will receive from those men who will follow them in the performance of their duties here, will vote for this appropriation. I withdraw the formal amendment.

The question was then taken upon the amendment moved by Mr. LEAVENWORTH, and upon a division there were—ayes 67, noes 70.

Before the result of this vote was announced,

Mr. LEAVENWORTH said: No quorum has voted, and I call for a further count.

Tellers were ordered; and Mr. LEAVENWORTH and Mr. HOLMAN were appointed.

The committee again divided; but before the result was declared,

Mr. CONGER said: I suppose consent will be given to have a vote taken on this amendment in the House, and then we can go on with the bill.

Many MEMBERS. O, no.

The tellers completed their count, and reported that there were—ayes 63, noes 75.

Mr. LEAVENWORTH. I do not insist upon a further count.

No further count being called for, the amendment was accordingly declared to be not agreed to.

The Clerk resumed the reading of the bill, and read through the portion relating to the Capitol extension.

Mr. HOLMAN. With a view of asking the House for an evening session, as it is now half past four o'clock, I will move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BUCKNER reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 4682) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and had come to no resolution thereon.

CHICKASAW NATION.

Mr. THROCKMORTON, by unanimous consent, presented the following petition; which was referred to the Committee on Indian Affairs, ordered to be printed, and to be printed in the RECORD:

The undersigned, Benjamin F. Overton, governor of the Chickasaw Nation, and Thomas W. Johnson and John E. Anderson, citizens of said nation, having been constituted delegates of the said nation, pursuant to an act of the national legislature hereinafter set forth, respectfully submit the following statement and memorial:

In the years 1832 and 1834 the Chickasaw Nation, then occupying their ancient lands, in the State of Mississippi, entered into four treaties with the United States, whereby they sold to the United States all of their lands east of the Mississippi River, and agreed to emigrate to territory west of that river, and the United States agreed to dispose of the proceeds of sales of their lands in Mississippi in accordance with the following stipulation:

"The funds thence resulting, after the necessary expenses of surveying and selling and other advances which may be made are repaid to the United States, shall, from time to time, be invested in some secure stocks, redeemable within a period of not more than twenty years, and the United States will cause the interest arising therefrom annually to be paid to the Chickasaws."—7 *Statutes*, 382,385,454.

In 1852 the United States and the Chickasaw Nation entered into a treaty, which contains the following provision:

"ARTICLE 5. The Chickasaw Nation desires that the whole amount of their national fund shall remain with the United States in trust for the benefit of this people, and that the same shall on no account be diminished. It is therefore agreed that the United States shall continue to hold said fund in trust as aforesaid, and shall constantly keep the same invested in safe and profitable stock, the interest upon which shall be annually paid to the Chickasaw Nation: *Provided*, That so much of said fund as the Chickasaws may require for the purpose of enabling them to effect the permanent settlement of the tribe, as contemplated by the treaty of 1834, shall be subject to the control of their general council."—10 *Statutes*, 975.

By the treaty entered into April 28, 1866, between the United States and the Choctaw and Chickasaw Nations it is provided as follows:

"ART. 10. The United States re-affirms all obligations arising out of treaty stipulations or acts of legislation with regard to the Choctaw and Chickasaw Nations, entered into prior to the late rebellion and in force at that time not inconsistent herewith, and further agrees to renew the payment of all annuities and other moneys accruing under such treaty stipulations and acts of legislation from and after the close of the fiscal year ending on the 30th of June, in the year 1866."

"ART. 40. All the rights, privileges, and immunities heretofore possessed by said nations, or individuals thereof, or to which they were entitled under the treaties and legislation heretofore made and had in connection with them, shall be and are hereby declared to be in full force so far as they are consistent with the provisions of this treaty." (14 Statutes, 774, 779.)

The interest on said trust fund, amounting at present to $67,967.84 per annum, has always been paid to the Chickasaw Nation by the United States, except the sum of $297,890.25, which accrued prior to July 1, 1866, of which no part has been paid. The amount so unpaid is correctly set forth on page 170 of the report of the Commissioner of Indian Affairs for 1875, as follows:

"Estimates have repeatedly been submitted to Congress for arrears of interest due the Chickasaws accruing on Arkansas and Tennessee bonds prior to July 1, 1866, amounting to $297,890.25; but Congress has as yet failed to make the necessary appropriation. The amount of this indebtedness on the part of the United States to the Chickasaw Nation has been fully admitted by the Interior and Treasury Departments, and sustained by the opinion of the late Attorney-General Ackerman. No explanation can be made to the Chickasaw people of the course of the Government in thus annually ignoring a claim concerning whose equity there is not the least dispute."

In the year 1866 a petition for the payment of said interest was presented by agents of the Chickasaw Nation to the Congress of the United States. But it came to the knowledge of Congress that the following contract had been entered into between said agents and Hon. J. H. B. Latrobe, and that the most of the money nominally stipulated to be paid to said Latrobe was in fact to be paid to said agents for their own use:

We, the Chickasaw delegation, having full power to act, do agree that for and in consideration of the services of Hon. J. H. B. Latrobe, of Baltimore, Maryland, rendered us in making a treaty with the Government of the United States, that if the unpaid back annuities belonging to the Chickasaw Nation are recovered and paid to them, the said J. H. B. Latrobe shall be entitled to and be paid one-half part thereof.

We further agree to advance the said J. H. B. Latrobe $100,000 out of any money the Chickasaw legislature may think proper to appropriate, which may have been obtained under said treaty, so as not to interfere with the funds necessary to carry on the Chickasaw government.

The said $100,000 agreed to be advanced to the said J. H. B. Latrobe is to be deducted from the one-half part of the back annuities due the said J. H. B. Latrobe, provided the same is recovered under said treaty, and provided also that if the said treaty should be altered or amended so as to materially impair the interests of the Chickasaw Nation, as now secured thereby, the compensation stipulated to be paid to the said Latrobe is to be reasonably modified accordingly, but the amount agreed to be advanced to the said J. H. B. Latrobe not to be less than $100,000. It is further agreed that one-half of the proceeds realized and coming to the Chickasaw Nation out of the leased district shall be paid to the said J. H. B. Latrobe, provided the Choctaws and Chickasaws agree to grant the freedmen the forty-acre lots, and other stipulated privileges, and receive the $300,000, after deducting the amount or price of the forty-acre lots allowed said freedmen according to article — of treaty.

In testimony whereof we have hereunto subscribed our names and affixed our seals.

[SEAL.] WINCHESTER COLBERT.
[SEAL.] his EDMOND + PICKENS. mark.
[SEAL.] ROBT. H. LOVE.
[SEAL.] HOLMES COLBERT.
[SEAL.] COLBERT CARTER.

Witness.
W. S. MITCHELL.

EXECUTIVE OFFICE, TISHOMINGO CITY,
CHICKASAW NATION, INDIAN TERRITORY.

I do hereby certify that the foregoing is a true and correct copy of the Latrobe contract, (so called,) the original of which may be found on file in the office of national secretary at the city of Tishomingo, Chickasaw Nation.

Given under my hand and seal of office, this the 27th day of January, A. D. 1877.
[SEAL.] JOSIAH BROWN,
National Secretary, Chickasaw Nation.

And the petition presented by said agents was rejected.

On the 22d of September, 1874, the legislature of the Chickasaw Nation enacted the following statute:

"Whereas Robert H. Love, Holmes Colbert, Colbert Carter, Edmund Pickens, and Winchester Colbert were commissioned in the year 1865 to visit Washington City, District of Columbia, during the session of Congress, 1866, with full and efficient powers to reconstruct or enter into new treaties with the United States, or any authorized agents thereof, necessary and proper, in their judgments, to obtain full guarantee and securities of all the rights, interest held by the Chickasaw Nation, or individuals thereof, under former treaty stipulations with the Government of the United States, whereby the happiness and interest of the Chickasaw people may be advanced;

"And whereas said commissioners did between themselves with a fraudulent view entered into an informal contract giving to J. H. B. Latrobe, esq., of Baltimore, one-half of all moneys collected or caused by him to be paid to the Chickasaw people, then withheld by the United States Government; also, one-half of the $300,000, after deducting the amount or price of the forty-acre lots allowed said freedmen, should the Choctaws and Chickasaws adopt and give each freedman forty acres of land under the treaty of 1866.

"And whereas the commissioners on the part of the Chickasaw Nation did, upon false representation, obtain from the Chickasaw Legislature, November 14, 1867, the sum of $100,000, giving to J. H. B. Latrobe $16,000, and divided the remainder among themselves, D. H. Cooper and John T. Cochran, deceased, and also an equal share of the 50 per cent. of all back annuities, that said Latrobe may collect on the said informal contract one-sixth of said moneys collected being J. H. B. Latrobe's share for services rendered in behalf of the Chickasaws: Now, therefore,

Be it enacted by the legislature of the Chickasaw Nation, That the informal and fraudulent contract made and entered into by and between the Chickasaw commissioners and J. H. B. Latrobe, esq., of Baltimore, Maryland, and all laws and parts of laws giving or granting authority to any and all contracts made by and between the Chickasaw commissioners and J. H. B. Latrobe, their agents and attorneys, are hereby repealed, repudiated, rescinded, and declared null and void.

SEC. 2. *Be it further enacted*, That the governor be, and is hereby, authorized and directed to furnish a copy of this act to the Secretary of Interior, Secretary of the Treasury, and Commissioner of Indian Affairs at the city of Washington, District of Columbia; and that this act take effect and be in force from and after its passage.

Approved September 22, 1874.

B. F. OVERTON,
Governor of the Chickasaw Nation.

EXECUTIVE OFFICE, TISHOMINGO CITY,
Chickasaw Nation, Indian Territory.

I do hereby certify that the foregoing is a true and correct copy of the original act of the legislature of the Chickasaw Nation, the original of which may be found on file in the office of national secretary, at the city of Tishomingo, Chickasaw Nation, Indian Territory.

Given under my hand and seal of office, this the 29th day of January, A. D. 1877.
[SEAL.] JOSIAH BROWN,
National Secretary Chickasaw Nation, I. T.

On the 4th of October, 1874, the following act of the legislature of the Chickasaw Nation was duly approved by the governor:

An act repealing certain acts, appointing commissioners to visit Washington City in charge of Chickasaw interest under any treaties existing between the United States and the Chickasaw people.

SECTION 1. *Be it enacted by the legislature of the Chickasaw Nation*, That the act appointing commissioners Holmes Colbert and George D. James to Washington, &c., (see Chickasaw printed law-book, page 102,) appointed and continued as commissioners, with full powers to represent the interest and welfare, under any treaties existing between the United States and the Chickasaw people, approved November 14, 1867, by Cyrus Harris, governor of the Chickasaw Nation, are hereby repealed.

SEC. 2. *Be it further enacted* That the act appointing Holmes Colbert commissioner to settle claims at Washington, District of Columbia, appointed commissioner for and in behalf of the Chickasaw Nation, and the individual members thereof, in order to carry out the object referred to in the preamble (see Chickasaw printed pamphlet law-book, page 10) approved October 24, 1867, by Cyrus Harris, governor of the Chickasaw Nation, are hereby repealed.

SEC. 3. *Be it further enacted*, That the act authorizing the governor to appoint a commissioner to settle up the unfinished business of Holmes Colbert, deceased, with the Government at Washington, and to take charge of and carry out the programme begun and commenced by the said Holmes Colbert without alteration or amendment, and fully authorize to receive and receipt the Secretary of the Treasury of the United States for all moneys and awards due, and to settle with and pay over to the widow of Holmes Colbert, or his administrators, &c., (see Chickasaw manuscript law, passed the legislature, and approved May 8, 1872, by Thomas J. Parker, governor of the Chickasaw Nation,) are hereby repealed.

SEC. 4. *Be it further enacted*, That all appointments and commissions heretofore granted under the authority of the Chickasaw Nation, giving full powers to represent the interest and welfare of the Chickasaw people at Washington City or elsewhere, shall cease and be of non-effect from and after the passage of this act.

SEC. 5. *Be it further enacted*, That the governor be, and he is hereby, authorized and directed to transmit a certified copy of this act bearing the great seal of the Chickasaw Nation to the Secretary of Interior, Secretary of Treasury, and Commissioner of Indian Affairs at Washington City, District of Columbia, and that they be requested to reject all persons heretofore commissioned in the interest of the Chickasaw people.

Approved November 7, 1874.

B. F. OVERTON,
Governor of the Chickasaw Nation.

EXECUTIVE OFFICE, TISHOMINGO CITY,
Chickasaw Nation, Indian Territory.

I do hereby certify that the foregoing is a true and correct copy of the original act of legislature of the Chickasaw Nation, which is now on file in the office of national secretary, at the city of Tishomingo, Chickasaw Nation.

Given under my hand and seal of office this the 29th day of January, A. D. 1877.

[SEAL.] JOSIAH BROWN,
National Secretary of the Chickasaw Nation.

On the 2d of November, 1876, the following act was duly approved:

An act appointing delegates to visit Washington, District of Columbia.

SEC. 1. *Be it enacted by the legislature of the Chickasaw Nation*, That the governor of the Chickasaw Nation be, and he is hereby, authorized and requested to appoint and commission two persons to visit Washington City, District of Columbia, during the next session of Congress, with full and efficient power to represent the interest of the Chickasaw people in all things touching their interest and welfare, under any treaties existing between the United States and the Chickasaws, wherein the interest and happiness of the Chickasaws may be advanced.

SEC. 2. *Be it further enacted*, That the governor of the Chickasaw Nation be and he is hereby authorized to accompany said delegation to render all assistance necessary in the prosecution of all claims held against the Government of the United States, and, if necessary, to employ counsel to assist in recovering all claims which may be justly due the Chickasaws by treaty stipulations or otherwise.

SEC. 3. *Be it further enacted*, That any and all awards by the United States on back annuities, orphans, and incompetent claims, or any other claims of a national character, shall be paid over to the national treasurer of the Chickasaw Nation, taking his receipt therefor, and giving him an exhibit and statement of the source from whence derived, together with such other items of information as may be necessary and advantageous to the nation. And it is hereby made the duty of the national treasurer to lay all exhibits of moneys received by him before the legislature or any authorized committee for their information and action.

SEC. 4. *Be it further enacted*, That the said delegates are hereby required to protest against any and all territorial forms of government which may be introduced into the United States Congress for the purpose of extending the same over the Indian Territory against the express sentiments of our people. And they are further required to report the proceedings of their mission in full to the next session of the legislature. And for such services they shall each receive the sum of $1,000 out of any money now in the hands of the national treasurer, and the auditor of public accounts is authorized to issue his warrants accordingly.

Approved November 2, 1876.

B. F. OVERTON,
Governor of the Chickasaw Nation.

EXECUTIVE OFFICE, TISHOMINGO CITY,
Chickasaw Nation, Indian Territory.

I do hereby certify that the foregoing is a true and correct copy of the original act of the Chickasaw legislature, which is now on file in the national secretary's office at the city of Tishomingo, Chickasaw Nation, Indian Territory.

Given under my hand and seal of office this the 24th day of January, A. D 1877.

[SEAL.] JOSIAH BROWN,
National Secretary of the Chickasaw Nation.

In pursuance of said last-mentioned act the undersigned, Benjamin F. Overton, governor of the Chickasaw Nation, has commissioned Thomas W. Johnson and John E. Anderson, both citizens of the Chickasaw Nation, to perform the duties imposed by said act.

The undersigned, therefore, on behalf of the Chickasaw Nation, respectfully ask the Congress of the United States to provide for the said arrears of interest, now due to the Chickasaw Nation from the United States, amounting, as aforesaid, to the sum of $297,890.25, by an investment of the sum of $200,000 in bonds of the United States, to be held in trust for the Chickasaw Nation by the United States, and the interest thereon to be paid semi-annually to the Chickasaw Nation; and by an appropriation of the sum of $97,890.25 to be paid in money into the treasury of the Chickasaw Nation.

B. F. OVERTON,
Governor of the Chickasaw Nation.
THOS. W. JOHNSON,
JOHN E. ANDERSON,
Commissioners.

WASHINGTON, *February* 21, 1877.

ORDER OF BUSINESS.

Mr. BANNING. I ask unanimous consent that a session of the House be held to-night for the purpose of considering the pension bills only that are on the Private Calendar.

Mr. RUSK. I hope the gentleman will not confine his request to the Private Calendar, but will include all reports from the Committee on Invalid Pensions, just as was done when the order was made for a session last evening.

Mr. BANNING. Very well, I will modify the motion so as to include reports from the Committee on Invalid Pensions.

The SPEAKER. The use of the words "reports from the Committee on Invalid Pensions" would embrace all reports from that committee, and the Cnair inclines to think it would embrace a general bill.

Mr. RUSK. The committee has no general bill to report.

Mr. BAGBY. That was the language of the order made for a session last night.

The SPEAKER. The Chair will state the proposition of the gentleman from Ohio, [Mr. BANNING.] It is that when the House takes a recess to-day it shall be be until half past seven o'clock this evening, and that the session of this evening shall be exclusively for the consideration of reports from the Committee on Invalid Pensions.

Mr. WILSON, of Iowa. Reports of a private nature.

The SPEAKER. That will be understood.

Mr. HOLMAN. If gentlemen who are interested in these pension bills would consent that to-morrow night be set apart for the purpose of considering them, and allow the Committee of the Whole to finish to-night the sundry civil appropriation bill, that would greatly promote the public business.

Mr. BANNING. I know a number of gentlemen who have left the Hall supposing that there would be a session to-night for the consideration of pension bills only, and many of those gentlemen are interested in such bills. I believe that if we have a session to-night for the purpose of proceeding with the consideration of the sundry civil appropriation bill, there will be no quorum here and nothing will be accomplished. I hope the gentleman from Indiana [Mr. HOLMAN] will withdraw his objection to my proposition, and let us have a session to-night to consider these private claims, many of which should have been passed upon long ago.

Mr. HOLMAN. Many gentlemen are insisting that the consideration of the sundry civil appropriation bill shall be finished at the earliest moment, shall be concluded to-day. Inasmuch as it is of the greatest importance that that bill shall be passed as soon as possible, I feel constrained to submit the motion that the House now take a recess until half past seven o'clock this evening, with the understanding that we will then proceed with the consideration of the appropriation bill. If the House shall determine otherwise, of course I will defer to the wish of the House.

The SPEAKER. The gentleman understands that if there be a session this evening the appropriation bill will come up as unfinished business.

Mr. HOLMAN. Certainly; and so many gentlemen ask that we shall go on with the bill at once and complete it that I feel constrained to make that motion.

The SPEAKER. The gentleman practically objects to the assignment of this evening for pension bills.

Mr. HOLMAM. No, sir; but I practically ask that to-morrow evening be set apart for pension bills.

Mr. BANNING. Then if the gentleman does not object, I call for the regular order, which is upon my motion.

Mr. HOLMAN. The House can show by its vote what it wants. I think, in view of the late period of the session, the Committee on Appropriations should insist upon the business from that committee being first considered and disposed of.

Mr. ATKINS. I would ask my colleague on the Committee on Appropriations [Mr. HOLMAN] if he thinks a bill of this importance should be considered without the presence of a quorum?

Mr. HARRIS, of Virginia. We can have a quorum here by sending for members.

Mr. ATKINS. There are many millions of dollars involved in this bill, and it should not be considered unless a quorum is present.

The SPEAKER. The question is upon the motion of the gentleman from Indiana [Mr. HOLMAN] to take a recess until half past seven o'clock this evening, the effect of which will be to bring up at that hour the unfinished business, being the sundry civil appropriation bill.

Mr. KNOTT. I move to amend that motion so that the House will now take a recess until ten o'clock to-morrow morning.

The motion of Mr. KNOTT was not agreed to.

The SPEAKER. The Chair does not understand exactly whether the gentleman from Indiana [Mr. HOLMAN] desires that the pension bills shall be considered to-night or to-morrow night.

Mr. HOLMAN. I ask that to-morrow night be set apart for pension bills, and that the House shall consider the appropriation bill to-night.

The question was then taken upon the motion of Mr. HOLMAN, and it was agreed to.

The SPEAKER. Before the Chair announces the result of the vote just taken, he asks unanimous consent to present for reference certain executive communications.

There was no objection.

W. W. LIVINGSTON.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a report of the Adjutant-General on the petition of W. W. Livingston, brevet lieutenant-colonel United States Army; which was referred to the Committee on Military Affairs.

NAVIGATION AT ENTRANCE OF BRAZOS HARBOR.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report on obstructions to navigation at the entrance of the harbor of Brazos Santiago, Texas; which was referred to the Committee on Commerce.

SURVEYS IN NORTH CAROLINA.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of the General Land Office, inclosing an estimate of appropriations for surveys in North Carolina; which was referred to the Committee on Public Lands.

NAVIGATION OF THE MISSISSIPPI.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report of the board of engineers on the security of navigation of the Mississippi River; which was referred to the Committee on Commerce, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. JONES, of New Hampshire, for one week.

To Mr. J. H. BAGLEY, for three days on account of sickness.

To Mr. ANDERSON, for ten days on account of sickness in his family.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted to Mr. FOSTER for the

withdrawal from the files of the Forty-third Congress of papers in the case of J. W. Douglas, there having been no adverse report.

LEAVE TO PRINT.

By unanimous consent, Mr. SPARKS obtained leave to have printed in the RECORD remarks on the Florida election; and Mr. PHILIPS of Missouri, Mr. COCHRANE, and Mr. RAINEY leave to print remarks on the South Carolina election.

Mr. CONGER. It is understood, of course, that this leave is granted subject to the rule that no personal language shall be indulged in.

The SPEAKER. Wherever unanimous consent is granted to print remarks in the RECORD it is understood that no personal matter of any sort is permitted to be embraced in such remarks.

ORDER OF BUSINESS.

Mr. FOSTER. Mr. Speaker, is it the understanding that the session this evening shall be for the consideration of the sundry civil appropriation bill alone, and that no other business is to be considered?

The SPEAKER. The motion was simply to take a recess until half past seven o'clock. If the gentleman from Indiana [Mr. HOLMAN] desires to press the sundry civil bill, he will of course be recognized.

Mr. FOSTER. Had not that better be understood?

The SPEAKER. That bill comes up as unfinished business.

Mr. SAYLER. Will not other business be in order this evening?

The SPEAKER. Any business which may be in order under the rules can come in. It will be a regular session.

Mr. HOLMAN. I give notice that immediately upon the assembling of the House at half past seven, I shall ask that we go into Committee of the Whole on the sundry civil bill.

The result of the vote on the motion of Mr. HOLMAN for a recess was then announced; and accordingly (at four o'clock and forty-five minutes p. m.) a recess was taken until half past seven o'clock.

AFTER THE RECESS.

The recess having expired, the House re-assembled at half past seven o'clock p. m.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. HOLMAN. I move that the House resolve itself into Committee of the Whole for the further consideration of the sundry civil appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole (Mr. BUCKNER in the chair) and resumed the consideration of the sundry civil appropriation bill.

The Clerk read as follows:

SURVEYS OF PUBLIC LANDS.

For survey of the public lands and private land claims, $50,000: *Provided*, That the sum hereby appropriated shall be expended in such surveys as the public interest may require, under the direction of the Commissioner of the General Land Office, with the approval of the Secretary of the Interior, and at such rates as the Secretary of the Interior shall prescribe, not exceeding the rate herein authorized: *Provided*, That no lands shall be surveyed under this appropriation, except, first, those adapted to agriculture without artificial irrigation; second, irrigable lands, or such as can be redeemed and for which there is sufficient accessible water for the reclamation and cultivation of the same not otherwise utilized or claimed; third, timber lands bearing timber of commercial value; fourth, coal lands containing coal of commercial value; fifth, exterior boundary of town sites; sixth, private land claims. The cost of such surveys shall not exceed $10 per mile for standard lines, (and the starting point for said survey may be established by triangulation,) $7 for township and $6 for section lines, except that the Commissioner of the General Land Office may allow for the survey of standard lines in heavily timbered land a sum not exceeding $13 per mile.

Mr. BELFORD. I move to amend by striking out in the first line of the paragraph just read "$50,000" and inserting "$300,000."

I have not much hope, Mr. Chairman, that the amendment proposed will prevail, for the reason that matters appertaining to the State of Colorado have not been favorably regarded by this House; and yet I would not be doing justice to the people I have the honor to represent if I failed to lay before this body the requirements of the public service in that State. In 1874 Congress fixed the rates for surveying the public lands in Colorado as follows: $15 per linear mile for standard lines, $12 for township and $10 for section lines, and for heavily timbered lands at augmented rates not exceeding $18 per linear mile for standard, $16 for township, and $14 for section lines, the total appropriation amounting to $50,000. At the second session of the Forty-third Congress $60,000 were appropriated. At the last session, when we entered upon the great era of retrenchment and reform, the rates of surveying were reduced from fifteen to ten dollars per mile for standard lines, from twelve to seven dollars for township, and from ten to six dollars for section lines. The result was that in Colorado but little surveying was done last season. Every year the settlements made in my State are reaching farther to the westward. Supplies in many instances have to be carried for great distances on pack-mules. Public surveys such as the subdivision of townships cannot be made at the reduced price, $6 per mile. It requires the following men to form a surveying party: Two rodmen, two chainmen, one compassman, one cook, two axmen, and two men to attend camp, stock, &c. We pay men $40 per month and board, equal to $2 per day. The surveyor gets $10 a day. Therefore, to pay expenses it becomes necessary to run five miles per day, which no set of men can do in the mountains where the principal Government work will be done in the future. Large settlements are being formed on the Bear and Grand Rivers, and yet I am told not a foot of the land has yet been surveyed.

It is impossible to run lines through the thick groves of aspen and young pines, when you have to cut a road for man and beast, at $6 per mile. It is no excuse to say that, because much of the surveyed lands on the plains remain unoccupied, new surveys should not be extended to points made necessary by new settlements. Again applications for patents for mineral lands cannot in some instances be made, because the United States surveys have not been extended to the mineral lands; the law requiring a survey for a mineral patent to be connected or tied to some known corner of the public surveys. To do this in many instances would impose an enormous expense on the applicant, who by law has to pay the expenses of the survey for location and patent, as it would require a line to be run in some instances from three to thirty miles in length. Again the State of Colorado, by virtue of the enabling act, is entitled to a large amount of land to be selected from the body of the State, the proceeds to be applied to supporting public institutions. A bill is now pending in this House granting ninety thousand acres for the endowment of an agricultural college, and another in the Senate making a grant for the endowment of a school of mines. Should these bills pass, additional surveying will be necessary. I therefore think that the amendment should prevail, and that at least $60,000 should be appropriated for a survey of the public lands in Colorado.

Mr. HOLMAN. The statement of the gentleman from Colorado [Mr. BELFORD] in regard to the amount of lands surveyed in Colorado is correct. I have before me the statement of the Commissioner of the General Land Office, showing that on the 30th of last June there were 13,516,376 acres of surveyed lands in the Territory of Colorado, unsold; an area as large as the great State of Indiana, in which I reside and which comes well up to the average of the States of this Union. The whole amount of lands surveyed and unsold at the date I have mentioned reached the enormous aggregate of 175,876,165 acres; a territory equal to seven such States as Indiana. Yet we are told that this policy of surveying lands in advance of settlement for the benefit of speculators is a proper thing for this Government to do. That is the whole effect; it simply enables the rapacious speculator to go in advance of settlement, select the best tracts of land and enter them.

Mr. PIPER. The gentleman speaks of surveying the public lands for the benefit of speculators. Now I wish to ask him what lands in the West can be bought by speculators?

Mr. HOLMAN. Any of them that have been offered for sale.

Mr. PIPER. I beg leave to differ with the gentleman. No land is sold except for homestead settlement.

Mr. HOLMAN. I am aware that that principle prevails universally in the State of Nebraska; I am aware that it was a fundamental principle in the organization of the Territory of Dakota; but I do not understand the principle to be of universal application.

Mr. PIPER. It is of universal application.

Mr. HOLMAN. Time and again I have struggled on this floor to have that principle adopted as one of universal application, but I have uniformly failed.

The Committee on Appropriations have deemed it sufficient to appropriate $50,000 for these surveys, having two objects in view: first, that in such cases as that mentioned by the gentleman from Colorado, where settlement was found to be drifting into channels where the lands had not been surveyed, a proper allotment of the money could be made for surveys so as to answer fully the purposes of settlement.

Mr. BELFORD. Will the gentleman allow me to call his attention to one fact which he seems to have overlooked?

Mr. HOLMAN. Certainly.

Mr. BELFORD. And that is this: I have stated that I concede the statement made by the gentleman from Indiana to the House the other day was correct; but he seems to have overlooked the fact that the surveys to which he alludes were upon the east side of the mountains. These settlements have crossed the main range of the mountains and are now pushing their way to the main rivers in Colorado. The lands east of the mountains, except upon the banks of the streams, cannot be cultivated, as they are not susceptible of irrigation.

Mr. HOLMAN. We wish to meet cases like that and therefore have recommended an appropriation of $50,000 to meet just such emergencies.

[Here the hammer fell.]

Mr. HENDERSON. I move to strike out the last word and yield my time to the gentleman from Colorado, [Mr. BELFORD.]

Mr. BELFORD. The gentleman says he gives $50,000 for the purpose of surveying the public lands. I say out of that appropriation, according to the distribution made by the Commissioner of the General Land Office last year, the State of Colorado will not receive more than $2,000. If the gentleman will turn his attention to the act enabling our people to form a State government, he will find under that act we are entitled to so many hundred thousands of acres of the public land, to be selected by the State, for the purpose of erecting public institutions, and yet there is no money appropriated to survey those lands and enable the State to make its selection. If Congress in 1874 deemed it proper to appropriate $50,000, and in 1875 to appropriate $60,000, that is, if the public necessity of that section of country required it, I cannot imagine why Colorado should be limited in this distribution simply to $2,000; for that is what it will

amount to if this law passes as reported from the Committee on Appropriations.

I desire to call the attention of the gentleman to another thing, and that is this: in this bill he has not only limited the amount of the general appropriation, but he has also limited the amount which shall be paid for surveys, that is, $6 for surveying a section line per mile. If the gentleman lived in that country, he would find that it is absolutely impossible to survey through the Rocky Mountains for $6 a mile. Why? It requires first, two rodmen, two axmen, one compassman, one cook, two men to take care of the stock and the camp, and you pay these men at the rate of $40 per month and the surveyor $10 per day. So, then, Mr. Chairman, they have to run a line five miles every day or they cannot pay expenses; and yet we have been acting upon that basis in this great era of retrenchment and what I call false economy, because it is an economy which uniformly operates against the development of western interests and in favor of eastern interests; and our people are to be prevented from making a permanent lodgment in that country which they have opened up simply because this great Government denies the means of surveying the public lands and bringing them into market.

I wish to call the attention of the gentleman to another fact with which he seems not to be familiar. I represent a mining country. Whenever a man takes up a claim upon the public domain there, the law requires he shall connect his location with the lines of the public surveys. Suppose a miner takes up a claim to-day and has it surveyed. He may have to run that line at his own expense from three to thirty miles before he can secure a patent of his mine; and yet will the gentleman retard and hinder the development of the mining interests because of his wild devotion to his pea-nut system of economy? Economy does not consist so much in saving the pennies as in a wise and just application of the public funds of this nation to the development of its great vital and material interests.

[Here the hammer fell.]

Mr. HOLMAN. The double object—as I was attempting to remark when I yielded to the gentleman from Colorado—the double object in reducing the amount of this appropriation for surveys is, first, to cut off speculation in the public lands; for the object of heavy appropriations is in the interest of speculation, either through the pre-emption law, or otherwise according to the laws of the Territories——

Mr. PIPER. I do hope the gentleman will not persist in misrepresenting this matter.

Mr. HOLMAN. Will the gentleman let me consume my own time?

Mr. PIPER. But I do think you ought to correct your statement.

Mr. HOLMAN. Secondly, the object is to put an end to the very profitable jobs in making these public surveys; and there that object is especially had in view. And thirdly, to put an end to this system of surveyors-general and bring this whole subject of the survey of the public lands directly under the control of the Commissioner of the General Land Office, subject to the supervision of the Secretary of the Interior.

Mr. LANE. Will the gentleman pardon me if I interrupt him?

Mr. HOLMAN. Yes, sir.

Mr. LANE. Then why not strike out all the appropriations for salaries of surveyors-general?

Mr. HOLMAN. I will answer the gentleman, if he will allow me. I have but five minutes' time.

The appropriation made this year for the surveyors-general and their clerks and their offices is simply to enable them to finish up their work, and it is designed for no other purpose. For I take it for granted, from the light now thrown on this subject before Congress, that the next Congress will at once revise and reform this entire system.

Mr. MAGINNIS. I wish to ask the gentleman from Indiana one question. What work possibly can the surveyors-general allow to run over this fiscal year? Are they not obliged to complete their work out of the last year's appropriations?

Mr. HOLMAN. I do not understand what the gentleman means. These are appropriations, as he knows, for the next fiscal year; and we are all aware that the business of all these surveyors-general's offices is behind-hand and that it is necessary to make some small appropriations to enable them to complete their work. That is all there is about it.

Now, sir, I do not know why the gentleman from Colorado, with thirty and a half millions of acres of unsold lands in his State, should be so eager for the expenditure of money in his State. We are informed, sir, by disinterested persons in all the Territories that the appropriations heretofore made were unwarrantably made and were a mere squandering of the public moneys and a squandering of them in the interest of speculators; and for one I am anxious to see that brought to an end. We think the appropriation of $50,000 is sufficient. We have had occasion to consider carefully the interests of every State and Territory in which public lands are located and have reported what we consider a sufficient amount for that purpose.

[Here the hammer fell.]

MESSAGE FROM THE SENATE.

Here the committee informally rose; and the Speaker having resumed the Chair, a message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, without amendment, a bill (H. R. No. 901) for the relief of J. E. Robertson & Co., of Indianapolis, Indiana.

The message further announced that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes.

SUNDRY CIVIL APPROPRIATION BILL.

The Committee of the Whole resumed its session.

Mr. HENDERSON. I withdraw the *pro forma* amendment.

Mr. PIPER. I renew it.

I am surprised at the tenacity with which the gentleman from Indiana persists in refusing both last session and this session to make any appropriations for the purpose of surveying the public lands of the country. So far as the Territories are concerned, I personally know but little about them; but the State of California contains about one hundred millions of acres of land; and of that vast area only twenty-seven millions have heretofore been surveyed during the last twenty-eight years. It is true that much of the land that has been surveyed there is desert land that cannot be settled upon except at great expense and is totally useless except by irrigation. It is true that all the lands that have been surveyed in the State of California have not been settled upon; nor will they be for the next century probably; but is that any argument in favor of this system of preventing the other lands from being surveyed? Not at all. The fact is it is the true policy of this Government to survey all the public lands; that when the settler goes into the wilderness and sets himself down to create a home and settles upon the public land he may know the section, or half section, or quarter section upon which he settles. Without this he is groping about in the dark. He knows not where he is or where he may be.

As to this pitiful sum of $50,000 to be applied to the survey of the public lands of the United States, why, sir, it is beneath notice. I admire the grand and towering intellect professed by the gentleman who happens to be the chairman of the Committee on Appropriations. Of course I admit that he absorbs all the knowledge of the United States in that grand cranium of his. But as regards this one little thing, his great mind has not condescended to contemplate it justly and truly. If we are to make any appropriation whatever, we should make an adequate one that will accomplish the purpose intended, instead of frittering away this $50,000 to be simply wasted here and there, in this Territory and that, and to accomplish no good whatever. Consequently I submit to the committee that, if we appropriate one cent, we should appropriate $300,000, that it may subserve a public purpose.

Mr. HOLMAN. I rise only to say that the surveyed lands unsold in the State of California amount to the startling aggregate of 21,402,906 acres, and yet the gentleman is crying for more.

Mr. Chairman, I ask that all debate upon this paragraph cease at this time.

Mr. PIPER. I withdraw my amendment.

Mr. ATKINS. I wish to make a single statement. The gentleman from California [Mr. PIPER] stated a moment ago that nothing was appropriated at the last session of Congress for the surveys of the public lands. I hold in my hand the act of Congress of last session which appropriated $325,000 for the survey of the public lands, and yet the gentleman from California says that nothing was appropriated.

Mr. HOLMAN. I move that the committee rise.

Mr. PAGE. I hope the gentleman from Indiana will withdraw that motion; I want to say a word upon this question.

Mr. HOLMAN. I would be willing to withhold my motion until the gentleman from California [Mr. PAGE] and the gentleman from Wyoming [Mr. STEELE] had been heard, but I ask that after they are heard debate shall cease upon this paragraph.

Mr. MAGINNIS. I notify the gentleman from Indiana that if there is not a quorum present all his efforts to cut off debate in this way will not succeed.

Mr. HOLMAN. O! well, then I insist on my motion. My object in moving to rise was that the House might go to other business, as I see we cannot proceed with this bill without a quorum. I must insist on my motion that the committee rise.

The question was put on Mr. HOLMAN'S motion; and on a division there were—ayes 57, noes 38.

So the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BUCKNER reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the bill (H. R. No. 4682) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1878, and for other purposes, and had come to no resolution thereon.

Mr. HOLMAN. At the time of making the motion that the committee rise, I thought that perhaps the House would prefer proceeding with other business, but it has been suggested to me that perhaps we had better proceed with this bill. I move therefore that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the sundry civil appropriation bill, and pending that motion I move that all debate upon the pend-

ing paragraph shall cease in fifteen minutes after the session is resumed.

The motion to close debate was agreed to.

The question was then taken on the motion to go into Committee of the Whole on the state of the Union; and it was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. BUCKNER in the chair,) and resumed the consideration of the sundry civil appropriation bill.

The CHAIRMAN. All debate on the pending paragraph by order of the House has been limited to fifteen minutes.

Mr. PAGE. I was not in here when the gentleman from Colorado [Mr. BELFORD] offered his amendment, but I desire to say a very few words in advocacy of the amendment offered by him. The Forty-third Congress made an appropriation of between six and seven hundred thousand dollars for the surveys of public lands in the States and Territories where there are public lands. Congress at the last session reduced that amount to $300,000. There was an appropriation in the Forty-third Congress of $70,000 for surveys of public lands in the State of California alone. There are to-day over seventy million acres of public lands unsurveyed in the State of California alone, and yet the gentleman from Indiana urges that because there are 21,000,000 acres, I believe he stated it, of lands that are surveyed and have not been occupied in that State, the surveys of public lands ought to stop.

Mr. Chairman, there are not to-day in the State of California of good agricultural lands that have been surveyed 20,000 acres that are not occupied. I make the statement from my own knowledge. I hope therefore that the amendment offered by the gentleman from Colorado will prevail and that an additional $250,000 will be given that it may be distributed among the several States and Territories where these unsurveyed public lands are. It seems to me that it is not a good policy for this Congress to pursue, to cut down the appropriations for surveys of the public lands. When these lands are surveyed and opened to settlement they are paid for under the pre-emption laws at the rate of $1.25 per acre. The State of California contributed to the Treasury of the United States three quarters of a million of dollars from the sale of public lands in the year 1875. Three quarters of a million of dollars were paid by the settlers on the public lands into the Treasury of the United States, and I ask the gentlemen composing this committee that they will not insist upon this mere pittance to be distributed among the States and Territories where there is such a large quantity of unsurveyed public lands.

The Territories of New Mexico, Wyoming, Dakota, Idaho, and the States of California and Oregon contain large quantities of public lands that should be surveyed and put into market. I say it is bad policy for Congress to adopt the principle of cutting down the appropriations for this service to the small amount here recommended. I am glad that my colleague [Mr. PIPER] has seen fit on this occasion to withhold his support from the Committee on Appropriations. I believe it is the first time he has done so either during this session or the last session of Congress, except on one or two occasions perhaps when he has refused to give his support to that committee in their ruinous process of cutting down appropriations.

Mr. STEELE. I certainly hope this amendment will be adopted. The Committee of the Whole must see, if they know anything at all about this subject, that the appropriation here recommended of $50,000 is entirely inadequate for the necessities of the public surveys. There are sixteen States and Territories in which there are land districts and for which estimates were submitted by the Department, and the House was thus informed that surveys were necessary in the ensuing fiscal year in all those sixteen States and Territories.

The gentleman from Indiana [Mr. HOLMAN] speaks of these surveys being made in the interest of speculators. That gentleman certainly ought to know, even if he does not, that there have been no lands offered at public sale or in any other manner than under the homestead and pre-emption laws for very many years, and that all these surveys are made in the interest of settlers.

The gentleman says that there are in these States and Territories many thousands and millions of acres of public lands already surveyed and unoccupied. That is true; yet I know of hundreds of people living in my Territory to-day who have no title to their lands, simply because there has been no survey of the public lands on which they are settled. The tendency has been to survey lands where it was easiest and cheapest to survey them. But the Committee on Appropriations last year made a limitation in that regard which answered a very good purpose. They appropriated last year $300,000 for surveys, which was an inadequate sum. But we ought to have at least that same appropriation although inadequate, made this year for the purpose.

In regard to my Territory, for instance, the Senate has agreed to a proposition of the House which opens up for settlement the Black Hills country so called. Now there never has been a survey made in that country. There are thousands of people there, and last year there was taken out of that country, before it was opened up to legal occupancy, at least three millions of dollars of gold. That country is now open to settlement; there is a necessity for surveys there, and those surveys must be made. And it is not economy to refuse the necessary appropriation to survey and thus open to settlement what promises to be the richest mineral region ever discovered on this continent.

If the appropriation for this purpose is limited to the amount named in this bill the Territory of Wyoming cannot get over $2,000 for surveys of the public lands during the next fiscal year. I telegraphed this afternoon to the Commissioner of the General Land Office in reference to this matter. I ask the Clerk to read his answer to my dispatch, in order that this committee may see what kind of economy it is that gives $112,950 for office work and only $50,000 for surveys.

The Clerk read as follows:

DEPARTMENT OF THE INTERIOR,
Washington, D. C., February 21, 1877.

Hon. W. R. STEELE:

The legislative, executive, and judicial appropriation bill provides for salaries of surveyors general and their clerks $89,450. Contingent expenses of their officers $23,500 more, or an aggregate of $112,950 for office work, under a proposed appropriation of $50,000 only for surveys. Such appropriation would be utterly inadequate. It would be better to abolish the entire system than to make such an appropriation.

J. A. WILLIAMSON,
Commissioner.

Mr. STEELE. If we have these departmental offices for any purpose at all it is to inform the representatives of the people what are the necessities of the Government. The Commissioner of the General Land Office tells this House that to make an appropriation of $50,000 for this purpose is so inadequate that we might as well abolish the whole system.

Mr. MAGINNIS. Mr. Chairman, the dispatch just read shows in the most perfect light the absurdity of the action proposed by the Committee on Appropriations in this bill in reference to the surveys of public lands. The salaries of the surveyors-general, the appropriations for clerks in their offices, for incidental expenses, for office rent, &c., amount to more than $110,000; while, according to this bill, the amount appropriated for surveys is but $50,000. In other words, the Committee on Appropriations give $110,000 for the machinery with which to do $50,000 worth of work. That may be economy, but it looks to me more like willful and wasteful extravagance.

Mr. HOLMAN. Will the gentleman allow me to ask him a question?

Mr. MAGINNIS. Certainly.

Mr. HOLMAN. Is not the gentleman aware that in every one of the offices of these surveyors-general there is an accumulation of work that must be disposed of? They are all asking for clerical force for that purpose, and before abolishing the offices, which it is proposed to do, it is very proper that the business shall be brought down to a given time.

Mr. MAGINNIS. The question of the gentleman from Indiana [Mr. HOLMAN] is a very pertinent question. But I am thoroughly convinced and undertake to say that there is no large amount of back business in any of these offices. None at all that ought not to be carried to completion by means of previous appropriations. These appropriations of $110,000 for all this machinery is needed for no other purpose under the sun than to expend the $50,000 which it is proposed to appropriate for surveys.

The gentleman says there are millions of acres of surveyed public land not yet taken up. That is so; a part of them is in Florida, and part in Indiana, a part in Michigan, and a part in several of the other States of this Union; lands not desirable. Does the gentleman mean to say that settlers shall not go on any land which has not been surveyed; that none of the lands in the newly settled portions of our country, where mines are discovered and colonies settled, shall be opened up to settlement because there have been no surveys there recently; that these must wait until all the surveyed land is taken? Certainly he cannot insist upon any such argument as that. I undertake to say, in the language of the Commissioner of the General Land Office, that to make this appropriation of $50,000 is simply foolishness, and you had better abolish the whole system and close your public lands against settlement than to cripple the Land Department in this wasteful way.

I ask unanimous consent to have certain letters printed in connection with my remarks.

There was no objection. The letters are as follows:

HELENA, MONTANA TERRITORY, *January* 24, 1877.

DEAR SIR: As the time is now approaching for Congress to make the appropriations, I thought that I would write to you and give you my experience in running a surveying contract under the prices and regulations established by Congress last year.

The prices established were $8 for standard lines, $7 for township, and $6 for section lines. The first regulation was that "the settled parts of the country should be surveyed first." Under these instructions I was assigned a contract which extended from Camp Creek on the Big Hole River to Hot Spring Creek on the Deer Lodge River. Five townships were supposed to be full, or that all parts of them could be sectionized, and others were fractional, or only a part of them could be surveyed. I had to go seventy miles to my work, and commenced on September 29, the appropriations having been made very late. I found the ground to be very rough, with a great deal of brush on the streams, and much triangulating to be done on the river (Big Hole)—all of which prevented any swift progress. The townships which were supposed to be full proved to be fractional, so that I could only run about one-half of each. The exterior boundaries of these townships had been run several years before by another surveyor. The courses had been obliterated by time and the cattle, and as I had to connect with the courses, I had to rerun many of the lines and re-establish the courses. In this way, and for that purpose, I reran with compass and chain upward of twenty-two miles, and re-established a number of courses for which work, under the regulations, I do not receive one cent; yet it was absolutely necessary in order to enable me to do my own work correctly.

About two weeks after I commenced work bad weather set in, with rain, snow,

and keen, piercing winds, and continued until I came in about a month later. I worked frequently with four inches of snow on the ground and the thermometer at zero, and the wind (the worst part of it) blowing.

It was, as may be supposed, very cloudy, and I had to do much of my work with the needle and not with the solar compass; and as I found that the variation changed constantly I had to run by back sights and fore sights, which consumed a great deal of time, and prevented my running as many miles in a day as I would otherwise have done. But it was unavoidable in order to do my own work rightly.

I was out about one and one-half months. I did about eleven hundred dollars' worth of work. I was forced to come in without entirely finishing my contract in consequence of a severe fit of rheumatism in consequence of the exposure I was subjected to, hardy as I am. After I came in I was one month in preparing my notes and maps for the office. So that altogether I was two and one-half months in doing the $1,100, in consequence of circumstances beyond my control. After paying off my men, and paying all the other expenses connected with the contract, I find that I am ahead about $152; or, in other words, that for my time and trouble I received the munificent reward of $61 per month—a little more than a day-laborer's wages!

The work which I did was a necessary one, because there were many settlers in this region and it was necessary to have it done in order to enable them to enter their land. I supposed when I took the contract that I might make $5 a day, but I did not do it.

Had I remained at home I could have obtained enough mineral patent surveying to have paid me much better, without disbursing a dollar.

I paid my men $50 per month, and for their full time; otherwise I could not get them to go. I had to pay high for provisions, and had to pay freight from Deer Lodge on most of it.

There are also other considerations; the surveyor is required by the new regulations to judge whether land is worthless or not, whether it can be irrigated or not; if it cannot he is not to survey it. He is to judge whether the timber is merchantable or not; if it is, he is to survey it, (if in the township,) and if he does, he will come out in debt on his contract; and the oath which he subscribes at the end of his notes is of the most stringent character, "that he has performed his surveys exactly according to instructions and *in the specific manner related in the notes*, and that if any falsehood should be discovered he will suffer the penalties of perjury," &c.

Another thing. About three years ago, in consequence of some bad corners having been made by some surveyors, and a great fuss being made over it by people in Deer Lodge, an order was issued by the Commissioner that every corner should be minutely described; every stone and pit, with its length and breadth; every stake, length, breadth, thickness, and every mark made on it, must be described most minutely. The consequence is that the plainer and more elaborate you make the corner in the field the more trouble you have in describing it in the notes.

To illustrate this, I subjoin the old and the new forms for a corner:

Old form.

Eighty chs. "Set a post for corner to sections 13, 14, 23, and 24 with pits and mound, as per instructions."

New form.

Eighty chs: "Set a post diagonally 4 feet long, 3 inches square, with chained stake 12 inches in the ground for corner to secs. 25, 26, 35, and 36, marked R. 2 W., T. 2 N.; sec. 25 on N. E., sec. 26 on N. W., sec. 35 on S. W., and sec. 36 on S. E. faces, with 1 notch on south and east edges; dry pit, 18 in. sq. 12 in. deep, in each of the 4 sections, 5½ ft. dist. and raised a mound of earth 2 ft. high, 4½ ft. base."

This regulation has more than doubled the size of the notes, and thus, while our pay is diminished *two-fifths*, our responsibilities and labor *are more than doubled*. Moreover all this additional labor and responsibility is a heavy burden to the conscientious surveyor, while it is none at all to the dishonest one. The latter knows that there is no inspection of the work; that the surveyor-general has no power to inspect it, unless he does it at his own expense, and consequently he can do fraudulent work and it may not be discovered for years. It is just as easy for him to make the notes so as to pass, and swear to them, as to do the bad work. *He* makes money by it, while the honest surveyor loses by his honesty.

As matters stand now, with the stringent regulations and the low pay, it makes a man's interest and conscience *clash*, and when that is the conscience generally takes a back seat. Every man who wants to do his work right will be driven out, and the public land surveys will be a scandal to every one.

I have taken pains not to exaggerate anything. I have tried to put down everything truly. The pay is not sufficient for this country and ought to be increased. Where the ground is rough it is impossible to make anything. I have endeavored to make this plain, so that you could understandingly speak to the Committee on Appropriations about it.

Hoping that you will excuse me for writing such a long letter,

I remain, your obedient servant,

WALTER W. DE LACY,
United States Deputy Surveyor, Montana Territory.

Hon. MARTIN MAGINNIS,
House of Representatives, Washington, D. C.

SAINT PAUL, MINNESOTA, *January* 29, 1877.

DEAR SIR: In reading the CONGRESSIONAL RECORD of the last session, I noticed that when the item in the appropriation bill making appropriation for the survey of the public lands of the United States was reached, you took a very prominent part in the debate, and that you endeavored to keep up the amount appropriated to the several surveying districts so as to meet the wants and necessities of our rapidly increasing frontier population. You seem to have been about the only member (judging from the RECORD) who was there attending to the interest of their constituents, or who stood up squarely in defense of the rights of our *great West* in this matter of appropriations for the survey of our public lands. * * * Your course when this item was before the House was remarked on by all who had any occasion to be interested in this matter of public surveys. In vain we looked for some evidence of the presence of our members when this matter was before the House. If they were there they appear to have been silent.

Now the important part you took last year, and the interest you seemed to take in this matter of surveys, is my excuse for writing to you to call your attention to one feature of last year's appropriation, or rather to one provision contained in the bill, which is clearly against the best interests of every surveying district and the surveying service. Heretofore it has been the custom for the different surveyors-general to make estimates for their several districts in advance of the appropriations, and as a basis for recommendations for appropriations by the Commissioner of the General Land Office. The Commissioner revises these estimates of the surveyors-general, and recommends whatever he sees fit for each district, after looking over the wants of all the districts; and the appropriations are then made upon the recommendation of the proper committee, and stated sums appropriated to each district. This has been the plan heretofore; each district gets a certain specified amount. It may be small, but they are sure of something. Now last year the House for some reason struck out this provision giving to each surveying district a certain specified amount, and in place of it appropriated a gross sum for all, to be divided up among the districts by the Commissioners, by and with the consent of the Secretary of the Interior. Now what the House was trying to do, or in what way they expected to better matters by putting the appropriation in this shape, I for one am unable to see, since the amount appropriated is still based on recommendations or estimates of the Commissioner, as it was heretofore. He still gets his data from the surveyors-general, and in making up his estimates recommends the amount they recommended, or a greater or a less sum, just as he sees fit.

If the Commissioner does his duty of course every surveying district gets just the proportion it is entitled to under his estimate, and so they did when specific amounts were appropriated to the several districts. I believe it was charged that money was used for surveying worthless or unproductive land in some instances. Now, if the Commissioner would recommend appropriations for the surveys of this character under the *old* system, what is there to prevent him in dividing up the appropriation under the new system, from giving those districts where this barren land is situated their full share of the appropriation? There is nothing. He can just as easily divide it up so that money will be used in surveying barren land as he can recommend *that* amount to be appropriated. If he thinks a district has no land worth surveying he ought not to recommend an appropriation. If an appropriation *is* made and it is left with him to be divided up among the several districts such districts will get nothing, which is just what he recommended. This is just what will happen if the Commissioner does his duty. True, an injunction was laid on the Commissioner by Congress that the money should not be used in surveying non-productive land; and the Commissioner in apportioning the amounts to the several districts laid this injuction on the surveyors-general, but did not, as far as I am informed, attempt to designate what was productive or non-productive. He simply left it in the hands of the several surveyors-general to say what should be surveyed. Now why all this could not be brought about under the old system of appropriating specific sums to the several districts I cannot see. Congress has entire control over the matter. They can appropriate whatever they see fit. If they cannot depend on the Commissioner's estimates they cannot depend on his apportionments. I say whatever is appropriated let it be appropriated to the districts in the old way, and let the surveyor-general appoint his own deputies in the old way, and free from the dictation and interested interference of the Commissioner and his friends.

The fact of the matter is that the provision contained in last year's appropriation for surveys, providing that the whole amount should be at the discretion of the Commissioner, and by him divided up as he sees fit, is that it opens up a big field for fraud and injustice, and is as well calculated to prostitute the surveying service as anything can well be. If the Commissioner sees fit what is to prevent him from robbing some of the districts of their just proportion and putting it in other districts. There may be cases where his interests may incline him to do this very thing. Under the old system the appropriations were entirely out of his reach as far as the disposition of the contracts was concerned. The surveyors-general could let the contracts to whom they chose. It seems to be the opinion that under the operation of last year's appropriation bill the Commissioner could have not only given whatever he liked to each of the districts, but he could have taken the letting of the contracts into his own hands, and have let every one of them to men living out of the districts interested, and to his own personal friends, and over the heads of the surveyors-general. We know that this is the way they have always done where money has been placed in their hands for the survey of Indian reservations; their friends generally get the contracts, and some nonentity, who knows no more about surveying than he does of the mysteries of eternal life, does the work; and such work! I hope the survey of our public lands may never get to be such a damnable fraud and swindle as this surveying Indian reservations has become under the system of letting contracts from Washington. If it does it will be only when the contracts are let by the Commissioner to persons who have no interest in the country and whose only object is to get out of the country as soon as they can and draw their money.

I say the way the appropriation was made last year would furnish an excuse for the authorities at Washington to deprive some of the districts of their fair share of the appropriation and also for letting the contracts over the heads of the surveyors-general, to any persons they choose. It was expected by every one who saw the shape the appropriation of last year was in that the contracts would either be let at Washington or that the surveyors-general would be dictated to in regard to whom the contracts should be let to.

If the democratic House put the appropriation of last year into the Commissioner's hands in order to cut off the patronage of surveyors-general, I do not see as they have improved the thing very much by placing it in the hands of the Commissioner; for if he has the disposition of the funds I presume just as much of it will be used for republican campaign purposes as was used by the surveyors-general.

The fact of the business is that where the surveyors-general appoint their own deputies they generally do it from qualified surveyors living in their own districts. These surveyors are general qualified for their business and make it a point to acquire a good reputation and do good work. Most of them intend to make the States or Territories where they survey their homes. They consequently are interested in having surveying well done. They live in the districts where the work is done; they outfit there; they spend the money they get for surveying there; and consequently are of some benefit to the district at large. Whereas if the contracts are let in Washington non-residents get the whole benefit of the appropriations, they do not spend a dollar more than they are obliged to in the country, but endeavor to carry all they can out of it. But this is a small matter beside of the injury they do a country by sending into it an incompetent lot of surveyors from abroad who have no interest in and who care nothing for the country, and whose only object is to get through the work just as easy as possible and draw their money.

As proof of this, look at the way Indian reservations have been surveyed, or rather, have not been surveyed; for in the majority of cases you cannot find where they have been at work, unless you follow them up before the dew is off the grass.

Probably the old way is not free from some objections. The surveyors-general may not always let contracts as they should. They may appoint more from one political party than they do from the other. They may even appoint a political friend more on account of his politics or friendship than on account of any peculiar qualification he may possess as a surveyor; but still, as a general thing, in Minnesota and Dakota, the surveyors-general have conducted themselves very fairly, and have appointed about as many deputies from one party as another. I am a democrat, myself, but I do not know as my politics ever entered into consideration when I applied for surveying. I think the disposition is to get the best class of men that can be got for deputies, and always to patronize their own districts if they can find the proper men to do the surveying; which is certainly for the best interests of the districts, for reasons before given.

I am satisfied the interests of the surveying service and the interests of the country at large will be best subserved by the return to the old way of making the appropriations. They can make them as small as they see fit, and they can provide that money shall not be used in surveying barren, unproductive land, but whatever is appropriated, let it be certain, stated, specified sums to the respective States and Territories, and not put it in such shape that the Commissioner can defraud some of the Territories or districts out of what is due them, and also put things in such shape that he can let the whole amount of the appropriation to whoever he choose to. I am sure no State or Territory having a surveying district is interested in having any such provision in the appropriation bill as was in there last year. I know their interests are right the other way; and I hope when the proper time comes you will strike at it as gallantly and remorselessly as you did at certain other features of last year's bill. If the democratic members understood just the way they are opening the door for fraud and the prostitution of the whole surveying service, it seems to me they would not insist on such an amendment to the bill this year. I hope whatever the appropriation for surveys may be, you will insist that it shall be made direct to the districts and be disposed of by the surveyors-general in the old way. I hope you will pardon my assurance in presum-

ing you will read this long communication. I hope, at least, you will read so much of it as to give you an idea of the nature of the objections to placing the appropriations for surveys entirely in the hands of the Commissioner of the General Land Office or Secretary of the Interior.

Very respectfully,

GEO. G. BEARDSLEY,
United States Deputy Surveyor.

Hon. MARTIN MAGINNIS, M. C.,
Washington, D. C.

Mr. DUNNELL. I desire to put a question to the chairman of the Committee on Appropriations. He said a moment ago that the $50,000 appropriated in this bill for the survey of public lands looked to an entire change in the method of surveying those lands.

Mr. HOLMAN. Yes, sir.

Mr. DUNNELL. I want to ask the gentleman whether the Commissioner of the General Land Office has recommended any change of policy in that respect?

Mr. HOLMAN. No, sir; he has not.

Mr. DUNNELL. Then allow me to ask by what authority does the gentleman state that there is to be a change?

Mr. HOLMAN. If any recommendation in the interest of economy ever came from that office, I am not aware of it.

Mr. DUNNELL. I did not catch the gentleman's remark.

Mr. HOLMAN. If any recommendation proposing a re-organization of the land system ever came from the Commissioner of the General Land Office, I am not aware of it.

Mr. DUNNELL. Until a short time ago I was not aware of the small amount which this bill proposes to appropriate for the survey of the public lands. I indorse most heartily everything that has been said by the gentlemen from the Territories as well as the remarks of the gentlemen from the State of California and Oregon. I think it a very poor policy to cut down largely the appropriations for the survey of the public lands. I cannot understand the wisdom of such a policy. This vast public domain ought to be gradually surveyed, especially in the mineral districts, where the advantage to the Government from these surveys in the development of the resources of the country, would far exceed any cost which may be incurred in this way.

I yield the remainder of my time to the gentleman from Idaho, [Mr. FENN.]

Mr. FENN. An appropriation of $300,000 was asked for these surveys. In the Territory of Idaho, with more than 90,000 square miles, only about one-twelfth has been surveyed. This bill proposes to appropriate $50,000, of which Idaho will receive possibly about $1,500 or $1,800. In the northern portion of that Territory is a large tract of as fine agricultural land as the sun ever shone upon. But this land is covered by the grant to the Northern Pacific Railroad; and men who are anxious to go there and settle are unwilling to occupy those lands until they know whether they are settling upon the odd-numbered or the even-numbered sections. Thus, for want of Government surveys, they are excluded. By this pitiful system settlement is not only retarded but totally kept out of that country.

I will say further that in our Territory not one foot of timber land has ever been surveyed. The people of our Territory have settled upon those rich valleys. There are mining interests there——

[Here the hammer fell.]

The question being taken on the motion of Mr. BELFORD to strike out $50,000 and insert $300,000, it was not agreed to; there being—ayes 42, noes 54.

Mr. PAGE. I ask the chairman of the Committee on Appropriations whether he will not accept an amendment making this appropriation $200,000.

Mr. HOLMAN. Well, Mr. Chairman, with the consent of a portion of the members of the Committee on Appropriations I will move to increase this appropriation to $100,000, with the understanding at the same time that there shall be an amendment offered to the next paragraph, so as to transfer the business of the surveyors-general in the several States and Territories to the Commissioner of the General Land Office. With that understanding, I move to amend by striking out $50,000 and inserting $100,000.

Mr. PAGE. We do not agree to that.

Mr. BELFORD. I move as an additional amendment to add to the paragraph these words:

For surveys of the public lands in Colorado alone, $50,000.

Mr. Chairman——

Mr. HOLMAN. I believe debate has ceased on this paragraph.

The CHAIRMAN. Debate on the paragraph is exhausted under the order of the House.

Mr. PAGE. I desire to appeal again to the chairman of the committee. I ask that he will consent to make this amount $150,000.

Mr. HOLMAN. My motion was $100,000. I am not authorized to assent to any larger sum.

Mr. PAGE. Will the gentleman allow a vote to be taken on $150,000?

Mr. HOLMAN. The Committee on Appropriations have carefully examined this subject, and are satisfied that $100,000 is ample.

The CHAIRMAN. Does the gentleman from California move an amendment?

Mr. PAGE. Yes, sir; I move to make the amount $150,000.

The question being taken on agreeing to the amendment of Mr. PAGE, there were—ayes 55, noes 48.

Mr. HOLMAN. I call for tellers.

Tellers were ordered; and Mr. HOLMAN and Mr. PAGE were appointed.

Mr. LANE. An appropriation of less than $150,000 would be totally inadequate to accomplish anything.

The committee divided; and the tellers reported—ayes 63, noes 58.

Mr. HOLMAN. I raise the point that no quorum has voted.

Mr. PAGE. I suggest that we have a vote in the House.

The CHAIRMAN. Does the gentleman from Indiana insist upon the presence of a quorum?

Mr. HOLMAN. I think there should be a quorum on this question.

Mr. POPPLETON. I raise the question that there is not a quorum present.

The CHAIRMAN. A quorum being insisted on, tellers will resume their places and the vote will be taken over again.

Mr. PAGE. It is evident there is no quorum present, and I hope the gentleman will not insist as it will delay the appropriation bill. If there was any prospect of a quorum being present, perhaps it would be well enough to insist on it.

Mr. LANE. I hope we will be allowed to vote in the House on this appropriation.

Mr. THORNBURGH. I do not think there is any necessity for taking the vote over again, as under the circumstances perhaps the demand for a quorum will not be insisted upon.

The CHAIRMAN. If a quorum is not insisted upon, then the amendment is agreed to.

Mr. POPPLETON. I raised the question of the absence of a quorum distinctly.

The CHAIRMAN. The gentleman from Indiana who had the floor and insisted there was no quorum, the Chair understood, withdrew his demand for the presence of a quorum and therefore the amendment was declared to be carried.

Mr. POPPLETON. The gentleman from Indiana had not the floor at the time I insisted on the presence of a quorum. When the gentleman from Indiana did not insist on a quorum I took the floor and did insist on a quorum. I have the right to insist upon it and do insist upon it.

Mr. ATKINS. The chairman of the Committee on Appropriations did not insist.

Mr. HOLMAN. It was the gentleman from Ohio who insisted on the presence of a quorum. I did not press the point, but the gentleman from Ohio did.

Mr. PAGE. It is evident there is no quorum present.

The CHAIRMAN. The gentleman from Indiana [Mr. HOLMAN] and the gentleman from California [Mr. PAGE] will take their places as tellers and the question will be again submitted to the committee on the amendment.

Mr. HOLMAN. I believe it is generally accepted that $100,000 will be a reasonable appropriation. I believe the gentleman from California is content with that.

Mr. PAGE. I do not desire to break up the committee, and therefore am willing to accept $100,000.

Mr. LANE. I trust the gentleman will not agree to anything of the kind.

The CHAIRMAN. Is there any objection to the amount of $100,000?

Mr. LANE. I desire to say in behalf of the State of Oregon, which has a large amount of unsurveyed public land, that I do not consent to a reduction of the necessary appropriation to $100,000.

The CHAIRMAN. The gentleman is out of order, as debate is exhausted.

Mr. LANE. I am willing to agree that a vote shall be taken in the House on the appropriation of $150,000 for this purpose.

The CHAIRMAN. The gentleman is not in order.

Mr. LANE. I insist, then, there is no quorum present.

Mr. HARRIS, of Virginia. The demand comes too late.

Mr. LANE. The demand has been made all the time that no quorum is present.

The CHAIRMAN. The Chair will again submit the question, is there objection to $100,000?

Mr. POPPLETON. I object, and insist there is an amendment pending which has not yet been withdrawn or acted on.

The CHAIRMAN. The vote will again be taken on the pending amendment. Tellers will resume their places, and all gentlemen in the House are requested to vote on one side or the other.

Mr. POPPLETON. Is the vote to be taken over again?

The CHAIRMAN. It is.

The committee divided; and the tellers reported—ayes 70, noes 55.

Mr. HOLMAN. There is no quorum voting, and I move the committee rise.

The motion was disagreed to.

The CHAIRMAN. No quorum appearing on the last vote, the Chair directs under the rules the roll be called, in order that the names of the absentees may be reported to the House.

The Clerk proceeded to call the roll, and the following members failed to answer to their names:

Messrs. Abbott, Adams, Anderson, George A. Bagley, John H. Baker, Banks, Bass, Beebe, Blackburn, Bliss, Boone, Bradford, John Young Brown, William R. Brown, Buttz, William P. Caldwell, Carr, Cason, Chapin, Cook, Cox, Crapo, Crounse, Davy-Denison, Dibrell, Dobbins, Douglas, Durand, Eden, Egbert, Ellis, Evans, Faulkner, Field, Fiye, Fort, Frye, Garfield, Gause, Gibson, Gunter, Hale, Robert Hamilton, Hartridge, Hathorn, Haymond, Hays, Hendee, Henkle, Goldsmith W. Hewitt,

Hoar, Hoge, Hooker, Hopkins, Hoskins, House, Hubbell, Humphreys, Hunter, Hunton, Hurlbut, Hyman, Jenks, Frank Jones, Thomas L. Jones, Kasson, Kelley, King, Lamar, Franklin Landers, Lapham, Lawrence, Leavenworth, Levy, Lord, Luttrell, Magoon, MacDougall, McFarland, Miller, Milliken, Money, Monroe, Morgan, Nash, New, Norton, O'Brien, Odell, Packer, Payne, Phelps, William A. Phillips, Plaisted, Platt, Powell, Pratt, Purman, James B. Reilly, Rice, John Robbins, Roberts, Miles Ross, Rusk, Sampson, Savage, Schumaker, Sheakley, Singleton, Slemons, Southard, Sparks, Stenger, Stephens, Stone, Stowell, Swann, Tarbox, Teese, Thomas, Tucker, Turney, Van Vorhes, Wait, Charles C. B Walker, Alexander S. Wallace, John W. Wallace, Walling, Ward, Watterson, G. Wiley Wells, Wheeler, Willard, Alpheus S. Williams, Charles G. Williams, James Williams, Wilshire, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Young.

During the call of the roll,

Mr. DURHAM stated that his colleague, Mr. BLACKBURN, was sick and not able to be present.

The committee then rose; and the Speaker having resumed the chair, Mr. BUCKNER reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the bill (H. R. No. 4682) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes, and finding itself without a quorum, had caused the roll to be called, and directed him to report the names of the absentees to the House to be entered upon the Journal.

Mr. FOSTER. Is there a quorum present?

The SPEAKER. One hundred and forty-six members have answered to their names, which is a quorum.

Mr. HOLMAN. I move the House resolve itself into Committee of the Whole on the state of the Union.

Mr. KNOTT. I move we take a recess until ten o'clock to-morrow morning.

Mr. SPRINGER. Is it not the rule the committee shall resume its session without a motion?

The SPEAKER. The Chair thinks a motion to take a recess is in order.

Mr. SPRINGER. But a quorum having appeared, does not the committee resume its session as a matter of course?

The SPEAKER. When the committee rises no quorum appearing, a motion to adjourn or a call of the House is in order, but the House finding a quorum present does not preclude the motion to adjourn, and, the House now being under the operation of the electoral law, a motion to take a recess until to-morrow morning at ten o'clock.

Mr. KNOTT's motion was disagreed to.

The committee then resumed its session, Mr. BUCKNER in the chair.

The CHAIRMAN. The question recurs on the amendment offered by the gentleman from California [Mr. PIPER] increasing the amount to $150.000.

Mr. PAGE. That amendment was adopted. It was so announced from the Chair.

Mr. HOLMAN. Before the vote is again taken, I again propose that the amount be fixed at $100,000. I trust there will be no objection to that.

Mr. LANE. I certainly do object to that.

The CHAIRMAN. The question is on the amendment of the gentleman from California.

The question being taken, there were—ayes 58, noes 62.

Mr. WIGGINTON. A quorum has not voted.

Mr. LANE. I call for tellers.

Tellers were ordered; and Mr. LANE and Mr. HOLMAN were appointed.

The committee again divided; and the tellers reported—ayes 67, noes 66.

Mr. PIPER. A quorum has not voted.

Mr. HOLMAN. To meet the views of gentlemen who are urging this matter, I will agree that a vote be taken in the House on $125,000.

Mr. LANE. I cannot, in justice to the people I represent, consent to anything less than $150,000.

The CHAIRMAN. A quorum not having voted, the Clerk will call the roll.

Mr. LANE. The point is not made that a quorum has not voted.

The CHAIRMAN. The point is made on the other side of the House.

The Clerk proceeded to call the roll.

Mr. LANE. I will say this, that I will consent as far as I am concerned——

The CHAIRMAN. The call of the roll cannot be interrupted.

The call of the roll was proceeded with, and the following members failed to answer to their names:

Messrs. Abbott, Adams, Anderson, John H. Baker, Banks, Bass, Beebe, Blackburn, Bliss, Boone, Bradford, John Young Brown, William R. Brown, Buttz, William P. Caldwell, Carr, Cason, Chapin, Cook, Cox, Crapo, Crounse, Danford, Davy, Denison, Dibrell, Dobbins, Douglas, Durand, Eden, Egbert, Ellis, Evans, Faulkner, Field, Flye, Fort, Frye, Garfield, Gause, Gibson, Gunter, Hale, Robert Hamilton, Hartridge, Hathorn, Haymond, Hays, Hendee, Henkle, Goldsmith W. Hewitt, Hoar, Hoge, Hopkins, Hoskins, House, Hubbell, Humphreys, Hunter, Hunton, Hurlbut, Hyman, Jenks, Frank Jones, Thomas L. Jones, Kasson, Kelley, King, Lamar, Franklin Landers, Lapham, Lawrence, Leavenworth, Levy, Lord, Luttrell, Magoon, MacDougall, McFarland, Miller, Milliken, Money, Monroe, Morgan, Nash, New, Norton, O'Brien, Odell, Packer, Payne, Phelps, William A. Phillips, Plaisted, Platt, Powell, Pratt, Purman, James B. Reilly, Rice, John Robbins, Roberts, Miles Ross, Rusk, Sampson, Savage, Schumaker, Sheakley, Singleton, Slemons, William E. Smith, Southard, Sparks, Stenger, Stephens, Stone, Stowell, Swann, Tarbox, Teese, Thomas, Tucker, Turney, Van Vorhes, Wait, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Walling, Ward, Watterson, G. Wiley Wells, Wheeler, Alpheus S. Williams, Charles G. Williams, James Williams, Wilshire, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Young.

During the roll-call,

Mr. ATKINS said: I desire to state that my colleague from Tennessee, Mr. YOUNG, is detained at home by sickness.

The committee rose; and the Speaker having resumed the chair, Mr. BUCKNER reported that the Committee of the Whole House on the State of the Union, according to order, had had under consideration the bill (H. R. No. 4682) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes, and having found itself without a quorum, he had caused the roll to be called, and now reported the names of the absentees to the House.

The SPEAKER. The roll-call discloses the fact that 148 members have answered to their names, being a quorum.

Mr. HOLMAN. The hour is somewhat late, and I hardly expect that we will accomplish anything more this evening than we have already accomplished. I therefore move that the House take a recess until ten o'clock to-morrow.

The question being taken on Mr. HOLMAN's motion, there were—ayes 83, noes 40.

Mr. PAGE. I call for the yeas and nays.

The question being taken on ordering the yeas and nays, there were 18 ayes.

Mr. FOSTER. Count the other side.

The negative vote being counted, there were 99 noes.

So (the affirmative not being one-fifth of the whole vote) the yeas and nays were not ordered, and the motion was agreed to.

The House accordingly (at nine o'clock and thirty minutes p. m.) took a recess until ten o'clock a. m. to-morrow.

AFTER THE RECESS.

The recess having expired, the House was called to order by Mr. CLYMER, as Speaker *pro tempore*, at ten o'clock a. m., Thursday, February 22.

ORDER OF BUSINESS.

Mr. HOLMAN. I move that the House now resolve itself into Committee of the Whole on the state of the Union and resume the consideration of the sundry civil appropriation bill.

Mr. WALLING. I trust the gentleman will yield to me for one moment. I desire to introduce a bill for present consideration to which I think there will be no objection. It is a bill to extend the time for stamping unstamped instruments. The provisions of law relating to this matter expired by limitatian on the 1st of January and it is necessary that this bill shall at once become a law.

Mr. BURCHARD, of Illinois. I have no objection to the reference of the bill to the Committee of Ways and Means. There is now pending before that committee a bill having this object in view.

Mr. WALLING. The chairman of the committee, the gentleman from New York, [Mr. WOOD,] himself advised this course.

Mr. BURCHARD, of Illinois. I think the bill should take the usual course.

The SPEAKER *pro tempore*. Objection being made, the bill is not before the House.

The question being taken on Mr. HOLMAN's motion, it was agreed to.

SUNDRY CIVIL APPROPRIATION BILL.

The House accordingly resolved itself into Committee of the Whole on the state of the Union (Mr. BUCKNER in the chair) and resumed the consideration of the special order, the bill (H. R. No. 4682) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes.

The CHAIRMAN. When the committee rose last evening the pending question was on the amendment of the gentleman from California [Mr. PIPER] to strike out $50,000 and insert $150,000 in the paragraph appropriating for survey of the public lands and private land claims.

Mr. HOLMAN. There is manifestly not a quorum present. I ask that by unanimous consent the provisions in regard to public lands be passed over until there is a quorum.

Mr. DUNNELL. That proposition includes all the clauses in regard to the public lands?

Mr. HOLMAN. Yes, sir.

There being no objection, the paragraphs in relation to the public lands were passed over for the present.

The Clerk resumed the reading of the bill, and read as follows:

For fitting up the Armory building for storage of articles belonging to the United States, including those transferred from the international exhibition, and expense of watching the same, $2,500.

Mr. CLYMER. I am instructed by the Committee on Appropriations to offer the following amendment, to come in immediately after the paragraph just read:

Botanical Garden:

For painting and repairs of the building and fences, $1,500.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read as follows:

Geological and geographical surveys:

For the continuation of the geological and geographical survey of the Territories of the United States, under the direction of the Secretary of the Interior, by Professor F. V. Hayden, $50,000, to be immediately available.

For the completion of the geographical and geological surveys of the Rocky Mountain region, including the preparation and publication of maps, charts, and other illustrations necessary for the reports of said survey, by J. W. Powell, under the direction of the Secretary of the Interior, $20,000, to be immediately available.

Mr. PIPER. I move to strike out that paragraph.

Mr. LANE. I rise to a point of order. I understood that all these paragraphs relating to surveys of public lands were to go over.

Mr. HOLMAN. The surveys of public lands proper; these are explorations.

Mr. LANE. I regard these as the most proper surveys of public lands that are made, and I would not have consented to let the others go over unless these were embraced in them.

The CHAIRMAN. It is for the gentleman from Indiana to say what items he intended to go over.

Mr. LANE. These are the most important surveys we have.

Mr. HOLMAN. Which? These explorations?

Mr. LANE. Yes, sir; I have no hesitation in saying that, so far as conveying information as to the character of the soil and the country, these are the most important surveys we have.

Mr. HOLMAN. My friend from Oregon [Mr. LANE] knows that these are not surveys of public lands, but simply explorations.

Mr. WILSON, of Iowa. I would suggest to the gentleman from Indiana that he could dispose of these items far more easily in a full House than he can now.

Mr. HOLMAN. I think we can dispose of them now. I am willing that they should be stricken out *pro forma* and then we can have a vote in the House.

Mr. PIPER. This is an appropriation of $50,000 for the purpose of exploring the country in and about the Rocky Mountains. There has been a good deal of money expended for that purpose already, and if any good has come from it I have yet to learn it. Sir, I am very much surprised to see that, while the surveys of the entire public lands of the United States the Committee on Appropriations have seen fit only to appropriate $50,000, they appropriate the same sum for this useless purpose. I will venture to say that there is no gentleman on this floor who can point one single item of advantage to the people or to the nation that has accrued from these explorations. It is true they take a great many stereoscopic views which are circulated about this House; in fact I have quite a box of them myself. They are very nice things for young gentlemen to amuse young ladies with, but I believe that is the only thing they are useful for, and I think that, in view of the depleted state of the Treasury and the vast burdens of taxation which the people have been enduring, this appropriation should be stricken out and the money applied to some purpose that will be of some benefit to the people of the country.

Mr. LANE. I desire to say that I regard this character of surveys of the utmost value. I do not think the gentleman from California [Mr. PIPER] has given the matter that consideration which it deserves. It is from this character of surveys that we are able to ascertain the nature of the soil, the surface, character of the earth, its altitude, its fitness for cultivation, and its general geological character. I regard these surveys as of incalculable value, and I trust the amendment of the gentleman from California will not, on his mere suggestion that this is work of no importance, be permitted to prevail. I repeat that I know that these surveys are of inestimable value.

Besides, sir, I have no doubt that this work in the end will be in the interest of true economy. When we know, as we can by this system, the nature and character of the earth, we can intelligently determine that which should be surveyed. The money appropriated for such purpose could then be properly utilized. Such land as would be the subject for settlement would thereby be selected for survey, thus saving the expense of surveying lands unfitted for cultivation. Under the prevailing system the cost of surveys exceeds the revenues derived by the Government from the sale of public lands. I apprehend, also, that one result of this character of work will be to change our present system of surveys, unnecessarily expensive, and the adoption of the geodetic system, a change I deem of the utmost importance.

Mr. ELKINS. I move to strike out the last word. The people I represent are about as much interested in the surveys of the Rocky Mountains as anybody, but what they want is surveys of the public lands, and do not want ornamental and scientific surveys. The Committee on Appropriations recommend in the bill before the House only $50,000 for surveys in nine Territories and seven States, and the same amount for Hayden surveys. Now I am opposed to this distinction of the two surveys; that of the public lands is far more practical and important to the home-seeker and people on the frontier. I have yet to learn the first instance where any valuable results have been derived from the Hayden's surveys, such as the discovery of mines. The information they furnish may be accurate enough—I do not challenge that—but what practical good are they at present? Who reads their reports? None but scientific men can understand them; the people on the frontier care nothing about geodetic points, isothermal lines, and the Silurian system; they want homes, farms, and mines, and therefore desire the public domain surveyed.

Mr. LANE. It gives you a general and accurate description of the country.

Mr. STEELE. We should never have heard of New Mexico but for these explorations.

Mr. ELKINS. As I said before, I would rather encourage the surveys of the public lands.

Mr. HOLMAN. A single word, and then I shall ask that debate be closed on this paragraph. In my judgment the practical value of these explorations is, for the present, simply the fixing of geodetic points, with a view to the surveys of the public lands in the future, and especially the ascertaining the character and extent of our mineral resources. But I suggest that by unanimous consent the two paragraphs relating to these surveys be stricken out for the present *pro forma*.

Mr. ELKINS. Let them be stricken out altogether.

Mr. HOLMAN. We have all heard this subject argued a thousand times, and we understand it perfectly well. At a time when the Government has ample resources I think it would be well enough to have these surveys; I think scientific surveys are always valuable; but at this time I think this expense should not be incurred, except where imperatively required, for the public service. I think we all understand this matter, and I trust these paragraphs will be stricken out.

Mr. STEVENSON. I object to that.

Mr. CLYMER. I rise to oppose the motion to strike out.

Mr. ELKINS. I withdraw my amendment.

Mr. CLYMER. I regret exceedingly that my colleague from Pennsylvania, [Mr. TOWNSEND,] who, in the Forty-third Congress, was chairman of the Committee on Public Lands, is not present, for the reason that during that Congress a very careful and elaborate examination was made of this subject of the surveys of the Territories under Professor Hayden and Lieutenant Wheeler. That committee spent much time taking the testimony of officers of the Army, of persons interested in the Territories, of other persons who were familiar with the subject, and gathering information from officers and professors connected with nearly every institution of learning in this country. And I think it was the unanimous opinion of the committee that there were no more important surveys progressing under this Government, or that could be projected by any government, than those made by Professor Hayden and Lieutenant Wheeler.

I think there is not a Delegate from the Territories who will not assent to that opinion, who will not say that to have the whole surface of their Territories surveyed, the character of their soil ascertained, and its aptitude for certain productions ascertained, their mineral deposits and general topography fully set forth, would be of vast service. When gentlemen say that no one ever knows what has been done by these surveys, I reply to them that these reports go into the hands of the young and intelligent of this land; they are disseminated through our institutions of learning, and by these means we are educating the men who are to take our places in the future, and who out of this vast territory, this *terra incognita* of to-day, are to carve thriving and populous commonwealths in the future.

I say it is not unworthy to spend money for such purposes, and that it would be false economy to refuse to do so. There is no more useful or interesting subject than the making of these surveys. And if you come to the mere question of value to the people and the Government, there is no expenditure which will repay them so richly as to discover what we possess in our Territories as regards soil and mineral products.

I trust this committee will not strike out these items, for if it is done now, when we come into the House with the bill we will be compelled to act upon it without any opportunity for debate. I do not propose that a question affecting the prosperity of this country in the future so vitally as this shall be disposed of when its advocates are not upon this floor. I trust, therefore, that this committee will at least debate this subject so long as to thoroughly ventilate it, and then if they choose to strike out these paragraphs I will have nothing to say.

Mr. WILSON, of Iowa. I rise to a question of order.

Mr. HOLMAN. Both sides have been heard. For the purpose of progressing with the bill, as it is manifest that whenever we come to this question of surveys it is impossible to make much headway until there has been debate, I ask unanimous consent that the two paragraphs relating to surveys be passed over at least until a quorum is present.

Mr. WILSON, of Iowa. That is right.

Mr. PIPER. I object.

Mr. HOLMAN. Then I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BUCKNER reported that the Committee of the Whole on the state of the Union, having had under consideration the bill (H. R. No. 4682) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes, had come to no resolution thereon.

Mr. HOLMAN. With a view to harmony, I ask unanimous consent that when the Committee of the Whole resumes its session the pending paragraph and the next succeeding one be deferred until the close of the bill be reached, when they can be recurred to as unfinished matter.

There was no objection, and it was so ordered.

Mr. HOLMAN. I now move that the House resolve itself into Committee of the Whole on the state of the Union, to resume the consideration of the sundry civil appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union (Mr. BUCKNER in the chair) and resumed the consideration of the bill (H. R. No. 4682) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes.

The CHAIRMAN. By order of the House, the consideration of the

paragraphs under the heading, "geological and geographical surveys" is passed over for the present.

The Clerk resumed the reading of the bill, and read the following paragraph:

Subtreasury and post-office, Boston, Massachusetts: For purchase of additional land condemned by the courts of the State of Massachusets, including interest and expenses incident, $181,554.

Mr. PIPER. Simply for the purpose of having an explanation, I move to strike out this paragraph. I wish to know what this money is intended for.

Mr. HOLMAN. The Government authorized the condemnation of four pieces of land, constituting together one plot, for the extension of the Boston subtreasury and post-office public building. The Government has paid already for two of those four pieces of land. The other pieces have been condemned for public use by the courts of Massachusetts, and the sum of $181,554 is required to pay for them, being the amount of those condemnations.

Mr. PIPER. I withdraw the amendment.

The Clerk read the following paragraph:

Custom-house and post-office, Cincinnati, Ohio: For continuation of building, $325,000.

Mr. BANNING. I offer the following amendment:

Strike out "$325,000" and insert in lieu thereof "$500,000."

I wish to say a word or two upon this subject. I see that the Committee on Appropriations have given to Cincinnati $325,000, and that they have given to Chicago and Saint Louis each $400,000. I think, Mr. Chairman, that true economy for this Government consists in finishing those buildings that are now being built, and stopping the payment of rents. We are paying at Cincinnati more than enough rent for extra buildings for the pension, the revenue and other offices, to pay the interest on the additional amount I ask in this amendment. We need the buildings there. Our Chamber of Commerce yesterday instructed my colleague [Mr. SAYLER] and myself to ask for this. I hold in my hands the report of Mr. Hannaford, the architect of this building, explaining its condition, which I shall ask to have read. I want to say to this House that in giving this amount to finish this building you will not only use good economy and get all the officers of the Government under the roof of safe Government buildings, but you simply give to us at Cincinnati what we pay to this Government in less than two weeks' time. We pay more than $10,000,000 at Cincinnati; more than any other city; more than any State, except the State of Illinois and the State of New York. We are building one of the largest buildings, and you give us less money than you give for the buildings in other cities. I say it is not fair, it is not right, it is not just; it is not caring for the business of the Government as it should be cared for to thus delay and hinder the completion of necessary buildings by insufficient appropriations.

I hope I will be allowed enough time to have read the report of the architect of our building, and that this amount will be made what was asked for, in order that this building may be completed at an early day. I ask that the architect's letter be read.

The Clerk proceeded to read the letter. Before the reading was concluded the hammer fell.

Mr. RICE obtained the floor and yielded his time to Mr. BANNING.

Mr. BANNING. I am much obliged to my colleague. I desire to have the rest of the letter read.

Mr. HOLMAN. I do not think that that is in order except by unanimous consent.

Mr. RICE. I believe I have the floor, and I yield my time to my colleague, [Mr. BANNING.]

Mr. BANNING. I ask the Clerk to proceed with the reading of the letter.

The Clerk continued and completed the reading of the letter, which is as follows:

OFFICE OF SUPERINTENDENT OF CONSTRUCTION,
UNITED STATES CUSTOM-HOUSE AND POST-OFFICE,
Cincinnati, February 20, 1877.

SIR: I desire again to address you in regard to the proposed appropriation for the construction of the custom-house and post-office at this place. It is reported that the proposed appropriation is only $325,000. This amount I can assure you is but a mere pittance, and a mockery of the real necessities of the building. In this connection I would state for your information that the building is now in that condition to warrant a liberal appropriation and an energetic prosecution of the work.

The subbasement and basement stories are substantially completed.

The granite of the exterior walls is set to a height of three feet above the level of the first floor. The basement and first floor beams are laid, and the superstructure during the next nine months could be carried to the level of floor of third story if the appropriation would allow of its being done. The amount proposed, $325,000, is only sufficient for the constructional necessities of the building in its several departments, outside of and in addition to the cost of cutting the granite. At the present date, two stories, first and second, and possibly a small amount of the third story, is cut. As before stated, we propose to set the granite of the first and second stories during the coming nine months, but this will exhaust the appropriation, leaving nothing to expend on the cutting of granite. It necessarily follows that the year 1878 will be a time of forced idleness in the history of the construction of the building for lack of cut granite.

The appropriation now proposed should be sufficient to not only carry on the *actual construction* of the building, but to also carry forward the granite cutting, that the completion of the building will not be delayed for lack of the cut stone. To this end the appropriation should be $750,000 at the least.

As you are aware, no city in the Union is in more pressing need of the building than Cincinnati. Neither is there any other more fairly entitled to consideration of its needs than Cincinnati. This fact is in strange contrast with the proposed appropriation for Chicago and Saint Louis, which is reported as $400,000 each. The appropriations of last year show similar unjust discrimination against this city.

Feeling, as you do, as great an interest in the welfare of this building as myself, I am confident that you will excuse my importunity in this matter of appropriation.

Respectfully,

SAMUEL HANNAFORD,
Superintendent.

Hon. H. B. BANNING,
House of Representatives, Washington, D. C.

Mr. BANNING. I am surprised that my friend from Indiana, who I know is an economist, should have endeavored to cut off the reading of this letter, written by the architect of that building, which gives us full information about the building and tells us just what is wanting. He ought to be willing that we should have information upon this subject and that the House should vote understandingly. We have it shown here that this building is now up to the first story, and that if we get this amount of money it can be pushed to the third story this year.

I think, Mr. Chairman, the House should give this amount. There is every reason why my friend from Indiana, who sought to cut off this information, should agree to give at least as much to Cincinnati as he gives to Chicago or Saint Louis. I hope the House will consider this matter and give the amount asked. That it will treat this matter as we would treat our own business, and push on the building and complete it. This penny-wise economy makes nothing for the Government, makes nothing for the party; hurts the Government, hurts the party, and hurts the men who exercise it.

I desire now to modify my amendment. I asked for $500,000; I shall now fix the amount at $400,000, the same amount that is given by this committee to Chicago and the same amount that is given to Saint Louis. I do think there is every reason why we should have just as much as either of these cities has. We pay more for the support of the Government. Our building is quite as much needed. And by reason of inadequate appropriations heretofore our building is not as near completion as the buildings of those places. In saying this I do not wish to be understood as opposed to the amount given to Chicago or Saint Louis. I think each of these cities should have had the amount asked for by the Secretary to continue the work. I believe our appropriations should be such that each of these buildings might be finished at an early day. True economy consists in finishing them quickly.

Mr. PIPER. I would like to ask the gentleman what amount of money has been expended already upon the building at Cincinnati?

Mr. BANNING. I do not know the exact amount. It is about three million dollars.

[Here the hammer fell.]

Mr. KELLEY. I understand that debate is exhausted on this amendment; but if the gentleman from Ohio [Mr. BANNING] will withdraw it, I will renew it.

Mr. BANNING. I withdraw it.

Mr. KELLEY. I renew it. Mr. Chairman, I cannot help thinking that the policy of the Committee on Appropriations in reducing appropriations for buildings already begun and for the completion of which much of the material has been purchased and prepared, is a mistake. Such a policy seems to me not economy, but unwise expenditure. For the building now under consideration the stone for two stories has been paid for and is cut. During the whole of the long period while labor upon these buildings is suspended, there is a contingent force, I think it is called, under pay; there are clerks, superintendents, &c., who are receiving large pay per diem during the eight months of the year in which nothing is doing. Interest is being lost on the money expended; rent is being paid for offices and rooms which would be dispensed with if these buildings were completed. I believe that true economy, the saving of money in a period of three years that it may take to complete all the buildings now under way, would be accomplished by making appropriations large enough to keep the work going all the year, so that the twelve or fifteen thousand dollars expended on the contingent force might go into the buildings instead of being paid to those holding sinecure positions.

I will unite with the committee in resisting the purchase of any new lots and the commencement of any new buildings; but I do insist that sound economy requires liberal appropriations for these purposes at this time. Wages are low, material is low, and now, when our people are out of employment, when it would be in the long run economy to make such appropriations, when it would give work for the support of families now idle and so far stimulate the public revenues, I say it is not economy but wastefulness to reduce the appropriations. I therefore renew the amendment of the gentleman from Ohio, and shall cordially support it.

Mr. SAYLER. Is debate still in order on this amendment?

The CHAIRMAN. It is in order to oppose the amendment.

Mr. BANNING. I withdraw the amendment that my colleague may renew it.

Mr. SAYLER. I renew the amendment. Mr. Chairman, I do not wish to detain the committee at any length in the discussion of this question. I agree with the gentleman from Pennsylvania [Mr. KELLEY] who has just taken his seat, that it is not good economy to impede the ordinary progress of these buildings; that more harm is done by allowing the walls of these buildings to stand uncovered from winter to winter than can possibly be compensated by the reduction of appropriations proposed by this committee. In my judgment there should have been appropriated for each of these buildings at Chicago, Saint Louis, and Cincinnati respectively, the amount of the estimate

of the Supervising Architect. It would have been better economy to have given for each of them the half million dollars necessary for the successful prosecution of the work during the next year, so that the usual force in the service of the local architect might have been kept steadily employed. To give a smaller sum compels the architects necessarily to carry on their work with less energy and efficiency and less real economy.

There is no reason for making a distinction between Cincinnati, Saint Louis, and Chicago. In saying this I do not wish to drag Chicago and Saint Louis down in their building enterprise, but only to lift Cincinnati up. The buildings in these three cities are of about the same size, as gentlemen from the cities will testify. They are expected to cost about the same amount of money. I believe that the estimates for the ultimate cost of these buildings is very nearly the same in each instance, and there is no reason why this distinction should be made as against the city of Cincinnati. I hope, therefore, that the committee will not hesitate to increase the amount of this appropriation from $325,000 to $400,000.

MESSAGE FROM THE SENATE.

The Committee of the Whole rose informally, when a message from the Senate by Mr. SYMPSON one of its clerks, announced that the Senate had passed with amendments, in which the concurrence of the House was requested, the bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government, for the year ending June 30, 1878, and for other purposes.

SUNDRY CIVIL APPROPRIATION BILL.

The Committee of the Whole on the state of the Union resumed its session.

Mr. HOLMAN. Mr. Chairman, I do not think that any of these gentlemen advocating this increase are serious. I do not believe that they desire to have money appropriated out of the public Treasury for the benefit simply of their respective localities. It seems to me that a gentleman whose constituents are interested in a particular appropriation of money is less able to judge fairly and impartially of the merits of that appropriation than those whose constituents are to bear the burden without receiving the benefits. I admit that it is desirable for the cities themselves that large sums of money should be spent there; but in this way the public burden is unnecessarily increased.

I admonish gentlemen that this bill already appropriates $14,900,000. The corresponding bill twelve years ago was deemed oppressive when it made an aggregate appropriation of $7,000,000. I trust that gentlemen, at least on this side of the House, will bear in mind that the appropriations recommended by the Committee on Appropriations are enlarged to the very last extent of the capacity of our Treasury to bear the burdens.

I wish to state the reason why the appropriations proposed for Cincinnati are not so large as those recommended for Chicago and Saint Louis. Cincinnati has very good public buildings, built, I believe only about twenty years ago. It has an excellent court-room, a good post-office, room enough for a sub-treasury. Its public buildings are solid and substantial, and would have answered for the purposes of that city for many years to come.

Mr. SAYLER. The gentleman from Indiana will allow me to correct his statement.

Mr. HOLMAN. In what?

Mr. SAYLER. The Cincinnati post-office building is entirely insufficient for the discharge of the public business, and they are compelled to rent the basements of adjoining buildings. They are carrying on a great part of the business now in rooms unfit for men to be placed in, and utterly inadaquate to the purpose.

Mr. BANNING. And they are constantly renting buildings outside.

Mr. SAYLER. Yes, they are renting buildings outside constantly.

Mr. HOLMAN. I know if the building was as large as this Capitol they would rent outside buildings.

Mr. SAYLER. No they would not; the gentleman is mistaken.

Mr. HOLMAN. This building was good enough fifteen or twenty years ago, and is good enough now, but our public officers are so accustomed to palatial residences elsewhere that they are not willing to put up with what was sufficient and convenient a few years ago.

Chicago is an exceptional case. There are no public buildings there, and we are now paying some $70,000 a year rent. This building in Cincinnati has already cost $3,000,000, that is, the appropriations will be $3,000,000 up to this time. There are yet in the Treasury, or were on the first day of this month, $27,500 of money—that much money yet to be expended; so that the appropriation of $325,000 will run the whole amount to be expended hereafter, appropriated already, and to be appropriated by this bill, $352,500 for a single building in the city of Cincinnati.

Mr. BANNING. Let me ask the gentleman from Indiana a question?

Mr. HOLMAN. My time is rapidly passing away.

Mr. BANNING. I wish the gentleman to correct one statement.

Mr. HOLMAN. What is it?

Mr. BANNING. Does not the gentleman know from the report I sent him in the room of the Committee on Appropriations that the $27,500 which was the unexpended balance on the 1st of this month will all be exhausted on the last of this month under existing contracts?

Mr. HOLMAN. We have to depend upon the only reliable information we can obtain from the Treasury Department, and we are informed from that Department there were unexpended on the 1st of the present month for this purpose $27,500.

Mr. BANNING. That is not a fair answer.

Mr. HOLMAN. I have no doubt there are outstanding contracts. We appropriated $250,000 last year and we now run that up to $325,000 this year, and yet gentlemen make demands for a still larger appropriation.

Mr. SAYLER. Let me ask the gentleman whether he does not know——

The CHAIRMAN. The time of the gentleman from Indiana has expired and debate on the pending amendment is exhausted.

Mr. SAYLER. I desire to say a word in response to the gentleman from Indiana.

The CHAIRMAN. Debate is exhausted.

Mr. SAYLER. I rise to oppose the amendment.

The CHAIRMAN. One speech has been made in favor of the pending amendment and one speech against it.

Mr. SAYLER. I will withdraw the amendment.

Mr. CHITTENDEN. The gentleman withdraws the amendment and I renew it.

Mr. SAYLER. I cannot allow myself to be taken off the floor in that manner. I believe I had the ear of the Chair, and was recognized.

The CHAIRMAN. The Chair will recognize the gentleman if he makes the proper motion.

Mr. SAYLER. I have withdrawn my amendment, and will now renew it.

I only want to correct an impression which might be created by the last remark of the gentleman from Indiana, and it will only take a moment for me to do it. The gentleman stated we had $250,000 appropriated for this building last year, and of that on the 1st of this month $27,500 remained. If the gentleman will look at the estimates of last year, he will find a year ago we had $250,000 appropriated, and had remaining unexpended from the previous fiscal year between two and three hundred thousand dollars; and it was for that reason we submitted at the time to the appropriation of only $250,000, or rather agreed to it, because that gave us nearly $500,000 for the current year, which is about the amount necessary.

Mr. HOLMAN. Why did not the gentleman fight it then?

Mr. SAYLER. We did fight it then because it was not as much as we ought to have had; and I undertake to say if more money had been appropriated the building would have been in a better condition and the work would have been better done than it has been. And it will not do for the gentleman to create the impression upon this committee that $250,000 was only employed last year and $27,500 of that was left over to the 1st of this month unexpended, because we had really some $500,000 last year and ought to have that amount this year.

Mr. CHITTENDEN. I do not mean in what I have to say to damage whatever reputation I may have here for being a strict economist, but I should be glad if the gentleman from Indiana and every other gentleman present who favors his policy in regard to these public buildings would listen to me for a single moment. I assume those gentlemen have during their life-time been engaged in constructing buildings of a private character, and, if they have, they certainly know that the largest possible extravagance consists in prolonging the period of construction.

Now I take the ground in full view of my belief that this Government during the next five years will have great difficulty in equalizing its revenues and expenditures. I take the ground that in respect to this public building in Cincinnati, and those at Chicago, Saint Louis, and Philadelphia, the strictest economy requires their completion at the earliest possible day. That is not only true on general principles, but it is especially true at this time, in view of the idle labor, the cheapness of material, the clamor for work, and a certain duty that the Government owes the people under existing circumstances. The gentleman proposes to go on and appropriate $300,000, more or less, to build a story perhaps of the building at Cincinnati. Instead of that he should ascertain the entire amount required for the completion of that building and that is the sum to appropriate. The dallying policy of feeding out the least possible sum which the Committee will consent to give for the construction of these buildings has been pursued long enough. They should either be abandoned or completed.

Now, gentlemen, I appeal to those who have been engaged in private building or in public building, to say whether there is recorded in the experience of any such men anything that does not confirm the position I take in regard to the matter. The true policy for the Committee on Appropriations is to examine the public buildings which have been begun and cannot be abandoned, to ascertain the total sum of money required to complete them, and to appropriate that sum of money. There is no other policy that does not follow closely after that of the great Tweed ring of New York, which is historical now, in building the court-house. They began by appropriating $500,000 more or less, have spent about $12,000,000, and there the building is; it has been from fifteen to twenty years in process of construction and it is not yet completed. And such in effect is the policy of the gentleman from Indiana, chairman of the Committee on Appropriations. I favor the amendment.

Mr. BANNING. In order that the amendment may be understood

I will state that it proposes to appropriate $400,000 for the building at Cincinnati, being the same amount which is appropriated for the buildings at Chicago and Saint Louis.

The question was taken on Mr. BANNING'S amendment; and on a division there were—ayes 68, noes 27.

Mr. HOLMAN. No quorum has voted, and as this is a very extraordinary proposition I must insist on a quorum.

Mr. BANNING. Why, the gentleman objected to our call for a quorum a little while ago.

The CHAIRMAN. Does the gentleman from Indiana demand tellers?

Mr. HOLMAN. Yes, sir. I demand tellers.

Tellers were ordered; and Mr. HOLMAN and Mr. BANNING were appointed.

The committee divided; and the tellers reported—ayes 82, noes 35.

Mr. HOLMAN. No quorum has voted, but I will not insist upon a further count, but will ask for a vote in the House.

So the amendment was agreed to.

The Clerk resumed the reading of the bill, and read as follows:

Post-office and court-house, Philadelphia, Pennsylvania: For continuation of building, $325,000.

Mr. O'NEILL. I move to strike out "$325,000" and to insert in lieu thereof "$400,000" for the building at Philadelphia, and I do it for the same reasons which apply to the case of the Cincinnati building.

Mr. HARRISON. Before the gentleman from Pennsylvania [Mr. O'NEILL] commences I desire to say that the Clerk read with such rapidity that I missed a paragraph preceding this, where I had an amendment to offer. If the Clerk reads with that rapidity it is impossible for us to catch up with him.

Mr. HOLMAN. I object to going back.

Mr. ATKINS. I must say, in reply to the gentleman from Illinois, [Mr. HARRISON,] that I think he does the Clerk great injustice.

The CHAIRMAN. There is no question before the committee.

Mr. ATKINS. I must say that there are two or three paragraphs between the last one voted on and that in regard to Chicago and the one now before the House, and if he did not offer his amendment it was on account of his own inattention, and not through any fault of the Clerk.

Mr. HARRISON. I was here attending and watching an opportunity to offer the amendment.

Mr. ATKINS. Then how can the gentleman explain that he allowed three paragraphs to be read beyond the one to which he desired to offer an amendment?

Mr. O'NEILL. I would suggest to the chairman of the Committee on Appropriations that he agree that this amendment shall be put on the bill now and that we subsequently have a vote in the House upon it, as we have done in regard to the item for the building at Cincinnati. I do not wish to embarrass this bill, and I do not make this proposition for an increase of appropriation for the Philadelphia building merely on account of locality. The building and completion of a proper post-office is for the advantage of every one. It is not merely local. In Philadelphia, with our large population and large business interests, we are now suffering from the disadvantage of a very small and inconvenient building.

Now the gentleman may say he has cut down this bill to the amount of fourteen and a half millions of dollars from the estimates made, but at the same time time by adding $150,000 for an increase of the appropriations for the buildings at Cincinnati and Philadelphia he is not burdening the bill very much in consideration of the convenience of the business people. The estimate made, as I think I have understood at the Department, was originally $750,000 for each of these buildings. That estimate was corrected in the Treasury Department, and then a letter from the Secretary of the Treasury put, I think, the estimate for the Philadelphia building at $500,000.

Now we will have to be content if we can have an appropriation for this building of $400,000, as that is the amount just voted for Cincinnati. While these buildings are in progress of erection and the wants of the community in this respect are so well known, I do not see why the gentleman should hesitate to permit this amount to be appropriated. I certainly do not want to vote for any extravagant appropriations, but I do want such an appropriation for a building which is necessary as will enable this building to be completed within a reasonable time. The delay of a day is a great injury to the business interests of the country.

Now, although I represent here a district in which one of these buildings is located, I can assure this committee that I am not actuated merely by a desire to obtain some advantage for the locality in which I reside. We need this new building in Philadelphia, and we want it completed as soon as possible. It has been lingering along for years. A great error was committed when so small an appropriation was made for the present fiscal year. I endeavored during the last session to have $750,000 appropriated, but democratic economy decided that $350,000 was enough.

Mr. HOLMAN. Do I understand the gentleman from Philadelphia [Mr. O'NEILL] to say that there are no public buildings in that city?

Mr. O'NEILL. No, sir; I made no such statement. What I stated was this, that I was not influenced by motives of local interest, but that we had a post-office which was exceedingly inconvenient and entirely inadequate for the business of Philadelphia.

Mr. HOLMAN. Philadelphia has public buildings that under ordinary circumstances will answer for many years to come. We propose by this bill to appropriate the same amount that was appropriated for this purpose last year, $325,000, and I consider that that is sufficient.

A great deal has been said recently about corruption and dishonesty in the administration of this Government. That has been the staple commodity of politicians upon the stump in this country. Yet gentlemen must know that so long as these lavish appropriations are made for the erection of palatial buildings, buildings that are far beyond the wants of the communities for which they are provided, corruption and dishonesty in the expenditures of the Government are inevitable.

I have heard a great deal said upon this side of the House upon the necessity of retrenching down to the necessities of the public service. Yet with the appropriation for the Cincinnati post-office increased $150,000 beyond the amount contained in this bill when it was reported from the Committee on Appropriations, I can hardly hope to resist this general tide of extravagance and bring the appropriations back even to the old order of things, about which such indignation has been excited all over the country.

I think that $325,000 is a very ample appropriation for the post-office in Philadelphia. Yet we find all the gentlemen who have public buildings in process of erection in their cities or towns acting in consort with each other to force up these appropriations to the highest point. But a few months since the people of the country were denouncing this extravagance in public expenditure. No purity in the administration of the Government can be possible while such lavish appropriations are made. It is the very magnitude of the sums which are placed under the control of your public officers that excites that unfortunate cupidity which brings with it corruption and dishonesty and saps the very foundation of this government. Yet gentlemen propose to add hundreds of thousands of dollars to this bill which, when it came into the House, proposed to appropriate within a fraction of $15,000,000.

Mr. CHITTENDEN. Will the gentleman allow me to ask him a question?

Mr. HOLMAN. Certainly, with pleasure.

Mr. CHITTENDEN. I would like to ask the gentleman from Indiana [Mr. HOLMAN] if he has not within his own experience discovered that it cost $2 to be five years in erecting a building where it would cost $1 to erect it in two years, when it can be properly completed in that time?

Mr. HOLMAN. O, yes; I heard that argument brought forward here twelve years ago; just that strain of argument was begun at that time. It has resulted in the demoralization of the public service, in the wide demoralization of the service. The same argument would justify the paying the public debt at once, of loading down the people instantly with burdens which in a time of great depression would crush out the business interests of the country. That argument is used to justify the erection of these imperial palaces, costing two or three times as much as is required, for the public service. These palatial structures are beyond the wants of the service and in violation of the good faith of a plain Government like ours. I ask for a vote on this proposition.

Mr. HARRISON. I move to strike out the last word, and I do it because of the imputation thrown out by the gentleman from Indiana, [Mr. HOLMAN,] when he charges cupidity upon members here because they desire wise appropriations, and not foolish ones.

Mr. HOLMAN. The gentleman misapprehends me.

Mr. HARRISON. Do not interrupt me now.

Mr. HOLMAN. Will the gentleman misinterpret me and then refuse to let me be heard? I said the appropriation of these large sums of money excited that cupidity which is sapping the foundations of this Government.

Mr. HARRISON. Very good. I have been before the Committee on Appropriations and urged them to give us, in Chicago, an appropriation that would enable us to complete our building. They refused to do so, and call it economy. I say it is rural folly, fit only for the gentleman's own little district.

We have in Chicago now a building which has already cost the Government $4,000,000. Admit that it was folly to commence the ercetion of such a building; it is there. Chicago is the first post-office in the country in respect of newspaper delivery; it is the second post-office in America in regard to letter distribution; it is the third post-office in America in respect to the income derived from its registered-letter department.

What have we in Chicago in the way of public buildings? The internal-revenue department, taking in $8,000,000 a year, is located in a tinder-box, rented from a man who stands high in his party and who gets his $28,000 a year for rent. We pay other rentals, amounting in all to $70,000 a year. What do we get for them? That great city, which was burned up a few years ago, is now compelled to rent at an enormous rental mere tinder-boxes, and the gentleman calls that economy. Sir, the gentleman looks at the estimates sent in here; but he has never figured—I dare him to say on this floor that he has figured—what is absolutely necessary. When an estimate comes in he cuts it down. He is like the man mentioned by Thackeray who bought an old hat for threepence, but found out afterward that it could have been bought for twopence, and was miserable ever after-

ward. [Laughter.] That is not economy, Mr. Chairman; it is the very essence of wastefulness.

We have our great post-office, our internal-revenue department, our custom-house in those tinder-boxes. And what was the gentleman's policy last year? We asked an appropriation that would have enabled us to make a contract for putting a roof on the building now in course of construction. He refused it, and beat us on this floor. The result was that the architect could not make a contract, and the building is there idle; the roof could not be put upon it; and another year must pass before it can be completed. Yet the gentleman calls this economy. The whole amount necessary to finish that building would not cost the Government $45,000 a year in the shape of interest on its obligations; yet the gentleman goes on and lets us pay a rent of $70,000 to $80,000 to men who lobby here with the Departments to have their buildings rented by the Government. The gentleman calls this economy! Sir, it is folly. There is no economy in it. Gentlemen may go before the country with an appearance of economy; but I say to the gentleman that there is brain enough in this country to distinguish real from false economy; and the people are not going to be fooled by a mere appearance. We have injured ourselves by this sort of policy; we have injured the party. A few districts may approve such a system; but the country in general pronounces it folly. We are called imbeciles, because we are in some localities paying from $70,000 to $100,000 rent when bonds sold at 4½ per cent. would finish the buildings, and the interest upon those bonds would not exceed $45,000 a year. Are we going to conduct this Government so differently from the business of a private institution?

[Here the hammer fell.]

Mr. LANDERS, of Indiana. I arise to oppose the amendment of the gentleman from Chicago, [Mr. HARRISON].

Mr. Chairman, I discover that there has been an onslaught made upon the Committee on Appropriations and that in some instances they have been induced to consent to appropriations far beyond the proper demands of the public service. I refer in particular to the appropriation made here yesterday for the public grounds around this building—an appropriation of $100,000. If these grounds belonged to a private individual and were to be improved in like manner, it would be done for $10,000 or $20,000.

Now gentlemen representing large cities come in here and insist, as does the gentleman from Pennsylvania, that they are suffering for want of great public buildings. Sir, when the letter-carrier system was adopted it was done upon the ground that there would be no necessity for large post-office buildings, which is true; we do not need them and it is a waste of the public money to build them. Yet now, when letters are carried from the post-office and delivered to the business man at his counter, gentlemen here argue that they require large buildings and are suffering for the want of them. Sir, the only object is to get ornamental public buildings in their respective cities. There is no necessity at all for such structures. I hope the Committee on Appropriations will be sustained upon this proposition.

Mr. Chairman, I reside in a city where this letter-carrier system is in operation. I have been in favor of it, have always voted for it. But, sir, there is no crowd around the post-offices in our large cities, and no need of large buildings. The letters are distributed there to all business points. I hope the committee will be sustained.

The amendment to strike out the last word was withdrawn.

Mr. FREEMAN. Mr. Chairman, I renew the amendment to strike out the last word. Sir, it seems to me a strange spirit pervading this House which, in the name of economy, leaves public works of vast importance if not absolute necessity with the prospect of being uncompleted for years, while the sum annually paid for ill-conditioned accommodations for the public service far exceeds the interest on the sum necessary for their completion. It would have been far better never to have commenced these structures than to allow them to drag on year after year in their present condition. But as they have been commenced, as their completion cannot be delayed without additional cost and loss to the Government, arising, among other things, from the necessity for their protection from exposure to the changing seasons and the deterioration incident thereto, the loss of interest on the sum already invested, the large rents paid for the necessary quarters for the various branches of the public service, it would seem to be but the part of wisdom and true economy to complete these buildings as speedily as possible. The amount appropriated in this bill is utterly insufficient for that purpose, and unless it be increased the Government will be the loser in the long run. I hope that members of this House, and more especially gentlemen more immediately representing sections of the country where these buildings are under way, will rise above the narrow, contracted spirit which seems to govern the chairman of the Committee on Appropriations like a nightmare, and will in the interest of public spirit, of wisdom, and true economy adopt this amendment.

Mr. HOLMAN. I rise to oppose the pending proposition and call for a vote.

The amendment to strike out the last word was withdrawn; and the question recurred on the amendment of Mr. O'NEILL to strike out $320,000 and insert $400,000.

The question being taken, there were—ayes 54, noes 49.

Mr. EDEN. I make the point that there is no quorum. If this system of extravagance is to be inaugurated, I want it done with a quorum in the House.

Tellers were ordered; and Mr. HOLMAN and Mr. O'NEILL were appointed.

The committee divided; and the tellers reported—ayes 74, noes 67.

So the amendment was agreed to.

Mr. HOLMAN. We will take a vote on this amendment in the House.

The Clerk read as follows:

Appraisers' stores, San Francisco, California, for continuation of building, $50,000.

Mr. PIPER. I move to amend the clause just read by striking out "$50,000" and inserting "$100,000."

Mr. Chairman, the building for appraisers' stores for which the Committee on Appropriations have put in the bill $50,000 is situated in the city of San Francisco. It is a building two hundred and twenty feet in length and one hundred and twenty feet in breadth, and is intended for various purposes; for the district and circuit courts of the United States, for the marshal's offices and all the other offices necessary for the conduct of the Federal judicial business of the ninth circuit of the United States. In addition it is intended for offices for collectors of internal revenue, for headquarters of the Army, &c. It will accommodate the appraisers of the port of San Francisco for offices and warehouses, with a warehouse capacity, I believe, of 18,000 tons in addition. The building is a plain brick structure, with no ornamentation whatever. It is now up four stories, and about ready for the roof. Upon it already has been expended, I believe, $583,000. The amount necessary for its final completion, as estimated by the Government architect, is $217,000.

For the offices and court-rooms which this building will accomodate when completed, the Government is now paying a rental of about $24,000, independent of storage capacity and the offices occupied by the appraisers.

The present circuit and district courts for the ninth judicial district are now located in an old, broken-down building totally improper and inadequate for the purpose. It is a building which was shattered by an earthquake, is in danger on account of fire, and may be destroyed at any time. All the court records of the circuit and district courts are contained in that building. The entire records of the vast landed property of the State of California, derived from Spanish and Mexican titles, are located in that insecure building.

The Committee on Appropriations have seen proper to appropriate $50,000 for the continuation and completion of this building, an amount which if this building were completed would be saved to the Government every year. Therefore I submit in the interest of economy, in the interest of the safety of the public records, in the interest of the public and the Government itself, this building should be completed at the earliest possible moment, and I ask that this committee will unhesitatingly vote to increase this appropriation to $100,000, as I have proposed.

Mr. HOLMAN. This building is one of seven buildings which have been commenced and put in progress of erection in the city of San Francisco, seven separate and distinct buildings. The old building known as the Appraisers' store building in the city of San Francisco is now in use. This is a new and elegant structure, one for which we have already appropriated $588,000, and the Committee on Appropriations think the appropriation of $50,000 for that work is very ample. I now ask for a vote.

Mr. LUTTRELL rose.

The CHAIR. Debate is exhausted.

Mr. LUTTRELL. I ask my colleague to withdraw his amendment and I will renew it.

Mr. PIPER. I withdraw the amendment.

Mr. LUTTRELL. I renew it.

Now, Mr. Chairman, I agree with all my colleague has said in relation to the present appropriation. I believe that the appropriation reported in this bill should be increased to $100,000 at least. This building is under construction. We have expended, it is true, a great deal of money, but we are putting up a first-class building there. The commercial interests of the country demand this building shall be constructed as speedily as possible. We are now paying enormous rents in San Francisco for public buildings, and why it is when we have the money we should withhold it, and not complete this building, I cannot understand. I know the building can be finished in a very few months, and we would thereby save every year as much money as is proposed to be appropriated in this bill. I hope the amendment will prevail. If the building is completed within the next year, it will be the means of saving as much as is now proposed to be appropriated. This cannot be done.

The committee divided; and there were—ayes 38, noes 29; no quorum voting.

Mr. PIPER demanded tellers.

Tellers were ordered, and Mr. PIPER and Mr. HOLMAN were appointed.

The committee again divided; and the tellers reported—ayes 53, noes 94.

So the amendment was disagreed to.

The Clerk read as follows:

For court-house and post-office, Saint Louis, Missouri: for continuation of building, $400,000.

Mr. STONE. I move to strike out "400" and insert "500," so as to increase the appropriation to $500,000.

Now, Mr. Chairman, it is almost impossible, it would seem, to convince members of this House of the absolute necessity and importance of adopting the amendment I have proposed. I consider the majority of this House have already settled by the votes given on this bill that they defer altogether to the wisdom of the Committee on Appropriations in reference to the wants of every section of this country. This building has been standing for several months for want of an appropriation. The only men employed about it are high-salaried men, the superintendent, the watchmen, and the foreman. The material is there on the ground, and the bone and sinew to put it up are there. All we want is the appropriation. I therefore ask gentlemen to vote for my amendment.

The question being taken on Mr. STONE'S amendment, there were—ayes 26, noes 72.

So (further count not being demanded) the amendment was not agreed to.

The Clerk read the following paragraph:

Court-house and post-office, Parkersburgh, West Virginia:
For completion of building, fences, grading approaches, and furniture, $5,000.

Mr. WILSON, of West Virginia. I offer the following amendment:

Strike out "$5,000" and insert in lieu thereof "$20,000."

I dislike to antagonize any report from the Committee on Appropriations as I have every confidence in that committee. But I desire to say that this appropriation is so wholly inadequate that I must ask that it may be increased. The city of Parkersburgh is the only place where by law the circuit court of West Virginia can hold its sittings. The court now uses the court-house of the State, which is otherwise occupied much of the time, and the court is often subjected to inconvenience in holding its sessions.

There have been now apppropriated about $200,000 for this building; and the Supervising Architect has reported that it will require $20,000 more to complete it. The unexpended balance is not enough, I understand, to do the painting and the glazing, and to furnish the fastenings of the doors and windows, &c. The building is uninclosed. I take it that it is very bad policy, after so much money has been expended, to allow the building to stand in an unfinished condition, exposed to the weather, unpainted, and without fastenings to the doors and windows. The building is absolutely needed for post-office and court-house purposes. I hope it will be the pleasure of the committee to sustain the amendment I have offered, and give the $20,000 which are asked for.

Mr. HOLMAN. The amount of money on hand for the building at Parkersburgh is $11,000. That was the amount on the first day of this month. The building is well on to completion and it may require possibly about $15,000 altogether to complete it. It is a building that perhaps my friend from West Virginia will agree ought not to have been erected. It is being erected at a very large cost and is not one of those buildings that is imperatively required for the service of the Government.

But lest we may have put this appropriation too low, with the consent of the members of the Committee on Appropriations around me, I will move to make the amount $10,000; so as to make the entire appropriation for furnishing the building and completing its internal works, $21,000. I feel very confident that my friend from West Virginia will find that very ample. I ask him, therefore, to modify his amendment by making the amount $10,000.

Mr. WILSON, of West Virginia. If the gentleman will put the amount at $15,000, I will accept that.

Mr. HOLMAN. We think $10,000 very ample.

Mr. WILSON, of West Virginia. Very well; I accept it, and modify the amendment so as to make the amount $10,000.

The amendment, as modified, was agreed to.

The Clerk read the following paragraph:

Court-house, custom-house, and post-office, Evansville, Indiana: For completion of building, $20,000.

Mr. FULLER. I offer the following amendment:

Strike out "$20,000" and insert in lieu thereof "$49,000."

For the information of the Committee of the Whole, I desire to have a letter from the superintendent of the building read.

The Clerk read as follows:

OFFICE OF SUPERINTENDENT OF CONSTRUCTION,
UNITED STATES CUSTOM-HOUSE, POST-OFFICE AND COURT-HOUSE,
Evansville, Indiana, January 29, 1877.

DEAR SIR: Will you please inform me as to the prospect of the passage through Congress of the appropriation for the above-named building, included in the Treasury estimates for the present session. The balance yet subject to appropriation under the act of January 16, 1873, as amended by the act of June 23, 1876 is $50,000 in round numbers, perhaps really only $49,000. The total appropriation is limited to $200,000, exclusive of the cost of site, which has cost about $99,000. Total appropriations previous to this session, $250,000.

There have been expended on the building proper, and for expenses connected therewith, (not including the real estate or site,) about $87,000. The building is nearly ready for the roof, and there is more than enough money already appropriated and subject to requisition to pay everything due on existing contracts, place the edifice under roof, and make everything ready for the interior finish. In my opinion, the structure can be completed within the appropriation of $200,000, except perhaps the iron fencing, sidewalks, and other outside work, which is generally done by extra appropriations. This is also the case, I believe, with the movable furniture. The authorities at Washington, I know, have steadily determined and endeavored to complete the building within the limits authorized by law, and doubtless will succeed.

So far as I am concerned, it is my earnest desire that this may be done, and that our city may have a good, substantial, handsome edifice, that will supply all her requirements in this regard for a generation or so to come. If Congress at this session will appropriate the $49,000 or $50,000 balance of the whole amount authorized, I doubt not that this sum will suffice to complete the building by the early spring of 1878 in a very satisfactory manner.

Hoping to receive early and favorable information from you in regard to the appropriation now pending, and thanking you for the interest heretofore manifested and the influence exerted by you in this behalf, I remain,

Very respectfully and truly, yours,

JAMES H. MCNEELY,
Superintendent.

Hon. BENONI S. FULLER,
Representative First Congressional District, Washington, D. C.

Mr. HOLMAN. As the hour of twelve o'clock has arrived, I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BUCKNER reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 4682) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and had come to no resolution thereon.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By Mr. DE BOLT: The petition of the officers and directors of the Merchants' Exchange, of the Board of Trade of Saint Louis, and of the letter-carriers of said city, that the pay of said carriers be increased, to the Committee on Appropriations.

By Mr. FINLEY: A paper relating to the establishment of a post-route from Volusia, on the Saint John River, to Leesburgh, on Lake Eustis, via Yallaha, Florida, to the Committee on the Post-Office and Post-Roads.

By Mr. HOUSE: The petition of school directors of Davidson County, Tennessee, for the donation of Ash barracks in said county for school purposes, to the Committee on Military Affairs.

By Mr. LAPHAM: The petition of Edgar Parker and other citizens of Geneva, New York, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

By Mr. LUTTRELL: The petition of the Vinicultural Society of Saint Helena, California, for the amendment of the revenue laws relating to the importation of foreign wines and liquors, to the same committee.

Also, the petition of Milton S. Latham and others, of California, that if a subsidy be granted for a mail between the United States and China it be a semi-monthly mail, and the subsidy applicable alike to the Pacific Mail Steamship Company and the Occidental and Oriental Steamship Company, to the Committee on the Post-Office and Post-Roads.

By Mr. MCCRARY: Papers relating to the petition of W. A. Britton, late marshal for the western district of Arkansas, for compensation for certain services performed by him, to the Committee on Appropriations.

By Mr. POWELL: The petition of J. R. Budd and 33 other citizens of Wayne County, Pennsylvania, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. PURMAN: The petition of Amos Hunt and 35 other citizens of Washington City, District of Columbia, for the extension of the Capitol grounds and the erection of library and Supreme Court buildings, to the Committee on Public Bulidings and Grounds.

Also, the petition of citizens of Falls Church, Virginia, of similar import, to the same committee.

By Mr. JAMES B. REILLY: Four petitions, three from citizens of Pottsville, Pennsylvania, the fourth from citizens of Schuylkill County, Pennsylvania, for aid in the construction of the Southern Pacific Railroad, to the Committee on the Pacific Railroad.

By Mr. SAVAGE: The petition of T. Worthington, of Ohio, that he be granted a pension until paid for civil services, to the Committee on Military Affairs.

By Mr. THOMPSON: The petition of Abbie G. H. Todd and 93 others of the Women's Christian Temperance Union of Massachusetts, and Daniel G. Todd and 63 others, for legislation restraining the manufacture of intoxicating liquors and the importation thereof into the United States to such an amount only as shall be required for medicinal and mechanical purposes in the arts, to the Committee of Ways and Means.

Also, two petitions, one from Thomas Pickett and 36 others of Beverly, Massachusetts, the other from the Asiatic Bank of Salem, Massachusetts, and numerous bank officers of said city, for the repeal of the bank-tax laws, to the same committee.

By Mr. WARD: The petition of ship-owners, merchants, and underwriters of the port of New York, against crippling the usefulness of the United States Coast Survey by curtailing the usual appropriations for its support, to the Committee on Appropriations.

By Mr. WELLS, of Missouri: The petition of the board of directors of the Merchants' Exchange of Saint Louis, Missouri, for the repeal of the bankrupt laws, to the Committee of Ways and Means

By Mr. WIGGINTON: The petition of John W. Burrows and 125 others, for a mail-route from Mariposa to Hites Cove, Mariposa County, California, to the Committee on the Post-Office and Post-Roads.

By Mr. WILLIAMS, of Delaware: A paper relating to the establishment of a post-route from Lewistown to Rehobeth, Delaware, to the same committee.

IN SENATE.

THURSDAY, *February* 22, 1877—10 a. m.

The recess having expired, the Senate resumed its session.

Mr. EDMUNDS. Mr. President, I ask unanimous consent at this time to make sundry reports.

The PRESIDING OFFICER, (Mr. PADDOCK in the chair.) The Chair must rule that reports are not in order. The understanding of the Senate is that no business shall be transacted between the hours of ten and twelve. That is the agreement made by unanimous consent.

Mr. EDMUNDS. So much the worse for the people who labor under disabilities.

The PRESIDING OFFICER. Does the Senator from Vermont move that the Senate take a further recess until twelve o'clock?

Mr. EDMUNDS. No, sir; I do not make any motion to interrupt public business at this stage of the session.

Mr. CHAFFEE. I move that the Senate take a further recess until twelve o'clock.

The motion was agreed to; and the Senate took a recess until twelve o'clock.

The Senate re-assembled at twelve o'clock m.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

On motion of Mr. SPENCER, and by unanimous consent, the reading of the Journal of yesterday's proceedings was dispensed with.

EULOGIES ON THE LATE SPEAKER KERR.

Mr. McDONALD. I desire to give notice that on Saturday next, at the close of the morning hour, I shall ask the Senate to take up the House resolution respecting the death of Hon. Michael C. Kerr, late Speaker of the House of Representatives.

DISABILITY BILLS.

Mr. EDMUNDS. There may be memorials to be presented, but I ask unanimous consent to make a few reports at this time as I wish to leave the Senate Chamber.

The PRESIDENT *pro tempore*. The Chair hears no objection, and the Senator will proceed.

Mr. EDMUNDS. I am instructed by the Committee on the Judiciary to report back all the disability bills that we have been able to examine. I first report the petition of John R. F. Tatnall, praying for the removal of his political disabilities, adversely. He appears by the books of the Treasury Department to be a defaulter to the Government. I move that the committee be discharged from the further consideration of the petition.

The motion was agreed to.

Mr. EDMUNDS. The bill (H. R. No. 3859) to remove the political disabilities of Manning M. Kimmell, late of Cape Girardeau County, Missouri, we report adversely for the same reason. He appears to be a defaulter to the Government. That I move to have indefinitely postponed.

The motion was agreed to.

Mr. EDMUNDS. The bill (H. R. No. 4149) to remove the political disabilities of Lloyd I. Beall, of Virginia, we report adversely, for he appears to be a defaulter to the Government. I move that that be indefinitely postponed.

The motion was agreed to.

Mr. EDMUNDS. The bill (H. R. No. 4207) to remove the political disabilities of F. E. Shepperd, of Virginia, we report adversely because he was dismissed from the Navy instead of having his resignation accepted. There are a good many cases of this character that I think when we can have an opportunity to look at them again at the next session we ought to modify the rule upon which we have acted and bring in the most of these cases; but at present, following the rule that we have had at this session, we feel obliged to report against these cases, but without prejudice, so that we can probably change the rule as to almost all of them at the next session. This bill I move to have indefinitely postponed for the present.

The motion was agreed to.

Mr. EDMUNDS. The petition of Dr. H. W. M. Washington praying for the removal of his political disabilities we report adversely upon, for the same reason. There is nothing that touches the honor of any of these gentlemen, and I am now speaking according to the rule that we feel obliged to follow so far. I move that the committee be discharged from the further consideration of the petition.

The motion was agreed to.

Mr. EDUMNDS. Also the bill (S. No. 1137) to remove the political disabilities of Charles L. Scott, of Alabama, because there is a House bill pending before us on the same subject, which, when we come to act upon it, will be disposed of. I move that the bill be postponed indefinitely.

The motion was agreed to.

Mr. EDMUNDS. The bill (S. No. 1138) to remove the political disabilities of Henry Myers, of Georgia, we report adversely, because he appears to be a defaulter to the Government. I move that the bill be indefinitely postponed.

The motion was agreed to.

Mr. EDMUNDS. The bill (H. R. No. 4437) to remove the political disabilities of Frank S. Armistead, a citizen of West Virginia, we report adversely, because he appears to be a defaulter to the Government, and in a very large amount. The others are not defaulters in very large sums. I move its indefinite postponement.

The motion was agreed to.

Mr. EDMUNDS. The bill (H. R. No. 4439) to remove the political disabilities imposed upon John H. Forney, of Calhoun County, Alabama, by the fourteenth amendment of the Constitution of the United States we report adversely, because he appears to be a defaulter to the Government. I move its indefinite postponement.

The motion was agreed to.

Mr. EDMUNDS. The bill (H. R. No. 4448) to remove the political disabilities of A. W. Burnet, of South Carolina, we report adversely because he was a member of a State Legislature and has already been relieved by the act of the 22d of May, 1872, volume 17 of the General Statutes, page 142. He is not under disabilities at all now. I move the indefinite postponement of the bill.

The motion was agreed to.

Mr. EDMUNDS. I ask that the committee be discharged from the petition of J. L. M. Curry, praying the removal of his political disabilities. It is said to be a petition. It is only a letter and we are unable to get any information to find out what he was or why he was, if I may so say.

Mr. JOHNSTON. I should like to state to the chairman of the committee that Mr. Curry was a member of the Thirty-seventh Congress.

Mr. EDMUNDS. We could not find anything about him. We had only before us a letter.

Mr. JOHNSTON. That letter is addressed to me, and as it contains the request to have his disabilities removed, I thought it would be sufficient. If the Senator will make no report on that case I will have the petition presented in a proper form.

Mr. EDMUNDS. Very well, I withdraw the report.

The PRESIDENT *pro tempore*. The report is withdrawn.

Mr. EDMUNDS. Upon the bill (H. R. No. 4475) removing the political disabilities of Joel S. Kennard, of Savannah, Georgia, we report adversely because he appears to be a defaulter to the Government. I move its indefinite postponement.

The motion was agreed to.

Mr. EDMUNDS. Upon the bill (H. R. No. 4204) to remove the political disabilities of William Sharp, of Norfolk, Virginia, we report adversely for the simple reason that he was dismissed. There is nothing that affects his honor, but he falls within the rule I have spoken of. I move its indefinite postponement.

The motion was agreed to.

Mr. EDMUNDS. The bill (S. No. 1237) to remove the political disabilities of H. H. Lewis, of Baltimore, Maryland, we report adversely. He was dismissed from the Navy instead of having his resignation accepted, and we feel obliged to report against him. There is nothing that affects his character at all that we know of at the present time. I move its indefinite postponement.

The motion was agreed to.

Mr. EDMUNDS. The bill (H. R. No. 223) to relieve A. B. Conrad, of Virginia, of all political disabilities, we report adversely. He was dismissed from the Navy instead of accepting his resignation, and he falls within the same category, but there is nothing that affects the morality of his conduct that we know of. I move its indefinite postponement.

The motion was agreed to.

Mr. EDMUNDS. The petition of W. E. Wysham, of Baltimore County, Maryland, praying for the removal of his political disabilities, is also reported adversely for the same reason, that he was dismissed from the Navy instead of having his resignation accepted. I move that the committee be discharged from the further consideration of the petition.

The motion was agreed to.

Mr. EDMUNDS. I make the same report in regard to the bill (H. R. No. 2811) to remove the political disabilities of C. H. Williamson, of New York, who was dismissed. I move its indefinite postponement.

The motion was agreed to.

Mr. EDMUNDS. I make the same report as to the bill (H. R. No. 3151) to remove the disabilities of John Johnson, of the county of Granville, and State of North Carolina, who was dismissed. I move the indefinite postponement of the bill.

The motion was agreed to.

Mr. EDMUNDS. I make the same report upon the bill (H. R. No. 3264) to remove the political disabilities of C. H. Kennedy, of Vir-

ginia, who was dismissed the Navy. I move that the bill be postponed indefinitely.

The motion was agreed to.

Mr. EDMUNDS. In regard to the petition of Oscar Hinrichs, we report that he was in the Coast Survey, as we ascertain, neither in the Army nor the Navy, and he is entirely covered, if he was ever under disability, by the act of the 22d of May, 1872, and he is under none now, so that I move the committee be discharged from the further consideration of the petition.

The motion was agreed to.

Mr. EDMUNDS. In regard to the bill (H. R. No. 3892) to remove the political disabilities of George Watson Carr, a citizen of the State of Virginia, he appears to be a defaulter to the Government, and we report adversely upon it for that reason. I move that the bill be indefinitely postponed.

The motion was agreed to.

Mr. EDMUNDS. I now come to a more agreeable packet. The bill (H. R. No. 3083) to remove the political disabilities of C. M. Wilcox, of Maryland, we report favorably without amendment.

Mr. WEST. Have it passed.

Mr. EDMUNDS. I cannot stop to put anything through now.

Mr. EDMUNDS also, from the Committee on the Judiciary, to whom was referred the petition of John S. Marmaduke, praying for the removal of his political disabilities, reported a bill (S. No. 1278) to remove the political disabilities of John S. Marmaduke; which was read twice by its title.

He also, from the same committee, to whom was referred the bill (H. R. No. 1617) to remove the political disabilities of George S. Hawkins, of Florida, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 4273) to remove the political disabilities of A. C. Myers, of Maryland, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 1136) to remove the political disabilities of Wade H. Gibbes, of South Carolina, reported it without amendment.

He also, from the same committee, to whom was referred the petition of William Butler, of South Carolina, praying for the removal of his political disabilities, reported a bill (S. No. 1272) to remove the political disabilities of William Butler, of South Carolina; which was read twice by its title.

He also, from the same committee, to whom was referred the petition of S. P. Moon, M. D., of Virginia, praying for the removal of his political disabilities, reported a bill (S. No. 1274) to remove the political disabilities of S. P. Moon, M. D., of Virginia; which was read twice by its title.

He also, from the same committeee, to whom was referred the petition of Catesby ap R. Jones, of Alabama, praying for the removal of his political disabilities, reported a bill (S. No. 1277) to remove the political disabilities of Catesby ap R. Jones, of Alabama; which was read twice by its title.

He also, from the same committee, to whom was referred the petition of W. F. Carrington, of Virginia, reported a bill (S. No. 1276) to remove the political disabilities of W. F. Carrington, of Virginia; which was read twice by its title.

He also, from the same committee, to whom was referred the bill (H R. No. 2197) for the relief of Henry B. Kelly, of Louisiana, from political disabilities imposed by the fourteenth amendment, reported it without amendment.

He also, from the same committee, to whom was referred the petition of J. P. Major, praying for the removal of his political disabilities, reported a bill (S. No. 1275) to remove the political disabilities of J. P. Major; which was read twice by its title.

Mr. EDMUNDS. The bill (H. R. No. 3260) to remove the political disabilities of Lawrence S. Baker, of Tarborough, North Carolina, we report favorably, with amendments. The bill is not in exactly the correct form, and we report an amendment.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

Mr. EDMUNDS. The bill (S. No. 1096) to remove the political disabilities of R. C. Gatlin, of Arkansas, we report favorably, with an amendment, the amendment making it conform to the proper mode.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

Mr. EDMUNDS. The bill (H. R. No. 3636) to remove the political disabilities of Richard S. Kinney and William R. Jones we report with amendments. One of the amendments is to strike out one of the names, because we do not like two names in a bill which must pass by a two-thirds vote, so that as the bill stands as amended it is to remove the political disabilities of Richard S. Kinney, and we strike out William R. Jones and report on his petition a new bill.

The bill (S. No. 1273) to remove the political disabilities of William R. Jones, of Texas, was read twice by its title.

Mr. EDMUNDS. The bill (S. No. 915) to remove the political disabilities of D. H. Hill, of North Carolina, we report with amendments, the amendments being merely to put it in proper form.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

Mr. EDMUNDS. The bill (H. R. No. 3730) to remove the political disabilities of John D. Simms and Samuel V. Turner, of Virginia, we report with amendments. Simms was dismissed from the Navy, and we therefore, on the same principle which I have stated, are obliged to leave him out. As to Turner we report favorably.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

Mr. EDMUNDS. The bill (H. R. No. 3791) to remove the legal and political disabilities of William A. Webb, of Virginia, we report favorably with an amendment, the amendment being to put the bill in proper form.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

PETITIONS AND MEMORIALS.

Mr. BOUTWELL presented the memorial of W. K. Platt & Co., and Charles Lippincott & Co., of Philadelphia, Pennsylvania, and S. F. Hayward and A. F. Spamn & Co., of New York, remonstrating against the passage of the bill (H. R. No. 431) for the relief of the heirs of W. A. Graham; which was ordered to lie on the table.

Mr. ALCORN presented a petition of citizens of Mississippi, praying that the telegraph business may be transferred to the superintendence of the Post-Office Department, and for cheaper telegraphic facilities; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a memorial of the Legislature of Mississippi, in favor of an appropriation by Congress to deepen the water at the mouth of Pascagoula River; which was referred to the Committee on Commerce.

Mr. DAVIS presented the petition of J. N. H. Hoffman, editor of the Morgantown Post, West Virginia, praying that the telegraph business may be transferred to the superintendence of the Post-Office Department, and for cheaper telegraphic facilities; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. WINDOM. I present a resolution of the board of trade of Minneapolis, Minnesota, requesting their Senators and Representatives from the State of Minnesota to procure the passage of a joint resolution that will direct the Secretary of the Interior to withdraw from sale any and all public lands lying on the Mississippi River and its tributaries above the falls of Polagema that might be overflowed by the construction of reservoirs as feeders of the Lower Mississippi in times of drouth, as recommended by the United States Engineer Department. I move its reference to the Committee on Public Lands.

The motion was agreed to.

Mr. WINDOM. I also present a similar resolution from the Saint Paul Chamber of Commerce, in favor of the withdrawal from sale and location the lands mentioned in the memorial I have just presented, and, further, that their Representatives and Senators use all honorable means to secure an appropriation for the completion of the surveys of the sources of the Mississippi River as recommended by the Engineer Department. I move its reference to the Committee on Commerce.

The motion was agreed to.

Mr. CHRISTIANCY presented a resolution of the Detroit Board of Trade, in favor of an appropriation for the erection of a light-house and fog-signal on Stannard's Rock, Lake Superior; which was referred to the Committee on Commerce.

Mr. WRIGHT. I present resolutions passed by the business men of the city of Burlington, in the State of Iowa, recommending action looking to a speedy resumption of specie payments; and to that end they recommend the adoption of a system to provide for a long-time bond bearing a low rate of interest, and providing that when a sufficient amount of gold has been accumulated by the sale of bonds the legal-tender act shall go into force. They recommend the present as the most favorable period for the introduction of the proposed plan. I understand that the Committee on Finance have reported upon the subject.

Mr. MORRILL. A bill upon the subject was reported yesterday.

The PRESIDENT *pro tempore*. The resolution will lie on the table.

Mr. ALLISON presented a memorial of Myron H. Silverheels, chief counselor of the Seneca Nation of New York Indians, on behalf of said nation, remonstrating against the passage of House bill No. 4257, to authorize the Seneca Indians to lease lands, &c.; which was referred to the Committee on Indian Affairs.

Mr. KERNAN presented a memorial of citizens of Salamanca and West Salamanca, in the State of New York, remonstrating against the passage of an act in reference to the leasing of lands in the Allegany Indian reservation; which was referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. WRIGHT, from the Committee on Claims, to whom was referred the bill (H. R. No. 3186) for the relief of Margaret Janet Burleson, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was recommitted the bill (S. No. 111) for the relief of John Montgomery and Thomas E. Williams, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. BOUTWELL, from the Committee on Finance, to whom was

referred the bill (S. No. 1130) for the relief of the executors of the estate of John S. Miller, deceased, reported it without amendment.

DIGEST ON INTERNATIONAL LAW.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print additional copies of the digest of the opinions of the Attorneys-General and of the decisions of the Federal courts in reference to international law and kindred subjects, have instructed me to report it without amendment, and I ask for its present consideration.

By unanimous consent, the Senate proceeded to consider the resolution, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That of a digest of the opinions of the Attorneys-General and of the decisions of the Federal courts with reference to international law and kindred subjects, prepared at the Department of State, there be printed, in addition to the usual number, 500 copies for the use of the Senate, 1,500 copies for the use of the House of Representatives, and 1,000 copies for the use of the Department of State.

Mr. STEVENSON. I should like to ask the Senator from Rhode Island what will be the cost of this publication?

Mr. ANTHONY. About $8,000.

Mr. STEVENSON. The entire cost?

Mr. ANTHONY. The entire cost.

The resolution was agreed to.

REPORT ON EUROPEAN SHIPS OF WAR.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print one thousand copies of the letter of the Secretary of the Navy, transmitting the report of J. W. King, chief engineer United States Navy, on European ships of war, have instructed me to report it without amendment and ask its present consideration.

The resolution was considered by unanimous consent and agreed to, as follows:

Resolved, That 1,000 copies of the letter from the Secretary of the Navy, transmitting the report of J. W. King, chief engineer United States Navy, on European ships of war, be printed for the use of the Secretary of the Navy.

REPORT ON FISH AND FISHERIES.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print extra copies of the Report of the Commissioner of Fish and Fisheries for the years 1875 and 1876, have instructed me to report it, with an amendment. I wish the Clerk to read it as amended, and I ask for the present consideration of the resolution.

The resolution was considered by unanimous consent and agreed to, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That there be printed 4,500 extra copies of the Report of the Commissioner of Fish and Fisheries for the years 1875 and 1876; of which 1,000 shall be for the use of the Senate, 2,500 for the use of the House of Representatives, and 1,000 for the use of the commissioner of fish and fisheries.

Mr. ANTHONY. The same committee, to whom was referred a resolution to print extra copies of the Report of the Commissioner of Fish and Fisheries for the year 1877, have instructed me to report it with amendment, and recommend its passage. I ask for its present consideration.

The resolution was considered by unanimous consent and agreed to, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That there be printed 4,500 extra copies of the Report of the Commissioner of Fish and Fisheries for the years 1874 and 1875, of which 1,000 copies shall be for the use of the Senate, 2,500 for the use of the House of Representatives, and 1,000 for the use of the commissioner of fish and fisheries.

EULOGIES ON THE LATE SENATOR CAPERTON.

Mr. ANTHONY. The Committee on Printing, to whom was referred a concurrent resolution to print eulogies upon the late Senator Caperton, of West Virginia, have instructed me to report a bill as a substitute for the resolution and recommend its passage. I ask for the present consideration of the bill.

The bill (S. No. 1271) to authorize the printing and distribution of the eulogies delivered in Congress on the announcement of the death of the late Allen T. Caperton, a Senator from the State of West Virginia, was read twice by its title and considered as in Committee of the Whole. It provides that nine thousand copies of the eulogies delivered in the two Houses of Congress upon the late Allen T. Caperton, a Senator from the State of West Virginia, be printed; three thousand copies for the use of the Senate and six thousand copies for the use of the House of Representatives; and that the Secretary of the Treasury have engraved and printed the portrait of Mr. Caperton to accompany the same, for which the sum of $500, or so much thereof as may be necessary, is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated.

Mr. ANTHONY. The committee have reduced the number from twelve thousand to nine thousand.

Mr. DAVIS. Is nine thousand the usual number or is it less than usual?

Mr. ANTHONY. The practice has varied; but latterly the number has been as high as twelve thousand. The committee thought that nine thousand was a sufficient number, and will adopt that rule in the future.

Mr. DAVIS. That is to be the rule for the future, I understand?

Mr. ANTHONY. Yes, sir.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EULOGIES ON THE LATE SPEAKER KERR.

Mr. ANTHONY. The Committee on Printing, to whom was referred a concurrent resolution to print copies of the eulogies delivered on the late Speaker Kerr, have instructed me to report back a bill as a substitute. The concurrent resolution from the House called for only two thousand copies, but members of the House have called upon the committee and requested that it be raised to a larger number, which the committee have done. I ask for the present consideration of the bill.

The bill (S. No. 1270) to authorize the printing and distribution of the memorial addresses on the life and character of the late Michael C. Kerr, Speaker of the House of Representatives, was read twice by its title, and considered as in Committee of the Whole. It provides that 9,000 copies of the memorial addresses on the life and character of the late Michael C. Kerr, Speaker of the House of Representatives, be printed, 3,000 copies for the use of the Senate and 6,000 copies for the use of the House of Representatives, and that the Secretary of the Treasury have engraved and printed the portrait of Mr. Kerr to accompany the same, for which the sum of $500 or so much thereof as may be necessary is appropriated out of any moneys in the Treasury not otherwise appropriated.

The bill was reported to the Senate without amendment; ordered to be engrossed for a third reading, read the third time, and passed.

JACKSONVILLE AND SAINT AUGUSTINE RAILROAD COMPANY.

Mr. WEST. I am directed by the Committee on Railroads, to whom was referred the bill (S. No. 1248) to amend an act entitled "An act granting the right of way through the public lands to the Jacksonville and Saint Augustine Railroad Company," approved June 7, 1872, to report it with an amendment; and as this is a bill relating to a railroad company in a southern State merely having reference to the right of way, in compliance with the wishes of the two Senators from the State of Florida I urge its passage now.

The PRESIDENT *pro tempore*. Is there objection to the motion? The Chair hears none.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Railroads with amendments.

Mr. COCKRELL. Has the bill just been reported from a committee?

The PRESIDENT *pro tempore*. It has been reported from the Committee on Railroads this morning.

Mr. COCKRELL. A bill of this kind is before the Committee on Military Affairs affecting one terminus of that railroad.

Mr. WEST. I am convinced that if the Senator from Missouri will hear the amendments reported from the Committee on Railroads, he will be satisfied that the bill will answer every purpose.

Mr. COCKRELL. Is there a copy of the bill that I may examine it?

The PRESIDENT *pro tempore*. The amendments have not been printed, but are in manuscript. The bill will now be read as proposed to be amended.

The CHIEF CLERK. The bill if amended as reported from the committee would read as follows:

Be it enacted, &c., That all the rights conferred by an act entitled "An act granting the right of way through the public lands to the Jacksonville and Saint Augustine Railroad Company," approved June 7, 1872, are hereby revoked and transferred to the Saint John's Railway Company, the same being a corporation existing under the laws of the State of Florida, which said company shall have the right, by and with the consent of the Secretary of the Interior to enter upon and appropriate such and so much of the public lands or lots of land, the property of the United States, as may be required for depots, shops, side-tracks, or other necessary uses of said road: *Provided*, That no lot or tract of land so taken shall exceed forty acres in any one place: *And provided further*, That no military reservation shall be crossed or appropriated unless the consent of the Secretary of War shall be first obtained; and the order of transfer of the Secretary of War and the conveyance of the Commissioner of the General Land Office shall be a full and complete title in and to said company of any lot or tract of public land so transferred and conveyed. The said Saint John's Railway Company shall be a postal and military road.

Mr. COCKRELL. Strike out the last clause and I shall have no objection to the bill.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendments of the committee.

Mr. COCKRELL. There is at one end of that road a very large military reservation. It is of great value. There is a bill pending affecting that part of it. I have no objection to the bill, except so far as it affects that military reservation. It does seem to me that it would be exercising considerable power for Congress to vest in the Secretary of War permission and authority to appropriate that land just as he may choose to that company, and land right in the heart of the city of Saint Augustine. It is valuable land. If the bill only affected the other portions of the land I should have no objection to it; but it does seem to me that there ought to be some restriction upon that portion of the bill which affects the military reservation.

Mr. CONOVER. I think the bill was amended by the committee so as to protect any of these military reservations. The matter is to be left in the discretion of the Secretary of War; and if a reservation is required for use or needed by the Government, it cannot be crossed or in any way interfered with at all. It is especially provided for by the amendments of the committee that such military reservations as the Secretary may deem unnecessary for Government purposes, he can give this right of way to the company to pass over, and that is all that is asked for. If we cannot vest that discretion in the Secretary I do not know where we can place it.

Mr. WRIGHT. I wish to direct the attention of the Senator from Louisiana to one or two things that occur to me in connection with this bill. I heard it read, and can only speak here from memory in hearing it read, not having had my attention directed to it before. As I understand it, there has been a grant of land or some privileges given to a former company as to a company now existing by former legislation.

Mr. CONOVER. The Senator will allow me to state that in 1872 a bill was passed granting the right of way to the Jacksonville and Saint Augustine Railroad Company. That company is defunct; there is no more of it. The bill grants the right of way simply to a railroad company already in existence which is running a line of road, and that is all.

Mr. WRIGHT. That does not contradict the statement which I have made, that by prior grant or prior legislation there had been some privilege granted to another company. Am I right in the supposition that it is proposed by this bill to transfer the privileges and rights given by a former act from one company to another company named in this bill?

Mr. WEST. Yes, and I have risen to reply to the Senator and tell him the reason.

Mr. WRIGHT. It does not make any difference as to the reason. What I was getting at is this: whether the bill ought not on its face to provide that the grant heretofore made with the first company shall not be revoked except by the consent of the former company. I ask whether there ought not to be a provision in the bill that the grant shall be revoked by and with the consent of the former company. The reason why I suggest that is that it does not make any difference what may be the ground on which this transfer is to be made, we cannot tell but that the former company may at some time or other insist that the Government has not been acting in good faith with it by this legislation, and I therefore suggest to the Senator from Louisiana whether it would not be well to thus amend the bill.

Mr. CONOVER. The former company, the Saint John's Railway Company, really owns this road now; they are to-day the same company. I think the Senator from Louisiana has a letter from the vice-president of the former company which he may see fit to read.

Mr. WRIGHT. Then what objection can there be to a provision such as I suggest?

Mr. WEST. None; and we had better have it placed in the bill. I think the suggestion made by the Senator from Iowa is eminently proper, and in accordance with that suggestion I shall move after the word "obtained," in line 18, to insert:

Such transfer and revocation being made by and with the consent of the Jacksonville and Saint Augustine Railroad Company.

Mr. CONOVER. I did not hear the suggestion of the Senator from Iowa, but I have no objection to such an amendment, and I understand that to meet the point raised by the Senator from Iowa.

Mr. WRIGHT. Let the Secretary report that part of the bill as it would read if amended as proposed.

The Chief Clerk read as follows:

And provided further, That no military reservation shall be crossed or appropriated unless the consent of the Secretary of War shall be first obtained, such transfer and reservation being made by and with the consent of the Jacksonville and Saint Augustine Railroad Company.

Mr. ALCORN. I call the attention of the Senate to one point in the bill. While there is a provision the amount shall not exceed forty acres at any one place that shall be appropriated of the Government's land, there is, as I heard the bill read, no restriction whatever with regard to the military reservation. That may be appropriated by these companies, with the consent of the Secretary of War. I ask if I am correct?

Mr. CONOVER. I think the bill provides that such lands as may be required shall be retained by the Government, and lands may be given to the company in the discretion of the Secretary of War, not exceeding forty acres at any one place.

Mr. ALCORN. I know there is such a provision in the bill, but there is no restriction upon the Secretary as to the military reservation.

Mr. CONOVER. It is possible that there may not be more than forty acres of land there.

Mr. ALCORN. There may be a thousand for aught I know.

Mr. WEST. The restriction is embodied in the limitation upon public lands; and military lands, as I understand it, are just as much public lands as any other lands; they are lands of the Government of the United States.

Mr. ALCORN. I think they are not public lands in the ordinary sense.

Mr. COCKRELL. I ask that the last clause be read relating to the military reservation.

The PRESIDING OFFICER, [Mr. ANTHONY in the Chair.] The part of the bill referred to by the Senator from Missouri will be read.

Mr. WRIGHT. Will the Senator from Missouri allow me to refer to the amendment of the Senator from Louisiana made at my suggestion?

Mr. COCKRELL. Certainly.

Mr. WRIGHT. I suggest that instead of using the words "being with the consent" it should read "only to be." We would assume by employing the language "being with the consent" that they have consented. Let it be in such a way that we shall have their consent to this change hereafter. I suggest to insert "only to be made" instead of "being made;" so as to read:

Such transfer and revocation only to be made by and with the consent of the Jacksonville and Saint Augustine Railroad Company.

Mr. WEST. I accept the suggestion and shall modify the amendment which I have proposed accordingly.

The amendment, as modified, was agreed to.

Mr. COCKRELL. Now I ask that the clause relating to the military reservation be read.

The Chief Clerk read as follows:

Provided, That no lot or tract of land so taken shall exceed forty acres in any one place: *And provided further*, That no military reservation shall be crossed or appropriated unless the consent of the Secretary of War shall be first obtained; and the order of transfer of the Secretary of War and the conveyance of the Commissioner of the General Land Office shall be a full and complete title in and to said company of any lot or tract of public land so transferred and conveyed, such transfer and revocation only to be made by and with the consent of the Jacksonville and Saint Augustine Railroad Company. The said Saint John's Railway Company shall be a postal and military road.

Mr. COCKRELL. It is to the proviso that I desire to call the attention of the Senate. There is a large military reservation at Saint Augustine, and that reservation is very valuable. I think the official papers here show us that the company have no right to that quantity of land. The Government is willing to give them a right of way over it; but to give them forty acres of land in the heart of Saint Augustine would be a fraud upon the rights of the people of this country. I ask the Clerk to read the communication which I have here attached to a petition on this subject; and there is also a map which will show exactly the status of the whole matter.

Mr. MORRILL. As evidently the paper now asked to be read would take up the whole of the morning hour, I hope the Senator from Florida will allow this bill to be passed by. There are several little matters which are important to be acted upon this morning, and if the paper presented by the Senator from Missouri shall now be read it would take up the whole of the morning hour.

Mr. McMILLAN. Would it be in order to offer an amendment to the bill now?

The PRESIDING OFFICER. An amendment would be in order.

Mr. McMILLAN. I move to insert as an additional section to the bill the following:

SEC. 2. That this act and all other acts to which it is amendatory or supplementary may at any time be amended, altered, or repealed.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. MORRILL. I ask the Senator from Florida if he would have any objection to let the bill lie on the table and be printed, so that we can see exactly what it is to-morrow.

Mr. CONOVER. I will not make any objection to the suggestion of the Senator from Vermont.

Mr. MORRILL. Then I move that the bill lie on the table and be printed as proposed to be amended.

The PRESIDING OFFICER. The bill will lie on the table, if there be no objection.

Mr. COCKRELL subsequently said: I offer an amendment to Senate bill No. 1248, reported from the Committee on Railroads this morning, and ask that the bill, with the amendments which have been adopted and which are now pending, shall be printed, so that we may examine them to-morrow.

The PRESIDING OFFICER. That order will be made.

BILLS INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1279) relating to the production of grape-brandy; which was read twice by its title, and ordered to lie on the table.

Mr. KERNAN. I am requested by parties in New York to introduce a bill.

By unanimous consent, leave was granted to introduce a bill (S. No. 1280) to authorize the New York Land and Ocean Telegraph Company, a corporation under the laws of New York, to buy land and maintain lines of telegraph cables on the Atlantic coast of the United States, connecting the same with Europe; which was read twice by its title and referred to the Committee on Foreign Relations.

PUBLIC BUILDING AT UTICA.

Mr. CONKLING submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Buildings and Grounds be instructed to inquire into the propriety and necessity of completing the public building at Utica, New York, for which the site has been purchased.

PAPERS WITHDRAWN.

On motion of Mr. CLAYTON, it was

Ordered, That John Bowles have leave to withdraw his petition and papers from the files of the Senate.

BILL RECOMMITTED.

Mr. WADLEIGH. I move that the bill (S. No. 1110) for the relief of Edwin R. Clarke and the papers in the case be recommitted to the Committee on Military Affairs, there being new evidence in relation to the claim.

The motion was agreed to.

AMENDMENT TO AN APPRORIATION BILL.

Mr. HARVEY submitted an amendment intended to be proposed by him to the bill making appropriations for the sundry civil expenses of the Government for the year ending June 30, 1878; which was referred to the Committee on Appropriations and ordered to be printed.

BUILDING FOR THE NATIONAL MUSEUM.

Mr. MORRILL. I ask the Senate to take up a bill that will not take more than three or four minutes in relation to the National Museum. It is rather important that this bill should be acted upon that it may go to the House. The bill is one which has been reported by the action of the joint committee of the two Houses, that is to say, of the committee of the Senate and the subcommittee of the House, and meets their unanimous approval. I move that the Senate proceed to the consideration of the bill (S. No. 1252) for the erection of a fire-proof building for the National Museum.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It appropriates $250,000 for the erection of a fire-proof building for the use of the National Museum, three hundred feet square, to be erected under the direction and supervision of the Regents of the Smithsonian Institution, in accordance with the plan of Major-General M. C. Meigs, now on file with the Joint Committee of Public Buildings and Grounds, on the southwest corner of the grounds of the Smithsonian Institution; the building to be placed west of the Smithsonian Institution, leaving a roadway between it and the latter of not less than thirty feet, with its north front on a line parallel with the north face of the buildings of the Agricultural Department and of the Smithsonian Institution.

Mr. MORRILL. I shall not occupy any time in an explanation of this bill, for I presume every Senator recognizes the prime necessity there is for it. The bill is so carefully guarded that there will be no danger of any further demand upon the Treasury, and I think it will meet the approbation of all who examine it.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HOT SPRINGS RESERVATION.

Mr. DORSEY. I move that the Senate proceed to the consideration of the bill (H. R. No. 2382) granting the right of way to the Hot Springs Railroad Company over the Hot Springs reservation in the State of Arkansas.

The motion was agreed to; and the Senate as in Committee of the Whole proceeded to consider the bill.

The bill was reported from the Committee on Public Lands, with an amendment to strike out the preamble of the bill, and all after the enacting clause, and in lieu thereof to insert the following:

That so much of section 5 of an act of June 11, 1870, in relation to the Hot Springs reservation of Arkansas, as provides for the appointment of a receiver by the court, be, and the same is hereby, repealed: *Provided*, That nothing in this section shall be construed to affect the right of the United States to collect and receive rents already due.

SEC. 2. That it shall be the duty of the President of the United States, upon the passage of this act, to appoint three discreet, competent, and disinterested persons, who shall constitute a board of commissioners, any two of whom shall constitute a quorum, who are hereby authorized to perform and discharge the duties specified by this act, and for that purpose shall meet at Hot Springs, in the State of Arkansas, within thirty days after their appointment, and shall, before entering upon the discharge of their duties, subscribe to the usual oath for civil officers, and shall, at their first meeting, organize by the election of one of their number as chairman of the board, having given ten days' notice of the time and place of meeting in some daily paper published at Hot Springs, which notice shall be continued during the entire session of said board of commissioners, and all the evidence herein provided to be taken by said board shall be taken at Hot Springs.

SEC. 3. That it shall be the duty of said commissioners, after examination of the topography of the reservation, to lay out into convenient squares, blocks, lots, avenues, streets, and alleys, the lines of which shall correspond with the existing boundary-lines of occupants of said reservation as near as may be consistent with the interests of the United States, the following-described lands, to wit: The south half of section 28, the south half of section 29, all of sections 32 and 33, in township 2 south and range 19 west; and the north half of section 4, the north half of section 5, in township 3 south and range 19 west, situate in the county of Garland, and State of Arkansas, and known as the Hot Springs reservation.

SEC. 4. That before making any subdivision of said lands, as described in the preceding section, it shall be the duty of said board of commissioners, under the direction and subject to the approval of the Secretary of the Interior, to designate a tract of land included in one boundary, sufficient in extent to include, and which shall include, all the hot or warm springs situate on the lands aforesaid, to embrace, as near as may be, what is known as Hot Springs Mountain, and the same is hereby reserved from sale, and shall remain under the charge of a superintendent, to be appointed by the Secretary of the Interior: *Provided, however*, That nothing in this section shall prevent the Secretary of the Interior from fixing a special tax on water taken from said springs sufficient to pay for the protection and necessary improvement of the same.

SEC. 5. That it shall be the duty of said commissioners to show, by metes and bounds on the map herein provided for, the parcels or tracts of lands claimed by reason of improvements made thereon or occupied by each and every such claimant and occupant on said reservation; to hear any and all proof offered by such claimants and occupants and the United States in respect to said lands and in respect to the improvements thereon; and to finally determine the right of each claimant or occupant to purchase the same, or any portion thereof, at the appraised value, which shall be fixed by said commissioners: *Provided, however*, That such claimants and occupants shall file their claims, under the provisions of this act, before said commissioners, within six calendar months after the first sitting of the said board of commissioners, or their claims shall be forever barred; and no claim shall be considered which has accrued since the 24th day of April, 1876.

SEC. 6. That it shall be the duty of said commissioners to fix by appraisement the value of all improvements upon said reservation, and the value of all improvements on the lands reserved herein, or upon lands condemned or taken for the purposes herein named; and to fix the cash value of every and each subdivision that said commissioners shall make of said lands.

SEC. 7. That the said commissioners shall have power to compel the attendance of witnesses and the production of papers touching the occupancy or improvements of or on said lands, or any other matter in anywise belonging or appertaining either to the said lands or the improvements thereon; shall have power to examine under oath all witnesses that may come before them; and all testimony shall be reduced to writing, and preserved as hereinafter provided.

SEC. 8. That said commissioners shall have power to remove or cause to be removed all buildings or obstructions upon the said Hot Springs reservation when the same may be necessary to carry out the provisions of this act, as also all obstructions to streets, alleys, or roads to be laid off, straightened, or widened, as herein provided for.

SEC. 9. That the commissioners shall have power to straighten or widen any of the present streets or alleys in the town of Hot Springs, and to lay off such additional streets, alleys, and roads in said Hot Springs reservation or in the town, before the sale or disposition of any of the property herein mentioned, as the convenience of the public and the interest of the United States may require, and for that purpose may condemn all buildings that they may find necessary to condemn in order to straighten or widen said streets and alleys, or to lay off new streets, alleys, and roads, and also all buildings or improvements on the reservation herein made, and to fix the value on all property thus condemned.

SEC. 10. That it shall be the duty of said commissioners, without delay, to file in the office of the Secretary of the Interior the map and survey herein provided for, with the boundary-lines of each claim clearly marked thereon, and with each division and subdivision traced and numbered, accompanied by a schedule, showing the name of each claimant, and of each lot or parcel of land, the appraised value thereof, numbers to correspond with such claim upon the map; also, all of the evidence taken by them respecting the claimants' possessory right of occupation to any portion of the Hot Springs reservation and their findings in each case; also, their appraisal of each tract or parcel of land, and the improvements thereon; and it shall be the duty of said commissioners to issue a certificate to each claimant, setting forth the amount of land the holder is entitled to purchase, and the valuation fixed thereon, and also showing the character and the valuation fixed upon the improvements of said tract or parcel of land, and to issue a certificate or certificates to all persons whose improvements are condemned, as herein provided, showing the value of said improvements.

SEC. 11. That it shall be the duty of the Secretary of the Interior, within thirty days after said commissioners file said report and map in his office, to instruct the United States land officers of Little Rock, Arkansas, land district to allow said lands to be entered as hereinafter provided, and to cause a patent to issue therefor; and it shall be the duty of the land officers authorized to sell said lands to give twenty days' public notice in the Little Rock and Hot Springs newspapers that said lands are subject to entry in accordance with the provisions of this act.

SEC. 12. That any claimant or occupant, his heirs or legal representatives, in whose favor said commissioners have adjudicated, shall, under such rules and regulations as the Secretary of the Interior may prescribe, have the sole right to enter and pay for, at the price fixed by said commissioners, the amount of land the commissioners had adjudged that they were entitled to purchase, at any time within twelve months next after the land officers give the public notice herein required.

SEC. 13. That upon the failure of any claimant or occupant in whose favor the commissioners have adjudged to pay the valuation fixed upon said land within the time and in the manner herein prescribed, then said lands, together with all other lands that no one has an adjudicated right to purchase under this act, shall be sold, by direction of the Secretary of the Interior, to the highest bidder at public sale, at the land office at Little Rock, after notice of such sale has been advertised three months in some newspaper in the town of Hot Springs, and in such other papers as he may designate, said lands and improvements to be sold together; and the proceeds arising from the sale thereof shall be paid to the receiver of public moneys at the land office in Little Rock, Arkansas.

SEC. 14. That any claimant or occupant who does not desire to purchase the lands adjudicated to him or her at the valuation fixed by said commissioners shall have the right to remove any improvements made on said land, at his or her own cost, before the time fixed for the payment for said lands.

SEC. 15. That all parties who do not enter the lands that the commissioners adjudicate they have the right to enter, and who do not remove their improvements before the same are sold at public sale, and all persons whose improvements have been condemned, their assigns or legal representatives shall, after said public sale, present their certificates of appraisement for such improvements to the register of the United States land office at Little Rock, who shall indorse upon each certificate the amount paid for the particular subdivision of land upon which the improvement therein described is situated; and such certificate so indorsed shall be forwarded to the Commissioner of the General Land Office, who shall certify the same to the Secretary of the Interior; and upon his indorsement the certificate shall be paid out of the fund arising from the sales of lands herein provided for, and covered into the United States Treasury for that purpose by section 16 of this act.

SEC. 16. That the money arising from the sale of the lands shall be paid into the Treasury in the same manner as other moneys arising from the sale of public lands, and held for the purpose herein specified and at the further disposal of Congress; and the money arising from water-rents shall be under the control of the Secretary of the Interior, and expended by him for the purposes hereinbefore stated, an account of which shall be annually rendered to Congress, showing the amount received, the amount expended, and the amount remaining on hand at the end of each fiscal year.

SEC. 17. That the United States marshal for the judicial district of Arkansas in which the Hot Springs may be situated shall execute all processes required to be executed by this act.

SEC. 18. That said commissioners shall hold their offices for the period of one year from the date of appointment, and shall have power to employ competent engineers to make the maps and surveys herein provided for, at a reasonable compensation; to employ a stenographer, who shall also act as clerk, at a compensation of not more than $8 per day; to rent an office and purchase the necessary stationery; and the compensation of said commissioners shall be $10 per day each, all of which shall be paid by the Secretary of the Interior upon the certified vouchers of said commissioners.

SEC. 19. That the right of way be, and the same is hereby, granted to the Hot Springs Railroad Company, a company duly incorporated and organized under the laws of the State of Arkansas, to construct, maintain, and operate its line of railroad

upon, over, and across the Hot Springs reservation in the State of Arkansas, as follows: Commencing on the east line of the south half of section 33, in township 2 south of the base-line, in range 19 west of the fifth principal meridian, in the county of Garland, and State of Arkansas, at a point about six hundred feet from the southeast corner of said section; thence running up a ravine parallel to and south of the Benton wagon-road, westwardly through said section, to a point where the same will intersect with the Malvern stage-road at a point south of the graveyard on said reservation.

The right of way hereby granted shall consist of a strip of land fifty feet wide on each side of said railroad, measured from the center line thereof, from the point on the east line of said section of land where said railroad enters the same to the terminus of the track of said road: *Provided*, That said railway company may purchase upon the same terms as individuals land for shops, depots, and other purposes, not exceeding twenty acres: *Provided, however*, That Congress may at any time alter, amend, or repeal this section,

Mr. CLAYTON. Would it be in order now to offer amendments to the bill?

The PRESIDING OFFICER. An amendment is in order.

Mr. CLAYTON. In section 1, commencing in line 7, I move to strike out the following proviso:

Provided, That nothing in this section shall be construed to affect the right of the United States to collect and receive rents already due.

And in lieu thereof to insert:

And the Secretary of the Treasury is hereby authorized and directed to repay to the settlers upon said reservation all rents collected from them by said receiver, and for that purpose a sufficient sum is hereby appropriated out of any money in the Treasury not otherwise appropriated.

I should like to state the object of the amendment. As is known, this property has been in dispute for many years, probably for forty years. The Government made a reservation of it in 1832, I think. During that period of time persons have visited these springs from all parts of the United States and latterly from all parts of the world to seek the benefit of the healing waters. Of course they had no accommodations there, unless they were provided at their own expense.

Mr. SARGENT. If the friends of this bill want to debate it, it had better go over, because I am anxious to proceed with the deficiency appropriation bill.

Mr. CLAYTON. I do not want to debate it.

Mr. SARGENT. No objection has been made to the Senator's amendment.

Mr. DORSEY. There is no objection to it.

Mr. CLAYTON. I know there ought to be no objection to it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Arkansas [Mr. CLAYTON] to the amendment of the committee.

Mr. WRIGHT. It may be that there ought not to be any objection to this amendment; but there are some things I should like to understand about it before I can say so for myself. I understand that under the law as it stands at present there has been a receiver appointed, who has been in charge of this property, and he has been receiving the rents in the name of and for the Government. As a matter of course, there has been not a little expense attending the administration of that receivership, and the expense has either been paid by the Government, or it has been deducted from the rent that has been received from time to time. Now, if the Government is to repay all the rents that have been received, then it will follow that the money that the Government has paid out to this receiver will be lost. Is not that true?

Mr. CLAYTON. It will not make any tax on the Government because the money received from the sales under this bill will yield a revenue to the Government. I suppose the expense of collecting these rents may have amounted to $4,000 or $5,000; but the rents themselves are enormous. The people have been required to pay rents for the land they have occupied and for the buildings which they have put on this land. I think there is no other instance in the existence of the Government where the Government has charged settlers on the public domain rent for occupying land, and especially rent upon their own improvements.

Mr. WRIGHT. I understand that by the Supreme Court of the United States it was adjudged that this land belonged to the United States, that it was the property of the United States; and there was provision made in the decree for the appointment of a receiver to take charge of this property as the property of the United States; and there being buildings and tenaments on this property, this receiver received money from them in the form of rents; and he has been paid during the time he discharged his duties a salary. Now, if all the moneys received shall be repaid the settlers, then the Government loses the amount that it has paid the receiver, to begin with.

Mr. CLAYTON. The Government appointed the receiver to take charge of the land, and it would not lose a cent.

Mr. WRIGHT. Then there would have to be an appropriation for the refundment of the amount that has thus been paid, because, as I understand it——

Mr. CLAYTON. The amendment which I have offered provides for that.

Mr. WRIGHT. I believe I have the floor.

Mr. DORSEY. I ask the Senator to yield to allow me to make a suggestion to him.

Mr. WRIGHT. I was speaking to my friend on the other side of the Chamber. As I understand it, there is no provision in this bill that from funds realized by the sale of this property the amount already paid to the receivers shall be refunded, but that the expenses for administering this law shall be paid out of the moneys received from the sale, and as to the money heretofore expended by the Government there is no provision that that should be refunded. I suggest, therefore, that under the amendment as it stands now, there would be a loss to the Government to that extent. Of course I can see that the Senator may answer me by saying that the Government would realize say ten, fifteen, or twenty thousand dollars by the sale of this land, and thus get into their hands more than they have paid the receiver, but they also have the expenses to meet for administering the trust under this law, and if the expense of administering the law in connection with the amount already paid by the receiver should be more than would now be received, then the settlers get all the money back and the Government loses to that extent. I do not think that is the intention.

Mr. CLAYTON. I am willing to have my amendment so amended as to provide that the expense attending the collection of these rents shall first be deducted before restoration takes place. I will modify my amendment so as to read:

And the Secretary of the Treasury is hereby authorized and directed to repay to the settlers upon said reservation, deducting the expense incurred in collecting such rents, all rents collected from them by said receiver; and for that purpose a sufficient sum is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. WRIGHT. As I understand it, this bill has been reported from the Committee on Public Lands, and it is proposed to strike out the first section of the substitute reported from the committee and substitute what the Senator now offers.

Mr. CLAYTON. I only move to strike out the proviso to the first section.

Mr. WRIGHT. I understand that by a decision of the Supreme Court it has been adjudged, as I have already said, that this land belongs to the United States, and the Government has appointed a receiver who has proceeded to execute the trust. The court provided by their decree that this money should be collected and that it belongs to the United States, and the receiver has been acting in the discharge of that trust. Now, the amendment of the Senator from Arkansas proposes in substance to reverse the order which has been made by the Supreme Court of the United States and to determine and decide that this money does not belong to the United States, but shall be repaid to these parties. I have very great doubt as to the correctness of this amendment, to say the least of it.

While I am on the floor I wish to say one thing more, and I say it to my friend who has this bill in charge. I have had no opportunity to examine the bill. I said the other morning when the bill was called up that some matters connected with this subject had been referred to the Committee on the Judiciary and were now under consideration by a subcommittee of that committee. It seems that they relate to another and a different phase of this question rather than the one presented by this bill. It can be seen that this bill is a matter of very great importance. It involves the title and disposition of a very valuable property belonging to the United States. I understand that the matter has passed carefully through the hands of the Committee on Public Lands.

Mr. SARGENT. I am compelled to call for the regular order. The morning hour has expired, I believe.

The PRESIDING OFFICER. There is no regular order.

Mr. DORSEY. I hope the Senator will allow this bill to be passed.

Mr. SARGENT. There is no hope at all of the bill being passed. The Senator from Iowa now has been speaking fifteen minutes and the colleague of the Senator from Arkansas wishes to reply to him, and the Senator himself wishes to discuss the matter.

The PRESIDING OFFICER. There is no unfinished business.

Mr. SARGENT. I move then——

Mr. WEST. I beg pardon of the Chair. I rise to a point of order. There is unfinished business by the understanding, which we may take up and let it go over and then the deficiency bill may come up; but I cannot consent to have the announcement from the Chair that there is no unfinished business.

Mr. DORSEY. I hope the Senator from California will allow fifteen minutes for the conclusion of this bill.

Mr. SARGENT. The Senator from Massachusetts [Mr. BOUTWELL] has risen and is doubtless desirous to take up another bill; the Senator from Maryland [Mr. WHYTE] desires to take up another bill; and the Senator from Kentucky [Mr. STEVENSON] desires to take up another bill.

Mr. DORSEY. But this bill is already before the Senate, and it has been read.

The PRESIDING OFFICER. After the legislative appropriation bill was passed yesterday no other business was taken up, and therefore there is no unfinished business.

Mr. SARGENT. I move to lay aside this bill for the purpose of proceeding to the consideration of the deficiency bill.

The PRESIDING OFFICER. The Senator from California moves to lay aside the pending and all prior orders for the purpose of proceeding to the consideration of the deficiency appropriation bill.

Mr. WEST. Mr. President, let me call attention to what was agreed upon in the Senate yesterday. This is the language that I addressed to the Senate:

I hope now to obtain the consent of the Senate that that bill, known as the railroad bill, may be laid aside without prejudice to its order of business, as the unfinished business of the Senate until the appropriation bills can be disposed of.

And the Chair decided that there was no objection to that understanding. Therefore I believe the proper course is to call up the railroad bill on every occasion as the unfinished business, and then let it be laid aside in order that the appropriation bills may be considered.

The PRESIDING OFFICER. The Chair was not advised of that understanding. Such being the understanding, the Chair will call up the unfinished business which is the railroad bill.

Mr. WEST. Let it come up and then it may go over.

Mr. SARGENT. I have not the slightest objection; but I want to get at the deficiency bill.

Mr. DORSEY. I desire to give notice, while yielding to the Senator from California to let him go on with the deficiency bill, that as soon as that is disposed of I shall again call this bill up—I hope this afternoon, certainly to-morrow morning; and I shall ask the Senate to act upon it one way or the other. This bill has been before the Senate and in committee more than a year. A large number of people, more than four thousand, have suffered, I fancy, beyond what anybody on this floor knows. Three or four or five days ago I called the attention of the Senate to this measure, and said then that I would call it up last Saturday. Of course there were reasons why that could not be done at that time; but the moment the deficiency bill is passed I shall desire the Senate to take it up.

Mr. ALCORN. I suggest to the Senator from Arkansas, with some knowledge of the hardships which his constituents are now undergoing, that he introduce a resolution here suspending the office and duties of receiver of the Hot Springs property and relieve those people from the taxation to which they are now subjected. It is very evident that this bill will not pass at this session of Congress, and he will here interpose fruitlessly to secure the purpose which he has in view. I therefore suggest to him that he introduce a resolution suspending the office of receiver and the collection of rents on that property, and the citizens at that place may come here at a subsequent day and, perhaps, obtain ample justice at the hands of Congress. I think, in truth, that charity demands something of this sort should be done, and I make that suggestion to the Senator from Arkansas. He cannot have this bill passed at the present session, it is very evident.

Mr. DORSEY. I know of no reason why this bill should not pass. I cannot agree with my friend from Mississippi that the bill cannot be passed at this session. I think it will pass.

The PRESIDING OFFICER. The question is on the motion of the Senator from California to postpone the present and all prior orders, to proceed to the consideration of the deficiency appropriation bill.

PACIFIC RAILROAD ACTS.

Mr. WEST. I understand that the Senator from California, after the explanation which I have made, will not press his motion. I ask that the unfinished business be taken up with the understanding that I will waive it upon the same condition that it was laid aside yesterday.

Mr. SARGENT. I will state that after the deficiency bill is disposed of I want to call the attention of the Senate to the naval appropriation bill, and that the Committee on Appropriations will claim the right of way until their business is considered.

Mr. WEST. I shall make no objection, but I do not want the railroad bill to lose its place.

The PRESIDING OFFICER. Does the Senator from California withdraw his motion?

Mr. SARGENT. Yes, sir.

The PRESIDING OFFICER. The unfinished business, being Senate bill No. 984, known as the railroad bill, is before the Senate and will be laid aside by general consent to take up the deficiency bill without losing its place.

Mr. WRIGHT. Is it the understanding that the railroad bill shall not lose its place but that it is to be laid aside informally?

The PRESIDING OFFICER. The railroad bill is to be laid aside informally.

Mr. WRIGHT. Of course giving place to appropriation bills all the time.

The PRESIDING OFFICER. That is the understanding.

DEFICIENCY APPROPRIATION BILL.

Mr. SARGENT. I move to proceed to the consideration of the deficiency appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4559) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1877, and prior years, and for other purposes.

The bill was reported from the Committee on Appropriations with amendments.

The first amendment of the Committee on Appropriations was to insert after line 22 the following:

To enable the accounting officers of the Treasury to pay the accounts of Egbert C. Sammis, late consul at Stuttgart, as follows: For contingent expenses of consulate for the year ended June 30, 1875, $240.57; for salary for a part of the fiscal year 1873 and for a part of the year 1874, $455.83.

The amendment was agreed to.

The next amendment was to insert after line 39 the following:

Assay office at Helena, Montana Territory:

That the unexpended balance of the appropriation for wages of workmen for the assay office at Helena, Montana Territory, for the current fiscal year, be, and the same is hereby, made available for the payment of the contingent expenses of said assay office, not to exceed the $2,000.

The amendment was agreed to.

The next amendment was to strike out lines 55 to 57, inclusive, in the following words:

For official postage-stamps, for the use of the Internal Revenue Office, in transmitting stamps by mail, $100,000.

The amendment was agreed to.

The next amendment was to insert after line 71:

Transportation of United States securities:

For transportation of notes, bonds, and other securities of the United States, being a deficiency for the fiscal year 1876, $69,449.25.

The amendment was agreed to.

The next amendment was to insert after line 76 the following clause:

Coast Survey:

For repairs of vessels belonging to the Coast Survey, $8,000.

The amendment was agreed to.

The next amendment was to insert after line 83:

TERRITORIAL GOVERNMENTS.

Territory of Arizona:

For amount due Coles Bashford, late secretary of Arizona Territory, for salary, as per certificate of the accounting officers of the Treasury Department, being a deficiency for the fiscal year 1876, $385.93.

The amendment was agreed to.

The next amendment was to insert after line 90:

Territory of Colorado:

For amount due John L. Routt, late governor of Colorado Territory, for salary, as per certificate of the accounting officers of the Treasury Department, being a deficiency for the fiscal year, $1,876.80.

Mr. DAVIS. I am not able without having all the reports before me to tell why these deficiencies take place. Here are several of them, following one another, relating to the different Territories. As I understand, we appropriate each year for salaries and for the expenditures of the territorial governments. I have no special reference to Colorado, but I observe that there are deficiencies in nearly all the Territories. I should like to hear how it is that some of the Territories have deficiencies and others have not. The estimates generally were given for the salaries, as I understand. There may be explanations, but I do not know what they are.

Mr. SARGENT. The deficiency under consideration relating to the Territory of Colorado arose in this manner: Congress provided that the United States judges should hold until their successors, being State officers, were elected and qualified, and made an appropriation down to the 1st day of August, supposing that that would cover the period. The election and qualification, however, of these judges did not take place until the 21st day of November. Consequently, there is a deficiency, and we appropriate to supply that gap. The $6.80 due the governor occurs in the same way. The Senator will observe that these are very small items. In the Territory of Montana, to which I call the attention of the Senator, there is a deficiency for the fiscal year 1876 for legislative expenses of $2,370.97. That arose from the fact that there was a removal of the capital from Virginia City to Helena, and these necessary expenses were incurred for that purpose. Thus, there are different explanations for the different matters arising in this way. We acted only upon the regular estimates of the Department, and excluded all cases except where the officer certified that the amounts were due. In all cases where they certify that the matter was to be examined, while due, we have rejected the case. We have required the accounting officers to act, and have required the Secretary of the Treasury, under his signature, to certify to the correctness of the different items.

Mr. COCKRELL. Mr. President, I am very much astonished to find that there are deficiencies coming up here to be covered by appropriation bills; and for the special edification of my friends upon the opposite side, to show their growth in economy, I call their attention to a very important message which was communicated to the Senate and House of Representatives on the 17th day of June, 1876, by the Chief Executive of the nation, styled by highly indorsed authority the greatest living general of the age. I read from Executive Document No. 177, a message of the President of the United States to the Senate and House of Representatives, dated June 17, 1876:

The near approach of a new fiscal year, and the failure of Congress up to this time to provide the necessary means to continue all the functions of government, makes it my duty to call your attention to the embarrassments that must ensue if the fiscal year is allowed to close without remedial action on your part.

Article 1, section 9, of the Constitution declares:

"No money shall be drawn from the Treasury but in consequence of appropriations made by law."

To insure economy of expenditures and security of the public treasure, Congress has from time to time enacted laws to restrain the use of public moneys, except for the specific purpose for which appropriated, and within the time for which appropriated, and to prevent contracting debts in anticipation of appropriate appropriations.

Revised Statutes, section 3679, provides:

"No Department of the Government shall expend, in any one fiscal year, any sum in excess of appropriations made by Congress for that fiscal year, or involve the Government in any contract for the future payment of money in excess of such appropriations."

Section 3732 provides:

"No contract or purchase on behalf of the United States shall be made unless the same is authorized by law or is under an appropriation adequate to its fulfillment, except in the War and Navy Departments, for clothing, subsistence, forage, fuel, quarters, or transportation; which, however, shall not exceed the necessities of the current year."

Section 3678 as follows:

"All sums appropriated for the various branches of expenditure in the public service shall be applied solely to the objects for which they are respectively made, and for no others."

Section 3690 that—

"All balances of appropriations contained in the annual appropriation bills, and made specifically for the service of any fiscal year, and remaining unexpended at the expiration of such fiscal year, shall only be applied to the payment of expenses properly incurred during that year, or to the fulfillment of contracts properly made within that year; and balances not needed for such purposes shall be carried to the surplus fund. This section, however, shall not apply to appropriations known as permanent or indefinite appropriations."

I quote now the language of the President:

The effect of the laws quoted, taken in connection with the constitutional provision referred to, is, as above stated, to prohibit any outlay of public money toward defraying even the current and necessary expenses of Government after the expiration of the year for which appropriated, excepting when those expenses are provided for by some permanent appropriation, and excepting in the War and Navy Departments, under section 3732.

The number of permanent appropriations are very limited, and cover but few of the necessary expenditures of the Government.

They are nearly all, if not quite all, embraced in sections 3687, 3688, and 3689 of the Revised Statutes. That contained in section 3687 is applicable to expenses of collecting the revenue from customs; that in section 3688 to the payment of interest on the public debt; and that in section 3689 to various objects too numerous to detail here.

It will be observed that while section 3679, quoted above, provides that no Department shall in any one fiscal year involve the Government in any contract for the future payment of money in excess of the appropriation for that year, section 3732, also quoted above, confers, by clear implication, upon the heads of the War and Navy Departments full authority, even in the absence of any appropriation, to purchase or contract for clothing, subsistence, forage, fuel, quarters, or transportation not exceeding the necessities for the current year. The latter provision is special and exceptional in its character, and is to be regarded as excluded from the operation of the former more general one. But if any of the appropriation bills above enumerated should fail to be matured before the expiration of the current fiscal year, the Government would be greatly embarrassed for want of the necessary funds to carry on the service. Precluded from expending money not appropriated, the Departments would have to suspend the service, so far as the appropriations for it should have failed to be made.

A careful examination of this subject will demonstrate the embarrassed condition all branches of the Government will be in—and especially the executive—if there should be a failure to pass the necessary appropriation bills before the 1st of July, or otherwise provide.

Now, Mr. President, here is the highest authority in the country, the highest authority in the party which controls this Senate, and this authority says that the heads of Departments have no right or authority to make contracts or incur liabilities in excess of the appropriations expressly provided by law. I am astonished at these deficiencies coming here, in the face of these express declarations and statements from the President quoting the law and quoting arguments to sustain his position.

Mr. SARGENT. Mr. President, the reading which the gentleman has indulged in has been very well applied. I commend to him that kind of literature. I approve of it very thoroughly. If he would follow the advice of the writer of that document in a great many other matters, I have no doubt there would be an improvement in his political course. There is nothing in this bill, as far as I know, that is inconsistent with the principles he has laid down. If there is, the Senator certainly has selected a very poor item upon which to hang his observations. The law of Congress provides that certain judges shall serve out a certain term, and we do not appropriate money enough to pay for that term. The money cannot be taken out of the Treasury unless that appropriation is made. The object of this bill is, considering that they have obeyed the law and filled out that term, now to pay them for it. No Department has contracted that expense, no one has has contracted it except these men that have kept on. Suppose there had been an entire failure of the appropriation bill last year for salaries of Senators and members of the House of Representatives and the Senator up to this time had received no pay, and a deficiency bill was brought forward to pay him his back salary, would he think that the principles to which he has referred would prohibit or would make it immoral or unconstitutional to pass such a law? These cases arise continually. General laws are put on the statute-book imposing duties on the various Departments of the Government, and those general laws prohibit any Department from making a contract for supplies in excess of the appropriations made by Congress. The Constitution does not, however, say anything of the kind. So far as I know, there is no provision here for the payment of any contract in excess of appropriations. Sometimes it happens that there may be a few dollars in excess of an appropriation. It is very difficult to make the expenditures of the Departments come to the exact chalk-line of the appropriations. Frequently there are balances that go into the Treasury under the care which the Departments exercise—and which has been done in all administrations—not to exceed the amount of appropriations, not to come quite up rather than to go beyond them; and that was the case during the past fiscal year, and will be the case at the end of the present fiscal year. There is nothing, so far as I know, in the item under consideration at any rate, to excite the fears of my friend that we are violating the law.

The PRESIDING OFFICER. The question is on the amendment.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was to insert after line 95:

For payment of salaries of the chief-justice and the associate justices of Colorado, from the 1st day of August to the 21st day of November, 1876, $2,750.

The amendment was agreed to.

The next amendment was to insert after line 99:

Territory of New Mexico:

For legislative expenses for the Territory of New Mexico, being a deficiency for the fiscal year 1874, $1,000.

The amendment was agreed to.

The next amendment was to insert after line 102:

Territory of Wyoming:

For legislative expenses for the Territory of Wyoming, being a deficiency for the fiscal year 1876, $180.

The amendment was agreed to.

The next amendment was to insert after line 106:

Territory of Montana:

For legislative expenses of the Territory of Montana, being a deficiency for the fiscal year 1874, $153.17; and for the fiscal year 1876, $2,370.97; in all, $2,524.14.

The amendment was agreed to.

The next amendment was in line 187, to increase the appropriation "For pay of officers and men of the Navy, being a deficiency for the fiscal year 1877," from $500,000 to $1,400,000.

Mr. DAVIS. On what page is that amendment?

The PRESIDING OFFICER. Page 9, line 187.

Mr. DAVIS. Then the bill is not being read through regularly.

Mr. BLAINE. The amendments are being read in their order.

Mr. DAVIS. This bill is not very long, and I would prefer that it should be read through in the regular manner. However, I do not ask the Clerk to go back.

The amendment now pending increases the amount appropriated in the House bill by $900,000. I take it that there is a reason for it or the Senate committee would not have advanced the amount to such a large extent; I should be glad to know what that reason is. I presume it is for the regular salaries; but the Senator having the bill in charge can say.

Mr. SARGENT. I should like to have read a letter of the Secretary of the Navy in regard to this matter. I hope Senators will pay attention to it, because it is a very interesting and careful explanation of the whole matter.

The PRESIDING OFFICER. The letter will be read.

The Secretary read as follows:

NAVY DEPARTMENT.
Washington, February 15, 1877.

SIR: I am informed that the deficiency bill for the current year as it has passed the House of Representatives, while it provides that the officers of the Navy now "on furlough" shall be paid as if on "waiting orders," appropriates only the sum of $500,000 to meet the deficiency in the amount appropriated last year for the pay of the officers and men of the service. Under these circumstances, it is my duty to present to your committee, and through you to Congress, the facts which are necessary to enable them to act understandingly in this matter.

The estimates of the Department last year for the various expenses payable out of the appropriation "pay of the Navy" were for $7,600,000. These estimates were founded upon a carefully prepared table, made up in the office of the acounting officers of the Treasury, showing the amount actually needed under the provisions of existing laws to pay the navy as it was then employed. This table is published in full on pages 15 and 16 of the CONGRESSIONAL RECORD of May 20, 1876 and a copy is hereto annexed. Notwithstanding this showing, and the estimates founded upon it, the amount appropriated for this purpose for the current year was $5,750,000, or $1,850,000 less than the amount actually estimated for and required.

The law at the same time reduced the number of enlisted men from eighty-five hundred to seventy-five hundred; but this, though a measure of ultimate economy, actually increased the payments for the current year, since our seamen are for the most part paid off at the expiration of their service, and this required the discharge and paying off of one thousand men more than would ordinarially have been discharged and paid off during the year.

Upon the passage of the appropriation bill last year the Department felt constrained, in consideration of the smallness of this appropriation and of the reasons given for its reduction, to take every means authorized by existing laws to bring the expenses of this branch of the service as near as possible to the amount appropriated. To this end, the number of officers on duty was cut down to a point as low as was consistent with the proper employment of the Navy, and all unemployed officers were reduced to the lowest pay known to the law by being placed on furlough, a condition which for many years has been regarded as a punishment. By this harsh and somewhat odious means the Secretary has been able to reduce the necessary expenditures of this appropriation about $300,000, if the furlough is continued to the end of the present fiscal year. But the furlough pay is certainly not adapted to the circumstances and necessities of the present time and cannot now be enforced upon the service as a whole without great hardships and privations, if not absolute injustice, and the House of Representatives has, very properly, I think, provided that these officers shall be paid as if on waiting orders. But in order to pay them and the other officers and men of the service the pay to which they are entitled by law it is necessary that the money should be appropriated by Congress.

By reducing the number of officers on sea pay from eight hundred and twenty on the 1st of January, 1876, to six hundred and forty-nine on the 1st of Janunry, 1877, (a reduction of two hundred and thirteen,) and curtailing every expease where it could be done without injury to the service, the amonnt required for this year has been further reduced about $300,000, so that the amount of money actually necessary to pay the charges coming upon the appropriation "pay of the Navy" for the current year, under the provisions of existing laws, if the officers remain as they are, is, as near as can be ascertained, $7,000,000, and if the furloughed officers are to be paid as if on waiting orders $300,000 more will be required, making in all $7,300,000, or $1,550,000 more than the amount appropriated. I have annexed hereto a detailed statement of the number of officers on the Navy list on the 1st of January, 1877, with the number on each rate of pay at that time, and the actual amount payable per annum to each at that rate and the aggregate amount required for all these expenses for one year. This amount is a little over $7,000,000, which, with the $300,000 to make up the difference between furlough and waiting-orders pay, will make the sum of $7,300,000.

The appropriation "pay of the Navy" is not an appropriation upon which the department can economize. The number of offices is fixed by existing laws, and their pay is also fixed, and becomes due, day by day, by law, and is required for their daily support at home and abroad. The name, rank, and duty of every officer of the Navy are to be found in the Navy Register, and the "Pay Table," showing the amount of each officer's yearly pay, is also to be found on the third page of the same book. The amount required for the pay of the officers can be ascertained by a simple sum in arithmetic, and by adding the amount necessary to pay 7,500 men at $320 per year, and the other incidental expenses directed by law,

the whole amount may easily be found; and it certainly needs no argument to show that a requirement of $7,300,000 cannot be discharged with $5,750,000, nor a deficiency of $1,550,000 be met by an appropriation of $500,000.

It is proper that I should also remind you that a large number of our officers and men are now serving abroad on distant stations, in accordance with the policy of our Government and the purposes for which navies are established and maintained; and that unless a sufficient sum is appropriated for their pay they will not only be left without their daily support in foreign ports, but the Department will have no means of protecting the credit of the Government by payment of the drafts drawn to meet their expenses; and that if Congress should fail to make an adequate appropriation for this purpose it will be the obvious duty of the Secretary of the Navy, whoever he may then be, to bring our ships on foreign stations home at once.

I am, very respectfully, yours,

GEO. M. ROBESON,
Secretary of the Navy.

Hon. WILLIAM WINDOM,
Chairman Committee on Appropriations, U. S. Senate.

Mr. SARGENT. It would not be an adequate remedy in this case to bring our ships home from foreign stations. To be sure, our gallant officers and seamen should not be left abroad in a beggared condition, but at home they would not receive the pay which the law intends that they should have, and would be compelled to rely upon the charity of friends. Therefore the alternative which the Secretary points out would be a most painful one, but the least he could do would be to order all ships that are abroad home, in order that the officers and seamen might be among their friends, and, if they were compelled to beg, might not be among strangers and disgracing our country abroad.

By the lists which I hold in my hands, referred to in this letter, it will be shown as plain as a sum in simple addition that the amount that is required by the Secretary of the Navy to pay the officers and seamen is absolutely necessary. The Committee on Appropriations, knowing that the sum was large, have done all they could to make every allowance, to figure down all that they could, to reduce the amount to the lowest possible point; and we bring the deficiency down to $1,400,000. The House assumed that there was a deficiency and gave the sum of $500,000, but upon what principle it would be impossible to ascertain, I think. In fact the debates cast no light upon it. It seems to be an arbitrary figure. It is impossible to pay $2,000,000 of bills with $500,000 appropriation; that is obvious, and there is no figuring that can be done by the Secretary of the Navy which would reach that point.

I ask to have published in the RECORD, as part of the showing in this case, the tables which I send to the Clerk's desk; one a statement showing the amount required to pay officers of the Navy, as they are borne upon the Navy Register, January 1, 1877; the other a careful statement showing what would be the compensation of all the officers of the Navy, if they were on sea duty; what their compensation if they were on shore duty; what if they were on leave or waiting orders, and what if they were on furlough.

Statement showing amount required to pay officers of the Navy as they are borne upon the Navy Register, January 1, 1877.

	Sea pay.			Other duty pay.			Furlough pay.		
	No.	Pay.	Amount.	No.	Pay.	Amount.	No.	Pay.	Amount.
Admiral				1	$13,000	$13,000			
Vice-admiral				1	8,000	8,000			
Rear-admirals	4	$6,000	$24,000	5	5,000	25,000	3	$2,000	$6,000
Commodores	1	5,000	5,000	13	4,000	52,000	8	1,500	12,000
chiefs of bureaus				3	5,000	15,000			
Captains	10	4,500	45,000	19	3,500	66,500	20	1,400	28,000
chief of bureau				1	5,000	5,000			
Commanders	20	3,500	70,000	41	3,000	123,000	29	1,150	33,350
Lieutenant-commanders	27	3,000	81,000	40	2,600	104,000	19	1,100	20,900
Lieutenants, after five years	89	2,600	231,400	51	2,200	112,200	30	900	27,000
first five years	56	2,400	134,400	32	2,000	64,000	22	800	17,600
Masters, after five years	1	2,000	2,000						
first five years	64	1,800	115,200	20	1,500	30,000	15	600	9,000
Ensigns	27	1,200	32,400	21	1,000	21,000	25	400	10,000
Midshipmen	70	1,000	70,000				8	300	2,400
Medical directors	2	4,400	8,800						
chief of bureau				1	5,000	5,000			
after twenty years				10	4,000	40,000	2	1,500	3,000
Medical inspectors	3	4,400	13,200						
after twenty years				6	4,000	24,000	1	1,500	1,500
fourth five years				5	3,600	18,000			
Surgeons:									
third five years	4	3,500	14,000	7	3,200	22,400	6	1,300	7,800
second five years	4	3,200	12,800	9	2,800	25,200	2	1,200	2,400
first five years	6	2,800	16,800	7	2,400	16,800	5	1,000	5,000
Passed Assistant Surgeons:									
after five years	11	2,200	24,200	11	2,000	22,000	12	850	10,200
first five years	1	2,000	2,000	7	1,800	12,600	3	750	2,250
Assistant Surgeons	25	1,700	42,500	13	1,400	18,200	12	500	6,000
Pay Directors:									
chief of bureau				1	5,000	5,000			
after twenty years				3	4,000	12,000	5	1,500	7,500
fourth five years				2	3,600	7,200	2	1,400	2,800
Pay Inspectors	2	4,400	8,800						
fourth five years				9	3,600	32,400	2	1,400	2,800
Paymasters, fleet	2	4,400	8,800						
third five years	3	3,500	10,500	17	3,200	54,400	2	1,300	2,600
second five years	3	3,200	9,600	9	2,800	25,200	5	1,200	6,000
first five years	2	2,800	5,600	4	2,400	9,600	3	1,000	3,000
Passed Assistant Paymasters:									
after five years	8	2,200	17,600	3	2,000	6,000	7	850	5,950
first five years	5	2,000	10,000	4	1,800	7,200	3	750	2,250
Assistant Paymasters:									
after five years	8	1,900	15,200	1	1,600	1,600	2	600	1,200
first five years	4	1,700	6,800	4	1,400	5,600	1	500	500
Chief engineers:									
chief of bureau				1	5,000	5,000			
fleet	5	4,400	22,000						
after twenty years				5	4,000	20,000	2	1,500	3,000
fourth five years				15	3,600	54,000	4	1,400	5,600
third five years	4	3,500	14,000	6	3,200	19,200	2	1,300	2,600
second five years	6	3,200	19,200	8	2,800	22,400	1	1,200	1,200
first five years	7	2,800	19,600	2	2,400	4,800	2	1,000	2,000
Passed assistant engineers:									
after five years	19	2,200	41,800	26	2,000	52,000	20	850	17,000
first five years	10	2,000	20,000	10	1,800	18,000	12	750	9,000
Assistant engineers:									
after five years	4	1,900	7,600	4	1,600	6,400	4	600	2,400
first five years	20	1,700	34,000				9	500	4,500
Chaplains:									
after five years	1	2,800	2,800	6	2,300	13,800	8	950	7,600
first five years	1	2,500	2,500	4	2,000	8,000	4	800	3,200
Professors of mathematics:									
after fifteen years				3	3,500	10,500			
third five years				4	3,000	12,000			
first five years				5	2,400	12,000			
Secretaries, (admiral and vice-admiral)				2	2,500	5,000			
Naval constructors:									
chief of bureau				1	5,000	5,000			
third five years				1	3,700	3,700			
second five years				4	3,400	13,600			
first five years				6	3,200	19,200			

Statement showing amount required to pay officers of the Navy, &c.—Continued.

	Sea pay.			Other duty pay.			Furlough pay.		
	No.	Pay.	Amount.	No.	Pay.	Amount.	No.	Pay.	Amount.
Assistant naval constructors:									
second four years	.....	.....	.....	2	$2,200	$4,400	.....	.....	.....
first four years	.....	.....	.....	3	2,000	6,000	.....	.....	.....
Civil engineers:									
after fifteen years	.....	.....	.....	1	3,500	3,500	.....	.....	.....
second five years	.....	.....	.....	4	2,700	10,800	.....	.....	.....
first five years	.....	.....	.....	5	2,400	12,000	.....	.....	.....
Warrant officers:									
after twelve years	18	$1,800	$32,400	41	1,600	65,600	32	$600	$19,200
fourth three years	6	1,600	9,600	4	1,300	5,200	5	500	2,500
third three years	11	1,400	15,400	7	1,300	9,100	1	450	450
second three years	15	1,300	19,500	22	1,000	22,000	12	400	4,800
first three years	18	1,200	21,600	5	900	4,500	6	350	2,100
Mates	16	900	14,400	27	700	18,900	3	250	750
Cadet midshipmen	.....	.....	.....	256	500	128,000	.....	.....	.....
Cadet engineers	19	500	9,500	71	500	35,500	.....	.....	.....
Volunteer officers:									
acting master	1	2,000	2,000	.....	.....	.....	.....	.....	.....
acting ensign	1	1,200	1,200	.....	.....	.....	.....	.....	.....
passed assistant surgeons	1	2,000	2,000	.....	.....	.....	2	750	1,500
assistant surgeons	4	1,700	6,800	6	1,400	8,400	9	500	4,500
Active list as borne on Register January 1, 1877	649	.....	1,355,500	948	.....	1,647,600	392	.....	332,900

Amount required to pay officers on the retired list.

Grade in which retired.	No.	Pay.	Amount.
Rear Admirals	38	$4,500	$171,000
Commodores	18	3,750	67,500
Captains	12	3,375	40,500
Commanders	19	2,625	49,875
Lieutenant-Commanders	15	2,250	33,750
Lieutenants	17	1,950	33,150
Masters	15	1,500	22,500
Ensigns	5	1,050	5,250
Midshipmen	2	750	1,500
Medical and Pay Directors and Inspectors, and Chief Engineers	23	3,300	75,900
Surgeons and Paymasters	19	3,150	59,850
Passed Assistant Surgeons, Paymasters, and Engineers	18	1,650	29,700
Assistant Surgeons, Paymasters, and Engineers	32	1,425	45,606
Warrant Officers	38	1,350	51,300
Chaplains	7	2,100	14,700
Professors of Mathematics	4	2,625	10,500
Naval Constructors	4	3,150	12,600
	286		725,175

RECAPITULATION.

	No.	Amount.
Officers on sea pay	649	$1,355,500
Officers on other-duty pay, (including 327 cadet midshipmen and engineers at Naval Academy)	948	1,647,600
Officers on furlough pay	392	332,900
Officers on retired list	286	725,175
Officers whose nanes are not borne on the Navy Register, embracing secretaries to commanding officers of squadrons and Naval Academy, clerks to commanding officers of squadrons and vessels, fleet paymasters, paymasters of vessels, at inspections, navy-yards and stations, &c.	.....	199,400
Enlisted men and appointed petty officers	7,500	2,400,000
Mileage, extra pay to men enlisting under honorable discharge, exchange, &c.	.....	350,000
		7,010,575

Officers on sea pay, January 1, 1876	862
Officers on other-duty pay, January 1, 1876	887
Officers on leave or waiting-orders pay, January 1, 1876	208

	No.	At sea.		On shore duty.		On leave or waiting orders.		On furlough.
Admiral	1	$13,000	$13,000	$13,000	$13,000	$13,000	$13,000	$6,500
Vice-admirals	1	9,000	9,000	8,000	8,000	7,000	7,000	3,500
Rear admirals	12	6,000	72,000	5,000	60,000	4,000	48,800	24,000
Commodores	25	5,000	125,000	4,000	100,000	3,000	75,000	37,500
Captains	50	4,500	225,000	3,500	175,000	2,800	140,000	70,000
Commanders	90	3,500	315,000	3,000	270,000	2,300	207,000	103,500
Lieutenant-commanders	86	3,000	258,000	2,600	223,600	2,200	189,200	94,600
Lieutenants:								
after five years	170	2,600	442,000	2,200	374,000	1,800	306,000	153,000
first five years	110	2,400	264,000	2,000	220,000	1,600	176,000	88,000
Masters:								
after five years	1	2,000	2,000	1,700	1,700	1,400	1,400	700
after first five years	99	1,800	178,200	6,500	147,500	1,200	118,800	59,400
Ensigns	73	1,200	87,600	1,000	73,000	800	58,400	29,200
Midshipmen	78	1,000	78,000	800	62,400	600	46,800	23,400
Medical and pay directors and medical and pay inspectors, and chief engineers ranking with commanders	81	4,400	356,400	4,000	324,000	3,000	273,000	136,500
Surgeons:								
third five years	17	3,500	59,500	3,200	54,400	2,600	44,200	22,100
second five years	15	3,200	48,000	2,800	42,000	2,400	36,000	18,000
first five years	18	2,800	50,400	2,400	43,200	2,000	36,000	18,000
Passed assistant surgeons:								
after five years	34	2,200	72,600	2,000	66,000	1,700	56,100	28,050
first five years	11	2,000	22,000	1,800	19,800	1,500	16,500	8,250
Assistant surgeons	50	1,700	85,000	1,400	70,000	1,000	50,000	25,000
Paymasters:								
third five years	24	3,500	84,000	3,200	72,000	2,600	62,400	31,200
second five years	17	3,200	54,400	2,800	47,600	2,400	40,800	20,400
first five years	9	2,800	25,200	2,400	21,600	2,000	18,000	9,00
Past assistant paymasters:								
after five years	18	2,200	39,600	2,000	36,000	1,700	30,600	15,300
first five years	12	2,000	24,000	1,800	21,600	1,500	18,000	9,000
Assistant paymasters:								
after five years	11	1,900	20,900	1,600	17,600	1,200	13,200	6,600
first five years	9	1,700	15,300	1,400	12,600	1,000	9,000	4,500
Chief engineers:								
fourth five years	7	4,200	29,400	4,000	28,000	3,000	21,000	10,500
third five years	12	3,500	42,000	3,200	38,400	2,600	31,200	15,600
second five years	15	3,200	48,000	2,800	42,000	2,400	36,000	18,000
first five years	11	2,800	30,800	2,400	26,400	2,000	22,000	11,000
Past assistant engineers:								
after five years	65	2,200	143,000	2,000	130,000	1,700	110,500	56,250
first five years	32	2,000	64,000	1,800	57,600	1,500	48,000	24,000

Statement showing amount required to pay officers of the Navy, &c.—Continued.

	No.	At sea.		On shore duty.		On leave or waiting orders.		On furlough.
Assistant engineers:								
after five years	12	1,900	$22,800	$1,600	$19,200	$1,200	$14,400	$7,200
first five years	29	1,700	49,300	1,400	40,600	1,000	29,000	14,500
Chaplains:								
after five years	15	2,800	42,000	2,300	34,500	1,900	28,500	14,250
first five years	9	2,500	22,300	2,000	18,000	1,600	14,400	7,200
Professors:								
after fifteen years	3	3,500	10,500	3,500	10,500	2,600	7,800	3,900
third five years	4	3,000	12,000	3,000	12,000	2,100	8,400	4,200
first five years	5	2,400	12,000	2,400	12,000	1,500	7,500	3,750
secretaries Admiral and Vice-Admiral	2	2,500	5,000	2,500	5,000	2,500	5,000	2,500
Constructors:								
third five years	2	3,700	7,400	3,700	7,400	2,700	5,400	2,700
second five years	4	3,400	13,600	3,400	13,600	2,400	9,600	4,800
first five years	6	2,200	19,200	3,200	19,200	2,200	13,200	6,600
Assistant constructors:								
second four years	2	2,200	4,400	2,200	4,400	1,700	3,400	1,700
first four years	3	2,000	6,000	2,000	6,000	1,500	4,500	2,250
Civil engineers:								
after fifteen years	1	3,500	3,500	3,500	3,500	2,600	2,600	1,300
second five years	4	2,700	10,800	2,700	10,800	1,800	7,200	3,600
first five years	5	2,400	12,000	2,400	12,000	1,500	7,500	3,750
Warrant officers:								
after twelve years	91	1,800	163,800	1,600	145,600	1,200	109,200	54,600
fourth three years	15	1,600	24,000	1,300	19,500	1,000	15,000	7,500
third three years	19	1,400	26,600	1,300	24,700	900	17,100	8,550
second three years	49	1,300	63,700	1,000	49,000	800	39,200	19,600
first three years	29	1,200	34,800	900	26,100	700	20,300	10,150
mates	46	900	41,400	700	32,200	500	23,000	11,500
cadet midshipmen and engineers	327	500	163,500	500	163,500	.....	163,500	81,750
cadet engineers, (graduates)	19	500	9,500	500	9,500	500	9,500	4,750
Volunteers:								
acting master	1	2,000	2,000	1,700	1,700	1,400	1,400	700
ensign	1	1,200	1,200	1,000	1,000	800	800	400
past assistant surgeons	3	2,000	6,000	1,800	5,400	1,500	4,500	2,250
assistant surgeons	19	1,700	32,300	1,400	26,600	1,000	19,000	9,500
	1,989	.....	4,205,100	.....	3,632,500	.....	2,950,000	1,475,000
Officers on retired list	.....	.....	725,175	.....	725,175	.....	725,175	725,175
Secretaries and clerks not borne on Register	.....	.....	199,400	.....	199,400	.....	199,400	199,400
Enlisted men and appointed petty officers	.....	.....	2,400,000	.....	2,400,000	.....	2,400,000	2,400,000
Mileage, &c	.....	.....	350,000	.....	350,000	.....	350,000	350,000
	.....	.....	7,879,675	.....	7,307,075	.....	6,624,575	5,149,575

In submitting the naval appropriation bill from the committee of conference at the last session of Congress, I called attention to the fact that the estimates required $7,600,000, and that those estimates were based upon proper calculations, taking the number of men and the salary allowed to each, and that by that bill there was an allowance of only $5,750,000, or, in other words, $1,850,000, left entirely unprovided for. I then asked Senators if it was proposed that the men who had periled their lives in defense of their country, the men who had become illustrious for their services to the country in our Navy, were to be left to starvation. I know the sentiment of the Senate was not in favor of this, but it was thought and said at that time that the matter would be made good and must be made good in a deficiency bill.

Furthermore, in making that statement to the Senate, I said that it was the view of the House conferees that the Navy could be put upon furlough pay; that there should be no more leave pay or waiting-orders pay, but that officers not actively employed should be put upon furlough pay; and they insisted that this would make a reduction sufficiently large to cover these amounts. In fact, the Secretary carried out that idea which was insisted upon by the House conferees, and has so far as possible used the furlough pay; but in his annual report to Congress at this session he shows the injustice of this system of applying that which has heretofore been treated as a punishment to meritorious officers. The House of Representatives, seeing the force of this logic and perhaps convinced by the applications of officers themselves who were subjected to this semi-punishment, made an indefinite appropriation to cover the difference between waiting-orders pay and furlough pay since the 1st day of September, 1876, the time that that furlough pay went into operation; but they make no provision for the remainder of the year; and by the careful calculation we have made upon this matter we find that that indefinite appropriation will amount to $150,000, by no means bridging over the million and a half of dollars which is necessary for the matter, but only 10 per cent. of the amount. We have taken that 10 per cent. and deducted it from the million and a half, leaving the $1,400,000, which we recommend.

The Secretary of the Navy stated upon this matter in his annual report:

> But however small the appropriations may be, it is nevertheless the duty of the Department to reduce the expenses of the service upon the same scale, as far as it can be done within the provisions of existing laws. This it has endeavored to do, though it is not often economical nor always possible to confine the expenses of a military establishment within fixed and unyielding limits. This is especially the case with the naval service, scattered all over the globe, often at the mercy of the natural elements, and always liable to international conditions, which neither the Department nor the Government can foresee, for which they are not responsible, and which they can neither direct nor control. In endeavoring to adapt itself to this necessity, the Department has been crippled in carrying on much important work which was already in progress and which is rendered more expensive by this delay; and it has also been constrained to put in force upon the service generally the provisions of law which authorized it to place officers on furlough pay. The power of Congress to limit the appropriations for "pay" to the requirements of this provision of existing law and the power and duty of the Department, when so limited, to put the provision in force will hardly be questioned by any one who can bring to the consideration of the subject an unbiased legal judgment.
>
> That the intent of Congress was so to limit the appropriations is unquestionable, in view of their statements, debates, and actions at the time, and of the fact that they were fully informed that the appropriations made upon this principle would impose upon the Department the duty of carrying out the spirit of their legislation, as far as it could be done under the law as it stood on the statute-book, rather than to make a deficiency by disregarding their action and its intent. The "pay" provided by these provisions, however, was not adapted to the circumstances and necessities of the present times, and they had grown obsolete in practice, except for the purpose of punishment; and whatever was their original intent, they cannot now be enforced upon the service as a whole without great inconvenience and privation to officers and their families, entailing, in many instances, personal hardship which, in the case of the deserving, amounts almost to absolute injustice.
>
> You are fully aware how disagreeable this duty was to the Department; but you understood, also, how it had no alternative but to discharge it. Burdensome as its effect has been to the naval service, I am gratified to be able to say that it has been received by the officers generally with dignity and courage. There has been some fault-finding and some foolish criticism; but the fault-finding, as far as I am informed, has been confined to those who have been least affected, and who, in the present as in the past, have the least cause to complain of the favor of the Government or the action of the Department. Those who are charged with the burdens of official duty must expect always to meet the criticism of that class who, without consideration or responsibility themselves, are ever ready to question the motives and actions of others.
>
> After careful consideration of this subject, being convinced that Congress when they fully understand it will have no real desire to withhold from any branch of the service the pay which would accrue to it under the ordinary operations of the laws and customs governing the action of the Department, and will not wish to deprive well-deserving officers, whose lives are consecrated to their country's service and to whom no personal fault is imputed, of the means for the proper support and education of their families, I have, besides the ordinary estimates for the next fiscal year, submitted an additional one for the sum of $1,550,000, to supply the inevitable deficiency in the "pay" appropriation, and to enable the Department to rescind its order placing all unemployed officers on "furlough-pay," and to make up to those who have been or may be so reduced, without fault on their part, the amount of pay which they would otherwise have received. Congress will be earnestly pressed to make this provision, and if they do so the Department will have great gratification in carrying it out; otherwise the service and the Department will have no alternative but to submit to the deficiency and the reduction which it entails.

This amendment proposed by the committee not only repairs this difficulty, which is so well stated by the Secretary, but it makes provision for the remainder of the fiscal year. The $500,000 appropriated by the House, with their indefinite appropriation, will pay the expense for the pay of officers and men down to the middle of April. What is to become of the officers of the Navy after that time, down to the 1st of July, when the regular appropriations come to be applied? Of course they are to remain entirely without their pay. The law fixes the amount of their pay, fixes the number of the officers, and it seems to me that it is as plain as any sum in arithmetic that we must make the appropriation. If we think the pay of

officers is too great, if these men do not earn the amount, then by some careful system we must reduce the pay; but, the law standing as it is, the appropriation must be made. Otherwise we repudiate obligations to a very meritorious class of officers.

The PRESIDING OFFICER. The question is on the amendment.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was to insert after line 198:

INTERIOR DEPARTMENT.

Surveying public lands:

Surveying public lands in Oregon: Amount due Jesse Applegate for surveys executed under contract with the surveyor-general of Oregon, being a deficiency for the fiscal year 1871 and prior years, $342.01.

Mr. DAVIS. This is one of a class of claims in this bill—I do not know how many, but probably twenty or more—and one explanation perhaps will cover them all. This particular one is for the year 1871 and prior years. I should be glad to hear from the Senator having charge of the bill how it is that this deficiency occurred and why it has been standing five or six years without any provision having been made for it.

I want to say here that the officers of the Government ought to learn to keep, and they should be compelled to keep, within the law, and not constantly exceed it by their expenditures. There are, as I have said, perhaps twenty deficiencies running along here now, one after another. One explanation probably will answer for the most of them; but there certainly ought to be a stop to officers constantly, almost in every instance, exceeding their appropriations. If this is allowed to go on, and we make it up whenever it comes up in a deficiency bill, we may just as well say at once, "Go along and expend what you think proper and we will foot the bill in the end." This practice ought to be stopped, and I hope that Congress and the officers of the Government in future will stop it. I am not objecting especially to what is here referred to. I have no doubt the Government owes the money, and I shall make no particular opposition to the amendment, but I want it to get to the ears of those having charge of the public expenditures that they ought to stop when they get to the end of their appropriations. We saw that the Government Printing Office, the other day, would not print a bill, would not print anything to come here to lie upon our tables, because the appropriation for the public printing was exhausted. If that was carried out in all the Departments of the Government, we should not have this deficiency bill so large as it is, and in many instances be compelled to provide for deficiencies that have slept for five or six years and then come up for payment.

Mr. SARGENT. Mr. President, the items here under consideration are not necessarily in excess of appropriations. A contract under the law, in every sense regular, is given for the survey of five or six townships in a region, for instance in Oregon, where there may be mountains, where there may be lakes, or something of that kind, and the townships are necessarily fractional, or a part of them, and just how much land may be contained in those townships cannot be known until after the survey. A contract is entered into with a surveyor to survey those townships, and an estimate, as near as can be arrived at, is made to the Department of the amount that will cover the work which he will perform. In one-half of the cases, or more probably, the amount which it is estimated it will cost is greater, and then he is paid the less amount and we never hear of it again. In the other case the amount is a little larger perhaps than was called for and then he comes in with his bill, which he is just as much entitled to be paid as any portion of his compensation. Meanwhile the time of the appropriation may have gone by. These surveys are made in one fiscal year; the next fiscal year there may be some trouble about a line, to know whether it was run correctly.

You will find, in one of these amendments an appropriation for expenses incurred in examining surveys, amounting to $110, I think. Some dispute arises between the Land Office and the surveyor whether the work has been done exactly in accordance with the requirements of the contract, and they will not pay him until he satisfies them fully that he has done his work just as required. Meanwhile the appropriation may have lapsed, and it is necessary to provide for the payment of the amount in a deficiency bill. These are small items, as you will find in looking over the bill, that arise in the way I have stated. In some cases where the work is quite large, embracing a number of townships, or where it embraces the lines between States and Territories, the amount of excess may be considerably more; but I do not understand that it arises by exceeding the amount of the appropriation by the Department.

Mr. DAVIS. I understand that these contracts are made by the rod or mile, and not by the mountain or lake. Therefore, when they know how many rods or miles are to be surveyed, they know what amount of money they have to cover that. The contracts are made, as I understand, not by the township, but by the mile, and the work is paid for by the mile. They can stop when they get to the boundary agreed on.

Mr. SARGENT. But they contract to survey certain townships. They do not subdivide that portion of the township that is not to be surveyed into sections and quarter-sections, provided they are fractional. If they did, that would cost the Government a great deal more. Suppose it be a lake, suppose the estimate is made that the lake will take off one half the township, when it will take off only a quarter or a third, they do not want to leave a botched piece of work, and the estimates for an exact calculation are not in the Department and cannot be until the work is completed.

Mr. DAVIS. I do not understand that a lake or a mountain will have anything to do with the estimates of the Department at all. It is calculated at so much per rod or so much per mile.

Mr. SARGENT. They do not run the line across the lake; but if the estimate supposed is for two miles across and it turns out to be but one mile, the surveyor would be paid for only one mile.

Mr. DAVIS. There are no estimates of that kind, so far as I know anything about the matter. A contract is made with a surveyor to survey so many rods or so many miles at so much per rod or mile.

Mr. WITHERS. That is not the way I understand it from the explanation given to the committee, and we endeavored to procure the fullest information possible on the subject. I was informed that the system adopted in the survey of the public lands would be that the surveyor-general would give a contract to some individual to survey so many townships. They assume an arbitrary estimate of the amount the surveys will reach in a township and generally assume a quantity, less of course than it would be if the whole could be surveyed. For example, if the surveys of certain townships would aggregate say $6,000, they would make the contract with the party to do $5,000 worth of surveying in this township, supposing that $5,000 would cover the surveys in the township. In some instances this $5,000, if there be much loss of ground, will more than pay for all the surveys in it. Then the balance is turned into the Treasury. If there be little loss of ground it will not pay, and when the surveys are finally paid there will be a deficiency; but it is impossible that the surveyor can know every time he closes a line that he can sit down then and make a calculation of how much it will come to. He goes on and completes the survey, and, when completed, he adds up the amount of the completed work; and if it is less than the amount he contracted for, the surplus is turned into the Treasury; if more, he shows the amount of work he has done; it has then to be approved by the surveyor-general and sent to the General Land Office, and must be then recommended by the Department and reported to Congress before it can be paid for.

Mr. DAVIS. I do not want to prolong the debate, for I am as anxious as any Senator can be to proceed with the bill; but neither of the Senators in charge of it who were on the subcommittee has yet explained to my satisfaction how these deficiencies occur. It is a very well known fact that we every year appropriate a certain amount to each one of these Territories. It has been the habit, and is the habit because the law allows it, that if a little more or a little less is surveyed this year it goes on and is paid for next year. They will not stop on the line of a township because annual appropriations are made here; but there is no reason in my judgment why these deficiencies should come in. As I said, I do not want to continue the debate and I shall say nothing more on the subject.

Mr. WITHERS. If the fiscal year expired, that is if the 30th of June came before the contract was entirely completed, the money then appropriated would go into the Treasury. That is the statement made to the committee, at any rate.

Mr. DAVIS. If you examine into the subject, you will find very little money going into the Treasury. It is going out of the Treasury all the time.

Mr. WITHERS. I will state to my friend that a portion of these amounts that he has criticised represents money which was appropriated for that very purpose, but not having been consumed at the end of the fiscal year it has been turned into the Treasury, and it is proposed by this bill to re-appropriate it.

Mr. STEVENSON. I rise to a point of order.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. STEVENSON. I submit to the Chair that this is a private claim, and not a just provision for any deficiency. I do not think some private claims due since 1870 and 1871 should be preferred by being put on deficiency appropriation bills, while others have to come here and wait their time in Congress and in the Departments. I submit that this is a private claim, and it has often been ruled that similar amendments were not in order on general appropriation bills.

Mr. SARGENT. Mr. President, this is not in any sense a private claim. It is an expense incurred for which there was an appropriation made, a regular estimate of deficiency, by the Secretary of the Treasury. It originated on account of an appropriation made in an appropriation bill, and is for work proper to be done by law. It is not a claim for damages by this party; it is not an unliquidated matter; it is a distinct, clear application of the law, and is supported by a regular estimate.

Mr. STEVENSON. I do not know that I could refer to the place in the RECORD, but I have seen the rule enforced twenty times on claims similar to this one. This was a balance due this man for work performed. It is a demand for money due by the Government and it is liquidated, but still it is a private demand and it is a personal demand.

Now, sir, without going into the merits of this amendment I am opposed to this sort of thing. Unless the Senate of the United States will stop paying deficiencies, going back five, six, seven, eight, and nine years, you never will know, and you never can know what the expenditures of the Government are.

Mr. BLAINE. Will the honorable Senator allow me to ask him a question?

Mr. STEVENSON. Certainly.

Mr. BLAINE. Did he ever know of what would properly be termed a private claim being recommended in a regular estimate from the Treasury Department?

Mr. STEVENSON. I have known of some that were recommended which the President of the Senate has held to be private claims, and I can turn the attention of the Senator from Maine to several cases of that sort. I have had some recommended, and they have been ruled out of the bill.

Mr. SARGENT. Not in the regular estimates?

Mr. STEVENSON. Not in the regular estimates. But these are not in the regular estimates.

Mr. SARGENT. These are in the regular official estimates.

Mr. BLAINE. The regular, formal estimates.

Mr. STEVENSON. I am opposed at any rate to loading down the general appropriation bills with amendments of this character.

The PRESIDING OFFICER. The Chair overrules the point of order. The question is on the amendment.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was to insert after line 205:

Amount due Jesse Applegate and D. W. Applegate for surveys executed under contract with the surveyor-general of Oregon, being a deficiency for the fiscal year 1871, and prior years, $471.37.

The amendment was agreed to.

The next amendment was to insert after line 210:

Amount due W. H. Byars for expenses incurred in examining surveys, in order to test the accuracy of the work under instructions from the surveyor-general of Oregon, March 13, 1872, being a deficiency for the fiscal year 1873, $238.50.

The amendment was agreed to.

The next amendment was to insert after line 216:

Amount due Howard and Huffer, for surveys executed under contract with the surveyor-general of Oregon, being a deficiency for the fiscal year 1873, $108.

Mr. COCKRELL. I ask the Senator from California to explain that. I do not find that item in the estimates.

Mr. SARGENT. This amendment was offered in the Senate by the Senator from Oregon, who is not now here, and referred to the Committee on Appropriations. It was referred with this other class of cases to the Senator from Virginia, [Mr WITHERS,] who examined them all in the subcommittee and reported them from the subcommittee to the general committee. I have no letter from the Secretary of the Interior bearing upon that particular item. You observe it is very small; it is $108. The item is hardly sufficient in amount to stand upon. It seems to be of the same general character with those we have just adopted, and being vouched for by the Senator from Oregon, we inserted it in the amendments reported by the committee.

Mr. WITHERS. I see that almost all these cases here which I examined were in one of the estimates contained either in Executive documents 18 or 19, one being a re-apportionment of money already appropriated and turned back into the Treasury, and the other estimates of appropriations sent to us by the heads of the different Departments. There are two or three exceptions. My memory is not sufficiently clear now to enable me to state positively with regard to the particular amendment under consideration. The items are in all cases, however, substantiated by documentary proof sent up by the Department having the matter in charge, stating that the case had been audited there and the amount found to be justly due. This general statement will cover all the cases of this class relative to surveys of public lands.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was to insert after line 220:

Amounts due A. Gesner and John S. Kincaid, for surveys executed under contracts with the surveyor-general of Oregon, being a deficiency for the fiscal year 1874, $1,073.42.

The amendment was agreed to.

The next amendment was to insert after line 225:

Amounts due J. W. Meldrum, H. Meldrum, W. H. Odell, B. F. Vaughn, and N. O. Walden for surveys executed under contracts with the surveyor-general of Oregon, being a deficiency for the fiscal year 1875, $2,618.35.

The amendment was agreed to.

The next amendment was to insert after line 231:

Amount due E. P. Henderson, for surveys executed under contract with the surveyor-general of Oregon, being a deficiency for the fiscal year 1875, $931.79.

The amendment was agreed to,

The next amendment was to insert after line 235:

Amount due William H. Odell, deputy surveyor, for surveys executed under contract with the surveyor-general of Oregon, being a deficiency for the fiscal year 1876, $1,854.98.

The amendment was agreed to.

The next amendment was to insert after line 240:

For amount due J. H. Huffer for surveys executed under contract with the surveyor-general of Oregon, being a deficiency for the fiscal year 1877, $140.31.

The amendment was agreed to.

The next amendment was to insert after line 244:

For amount due F. W. Colbrook, for surveys executed under contract with the surveyor-general of Oregon, being a deficiency for the fiscal year 1877, $187.24.

The amendment was agreed to.

The next amendment was to insert after line 249:

For compensation of clerks and draughtsmen in the office of the surveyor-general of Oregon, being a deficiency for the fiscal year 1877, $700.

The amendment was agreed to.

The next amendment was to insert after line 253:

Surveying public lands in California: Amount due W. H. Carleton, for surveys executed under contract with the surveyor-general of California, being a deficiency for the fiscal year 1871 and prior years, $103.24.

The amendment was agreed to.

The next amendment was to insert after line 258;

For compensation of clerks and draughtsmen in the office of the surveyor-general of California, being a deficiency for the fiscal 1877, $2,600.

The amendment was agreed to.

The next amendment was to insert after line 262, in the appropriations for the Interior Department:

For rent of office, pay of messenger, fuel, and other incidental expenses, being a deficiency for the fiscal year 1877, $2,000.

The amendment was agreed to.

The next amendment was to insert after line 265:

Surveying public lands in Washington Territory: Amount due W. R. Ballard, for surveys executed under contract with the surveyor-general of Washington Territory, being a deficiency for the fiscal year 1874, $324.31.

The amendment was agreed to.

The next amendment was to insert after line 271:

For compensation of clerks and draughtsmen in the office of the surveyor-general of Washington Territory, being a deficiency for the fiscal year 1877, $400.

The amendment was agreed to.

The next amendment was to insert the following words after line 275:

Surveying public lands in Florida: Amount due M. A. Williams, for surveys executed under contract with the surveyor-general of Florida, being a deficiency for the fiscal year 1874, $759.59.

The amendment was agreed to.

The next amendment was to insert after line 280:

Survey of public lands in Utah: Amounts due Joseph Gorlinski and Bailey and Burrill, for surveys executed under contract with the surveyor-general of Utah, being a deficiency for the fiscal year 1875, $392.28.

The amendment was agreed to.

The next amendment was to insert after line 285:

For rent of office, pay of messenger, fuel, and other incidental expenses, being a deficiency for the fiscal year 1877, $250.

The amendment was agreed to.

The next amendment was to insert the following clause after line 288:

Surveying public lands in Montana: Amounts due McFarland & Kellogg, McFarland & Bonnell, and Post & Koch, for surveys executed under contract with the surveyor-general of Montana, being a deficiency for the fiscal year 1875, $213.30

The amendment was agreed to.

The next amendment was to insert after line 294:

For rent of office, pay of messenger, fuel, and other incidental expenses, being a deficiency for the fiscal year 1877, $400.

The amendment was agreed to.

The next amendment was to insert after line 297:

Surveying public lands in Arizona: Amount due T. F. White, for surveys executed under contract with the surveyor-general of Arizona, being a deficiency for the fiscal year 1875, $351.10.

The amendment was agreed to.

The next amendment was to insert after line 302:

Surveying public lands in Louisiana: Amount due James L. Bradford, for surveys executed under contract with the surveyor-general of Louisiana, being a deficiency for the fiscal year 1875, $484.13.

The amendment was agreed to.

The next amendment was to insert after line 307:

Amount due James L. Bradford for surveys executed under contract with the surveyor-general of Louisiana, being a deficiency for the fiscal year 1877, $614.38.

The amendment was agreed to.

The next amendment was to insert after line 311:

For compensation of clerks and draughtsmen, being a deficiency for the fiscal year 1877, $1,500.

Mr. DAVIS. I think that ought to be explained. There ought to be an explanation in regard to all such items as that.

Mr. SARGENT. I only know with reference to this item that the regular appropriation for this year was cut down so small that in several of these land offices they could not discharge their duties. The appropriation was not made, but of course they had the offices to keep up, and that is the sum required for clerks and draughtsmen. The money has not been spent yet, but it should be spent before the end of the year. In a note accompanying these estimates of deficiency appropriations, the Secretary says:

The foregoing deficiencies—

The remark applying to several items—

are owing to the fact of the great and unusual reduction made by Congress in the appropriations for 1876–'77.

It is known, of course, to Senators that this appropriation was made after the fiscal year commenced, and that a sudden and very great reduction was made. Up to the time the appropriation was made these officers naturally had a right to suppose that it would be

on the scale of appropriations heretofore made, or somewhere near that amount.

Mr. DAVIS. I understood that this item was to meet a deficiency of 1875.

Mr. SARGENT. It is for 1877, for this fiscal year, and we thought it necessary, as the public business had to be carried on, in these cases to allow the deficiency.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was to insert after line 314:

Surveying public lands in Dakota: Amount due James C. Blanding, deputy surveyor, for surveys executed under contract of February 26, 1874, with the surveyor-general of Dakota, being a deficiency for the fiscal year 1874, $139.63.

The amendment was agreed to.

The next amendment was to insert after line 320:

For rent of office, pay of messenger, fuel, and other incidental expenses, being a deficiency for the fiscal year 1877, $450.

The amendment was agreed to.

The next amendment was to insert after line 323:

Office of surveyor-general of Nebraska and Iowa: For rent of office, pay of messenger, fuel, and incidentals, being a deficiency for the fiscal year 1877, $200.

The amendment was agreed to.

The next amendment was to insert after line 327:

Office of surveyor-general of New Mexico: For compensation of a translator of Spanish language, clerks, and draughtsman, being a deficiency for the fiscal year 1877, $1,400.

The amendment was agreed to.

The next amendment was to insert after line 332:

Office of surveyor-general of Nevada: For compensation of clerks and draughtsmen, being a deficiency for the fiscal year 1877, $1,200.

The amendment was agreed to.

The next amendment was to insert after line 336:

For rent of office, fuel, and incidental expenses, being a deficiency for the fiscal year 1877, $400.

The amendment was agreed to.

The next amendment was to insert after line 339:

Examination of the public surveys, Colorado: For examining surveys in the field, in order to test the accuracy of the work before approving the same, under instructions from the surveyor-general to E. H. Kellogg, dated August 14, 1876, being for the service of the fiscal year 1877, $110.

The amendment was agreed to.

The next amendment was to insert the following after line 346:

Survey of Indian reservations.—Arizona Territory: For the survey and subdivision of the Colorado River Indian reservation by Chandler Robbins, designated by the late Secretary of the Interior, being for the service of the fiscal years 1875 and 1876, $1,314.

The amendment was agreed to.

The next amendment was to insert the following paragraph after line 353:

Dakota Territory: For the survey of that part of the Sioux Indian reservation in the Peoria bottom lying east of the Missouri River by T. B. Medary, designated by the late Secretary of the Interior, being for the service of the fiscal years 1875 and 1876, $1,310.43.

The amendment was agreed to.

The next amendment was after line 360, to insert:

For the survey of the Devil's Lake Indian reservation, in Dakota Territory, by Charles H. Bates, designated by the late Secretary of the Interior, being for the service of the fiscal years 1875 and 1876, $1,384.18.

The amendment was agreed to.

The next amendment was after line 366, to insert:

Dakota Territory: For the survey of a part of the Sioux Indian reservation located on White River, west of the Missouri River, in Dakota Territory, by James W. Miller, designated by the late Secretary of the Interior, being for the services of the fiscal years 1874 and 1875, $11,659.75.

The amendment was agreed to.

The next amendment was after line 373, to insert:

Idaho Territory: For the survey of the Fort Hall Indian reservation, Idaho, by D. P. Thompson, designated by the late Secretary of the Interior, being for the service of the fiscal years 1874 and 1875, $4,520.50.

The amendment was agreed to.

The next amendment was after line 379, to insert:

Oregon: For survey of the Malheur Indian reservation for the Snake and Pi-Ute Indians in Oregon, by Thompson and Meldrum, under their contract dated October 24, 1874, being for the service of the fiscal years 1874 and 1875, $5,254.36.

The amendment was agreed to.

The next amendment was to insert after line 386:

Nebraska: For amount due White and Hall for surveying the Otoe Indian reservation in the State of Nebraska, under contract of July 3, 1873, being a deficiency for the fiscal year 1874, $2,019.15.

The amendment was agreed to.

The next amendment was after line 392, to insert:

Contingent expenses, office of surveyor-general of Idaho: To pay L. F. Cartee, surveyor-general of Idaho, for expenses incurred in investigating certain surveys, under instructions from the General Land-Office dated November 19, 1868, being a deficiency for the fiscal year 1871 and prior years, $299,94.

The amendment was agreed to.

The next amendment was after line 399 to insert:

Indian affairs:

Incidental expenses, Indian service in Arizona: For payment of amount certified to be due Cornelius Brice by the accounting officers of the Treasury Department, being a deficiency for the fiscal year 1874, $117.05.

Mr. SARGENT. The committee withdraws this amendment. It was incorporated in the bill by a mistake of the clerk. There are a large number of those small Indian agencies which Congress should take hold of and treat by themselves. This single item happened to be in the estimates of this year. The committee did not intend that it should be in the bill. There is quite a large number of that class which we think Congress should act upon altogether and we do not want to select this single case.

Mr. WITHERS. There are several hundred such claims.

The amendment was rejected.

The next amendment of the Committee on Appropriations was to insert after line 405:

For this amount, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Interior for the care and support of Indians at the Fort Peck agency during the balance of the fiscal year ending June 30, 1877, $50,000.

Mr. DAVIS. This is another Indian deficiency or rather something that is necessary for the support of the Indians. The amount is $50,000 and it ought to be explained. I ask the Senator having charge of the bill whether this appropriation was recommended by the Committee on Indian Affairs and what are the facts connected with it.

Mr. SARGENT. The chairman of the committee understands the subject thoroughly, and I will ask him to explain it.

Mr. WINDOM. Prior to the current fiscal year the Indians at Fort Peck had received $100,000 as their appropriation. There were two other tribes of Indians located at other points, one of which received $30,000 and the other $35,000 per annum, making $65,000 in addition to the $100,000. Last year the Indian appropriation bill transferred these other two tribes of Indians to the Fort Peck agency, but did not add anything to the appropriation; so that the three tribes which had received $165,000, the Sioux at Fort Peck, and these other two tribes, the Assinaboines and Gros Ventres, were reduced to $100,000; there was necessarily a deficiency, and the Government is unable to supply it, and this year the appropriation will be, even with this deficiency, $15,000 less than the preceding year, as it would make $150,000 for the Indians at Fort Peck, including the Assinaboines and Gros Ventres, instead of $165,000, the sum which they have hitherto received.

Mr. DAVIS. One of the questions which I asked was whether or not this appropriation had been considered and recommended by the Committee of Indian Affairs or whether it was a case selected out of the many cases of this kind by his own knowledge as being more meritorious than others.

Mr. WINDOM. It is not one of the class of cases at all reported upon in the document to which I suppose the Senator refers.

Mr. DAVIS. I understand that.

Mr. WINDOM. The recommendation of the Committee is based upon a letter which I hold in my hand, signed by Thomas J. Mitchell, United States Indian agent at Fort Peck, and also by William B. Hazen, colonel Sixth Infantry, who is stationed at that point, showing the absolute necessity for this appropriation. The letter can be read if the Senator desires it. The committee acted upon those recommendations together with a letter from the Department of the Interior, signed by the Secretary, urging an appropriation to supply the deficiency.

The PRESIDING OFFICER. The question is upon the amendment of the Committee.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was in line 424, under the head of "Expenses of the United States Courts," to increase the appropriation for defraying the expenses incurred in the prosecution of whisky and cotton cases and Credit Mobilier case, payment of counsel, &c., from $68,750.55 to $69,755.

The amendment was agreed to.

The next amendment was after line 439, to insert:

For expenses of the United States courts, to be disbursed by the Attorney-General, being a deficiency for the fiscal year 1877, as follows:

For payment of bailiff and criers, fuel, lights, stationery, and other contingencies, $250,000.

For payment of United States district attorneys and salaries of their assistants, $90,000.

For payment of fees of clerks of courts, $42,000.

For payment of fees of United States commissioners, $25,000.

For payment of fees of jurors, $170,000.

For payment of fees of witnesses, $143,000.

For rent of court-rooms and miscellaneous expenses, $30,000; in all $750,000.

Mr. WHYTE. I should like to know whether in this appropriation, which covers a vast extent of territory, the words "and other contingencies" have reference to the numerous United States marshals who have been scattered over the country within the last few years?

Mr. SARGENT. It has no reference to them at all. The Senator will not find a single item that can be construed to attach to them

Mr. WHYTE. These are expenses for the current year.

Mr. SARGENT. They are expenses for the current year.

Mr. WHYTE. Has the money appropriated to pay the expenses of bailiffs and criers been used in paying the marshals, thereby creating a deficiency?

Mr. SARGENT. Not to my knowledge.

Mr. WHYTE. Is there any such information at all?

Mr. SARGENT. None at all; there is no such information. I will state that the Committee on Appropriations cut down the first item of

$250,000 below the estimate, with the fear that the amount which we allowed would not be enough; but we did that on account of the desire of the political friends of the gentleman that there might not be enough to cover the service to which he refers. I think as the clause stands here now, it relates only to the ordinary processes of the court.

Mr. DAVIS rose.

Mr. SARGENT. If my friend will allow me one moment, as I see he has risen to his feet, I will state that the ordinary appropriation for the courts of the United States for the fiscal year before the present was $3,000,000, and there was allowed subsequently a deficiency of $65,000, and also a deficiency of $250,000, making about $3,300,000 for the ordinary expenses of the courts last year. For this current fiscal year the appropriation was made of $2,500,000, nearly a million of dollars less than the amount appropriated before. There was no reason to suppose that the courts of the United States could be run for a million dollars less money this year. They must have as many jurors, they must have as many officers, as many district attorneys, &c. They must have light and fuel, and stationery, and other contingencies, and occupy rented rooms where the United States does not own the buildings. In fact the presumption would be that with the growth of population and business the labor of the courts would increase. There would naturally be more crime among 42,000,000 people than among 41,000,000 people; that is, the tendency would be rather to increase the business of the courts; but, without much mature consideration, I think Congress at the last session cut down that amount to $2,500,000, and this addition will not bring it up to the appropriations usually made for the expenses of the United States courts.

Mr. DAVIS. As the Senator has just said, this item and three or four others increase the amount to $750,000. That was a large increase, a large deficiency. It has been examined carefully, I am told, by the gentleman who had special charge of the bill; but, nevertheless, I believe that it is more than it ought to be. It is $750,000 more than was appropriated for that purpose; and, as I said a moment ago, it is time that the officers of the Government were keeping within their appropriations. If they know that there is to be a deficiency of $750,000 in a single branch of the service, for the Department of Justice, when a few years ago the entire Department was run with $750,000, and even less, there will be no economy in their expenditures. It is time for the officers of the Government to stop, and not to go on incurring expenses until they have expended $750,000 more than has been appropriated. If they can exceed the amount by $750,000 they can spend so many millions, just as many millions as they think proper, and there is no stop, there is no end to it. It appears that the appropriations made by Congress are no longer a guide for the Department to go by; but the officers of the Government spend just what they require and what they wish, and then come and ask it to be made up in the shape of a deficiency, and it is given. My voice, for one, is to say to these gentlemen, Stop when the amount appropriated has been expended. They know at the beginning of the year what amount is appropriated for them, and they have no right as officers of the Government to go outside of the appropriation.

Mr. SARGENT. This money has not been spent, for it is not yet appropriated. If you do not want your courts, do not appropriate the money. I have no more interest in having United States courts than the Senator from West Virginia and California has no more interest in having United States courts than has his own State. If you do not want jurors, do not spend this money; but, if you have these jurors, the law says they must have certain fees; and the question is, are you going to pay them or not? The Senator said that some time ago the entire expense of United States courts was but $750,000. Some time ago there was no expense on account of the United States courts.

Mr. COCKRELL. When was that?

Mr. SARGENT. I do not know what time the Senator referred to, and I cannot tell; but we can go back to a period when there were no United States courts at all. At one time we had but thirteen States. How many have we now? At one time we had four or five Supreme judges of the United States, and now we have nine. In every direction the business has grown.

Look at the items in the amendment. Is there anything suspicious about them? Are they not all required by law? Would you have all your United States district attorneys to resign, or shall they go on and discharge their duties? If they discharge their duties, the law says they shall be paid. The courts have large control. They appoint their bailiffs and criers, and those whom it is necessary to appoint; and where is the power to say they shall not have their bailiffs, if bailiffs are required? We have left it in their power to appoint bailiffs, and if they have the power to appoint them we must pay them. The fees of the clerks of the courts are fixed by law. Are the clerks to resign, and are we to say that we cannot pay any officers, and when you go to the courts with business, or when a person comes and makes a complaint of a criminal matter, cognizable under the laws of the United States, or when there is an attempt to break up whisky frauds or anything of that kind, are we to say the courts cannot do anything because there is no money to pay these fees, when the law says that these expenses shall be incurred?

In the first place, it would be impracticable to apply such a rule. There are persons all over the country, in every State in the Union, holding these different positions. It would be impracticable to make it apply to all these courts. If there is a single suspicious item in the bill which ought not to be a deficiency, the objection might be made to that, or if we had appropriated last year for the present fiscal year the amount ordinarily appropriated there might be question raised. But in the courts of the United States the system of justice is not a complex system. It runs along just about the same, gradually increasing, if anything, with the growth of the country, as it must. Every once in a while some Senator brings forward a bill here, and insists that his State has grown too large for one district court to do its business, and he persuades Congress to make two district courts in his State, and a division line is run, and there is the addition of a judge and a district attorney; a court-room must be prepared for the court to meet in; the lights, the fuel, the expense of clerk hire, &c., are incurred. Congress is to blame if these things grow year by year, but it is a natural and necessary growth. Take the State of New York. Can you get along with one district court there? Take the Senator's own State. That may be able to get along with one district court; I do not know about that. My own State manages to get along with one although we have an extensive frontier, nearly as long as the Atlantic States upon the Gulf, and the distance to be traversed is very great. I say the courts are not to blame when Congress establishes them. They must carry out their functions, and to shut their doors is to deny justice to the people, and to deny it to the United States itself in the prosecution of public offenders in those courts.

The explanation of the deficiency is very plain from the fact that we cut down the appropriation last year nearly a million dollars, and we now ask that the courts may be continued. If Senators do not want to continue the courts, shut them up. I have no more interest than other Senators in the courts of the United States, and no more interest in the subject as a member of the Committee on Appropriations than the Senator from West Virginia, who himfelf is a member of that committee.

Mr. DAVIS. In what I said about the courts I especially avoided being personal in my manner. I am sorry that the Senator from California has seen proper to look at it in another light.

Mr. SARGENT. I did not mean to do so.

Mr. DAVIS. Mr. President, it is not the courts. If you will take up the report of the Attorney-General for last year you will find that it is the marshals. Almost the first State that strikes the eye when you take up the report of the Attorney-General is Arkansas. What do we find there? We find it has two districts, and there was expended in one of those districts $137,000 for marshals.

Mr. CLAYTON. Mr. President——

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) Does the Senator from West Virginia yield to the Senator from Arkansas?

Mr. DAVIS. Yes, for I should like to have an explanation.

Mr. CLAYTON. I can explain that matter very readily. The district in Arkansas to which the Senator refers extends over the Indian Territory and includes a very important jurisdiction, a jurisdiction over all the offenses committed in the Indian Territory. There is where the expense comes from in Arkansas.

Mr. DAVIS. I do not know that the marshals have a great deal to do over there. The courts may have something to do.

Mr. CLAYTON. The marshals do not get the amount of money.

Mr. DAVIS. I of course do not know just the amount that goes into the Indian Territory, but I venture to say it is comparatively small.

Mr. DORSEY. I ask my colleague on the committee to yield to me a moment.

Mr. DAVIS. Certainly.

Mr. DORSEY. The Senator is entirely mistaken about the expense of marshals being small for the Indian Territory. Almost the whole amount named by the Senator, I think 95 per cent. of it, is expended in the Indian Territory.

Mr. CLAYTON. Fully that.

Mr. DORSEY. This court is not an ordinary United States court, but it has the executive, legislative, and judicial power for all the Indian Territory. It is a criminal court and tries all cases of murder and other crimes committed in that vast Territory which is under its jurisdiction.

Mr. DAVIS. May I ask the Senator whether both of the districts in his State extend into the Indian Territory?

Mr. DORSEY. Only one of them, the western district.

Mr. DAVIS. Than there is a much larger amount for the other district than is given to the other States.

Mr. CLAYTON. How much more?

Mr. DAVIS. It is a much larger amount. It is $34,000 for marshals alone. Take the State of New Jersey, which contains three times probably or twice the population of Arkansas, and the appropriation there is $13,000.

Mr. CLAYTON. To what district does the Senator refer?

Mr. DAVIS. The western district.

Mr. CLAYTON. That covers the Indian Territory.

Mr. DAVIS. There are two districts. The eastern district is $34,000 in round numbers, and the western is $137.000.

Mr. DORSEY. If the Senator will yield to me I will explain the fact.

The western district has no accommodation to confine prisoners convicted of crime. These persons are all confined in the eastern district in the penitentiary at Little Rock, and the money paid for keeping these prisoners I think amounts to from $16,000 to $18,000 a year, which is used simply to pay for keeping prisoners which belong to the other district.

Mr. CLAYTON. For the Indian Territory.

Mr. DORSEY. For the Indian Territory.

Mr. DAVIS. I took Arkansas because it was almost the first southern State, but I might take any other southern State. Take Alabama, which is the first State on the list. We find there are three districts in the State of Alabama, and the footing is $65,000. Take the State of New Jersey and it is $13,000. Now there is some reason, there is some cause why one State of twice the population of another should cost about one-fourth of what the smaller State costs. It shows in this item of expenditure in the Department of Justice so far as the marshals are concerned that there is a very great inequality. When you look at the Southern States their expenses are very much larger, sometimes five or six or eight or ten times as large, probably *per capita*, than in Northern States; and it is in that direction in my opinion that much of this money goes and not to the courts proper, which should be held of course. If you turn to the little State which I in part represent, the State of West Virginia, which is not unlike that of Arkansas in population, what do you find? You find there that $26,000 defrays the expenses of marshals.

Mr. CLAYTON. That is more than would be required for Arkansas, leaving out the Indian Territory.

Mr. DAVIS. In the one district of Arkansas, the eastern district, there is $34,000 required.

Mr. CLAYTON. My colleague explained that. He stated that about $18,000 was caused on account of keeping prisoners belonging to the district comprising the Indian Territory.

Mr. DAVIS. Then there is the item of $137,000, and that, the Senators say, is on account of the Indian Territory. If the two Senators shall have the opportunity, in a little while longer they will have it all in the Indian Territory. We know that both the districts cannot be in the Indian Territory.

I have been stating the expenditure for marshals for 1876. We have not yet the report for 1877, the present fiscal year. When we do get that, I venture to say that we will find a different state of things, and even more inequality, for I am told that in some precincts in some of the States there were as many as a hundred men acting as deputy marshals on the day of election to protect the election polls. I do not know whether it is true or not, but that is the report; and I have no doubt a part of this $750,000 which we are now asked to appropriate is made necessary for that reason.

Mr. DORSEY. I do not know how it was in West Virginia as to the number of deputy marshals about the polls, and I do not know how much the marshals in that district are paid, but I know in Arkansas, and, I believe, in the other Southern States not a single penny was paid to deputy marshals for services on the day of election. I do not think my friend from West Virginia can point to an item that has come from the Department of Justice showing that a dollar was expended for these deputy marshals on the day of election. Certainly, with us there was not a cent paid, for the men served without pay.

Mr. CLAYTON. I understand they cannot be paid for that service under the law, unless it is in the case of a city of 20,000 inhabitants, and we have no such city in our State.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was after line 458 to insert:

And for the fiscal year 1872, $2,000; for the fiscal year 1873, $30,000; for the fiscal year 1874, $5,000; and for the fiscal year 1876, $180,000; in all, $217,000.

The amendment was agreed to.

The next amendment was after line 465 to insert:

To pay the United States judge for the eastern judcial district of Arkansas his actual expenses for holding two terms of court in the western district of that State, $650, or so much thereof as may be necessary.

The amendment was agreed to.

Mr. SARGENT. I wish to call attention to the text of the bill beginning at line 493, where it is provided that—

hereafter no contract shall be made for the rent of any building, or part of any building, to be used for the purpose of the Government until an appropriation therefor shall have been made in terms by Congress, and that this clause be regarded as notice to all contractors or lessors of any such building or any part of building.

This is probably intended to apply to the city of Washington; for if it be made to apply to the whole country it would be a very great inconvenience. I think that is substantially the law so far as this city is concerned, and I move to insert after the word "Government," in line 495, the words "in the city of Washington."

Mr. COCKRELL. I suggest the words "in the District of Columbia."

Mr. SARGENT. Very well, "in the District of Columbia" instead of "city of Washington."

The PRESIDING OFFICER. The amendment will be reported by the Clerk.

The CHIEF CLERK. In line 495, after the word "Government" it is proposed to insert the words "in the District of Columbia;" so as to read:

For rent of building on the corner of Eighth and G streets, known as Wright's building, $9,000, being a deficiency for the fiscal year ending June 30, 1877; and the Secretary of the Interior is hereby directed to terminate said lease on or before the 30th day of June next; and hereafter no contract shall be made for rent of any building or part of any building to be used for the purposes of the Government in the District of Columbia, until an appropriation therefor shall have been made in terms by Congress, and that this clause be regarded as notice to all contractors or lessors of any such building or any part of building.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was after line 501, to insert:

To repair the roof and make additions to the heating-apparatus of the General Post-Office building, $9,212.

The amendment was agreed to.

The next amendment was, in line 517, in the appropriation for the national museum in charge of the Smithsonian Institution, to increase the appropriation "for restoring to their proper place in the national museum cases removed to the international exhibition and re-arranging the collection," &c., from $20,000 to $37,000.

The amendment was agreed to.

The next amendment was after line 520 to insert:

To make up deficiency for Capitol police for the fiscal year ending June 30, 1876, as follows: For one captain, $68; for three lieutenants, at $200 each, $600; for twenty-seven privates, at $184 each, $4,968; and for three privates in charge of Botanic Garden, at $184 each, $552; making, in all, $6,208.

The amendment was agreed to.

The next amendment was after line 530, to insert:

To pay the expenses of the monetary commission provided for by the joint resolution of August 15, 1876, $15,000, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendment was to insert, after line 534:

To pay the per diem and expenses of the special commission appointed by the Secretary of the Interior, July 17, 1875, to investigate the management of affairs at the Osage Indian agency, $2,107.40, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendment was after line 540, to insert:

SENATE.

For clerks to committees and pages for the current fiscal year, $5,000.
For pay of folders, $740.
For horses and wagons, $2,000.
For furniture and repairs for the current fiscal year, $4,600; and for the fiscal year 1876, $526.15; in all, $5,126.15.
For packing-boxes, $50.

The amendment was agreed to.

The next amendment was after line 551, to insert:

To defray the actual and necessary expenses of the Committee on Privileges and Elections, and other expenses necessarily incurred in making the investigations directed by Senate resolution of December 5, 1876, in the several States named therein, the sum of $40,000, or so much thereof as may be necessary; said appropriation to be paid into the contingent fund of the Senate. And the disbursing officer of the Senate shall advance such parts of the sum above appropriated to the Sergeant-at-Arms of the Senate as the chairman of said committee shall in writing direct, for the purposes aforesaid; and the Sergeant-at-Arms shall, as soon as practicable, make a detailed report of the expenditures thereof, with proper vouchers, which, when so made, shall be received by said disbursing officer, and returned with his accounts to the proper officer of the Treasury Department.

The amendment was agreed to.

The next amendment was after line 567, to insert:

For payment of the expenses of the investigation in regard to the immigration of Chinese by the joint committee of the two Houses on that subject, $2,012 85; which sum shall be added to the contingent fund of the Senate and paid out on the certificate of the chairman of said committee on the part of the Senate.

The amendment was agreed to.

The next amendment was after line 573, to insert:

To enable the Secretary of the Senate and Clerk of the House of Representatives to pay the special police authorized by the concurrent resolution of January 31 1877, $9,900; one half to be paid into the contingent fund of the Senate, and the other half to be paid into the contingent fund of the House of Representatives.

Mr. WEST. There does not appear to be any specified per diem fixed by the amendment, but I understand from the aggregate of the amount there will be a compensation of $3 a day to these men. In this same bill, on the preceding page, in line 521, provision is made for the regular policemen, who I understand get $4.33 a day. I believe that there ought to be a little more liberality extended toward these men, and that we should bring them up at least somewhat nearer to the compensation of the regular police. In order to test the sense of the Senate in regard to the question, I move to add one-fourth of the amount, which will increase their pay to $3.50 a day as against $4.33 a day for the regular police. I move to strike out "$9,900" in lines 577 and 578 and insert "$11,550," which would be an increase of fifty cents a day.

Mr. SARGENT. I hope that amendment will not be made. The amount of $3 a day to these special policemen is ample. Senators will remember that when there was a call for this work we were all, on both sides of the Chamber, importuned by persons who desired this position. There were a thousand applicants where only a small number could be employed.

Mr. WITHERS and Mr. DAVIS. There were ten thousand applicants.

Mr. SARGENT. I am told there were 10,000 applicants. I put it at ten to one, but others who perhaps had more leisure seemed to

have found a hundred to one, and I think the compensation of $3 a day is sufficient.

Mr. WEST. We pay the other men four dollars and a half nearly.

Mr. SARGENT. Suppose we do. We require the other men to work night and day.

Mr. WEST. So do these.

Mr. SARGENT. Not necessarily.

Mr. WEST. They do.

Mr. SARGENT. They do not need to do so. The others are required to be picked men; men who have permanent charge of all the property of the Capitol; men who are on duty night and day for the purpose of preventing the property of the Government from being carried off, and they are extremely trusty men. The others are merely those who were picked up to see that there was no riot about the Capitol at this time. It seems to have been an entirely unnecessary precaution because there was no danger of anything of the kind, certainly not after the passage of the electoral bill, but we have got them on duty and will pay them a pretty good compensation for their service. Of course we pay more to the regular officers, who are picked men and valuable on account of their experience and service, and who are weeded out from time to time until we get the very best men, and who have very responsible duties and prolonged duties, whom we leave here in charge of everything when we go away from the Capitol during the vacation, and it does not seem to me that these merely temporary persons, who have very light duty to do, should expect to receive the same rate of pay. I hope the amendment will not be adopted.

Mr. WEST. I think the Senator is scarcely correct in saying that there is a distinction between the character of service rendered by these men. So far as my observation goes the special police are doing all the duty around the Capitol, by day and by night during the sessions of the Commission; and if we are to employ men temporarily at a less rate than we pay a permanent force it is a different rule from what prevails in ordinary business. But let the Senate decide upon the question. In my own judgment the amendment as recommended by the committee does not compensate these men sufficiently, and I have moved to raise their pay half a dollar a day and thus make it three dollars and a half a day, still leaving it below the regular amount paid other policemen.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Louisiana [Mr. WEST] to the amendment of the committee.

The amendment to the amendment was rejected.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was in line 583, under the head of "House of Representatives," after the word "of" to strike out the words "July 14," and insert "March 15;" so as to read:

To pay for two thousand copies of Barclay's Digest, ordered by resolution of the House of March 15, 1871, $2,000; and hereafter the Digest shall be prepared and published by the journal clerk of the House, as the House shall from time to time direct; and for such additional services hereby required the journal clerk shall be paid the sum of $1,000 per annum.

The amendment was agreed to.

The PRESIDING OFFICER. The amendments reported by the Committee on Appropriations are concluded. The bill is still in Committee of the Whole and open to amendment.

Mr. SARGENT. I wish to offer an amendment on behalf of the committee. After line 386 I move to insert:

Survey of Indian lands in North Carolina:
For the survey of the lands of the Eastern band of the Cherokees in North Carolina, being a deficiency for the fiscal year 1877, $2,159 27.

Mr. DAVIS. I should like to know from the Senator having charge of the bill if this appropriation is for work that has been performed.

Mr. SARGENT. Yes, sir. By an act passed at the last session we authorized the transfer of a piece of land to these Indians which was obtained for them by a decree of the court. It was necessary to survey it, and the Department was required to have the survey made. No appropriation being made therefor they applied such money as they had, the modest sum of $800, upon it, and this amendment is to supply the balance. The work was done under the direct requirement of the statute.

Mr. DAVIS. I ask the Senator further whether he recollects an item of the same character in another bill during the present year?

Mr. SARGENT. In regard to a survey in North Carolina?

Mr. DAVIS. Yes, sir.

Mr. SARGENT. O, yes; in the Indian appropriation bill there was a provision for the survey of a piece of land, but not this survey.

Mr. DAVIS. My inquiry was not for the purpose of opposing the amendment, but I thought probably it was for the same survey. I thought that in the Indian appropriation bill there had been such an appropriation made, but the Senator convinces me that this is for a different piece of land and a different survey.

Mr. SARGENT. We laid this item aside in the committee until that matter was explained, and we found is related to a different survey.

The amendment was agreed to.

Mr. MERRIMON. As soon as the bill is reported to the Senate, I desire to say that I shall ask to reserve for a separate vote the amendment embraced between lines 440 and 458, inclusive.

The PRESIDING OFFICER. The Clerk will note that amendment as one to be reserved.

Mr. BLAINE. I desire to offer an amendment to the bill on the twenty-fifth page, and I should like to have the Secretary read from line 582 to 589 inclusive.

Mr. WITHERS. Will the Senator withhold his amendment a moment, as I have an amendment to offer on the part of the committee?

Mr. BLAINE. Certainly. I supposed the committee were through when I rose.

Mr. WITHERS. After line 54 I move to add the following:

For suppressing counterfeiting and fraud:
For payment of the claims for service rendered and expenses incurred by different parties in the secret-service division of the Treasury Department, as per letter of the Solicitor of the Treasury, namely: to James T. Porter, $239.80; H. T. Hutchinson, $259.25; Western Union Telegraph Company, $36.84; Andrew J. Carnes, $147; Henry Finnegrass, $337; J. W. Schoenecker, $580.15; Louis Delano, $313.04: making, in all, $1,913.68.

I will state that those recommendations and estimates were before the committee at a time when the full committee were present, but they could not obtain satisfactory evidence of the ground upon which the claim was based. Subsequently that evidence was furnished and found to be satisfactory. Three of the cases were covered by Senate bill No. 1193, which was reported yesterday from the Committee on Claims, and the report was fully sustained by the evidence, and the bill was referred to the Committee on Appropriations. In accordance with the suggestion of that committee and with the evidence before the Committee on Appropriations, we recommend the payment of these claims.

The amendment was agreed to.

Mr. BLAINE. I ask the secretary to read from line 582 to 589 inclusive.

The PRESIDING OFFICER. The clerk will read the portion of the bill indicated by the Senator from Maine.

The Chief Clerk read as follows:

To pay for two thousand copies of Barclay's Digest, ordered by resolution of the House of March 15, 1871, $2,000; and hereafter the Digest shall be prepared and published by the journal clerk of the House, as the House shall from time to time direct; and for such additional services hereby required the journal clerk shall be paid the sum of $1,000 per annum.

Mr. BLAINE. I am aware of the very great delicacy that is both instinctive and necessary when discussing in either branch any matter concerning the internal organization of the other; yet any piece of legislation which requires the assent of both branches may be fairly discussed and amended by the other.

I do not rise with any view of attempting on the part of the Senate, if they should view the subject as I do, to force upon the House any other conclusion than that which the House itself shall finally decide to be correct, but I do it rather for the purpose of giving the opportunity, as I have had some consultation with some of the members of the House, to reconsider the action embraced in the clause which has been read. It takes away summarily and finally all interest on the part of the late journal clerk of the House, who has been so well known for the thirty years' service there, in a work of great magnitude and very great merit. There are gentlemen on this floor who served in the House before Barclay's Digest was prepared and who served afterward, and they know how the rules and orders and processes of the House were simplified by that very admirable compend of parliamentary law, one of the most meritorious and complete that this country has ever seen.

As I say, I do not desire to either criticise what was done in the House or to induce the Senate to come into any conflict with the House, but rather by offering an amendment to let this matter go to a committee of conference, in which I would be entirely willing that the Senator from California, who has charge of this bill, should take the matter into consideration upon conference with the House and see whether justice may not require that something of the kind which I now offer as an amendment shall be added thereto. I move to insert at the end of the paragraph which has been read the following:

But if the text or the substantial portions thereof of Barclay's Digest be used, the author shall be allowed for copyright the amount per copy heretofore paid for the full period of the copyright under the laws of the United States, reckoning from the original issue of the work.

I only desire to secure to Mr. Barclay the interest in this work, the labor of his brains, that every other author in the United States gets. Of course if it comes in the shape of a claim against the United States, that is remanding a man to rather a hopeless court of justice, at least one in which justice is very often delayed until the heart is made sick. If this amendment shall be the means, with the entire consent and courteous desire of the House, to do, on reconsideration, what they may think to be just, I shall be sure that the Senate will not regret doing an act of that kind, and my friend will not regret taking it in charge in the conference which will ensue in which he will be the chief.

Mr. SARGENT. I should like to ask the Senator from Maine how many copies have been printed during recent years of Mr. Barclay's Digest?

Mr. BLAINE. There was a rumor submitted in the House which proves a mistake that Mr. Barclay had received about $50,000 from the net profits of this work. He has, I believe, received about $5,000.

Mr. SARGENT. How much is it per volume?

Mr. BLAINE. I do not know that.

Mr. SARGENT. He has been getting $1 a copy.

Mr. BLAINE. That was the amount paid heretofore for the copyright. The amount was made up of the allowance for the copyright and the labor of preparation. Of course it would be the duty of the House to sift out and determine what is copyright and what is fairly to be deducted for the labor of preparation, as the duty is to be placed upon the present journal clerk of the House. That will be for the House to determine; but my object is merely to keep life and interest in the work in this man's brain, which is a very great work. I do not ask that he shall have a perpetual franchise, but only propose that he shall have the benefit of the copyright, which every other author in the United States enjoys in his work. It strikes me that the House itself will see that it is an exceedingly reasonable proposition, and if they do not, of course the Senate will have to concede whatever the House shall finally determine; but at all events let the matter either go to the House for reconsideration on their part, or for such adjustment in the conference committee as may be deemed fair and courteous all around. I think the Senator from California will see that the amendment in that respect is fair and entirely courteous to the House. I could not possibly move any amendment in any other sense, and at the same time I hope it will prove just to Mr. Barclay.

Mr. SARGENT. The Senator's amendment is entirely unnecessary for the purpose of enabling the House to reconsider this matter, because we have changed the date from July 14 to March 15, and that gives jurisdiction of the whole subject if the House, or any member of it having seen this debate, should desire to press an amendment of the kind suggested.

Mr. BLAINE. Such a change by the House would be hanging a very long tail to a very small amendment.

Mr. SARGENT. It would be entirely parliamentary, and much more so than for the Senate to assume to direct the House how to make up its Digest or to keep its Journal, or to do anything else that relates to its internal functions. We certainly should direct the House by assuming to legislate upon the matter. I do not say as an abstract proposition that we have not the right to legislate upon anything contained in any bill, but there is a kind of delicacy between the House and the Senate which I have observed upon all appropriation bills and upon all conference committees; as, for instance, they leave us to judge of our deficiencies as a rule, and we leave them to judge of their deficiencies as a rule. If the amount claimed by either side is extraordinary, it may be questioned in the conference committee, and perhaps after consultation the amount may be reduced, but if it be insisted upon by the House to which it belongs, uniformly we have held that they have the right to determine the amount.

Mr. BLAINE. That is what I have said. The Senator from California will remember that I stated that if the House should insist, the Senate would have to concede. There is no doubt of that whatever.

Mr. SARGENT. When the House comes in and desires to make up a Digest at the expense of a thousand dollars per annum, the amendment of the Senator would add to that thousand dollars per annum $2,000 more per annum; that is, it would make it cost three times as much as the House propose to pay, because they receive regularly two thousand copies of Barclay's Digest. They have heretofore bought and paid for that number, and for us to step in and provide that there shall be a dollar paid to Mr. Barclay up to and including $2,000 would be to defeat the purpose of the House in getting a cheap Digest. The House simply refused to be the customer of Mr. Barclay in running off his Digest. It may be that the journal clerk will make up a Digest containing none of the elements of the work of Mr. Barclay, or none except that which is common property. The clerk of the House would have no right if he has not the copyright to copy into his work original matter from Mr. Barclay's book, but he has the right to go to the great sources of information. Jefferson's Manual is very largely drawn upon and very ably by Mr. Barclay in the shape of copious extracts. He also draws upon the Journals of the House of Representatives and upon the Journals of the Senate, resolutions and extracts, but so far as he has tied them together by commentary of his own, that perhaps is copyrighted, and ought not to be taken.

Because Mr. Barclay for the past fifteen years has enjoyed the use of those extracts from the Senate and House proceedings, it seems to me that no *caveat* is raised against the House or against the Senate if they want to use them, and that they do not violate the copyright by having a digest made up upon a system which they see fit to select. I think that it would be rather an ungracious thing for us to go to the House of Representatives and say to them that they shall do this thing. We like Mr. Barclay. I like him very much. The Senator from Maine is very fond of his friends, and very fond of Mr. Barclay naturally. He was the journal clerk of the House during all the period that the Senator presided with so much ability as Speaker of the House, and the association between them naturally excited in the Senator's heart, always warm anyhow toward his friends, a very close feeling of friendship. I have myself a very strong feeling of friendship for Mr. Barclay, but I cannot see that it is my duty to entertain an amendment taking $2,000 out of the Treasury for any such purpose.

Therefore, as a practical proposition, I am opposed to the amendment, and as interfering with the most natural and obvious prerogatives of the House of Representatives I am also opposed to it.

Mr. DAWES. Mr. President, I should like to inquire of the Senator from Maine whether it is the intention to give Mr. Barclay the value of the copyright in addition to what he has heretofore received? As I understand, what he has heretofore received has been compounded of what would be properly a copyright and the labor of producing it, just as the $6,000 in the bill is appropriated to the present journal clerk. He is given $1,000, by the present bill for taking Mr. Barclay's brain and putting it in the form of a book. Now, Mr. Barclay has had a compensation heretofore, which is made up both of what the journal clerk is to do now and what he had a right to as copyright. I agree with the Senator from Maine as to the great value of the work and the debt which the House of Representatives owes to Mr. Barclay, and the right he has, in any form whatever, to the use of the product of his brain. If a copyright is of any value in the world, and the common sense of mankind has so determined, Mr. Barclay has the same right to that property that any one of us has to any of our property. To use that without giving him any compensation is—I say with all due respect and not believing that the House intended it—really an outrage upon him. What he ought to have, so that he may be treated by the House of Representatives just as he would be treated by booksellers, is hereafter to be allowed a compensation for his copyright, as he has had heretofore. I think he does not complain. He has had heretofore, in a round sum, what was compensation for his copyright and for his manual labor. He ought to have hereafter, if the House of Representatives choose to have the manual labor performed by somebody else, what is equivalent to a fair compensation for his copyright. If the Senator's amendment reaches that far and no farther, it is right and ought to be adopted. If it goes beyond that, the propriety of its adoption may not be so clear.

Mr. BLAINE. I desire to say that my amendment is specifically limited to granting him compensation for copyright. It is limited also to granting that compensation only for the period that the copyright is guaranteed by the laws of the United States, reckoning back to the original issue of the work, not going forward at all. In other words, the effect of the amendment is that we shall give the House of Representatives, if they choose, upon reconsideration, the opportunity to do for him what would be done for any other author. Of course this book is not a book for general sale; it is a special book. It must be limited to the House of Representatives, and to the few copies that are sold for the use of legislative bodies throughout the country. For general sale the book is valueless. If the House of Representatives turn him from their door without any reward for the labor of his brains, he has no market for his book. It is adapted wholly to the House of Representatives. It is of no use in this body, it is scarcely known here; and I am very sure, when I address Senators who have not served in the House, they are probably not competent to know the vast amount of labor that was compressed and condensed in getting up that work; but those who have served in the House, and especially those who served in the House before the Digest was prepared and after it, know that far beyond the pecuniary compensation that will come to him in any event the House of Representatives for all time will owe to John M. Barclay a debt of gratitude.

Mr. MERRIMON. I would ask the Senator why Mr. Barclay has not been compensated in the past for these valuable services?

Mr. BLAINE. He has been all along, every year, but now he is out he is on the retired list. He has been in the public service for thirty years and is now in private life; and the proposition is that this Digest shall be prepared by the journal clerk of the House and he is to be paid for it.

Mr. Barclay loses the direct compensation for the direct labor, which properly enough goes to the journal clerk of the House, who will add all the new matter that comes from year to year and properly belongs to the journal clerk of the House; but the great labor which laid the foundation of that which will constitute the basis of the body of the rules of the House of Representatives for a century to come was the work of Mr. Barclay. The compilation of that work going from 1779 down to 1861, which was the date of the first issue, embraced every decision, every controverted point in the whole history of the House of Representatives. It was a work of great labor.

Mr. SARGENT. Does the Senator remember under what auspices the original volume was published? Did Mr. Barclay prepare it and send it to Congress on his own motion, or did he do the work under a resolution of Congress?

Mr. BLAINE. He had been preparing it for twelve years. When he had got it ready Congress assumed the auspices of it and patronized it, but it was a labor of love and of years.

Mr. DAWES. It came to be known in the House of Representatives that he in his leisure hours had got up such a work, just as it is known that there is in preparation in any one of the Departments here a valuable document. The House of Representatives came to know that fact and by resolution they published it, and they gave him $2,000 to get it up and $2,000 each year for two thousand copies. That included what would be called elsewhere a copyright of the work of each year. Now they propose, properly enough, to give the Journal clerk a thousand dollars for doing this work, and the other thousand dollars which went to Mr. Barclay in the light of compensation for his brain-work he loses.

Mr. SARGENT. The Senator from Maine proposes to pay him as much as he ever has been paid heretofore.

Mr. BLAINE. No; I say as much as he was paid for copyright. The House determines that.

Mr. SARGENT. Let the amendment be read.

Mr. BLAINE. Let it be read, and you will see it is for copyright. The House can adjust that very easily. I only want to keep the subject afloat, so that it can be settled in the conference committee.

The Chief Clerk read the amendment, as follows:

But if the text or the substantial portions thereof of Barclay's Digest be used, the author thereof shall be allowed for copyright the amount per copy heretofore paid for the full period of the copyright under the laws of the United States, reckoning from the original issue of the work.

Mr. SARGENT. That is exactly what I said. The Senator proposes to pay him as much as he was ever paid.

Mr. BLAINE. Not at all. I only propose to pay the amount heretofore paid for copyright.

Mr. SARGENT. I do not care what you call it, "copyright" or "copy-book," it is $2,000 if the House uses two thousand copies, and if the House uses four thousand copies it is $4,000; and that is as much as the House ever paid him for his services there and the use of his book, and we cannot tell what number of years it may continue. See how the thing will tend. The present journal clerk may stay there for ten years or he may stay for twenty years.

Mr. BLAINE. I hope he will, if he is as good a clerk as Mr. Barclay, stay there for thirty years.

Mr. SARGENT. Very well. I have no hope to express in the matter. If I had any wish to express, it would be that a person of different politics should be in the place hereafter.

Mr. BLAINE. I differ with my friend from California. Mr. Barclay staid there without regard to politics. He was there thirty years without regard to what political party was in power in the House, and any journal clerk of equal competency ought to be retained in the same position without regard to his politics.

The PRESIDING OFFICER. The Senator from California is entitled to the floor.

Mr. SARGENT. Mr. President, I am very well aware of the entire indifference of my friend, the Senator from Maine, to the political opinions of any one, [laughter,] and I doubt not that indifference will be maintained on this occasion. I am not so disinterested in reference to those matters. I agree with most of the Senators around me, the Senator from Maine being an exception, that a man's politics are a merit. My democratic friends think that democratic politics are a merit, and that the country is the better on that account; I believe just as firmly that a man is the better for being a republican, and prefer to choose republicans for public office. My friend from Maine, however, does not agree with me in this, and I perhaps ought to apologize for stating my opinion so strongly after receiving his censure.

Mr. MERRIMON. A man had better be a patriot than be either.

Mr. SARGENT. We find very few patriots who have no politics. I would not trust a man in any public station who has not made up his judgment and expressed his opinion in relation to the merits of parties. We have heard a great deal about men rising above politics, but I never knew a man who was worth a pinch of snuff who did rise above them. I believe that politics are necessary to the existence of the country. If a man has good judgment and the disposition to investigate, he will come to a conclusion upon all matters in the interest of what he thinks for the good of the people. Owing to the different constitutions of men's minds they may come to different conclusions honestly, but it is to the credit of their integrity, it is to the credit of their industry that they do arrive at conclusions upon whatever may be presented to them. I prefer a man who has opinions and is not afraid to express them.

Mr. BLAINE. I hope it will not hurt the interests of Mr. Barclay for the Senator to remember that Mr. Barclay happens to be a very decided republican.

Mr. SARGENT. Not at all. I am very fond of Mr. Barclay, but at the same time I do not think it is just that, after the United States has purchased from him year after year a book he has published, we should be required to purchase that book after we have got through with it; and I do not see that it is right for us to compel the House of Representatives when they want their present journal clerk to make up a digest, to buy the digest of a former journal clerk.

Mr. BLAINE. My amendment does not do it. It only says if the digest of Mr. Barclay shall be used—it does not say the former clerk at all—he shall be allowed the usual copyright that every author has.

Mr. SARGENT. The amendment says "the text or the substantial portions thereof." So that a part of Barclay's Digest is the extracts which it contains, and it is a large part of it. It is a mere compilation. Now we are to make it a sealed book unless we compel the House of Representatives to be at the expense of $2,000 more than they want to pay.

Mr. MERRIMON. I understand that Mr. Barclay never copyrighted his work; that he has rendered valuable service to the House of Representatives; and I infer, from the suggestion of the Senator from Maine, that he has received reasonable compensation for the work he has done. In that case it seems to me it would not be wise to treat him as one entitled to copyright. He is not entitled to that. But if he has not received adequate compensation, I would prefer to vote him a sum in gross as reasonable compensation for his work, so that it would become the property of Congress.

Mr. BLAINE. Let it go back to the House. They will adjust to it to suit themselves.

Mr. WITHERS. Mr. President, I have a word to say. The debate seems to have drifted a good way from the original proposition. My objection to the amendment of the Senator from Maine is that it is violating a principle that we have always insisted very strenuously should be maintained, and that is, it is interfering in the affairs of the other House. We have always denied them the right to dictate, or in any manner interfere with the employés of the Senate, and, without distinction of party, we have maintained our position in several contests between the two Houses on that line; and they also, I know, will claim the same privilege. This is a departure from the principle which has hitherto controlled the Senate in this matter and goes over to the other side and interferes in what may be termed their own household, their own domestic matters. Therefore I object to it.

If the design be simply as the Senator from Maine suggests, to bring the matter within the purview of a conference committee, as has appropriately been remarked by the Senator from California, that is already done by virtue of the amendments reported by the Committee on Appropriations. To be sure, this is a trivial matter; but it suffices to bring within the province of conference committees all that is in this paragraph or may be put in. That is the practical construction.

Mr. BLAINE. A very vicious one.

Mr. WITHERS. The Senator from Maine may dissent, but I think I am right that such is the practice now; whether rightfully or wrongfully, I do not pretend to assert.

Mr. SARGENT. It is unquestionably the practice, and has been ruled by the presiding officers of both Houses during the past ten years.

Mr. WITHERS. That is certainly so as a question of fact. As to the copyright, I understand that Mr. Barclay has already taken out a copyright for his work; and it is therefore going out of the way and making unnecessary legislation to provide for any infringement of that copyright or for pecuniary compensation to him if there be any infringement, because the law of copyright of which he now enjoys the protection would furnish him the appropriate remedy if it should be violated.

For these reasons, I feel constrained, reluctantly I admit, to oppose the amendment offered by the Senator from Maine.

Mr. BLAINE. I do not want to enlarge the scope of the discussion, but from what the Senator from California has said and what the Senator from Virginia has echoed from him and approved, it seems to me their views would lead to very much more evil than I was aware might be put in the power of a conference committee. The bill as it came from the House contained a misprint, "July 14," purely a clerical error. It is corrected by the Committee on Appropriations so as to read "March 15." Now, I understand the Senator from California and the Senator from Virginia to hold that, according to the usage and the practice of the two Houses, you can tail on to that correction of a clerical error in date any provision of law that applies to any other part of that paragraph.

Mr. SARGENT. Anything that is germane to that paragraph. The Senator from Maine knows that that is the practice in both Houses.

Mr. BLAINE. "The Senator from Maine" does not know, with all due respect to the Senator from California, any such thing. While I do not know a great deal about the rules at this end of the Capitol, I know that that was never recognized as law in the other end of the Capitol.

Mr. SARGENT. Does the Senator say that?

Mr. BLAINE. Yes, sir.

Mr. SARGENT. Well, Mr. President, I will not reply to the Senator.

Mr. BLAINE. To say that an amendment changing a date in a paragraph can be made a parliamentary basis for any change in any part of the bill or any part of that paragraph is giving to a conference committee a power which neither branch has ever conceded to it, in my judgment; which neither the rules of the House nor the Senate concede to it, and which no parliamentary practice nor consideration of public safety can concede to it. I protest against that doctrine. I protest against it as being parliamentary law. I protest against conference committees being appointed, conceiving that they enjoy that power. And therefore I say that the amendment which I have offered—of course it need not have led to this long discussion—is one that in my judgment could not properly come in under a mere correction of date; for if that be made the law, then a clerical error of date corrected in italic letters in that way may be made the pitfall for any imaginable or unimaginable danger that never was dreamed of in either House.

Mr. SARGENT. I assert as my distinct recollection that the Senator from Maine, when the presiding officer of the House, ruled that that was parliamentary law which he now says is not.

Mr. BLAINE. I wish the Senator would refer me to the record of that decision. In the absence of proof he cannot ask me to take his *ipse dixit* for that.

Mr. SARGENT. I have a distinct recollection.

Mr. WHYTE. I can see no objection to this amendment, for certainly there is general legislation in the very body of this section that comes in the appropriation bill from the House of Representatives. It legislates "that hereafter the Digest," without saying what Digest, "shall be prepared and published by the journal clerk of the House, as the House shall from time to time direct." Now the House of Representatives asks us to agree to that. When we agree to it, we have a perfect right to add an amendment that that legislation shall be effectual, provided it does even-handed justice; and I hope that in this body, at least, even-handed, non-partisan justice can be done. Mr. Barclay has prepared a Digest with great care. He has obtained a copy-right for that digest; and, if it is used by the journal clerk of the House of Representatives, Mr. Barclay ought to be paid for his copy-right; and I propose to vote for some proceeding that will protect that gentleman in the enjoyment of the fruit of his labor and of his intelligence. I cannot vote for the amendment as proposed by the Senator from Maine. It is a little too cloudy for my understanding. It may be obtuse in me in not perceiving the end of the road to which it may carry us; but I would rather have it a little more definite that it is in the language in which he puts it. I will propose to him this amendment.

Provided, however, That the text or any substantial part of the compilation of John M. Barclay shall not be used unless an agreement be first entered into with the said Barclay for the use of his compilation as copyrighted.

Mr. BLAINE. I am entirely willing to accept that amendment. I will withdraw my amendment if the Senator from Maryland will offer that.

Mr. SARGENT. I hope we shall have a vote.

Mr. DAWES. Of course I cannot object to that. I desire to see justice done to Mr. Barclay, but I suggest to the Senator from Maryland that there is but one side to that proposition, and that is Mr. Barclay's side. He can make his own terms.

The PRESIDING OFFICER. The amendment of the Senator from Maine having been withdrawn——

Mr. BLAINE. One moment. I desire the attention of the Senator from Maryland, through the Chair, to know whether this would not be more appropriate and better than either of the amendments:

But if the text or the substantial portions thereof of Barclay's Digest be used, the author thereof shall be allowed a reasonable compensation for copyright for the full period of copyright under the laws of the United States, reckoning from the original issue of the work.

That leaves the House to determine what reasonable compensation is. It does not make the matter so complicated.

Mr. WHYTE. The trouble about that is that it leaves it hereafter an open question as to what is to be reasonable compensation.

Mr. BLAINE. That, in any event, will be settled by the House.

Mr. WHYTE. I have no objection, if the Senator from Maine is satisfied with it in that form; but according to the amendment that I proposed they cannot use his book without having an agreement to pay him for it.

Mr. BLAINE. Well, I withdraw my amendment in order to have a vote on that of the Senator from Maryland.

The PRESIDING OFFICER. The Secretary will report the amendment offered by the Senator from Maryland.

The amendment was read, as follows:

Provided, however, That the text or any substantial part of the compilation of John M. Barclay shall not be used unless an agreement be first entered into with the said Barclay for the use of his compilation as copyrighted.

Mr. DAVIS. I believe that this is a matter for the House to dispose of, and not for us. We are now, under the direction of the Chief Clerk of the Senate, preparing what would be to us a similar book, and if the House should undertake to regulate the manner in which we should pay for it or have it done I think the Senate would resent it.

Mr. WINDOM. I do not rise for the purpose of discussing this question, but to appeal to the Senate to vote upon it. It is not a very important matter. There is another appropriation bill pending which we hope to have passed before we adjourn to-night.

Mr. MERRIMON. Mr. President, I do not like this amendment exactly. I believe that this man has done a valuable service to the Government, and that the Government, not the House of Representatives, ought to own this work. I am willing, therefore, if he has not received a reasonable compensation, to vote him a sum in gross that will compensate him for his services and let this work belong to the Government. It is valuable to nobody else. I do not agree that it is the business of the House, and not ours. It is interesting to the Government to own this man's labor; it is interesting to the Government to own it, not merely for the use of the House but of the Senate as well, and of anybody else who may be interested in administering the Government. It is a book that ought to belong to the Government, and, therefore, I desire for one to see the Government buy it; but if he has not already received compensation the question as to how much he ought to be paid will be a matter of inquiry which can be very easily made.

Mr. BLAINE. I think the Senator from Maryland will see that his amendment goes a little too far, as the Senator from Massachusetts pointed out, in giving Mr. Barclay the right, if he were an unreasonable man, to do an unreasonable thing: to put some impossible condition or name some exorbitant price. I think it is giving too much power into the hands of Mr. Barclay, and, as I have modified my amendment, I suggest, if the Senator from Maryland will withdraw his now, to let this be voted upon:

But if the text or the substantial portions thereof of Barclay's Digest be used, the author thereof shall be allowed reasonable compensation for copyright for the full period of copyright under the laws of the United States, reckoning from the original issue of the work.

That leaves the House the right to use it or not, and, if they do use it, they shall pay him a reasonable compensation for copyright. It is not coercive at all.

Mr. SARGENT. The amendment insisted on by the Senator from Maine leads me to suppose that this work never has been copyrighted. I do not know whether it has or has not been.

Mr. WHYTE. I can inform the Senator that it has. I have seen it.

Mr. SARGENT. You say that it has been. Then why this consideration for the copyright shown by the Senator from Maine? It is inconsistent with the idea of copyright that this gentleman should have received his annual salary, amounting to $2,000 a year, for this work. I think the better way would be, if this action is to be taken at all, to adopt the amendment of the Senator from Maryland. That amendment provides that this work of a man's brain, that is said to be so valuable, shall not be used without his consent, not except by contract with him. That is fair and right. If we want it, then make the contract with him, pay him the contract price; if we do not want it and want to make up a work by another journal clerk, let it be done without inquiring whether any part is used, because if that part is used it would be called a material part of the book, and he would be paid his $2,000 all the same.

Mr. MERRIMON. Will the Senator allow me to ask him a question? Was it not part of his work as journal clerk to make up this Digest?

Mr. SARGENT. I think not. He received his pay as journal clerk right along for many years. During the time in which he was not employed he got together this compilation. Congress paid him $2,000. It was a very comfortable thing for him, a pretty soft place. I suppose it paid him pretty well. Even though he received only $15,000 for getting up the book, it was pretty good pay.

Mr. COCKRELL. He had a regular salary all the time.

Mr. SARGENT. He had a regular salary all the time. I think he got a pretty good salary. He was well paid, because he was a favorite in the House of Representatives and they put his fees up pretty high.

Mr. WITHERS. We have an officer of the Senate paid who is also the author of a compilation which is used in the Senate, and to some extent used in the House. Suppose the House should say that they would not use this compilation unless the author complied with certain conditions, what should we think of it? And yet the same thing is here proposed to be said.

Mr. MERRIMON. But if the book was purchased for the use of the Government, the Government would have to pay for it and not the Senate.

Mr. WITHERS. Then the Senator had better introduce a bill providing for the purchase of this book from Mr. Barclay.

The amendment was not agreed to.

Mr. BLAINE. Now I offer the amendment that I send to the desk.

The Chief Clerk read the amendment, as follows:

But if the text, or the substantial portions thereof, of Barclay's Digest be used, the author thereof shall be allowed reasonable compensation for copyright for the full period of copyright under the laws of the United States, reckoning from the original issue of the work.

The question being put, there were on a division—ayes 21, noes 16

Mr. EATON. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas. 23, nays 21; as follows:

YEAS—Messrs. Barnum, Blaine, Boutwell, Bruce, Burnside, Chaffee, Christiancy, Clayton, Conover, Cragin, Dawes, Dorsey, Harvey, Hitchcock, Logan, McDonald, Maxey, Merrimon, Morrill, Teller, Wallace, West, and Whyte—23.

NAYS—Messrs. Alcorn, Allison, Bailey, Bogy, Booth, Cameron of Wisconsin, Cockrell, Cooper, Davis, Eaton, Goldthwaite, Ingalls, Johnston, Kernan, McCreery, McMillan, Ransom, Sargent, Windom, Withers, and Wright—21.

ABSENT—Messrs. Anthony, Bayard, Cameron of Pennsylvania, Conkling, Dennis, Edmunds, Ferry, Frelinghuysen, Gordon, Hamilton, Hamlin, Hereford, Howe, Jones of Florida, Jones of Nevada, Kelly, Mitchell, Morton, Norwood, Oglesby, Paddock, Patterson, Randolph, Robertson, Saulsbury, Sharon, Sherman, Spencer, Stevenson, Thurman, and Wadleigh—31.

So the amendment was agreed to.

Mr. SARGENT. I reserve that amendment for a separate vote in the Senate.

The PRESIDING OFFICER. The Clerk will note the reservation.

Mr. WINDOM. I ask unanimous consent that the five-minute rule be applied to this bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ALLISON. I offer the following amendment, to be inserted after line 31:

To pay Mrs. Jane Baldwin, widow of Caleb Baldwin, late judge of Alabama claims commission, $216.58, to be paid out of the money awarded the United States under the treaty of Washington; being the balance of the salary of said Caleb Baldwin from December 18, 1876, to January 1, 1877.

The amendment was agreed to.

Mr. ALLISON. I offer, with the consent of the Senator from California, the following amendment to come in after line 580:

To pay the expenses of the electoral commission provided for by the act approved January 29, 1877, entitled "An act to provide for and regulate the counting

of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," $7,000; said sum to be disbursed upon the certificate of the president of said commission: *Provided*, That any person employed by said commission may receive such compensation as may be allowed by said commission, in addition to any other compensation or salary he may be receiving as an officer of the Government.

Mr. DAVIS. I do not understand the amendment fully. What is it—a deficiency?

Mr. ALLISON. Yes, sir; it is in the nature of a deficiency. It is to pay the expenses of the electoral commission.

Mr. DAVIS. We passed a bill for that purpose the other day.

Mr. ALLISON. We passed an independent measure; but it properly belongs to this bill and should go into it.

Mr. DAVIS. Is this instead of or in lieu of the special bill passed the other day?

Mr. ALLISON. It is in lieu of it and instead of it.

Mr. DAVIS. I notice that authority is given there to pay additional compensation to officers now in the service of the Government. What does that mean?

Mr. ALLISON. That means to pay people who sit up late at nights and perform additional service to their ordinary duties; and it means to pay the additional expenses which are necessary for reporting the doings of the commission. There is no trouble about it.

Mr. EATON. Mr. President, I was afraid my friend from West Virginia was going to object. There ought to be no objection made. If these people are worthy of their hire they ought to be paid.

Mr. ALLISON. They are performing a very important, valuable, and meritorious service; and I hope there will be no objection to it.

The amendment was agreed to.

Mr. HITCHCOCK. I move to amend on page 17, in line 392, by inserting the following proviso:

Provided, That the rate of payment to said White and Hall shall not exceed the rate per mile allowed by law for the year 1873 for surveying the public lands in Nebraska.

Mr. SARGENT. I should like to know what the amendment means.

Mr. HITCHCOCK. I will explain it in one minute, if the Senator desires. The survey was made in one year and the remainder of it was made in the following year, and in the latter year the rate allowed by law was greater than that which was allowed at first. This specifies that the rate paid these men shall be the same as that which was allowed afterward for the same work.

Mr. SARGENT. Was this done in 1873?

Mr. HITCHCOCK. It was. This proviso requires that the rates fixed by law should apply to them and not the rates fixed in the following year.

Mr. SARGENT. It seems to me entirely unnecessary, then. If the law fixes the rate of compensation and if a settlement can be effected at the Treasury why disturb it?

Mr. HITCHCOCK. The only object in offering the amendment was to prevent any possible question with the First Comptroller, who very often raises doubts when parties think there is no reasonable ground for them.

Mr. SARGENT. I think the Senator had better not insist on the amendment. It will lead to discussion.

Mr. HITCHCOCK. I am sure it would do no harm.

Mr. SARGENT. I could not assure the Senator how it would be settled in conference.

Mr. HITCHCOCK. If the Senator objects to it I will withdraw it.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. MORTON. I desire to add to the bill the following amendment:

The sum of $772.15 for the payment of costs in the case of Milligan *vs.* Spooner and others, tried and decided in the circuit court of the United States in the State of Indiana, be, and the same is hereby, appropriated.

Mr. SARGENT. I hope the Senator will explain the amendment.

Mr. MORTON. It is an old matter, which was supposed to have been settled, and which ought to have been settled a long time ago. It will be remembered that in 1864 a military tribunal was organized in the State of Indiana by the direction of the Secretary of War to try certain persons charged with conspiracy against the Government of the United States. It consisted of eight or ten officers, who were all either colonels or brigadiers then in the service of the United States. The trials were held, and a number of persons were convicted. Among others Milligan was convicted, and sentenced to death. The punishment was commuted by President Johnson to imprisonment in the penitentiary. Afterward, an appeal being taken to the Supreme Court of the United States, the court decided that the tribunal which tried Milligan had no jurisdiction, because the courts of the United States were open in the State of Indiana at the time, and such a court could not legally be organized, as it could have been in a State where the courts of the United States were not then open. In consequence of this decision, Milligan was released from imprisonment. He then brought suit against the persons who composed that military court and one or two other persons for false imprisonment and action for damages. That action was tried. It occupied a long time, and great expense was incurred. Inasmuch as the Supreme Court had decided that the military tribunal had no jurisdiction to try these parties under the law, technically there was no defense, but the facts of the case were proven for the purpose of mitigating damages, by permission of the court, and the jury brought in a verdict of five dollars in favor of Milligan. It was a case in which the defendants had no interest; in which they had acted by order at the time, where they performed their duty, having been detailed by the Secretary of War for that purpose, and believed that they had jurisdiction to try the case, and were acting, as they supposed, in the discharge of duty. The Government of the United States promptly assumed the defense of the case, employed counsel, and paid them. I had supposed until recently that the costs were paid, but it has come to my knowledge very recently that the costs were not paid. It is a matter of entire justice to the defendants to have the costs paid by the Government.

Mr. MERRIMON. Were the commission military officers?

Mr. MORTON. Yes, sir; they were military officers, and detailed by an order of the Secretary of War to sit on the board.

Mr. DAVIS. Were not the officers paid as all other officers are paid?

Mr. MORTON. The amendment is not for their compensation at all. They were detailed to sit on this court and try these parties. They did so. They found some of them guilty. Afterward the Supreme Court of the United States decided that this military tribunal had no jurisdiction to try the case, and then Milligan brought suit against the members of this court for false imprisonment and obtained a technical verdict of $5. Their defense, of course, could not be perfect, because it had been decided that the court had no jurisdiction to try the case.

Mr. SARGENT. Is this appropriation for the costs?

Mr. MORTON. Yes, sir; for the costs in the case. The Government very promptly assumed the defense of the case and employed counsel. It was a matter for which the parties were not at all responsible and were in no wise to blame, and it is a matter of absolute and simple justice that the Government should pay the costs.

Mr. DAVIS. I believe the Senator said it was in 1864.

Mr. MORTON. It was in 1864 that the tribunal was organized. The suit was brought against them for false imprisonment I think in 1869.

Mr. COCKRELL. When was it decided?

Mr. MORTON. It was decided in 1869. The action for false imprisonment was brought before Judge Drummond in Indianapolis.

Mr. DAVIS. Who paid the expenses? Who now are out of money, and to whom is the money proposed to be given?

Mr. MORTON. If this money is not paid by the Government it will have to be paid by the defendants.

Mr. DAVIS. Has it not been paid up to the present time?

Mr. MORTON. No, sir; it has not been paid.

Mr. DAVIS. Who is it coming to?

Mr. MORTON. It is coming to the officers of the court, to the witnesses and to the parties; anybody against whom the charge is made in the books of the court.

Mr. SARGENT. It is to satisfy the judgment.

Mr. MORTON. Yes, sir; to satisfy the judgment. The judgment was $5 and costs.

Mr. DAVIS. Of course, the amendment is unusual and would not be in order if there was any question made upon it. The Senator from Indiana has not been able to attend the Senate, and, of course, for that reason if for no other we ought not to object.

Mr. MERRIMON. How much is the amount?

Mr. MORTON. Seven hundred and seventy-two dollars. I think my colleague is acquainted with nearly all the facts and knows whether my statement is correct or not.

Mr. McDONALD. I am quite fully acquainted with the matter so far as the general facts of the case are concerned, and which have been correctly stated by my colleague. The original suit brought by Milligan, or rather the application for a writ of *habeas corpus*, on which the decision of the Supreme Court was had, to which my colleague refers, was instituted by myself, or by the firm of which I was a member, and it was brought to the Supreme Court. After the determination of that case I had no further connection with the suits that grew out of the decision of the court. The Supreme Court, as is well known, in the case of *ex parte* Milligan decided that military commissions could not take jurisdiction of or try accusations against citizens in States that were not in a state of war, and that Indiana was not in a condition that made her citizens amenable to such a tribunal.

The suit referred to in the amendment was instituted in the State court by Mr. Milligan after his discharge from the penitentiary, and transferred to the Federal court on account of the fact that it was a suit against persons who were acting under Federal authority. Under a statute then in existence, which I believe has since been repealed, such persons were entitled to have their cases transferred to the Federal court. The case was tried in the Federal court. A long and protracted trial was had in which able counsel were employed on both sides. The Government assumed the defense of these parties, and the Department of Justice directed that counsel should be employed for their defense. I supposed that all the expenses had been paid, but it seems that this remnant has been left. That is about all there is of it. I know nothing about this amount yet being unpaid, but I take it the statement of my colleague in regard to that matter is sufficient for the Senate, as it is sufficient for me. Certainly the Government up to this time has defrayed the expenses of that litigation so far as these defendants were concerned, upon the ground, I apprehend, that they were at the time military officers in the service of the

United States, and that they were acting in the matter under a detail and therefore governed by the authority of their military superiors in taking cognizance of these cases.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Indiana.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The amendments will be concurred in in gross except the two reserved amendments.

Mr. SARGENT. I withdraw my request to have the amendment offered by the Senator from Maine [Mr. BLAINE] reserved. We shall have charge of that matter in the conference.

The PRESIDING OFFICER. The only remaining amendment to be reserved is the amendment reserved by the Senator from North Carolina, [Mr. MERRIMON.] The other amendments will be concurred in in gross.

The amendments were concurred in.

The PRESIDING OFFICER. The amendment received will be reported.

The CHIEF CLERK. The Senate, as in Committee of the Whole, inserted after line 439 the following:

For expenses of the United States courts, to be disbursed by the Attorney-General, being a deficiency for the fiscal year 1877, as follows:

For payment of bailiffs and criers, fuel, lights, stationery, and other contingencies, $250,000.

For payment of United States district attorneys and salaries of their assistants, $90,000.

For payment of fees of clerks of courts, $42,000.

For payment of fees of United States commissioners, $25,000.

For payment of fees of jurors, $170,000.

For payment of fees of witnesses, $143,000.

For rent of court-rooms and miscellaneous expenses, $30,000; in all, $750,000.

Mr. MERRIMON. The sum of money proposed by the clause of the bill embraced between lines 440 and 458 is so extraordinary and for such unusual purposes that I do not desire to see the amendment adopted as recommended by the committee until I know something more about it. At the last session two millions and a half of dollars were appropriated to pay the expenses of the judiciary, and now we are called upon to appropriate $750,000 more for that purpose and the particular and extraordinary expenses specified are, first:

For payment of bailiffs and criers, fuel, lights, stationery, and other contingencies, $250,000.

Regularly all the expenses embraced here, except such expenses as may be embraced by the general term "and other contingencies," are such as must be paid at any term of a court that shall be held, and the court cannot get along without paying them. Then the next item is:

For payment of United States district attorneys and the salaries of their assistants, $90,000.

Ordinarily in the regular course of business in making up the estimates the authorities ought to be able to ascertain with almost exactness the amount of money which shall be necessary to pay such expenses; and yet we are called upon to appropriate $90,000 for that purpose.

Mr. SARGENT. Will the Senator allow me a moment?

Mr. MERRIMON. Certainly.

Mr. SARGENT. This matter was fully explained in the Committee of the Whole. We cut down the appropriation last year about a million dollars, although the estimate was exact, and this now makes up three-quarters of that deficiency, not quite a million dollars. We cut the appropriation down on these very items. Of course you cannot make a flexible system of your courts. You must have so many jurors, so many terms of court. The number of district attorneys is fixed by law and their salaries are fixed by law, and if, when we are called upon to appropriate $3,000,000, we appropriate $2,000,000, we cannot complain if before the year is out they come to Congress and say that they need more money.

Mr. MERRIMON. But we appropriated two million dollars and a half, and what strikes me is that these large extraordinary expenditures are for subjects that require to be paid for at the regular terms of court, such as the salaries of the district attorneys, fuel, lights, and stationery.

Mr. SARGENT. The difficulty is this: These deficiency appropriations come to us when the year is half over. We have delayed and a great many causes have delayed them. The last year we appropriated about $3,400,000 for this very service which this year we appropriated $2,500,000 for.

Mr. MERRIMON. It looks to me very much as if the authorities have expected a fund and have relied upon this deficiency bill to supply a deficiency created when they ought not to have done it. I apprehend that thousands and tens of thousands of dollars have gone to pay for deputy marshals all over the land. I had occasion recently to know something of that matter in the State of South Carolina, where the deputy marshals were appointed by scores and hundreds and some of them illegally. They were on duty many days, and such work as that has created this deficiency, as I apprehend, at all events.

Then there is another consideration. Without wishing to delay the Senate with this matter, I only want to bring it to the attention of the Senate in order to see what the judgment of the Senate is upon this proposed amendment. There is a broad difference here between the estimate of what was absolutely necessary to pay a reasonable deficiency on the part of the House and on the part of the Senate Committee. The House Committee, it seems, or the House, at all events, believed that the appropriation was sufficient without the additional appropriation of $750,000 proposed by the committee of the Senate. It is most extraordinary that this addition should be a necessity of the public service, and before I can give my vote for such an amendment, I must have more information about the details of this proposed appropriation.

Mr. SARGENT. The House simply did not make any appropriation for this purpose at all. The Senator cannot find a line in the bill to defray the expenses of the courts. When we had cut down the appropriations for the courts a million of dollars, the House provided for no deficiency. Here come the Attorney-General and the constituted authorities of the country who are authorized to give us information, and they tell us that there is a deficiency. In this item there is not a line for marshals. Nobody can deny that a deficiency exists, as it must exist when you take off one-third of the appropriation for the courts of the country. You can stop the courts if you see fit, for of course the courts cannot expend the money without an appropriation; so that in the operation of your courts you cannot summon a grand jury or do an act by the grand jury, you cannot call an offender before the court, if you do not pay for the service of the courts. If you do not propose to give the money for this service, why not say that you will go without courts?

Mr. MERRIMON. I do not propose to go without courts.

Mr. SARGENT. Then you must pay for them.

Mr. MERRIMON. I do not propose to go without grand juries, and I do not propose to go without the officers of the courts. I do not propose to have courts without paying the obvious and necessary expenses of the courts; but what I do oppose is that for one purpose and another there shall be a hundred thousand deputy marshals employed, and it is said that the Government must pay this additional amount, that the money has been expended and it ought not to have been used except for the particular purpose for which it was appropriated. The Senator from California says that the House has made no appropriation for purposes like this at all.

Mr. SARGENT. I said not for this item.

Mr. MERRIMON. I beg to call the attention of the Senate and of the Senator to the appropriation provided for embraced in lines 413 to 415:

For expenses of United States courts to be disbursed by the Attorney-General, being a deficiency for the fiscal years 1876, as follows.

Mr. SARGENT. Exactly, for 1876. That is for 1876, the year before, when an appropriation was made of three millions and a half. With such an appropriation as that a deficiency was created, and yet for this year the Senator would contend there should be no deficiency at all, when the appropriation was $1,000,000 less than the year before.

Mr. MERRIMON. I stand corrected in that respect. I see it is for 1876, but that does not do away with the point I was making against this proposed appropriation. I apprehend that under the general term, "and other contingencies," are embraced all the extraordinary expenses that have been incurred to pay thousands of deputy marshals all over the Union who were unnecessary for the administration of justice. I shall ask for the yeas and nays upon the amendment.

Mr. WINDOM. I will detain the Senate but a moment. I think that the Senator from North Carolina is mistaken as to the use of this money during the present fiscal year. He seems to think that this large deficiency is an addition for some improper purposes in connection with the use of marshals, I suppose last fall at the election.

Mr. MERRIMON. Yes, sir; at the election.

Mr. WINDOM. If the Senator will examine the appropriations of previous years he will find that even with these deficiencies we appropriate $65,000 less than we did for the fiscal year ending the 30th of June, 1876. During that year there were none of these expenses which he fears were improperly incurred during the last year, and yet there were $65,000 more appropriated then than for the current year. The regular appropriation for 1876 was $3,000,000. There were various deficiencies appropriated, making it $3,315,000 for the year 1876. The whole trouble is just here: Congress at the last session declined and refused to appropriate enough money to carry on this service. Congress refused to appropriate what was known to be necessary for the judicial expenses of the Government. I stated on the floor of the Senate at the time, and I repeat it now, that in fixing that amount last year no regard whatever was paid to the recommendations of those gentlemen who had the control of the Departments and who would know what was necessary in order to carry on the service. It is true that the Senate did agree to this reduction in conference, but they agreed to it, as stated on the floor at the time, because there was no other way of getting the bill through, and it was understood at the time that a deficiency would arise because there was not enough money appropriated. We appropriated only two million and a half last year when both Houses agreed that $3,000,000 was not enough for the year 1876, and added deficiencies making it $3,315,000. Can anybody expect that the Government can be carried on in that way or that $2,500,000 will pay for service which required $3,315,000.

Mr. MERRIMON. I beg to ask the Senator a question.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. WINDOM. I will yield to the Senator enough of my time, if he wishes to ask me a question.

The PRESIDING OFFICER. The five-minute rule applies, and the Senator's time has expired.

Mr. SARGENT. By common consent, the Senator from North Carolina can proceed.

Mr. MERRIMON. I was simply going to ask the Senator a question as to whether this deficiency, taken in connection with the regular appropriation made at the last session for the judiciary, would pay the increased expense of employing an extraordinary number of deputy marshals during the last fall.

Mr. WINDOM. I do not understand that it is to be applied to that at all.

Mr. SARGENT. And will not be.

Mr. WINDOM. And will not be.

Mr. MERRIMON. Where will the money come from to pay them?

Mr. WINDOM. I do not know that they will be paid. That was simply omitted.

Mr. MERRIMON. Then is all that service to go without pay?

Mr. SARGENT. We have left any appropriation for that purpose out of this bill.

Mr. WINDOM. We have not appropriated anything for it by this bill.

Mr. COCKRELL. I should like to call the attention of Senators to the appropriations that have been reported, and I presume they are official. I have here the letter of the Secretary of War, transmitting estimates of appropriations required for the fiscal year ending June 30, 1876, and from that I read that the estimates for 1876, were $3,605,250 under the head of the Judiciary Department; that the estimates for 1875 were $3,409,750 and the appropriations for 1875 were $3,405,250. I hold in my hand the same letter of the Secretary of the Treasury, transmitting estimates of appropriations required for the service for the fiscal year ending June 30, 1877, and under the total recapitulation by the Department of Justice the estimates for 1877 were $3,850,040 and the appropriations were $3,364,343.31. The estimates for 1876 was $4,100,260 and the appropriations for 1876 were $3,887,549.46. I have now the same estimate of the Secretary of the Treasury for the year ending June 30, 1878, and on page 118, under the total recapitulation for the Department of Justice, the estimate for 1878 is $4,422,990, while for 1877 the estimate is $3,850,040, and the appropriation for 1877 was $3,364,343.31. The Secretary of the Treasury says that the appropriations for this Department for the fiscal year ending June 30, 1877, were $3,364,343.31.

Mr. MERRIMON. That is, for the Department of Justice?

Mr. COCKRELL. It includes the whole service. We are now asked to add to that by an appropriation of $750,000 under these general clauses. Then on page 20 we find for the fiscal year 1876 an appropriation of $180,000, making $930,000 of deficiency, $750,000 for 1877 and $180,000 for 1876, when the difference between the estimates for 1877 and the appropriations, according to the letter of the Secretary of the Treasury, was only $400,000 and something over, the estimates being $3,850,040 and the appropriations $3,364,343.31. It does seem strange to me that there should be so great a discrepancy.

Mr. SARGENT. There is a very simple key to the difficulty of my friend. The appropriation was $2,500,000 for the purpose to which the amendment applies and in addition to that, of course, the Department expenses, the civil expenses, the hire of these clerks, &c. There is the postage which does not come under this item of $2,500,000. We appropriate for postage $40,000 or $50,000. The whole civil service of the Department is distinctly provided for. Then the expenses for the adjudication and prosecution of crimes against the United States, $25,000; a separate provision is made for that service. My friend is not listening to me and consequently I cannot explain to him.

Mr. COCKRELL. I am listening to the Senator.

Mr. SARGENT. I say that the one item of $2,500,000 stands by itself and covers exactly the same cases that we here report a deficincy for; but the deficiency does not apply, and the $2,500,000 do not apply to the clerks employed here in the Department of Justice and all the expenses running there. It does not apply to the item for postage in the Department of Justice; it does not apply to the item for the adjudication and prosecution of crimes against the United States, which is $25,000.

Mr. COCKRELL. Will the Senator permit me to ask him a question?

Mr. SARGENT. Certainly.

Mr. COCKRELL. What did the appropriation of $3,364,343.31 for the year 1877 include and embrace?

Mr. SARGENT. It embraced a very large class of cases.

Mr. COCKRELL. Everything in the Department of Justice?

Mr. SARGENT. No, sir; not at all. The Senator has the book right before him and he will find it all tabulated, so that there is no necessity for me to repeat it to him. The Senator will see by a glance that it does not include the expenses of the Department of Justice here for thirty or forty clerks. It does not embrace the items which I have read and which are appropriated separately.

Mr. MERRIMON. I wish to ask the Senator from California what are the leading items embraced by the words in line 444, "and other contingencies."

Mr. SARGENT. All I can say is that it means "such contingencies." It says "fuel, light, stationery, and other contingencies;" and there is not the slightest objection to using the word "such" there.

Mr. WINDOM. "And other such?"

Mr. SARGENT. "And other such contingencies." It means ice, I suppose, and all those little things that courts would have to be provided with under the law.

The PRESIDING OFFICER. The pending question is on concurring in the amendment made as in Committee of the Whole, inserting the words between lines 440 and 458.

Mr. MERRIMON. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BOGY. While I would regret to prevent a necessary appropriation for the legitimate expenses of the courts of this country, yet it seems to me that this character of expenses has increased very much in the last few years. I am inclined to think that this expense is caused in a great measure by the employment of marshals at the polls at elections. I know in my State a large number of marshals were employed. I will say that in my city a large number of marshals were employed where there was no necessity for them at all, and even some of the leading republicans of that city protested against such a wastage of money. There was no necessity for it, no use whatever, and it was gotten up by sharp politicians just to pay a few dollars to a few needy loafers. The leading men of that party in Saint Louis protested against such an abuse, and yet a large number of marshals were employed for the city of Saint Louis. Will anybody tell me that there was really any necessity for marshals there? I was in New Orleans last fall where I saw some eight or nine hundred deputy marshals who had been employed at the polls during the election in New Orleans, and a harder looking set of fellows I never saw in my life. They were not very good men to keep the peace surely, when they all looked like law-breakers. I understood they had been employed and were under pay, and it was rumored they would be under pay until they got their pay. They had been in service two or three days then waiting for their pay. If that be so, it is a wastage of money which ought to be checked, ought to be stopped, and ought to be stopped at once.

Mr. SARGENT. This does not apply to them.

Mr. BOGY. I presume the court expenses, as they are called, are swelled by the employment of marshals; I speak of marshals employed under the act of Congress to be present at the polls to see that no disturbance takes place. A large number of marshals were employed to see that everything was done fairly and quietly in the city of Saint Louis, where there was no occasion at all for their employment, no necessity for it, none whatever. I think that these expenses have swelled in that way to a very large amount. Many of them, of course, are unlawfully incurred. So it is, Mr. President, that these court expenses have, within the last few years, absorbed such large amounts, when some years ago the item was comparatively limited, and I think it becomes the duty of every member of Congress to look into that little item, and check it, if it is possible that it can be checked.

The PRESIDING OFFICER. The yeas and nays are called for on this amendment.

The yeas and nays were ordered.

Mr. WITHERS. I wish to make a statement before the vote is taken, as some of my personal and political friends are very sensitive on the question of marshals, and I do not know that I violate any rule or courtesy in so doing. I will state that there was in committee stricken out of the bill the provision for the payment of deputy marshals; that the amount of $250,000 would be sufficient to cover it, and I supposed that was amply sufficient to remove my objection on that account.

Mr. SARGENT. We did not want to put it on this bill.

Mr. WITHERS. We did not want to put it on this bill, as we knew it would embarrass it.

Mr. SARGENT. I hope after that explanation the yeas and nays will not be insisted upon.

The PRESIDING OFFICER. Is the demand insisted upon?

Mr. SARGENT. I hope the question will be taken without the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered. They can only be dispensed with by unanimous consent.

Mr. MERRIMON. I do not intend to be stubborn about this matter. It can be disposed of in the conference committee. I withdraw the call for the yeas and nays. I shall not vote for the amendment, however.

The PRESIDING OFFICER. The call for the yeas and nays will be considered as withdrawn.

The question being put, it was declared that the noes appeared to prevail.

Mr. SARGENT. I will ask for the yeas and nays if Senators seem disposed to make this a test.

The PRESIDING OFFICER. The yeas and nays are again called for.

The yeas and nays were not ordered.

Mr. SARGENT. I want to say one thing. The Senator from Virginia has made a frank statement in reference to this matter, having the leave of the other members of the committee to do so. He has shown by his statement, if he is believed by his brother Senators, that

this bill does not touch the matter on which they are so sensitive. Now, if they wish to stop the courts let them vote down this amendment. I do not believe they wish to do that; but the effect will be to stop the courts. He gives his assurance and the rest of us give our assurance that we did not put marshals on this bill, because we did not desire to embarrass the bill at this last moment of the session. At some future time I shall have the pleasure perhaps of reviewing that matter before the Senate. In the mean time it is eliminated from the bill. The Senator from Virginia, who was on the subcommittee, gives his assurance to that effect. Under those circumstances it seems to me as these expenses are natural and proper in themselves, and such as we usually appropriate for, they ought to be allowed.

Mr. MERRIMON. Not $90,000 for district attorneys and assistants.

Mr. SARGENT. Why not? That is a necessary expense.

The PRESIDING OFFICER. A division is called for on this amendment.

The question being put, the ayes were 33.

Mr. SARGENT. I believe a further count is not insisted on.

The PRESIDING OFFICER. Is a further count insisted upon? It is not. The amendment is agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 4681) for the removal of the disabilities of Robert H. Chilton, of the State of Georgia; and

A joint resolution (H. R. No. 196) authorizing the President to designate and set apart a site for a colossal statue of "Liberty enlightening the world," and to provide for the permanent maintenance and preservation thereof.

The message also announced that the House had passed a resolution to print 300,000 copies of the Report of the Commissioner of Agriculture for 1876.

ORDER OF BUSINESS.

Mr. STEVENSON. I move to take up—I do not propose to consider it this evening—the bill——

Several Senators addressed the Chair.

Mr. SARGENT. I want to go on with an appropriation bill. I hope Senators will give us indulgence to pass the naval appropriation bill.

Mr. STEVENSON. I do not want to interfere with the naval appropriation bill. I want the bill I wish taken up considered in the morning hour to-morrow.

The PRESIDING OFFICER. The Chair did not understand the motion of the Senator from Kentucky.

Mr. STEVENSON. I move to take up a bill on the Calendar to make it the unfinished business for the morning hour to-morrow.

The PRESIDING OFFICER. That motion cannot be entertained under the rules.

REVISION OF THE LAWS.

Mr. BOUTWELL. I ask that a House bill may be laid before the Senate, and I think with two minutes' explanation I shall be able to satisfy the Senate that the bill should pass.

The PRESIDING OFFICER laid before the Senate the bill (H. R. No. 4668) to perfect the revision of the statutes of the United States and of the statutes relating to the District of Columbia; and it was read twice by its title.

Mr. BOUTWELL. The Senate will observe that some days ago a House bill of the same title passed the Senate, with careful consideration, as it was thought; but it happened that there was an error in the bill, it being provided that advertisements by the Executive Departments of the Government should be subject to a provision of law which was limited to treaties and laws. The bill was vetoed by the President very properly, and the veto was sustained by the House of Representatives. The House has passed the bill omitting the objectionable provision, precisely as it was considered and agreed to by the Senate. The Senator from Michigan, [Mr. CHRISTIANCY,] who is a member of the Committee on the Revision of the Laws, and myself have very carefully compared this bill with the engrossed bill which was vetoed by the President, and we are able to say that this bill corresponds with the bill that was considered by the Senate in every particular save the clause which was objected to by the President.

Mr. CONKLING. What was that clause?

Mr. BOUTWELL. That was the clause which provided that advertisements by the Executive Departments should be subjected to a provision of law which was limited to treaties and laws. I ask upon this statement, which I can assure the Senate conforms to the facts, that this bill may be passed without being read.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill? The Chair hears none.

The bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NAVAL APPROPRIATION BILL.

Mr. SARGENT. I report back from the Committee on Appropriations the bill (H. R. No. 4616) making appropriations for the naval service for the year ending June 30, 1878, and for other purposes, with amendments, and ask for its present consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill reported by the Senator from California? The Chair hears none.

Mr. CONKLING. If the Senator from California has no objection, I rise to move an executive session.

Mr. WINDOM. I desire to make a single remark before the motion is put, if I can have consent to do so. This appropriation bill reported by the Senator from California contains I believe but eight amendments, which can be as readily understood by the printed bill which can be distributed as it can be to-morrow upon a new print. The Senate is well aware that we may have a report from the commission to-morrow morning, by which we may be delayed for two or three days. If we can pass this bill to-night, which I am satisfied can be done in less than one hour, it can then go to a conference committee. The time will not be lost. I submit that question to the judgment of the Senate, as to whether we ought not to remain and pass it. I think we ought.

The PRESIDING OFFICER. Does the Senator from New York insist on his motion for an executive session?

Mr. CONKLING. I do not wish to interfere with the purpose of the Committee on Appropriations. I suggest that the bill be taken up and left as unfinished business for to-morrow. As it is now five o'clock, it is not very likely that the Senators will be able to keep a quorum here without a recess.

Mr. SARGENT. I am willing to stay and work.

Mr. CONKLING. What are the Senator's impressions, that he can pass the bill now without a recess?

Mr. SARGENT. I think we can get through with it by six o'clock.

Mr. CONKLING. Can you keep a quorum?

Mr. WINDOM. I can only say that if a quorum will not stay now they will have to come back here in April or May.

Mr. SARGENT. I am willing to submit the matter to the Senate on the motion to take an executive session.

Mr. CONKLING. Then I move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. Before submitting that motion the Chair will lay before the Senate bills of the House for reference.

HOUSE BILLS REFERRED.

The bill (H. R. No. 4681) for the removal of the disabilities of Robert H. Chilton, of the State of Georgia, was read twice by its title, and referred to the Committee on the Judiciary.

The joint resolution (H. R. No. 196) authorizing the President to designate and set apart a site for a colossal statue of "Liberty enlightening the world," and to provide for the permanent maintenance and preservation thereof, was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

PRINTING OF AGRICULTURAL REPORTS.

The PRESIDING OFFICER laid before the Senate the following concurrent resolution from the House of Representatives:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed 300,000 copies of the Report of the Commissioner of Agriculture for 1876; 224,000 copies for the use of the House of Representatives, 56,000 copies for the use of the Senate, and 20,000 copies for the use of the Department of Agriculture.

The PRESIDING OFFICER. The resolution will be referred to the Committee on Printing.

Mr. DAVIS. As I see the chairman of that committee here, I ask, as that is important, that he pass upon it at an early day and report it back to the Senate.

PACIFIC RAILROAD ACTS.

The PRESIDING OFFICER. It is the duty of the Chair to lay before the Senate the unfinished business which was laid aside by common consent.

Mr. SARGENT. I shall object to any arrangement by which we can get by ten o'clock to-morrow. I want to proceed with the naval bill to-morrow at ten o'clock, if the Senate now go into executive session. If they will stay with me and work an hour, then they need not come until twelve o'clock to-morrow. Otherwise I shall be here at ten o'clock to-morrow and insist on proceeding with the naval bill.

Mr. WINDOM. I want to say that I think ten o'clock to-morrow will probably be too late and the bill will not pass for two or three days. It may be a test between remaining here another hour now and coming here this spring to hold another session.

The PRESIDING OFFICER. The unfinished business laid aside by unanimous consent is the bill (S. No. 984) to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act.

Mr. CONKLING. Now I insist on my motion.

The PRESIDING OFFICER. The Senator from New York moves that the Senate proceed to the consideration of executive business.

The motion was agreed to.

Mr. SARGENT. While the doors are being closed I ask that the naval bill be printed with the amendments of the Committee on Appropriations.

The PRESIDING OFFICER. That order will be made.

BRIDGE OVER SINEPUXENT BAY.

Mr. DENNIS. I ask permission to report from the Committee on Commerce a House bill that it will not take two minutes to pass.

The PRESIDING OFFICER. The Senator from Maryland reports the following bill. The Clerk will report the title for information.

The CHIEF CLERK. A bill (H. R. No. 3163) to authorize the Ocean City Bridge Company to maintain and operate a bridge heretofore erected over and across Sinepuxent Bay, in Worcester County, Maryland.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

EXECUTIVE BUSINESS.

The Senate proceeded to the consideration of executive business. After eight minutes spent in executive session the doors were reopened; and (at five o'clock and ten minutes p. m.) the Senate took a recess until to morrow, Friday, February 23, at ten o'clock a. m.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 22, 1877.

The SPEAKER. The Chair decides that a new legislative day has been reached, and the Chaplain will now offer prayer.

Prayer by the Chaplain, Rev. I. L. TOWNSEND.

The Journal of yesterday was read and approved.

POST-OFFICE APPROPRIATION BILL

On motion of Mr. HOLMAN, by unanimous consent, the bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes, with amendments by the Senate, was taken from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed with the Senate amendments.

LEGISLATIVE, ETC., APPROPRIATION BILL.

On motion of Mr. HOLMAN, by unanimous consent, the bill (H. R. No. 4472) making appropriation for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes, with amendments by the Senate, was taken from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed with the Senate amendments.

ORDER OF BUSINESS.

Mr. HOLMAN. I rise to move that the House resolve itself into Committee of the Whole on the state of the Union to resume the consideration of the sundry civil appropriation bill. But I will withhold that motion for a short time, that matters which gentlemen desire to bring forward that will give rise to no debate may be disposed of.

LIGHT-HOUSE ON STANNARD'S ROCK.

Mr. HUBBELL, by unanimous consent, presented a joint resolution of the Legislature of the State of Michigan, asking Congress for an appropriation for a light-house and steam fog-signal on Stannard's Rock, Lake Superior; which was referred to the Committee on Appropriations.

Mr. HUBBELL. The attention of other States to this matter is desired, and I ask that the joint resolution may be printed in the RECORD.

There was no objection.

The joint resolution is as follows:

Joint resolution asking Congress for an appropriation for the erection of a light-house and steam fog-signal on Stannard's Rock, Lake Superior.

Whereas the Light-House Board have for several years deemed it necessary to the interests of commerce that a light-house and fog-signal should be erected on Stannard's Rock, in Lake Superior;

And whereas a bill making an appropriation therefor has been introduced in the House of Representatives, but has not yet been acted on;

And whereas the great and increasing commerce of our lakes (exceeding our ocean tonnage) imperatively demands the prosecution and completion of the work named at an early day: Therefore,

Resolved by the senate and house of representatives of the State of Michigan, That our Senators and Representatives in Congress be requested to use all honorable means to procure the necessary appropriation for the erection of a light-house and fog signal on Stannard's Rock, Lake Superior, under the superintendence of the Light-House Board.

Resolved, That his excellency the governor be requested to transmit copies of the foregoing preamble and resolution to the governors and Legislatures of Minnesota, Wisconsin, Illinois, Ohio, Pennsylvania, and New York, requesting their co-operation, and to each of our Senators and Representatives in Congress.

JOHN T. RICH,
Speaker of the House of Representatives.

ALONZO SESSIONS,
President of the Senate.

Approved February 13, 1877.

CHARLES M. CROWELL.

STATE OF MICHIGAN,
Office of the Secretary of State, ss:

I, E. G. D. Holden, secretary of state of the State of Michigan, do hereby certify that I have compared the annexed copy of a joint resolution asking Congress for an appropriation for the erection of a light-house and steam fog-signal on Stannard's Rock, Lake Superior, with the original filed in this office February 13, 1877, and that it is a true and correct transcript therefrom, and of the whole of such original.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Michigan, at Lansing, this 13th day of February, in the year of our Lord 1877.

[SEAL.]

E. G. D. HOLDEN,
Secretary of State.

ORDER OF BUSINESS.

The SPEAKER. The Chair desires to ask the gentleman from Indiana [Mr. HOLMAN] to what extent he yields, whether for legislation or for the introduction of bills and memorials only? The gentleman stated that he yielded with a qualification, and the Chair does not think that is usual.

Mr. LANE. There is no question but that he has yielded.

Mr. HOLMAN. There is some business that ought to be attended to and I am willing to yield for it.

The SPEAKER. What class of business?

Mr. HOLMAN. That which can be disposed of by unanimous consent.

NORTHERN PACIFIC RAILROAD.

Mr. LANE, by unanimous consent, presented the petition of the Board of Trade of the City of Portland, Oregon, praying for the passage of the bill for the extension of time for the completion of the Northern Pacific Railroad; which was referred to the Committee on the Pacific Railroad, and ordered to be printed in the RECORD.

The petition is as follows:

BOARD OF TRADE,
Portland, Oregon, January 10, 1877.

To the honorable the Senate of the United States in Congress assembled:

Resolved. That the Board of Trade of Oregon, recognizing the importance of the Northern Pacific Railroad (when built) in developing the commercial interests of Oregon and Washington Territory, heartily indorse the bill for extension of time for completion of said railroad, and earnestly asks Congress, in the interest of the commerce of this North Pacific coast, (now suffering for want of railroad connection.) to pass said bill this present session, as recommended by Committee on Pacific Railroad.

Respectfully forwarded, by instruction of the Board of Trade of Oregon.

[SEAL.] WILLIAM REID, *Secretary.*

LOWER WILLAMETTE AND LOWER COLUMBIA RIVERS.

Mr. LANE also, by unanimous consent, presented the petition of the Board of Trade of the City of Portland, Oregon, praying for an appropriation for the improvement of the Lower Willamette and Lower Columbia Rivers; which was referred to the Committee on Commerce, and ordered to be printed in the REBORD.

The petition is as follows:

BOARD OF TRADE,
Portland, Oregon, January 12, 1877.

To the honorable the Senate of the United States in Congress assembled:

Whereas the increase of exports of wheat, flour, salmon, and other products from Portland and Columbia River to sister States and foreign countries now exceeds $10,000,000 yearly, and in consequence foreign ships of larger tonnage and in greater numbers than heretofore known have been attracted to Portland,

And whereas it is essential for the welfare of the people and commerce of Oregon and Washington Territory, if such shipping is to be continued, to have removed the obstructions now existing on the Lower Willamette and Lower Columbia Rivers,

And whereas plans for the permanent improvement of such rivers from Portland to the sea have been submitted by the United States Department of Engineers, and an appropriation asked: Therefore,

Resolved, That this board earnestly petitions Congress to pass this session the appropriation now asked by the Government for the Lower Willamette and Lower Columbia Rivers, as the necessities of our shipping and commerce require that these improvements be immediately proceeded with.

Respectfully forwarded, by instruction of the Board of Trade of Oregon.

[SEAL.] WILLIAM REID, *Secretary.*

REDUCTION OF THE TAX ON BANKS.

Mr. HUMPHREYS. I ask unanimous consent to present a petition from 100 citizens of Knox County, Indiana, on the subject of reducing the tax on banks. I do not concur in the request of the petitioners, but as a Representative it is my duty to present their petition.

No objection being made, the petition was received, and referred to Committee of Ways and Means.

STAMPING UNSTAMPED INSTRUMENTS.

Mr. WALLING, by unanimous consent, introduced a bill (H. R. No. 4687) to extend the time for stamping unstamped instruments; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

EXPEDITION TO THE ARCTIC SEAS.

Mr. WILLIS, from the Committee on Naval Affairs, by unanimous consent, reported back, with a favorable recommendation, the bill (H. R. No. 4339) to authorize and equip an expedition to the arctic seas, and moved that the same be recommitted to the committee, and that the accompanying report be printed.

The motion was agreed to.

Mr. WILLIS also, by unanimous consent, presented the memorial of John D. Jones and others, praying for the passage of a bill organizing an expedition to the arctic seas; which was referred to the Committee on Naval Affairs.

FORECLOSURE SUITS.

Mr. WILLIS also, by unanimous consent, presented the memorial of the association of the bar of the city of New York, urging the passage of the bill (H. R. No. 4561) to provide for appearance on behalf of the United States in foreclosure suits; which was referred to the Committee on the Judiciary.

Mr. WILLIS. I ask that the memorial be printed in the RECORD.

Mr. HURLBUT. I object to the printing in the RECORD. There is no sense in cumbering up the RECORD with such things.

SAMUEL TRAVERS.

Mr. KEHR, by unanimous consent, from the Committee on Commerce, reported adversely upon the petition of Samuel Travers, owner of the brigantine Solferino, of Baltimore, for damage, &c.; and the same was laid on the table, and the report ordered to be printed.

Mr. JOHN REILLY. I ask unanimous consent to take from the Speaker's table Senate bill No. 1083.

Mr. EDEN. I object, and call for the regular order.

The SPEAKER. The regular order is the motion of the gentleman from Indiana [Mr. HOLMAN] that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. WALLACE, of South Carolina. Let us get through with some bills.

The SPEAKER. The Chair would be glad to get them through, but the regular order is demanded, which is the motion of the gentleman from Indiana, [Mr. HOLMAN.]

Mr. HOLMAN. I waived that motion, wishing to yield to gentlemen who have matters which they desire to bring before the House.

The SPEAKER. It was not the gentleman from Indiana who demanded the regular order; the gentleman from Illinois [Mr. EDEN] demanded it.

Mr. EDEN. I withdraw the call.

STATUE OF LIBERTY ENLIGHTENING THE WORLD.

Mr. HEWITT, of New York. By the instruction of the Committee on Foreign Affairs, by its unanimous order, I beg leave to report the joint resolution which I send to the Clerk's desk, and ask that it be put upon its passage.

The Clerk read the joint resolution, as follows:

Joint resolution authorizing the President to designate and set apart a site for the colossal of "Liberty enlightening the world," and to provide for the permanent maintenance and preservation thereof.

Whereas the President has communicated to Congress the information that citizens of the French Republic propose to commemorate the one hundredth anniversary of our Independence by erecting, at their own cost, a colossal bronze statue of "Liberty enlightening the world" upon a pedestal of suitable proportions, to be built by private subscription, upon one of the islands belonging to the United States in the harbor of New York;

And whereas it is proper to provide for the care and preservation of this grand monument of art and of the abiding friendship of an ancient ally: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized and directed to accept the colossal statue of "Liberty enlightening the world" when presented by citizens of the French republic, and to designate and set apart for the erection thereof a suitable site upon either Governor's or Bedloe's Island, in the harbor of New York; and upon the completion thereof shall cause the same to be inaugurated with such ceremonies as will serve to testify the gratitude of our people for this expressive and felicitous memorial of the sympathy of our sister republic; and he is hereby authorized to cause suitable regulations to be made for its future maintenance as a beacon, and for the permanent care and preservation thereof as a monument of art and of the continued good will of the great nation which aided us in our struggle for freedom.

There being no objection, the joint resolution (H. R. No. 193) was received and read a first and second time.

The question was upon ordering it to be engrossed and read a third time.

Mr. HEWITT, of New York. I do not think it necessary to add any words to the language of the joint resolution itself. The French people propose to give us as a mark of their friendship and respect a statue one hundred feet high, to be illuminated as a beacon for all time to come to welcome the stranger and the patriot to the great port of this country. I ask that the resolution be now put upon its passage.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HEWITT, of New York, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HARBORS OF REFUGE ON THE OHIO.

Mr. SAYLER. I ask unanimous consent to submit for consideration and adoption at this time the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That the Secretary of War be requested to report upon the expediency and utility of constructing a harbor of refuge upon the Ohio River at the mouth of Crawfish Bayou, on the eastern border of the city of Cincinnati, and to make a like report as to the mouth of Little Miami River, above said city.

Mr. CONGER. Does the gentleman mean an ice-harbor?

Mr. SAYLER. Yes; a harbor of protection from the flow of ice.

Mr. CONGER. Let that be put in the resolution.

Mr. SAYLER. I have no objection. I will modify the resolution by inserting after the words "harbor of refuge," the words "from flows of ice."

The resolution as modified was then adopted.

Mr. SAYLER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

A. M. GAROUTTE.

Mr. KASSON. I ask unanimous consent to have taken from the Speaker's table and referred to the Committee on War Claims Senate bill No. 949, for the relief of A. M. Garoutte, late captain and assistant-quartermaster of the United States Army.

No objection was made, and the bill was accordingly taken from the Speaker's table, read a first and second time, and referred to the Committee on War Claims, not to be brought back by a motion to reconsider.

ADVERSE REPORTS.

Mr. COOK, from the Committee on Military Affairs, by unanimous consent, reported adversely upon the following; which were laid upon the table, and the accompanying reports ordered to be printed:

A bill (H. R. No. 358) in relation to Army officers who have been commissioned from the ranks;

A bill (H. R. No. 4318) to authorize the President to restore John Jackson to his former rank in the Army; and

The memorial of Alexander Sutorius, late captain Third United States Cavalry, for re-instatement as captain of cavalry in the United States Army.

ABRAM C. MILLER.

Mr. MACKEY, by unanimous consent, introduced a bill (H. R. No. 4688) for the relief of Abram C. Miller, late lieutenant Company E, Eighteenth Regiment Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

P. D. GAITHER.

Mr. WALLACE, of South Carolina, by unanimous consent, introduced a bill (H. R. No. 4689) for the relief of P. D. Gaither; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

SAMUEL M. FREEMAN.

Mr. CASWELL, by unanimous consent, submitted the following resolution; which was read and referred to the Committee of Accounts:

Resolved, That the Clerk of the House of Representatives is hereby authorized and directed to pay out of the contingent fund of this House to Samuel M. Freeman the sum of $86.40 for services rendered under the Doorkeeper of this House from the 22d of July to the 15th of September, inclusive, at the rate of $1.60 per day.

GENESEE DISTRICT, NEW YORK.

Mr. DAVY, by unanimous consent, introduced a bill (H. R. No. 4690) to amend section 2535 of the Revised Statutes of the United States, extending the western boundary of the district of Genesee, in the State of New York, to the western line of Orleans county; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

IMMEDIATE TRANSPORTATION OF IMPORTED MERCHANDISE.

Mr. BURCHARD, of Illinois. I am instructed by the Committee on Ways and Means to report back House bill No. 4634 to amend the statutes relating to the immediate transportation of imported merchandise, with a substitute, which I ask may be considered at this time. The bill was referred by the committee to the Secretary of the Treasury, and the amendments suggested by him have been incorporated in this substitute. I will state briefly that the substitute proposes to amend the definition of the word "vehicle" in the statute so as to allow the transportation of merchandise when placed in trunks or in iron-bound safes, under the direction of the Secretary of the Treasury. At the present time merchants in the interior importing goods under the law are compelled to wait until a full cargo can be accumulated. This bill is to obviate that difficulty, and I ask that the substitute and the letter of the Secretary of the Treasury be now read.

Mr. CONGER. I desire to reserve the right to object.

The SPEAKER. The right will be reserved until after the substitute and letter have been read.

The Clerk read the substitute, as follows:

A bill to amend the statutes relating to the immediate transportation of imported merchandise:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the term "vehicle," used in sections 2994, 2995, 2998, 3001, and 3007 of the Revised Statutes of the United States shall be construed to include safes and trunks for the conveyance and transportation of imported merchandise; such safes and trunks to be of such size, character, and description as shall be from time to time prescribed by the Secretary of the Treasury.

SEC. 2. That the privileges relating to immediate transportation without appraisement conferred by sections of the said Revised Statutes from 2990 to 2999, both included, shall be extended to any and all packages of merchandise, excepting the articles excluded therefrom by said section 2990, which may be contained in any packed package whenever it shall appear from the invoice or bill of lading and manifest that such packages are consigned to and destined for either of the ports mentioned in section 2997 of the said Revised Statutes, and in subsequent acts extending the same privileges to other ports; and every entry shall embrace all the packages imported by or consigned to any one party which may be destined to any one of the ports so mentioned. The remainder of the packages embraced in such packed packages not intended for immediate transportation, as herein provided, may be entered at the port of first arrival in the manner now provided by law for the entry of imported merchandise generally at the ports of first arrival.

SEC. 3. That the Secretary of the Treasury be, and is hereby, authorized to modify in such manner as may be necessary to carry out the provisions of this act, the forms of oaths prescribed in section 2841 of the Revised Statutes.

The Clerk read the letter as follows:

TREASURY DEPARTMENT,
Washington, D. C., February 16, 1877.

SIR: I have the honor to acknowledge the receipt of your note of this date, in which you inclose for the views of the proper officers of this Department a bill now before your committee which proposes to make certain changes in the sections of the Revised Statutes, relating to the immediate transportation of goods without appraisement.

The first section of this bill proposes to permit the transportation, in packing-trunks or safes, of such size and character as may be prescribed by this Department, of goods intended for immediate transportation, the more special object being understood to be to carry in that manner goods of small bulk, but of great value, where they are not sufficient to fill a car.

If Congress should see fit to adopt such a measure, I apprehend that its execution would be practicable, and that it could be carried out without greater danger to the revenue than is incurred in the transportation of other goods, under the sections of law before mentioned, provided such transportation shall be permitted only under such regulations as may be prescribed by this Department.

The second section proposes to confer the privilege of immediate transportation without appraisement upon packages arriving from foreign countries packed in packages with other goods, which may be intended for entry at ports of first arrival, whenever it shall appear by the invoice or bill of lading and manifest that any of such packages are intended for the ports named in section 2997 of the Revised Statutes.

The privileges proposed by this section appear to be an extension of those conferred on importations of packed packages by the act of May 1, 1876, Statutes of 1876, page 49; and if the first section of this act shall be adopted allowing goods to be shipped without appraisement in packing trunks or safes instead of sealed cars, I fail to see any special objections to the second section as a question of law or safety.

The only question that suggests itself in connection therewith is as to its practical working, and on this point no proper judgment could be given, except after a submission of the matter to the experts of this Department, which would delay a reply to your note for a week or more.

The somewhat sweeping change in the forms of oaths proposed in section 3 would not appear to be necessary for the purposes of the act.

A modified form, in place of that section, is herewith inclosed, which seems to me sufficient, provided the other parts of the bill shall meet the approval of Congress.

The bill submitted is herewith returned.

I have the honor to be, sir, your obedient servant,

CHAS. F. CONANT,
Acting Secretary.

Hon. H. C. BURCHARD,
Committee of Ways and Means, House of Representatives, Washington, D. C.

SEC. 3. That the Secretary of the Treasury be, and is hereby, authorized to modify, in such manner as may be necessary to carry out the provisions of this act, the forms of oaths prescribed in section 2341 of the Revised Statutes.

Mr. CARR. I object.

Several members called for the regular order.

Mr. BURCHARD, of Illinois. This report is prvileged; and as the bill has now been read, I hope there will be no objection to making it a special order for consideration in the House to-morrow, after the morning hour.

Mr. CARR. I object to any action upon the bill.

The SPEAKER. The report is a privileged one. The gentleman has the right to make it at any time, but for commitment only.

Mr. HALE. How does the report become privileged?

Mr. CARR. I object to all consideration of the bill.

Mr. HALE. There are certain reports only of the Committee of Ways and Means which are privileged, just as there are certain reports of the Committee on Appropriations.

The SPEAKER. The Chair was advised by the gentleman from Illinois [Mr. BURCHARD] that he had the right to report this bill at any time. The right of the Committee of Ways and Means under the rules is to report at any time for commitment.

Mr. WILSON, of Iowa. That applies to certain measures only.

Mr. BURCHARD, of Illinois. To all bills referred to them.

Mr. WILSON, of Iowa. O, no.

Mr. BURCHARD, of Illinois. If the gentleman will refer to the rule he will find I am correct.

The SPEAKER. The recollection of the Chair sustains the gentleman from Illinois, [Mr. BURCHARD.] He will, however, refer to the rule.

Mr. WILSON, of Iowa. I have no objection, of course, to the gentleman reporting this bill, as a personal right; but I doubt his right to do so under the rules.

Mr. BURCHARD, of Illinois. The rule is that the Committee of Ways and Means is privileged to report at any time for commitment.

The SPEAKER. The Chair so understands.

Mr. BURCHARD, of Illinois. And I ask that this bill be set for consideration to-morrow after the reading of the Journal, and from day to day until disposed of, if its consideration is objected to at the present time.

The SPEAKER. The Chair will read the rule, which sustains his recollection:

It shall be the duty of the Committee of Ways and Means to take into consideration all reports, &c.; * * * and said committee shall have leave to report for commitment at any time.

Mr. BURCHARD, of Illinois. The gentleman from Michigan [Mr. CONGER] withdraws his objection, and I yield to him.

The SPEAKER. The gentleman from Michigan has not been recognized as making the objection. It comes from the gentleman from Indiana, [Mr. CARR.]

Mr. CONGER. I understand from the gentleman that the clause relating to the modification of fees is not in the substitute. If it is, I ask that it may be stricken out.

The SPEAKER. Does the gentleman from Illinois desire to report this bill for commitment?

Mr. BURCHARD, of Illinois. I desire to report it at this time for consideration.

The SPEAKER. The Chair rules that while a motion is pending to go into Committee of the Whole that can be done only by unanimous consent.

Mr. BURCHARD, of Illinois. Then I ask that the bill may be made a special order for consideration in the House to-morrow immediately after the reading of the Journal, and from day to day until disposed of.

The SPEAKER. That would require unanimous consent.

Mr. RICE and others objected.

SUNDRY CIVIL APPROPRIATION BILL.

The SPEAKER. The Chair will now test the sense of the House upon the motion of the gentleman from Indiana [Mr. HOLMAN] that the House resolve itself into Committee of the Whole to resume the consideration of the sundry civil appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole (Mr. BUCKNER in the chair) and resumed the consideration of the bill (H. R. No. 4682) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes.

The pending question was upon the amendment of Mr. FULLER, to strike out $20,000 and insert $49,000 as the appropriation for completing the building for court-house, custom-house, and post-office at Evansville, Indiana.

Mr. PIPER. I rise to oppose this amendment. I regret to do so, for as a general principle I believe that all our public buildings should be completed at as early a day as possible. But I see no good reason for making this an exceptional case; for it must be remembered by every gentleman here that this building received last year a special appropriation twice as great in proportion to the cost of the building as the appropriation in any other instance.

Furthermore, it seems to me that this little town somewhere down on the Ohio River, in the lower part of Indiana, is not of sufficient importance to make it a special favorite in our appropriations for public buildings. What its imports are, I know not. I presume that quinine is the principal one; and I have no doubt that the principal exports are whisky, staves, and hoop-poles. [Laughter.] Besides, it will be found upon examination that of the $50,000 appropriated last year, $39,500 remained unexpended at the beginning of this month; so that an additional appropriation now of $20,000 would make nearly $60,000 to be used for this building. This, it seems to me, must be ample. I hope the amendment will be voted down.

Mr. HOLMAN. I move *pro forma* to strike out the last word. I agree with the gentleman from California [Mr. PIPER] in all that he has said except as to the imports and exports of the city of Evansville. Of course the people there are not engaged in such vast enterprises as many of the citizens of California; yet they are a laborious and enterprising people and deserve well of the whole country.

But, Mr. Chairman, I agree with the gentleman that the appropriation in the bill ought not to be increased. Indeed the building ought not to have been erected. There was no excuse for commencing it. It stands on the same footing as the building at Parkersburgh, West Virginia, and other buildings of that class. It ought never to have been commenced; and the amount already expended is fully up to what was intended to be the entire cost of the building, $250,000. It is one of those works for which there is no excuse, if I must say so to my colleague, [Mr. FULLER.]

But the building is upon our hands. We appropriated for it last session $50,000, of which $39,500 remained unexpended on the first day of the present month. We now propose to appropriate $20,000 more to complete the building; and this is $20,000 in excess of the limitation imposed upon the whole cost of the structure by the act under which the work was commenced.

The appropriation of $20,000 with $39,500 now on hand makes, as my friend will perceive, $59,500 to be expended on that building. And I do insist my friend from that district, [Mr. FULLER,] vigilant as he always is in behalf of the interest of his constituents, should bear in mind the appropriation for the balance of this fiscal year and this appropriation for the next fiscal year will be fully up to the average of appropriations made for public buildings throughout the country with the exception, perhaps, of the buildings in the great cities of Chicago, Saint Louis, Cincinatti, and Philadelphia. Those great structures, to be sure, have swallowed up everything. They are influential in our legislation and have been able to place the figures beyond what is believed to be proper by fair-minded gentlemen who are able to give the subject impartial consideration.

As to this Evansville improvement it should not have been entered upon. It has already obtained all that was asked for when the building was originally commenced, and all that it was then understood it would cost. Thirty-nine thousand five hundred dollars to go upon as an unexpended balance for this year, and $20,000 for next year in my judgment is a sufficient appropriation, and I do think my friend with a proper regard to economy ought not to ask for any more. Therefore I believe the argument made by the gentleman from California [Mr. PIPER] in support of his amendment is substantially correct.

Mr. FULLER. I wish to inform my colleague from Indiana, chairman of the Committee on Appropriations, that he is mistaken when he says the amount of money intended to be allowed by law for this

building at Evansville has already been appropriated or will be when this appropriation is made. When the law was passed for the purpose of building a post-office and court-house in the city of Evansville, it was on condition we were to appropriate $100,000 for the purchase of the site, and $200,000 for building the structure. One hundred thousand dollars was appropriated, and of that $99,000 was used in the purchase of a site. One hundred and fifty thousand dollars was appropriated for the purpose of constructing the building. One thousand dollars was left over and above the cost of the site, to go toward the structure of the building. That would make $201,000 we were entitled to under the law, leaving a balance of $49,000 yet to be provided. We are informed by the superintendent of that building that if $49,000 be appropriated, which is the amount we are entitled to under the law, that structure will be completed by the early spring in 1878. The only difference is, if we do not appropriate the whole amount now, that building will have to be carried over another year, and will take two years to complete it instead of one.

I ask my friend, or any other gentleman in this House, if he can tell me why the Government loses one dollar by the completion of this building. If we make the appropriation of $49,000 its completion will be secured at the earliest possible moment. We passed a law to erect this structure, and it is now near completion. The money is to come out of the Treasury some time, and I want to know how the Treasury can lose one dollar by appropriating the full amount necessary to complete the building.

[Here the hammer fell.]

Mr. ATKINS. I wish to say one word in regard to this matter.

The CHAIRMAN. Debate is exhausted.

Mr. ATKINS. Then I move to strike out the last two words.

Mr. Chairman, I do not see why the building at Atlanta should be completed more than other buildings now in the course of construction throughout the country.

Mr. HOLMAN. The gentleman means Evansville, Indiana.

Mr. ATKINS. Yes, sir; I mean Evansville, Indiana, and not Atlanta.

Mr. COOK. I hope my friend will not trouble Atlanta.

Mr. ATKINS. I had Atlanta in my mind, and the reason why I had Atlanta in my mind is this: we did not make any such appropriation for Atlanta or Nashville. To the latter we only gave $13,000 in addition to what is already on hand. We gave nothing to Memphis and a great many other cities. I say, therefore, to the gentleman from Indiana, [Mr. FULLER,] who represents Evansville district, that we have given proportionately a larger amount for the building in that city than we have to any other cities of this country, with the exception, perhaps, of the buildings in the four large cities. I think the remarks of the chairman of the committee are exceedingly appropriate, therefore, and I believe we have given enough; but we do not propose to complete all these buildings now, for we cannot do so unless this House is ready to increase the revenues of the country by increasing the taxes upon the people. We have got to do one of three things—we have to economize in this as well as in other matters, or we have to raise more taxes, or else issue bonds and create additional loans. I do not think it is the policy of Congress to raise more taxes or to create any new loans, and therefore we had better limit these appropriations and keep them at least within the margin of the revenues of the Government.

I think the gentleman from Indiana [Mr. FULLER] in asking for an increase of the appropriation here reported is asking us to do more than is required, and more than has been granted in the way of appropriations to buildings in other cities, excepting it may be the buildings in large cities, and so far as they are concerned I do not entirely agree with the chairman of the committee, because I think the large cities should have had their appropriations extended to $400,000. Still, in order to gratify my friend, the chairman of the committee, I voted with him, although I believe public policy is much better subserved by larger appropriations for those cities, as we would thereby save the large rents which are now paid for the use of private buildings for public purposes.

Mr. LANDERS, of Indiana. I move to strike out the last word.

Gentlemen will readily see this is an exceptional case. It only requires an increase of the appropriation a few thousand dollars to complete this building and make it ready for occupation, while the Government is paying perhaps three times the amount of the interest in the way of rent.

It appears from the report which was read that it only requires about $30,000 to complete this work. At the same time let me say that Evansville has been very modest. The work originally was designed to cost only about $250,000, and I wish to say, Mr. Chairman, for the benefit of my friend from California [Mr. PIPER] that when the Government invests its money in a building in Evansville it can do so with more safety than in a building in California. The gentleman has informed us that his city, San Francisco, has been visited by an earthquake, and that the Government building was destroyed there. There has been no such visitation in Evansville.

Mr. PIPER. I beg leave to correct the gentleman. I made no such assertion.

Mr. LANDERS, of Indiana. I understood the gentleman to say that the old Government building was destroyed by an earthquake.

Mr. PIPER. That building does not belong to the Government, but to a private individual.

Mr. LANDERS, of Indiana. I have yet to discover that public property is more exempt from such ravages than private. At all events it is evident from the gentleman's statement that San Francisco has been visited by earthquakes.

Mr. PIPER. Do you never have them in Indiana?

Mr. LANDERS, of Indiana. No, sir.

Mr. PIPER. Then you do not know the history of your own State. [Laughter.]

Mr. LANDERS, of Indiana. I would be very much pleased if the gentleman would give me the date of an earthquake in Indiana.

Mr. PIPER. Eighteen hundred and twelve.

Mr. LANDERS, of Indiana. There was no Indiana in 1812. The gentleman is somewhat deficient in history himself. [Laughter.]

Mr. CONGER. I desire to ask the gentleman from Indiana a question. I wish to ask him whether he does not claim for Indiana all the rights and privileges of all the other States of the Union, including earthquakes? [Laughter.]

Mr. LANDERS, of Indiana. I would say to the gentleman from California that Indiana is not so liable to be visited by earthquakes as States situated on the coast.

[Here the hammer fell.]

Mr. FULLER. I desire to make one further remark in answer to my colleague from Indiana, the chairman of the Committee on Appropriations.

The CHAIRMAN. Debate on the pending amendment is closed.

Mr. FULLER. I move to strike out the last word.

If only this appropriation of $20,000 should be made there will be left a balance of unappropriated moneys belonging to the custom-house at the city of Evansville, amounting to $29,000. Now if you count the rents we pay for the custom-house, post-office, and court-rooms, they will amount to a larger sum than the interest of $29,000 for twelve months. On the score of economy therefore there is no force in the argument of my colleague from Indiana.

Mr. HOLMAN. I rise to oppose my colleague's proposition. The truth is we have not got the money. The gentleman from Tennessee [Mr. ATKINS] has spoken truly in regard to that. Every gentleman must see, if he will examine the condition of the Treasury, and the probabilities of the Treasury for the next two years, that we have not got the money; and you have either to increase taxation or to make a new loan and issue new bonds, or you have got to retrench expenditures even below the present point of expenditure.

My friend should bear in mind that this custom-house is not an exceptional case, and that you cannot increase that item of appropriation without as a matter of common justice increasing all the others of the same class. There is indeed a larger amount made available from this time to the end of the next fiscal year for the Evansville building than for any other of the buildings of the same class. The work there has not been conducted with economy. In that town, or perhaps I should say that in that large and growing city, situated virtually at the head of deep-water navigation of the Ohio River, the cost of the site alone exceeded $98,000. The site alone was permitted to cost the enormous sum of $98,000. I see no reason why, in a case where the amount of business does not now justify such buildings for years to come, there should be an appropriation larger than the appropriations made for other works of a similar character. I cannot insist on it for my own State, and my friend should not insist on it for his own district.

Mr. FULLER. I move to strike out the last two words.

I cannot allow the misrepresentation of my colleague to go unanswered. He speaks of Evansville as a small town at the head of navigation on the Ohio River. I will inform my colleague that Evansville is a city of 40,000 inhabitants, and is the headquarters for the commerce of five rivers, the Ohio, Green River, Cumberland, Tennessee, and Wabash. My friend therefore, is very much mistaken, and does not seem to be more familiar with the history of his own State than my friend from California, [Mr. PIPER,] who professes to understand all about Indiana. Evansville, as I have said, has a population of 50,000, and is as enterprising a city as you can find in this whole country.

Mr. HOLMAN. I beg pardon of my friend. He misunderstood me if he thought I spoke of Evansville as a small town. It is certainly one of the most prosperous cities of that valley. It is not one of the great cities of the country, but it is one of the prosperous cities of the good State of Indiana; and I am pleased that my friend has been induced to rise in vindication of the city of Evansville.

Mr. CONGER. Has it decreased in size and business since it got out of the district of the gentleman's colleague?

Mr. FULLER. It increases very rapidly, daily.

Mr. CONGER. I ask whether it has decreased?

Mr. FULLER. No; it has not decreased. It is increasing every day.

The question was taken on Mr. FULLER'S amendment, and there were—ayes 16, noes 45.

Mr. FULLER. No quorum has voted, and I ask for tellers.

Tellers were ordered; and Mr. FULLER and Mr. HOLMAN were appointed.

The committee divided; and the tellers reported—ayes 53, noes 69.

So the amendment was not agreed to.

The Clerk resumed the reading of the bill, and read as follows:

Repairs and preservation of public buildings: For repairs and preservation of public buildings under control of the Treasury Department, $100,000.

Mr. GOODIN. I submit the following amendment, to come in after that paragraph:

For construction of post-office building at Topeka, Kansas, $50,000.

Mr. HOLMAN. I make the point of order that that is not authorized by law.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SMALLS. I offer the following amendment, to come in after the paragraph last read:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase the lands and buildings now occupied as a custom-house, or any other buildings, at Beaufort, South Carolina, together with such adjoining property as may be necessary to provide accommodation for the offices of the said custom-house, the post-office, and such other public offices as it may be proper to establish therein; including such wharves and buildings as may be required by the Light-House Board; and for this purpose there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $30,000, (if so much be necessary,) to be expended under the direction of the Secretary of the Treasury: *Provided*, That no money hereby appropriated shall be used or applied for the purposes mentioned until it shall appear that the State has duly released and relinquished to the United States the right to tax, or in any way assess, the site, or the property of the United States that may be thereon, during the time that the United States shall be or remain the owner thereof.

Mr. ATKINS. I raise the point of order upon that amendment, that there is no provision of law providing for that appropriation.

The CHAIRMAN. The point of order is well taken.

Mr. SMALLS. What is the decision of the Chair?

The CHAIRMAN. There is no existing law under which this appropriation can be made.

Mr. SMALLS. Then I understand that the Chair sustains the point of order.

The CHAIRMAN. Certainly.

The Clerk resumed the reading of the bill, and read as follows:

Lighting and buoyage of the Mississippi, Missouri, and Ohio Rivers: For maintenance of lights on the Mississippi, Ohio, and Missouri Rivers, and such buoys as may be necessary, $125,000, to be expended under the direction of the Chief of Engineers of the United States Army.

Mr. HOLMAN. I rise to a question of order. The last clause of that paragraph is subject, I believe, to a point of order: the words, "to be expended under the direction of the Chief of Engineers of the United States Army." Upon that point of order I wish to state that the Committee on Appropriations, in inserting this clause, thought that a very material reduction of public expense might be made by dispensing with one corps in the public employment on the Western rivers. There is necessarily a body of gentlemen employed under the Chief of engineers on the Mississippi River and the tributaries of that river, and it was believed by the committee, and has been believed for several years, that valuable economy might be promoted by putting the lighting of the river and its tributaries under that branch of the public service. But communications received from the Chief of Engineers this morning and from other sources satisfy me that for the present that economical reform cannot be hoped for. I therefore make the point of order upon that clause that it is new legislation.

Mr. BANKS. I rose to make the same point, but I am satisfied with the statement made by the gentleman from Indiana, [Mr. HOLMAN.]

The CHAIRMAN. If there be no objection the words will be stricken out.

Mr. BANKS. They must be stricken out if the point of order be sustained. This is not allowed by any existing law.

The CHAIRMAN. The Chair then sustains the point of order and the words will be stricken out.

The Clerk resumed the reading of the bill, and read as follows:

For establishing a day-beacon on Anita Rock, San Francisco Harbor, California, $2,300.

Mr. CONGER. I offer the following amendment to come in after that paragraph:

For completing light-house at Point Austin light-station, at Pointe au Barques, Michigan, $75,000.

In 1873 Congress made an appropriation of $10,000 for commencing the construction of a light-house at this point. The Secretary of the Treasury in his estimates for last year recommended the construction of this light-house out on a rocky reef four miles out in Lake Huron, or rather in Saginaw Bay, at its junction with Lake Huron, and that the work upon the reef should be commenced, providing the whole expense of the light-house should not exceed $85,000.

Last year Congress adopted that proposition and authorized the change to the reef, limiting the amount of the cost to $85,000. The Light-House Board reported that the light-house, instead of being built inland, on shore, can be built out in the lake on this reef for that amount, and have made in their report an estimate of $75,000 to build it, and I ask the attention of the committee to the fact that this point is the most dangerous point for the navigation of all the vessels of the Northern lakes. The whole fleet from the Northern lakes, from Chicago to Lake Superior, pass this point. There has been lost upon the reefs where this light-house is proposed to be built within the last eleven years over $5,000,000 worth of property. There have been lost there and in that vicinity within the last eleven years, and mostly within the last six years, thirty-three lives of our citizens. At this point there are several reefs running out into the lake at its junction with Saginaw Bay, which all who have traversed the lakes know to be the most dangerous point on all the lakes, the point most dreaded by sailors and by travelers, Saginaw Bay. I ask, then, that this appropriation may be made, to go on with and continue a work authorized by Congress, and that the light-house be placed in the most desirable position for the safety and lives of our sailors and citizens. I need not speak of the merits of this work. All those who have read the report of the Light-House Board, and especially the communication which they made last year upon the subject, will be aware of the absolute necessity of a light-house there. I believe that the Committee on Appropriations will not oppose the appropriation for this light-house. It is built out on a reef on the water, and the appropriation should be made to finish it at once. There is, perhaps, no place where there is a greater necessity for such a light-house.

Mr. ATKINS. Will the gentleman allow me to ask him a question?

Mr. CONGER. Certainly.

Mr. ATKINS. I believe this light-house is not yet begun?

Mr. CONGER. The site of the light-house was selected on the land, and then, owing to the request of most of the captains and sailors upon the lake, last year Congress ordered that the light-house be built, not on the mainland, but on this reef.

Mr. ATKINS. The original estimate for the light-house was $85,000?

Mr. CONGER. Yes.

Mr. ATKINS. And the sum of $10,000 was appropriated?

Mr. CONGER. Yes.

Mr. ATKINS. How much of that sum has been expended?

Mr. CONGER. I do not know; a portion of it was expended this last year by the Light-House Board in making the proper surveys for building the light-house upon the reef, and their estimates have been sent in to the Committee on Appropriations.

One word further. I would not urge, this year, an appropriation for this particular light-house only that being familiar with that region, passing by this point as I do several times a year; having seen, as members may see to-day, the skeletons of wrecked vessels lying there on the reef and on the shore; knowing as I do that over thirty lives have been lost in that vicinity during the gales of past years, most of them in the September gales of two years ago; having seen the petitions of almost every captain on the lakes, and of the insurance companies and chambers of commerce in lake cities urging the necessity of this light-house for the protection of the navigation of the great lakes, I feel compelled by a sense of duty to urge that this appropriation be now made in order to avert these great dangers to life and property.

Mr. HOLMAN. By the act of March 3, 1873, there were appropriated $10,000 for this work. On account of the unsatisfactory location selected by the act of 1873 nothing has ever been done, so that this work has not yet been commenced. It is a work authorized, but no appropriation has been made for it that has yet been made available, the $10,000 appropriated heretofore not having been yet expended.

This work stands substantially upon the same footing as a great many works of the same kind on the Northern lakes, the Pacific coast, and the Atlantic coast. At a time when the condition of the public Treasury would justify it, I have no doubt that quite a large number of works of this class should be erected. But the appropriations made by this bill for this particular branch of the service are as fully up to the capacity of the country to bear burdens for the present as I think they ought to be.

That this work will be built ultimately when the country is in such a condition as to justify the expenditure, I have no doubt. But I trust the gentleman from Michigan will not press this appropriation at this time. We cannot enter upon this work and at the same time refuse to enter upon quite a large number of works of a similar character.

Mr. CONGER. I move to strike out the last word for the purpose of making a single remark further. There are several places upon these lakes which have been recommended as locations for additional light-houses. I will not urge the House to make appropriations for them now as they are not of such immediate and vital necessity. In 1873 Congress admitted the necessity for this work and made a preliminary appropriation. Finding, as the chairman of the Committee on Appropriations says, that the proper place had not been selected for its erection, Congress last year authorized its erection upon the reef. On account of the great danger at that particular point, Pointe au Barques, the most dangerous place on the whole lakes, Congress last year authorized a life-station to be established there, and it has already been established. If I had time I could satisfy every gentleman here of the absolute necessity of having this light-house erected there at this time. There has been kept a light on the shore at one of the mills there and at private expense for many years past as a warning to vessels to avoid this reef.

I desire to say to this committee that there pass this reef every year from thirty-five to forty thousand vessels. There is no place in the United Stafes where so many vessels pass by a given point on the lakes as at this point. By actual count of officers authorized by the Treasury, at the light-house at the head of Saint Clair River it is found that from thirty-five to forty thousand vessels each year pass this point and are exposed to the perils of this navigation.

The question was then taken *viva voce* upon the amendment of Mr. CONGER, but before the result was announced,

Mr. BRADLEY said: If the gentleman will withdraw his amendment I will renew it.

Mr. ATKINS. The committee is now dividing.

Mr. CONGER. I will withdraw the amendment.

Mr. BRADLEY. I renew it, and desire to occupy a few moments upon it.

Mr. ATKINS. I make the point of order that the committee is now dividing.

Mr. BRADLEY. I do not wish to be interrupted.

Mr. ATKINS. We must proceed with this bill if we would get through with it.

Mr. BRADLEY. I believe I was recognized by the Chair, and had already commenced my remarks.

The CHAIRMAN. The point of order being made that the committee was dividing, the Chair must sustain the point of order.

Mr. CONGER. Does the Chair rule that debate cannot continue upon a new amendment, even if the committee is dividing?

The CHAIRMAN. The Chair so rules.

The question was again taken upon the amendment of Mr. CONGER, and upon a division there were—ayes 53, noes 46.

Before the result was announced,

Mr. HOLMAN said: No quorum has voted, and I call for tellers.

Tellers were ordered, and Mr. CONGER and Mr. HOLMAN were appointed.

The committee again divided; and the tellers reported—ayes, 75 noes 73.

So the amendment was agreed to.

The Clerk read as follows:

For establishing day-beacons on the coasts of Maine, New Hampshire, and Massachusetts, $10,000.

Mr. HALE. I move to strike out this clause, because the subject is provided for in a subsequent part of the bill, where better language is employed to cover the purpose.

The motion of Mr. HALE was agreed to.

Mr. HALE. I move to amend by inserting the following:

For steam fog-signals on Whalesback Island, in the harbor of Portsmouth, New Hampshire, $5,000.

I ask that a letter on this subject be read.

Mr. HOLMAN. Let it go.

Mr. HALE. If there is no objection to the amendment, all right.

The amendment was agreed to.

The Clerk read as follows:

For commencing the construction of a light-house at Stannard's Rock, Lake Superior, Michigan, $25,000.

Mr. LE MOYNE. I move to amend by striking ont $25,000 and inserting $50,000. An application having been made for the commencement of this work, the Committee on Appropriations have recognized the importance of the work by reporting an appropriation for the purpose. But $25,000 will be entirely inadequate to make even a beginning. As has been suggested, this appropriation would perhaps pay two or three salaries, but it would really do nothing more. The Light-House Board has recommended to the committee an appropriation of $100,000 as proper to be made this year to begin the work. This amount would really make a commencement. But instead of reporting such an appropriation, the committee proposes to give only $25,000, which will be of very little utility in beginning the work, and will not really be economical.

I would like to have read a resolution on this subject adopted by the Board of Trade of Chicago, and would also call the attention of the committee to the fact that the Legislature of Michigan has unanimously passed a resolution, which was presented this morning, urging upon Congress the importance of this work.

Mr. HOLMAN. I do not think that this motion is in very good faith, if the gentleman from Illinois [Mr. LE MOYNE] will allow me to say so. The appropriation as it stands in the bill is subject to a point of order, and such a point would have been made had it been expected that an effort would be made to increase the amount. This is a new work entirely; the bill contains the first authority for beginning it; and it does seem to me that an appropriation giving $25,000 to begin a work of this kind is very ample. I can assure my friend from Illinois that if it had been understood there would be an effort to increase the amount, a point of order would have been made upon this appropriation. When we have reported an appropriation for beginning a new work, which is subject to a point of order, I do not think that we are treated with fairness when the gentleman undertakes to increase the amount.

The CHAIRMAN. Does the gentleman from Indiana make a point of order?

Mr. HOLMAN. It is too late to do so, I presume.

Mr. LE MOYNE. Would the gentleman make a point of order on his own bill?

Mr. HOLMAN. Of course members of the Committee on Appropriations frequently differ upon questions of this kind. The committee are perfectly familiar with this subject, and $25,000 would not have been reported if it had not been understood that this was to be satisfactory for the present year.

The CHAIRMAN. The document sent up by the gentleman from Illinois [Mr. LE MOYNE] will be read.

The Clerk read as follows:

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The undersigned, by order and on behalf of the Board of Trade of the City of Chicago, and representing in large measure the marine interest of the great lakes, beg leave to respectfully represent unto your honorable bodies that a dangerous reef of rocks, known as "Stannard's Rocks," exists in Lake Superior, directly in the usual course of vessels navigating those waters above Marquette, and that no appropriate light or other appliance exists to indicate the location of said rock and warn mariners of the danger to which they are exposed; therefore, your memorialists respectfully pray your honorable bodies that you will at the present session make the necessary appropriation, as asked by the Light-House Board, and authorize the early construction of a suitable light-house at the place indicated, to the end that the perils of navagation incident to the exceedingly dangerous character of this obstruction may be abated.

And your memorialists will ever pray, &c.

D. H. LINCOLN, *President.*

Attest: CHAS. RANDOLPH, *Secretary.*

CHICAGO, ILLINOIS, *February*, 1877.

The question being taken on the amendment of Mr. LE MOYNE, it was not agreed to.

The Clerk read as follows:

BUREAU OF ENGRAVING AND PRINTING.

For labor and expenses of engraving and printing, namely: For labor, (by the day, piece, or contract,) including labor of workmen skilled in engraving, transferring, plate-printing, and other specialties necessary for carrying on the work of engraving and printing notes, bonds, and other securities of the United States, the pay for such labor to be fixed by the Secretary of the Treasury at rates not exceeding the rates usually paid for such work; and for other expenses of engraving and printing notes, bonds, and other securities of the United States; for paper for notes, bonds, and other securities of the United States, including mill expenses, boxing, and transportation; for materials other than paper required in the work of engraving and printing; for purchase of engravers' tools, dies, rolls, and plates, and for machinery and repairs of the same, and for expenses of operating macerating machines for the destruction of the United States notes, bonds, national bank notes, and other obligations of the United States authorized to be destroyed, $800,000.

Mr. LUTTRELL. I move to amend by inserting at the end of the paragraph just read the following:

Provided, That the work be performed at the Treasury Department.

Mr. HOLMAN. I desire to reserve a point of order on that amendment.

Mr. LUTTRELL. Will the gentleman state his point of order?

Mr. HOLMAN. I suppose the point would hardly be sustained, as I observe that the amendment is in the form of a condition upon the appropriation. I shall have to withdraw the point.

Mr. LUTTRELL. Mr. Chairman, I desire to give briefly my reasons for offering this amendment. In the first place, this work is now being performed by the bank-note company, and they are receiving for it a larger sum than would have been expended by the Treasury Department for the same work. The proposition under which the work would have been done at the Treasury Department was much lower than that of the bank-note company, but the latter has received the contract. Now, I offer this amendment in good faith, believing that this work should be performed by the Government in the Treasury Department. We have the material; we have everything necessary for the performance of the work. Besides, the execution of the work here in the Department gives employment to hundreds of the widows and orphans of our brave soldiers, whose only means of support is in the performance of such work. Only a few weeks ago four hundred of these widows and orphans were dismissed, and the contract was given to this bank-note company. Now, I hope that every man on this floor who has a spark of sympathy in his breast for the widows and orphans of those who fell in defense of their country's flag will vote for this amendment.

Why should this work be given to the bank-note company? There is a secret in the matter which I do not wish to call in question now; but, sir, it was an outrage, because the bank-note company is receiving for this work very much more than the sum at which it was proposed to be done in the Treasury Department. I hope the amendment will prevail. It simply provides that the work shall be executed in the Department, leaving the Secretary of the Treasury to regulate the prices to be paid.

Mr. HOLMAN. This work may be done in the Treasury Department now. The only effect of the gentleman's amendment is to take this subject from the control of the Secretary of the Treasury and require the work to be done at a particular place. The duty of the Secretary of the Treasury is to have the work done as cheaply as possible; and in the judgment of the Committee on Appropriations it is very unsafe to restrict him as to the methods and means by which this work shall be done. If it can be done as cheaply in the Treasury Department, it ought to be done there, and undoubtedly will be. If part of it can be done more cheaply elsewhere, then the duty of the Secretary of the Treasury is plain. This provision has stood as a part of the law for several years, and it is certainly safer to leave it under the control of the Secretary of the Treasury.

Mr. LUTTRELL. In reply to the gentleman's point——

The CHAIRMAN. Debate is exhausted.

Mr. W. B. WILLIAMS. I move to strike out the last word; and I rise, Mr. Chairman, more for the purpose of correcting a statement the gentleman from California [Mr. LUTTRELL] has made than to oppose his proposition. He is entirely mistaken in his premises in reference to the cause of the discharge of the employés of the Bureau of Engraving and Printing during the last winter. The only work now being done to any extent by the bank-note companies is the printing of the internal-revenue stamps, and that has been provided for by a bill which passed the House a short time ago. That has been and would have been restored otherwise without any action of the House. The national bank-notes are the only bills which were being printed outside, and they have been and are being rapidly

withdrawn into the Treasury. There are only a few classes, or rather a few particular denominations, which have not yet been brought back into the Bureau of Engraving and Printing. A proposition such as that proposed by the gentleman from California would perhaps defeat the work being done in the bureau here under the Treasury Department, if the bureau is able, as I believe it is, to do the work more cheaply than it can be done elsewhere. I think the language of the amendment is unfortunate. It ought to provide "if it can be done as cheaply in the Department as elsewhere."

One word further and I will yield the floor to the gentleman from California. The contract for printing the internal-revenue stamps was let in 1874, and is not a recent change. The effort of the Department has been to get it back into the Bureau of Engraving and Printing.

Mr. LUTTRELL. We ought not go outside to have any work of this character performed when we have the means and material to do the work.

Mr. W. B. WILLIAMS. I am in favor of having it all done here.

Mr. LUTTRELL. Then I hope my amendment will prevail.

I wish to say, in reply to the chairman of the Committee on Appropriations, that if we are to judge the future by the past we will have to pay a much larger sum in having this work done by the bank-note companies than by having it done in the Treasury Department.

Mr. ATKINS. As the chairman of the Committee on Appropriations has stated, I think we can safely leave this whole matter with the Secretary of the Treasury. I do not believe this House ought to hamper the Secretary of the Treasury by any such provision as that proposed in the gentleman's amendment. He has now this whole thing in his charge, and is better qualified to judge how this work should be done, so as to protect the Government and protect the currency, than we possibly can be.

As to the question of economy which the gentleman from California raises, I do not think there is anything in that; for the reason if other companies shall be required to do some of this printing, or part of this printing, the Government Bureau is relieved of that much expense so far as that is concerned. Besides, I think it is a matter of safety and protection to the currency that its engraving should be done at different establishments, that it should not all be done in any one establishment, although that should be the Treasury Department. I think it is better to divide it. There is less opportunity for collusion, less opportunity for fraud, and that is what we wish to avoid. I think for the protection of the currency this matter should be left to the option of the Secretary of the Treasury, who will act for the benefit of the Government and for the protection of the currency.

Mr. BANKS rose.

The CHAIRMAN. Debate is exhausted.

Mr. W. B. WILLIAMS. I withdraw the amendment.

Mr. BANKS. I renew it. What has been said, Mr. Chairman, by the gentleman who has just taken his seat in regard to the discretion properly lodged with the Secretary of the Treasury is undoubtedly correct, and I should regret either to make or to hear made any intimation that we distrusted the judgment of the Secretary of the Treasury in that regard. But while the present Secretary may take one view of this policy another Secretary might take a different view, and thus we would be changing from time to time in regard to one of the most important of measures and duties of the Government, and that is the protection of the currency in behalf of the people as well as the Government. This ought to be done under some permanent provision of law, so there should not be from time to time a continual change in the method of doing it. Inasmuch as the machinery has been provided and the Treasury building has been strengthened in order that the work might be done there, and inasmuch as there is a guarantee, a security, a guard over any counterfeiting or falsification of the currency of the country which the Government cannot have over contractors or private establishments, it seems to me, if it can be done as well and cheaply there, it ought to be done in the Bureau of Engraving and Printing. As the gentleman from Michigan has given the House the assurance that the Department has endeavored to get this work——

Mr. ATKINS. Let me say that is the proposition he makes, to leave it to the Secretary of the Treasury to have it done in the Treasury Department or elsewhere.

Mr. BANKS. I am for a proposition that shall direct the Secretary of the Treasury to do this in the department of the Government provided for that purpose until otherwise provided by law.

If the gentleman from Michigan [Mr. W. B. WILLIAMS] can state to the committee that the Department is endeavoring to get this work back into the hands which have been employed under it, and to do it under the inspection and eye of the Government, I should be satisfied with that without any further action. But it seems to me that if the Government is going to provide this paper currency, it should take it under its own supervision and guard, and not trust it to anybody else—whether it should be done cheaper or not—over whom it could not have supervision and control.

Mr. W. B. WILLIAMS. I desire to say that the subcommittee which had this matter in charge gave the subject careful examination. The Secretary of the Treasury has been before us and also the experts in the Bureau of Engraving and Printing. That subcommittee, I think, is unanimous in the impression that this work should be done in the Bureau of Engraving and Printing if it can be done there as cheaply as it can be outside; and we are of opinion, after a full investigation of the subject, that it can be done as cheaply; and that there will thus be given to the people in regard to all the securities of the Government far greater security because of the system of checks adopted in the bureau. There is a check there on every sheet of paper which goes into the bureau, guaranteeing perfect safety in the execution of the work.

The Secretary of the Treasury, however, is anxious to have the bureau conducted upon something that may be considered a strict business basis. He has been working to bring that about, and at the same time to get back into the bureau all the work of the Government; and I believe that he is doing that in good faith. I would have no objection to the amendment of the gentleman from California [Mr. LUTTRELL] if it were somewhat differently worded.

Mr. LUTTRELL. I am willing to accept any amendment the gentleman may suggest if the object I have in view be secured.

Mr. BANKS. I suggest the addition of these words:

Provided it can be done as cheaply, as perfectly, and as safely.

Mr. W. B. WILLIAMS. I think the language suggested by the gentleman from Massachusetts will answer very well. I wish to add one word further in reference to the remarks of the gentleman from Massachusetts. It is really very important that there should be stability in the work of this bureau. The great difficulty has been that work has been given to it at one time and taken from it at another. There should be some regular system. At the same time a healthy competition will not hurt the bureau.

Mr DURHAM. I move to strike out the last word. Two years ago, in the last session of the last Congress, the Committee on Banking and Currency took a great deal of testimony in regard to this matter of engraving and printing. If gentlemen will take the trouble to look for them they will find two reports on that subject now in the document-room, one of the majority and the other of the minority of the committee. Those reports show this fact which controverts one position taken by the gentleman from California. The bureau did not propose to do the work as cheaply as it was done in the office at New York. What has occurred since that time I do not know.

But I differ with my friend from Michigan in this respect, that I undertake to say that it is not safe to have all this work done in the bureau at this point. I want as much of the work done here as can be done, keeping in view the consideration of safety. The economy is a small matter in comparison with the safety of the printing and engraving.

Why is it not as safe to do all the work in one office as in two or three? Every Secretary that has had control of this matter heretofore has deemed it prudent as a matter of security to have the work done in three different offices. The gentleman says Secretary Bristow did not. I beg the gentleman's pardon. Secretary Bristow did think it necessary to have this work so done. I do not speak of the common ordinary stamps, but of the currency of the Government. The very statement of the proposition I make will prove that what I say is true. For instance, take a greenback. You print the back of the greenback at one place, and then one impression on the face of it at another; finally, the numbering is put on here in the Department. When this is done, how can there be any collusion? If you have one set of plates at New York, and another at Philadelphia, and another here, how can you bring these plates together so that there can be any counterfeiting done? It would be easy to get all the plates together where you have the work all done at one office and so defraud the Government, whereas it would be utterly impossible to do that where the work is done in three different offices. My judgment is, having investigated this subject during three long months, that you do not have perfect security unless you have the printing done in more than two offices. I mean you ought to have parts of the work done in two offices outside of the office of the Printing and Engraving Bureau here. But so far as it can be done consistently with security it should be done here, because we have the capital, the material, and the employés here. But I beg gentlemen not to overlook this grand consideration, that it is more important to have confidence in these bills and other securities than to effect the saving of a few dollars, or to secure the employment of a few females that may be here in Washington City.

Mr. LUTTRELL. I think the gentleman misunderstands this matter. I understand that Secretary Bristow was in favor of doing this work in the Department. That is my understanding, and has been my understanding for the last three years.

Mr. DURHAM. Why I can go into a New York office and show a contract signed by Secretary Bristow giving this work, or a part of it, to a New York company.

Mr. LUTTRELL. Yes, because you made a law compelling him to do so. Now, this amendment provides that the Secretary of the Treasury may make his own contract and direct that work shall be performed in the Treasury Department, provided it can be performed as cheaply and safely as in any other way. I accept the amendments of the gentleman from Michigan [Mr. W. B. WILLIAMS] and the gentleman from Massachusetts, [Mr. BANKS,] and I hope that the amendment as modified will be adopted.

The amendment, as modified, was read, as follows:

Provided, The work be performed at the Treasury Department: *And provided further*, That it can be done as cheaply, as perfectly, and as safely.

Mr. LUTTRELL. Now I think the amendment covers everything that is necessary in the premises, and I hope it will prevail.

Mr. HOLMAN. That is apparently unimportant; let it pass.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read as follows:

COAST SURVEY.

Survey of the Atlantic, Pacific, and Gulf coasts: For every purpose and object necessary for and incident to the continuation of the survey of the Atlantic and Gulf coasts and the western coast of the United States, and the Mississippi River to the head of ship navigation, with soundings and observations of deep-sea temperatures in the Gulf Stream and the Gulf of Mexico, and observations of currents along the same coasts, the continuation of the survey of the Pacific coasts of the United States, with soundings and observations of deep-sea temperatures in the branch of the Japan Stream off, and observations of other currents along the same coasts, and the preparation, engraving, lithographing, and issuing of charts, the preparation and publication of the Coast Pilot and other results of the coast survey, the purchase of materials therefor, and including compensation of civilians engaged in the work, and pay and subsistence of engineers for the steamers engaged on those coasts, $350,000.

Mr. BANKS. I move to amend that paragraph by striking out $350,000 and inserting in lieu thereof $500,000, and I do it for the purpose of asking a question of the chairman of the Committee on Appropriations. I would like to know if this is a reduction upon the appropriation heretofore made for this purpose, and if this is the sum that is regarded as necessary by the Coast Survey Department?

Mr. HOLMAN. The appropriation is lower than the estimate and lower than the appropriations for several years past, somewhat. The aggregate appropritaion for the Coast Survey in this bill is about $417,000. The appropriations are about the same as those which used to be made prior to the war, say between the year 1850 and the year 1860. It has been thought, in view of the progress made in the work of the survey, that an appropriation now corresponding with that period would be quite ample. An appropriation of $417,000 is certainly quite a large appropriation, besides that during the last two or three years heavy appropriations had been made for vessels for this service, which diminishes largely the claim ordinarily made upon this fund for the construction and repair of vessels to be engaged in his work. We think that $417,000 is a large enough sum to be appropriated at this time, although estimates are higher.

Mr. BANKS. Since the period to which the gentleman from Indiana has alluded, the coast survey has been greatly extended. It was at that time limited to but a small part of the coast; a small part of the work of survey had been completed then and in the fifteen or sixteen years which have elapsed since then the surveys have been largely extended, so that they now embrace a great part of the coast line of the Republic. Now this work is to be completed or continued with more or less care throughout the whole of this coast line through the year. The changes of currents and the changed condition of the coast in itself require constant attention to this work; and if we withdraw any portion of the appropriation, so as to reduce the means or to reduce the number of persons employed in the work, the deficiency will have to be made up hereafter by an increase of appropriations. We shall have to make appropriations hereafter to supply the defects occasioned by the suspension of the work upon any part of the coast. It is the worst possible economy to reduce this appropriation to such an extent as to prevent the most complete attention to the survey of the coast. It will have to be done hereafter, and not only have to be done but the deterioration and injury occasioned by the neglect of this year will have to be appropriated for another year. And it seems to me that if this reduction is to be made it ought not to be agreed to by this committee except upon the most careful consideration and the most direct proof that the amount proposed to be appropriated is sufficient for the emergencies of the time. I am not prepared to speak myself of the amount absolutely necessary.

Mr. HOLMAN. The gentleman from Massachusetts [Mr. BANKS] will bear in mind that for the last few years the appropriations have been very large. And although the coast surveys have been quite extended, especially on the Pacific coast, the appropriations have been such as to enable the board having charge of the coast survey to make very large progress in the work. It is obvious that as large appropriations are not required at this time as were needed a few years ago. The field is being diminished. The large field we had six or seven years ago is largely diminished.

The gentleman will observe another fact. This is confined to the Coast Survey proper, and does not extend to the expenses of inland surveying, inland triangulation by the coast survey. It is confined to the coast survey, and not to any other purpose; so that in fact in that way there is an enlargement of the appropriation for the surveys of this Department.

Mr. BANKS. One great object, and one great national benefit derived from these coast surveys, is that by establishing points on the coast line there is a guide by which we can make surveys of the territory of every State hereafter perfectly uniform; not only of one State with another, but of the whole with the exact boundaries and monuments fixed upon the coast line.

Now to reduce the appropriation for this purpose to the amount here proposed will interfere with this work of triangulation and survey, which is necessary in order to complete the surveys of a large number of States where the surveys have not yet been completed. It is necessary in order to make those surveys correspond one with the other and with the monuments upon the coast line, that this work on the coast should be completed in the most perfect manner, and I think it would be unwise economy to reduce the appropriation for that purpose.

I remember that some twenty or twenty-five years ago, or a longer period ago than that, a map of the State of Massachusetts was prepared at great expense. It was made from different surveys. When they came to bring the surveys together, those surveys having been conducted by different persons, it was found that they did not correspond with each other, and the work would have to be done over again. That would be exactly the result in the surveys of the different States in the interior. If they had no guides in the form of monuments, established upon the coast, for their surveys, it is likely they would be found not to correspond with each other and with those monuments. On that account we ought to be careful not to diminish this appropriation so far as to impair the work.

Allow me to call the attention of the gentleman from Indiana [Mr. HOLMAN] to another consideration. Upon these coast surveys depend more or less the larger commerce as well as the minor commerce of every port along the entire coast. The currents are continually being changed by the tides and other natural causes, and a continual watch and care and a continual notation of these changes, with monuments indicating what they are, are absolutely indispensable to the safety as well as the increase of that commerce. I believe these two considerations will justify the Committee of the Whole in making the increased appropriation I have proposed.

Mr. HOLMAN. I move to strike out the last word for the purpose of saying that it is the belief of scientific men that the establishment by astronomical observations of geodetic points in the interior and near the coast will serve every purpose, without carrying out this exceedingly expensive system of triangulation which has been entered upon. I concede that it is very proper to establish upon the coast the necessary geodetic points, and they are now being established, and will continue to be established under this appropriation. But in reference to inland surveys, it is undoubtedly sufficient that geodetic points shall be established by ordinary astronomical observations.

I will state further that this subject has been examined with a great deal of care by the Committee on Appropriations, and it is the belief of that committee that the amount here proposed is sufficient to carry on with a reasonable degree of promptness the surveys that are now in progress and to enable the board to extend their work to any extent required by the commerce of the country.

I withdraw my *pro forma* amendment.

The question was then taken upon the amendment moved by Mr. BANKS; and upon a division there were—ayes 16, noes 63.

No further count being called for, the amendment was not agreed to.

The Clerk resumed the reading of the bill, and read the following:

For compensation in lieu of moieties in certain cases under customs-revenue laws, $100,000.

Mr. HURD. I move to insert after the paragraph just read that which I send to the Clerk's desk.

The Clerk read as follows:

Provided, That the office of appraiser of merchandise at the port of Toledo, in the district of Maumee, in the State of Ohio, be, and the same is hereby, abolished, and the duties of said office shall hereafter be performed by the collector of customs without additional compensation.

Mr. HOLMAN. There is no objection to that amendment.

The amendment was agreed to.

The Clerk read the following:

Propagation of food-fishes: For introduction of shad into the waters of the Pacific and Atlantic States, the Gulf States, and of the Mississippi Valley, and of salmon, whitefish, and other useful food-fishes into the waters of the United States to which they are best adapted, and for continuing the inquiry into the causes of the decrease of food-fishes of the United States, $40,000.

Mr. LANE. I would like to inquire how this money is expended, and under whose direction, if the gentleman in charge of this bill can inform me?

Mr. HOLMAN. It is expended under the direction of Professor Baird.

Mr. LANE. I move to increase the amount to $45,000.

Mr. HOLMAN. Very well; let that amendment go.

Mr. ATKINS. There is no objection to that.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read the following:

For photographing, engraving, and printing plans for all public buildings under control of the Treasury Department, $1,000.

Mr. THROCKMORTON. I move to amend by inserting after the paragraph just read that which I send to the Clerk's desk.

The Clerk read as follows:

For the payment of John T. Morris, of Texas, $1,000, for the capture of the mail-robber J. C. Reed, in pursuance of a reward offered for that purpose by the agent of the Post-Office Department and in pursuance of an act of the first session of the Forty-third Congress.

Mr. HOLMAN. I will reserve any point of order upon that amendment until the gentleman from Texas [Mr. THROCKMORTON] can point out the act to which reference is made.

Mr. THROCKMORTON. It will be found on page 170 of the Statutes at Large of the first session of the Forty-third Congress. I will explain this amendment, and then, perhaps, the Committee on Appropriations may remember the facts.

The stage between San Antonio and Austin, Texas, was robbed by three persons, and the agent of the Post-Office Department in that State advertised in the public newspapers a reward of $3,000 for the

capture of the robbers. He immediately informed the Department here by telegram of that fact, and the Department applied to Congress for an appropriation to pay the reward. Congress passed an act appropriating $3,000 to pay for capturing these mail-robbers.

This man John T. Morris, under the promise of the mail-agent in Texas, who offered the reward, and also in pursuance of an act of the Legislature of Texas offering a reward, pursued and captured the chief of these robbers, and in the capture killed him. His body was identified and the State of Texas paid the reward. But when application was made to the Department in Washington for the proportion of the reward for the capture of this person, the Department refused to pay it, on the ground that the reward was not offered by the Department until after the robber had been captured.

Notwithstanding the fact that the agent of the Post-Office Department in Texas had offered the reward through the newspapers, and although Congress had made an appropriation for the purpose, yet because this man was captured before the Postmaster-General had offered the reward the Department refused to pay him.

The papers establishing every fact that I have stated are in my hands. The case was before the Committee on Appropriations during the last session of Congress; and I must say, as usual with that committee, they reported the papers back to the House and asked that they be referred to the Committee of Claims. The case has rested with the latter committee from that time till the present; but I have here a report prepared by the chairman of the subcommittee (on which the whole committee have not yet acted) recommending this appropriation.

It has been nearly three years since this reward was offered by the post-office agent in Texas and by the Postmaster-General; but for the reason I have stated the Postmaster-General refuses to pay the reward.

Mr. HOLMAN. Will the gentleman state again the reason for the refusal? I did not hear it distinctly.

Mr. THROCKMORTON. After the robbery had occurred, the agent of the Post-Office Department in Texas published in the newspapers an offer of reward for the capture of these robbers. He telegraphed his action to the Postmaster-General, who applied to Congress for an appropriation; and an appropriation was made. The Postmaster-General then offered the reward; but before he did so this robber had been pursued and captured. Because he was captured before the Postmaster-General offered the reward, the Department refused to pay him.

I will say further that the State of Texas offered a reward and has paid its portion of the reward for the capture of this man J. C. Reed, one of the most notorious desperadoes, mail robbers, and train robbers in the southern or western country.

We think that the man who made this capture is entitled to payment. I hope the Committee on Appropriations will not object to the amendment. I hold in my hand the papers which establish all the facts. The gentleman from Kentucky, [Mr. BROWN,] the chairman of a subcommittee of the Committee of Claims, has prepared a report recommending this appropriation, but the general committee has not yet acted upon this subject.

Mr. HOLMAN. The question is whether an item like this ought to go into an appropriation bill. I find that the language of the act making this appropriation is as follows:

To enable the Postmaster-General to offer a reward for the apprehension of parties concerned in the late mail robberies in Missouri, $5,000; and for the same purpose, in the matter of the late robberies in Texas, $3,000.

Here is an appropriation of money. The Postmaster-General refuses to use the money because before the appropriation was made the capture had occurred. The mail robber had been captured before the act was passed.

Mr. THROCKMORTON. Now will my friend let me interrupt him a moment? Prior to this the Post-Office agent in Texas offered the reward through the papers and notified the Postmaster-General of the fact. Here is his sworn statement to that effect. The Postmaster-General applied to Congress and Congress made an appropriation. He then offered the reward; but the robber was pursued and captured before the date of the offer by the Postmaster-General. I have the papers here proving every statement I have made.

Mr. HOLMAN. Of course the act of the agent of the Post-Office Department was entirely without authority. Even the Postmaster-General himself could not offer a reward except in pursuance of law. Such a law was passed in the Forty-third Congress in the language which I have read. After it was passed, the reward was offered; but before it had been offered the mail robber was captured. The only question now is whether Congress shall appropriate money to pay for a voluntary service, not rendered under or in pursuance of any law or of any legal offer of reward. The question is whether we shall appropriate $1,000 to pay for this voluntary service? It is such a service as every citizen is interested in performing, and at first blush there would seem to be no reason why a citizen performing a proper act, apprehending a robber, an act in which all good citizens are alike interested, should afterward insist upon being paid a reward.

Mr. THROCKMORTON. I beg to remind my friend that the man who made this capture did so at the risk of his own life, and in doing so was obliged to kill this robber. Unquestionably it was the duty of every good citizen to pursue and if possible capture this robber; but I ask how many men in this broad country would undertake a dangerous service like this unless some stimulus should be offered by the Government for the performance of this patriotic duty?

Mr. HOLMAN. Was the man who made this capture a public officer?

Mr. THROCKMORTON. No, sir; he was not; but for the purpose of making this capture he was specially invested with authority as a deputy sheriff of my own county. He was not a public officer, but in order that he might lawfully make the arrest he received this deputation of authority. At the imminent risk of his own life he pursued this man, and in the attempt to capture him had to kill him. The body of the robber was abundantly identified as that of the perpetrator of this outrage upon the public mails. He was known as one of the worst desperadoes in the entire country.

Now, Mr. Chairman, I will trouble the committee but a moment longer; and in the first place I will be glad if the gentleman from Pennsylvania will let me know the exact point in reference to which he has inquired.

Mr. CLYMER. I ask whether the person who made this arrest did so instigated thereto by an offer of reward on the part of the agent of the Post-Office Department.

Mr. THROCKMORTON. Yes, sir; I can state that fact, although just now I cannot state exactly as to the amount of the reward offered.

Mr. CLYMER. This same agent of the Post-Office Department, as I understand the gentleman, then made the request of the Postmaster-General that he should apply to Congress for an appropriation to cover the amount of the reward?

Mr. THROCKMORTON. Not that he should offer a reward. I will state the fact. I have here the deposition of the post-office agent himself. As soon as the robbery occurred the post-office agent published it in the newspapers at Austin and all over the State of Texas, offering a reward for the apprehension of these three robbers. Then he immediately telegraphed to the Department and asked the Postmaster-General to confirm his action. The Postmaster-General applied to Congress, and Congress made the appropriation; but in the meantime this party got upon the trail of these robbers, followed them up, and captured this one.

Mr. CLYMER. But the appropriation was made.

Mr. THROCKMORTON. The appropriation was made, but the Postmaster-General had not published it. There may have been a few days, a short time, intervening. My colleague [Mr. HANCOCK] brought the matter before Congress, and the appropriation was made. Now, the fact is that the State of Texas has paid her portion of the reward.

Mr. HOLMAN. I move to strike out the last word. Can the gentleman give us any information of the amount of the reward offered by the post-office agent in Texas, for it would seem to me, whatever that was should govern the amount to be paid by the Government of the United States rather than the amount of the specific appropriation.

Mr. THROCKMORTON. I think the post-office agent offered a reward of $3,000 for the capture of these robbers, and that the Postmaster-General asked Congress for an appropriation, which was made.

Mr. HOLMAN. What I wish to know is, what was the reward in the first instance offered for the arrest of these robbers by the post-office agent in the State of Texas?

Mr. THROCKMORTON. It is my recollection that the State of Texas offered a similar reward, a reward of $3,000 for the capture of these three robbers, and that State paid $1,000 for the capture of this one.

Mr. HOLMAN. I find that the State of Texas, by an act approved April 8, 1875, paid to this claimant $1,000, being one-third of the reward offered by the State for the apprehension of these robbers, there having been three robbers engaged in the robbery.

Mr. THOCKMORTON. That is my recollection.

Mr. HOLMAN. The State of Texas seems properly to have taken this thing in hand, and the party making the arrest of one of these robbers received from that State a reward of $1,000, and I do not think the gentleman should insist on duplicating that reward.

Mr. THOCKMORTON. I only insist upon what is right.

Mr. HOLMAN. It seems doubtful whether substantial justice would authorize it, as this party has already received $1,000 from the State of Texas.

Mr. THROCKMORTON. He is entitled to the sum proposed by my amendment under the law, and I hope it will be adopted.

Mr. THROCKMORTON'S amendment was agreed to.

Mr. GUNTER. I offer the following amendment, to come in after the amendment just adopted on the motion of the gentleman from Texas.

The Clerk read as follows:

For retracing and conspicuously marking the boundary line between the State of Arkansas and the Indian Territory, $9,900, or so much thereof as may be necessary.

Mr. HOLMAN. The amendment is subject to the point of order that this is a new work, and beside, we have passed the subject of surveys in the bill, to which, if in order, this amendment would be germane.

Mr. GUNTER. I wish to call the attention of my friend from Indiana to the act of Congres which was passed at the last session of the Forty-third Congress, which fully authorizes this appropriation.

This appropriation merely carries out the provision of that law. Therefore it is not subject to the point of order that it is not provided for by law, because, as I have already stated, the act of the last session of the Forty-third Congress expressly provided for it.

Mr. HOLMAN. If there is a law authorizing this appropriation I should be glad to see it; but my further point is that the subject of surveys of the public lands to which this is germane has been passed. We had this subject before us during the past year, and the committee did not think the appropriation should be made. I make the point of order, first, that no law has been produced authorizing this survey, and consequently that it is not germane to this part of the bill.

The CHAIRMAN. If the gentleman from Arkansas has any law authorizing this appropriation, he will send it up to the Clerk's desk.

Mr. GUNTER. I send up to the Clerk's desk the law which was passed during the Forty-third Congress.

The Clerk read as follows:

That the boundary line between the State of Arkansas and the Indian country, as originally surveyed and marked, and upon which the lines of the surveys of the public lands in the State of Arkansas were closed, be, and the same is hereby, declared to be the permanent boundary line between the said State of Arkansas and the Indian country.

SEC. 2. That the Secretary of the Interior shall, as soon as practicable, cause the boundary line, as fixed in the foregoing section, to be retraced and marked in a distinct and permanent manner; and if the original line when retraced shall be found to differ in any respect from what the boundary line would be if run in accordance with the provisions of the treaties establishing the eastern boundary line of the Choctaw and Cherokee Nations, then the surveyors shall note such variations and compute the area of the land which in that case would be taken from the State of Arkansas or the Indian country, as the case may be; and the Secretary of the Interior shall also cause any monuments set up in any former survey, indicating any line at variance with the survey provided for in this act, to be obliterated.

Mr. GUNTER. I beg to say that that is a bill which was introduced in the Senate in the Forty-third Congress. It passed the Senate, passed the House, was signed by the President, and became a law; and the Secretary of the Treasury recommends an appropriation of $9,900 for the completion of the survey as therein indicated.

The CHAIRMAN. The Chair is of opinion that the amendment is not liable to the point of order made by the gentleman from Indiana.

Mr. BLOUNT. Does the Chair rule on the other point of order, that we had passed that portion of the bill to which this amendment is germane—the portion of the bill relating to surveys?

The CHAIRMAN. The committee has not in point of fact passed that portion of the bill. The subject of surveys is yet to be acted on.

Mr. BLOUNT. We passed it with the understanding that we should go back to that portion of the bill. I insist that the amendment is not in order at this point.

The CHAIRMAN. The Chair would suggest to the gentleman from Arkansas to withhold his amendment until the portion of the bill relating to surveys is before the committee.

Mr. GUNTER. I will do so.

Mr. HARRIS, of Virginia. A few days ago I got the leave of the House to offer as an amendment to this bill what I send to the desk to be read.

I desire to say that this amendment which I offer under the instructions of the Committee on Elections, of which I have the honor to be chairman, appropriates the usual allowances made by each Congress for the necessary expenses incurred by gentlemen contesting seats on this floor. While the Committee on Elections has gone further than I would have done myself in approving the necessary expenses of both contestants and contestees, I will not take any issue with the committee as to that before the Committee of the Whole; but there are two cases—those last named in the amendment—which I must oppose.

The amount allowed in the Forty-first Congress for these expenses was $63,500. The amount allowed in the Forty-second Congress was $24,600. The amount allowed in the Forty-third Congress was $26,881. The amount now recommended by this committee is $17,718, from which amount I propose to move to strike off $2,783, leaving as the total amount, $14,935.

Mr. HOLMAN. It is understood that a point of order will be made on this proposition.

Mr. BLOUNT. The point of order cannot be made. This amendment was made in order by a resolution of the House.

Mr. HOLMAN. After the gentleman from Virginia has made his explanation I shall raise the question of order on these amendments.

Mr. HARRIS, of Virginia. This morning the Committee on Elections had a meeting and placed an amendment in charge of the gentleman from Massachusetts, [Mr. THOMPSON,] who will inform the committee in regard to it when he gets the floor. All the items in the amendment which I have sent to the desk are agreed to except the two last; all of them being very much below the expenses proved before the committee as having been actually incurred. In most cases the expense account included very exorbitant attorney fees, which the committee did not think it proper to allow.

The two last cases are those of Mr. Frost of Massachusetts and Mr. Morey of Louisiana. In both those cases they were the unsuccessful contestees. They held their seats until near the end of the Congress; and Mr. Frost drew as pay and mileage $7,005.36 and Mr. Morey $6,793.67. Now, according to the rule which has been adopted by the House they cannot properly be re-imbursed for expenses incurred in contesting a seat to which they were not entitled, as the House decided that they were wrongfully seated; and this decision of the committee is in direct conflict with the law passed by the last Congress, where it is provided:

That no sitting member who shall be unseated before the expiration of the Congress shall be entitled to the benefit of the appropriations of this act.

That is the law of the land. While it was confined to that special appropriation, I am satisfied it was intended by the law-making power to make it apply in all cases, so that no member who has been unseated and has drawn his mileage and pay up to the time of his being unseated shall be allowed any compensation.

Mr. HOLMAN. I trust the gentleman will send up his amendment to the desk, that it may be read.

Mr. HARRIS, of Virginia. I have sent it up. I will make no objection to the recommendation of the committee until the last two items are reached, which I will propose to strike out. I ask the Clerk to read the amendment.

The Clerk read as follows:

To pay J. V. LE MOYNE, contestant, expenses in contested-election case of Le Moyne *vs.* Farwell, third district of Illinois, $1,200.

J. G. ABBOTT, contestant, expenses in the contested-election case of Abbott *vs.* Frost, fourth district of Massachusetts, $2,000.

William B. Spencer, contestant, expenses in contested-election case of Spencer *vs.* Morey, fifth district of Louisiana, $734.05.

James H. Platt, jr., contestant, expenses in contested-election case of Platt *vs.* Goode, second district of Virginia, $1,000.

JOHN GOODE, jr., contestee, expenses in contested-election case of Platt *vs.* Goode, second district of Virginia, $500.

JOSEPH H. RAINEY, contestee, expenses in contested-election case Lee *vs.* Rainey, first district of South Carolina, $1,200.

Samuel Lee, contestant, expenses in contested-election case of Lee *vs.* Rainey, first district of South Carolina, $1,200.

CHARLES W. BUTTZ, contestant, expenses in contested-election case of Buttz *vs.* Mackey, second district of South Carolina, $1,200.

JERE HARALSON, contestee, expenses in contested-election case of Bromberg *vs.* Haralson, first district of Alabama, $1,150.

S. S. FENN, contestant, expenses in contested-election case of Fenn *vs.* Bennett, Idaho Territory, $1,000.

H. B. STRAIT, contestee, expenses in contested-election case of Cox *vs.* Strait, second district of Minnesota, $1,500.

E. St. Julian Cox, contestant, expenses in the case of Cox *vs.* Strait, second district of Minnesota, $1,500.

R. S. Frost, contestee, expenses in contested-election case of Abbott *vs.* Frost, fourth district of Massachusetts, $2,000

Frank Morey, contestee, expenses in contested-election case of Spencer *vs.* Morey, fifth district of Louisiana, $734.05.

Mr. THOMPSON. On behalf of the Committee of Elections I desire to present three cases in addition to those already presented by the gentleman from Virginia.

Mr. HOLMAN. Let them be read, and I will then make my point of order.

The clerk read as follows:

Frederick Bromberg, first district, Alabama, $1,500.
C. B. Darrall, third district, Louisiana, $400.
John Lynch, sixth district, Mississippi, $500.

Mr. HOLMAN. I raise my point of order, not on a rule of this House, but on a law enacted by Congress. I send it to the desk to be read.

The Clerk read as follows:

SEC. 130. No payment shall be made by the House of Representatives out of its contingent fund or otherwise to either party to a contested-election case for expenses incurred in prosecuting or defending the same.

Mr. HOLMAN. What is the date of that?

The CLERK. March 3, 1873.

Mr. HOLMAN. Now my point of order is this: An appropriation bill comes before the House, and it is proposed to amend that bill by putting upon it an appropriation of money not authorized by law to pay contestants, when the law itself, the law of the land, expressly prohibits the application of money for such a purpose. I do not pretend to say that Congress might not repeal that law by the passage of another law. But I submit that in an appropriation bill we can only appropriate money in pursuance of law, and that a proposition offered cannot come in in contravention of that law. Unanimous consent given to the House that this amendment should be in order could only be consent to suspend the simple rules of the House on the subject, and not to suspend the law of the land, which expressly prohibits the application of money to such purposes.

It seems to me that this point of order ought to be sustained. It is not simply a rule of the House that might be waived by the House, but it is the law of the land. There is a proposition to appropriate money in express defiance of the law, expressly against the law. I admit that an independent bill might be brought into Congress to pay these claims, and the passage of that bill would repeal this law. But here is an appropriation bill. If the Chair pleases, I make the points on it as an amendment to an appropriation bill. I concede, as I have said, if a bill was brought in for this purpose it would not be subject to a point of order; because if it became a law of course it would overrule the existing law.

Mr. HARRIS, of Virginia. The gentleman from Indiana wholly misapprehends the law. When the Chair becomes satisfied that the gentleman's construction of the law is false, of course his point of order and his conclusions will fall with it. What is the law which he has just read? It is not a law saying that no man shall be paid for his expenses in contesting an election by the two Houses of Congress, but it is simply this: under the old custom, from time immemorial almost, at least as far back as the beginning of our Government, the House by its own resolution out of its contingent fund paid all such

cases. But in 1872, upon a motion made by a gentleman from Vermont [Mr. Poland] that both the contestant and the contestee should be paid out of the contingent fund of the House by a resolution of the House, the two Houses of Congress became alarmed, and determined in future to make all disbursements out of the Treasury for the payment of the contestant or contestee a part of the law of the land; in other words, that either House should not of its own motion pay out of its contingent fund parties to contested cases.

The gentleman misapprehends the law entirely. It only prohibits this House from doing it. This is the reason why, for the last two sessions of Congress, we have had to put these appropriations into the appropriation bill. That is the reason why, in the last Congress, we put into the appropriation bill cases of this kind. It was because the law will not allow the House by its own resolution to do it. If the Chair will hear the law read he will see that there is no prohibition of payments of this kind by law.

Mr. HOLMAN. But the law says that no payment "shall be made by the House of Representatives out of its contingent fund or *otherwise.*"

Mr. HARRIS, of Virginia. Certainly the law is that the House shall not pay these claims out of its contingent fund, or *otherwise*, to either party to a contested election case, for expenses in prosecuting or defending the same. It simply takes the control of the matter from the House which it ought to do, because the House had become extravagant. And when the appropriation bill was up last year, the Chairman of the Committee of Elections was authorized to offer amendments of this kind to this miscellaneous appropriation bill, and it was done, and they passed in that bill.

Now it occurs to me that the amendment is not obnoxious to the point of order, and I had leave of the House to offer it as an amendment to this bill; but the amendment having been reported by the Committee of Elections, and not having been asked for by one of the Departments, I could not, I admit, have offered it as an amendment to this bill, unless I had first obtained the leave of the House to do it; but having obtained the leave of the House, it is in order to offer it, and it is for the committee to say whether they will vote it down or not.

Mr. CLYMER. It is, I think, manifest that the construction of the act of 1872 contended for by the gentleman from Virginia [Mr. HARRIS] is untenable. Surely, sir, when that act was passed it was the intention of Congress to stop what was then deemed a great existing and increasing abuse, this thing of persons contesting elections for seats in this body upon frivolous grounds and making money thereon. The law was passed in order to stop this, and that was the universal construction of it at the time, as gentlemen who served here then will remember; it was determined that this thing should stop then and there.

Therefore it is provided by law that payments for this purpose shall not be paid out of the contingent fund of the House, or in any other manner by the House. The only other way in which these payments can be made is in just the way which the gentleman from Virginia [Mr. HARRIS] is now attempting, by a clause in an appropriation bill. Now, it was clearly intended that the power to do so, by going through the process which the gentleman has attempted here of getting permission of the House, by a suspension of the rules, to make such an amendment in order, should not be resorted to. I think the Chair can have no doubt that that was the intention of the law. There is the law against this payment, and therefore this amendment, under the circumstances, cannot be in order.

We might propose a new law embracing all these cases, pass the law through this House, send it to the Senate and have it passed by that body, and then have it signed by the President, and then the payment can be made. But the law to which I refer is not a mere rule of the House. I grant you that a rule of the House may be suspended by an order such as was obtained the other day by the gentleman from Virginia. It is competent for the House by a two-thirds vote to suspend a rule of the House and make it in order, in Committee of the Whole, to move an appropriation not authorized by law. But this is an attempt to make an appropriation in flat defiance of the law by a mere suspension of the ordinary rules of the House.

Let the gentlemen from Virginia introduce his bill; let it stand upon its merits; let it pass both Houses and be signed by the President, and then he will be right. But the payment of these claims cannot be taken out of the power of the House by any stronger language than that used in the act to prevent this abuse.

Mr. HARRIS, of Virginia. One word in reply to my friend from Pennsylvania, [Mr. CLYMER.]

Mr. FORT. I wish to make a point of order before the gentlemen goes on. At the same time the rules were suspended to admit these other amendments, the rules were also suspended to permit me to introduce an amendment to pay Mr. Farwell, of Chicago, of the first district of Illinois, his expenses for his contest. I wish to have my amendment pending.

Mr. HARRIS, of Virginia. It is out of order for the gentleman to offer his amendment while I am on the floor. If the point of order is sustained against my amendment it will rule out his amendment also.

The CHAIRMAN. The gentleman from Illinois [Mr. FORT] will lose no right by waiting.

Mr. HARRIS, of Virginia. I desire my friend from Pennsylvania [Mr. CLYMER] to understand me. If the amendment I propose provided that this payment should be made by the House of Representatives, that would be in violation of the law, because the law says that no payment of this kind shall be made by the House of Representatives. But the law does not say that no payment of this kind shall be made by law by the concurrence of both the Senate and the House. This amendment is not in violation of that statute, but is entirely in order.

Mr. CLYMER. Will the gentleman allow me to ask him a question?

Mr. HARRIS, of Virginia. Certainly.

Mr. CLYMER. Suppose there was an act of Congress providing that the Secretary of the Treasury should not make a certain payment, does not my friend admit that that law would be binding upon us? And wherefore is not a law binding which makes the same declaration in regard to this House?

Mr. HARRIS, of Virginia. That law would be binding upon the Secretary of the Treasury, but it would not prevent Congress from directing the payment to be made in some other way. The point I make is that the law prohibiting the House from doing this thing does not prohibit the two Houses of Congress by law authorizing such a payment to be made.

Mr. THOMPSON. The Committee of Elections have adopted this rule with regard to the recommendations that they make to this House: that where a party had probable cause for a contest he ought to have compensation; but if he makes a contest without probable cause, then he ought not to have compensation. The position taken by the Committee of Elections is this: that the contest is not for the benefit of the individual, but for the public; that the people are interested in the result, and they desire to have the contest made where it ought to be made and to feel that the party making it is protected in making the contest.

The CHAIRMAN. The Chair would suggest to the gentleman that for the present he confine his remarks to the point of order.

Mr. THOMPSON. I will; but I have never yet found that a man can sow successfully without first preparing the ground. With regard to the point of order, I hold that the law is merely a prohibition upon the House that it shall not pay the expenses of these contestants out of the funds which are especially under the control of the House. The law does not say that these payments shall not be made out of the Treasury by law. We say that the House has no right to take any fund which may be put under its control in order to pay these contestants out of that fund. But it is perfectly competent for the law-making power, for Congress to provide for the payment. The position taken by the gentleman from Pennsylvania [Mr. CLYMER] is this, that Congress has no power to provide for that payment. Now, I deny that.

Mr. CLYMER. I stated what was the law.

Mr. THOMPSON. I understand the gentleman's position, and I will answer it. He wants to state it over again, because he finds it is too weak and needs an extra prop. I say the position taken by the Committee of Elections is that Congress has the right to make these payments; is perfectly in harmony with the law. This is a bill which Congress has to pass; not the House alone.

The evil which that law undertook to provide against was the payment of these contestants by the House alone. We undertook to remedy that evil by providing that no payment of this kind should be made without it has the sanction of the Senate as well as of the House; and that it shall not then be made a law without it had the approval of the President of the United States, unless the bill is passed over his veto. That is certainly all the protection that ought to be had in a matter of this kind.

Mr. HOLMAN. I wish to say one word in conclusion on this point of order. The gentleman from Massachusetts misapprehends——

Mr. WELLS, of Mississippi. I raise the point of order that the gentleman from Indiana has argued the point of order once, and has no right to argue it again.

The CHAIRMAN. The Chair would like to hear the gentleman on this question.

Mr. HOLMAN. Gentlemen are very anxious to protect the Chair.

There are three propositions which I wish to state very distinctly: first, that no proposition upon an appropriation bill is in order unless it be in conformity with existing law; secondly, that this proposition appropriating money is expressly against law; and thirdly, that the only way in which appropriations of this kind can be made in conflict with a law such as we now have on our statute-books, is by an independent legislative provision. Suppose that a gentleman should bring forward a bill appropriating money for these several objects. That bill as a matter of course is not, in the technical sense, an appropriation bill, although it appropriates money; it is not one of the twelve great appropriation bills of Congress. It is independent legislation; it is not subject to any points of order, because it proposes directly to repeal the existing law *pro tanto*, to the extent of the appropriation. The whole point turns upon the fact that this is a bill making appropriations to carry out existing law, while the appropriations embraced in this amendment, instead of being in conformity with law, are expressly against law. I therefore insist that this money can be appropriated only by independent legislation and not upon an appropriation bill.

Mr. BLOUNT. I do not say at this time whether or not the proposition of the gentleman from Virginia, [Mr. HARRIS,] is in my opinion right or wrong, or whether the House should or should not make the appropriations he proposes. But I do think that the House has a right to pass upon this appropriation and ought to pass upon it. What is the objection raised to the reception of the proposition? It is that it changes existing law. Why is this an objection? Simply because a rule of the House has made it so; that and nothing else. The House can at any time introduce new legislation in an appropriation bill if it sees fit to change its rule for that purpose; and in this particular instance the rule has been suspended at the instance of the gentleman from Virginia, so as to make it in order for his motion to be entertained and acted on. This having been done, I think it is idle and wrong for us to undertake to defeat in this way what may be the purpose of the House. I submit therefore that the proposition is in order and ought to be passed upon as a pertinent subject of consideration. I know that abuses have arisen under just such legislation, and my impression is against this measure, but I am not disposed to meet it by quibbling. I believe the gentleman should be allowed the right accorded to him heretofore by the House.

Mr. CONGER. Mr. Chairman, those who were present during the discussion when the law now in question was adopted are well aware that the only objection was to the mode of payment out of the contingent fund of the House. There was never any pretense that proper appropriations should not be made to meet the expenses of contestants of elections. The only trouble was that the House had assumed to appropriate whatever money it chose out of its own fund, without the approval of the law-making power. The object of the law having been accomplished, and permission having been given by the House to move this very amendment on this bill, the proper place for all such matters, it seems to me there can be no question that the amendment is in order. What may be its merits when the Committee of the Whole comes to decide upon them is another question.

The CHAIRMAN. The House having suspended in this case the rule forbidding any legislation upon a general appropriation bill, in contravention of existing law, the Chair is satisfied that the point of order is not well taken, and that the Committee of the Whole may, if it chooses, incorporate this amendment in the bill.

Mr. FORT. I now desire to offer my amendment.

The CHAIRMAN. The Chair understands that the right of the gentleman from Illinois [Mr. FORT] to offer his amendment was included within the suspension of the rules.

Mr. FORT. I move to amend by adding to the amendment the following;

To Charles B. Farwell, of the first district of Illinois, $3,000.

The CHAIRMAN. Does the gentleman from Virginia [Mr. HARRIS] accept the amendment?

Mr. HARRIS, of Virginia. I propose to offer an amendment to my own amendment to strike out certain items; but in order to prevent confusion I suggest that the Clerk proceed to read the items in order, and that those to which there is no objection be considered as adopted; or let the Chair submit each one separately to a vote. When we reach those items to which I object I will make the motion to strike out. So any other member can move to increase or diminish or strike out any single item as that item is reached.

Mr. WILSON, of West Virginia. I desire to offer an amendment.

The CHAIRMAN. If the gentleman from West Virginia has obtained unanimous consent, or a suspension of the rules to enable him to present his amendment, his right will not be lost by postponing it for the present.

Mr. WILSON, of West Virginia. I desire that this amendment shall be considered in connection with the other claims.

The Clerk read as follows:

To pay S. B. Elkins, contestee, expenses in contested-election case of Pedro Valdez *vs.* S. B. Elkins, Territory of New Mexico, $500.

Mr. HOLMAN. I suppose this amendment is subject to a point of order; but I should be very glad before we proceed further, if the authority given by the House on this subject, which seems to have been a very extraordinary authority, could be read, so that we may know exactly what the order of the House was.

Mr. WILSON, of West Virginia. My purpose is all should be considered at the same time.

The CHAIRMAN. That is a matter with the House at the proper time.

Mr. HARRIS, of Virginia. I will state, for the information of the committee, that all the items referred to in the amendment which I have sent up to the Clerk's desk were made in order by the House to this bill, as well as the item offered by my friend from Illinois [Mr. FORT] in favor of Mr. Farwell, of Chicago, and an item in favor of Mr. Bromberg, of Alabama. All others were not authorized to be offered to this bill.

The CHAIRMAN. The Clerk will read the first item in the amendment, and the vote will first be taken on that.

The Clerk read as follows:

To pay J. V. LE MOYNE, contestant, expenses in contested election of Le Moyne *vs.* Farwell, third district Illinois, $1,200.

The committee divided; and there were—ayes 74, noes 28.

Mr. HOLMAN. Is there a quorum present?

The CHAIRMAN. No quorum has voted. Does the gentleman insist on a quorum?

Mr. HOLMAN. I certainly do insist that a quorum shall vote on the question of paying these old claims.

Mr. LANE. I move the committee rise.

The committee refused to rise.

Mr. HOLMAN. I demand tellers on the pending amendment.

Tellers were ordered; and Mr. HOLMAN and Mr. HARRIS of Virginia were appointed.

The committee again divided; and the tellers reported—ayes 107, noes 37.

Mr. HOLMAN. I give notice that I will ask for a vote in the House on this item of the amendment.

So the item was agreed to.

The CHAIRMAN. The Clerk will read the next item.

The Clerk read as follows:

To J. G. ABBOTT, contestant, expenses in the contested election case of Abbott *vs.* Frost, fourth district of Massachusetts, $2,000.

Mr. HOLMAN. Mr. Chairman, I wish to say a word in regard to this claim. The spectacle now presented by the House has had no example in its history for a number of years. This thing at one time had become a burning shame to this House, to both Houses, and to the whole country; that is, the allowance indiscriminately to contestants and contestees of claims for expenses during contests. So shameless had it become that it was known persons made contests for seats in this House in order to avail themselves of liberal appropriations out of the Treasury to pay so-called expenses of the contest. Then Congress deliberately passed a law that there should be paid by either House, out of its contingent fund or otherwise, neither to the contestant nor to the contestee any such claim. The question is whether the people of this country have ever condemned that law. I venture to say no gentleman will assert upon this floor that his constituents ever condemned that law or that he ever condemned it in their presence. It was a wise law, a law organized against fraud, a law not only in the interest of economy, but in the interest of honest government. It is the law of the land, and yet after four years we are now proposing to go back and hunt up old claims for contests, and in each case to pay the expenses of the contestant and the contestee.

Mr. WELLS, of Mississippi. Surely the gentleman from Indiana does not mean to say that in this amendment we are going outside of claims arising during the present Congress, for he must know that these are all claims arising during this Congress, and not outside of it.

Mr. HOLMAN. Yes, sir; they cover the entire period of this Congress—every contestant and every contestee—reversing a law the House deliberately made, a law of both Houses, passed because it was thought better for the country and better for gentlemen aspiring to seats in this House that no payments should be paid to either party, either to the contestant or the contestee. Why have not gentlemen brought forward a bill repealing that law? Why have not the Committee of Elections, if they thought the law was wrong, provided for its repeal?

Mr. WELLS, of Mississippi. If the gentleman from Indiana came here making a contest for a seat upon this floor, does he mean to say he should not be allowed the reasonable expenses of the contest?

Mr. HOLMAN. I do not know what I should do myself. I have never been put to the test, and am not prepared to say. I do not think I should contest any gentleman's seat.

Mr. HARRIS, of Virginia. I desire to say one word for all.

Mr. HOLMAN. Let me have one word—just a single fact. Has not every gentleman on this floor made his contest with the full knowledge of the fact that the law absolutely prohibited the payment of expenses either to the contestant or the contestee? The law provided for the payment of the expenses neither of the contestant nor the contestee, but on the contrary prohibited such payment being made.

Mr. HARRIS, of Virginia. I took some pains to examine this question in regard to the compensation of parties contesting seats upon this floor, and I find until 1871 or 1872, in the Forty-first Congress, no one had ever been paid except *bona fide* contestants who failed to get their seats.

The House out of its contingent fund paid only the contestant who made an honest contest, believing he had a right to the seat, but failed, enough to pay him his reasonable expenses. In the Forty-second Congress, the House, on the motion of Mr. Poland, of Vermont, adopted a resolution overriding the Committee of Elections, and providing that both contestant and contestee should be paid their reasonable expenses. Under that resolution the amount went up to $67,000. After that a law was passed which provided that the House of Representatives of its own motion should not pay out of the contingent fund or any other fund any amount to either contestant or contestee, but left the matter as it was before, that it might be paid by an appropriation act.

Now, in this case Mr. ABBOTT was the fortunate contestant. He gained his seat. He drew his mileage and his pay back to the beginning of the session. But while I voted against this item in committee—and I suppose there is no harm in saying how I voted there—I will not antagonize my friends on this floor in regard to it. But the reason that influenced me there will influence me here in voting

against it. The view I hold is that of the old law, that nobody ought to be paid except the *bona fide* contestant who failed in getting his seat; because if he gets the seat he has his pay to provide for the necessary expenses of a contest like all the other expenses attending the position of a member of Congress. Such expenses constitute one of the incidents of the place, and the Government should not be held responsible for them. Suppose a gentleman is here contesting a seat who has come three thousand miles and is paid his expenses, he gets much more than gentlemen who had no contest at all. As the Government cannot equalize the pay of the members, I think the true way is to pay the honest contestant, because it is the right of the people that an election should be contested; but in no other case to pay any other person.

The question being taken on the pending paragraph of the amendment, there were—ayes 67, noes 40; no quorum voting.

Mr. HOLMAN. I call for tellers.

Tellers were ordered, and Mr. HOLMAN and Mr. FORT were appointed.

Mr. FOSTER. Allow me to make the suggestion to the gentleman from Indiana that he let all these items pass and take a vote on them in the House.

Mr. HOLMAN. Let us take this vote in committee.

The committee again divided; and the tellers reported—ayes 69, noes 56.

Mr. HOLMAN. A quorum has not voted, but I will not insist upon that. We will take a vote in the House.

So (further count not being called) for, the paragraph was adopted.

The Clerk read the next paragraph in the amendment, as follows:

William B. Spencer, contestant, expenses in contested-election case of Spencer *vs.* Morey, fifth district of Louisiana, $734.05.

Mr. FOSTER. I now suggest to the gentleman from Indiana [Mr. HOLMAN] that it is evident that all these items in relation to electoral expenses will pass. I suggest that he allow them to pass and ask a vote in the House.

Mr. BLOUNT. Except those subject to the point of order.

Mr. HOLMAN. I think it will be better to take a vote on each. I ask that the order made by the House be reported, that we may know what cases are in order.

Mr. FORT. The gentleman can have a vote by yeas and nays in the House. I suggest that to save time he allow all the items to pass.

Mr. HOLMAN. I ask that the order of the House may be read.

The Clerk read as follows:

(Wednesday, February 14, 1877, twelve o'clock m.)

Mr. JOHN T. HARRIS, by unanimous consent, from the Committee on Elections, reported the following proposed amendments to the sundry civil appropriation bill when the same shall be under consideration in the House, namely:

To Pay J. V. LE MOYNE, contestant, expenses in contested-election case of Le Moyne *vs.* Farwell, third district of Illinois, $1,200.

J. G. ABBOTT, contestant, expenses in the contested-election case of Abbott *vs.* Frost, fourth district of Massachusetts, $2,000.

William B. Spencer, contestant, expenses in contested-election case of Spencer *vs.* Morey, fifth district of Louisiana, $734.05.

James H. Platt, jr., contestant, expenses in contested-election case of Platt *vs.* Goode, second district of Virginia, $3,000.

JOHN GOODE, jr., contestee, expenses in contested-election case of Platt *vs.* Goode, second district of Virginia, $500.

JOSEPH H. RAINEY, contestee, expenses in contested-election case of Lee *vs.* Rainey, first district of South Carolina, $1,200.

Samuel Lee, contestant, expenses in contested-election case of Lee *vs.* Rainey, first district of South Carolina, $1,200.

CHARLES W. BUTTZ, contestant, expenses in contested-election case of Buttz *vs.* Mackey, second district of South Carolina, $1,200.

JERE HARALSON, contestee, expenses in contested-election case of Bromberg *vs.* Haralson, first district of Alabama, $1,150.

S. S. FENN, contestant, expenses in contested-election case of Fenn *vs.* Bennett, Idaho Territory, $1,000.

H. B. STRAIT, contestee, expenses in contested-election case of Cox *vs.* Strait, second district of Minnesota, $1,500.

E. St. Julian Cox, contestant, expenses in the case of Cox *vs.* Strait, second district of Minnesota, $1,500.

R. S. Frost, contestee, expenses in contested-election case of Abbott *vs.* Frost, fourth district of Massachusetts, $2,000.

Frank Morey, contestee, expenses in contested-election case of Spencer *vs.* Morey, fifth district of Louisiana, $734 05.

Mr. FORT, by unanimous consent, submitted a proposed amendment to the said bill to pay the expenses of Charles B. Farwell in the contested-election case of Le Moyne *vs.* Farwell, third congressional district of Illinois.

Mr. JOHN H. CALDWELL, by unanimous consent, submitted a proposed amendment to the said bill to pay the expenses of Frederick G. Bromberg in the contested-election case of Bromberg *vs.* Haralson.

Ordered, That the said proposed amendments shall be in order, to be submitted as amendments to the said bill when the same is under consideration in the House.

Mr. HOLMAN. I did not notice what was the order of the House in regard to the case next before the last.

The Clerk again read the portion of the order in reference to Mr. FORT's proposed amendment.

Mr. STEVENSON. I would like to inquire of the chairman of the Committee of Elections why the name of Mr. Farwell was omitted?

Mr. FORT. We have not arrived at that point yet. That will be stated when the amendment is discussed.

The question being taken on the pending paragraph of the amendment, it was agreed to.

The Clerk read the next paragraph in the amendment, as follows:

James H. Platt, jr., contestant, expenses in contested-election case of Platt *vs.* Goode, second district of Virginia, $3,000.

Mr. HALE. I offer the following amendment:

Strike out "$3,000," and insert "$5,400."

I offer this amendment because I believe that under any principle upon which the House has been acting in election cases this amount of money should be paid. I agree very largely with the proposition that legislation in the direction of paying large claims of contestants encourages contests, and I was heartily in favor of the law which is now embodied in the Revised Statutes. But the law, it will be noticed, while it forbids the House in any way to pay the expenses of the contestant, does not prevent legislation on the part of both Houses by embodying a provision in an appropriation bill, as is attempted here.

Mr. HOLMAN. I think my friend is mistaken. The point of order would have been a good one if the House had not given unanimous consent to allow this amendment to come in.

Mr. HALE. I offer this amendment for this reason. It is the hardest of hard cases. There is no question here as to false encouragement held out to contest a seat on this floor. There is no member here upon either side of the House who remembers the contest between Mr. Platt and Mr. GOODE who will not admit that Mr. Platt believed that he had a good case; that he came here believing himself elected; that he struggled to maintain what he believed to be his right. The committee divided, and the House divided, and Mr. GOODE was retained in his seat only by a very small majority; and I believe that the conclusions of the committe were such that had they been reached early enough, Mr. Platt would have obtained the seat upon the *prima facie* right. He lost the benefit he would have derived from sitting here and drawing his monthly pay. He contested a seat to which he believed he was entitled, and in that contest he spent of his own money more than the sum that I have offered here in this amendment. He has not charged one dollar for his time. The vouchers that he presents, as I am told, cover more than $5,400. He drew no salary from the House as a member, his opponent drawing the salary from the beginning. He was honest in his claim. It is not an old claim. It is in the present Congress, and if we pay anybody in these contested-election cases, where there is so fair a claim to the contest as Mr. Platt presented here we cannot consistently stop until we pay him what he honestly paid out in attempting to enforce the right which he believed he had to the seat. I believe it to be one of the best cases that could be presented here.

Mr. HOOKER. I have listened to the remarks of the gentleman from Maine with regard to this case, and I still think that the committee and the House ought not in any case to encourage contestants by offering large pay for the amount they may have expended in making the contest. A party who undertakes to come into this Hall to contest for a seat comes in upon his own responsibility and upon the merits of his case, like a party in court, and if he loses his suit he ought to pay the costs of his suit. It is offering a premium to every man who is defeated by however large a majority or by however small a majority to come into the House of Representatives and contest the seat of the sitting member. He takes the chances of success. If he fails in his contest he ought not to call upon the Government to pay the expenses of the lawsuit which he has instituted himself in his own interest and in his own behalf. I doubt very much whether, even in a case in which the contestant is successful, there ought to be anything like a large amount paid to the successful contestant.

Mr. HALE. I agree with the gentleman about that. I do not think there should be any swelling of these claims. But if in a fair contest the contestant has actually paid out by fair, good management sums of money, I think that those sums should be re imbursed, but I do not think that the expenses should be exaggerated.

Mr. HOOKER. I differ with the gentlemen in this: I think that the party who comes into this Hall for the purpose of instituting an inquiry as to whether the sitting member is lawfully here or lawfully entitled to his seat, comes in on his own responsibility, like a suitor in court, and he ought to pay the costs if he fails in successfully contesting the seat of the sitting member.

Mr. BROWN, of Kentucky. Allow me to suggest to the gentleman from Mississippi that in this case the claim of Mr. Platt to the seat was sustained by a majority of the Committee on Elections, and he was only refused his seat by a majority of four in this House. He certainly had a good case, and it certainly cannot be said that he made the contest improperly, for the judgment of the House refusing him the seat was only confirmed by a majority of four.

Mr. HALE. It was not a contest made for the sake of getting pay; that is very evident.

Mr. HOOKER. I accept the suggestion of the gentleman from Kentucky, [Mr. BROWN,] and in reply to him I will say that the judgment of the House, whether it was affirmed by a large or small majority, shows that in the opinion of those who had the power of deciding and passing upon this question this gentleman had not a good claim, and therefore, whether his case was decided against him by a large or small majority, he ought to pay the expenses of his own suit.

[Here the hammer fell.]

Mr. TOWNSEND, of New York. I move to strike out the last word, and in support of that motion I desire to say this, that I differ entirely from the gentleman from Mississippi [Mr. HOOKER] as to

the principle upon which payment of expenses of this kind can be made. I do not believe that we have the right to pay one dollar out of kindness and consideration for a man on either side of this body, neither for the contestant nor the contestee. If we pay at all we should pay upon the ground that the people of the United States are interested in the question whether the right man has the certificate, and the right man sits in the National Congress and discharges the duties here. It is the people of the United States that are interested, and while nothing should be paid to a man who has come here factiously, a man who has come here without a probable cause, yet if we pay in any of these cases it is upon the ground that the interests of the country require that such cases should be brought here for decision.

There is a further reason and it is in the same direction. A rich man may get the place, and a man of moderate means would be utterly unable to carry on the contest. A man may get the place who is poor and a rich man may contest with him and ruin him. It is not for the interest of the people of the United States that either of these men should be encouraged. And in a proper case I believe it is the duty of Congress to pay. I do not in this case say whether we should pay $5,400, or $1,000. I am not up for the purpose of arguing the question whether we should pay anything to this man, but I got up for the purpose of claiming that it is not a controversy between man and man; it is a controversy between two persons claiming to represent the people, and the people are interested that the right man should have the place.

Mr. HARRISON. I rise to oppose the motion. I am exceedingly glad to hear so sensible a speech from the gentleman from New York, [Mr. TOWNSEND.] He has spoken argument, and has not shown his temper or his teeth. But, sir, I must oppose that portion of the amendment which proposes an *ex parte* statement of expenses.

Mr. TOWNSEND, of New York. Will the gentleman tell me in what part of my speech I spoke of *ex parte* statements of expenses?

Mr. HARRISON. O! I am not talking of you now; I am speaking of the gentleman from Maine, [Mr. HALE.]

Mr. TOWNSEND, of New York. All right.

Mr. HARRISON. I have the happiness to agree with the gentleman from New York. Mr. Platt came here contesting in a House largely opposed to him politically. There were men on this floor who voted for him, not only voted against their party, but some of them who were friends of the contestee also voted for Mr. Platt. As the gentleman from New York [Mr. TOWNSEND] says, this question of expenses in a contested-election case is not a personal thing. It is the duty of a man who has been elected, or who believes honestly that he has been elected, to contest the seat and not permit the people of his district to be defrauded of their rights by any returning boards counting him out of his seat.

Now, what evidence have we that Mr. Platt had good grounds for contest? As the gentleman from Indiana [Mr. HOLMAN] says, many persons make these contests for the sake of obtaining payment; but we know that Mr. Platt did not make such a contest, because some of us on this side of the House voted for him in spite of party affiliations, and because we were convinced by the testimony that he was entitled to the seat.

Now, I think he ought to be paid, but not more than the amount which the committee is supposed to have audited for him. It is fair to suppose that the Committee of Elections had before them and weighed the vouchers in the case, and they came to the conclusion that the amount they have reported here was the proper amount to be paid. I do not doubt the statement of the gentleman from Maine [Mr. HALE] that Mr. Platt did expend the amount he has named. But I take it for granted that the committee heard all the testimony and have allowed all that they believed he was justly entitled to.

Mr. HOLMAN. I ask that debate on these various paragraphs shall cease, and that especially upon the pending paragraph it shall now cease.

Mr. HARRIS, of Virginia. I desire to make a word of explanation.

The CHAIRMAN. The debate on the pending amendment is exhausted.

Mr. HARRIS, of Virginia. I desire permission to make a statement to the committee.

Mr. TOWNSEND, of New York. I withdraw my amendment to strike out the last word.

Mr. HARRIS, of Virginia. I renew the amendment.

Mr. HOLMAN. I ask that debate shall cease after the gentleman from Virginia [Mr. HARRIS] has been heard.

Mr. HALE. I desire to say a word.

Mr. HOLMAN. Then I move that the committee now rise.

Mr. HARRIS, of Virginia. I do not think it is necessary to do that.

Mr. HOLMAN. Then I ask that all debate on this proposition shall cease in ten minutes.

Mr. HARRIS, of Virginia. I have no objection to that.

Mr. CLYMER. I object.

Mr. LANE. I move that the committee now rise.

The motion was not agreed to; upon a division ayes 66, noes not counted.

Mr. HARRIS, of Virginia. I desire to make an explanation in regard to this matter. The whole account of Mr. Platt, as filed before the committee, was, I believe, some $5,400. I have never seen an account filed before that committee or before any other body which was better sustained by vouchers, even by receipts for one day's attendance of a witness. The amount expended in the way of pay of witnesses and of other persons was some sixteen hundred or eighteen hundred dollars. I speak from recollection, and therefore may not be strictly accurate. The remainder of the account, some thirty-seven hundred or thirty-eight hundred dollars, was for attorneys' fee. All the accounts were sustained by proper vouchers.

The committee in arbitrarily reducing the amount to $3,000 (and I concurred in that reduction) acted upon the ground that in our belief Mr. Platt had paid more to attorneys than, under the circumstances, a prudent man ought to have paid; at least, that consideration influenced me.

Mr. BAKER, of Indiana. Will the gentleman allow me to ask him a question?

Mr. HARRIS, of Virginia. Certainly.

Mr. BAKER, of Indiana. I would inquire of the gentleman whether or not we had not previously adopted an arbitrary rule, that in no case would we allow a contestant or contestee more than $3,000; and whether or not, without any particular examination of the various items making up the account of Mr. Platt, we did not agree that there were enough proper items to amount to $3,000?

Mr. HARRIS, of Virginia. That is true. The committee adopted previously a resolution that no claimant should be allowed more than $3,000. When Mr. Platt's account was reached (I had examined it myself previously, and could speak of it of my own knowledge) the committee summarily allowed $3,000, believing that his accounts properly amounted to at least that sum.

There is no doubt about his having paid out $5,400. All the evidence was before us, including the receipts of Governor Wise and his son, of Mr. Lyon and other attorneys, whose handwriting I know and am familiar with. I make this statement of the facts in the case, and the Committee of the Whole after having heard it may either increase or diminish the amount as they think proper. I have no suggestion to make.

Mr. HALE. I have but a word or two to say. The gentleman from Indiana [Mr. BAKER] has given an answer which perhaps was not heard by all the members here to the point made by the gentleman from Illinois, [Mr. HARRISON,] which was that the Committee of Elections audited this account and concluded that allowance should not exceed $3,000. My friend from Indiana [Mr. BAKER] has stated what was the action of the committee, and that has been very frankly admitted by the gentleman from Virginia, [Mr. HARRIS,] the chairman of that committee.

The accounts, as just stated by the gentleman from Virginia, [Mr. HARRIS,] are all on file, showing undoubtedly that Mr. Platt's expenses were more than $5,400. Now, I do not know but that he might have driven his lawyers to charge less; but this committee should remember the fact that the hearing of his case continued for days before the committee here; that for ninety days the testimony was being taken in four different places; that Mr. Platt, in enforcing what he believed to be his rights, had to be represented by good lawyers and in many places at once; and when he got through he had to pay their bills. They have taken his money; he is out of pocket. He spent this money in enforcing what he believed to be a good claim.

In a House where the party majority against him was nearly one hundred he came within four votes of being seated, in which case he would have drawn every dollar of pay from the commencement of the congressional term. I say again that if this is not a good case for allowing what has been expended in the prosecution of such a claim, there cannot be a good case presented to the American House of Representatives. I will not take up any more time, but ask for a vote.

The question being taken on the amendment of Mr. HALE, there were—ayes 68, noes 78.

Mr. HALE. I call for tellers.

Tellers were ordered; and Mr. HALE and Mr. HARRIS of Virginia were appointed.

The committee divided; and the tellers reported—ayes 78, noes 88.

So the amendment was not agreed to.

Mr. HALE. I move to amend so as to make the amount $4,500.

Mr. HOLMAN. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BUCKNER reported that the Committee of the Whole on the state of the Union having had under consideration the Union generally, and particularly the bill (H. R. No. 4682) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes, had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 1252) for the erection of a fire-proof building for the National Museum;

A bill (S. No. 1270) to authorize the printing and distribution of the memorial addresses on the life and character of the late Michael C. Kerr; and

A bill (S. No. 1271) to authorize the printing and distribution of the

eulogies delivered in Congress on the announcement of the death of the late Allen T. Caperton, a Senator from the State of West Virginia.

The message also announced that the Senate had adopted, and requested the concurrence of the House in, a resolution for printing the Report of the Commissioner on Fish and Fisheries for 1875 and 1876; and a resolution for printing the Digest of Opinions of Attorneys-General, &c., as prepared in the Department of State.

ENROLLED BILLS SIGNED.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled, bills of the following titles; when the Speaker signed the same:

An act (S. No. 1185) to ratify an agreement with certain bands of the Sioux Nation of Indians, and also with the Northern Arapaho and Cheyenne Indians; and

An act (H. R. No. 2690) to refund to the mayor and city council of Baltimore certain moneys illegally assessed and collected for internal-revenue tax.

LEAVE OF ABSENCE.

By unanimous consent leave of absence was granted—

To Mr. DIBRELL for the remainder of the session, on account of sickness in his family.

To Mr. HEWITT, of Alabama, indefinitely, on account of serious illness in his family.

WITHDRAWAL OF PAPERS.

Mr. HOPKINS, by unanimous consent, obtained leave for withdrawing from the files the petition and documents relating to the claim of Finley Patterson, no adverse report having been made.

ORDER OF BUSINESS.

Mr. POPPLETON. I move that the House take a recess till ten o'clock to-morrow morning.

Mr. RUSK. I hope that when the recess is taken it will be till half-past seven o'clock this evening. It was generally understood that we should have an evening session to-night for business of the Committee on Invalid Pensions.

The SPEAKER. No understanding of that sort was reached.

Mr. RUSK. I move that the House take a recess till half-past seven o'clock this evening, and that the session be devoted entirely to the consideration of reports from the Committee on Invalid Pensions.

The SPEAKER. That would require unanimous consent.

Mr. RUSK. I ask unanimous consent.

Objection was made.

Mr. BANNING. I suggest to the gentleman from Arkansas [Mr. RUSK] that we occupy the time from ten till eleven o'clock to-morrow morning in the consideration of pension bills. I think every one will consent to that.

Mr. WILSON, of Iowa. That may possibly interfere with the joint meeting of the two Houses.

The SPEAKER. Does the gentleman from Iowa object?

Mr. WILSON, of Iowa. Yes, sir; I do.

The question being taken on the motion of Mr. POPPLETON it was agreed to; and accordingly (at half past four o'clock p. m.) the House took a recess until ten o'clock a. m. to-morrow.

AFTER THE RECESS.

The recess having expired, the House was called to order by the Speaker at ten o'clock a. m.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. HOLMAN. I move that the House resolve itself into the Committee of the Whole for the further consideration of the sundry civil appropriation bill. Pending that motion, I move that all general debate on the pending proposition, as well as on other propositions of the bill which have been passed over and which have been partially considered, be terminated in five minutes.

Mr. DUNNELL. It is not fair to include propositions which have been passed over.

Mr. HOLMAN. Say five minutes on each proposition passed over.

Mr. TOWNSEND, of Pennsylvania. Does the gentleman mean to include the proposition in reference to surveys?

Mr. HOLMAN. Yes, sir.

Mr. TOWNSEND, of Pennsylvania. I object to that.

The SPEAKER. The Chair doubts whether that would be in order. The subjects referred to have been passed over and left open by unanimous consent, and the time to limit debate upon them would be when they are reached for consideration.

Mr. HOLMAN. Very well; I will withhold that part of my motion until these subjects are reached. I move now that all debate on the pending proposition in the Committee of the Whole be closed in five minutes.

Mr. HALE. Say one minute.

Mr. HOLMAN. Very well; one minute.

The motion was agreed to.

Mr. HOLMAN. I now ask for a vote on my motion that the House resolve itself into the Committee of the Whole.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole (Mr. EDEN in the chair) and resumed the consideration of the sundry civil appropriation bill.

The CHAIRMAN. The Clerk will read the item which was under consideration when the committee rose.

The Clerk read as follows:

James H. Platt, contestant, expenses in contested election case of Platt *vs.* Goode, second district of Virginia, $3,000.

The CHAIRMAN. There was an amendment pending to that amendment proposed by the gentleman from Maine, [Mr. HALE,] to strike out "$3,000" and insert "$4,500," on which the question first recurs

Mr. HALE. I do not propose to debate the proposition.

Mr. HALE's amendment to the proposition was agreed to.

The question next recurred on the item reported by the committee.

Mr. HOLMAN. I ask for a division of the committee.

Mr. HALE. There is no quorum, and it will break up the committee.

Mr. HOLMAN. I can see very well I must either break a quorum or let this proposition go to the House to be voted on there. When it does come up in the House I shall call for a separate vote on it.

The CHAIRMAN. The item as reported from the committee will be considered as agreed to with that understanding.

The next item was read, as follows:

JOHN GOODE, jr., contestant, expenses in the contested-election case of Platt *vs.* Goode, second district of Virginia, $500.

Mr. HARRIS, of Virginia. I desire to say the great disparity in the amount recommended for Mr. Platt and that recommended for Mr. GOODE occurred in this way: Mr. GOODE's friends, lawyers and witnesses, tendered their services without consideration. They traveled many miles in order to serve him. The contestant, on the contrary, had to pay his lawyers and witnesses and every one who assisted him.

The item was agreed to.

The next item was read, as follows:

JOSEPH H. RAINEY, contestee, expenses in contested election case of Lee *vs.* Rainey, first district of South Carolina, $1,200.

Mr. HOLMAN. I shall have to ask for a vote on all these amendments in the House.

Mr. BANNING. Too late!

Mr. CLYMER. The gentleman has that right.

The CHAIRMAN. Of course the gentleman has the right.

Mr. HOLMAN. I shall ask for a vote on all these propositions in the House, and other gentlemen will undoubtedly do the same thing. I ask, as it is manifest no definite expression can be had, these propositions be read over and if any gentleman desires a vote let him ask for it.

Mr. FORT. I object unless they all go together.

Mr. TOWNSEND, of Pennsylvania. Let them all be adopted.

Mr. FORT. Then I understand the gentleman from Indiana to say they might be read over and considered as passed.

Mr. HOLMAN. Unless some gentleman desires a vote.

Mr. FORT. They ought all to go together.

The CHAIRMAN. They will be considered as adopted by the committee unless otherwise ordered.

The Clerk read as follows:

Samuel Lee, contestant, expenses in contested-election case in Lee *vs.* Rainey, $1,200.

The CHAIRMAN. That will be considered as adopted.

Mr. HOLMAN. Let me state that I do not consent myself to any of these propositions, but shall ask for a vote in the House.

The Clerk read as follows:

C. W. BUTTZ, contestant, expenses in contested-election case of Buttz *vs.* Mackey, second district of South Carolina, $1,200.

JERE HARALSON, contestee, expenses in contested-election case of Bromberg *vs.* Haralson, first district of Alabama, $1,150.

S. S. FENN, contestant, expenses in contested-election case of Fenn *vs.* Bennett, Idaho Territory, $1,000.

H. B. STRAIT, contestee, expenses in contested-election case of Cox *vs.* Strait, of the second district of Minnesota, $1,500.

E. St. Julian Cox, contestant, expenses in contested-election case of Cox *vs.* Strait, of the second district of Minnesota, $1,500.

The CHAIRMAN. Those amendments will be considered as adopted.

The Clerk read as follows:

R. S. Frost, contestee, expenses in contested-election case of Abbott *vs.* Frost, fourth district of Massachusetts, $2,000.

Frank Morey, contestee, expenses in contested-election case of Spencer *vs.* Morey, fifth district of Louisiana, $734.05.

Mr. HARRIS, of Virginia. I gave notice in regard to those two last items for Mr. Frost and Mr. Morey, who were unseated, that I should oppose them with all the power I had when they came into the House. I do not think they should have been allowed.

The CHAIRMAN. The Chair understands that the right to call for a vote on all these items in the House is reserved.

Mr. HARRIS, of Virginia. I may not have an opportunity in the House to say what I wish to say. I desire to say it now.

The CHAIRMAN. By order of the House debate is closed on the pending paragraph.

Mr. HOLMAN. I rise to a question of order. Was unanimous consent given by the House that this item should come before the committee? I wish to reserve the point of order.

Mr. HARRIS, of Virginia. The House gave unanimous consent that these items should be in order.

Mr. FORT. The gentleman from Indiana knows that that consent

was given, the entry in the Journal showing it was read in his hearing. If the gentleman wants to move to reduce the amount, let him do so.

Mr. HOLMAN. I reserve the point of order till it is ascertained that this was one of the items which the House consented should be in order.

Mr. HARRIS, of Virginia. I will explain to the gentleman from Indiana how the matter stands. The Committee of Elections recommended all the items which have now been read, except that in favor of Mr. Farwell. The committee did not act upon that item at all; but the gentleman from Illinois [Mr. FORT] asked leave of the House to offer it as an amendment, and that leave was granted. Leave was also granted in the next case of the item offered by Mr. CALDWELL, of Alabama, in the case of Mr. Bromberg; but no other leave was given.

Mr. HOLMAN. The reason that I made the inquiry was that I was detained in the Committee on Appropriations a few minutes on the morning when this occurred, and I was not cognizant of the facts.

Mr. HARRIS, of Virginia. I desire now to state——

The CHAIRMAN. Debate is closed on the pending paragraph.

Mr. HARRIS, of Virginia. I understood the closing of debate to apply only to the case of Platt.

The CHAIRMAN. All debate is closed on the paragraph to which these amendments are offered. The Clerk will report the next paragraph.

The Clerk read as follows:

Charles B. Farwell, of the third district of Illinois, $3,000.

Mr. HOLMAN. Mr. Chairman, if this proposition——

The CHAIRMAN. Debate is closed.

Mr. HOLMAN. I rise to a question of order. If this proposition had been in the bill containing a number of items, each item would have been a single and distinct paragraph. My motion to close debate applied to the particular paragraph then before the committee. With the view I had at the time I would have been very glad to have applied the motion to close debate to the whole amendment, but I did not think that could be done. The rule is that we must confine the limitation of debate to the pending paragraph. Now, although this was one amendment it embraces quite a number of paragraphs, and the question is, whether each item is not a separate and distinct paragraph, although all are offered as one amendment?

Mr. HARRIS, of Virginia. That is how I understood it.

Mr. BURCHARD, of Illinois. Debate was closed on the paragraph and on all amendments to the paragraph.

The CHAIRMAN. The Chair understands all these items to be amendments to the paragraph on which debate has been closed. Debate, therefore, is not in order on any of these items.

Mr. HARRIS, of Virginia. I ask unanimous consent to make a statement.

Mr. FORT. The gentleman will have an opportunity for debate in the House.

Mr. HARRIS, of Virginia. I wish to say what I have to say now.

Mr. CLYMER. I do not wish to interfere with the gentleman from Virginia, but I must insist upon the point of order that debate is closed.

The CHAIRMAN. The Chair has already decided that no debate is in order.

The Clerk read the next paragraph of the amendment, as follows:

Frederick Bromberg, first district of Alabama, $1,500.

The CHAIRMAN. That will be considered as agreed to.

Mr. HOLMAN. Mr. Chairman, it is not agreed to.

The CHAIRMAN. The Chair understood that the various items when offered were to be understood as agreed to in an informal manner.

Mr. HOLMAN. This is not a report from the Committee of Elections.

The CHAIRMAN. The Chair will put the question on agreeing to the paragraph.

The question being taken, there were—ayes 17, noes 19.

The CHAIRMAN. The paragraph is not agreed to.

Mr. BANNING. Mr. Chairman, I think the last vote was under a misunderstanding.

The CHAIRMAN. The last vote was on the case of Mr. Bromberg.

Mr. BANNING. I call for a division.

The CHAIRMAN. There has been a division.

Mr. BANNING. I call for tellers.

Mr. HOLMAN. I think we are getting into a state of strange confusion in regard to this matter. It was the case of Mr. Farwell that was before the committee.

Mr. BURCHARD, of Illinois. The item in regard to Mr. Farwell, it was announced, was agreed to. No objection was made, and the next paragraph was read.

Mr. HOLMAN. I was watching the proceedings as closely as I could, and if that item passed I was not conscious of it.

Mr. FORT. The record will show that.

The CHAIRMAN. It was understood that all the items to which no objection was made should be considered as agreed to, and that a vote of the committee be taken upon them in the House. And no objection was made until the case of Mr. Bromberg was reached.

Mr. HARRIS, of Virginia. Debate was cut off in the case of Mr. Farwell and the Chair stated that it was passed under the rule. I protested against it at the time.

Mr. HOLMAN. There was no rule requiring that item to be adopted. I did not agree to it. I offered the proposition that unless objection was made each one of these items be regarded as agreed to. That was objected to, and we are now considering each item separately.

The CHAIRMAN. The objection was afterward withdrawn.

Mr. HOLMAN. I was not notified by the gentleman from Illinois [Mr. FORT] that it was withdrawn.

The CHAIRMAN. The paragraphs were read and their adoption announced by the Chair until the case of Mr. Bromberg was reached.

Mr. HOLMAN. Very well. We will have a vote in the House.

Mr. BANNING. On Mr. Bromberg's case also?

The CHAIRMAN. The item for Mr. Bromberg was not agreed to.

Mr. BANNING. I ask unanimous consent that the Bromberg case also be voted on in the House.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio, [Mr. BANNING?]

Mr. HOLMAN. I do not wish to consent to that.

The CHAIRMAN. Does the gentleman from Indiana object?

Mr. HOLMAN. It should not be adopted. There is no reason why it should be reported to the House because another bad case is to be reported.

The CHAIRMAN. It can only be done by unanimous consent and the gentleman from Indiana [Mr. HOLMAN] objects.

Mr. BANNING. I demanded tellers.

Mr. WILSON, of Iowa. It is too late now.

Mr. BANNING. O, no. I demanded tellers at the time.

Mr. HOLMAN. If the gentleman demands tellers, I of course have to withdraw my objection and let the amendment go to the House as having been adopted.

The amendment was agreed to.

The next paragraph of the amendment was read, as follows:

C. B. DARRALL, third district of Louisiana, $400.

Mr. HARRIS, of Virginia. I make no point of order upon that amendment myself, but the leave of the Committee of Elections to report these amendments was exhausted with the name of Bromberg; all subsequent amendments have not been authorized by the House to be offered here. I make no point of order, but I think it my duty to apprise the committee of that fact.

Mr. COCHRANE. I make the point of order on that amendment.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read the next paragraph of the amendment, as follows:

JOHN R. LYNCH, sixth district of Mississippi, $500.

Mr. FORT. I desire to know why one of these cases is admitted while others are objected to? I supposed you were going to act fairly about this matter.

The CHAIRMAN. The Chair has nothing to do with that.

Mr. HOLMAN. I make the point of order that this amendment was not authorized by the House.

The CHAIRMAN. The Chair so rules, and the amendment is not in order.

The Clerk read the next paragraph of the amendment, as follows:

To pay S. B ELKINS, contestee, expenses in the contested-election case of Pedro Valdez *vs.* S. B. Elkins, Territory of New Mexico, $500.

Mr. HOLMAN. I make the same point of order upon that amendment.

Mr. WILSON, of West Virginia. I withdraw the amendment.

The Clerk resumed the reading of the bill, and read as follows:

Rock Island arsenal: For a rolling-mill and forging-shop (shop F) for the armory at Rock Island arsenal, Rock Island, Illinois, $50,000.

Mr. HENDERSON. I move to amend that paragraph by striking out "$50,000," and inserting in lieu thereof "$38,000."

I shall occupy the attention of the committee but a single moment. I wish to say that the amount proposed in the amendment offered by me is the amount necessary to complete this shop. The officer in charge of the arsenal reports that this amount is necessary for that purpose and ought to be appropriated. He informs me, as shown by his estimates submitted for the next fiscal year, that there are other shops there which have cost large sums of money, and which cannot be used and will be of no public utility until this shop is completed. I therefore trust that the amendment will be adopted, and the amount proposed substituted in lieu of that proposed by the committee.

Mr. HOLMAN. The Committee on Appropriations think that the appropriation is very ample.

The question was taken on Mr. HENDERSON'S amendment, and it was not agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For an iron-working and finishing shop (shop G) for the arsenal, $30,000.

Mr. HENDERSON. I move to amend that paragraph by striking out $30,000 and inserting in lieu thereof $100,000.

I wish to say in regard to this amount that at the last session of Congress the sum of $30,000 was appropriated for this shop. It was sufficient for the purpose of excavating and laying the foundations of the shop. The sum proposed to be appropriated by the Committee on Appropriations is a very small sum to go on with the work

upon a building of such magnitude as that proposed, and I urge now, as I have done before the Committee on Appropriations, that the paragraph be amended so as to appropriate a sufficient amount to enable the officer in charge of the arsenal to go on economically with the work. I believe the sum of $100,000 is a very small amount for the purpose of pursuing the work there as economically as it ought to be done, and I shall be glad if the committee will adopt this amendment. I believe the sum proposed, $100,000, should be appropriated in the interest of true economy.

Mr. HOLMAN. The Committee on Appropriations think that the work in reference to the water-power cannot be entered on this year; indeed, we think that a commission should be appointed to examine this whole subject before any further appropriations are made.

The question was taken on Mr. HENDERSON's amendment, and it was not agreed to.

Mr. HENDERSON. I now move to insert after the paragraph last read the following:

For development of water-power and clearing out the pool, $80,000.

In regard to this amendment I will say, as I have urged so frequently before the Committee on Appropriations and as I urged at the last session of Congress, that this appropriation is absolutely demanded by every considsration of justice and of propriety, so as to enable the Government of the United States to perform its contracts, which have been made in good faith and ought to be carried out.

I have called the attention of the Committee on Appropriations to these contracts with the Government, and also to the resolution of Congress under which such contracts were made; I have also called the attention of that committee to the report of the very able and intelligent officer in command of this national work at Rock Island, showing the absolute necessity for this appropriation, and also to the letter of the Chief of Ordnance, sent to Congress at the last session, to the same effect; and I now ask the Clerk to read an extract from the report of the Chief of Ordnance made at the present session of Congress.

The Clerk read as follows:

WATER-POWER AT ROCK ISLAND ARSENAL.

On the 17th of February last I had the honor of submitting to the honorable Secretary of War my report on the necessity for a special appropriation of $157,350 for completing the development of the water-power, inclosing a report thereon from the commanding officer of the Rock Island arsenal. These reports were approved by the Secretary of War, and transmitted to the House of Representatives on the 19th of February, 1876. This item is included in the estimates from this office for the year 1878, and the necessity and propriety for an appropriation are fully set forth in the papers herewith submitted. This appropriation is required to carry out the agreements entered into by the Secretaries of War under the joint resolution of Congress of March 2, 1867, and there is no doubt that the interests of private parties require speedy action on the part of the United States. The work can be done more economically if the whole amount asked for be appropriated, and this is earnestly recommended.

Mr. HENDERSON. It will be noticed from the extract that has been read that the Chief of Ordnance informs this House that this work must be done for the purpose of carrying out in good faith contracts entered into by the Government.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. HOLMAN. This subject has been very carefully considered by the Committee on Appropriations, and they are of opinion that this appropriation ought not to be made at this time.

The amendment was not agreed to.

The Clerk resumed the reading of the bill, and read the following:

For general care, preservation, and improvement of sewers, new roads, care and preservation of water-power, of permanent buildings and bridges, including painting, building fences, and grading grounds, and repairs and extension of railroads, and for care and preservation of the Rock Island bridge, and expense of operating and maintaining the draw, $20,000.

Mr. HENDERSON. I move to amend the paragraph just read by striking out "$20,000" and inserting "$35,000." The Secretary of War sent to Congress his estimate for the sum of $27,750 for the purposes expressed in the paragraph just read. The Committee on Appropriations have only appropriated for these purposes the sum of $20,000.

I am informed, Mr. Chairman, that the full amount estimated should be appropriated; and I would be glad to have the attention of the chairman of the Committee on Appropriations for a single moment if I can get it. I have moved this amendment for the purpose of increasing this amount very slightly over the estimates submitted by the Department, and if this amendment is adopted it will enable the officers in charge there to go on and clean out the deposit of mud and sand in the pool, and thus relieve the parties who are suffering very grievously from the neglect of the Government to carry out its contracts. The amount now asked is so very small that I hope the amendment will be agreed to. I call attention to the following from the report of the Chief of Ordnance:

The Moline Water-Power Company feel aggrieved because the quantity of water at its disposal is not sufficient. It is admitted that the passage to the pool is obstructed, and that to give the Moline Water-Power Company and the United States the full benefit of the development already made, measures must be taken to cause a sufficient flow of water into the pool to supply the necessary power. The Government is bound by its agreement (after taking possession of the water-power property) to do this work, and in the interest of the two parties interested, for economy, and particularly for the protection of valuable interests to the United States, the work should be done now, and the entire amount, $157,350, should be appropriated.

The chairman of the Committee on Appropriations has said that it would be well to abandon this water-power. The following extract from the report of Major Flagler, in command at Rock Island, shows that such is not the fact:

I believe it would be unwise and not economical for the Government, after having expended so much money and built so great a water-power, to leave it unfinished. It is also clear that the acts of Congress on this subject and the contracts made with the Moline company require that the work shall be done.

The question was taken upon the amendment; and upon a division there were—ayes 30, noes 42.

No further count being called for, the amendment was not agreed to.

The Clerk read the following:

For repairs of arsenals, and to meet such unforeseen expenditures at arsenals as accidents or other contingencies during the year may render necessary, $40,000.

Mr. HENDERSON. One more amendment, and the last. I move to amend by inserting after the paragraph just read these words:

For new machinery and shop fixtures, $5,000.

I want to say a single word as to this small sum. The officer in charge of the arsenal recommended the appropriation of a much larger amount, but he says he will get along with the sum of $5,000 as the smallest amount possible. It will be observed that it is for the purpose of putting machinery into shops which have cost the Government large sums of money, and which are utterly useless without this machinery. I hope, therefore, that this small favor will be granted to the arsenal, over and above the amount recommended by the Committee on Appropriations.

Mr. WILSON, of Iowa. I would ask the gentleman from Illinois [Mr. HENDERSON] if without this appropriation the large sums of money already expended by the Government will not remain entirely unproductive?

Mr. HENDERSON. Undoubtedly.

The question was then taken upon the amendment moved by Mr. HENDERSON; and upon a division there were—ayes 37, noes 44.

No further count being called for, the amendment was not agreed to.

The Clerk resumed the reading of the bill, and read the following:

Surveys of northern and northwestern lakes and Mississippi River:

For continuing surveys of Lakes Erie and Ontario; determination of points in aid of State surveys and construction of maps; continuation of triangulation south from Chicago and east to Lake Erie; survey of the Mississippi River; and miscellaneous, $75,000: *Provided*, That the proceeds of the sale of the steamers belonging to the survey of the northern and northwestern lakes shall be placed in the Treasury to the credit of the appropriation for said survey, and the whole amount shall be immediately available.

Mr. YOUNG. I move to amend the paragraph just read by adding to it that which I send to the Clerk's desk.

The Clerk read as follows:

Provided further, That $50,000 of the foregoing sum shall be expended under the direction of the Chief of Ordnance in continuing the survey of the Mississippi River and its tributaries, with a view of determining the proper method of reclaiming from overflow the alluvial lands of the Mississippi delta.

Mr. CONGER. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. CONGER. My point of order is that by law the expenditure of the appropriation made for this purpose must be under direction of the Treasury Department.

Mr. YOUNG. I think the point of order taken by the gentleman from Michigan [Mr. CONGER] is not a good one. This amendment is in pursuance of an existing law. By a law of 1872 or 1873 the Chief of Engineers was authorized to make a survey of the Mississippi River and tributaries, with a view of determining the very question suggested in this amendment.

Mr. HOLMAN. The gentleman from Michigan is mistaken about that. This is under the War Department. The Coast Survey is under the Treasury Department.

Mr. YOUNG. When the survey was prosecuted to a certain extent the appropriation made under that law was exhausted before the work was completed. At the last session of Congress, with the consent of the then chairman of the Committee on Appropriations, the present Speaker of the House, I introduced just such an amendment as this, but by mistake, instead of putting the appropriation under the direction of the Chief of Engineers, it was permitted to remain under the direction of the office having charge of the coast survey. Having ascertained afterward that the amendment was improper in that particular, and that the appropriation should have been put under the control of the Chief of Engineers, I had it struck out in the Senate in the hope of getting the proposition changed so as to accomplish the object in view. In that way the amendment was lost last year.

There is perhaps no public enterprise demanding the attention of Congress that is of greater interest and importance to the people of the whole country than that looking to the reclamation of the overflowed lands upon the Mississippi River and its tributaries. The chairman of the Committee on Appropriations last year was willing to accept this amendment; and I submit now to the present distinguished chairman of the committee it is simply a matter of justice to that section of the country that this much of the appropriation should be diverted to this purpose.

Mr. CONGER. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Michigan rise to discuss the point or order?

Mr. CONGER. No, sir; I withdraw the point.

Mr. Chairman, the appropriation under consideration is one which has been made for the lake survey for a series of fifteen or sixteen years. The sole object of the appropriation at first was the survey of the great lakes; and that has been the object until the last three years, I think. The survey of the lakes is almost completed. There only remain a portion of Lake Erie and a small portion of Lake Ontario to be finished, and then the sailing-charts of the navigators of our lakes will be complete.

By some means, three or four years ago, there was added to this appropriation a provision for the survey of the Mississippi River, having reference more to a survey for the purpose of placing lights upon the river than to leveeing it, as all members will recollect. "The determination of points in aid of State surveys and the construction of maps," was also in the old bill as it is in the coast survey appropriation. The connecting of points of survey on the lakes by triangulations merely with points in the different States accessible to such triangulations is the same principle on the lake survey that was established in the coast survey for defining points by triangulation in the States. It is therefore a part of the lake-survey system. The survey of the Mississippi River is merely incidental. It was collateral; it was conceded for a purpose because it was expected that it would occupy but a portion of one year and that it could be done by the officers making this lake survey. That is the object of the appropriation; that is the law of this appropriation, the continuation of this lake survey.

Now, according to the report of Colonel Comstock, in charge of the lake survey, it will take something like $175,000 to finish the lake survey and to complete the charts of the great lakes. But the Committee on Appropriations this year proposed originally to give only $50,000 for this purpose, as gentlemen of the committee will remember. Upon the representation of Colonel Comstock that a larger sum was necessary and must be had to make the lake survey available—to continue the use of the steamboats and the equipment for that survey—the committee, if I am rightly informed, increased the appropriation for this purpose to $75,000. It was then contemplated that this whole appropriation should be used for completing, so far as might be, the lake survey. Now this amendment proposes to divert two-thirds of this appropriation from its legitimate purpose to another work not connected with anything for which this appropriation was ever designed, but looking to the examination of the Mississippi River for the purpose of draining and reclaiming lands—an entirely different object from those connected with commerce; for no one pretends that the leveeing of the Mississippi has for its object the improvement of its navigation.

Mr. MONEY. That is one of its objects.

Mr. CONGER. It is one of the objects alleged here in this House; but everybody knows that the leveeing of the Mississippi, according to the old plan followed, is a system which brings constant successions of impediments to the navigation of the Mississippi. It may reclaim lands, but it produces bars in the river which obstruct navigation; and until the committee charged with the subject shall report a measure which shall not only improve the navigation but also reclaim lands, an appropriation for that purpose cannot be legitimately taken from this appropriation, which is designed to continue and complete the surveys of the navigable waters and lakes of the United States and make our sailing charts what they should be in order to insure the safety of property and life.

From my knowledge of this subject, which I have watched for years, I say that $75,000 is the lowest possible amount that will suffice to keep the boats running and to maintain the surveying parties of the hydrographic survey of the lakes during the present season. But if the committee will increase this appropriation by $25,000 or $50,000 and appropriate this extra amount in the way now proposed, I shall have no objection. But this appropriation has been increased from $50,000 to $75,000 upon the representation of Colonel Comstock, and I think this committee should not divert any part of this sum from its legitimate purpose.

[Here the hammer fell.]

Mr. YOUNG. I will not occupy the time of the committee very long.

The CHAIRMAN. The debate is exhausted.

Mr. YOUNG. I move to strike out the last word of the paragraph. I will not occupy the time of the committee to controvert the points suggested by the gentleman from Michigan, but will modify the amendment I have offered so as to divert only $25,000 instead of $50,000 for the purpose indicated. I have always found the gentleman from Michigan very liberal toward us, and I trust he will urge no further objections to my amendment.

Mr. CONGER. Move to increase it and I will go with you.

Mr. YOUNG. I would do it cheerfully but I am satisfied a provision of that sort would not pass through the House. I am informed by the chairman of the Committee on Appropriations they have gone to the utmost limit they can safely go in the amount appropriated in this bill. The amendment, modified as I have suggested, I trust will meet with the approval of the gentleman from Michigan and also of the chairman of the Committee on Appropriations. It only diverts $25,000 instead of $50,000.

Mr. HARRISON, Mr. Chairman, it is known that the Committee on Appropriations never makes an appropriation of one dollar more than is necessary for a specific purpose. This House can take that for granted. If they have consented to give $75,000 to the work of triangulation and surveying the lakes, surely we should not come here and ask to divert it to something else which has nothing to do with it. If the gentleman had offered an amendment to appropriate $100,000 and then proposed to apply $25,000 toward the object he has specified, we might readily agree with him; but to come here and ask this House, when the committee have cut it down from $150,000 to $75,000, to divert a part of it to an entirely different operation from the one intended, will not be good policy and will not be statesmanlike. I hope the House will vote down the amendment.

Mr. CONGER. If the gentleman will withdraw the amendment I will renew it.

Mr. YOUNG. I move to modify my amendment, and on that I will ask the attention of the committee for a moment.

The CHAIRMAN. The Clerk will read the amendment as it has been modified.

The amendment, as modified, was again read.

Mr. CONGER. Mr. Chairman, it is apparent, the amendment of the gentleman upon its face is for the purpose of reclaiming lands.

Mr. YOUNG. That was the object.

Mr. CONGER. It is plain and clear that it is not for the survey of the Mississippi River. I wish to call attention to the language of the clause itself. After making the appropriation of $75,000, it goes on to provide that the proceeds of the sales of steamers belonging to the survey of the northern and northwestern lakes shall be placed in the Treasury to the credit of the appropriation for said survey—that is, the appropriation of $75,000—and the whole amount shall be immediately available—that is, the $75,000 shall be immediately available—together with whatever may arise from the sale of boats as they close the survey. I ask the gentlemen of the Committee on Appropriations, I ask the gentleman from Tennessee on the committee if he will give me his attention a moment in reference to this matter?

Mr. YOUNG. Certainly; but I am not on the committee.

Mr. CONGER. I mean the gentleman from Georgia, [Mr. BLOUNT.]

Mr. BLOUNT. What is the question?

Mr. CONGER. I ask whether this appropriation was not increased from the original estimate of the committee; that is, from $50,000 to $75,000 by the special and earnest request of General Comstock in charge of the survey?

Mr. BLOUNT. I was not on the subcommittee which prepared this matter.

Mr. CONGER. Then I ask any gentleman of the committee familiar with the subject, whether that is not the fact?

Mr. HALE. That is the fact.

Mr. CONGER. I ask any member of the committee whether after having first agreed to $50,000, after having come to the conclusion $50,000 would be enough for this survey, whether they did not on the representation of General Comstock, who has charge of the survey of the lakes, increase the amount to $75,000? I understand the gentleman from Maine who is on the Committee on Appropriations states that to be the fact. General Comstock himself so informed me. Had it remained at $50,000 I should have urged this committee to have increased it to $75,000. But that increase having been made, and believing that that can carry on the survey during the summer, I propose to let it remain so. But if this $25,000 should be diverted to another purpose there should be an increase of this appropriation.

Mr. BANKS rose.

Mr. HOLMAN. I ask unanimous consent that all debate on the pending paragraph be closed in five minutes.

Mr. YOUNG. I hope that will not be done. This is too important a matter to be disposed of without some debate.

Mr. CONGER. If this amendment prevails other amendments will be necessary, and debate ought not to be cut off.

Mr. HOLMAN. Very well. I do not press the proposition just now.

Mr. BANKS. The Committee on Appropriations, I hope, will allow me to say a word on this question; although I know they are anxious to have this bill proceeded with. The manner in which we transact the business of the House brings all the important current questions of the day into these appropriation bills. We have only five-minute speeches, and every member feels when he occupies the floor that he is perhaps impeding the passage of the appropriation bill itself. But if there is one question that can be brought to the attention of the House that is more important than anything else at the present time connected with the development of the material interests of the country, it is this question of the improvement of the Mississippi; and it seems to me that the appropriation proposed for that purpose is ridiculously small, considering its important bearing and the important results which should be aimed at.

There is nothing so important to the interior of the continent and to the continent itself, connected with its material interests, as the improvement of the Mississippi Valley and the development of its interests. There is a territory there capable of supporting more than a thousand millions of people. A large part of it must necessarily be reclaimed by the Government, and as preliminary to this there must be a survey of the Mississippi River and an estimate of the measures necessary to develop this vast and important and rich portion of the

continent. The present appropriation for this purpose is only so much money wasted. We give just money enough to pay the men that are occupied, without enabling them to accomplish anything in the great work itself. We are postponing the development of the Mississippi Valley for ten, twenty, thirty, or fifty years, while the increase of products if the interests of this portion of the country were attended to would pay a million times over the cost necessary for their development.

Now I think the gentlemen of the Appropriation Committee, considering that they hold the avenues of legislation on all these subjects—for we cannot touch those subjects or vote upon them except on the propositions they allow to be presented—should look at this question in all its breadth and give us something that would be adequate to the necessities of the country and its legitimate and proper demands.

Mr. HOLMAN. I move to amend by striking out the last word.

Mr. Chairman, the survey of Lake Erie is almost completed. There is a small portion of Lake Ontario yet to be surveyed. And that completes the survey of the northern lakes. There are some vessels to be sold, which, it is believed by the Committee on Appropriations, will add about $20,000 to this fund. The funds resulting from the sale of vessels that are being dispensed with by reason of the completion of the surveys, and authorized to be applied to the purposes of this appropriation, will, when added to the amount here appropriated, make an aggregate of about $95,000 on the whole.

The survey of the Mississippi River is only authorized as a measure to promote commerce. I presume that no gentleman can pretend that the Government of the United States may promote mere private ends by the draining of swamps or the reclaiming of swamp lands. That is a matter which belongs to the several States. The diversion of $20,000 from this appropriation for the survey of the Mississippi River, to promote the interests of the navigation of that stream, would leave $70,000 to be expended in completing the survey of Lake Erie and Lake Ontario; and I see no good reason why that should not be done. I move, therefore, to fix this amount at $20,000, and strike out the last clause. I ask the Clerk to read the amendment.

The Clerk read as follows:

Provided further, That $20,000 of the foregoing sum shall be expended under the direction of the Chief of Engineers in continuing the survey of the Mississippi River and its tributaries.

Mr. HOLMAN. Let the proposition stop there—at "the Mississippi River." The appropriation, as it stands in the bill, is simply for a survey of the northern lakes and the Mississippi River and its tributaries.

Mr. CONGER. The words "its tributaries" are not in the bill.

Mr. HOLMAN. The original purpose, Mr. Chairman, of this survey was to have a survey in the interests of navigation of the Mississippi River from Cairo. I suggest therefore that the diversion of $20,000 of this money to survey the Mississippi River in the interests of commerce is a proposition which we can all of us support. If there is any ulterior object in view in the offering of this amendment there might be a difference of opinion in regard to it. For myself, I think it should be confined to the survey of the Mississippi River in the interests of navigation. My proposition would leave $75,000 for the survey of the lakes and appropriate $20,000 to continue the survey of the Mississippi River.

Mr. CONGER. Does the gentleman mean to increase the appropriation now made by the bill?

Mr. HOLMAN. No, sir; the gentleman will perceive that we have authorized the sale of vessels during the coming fiscal year that are not now required in the survey of the northern lakes. The work is so far completed that two or three of the vessels which have been employed in that service may be sold.

Mr. CONGER. But will they be sold during the coming year?

Mr. HOLMAN. The amount received for these vessels can be made available during the next fiscal year for which this appropriation is made, and the amount so received, together with the $75,000, we think is sufficient for the present year. Let the survey of the Mississippi River continue to the extent of $20,000, which is about the sum which should be applied to that object.

Mr. CONGER. Let me suggest to the gentleman that he increase the amount of the appropriation $15,000 and then give $20,000 for the survey of the river, and that will leave $70,000 for the lake survey.

Mr. HOLMAN. These vessels, which are to be sold, are certainly worth $20,000.

Mr. HARRISON. But it is not provided that the amount received for them shall become a part of this appropriation. The language of the paragraph does not do it.

Mr. HOLMAN. We will correct the language if there is any doubt about it. I will move to add the words "in addition to the foregoing sum." The language of the paragraph is as follows:

For continuing surveys of Lakes Erie and Ontario; determination of points in aid of State surveys, and construction of maps; continuation of triangulation south from Chicago and east to Lake Erie; survey of the Mississippi River; and miscellaneous, $75,000: *Provided*, That the proceeds of the sale of the steamers belonging to the survey of the northern and northwestern lakes shall be placed in the Treasury to the credit of the appropriation for said survey, and the whole amount shall be immediately available.

Mr. HARRISON. I will suggest to the chairman of the Committee on Appropriations, if he will hear me, that he strike out the word "provided" and put in the words "together with the amount."

Mr. YOUNG. I want to say a very few words in reference to the suggestion made by the chairman of the Committee on Appropriations. Now this is merely a circuitous way of doing what the gentleman might do directly, and that is to defeat the whole object and purpose of my amendment. It must be obvious that if the suggestions of the chairman of the Committee on Appropriations are adopted they will defeat the entire object contemplated by my amendment. It may be that the steamers to which he has alluded will never be sold, and it may be that the Chief of Engineers or the officer having in charge the survey may, in construing the language which the gentleman proposes to incorporate in his bill, consider that the appropriation is for the purpose of improving the Mississippi River for the purposes of navigation and commerce and he will send snag-boats along the river to pull out snags instead of making the survey contemplated by my amendment.

Mr. HOLMAN. The gentleman misapprehends me. I an willing to say that $20,000 of this sum of $75,000 shall be applied to this object.

Mr. YOUNG. But the gentleman does not specify the object, and it is not a matter of importance to me and of no importance to the great enterprise I have in view to divert a portion of this appropriation for the purposes indicated by the chairman of the Committee on Appropriations.

The object I have in view is to determine the proper manner of reclaiming the alluvial lands of the Mississippi Delta from overflow. The whole matter has been far more ably stated by the distinguished gentleman from Massachusetts [Mr. BANKS] than I can do it. Every gentleman who has thought upon the subject must appreciate the vast importance of that enterprise. Now the committee will bear in mind that under a former law of Congress this survey was commenced and prosecuted almost to completion. The sum of $25,000 appropriated now, to be expended under the direction of the Chief of Engineers, would enable him, by the meeting of the next Congress, to complete the survey from Cairo to the Gulf. Two years ago this work was suspended because the appropriation was exhausted, and gentlemen are mistaken when they suppose that in this appropriation or in the former one it was intended to apply only to surveys for the purposes indicated by the gentleman from Indiana. It was the purpose of the law originally that the surveys of the Mississippi and its tributaries should be carried on, and I submit to the chairman of the Committee on Appropriations that an appropriation for this purpose, clear and distinctive, so that there can be no mistake about it, ought to be included in this bill.

The CHAIRMAN. What is the amendment of the gentleman from Indiana, [Mr. HOLMAN?]

Mr. HOLMAN. I move to insert after the word "survey" in the last line of the paragraph the following words: "together with the foregoing sum of $75,000."

Mr. HOOKER. On that proposition I desire to say a single word. The amendment of my friend from Tennessee [Mr. YOUNG] designs to indicate the purpose for which this appropriation of $20,000 or $25,000, as the case may be, is made. If the appropriation is inserted in the bill in the terms which the gentleman from Indiana, [Mr. HOLMAN,] the chairman of the Committee on Appropriations, proposes, in all probability the entire amount will be expended in taking out snags from the river and making other improvements which are pertinent to the river, when the very object of the gentleman from Tennessee [Mr. YOUNG] and those in favor of his amendment is that the Government of the United States shall take some steps with a view to ascertain what will be the probable cost of the construction of such levees as will protect the great delta of the Mississippi from overflow. We may as well appropriate money for this purpose as for the lakes, for this great inland sea, as the statesman of former days Mr. Calhoun, called it, the internal sea of the continent, sweeping, as it does, from the Alleghany Mountains, with its thousand tributaries, down to the Gulf of Mexico.

The object and purpose of the amendment of the gentleman from Tennessee [Mr. YOUNG] are to indicate precisely what is desired; that is, that there should be some preliminary survey by which we may ascertain something about what will be the probable cost of the protection of this great region of country from the annual inundations of the Mississippi. I had the honor the other day to introduce a proposition to stop a single crevasse in the levees, which broke through in 1872, and which is known as the Bonnet Carré crevasse. When I proposed an appropriation to stop that crevasse, through which at its flood-tide the waters of the Mississippi flow for an extent of eighteen miles, sweeping along the whole seacoast of Mississippi, and threatening to overflow the city of New Orleans itself, I was met with the objection that there had been no preliminary surveys completed with reference to the construction of levees on the Mississippi.

Now, the proposition of the gentleman from Tennessee is that this amount shall be expended, not in cleaning out the channel of the river, but in ascertaining what will be the probable cost of the construction of these levees. Surely if it is to be used in this way, it will be better not to accept the proposition of the gentleman from Indiana, [Mr. HOLMAN,] which would permit it to be used for other purposes, but to plainly state the object for which this amount is appropriated.

Mr. HOLMAN. Does the gentleman suppose that my amendment limits the expenditure of this money to cleaning out the channel of Mississippi River, removing the snags, &c.?

Mr. HOOKER. It is necessary that the survey should be made to ascertain the probable cost of constructing these levees, because whenever we attempt to have an appropriation made with a view to the protection of that region of country from inundation we are met with the objection, as I was met the other day, that there has been no preliminary survey. The amendment of the gentleman from Tennessee [Mr. YOUNG] proposes that this survey shall be made in order to ascertain something like an approximate estimate of what will be the cost of constructing the levees.

Mr. HOLMAN. Does the gentleman from Mississippi object to adding the proceeds of the sales of these vessels to the $75,000.

Mr. HOOKER. I do not object to that.

Mr. HOLMAN. That is my amendment. My amendment simply proposes to add the proceeds of the sales of the vessels to the amount appropriated by this bill.

Mr. YOUNG. I desire to say one word in reply to that. I am sure the committee does not understand the amendment of the gentleman from Indiana. If it is adopted, trammeled as the gentleman has it, dependent upon certain contingencies, the appropriation will not avail us for the purpose we have in view. I trust therefore the committee will vote down the amendment of the gentleman from Indiana and adopt the one I have myself submitted.

Mr. HOLMAN. If the gentlemen on the Lower Mississippi, who have no more interest in this matter than others have—the money may be expended in their midst, but my constituents are as much interested in this subject and a little more than the constituents of those gentlemen—if the gentleman from Tennessee [Mr. YOUNG] thinks it is not wise policy to add the proceeds of the sales of these vessels to the aggregate in this fund, I would be glad to have him give some reasons for his opinion.

Mr. YOUNG. I have pointed out my objection to the amendment. I am willing to agree to such an amendment if the gentleman will allow me to draw it up. I do not want the appropriation which I ask to be made for the purpose of a survey of the Mississippi River to go into a general fund. If the amendment of the gentleman is made to apply alone to that part of the appropriation which I ask for, it will fail altogether, because, the remainder of the appropriation having no reference to that contingency, these vessels I know very well will not be sold as long as their services are needed in the survey of the lakes. Therefore it is that that portion of the appropriation which we are interested in will fail utterly of the purposes we have in view if his amendment is adopted.

Mr. HOLMAN. The gentleman who desires to take in charge the Mississippi River and its navigation——

The CHAIRMAN. Debate upon the pending amendment has been exhausted.

Mr. HOLMAN. I move to strike out the last word. The gentlemen who have sought to take in charge the navigation of the Mississippi River, as though it was a matter peculiarly their own instead of being a matter of interest to the vast region of country drained by the Mississippi and its tributaries—if they think that this fund should not be increased by adding to the $75,000 the proceeds of the sales of these vessels, I will withdraw the amendment.

But let me say a word. I asked for an appropriation of money for the survey of the Mississippi River with a view of helping navigation. These gentlemen seem to be favoring an appropriation, not with a view to improving the navigation of the river, but for private interests, the reclamation of farms on that river from overflow. If that is proper, I might ask the same thing for my constituents. The same thing might be asked for every river in the United States the banks of which are subject to overflow. But that is a purpose for which I think the Government could not properly make an appropriation. It is merely a private object. Under the power to regulate commerce, the Government has undoubtedly the right to remove obstructions from these great inland rivers, these great inland seas as they have been termed, for the purpose of improving their navigation. But where does the gentleman find the power on the part of the Federal Government to appropriate money to reclaim farms from the advance of rising water? That is a purely private object. Upon the same principle you might appropriate money to improve lands in any part of the country.

I do not see by what authority money can be appropriated to reclaim lands in Mississippi, Louisiana, Indiana, or any other State of this Union. It is an appropriation of public money for a purely private object. To improve the navigation of the river is clearly within the power of Congress; it concerns navigation. But when you undertake to improve farms upon the river, the farms on the Upper Mississippi or on the Missouri subject to overflow, would be as much entitled to the same protection on the part of the Federal Government. I am willing to appropriate money to improve the navigation of that river; that is within the constitutional power of Congress; it is a work beneficial to commerce and one in which the whole people of the country are interested. But the reclaiming of lands from overflow is certainly not within our province.

[Here the hammer fell.]

Mr. CONGER. I move to amend by striking out the last word. There can be no doubt, from the report of engineers and the universally received opinion of the country, that the making of proper levees to improve the navigation of the Mississippi River will protect these overflowed lands. The two objects go together; there is no question about that. Whatever tends to confine the waters of the Mississippi within their own channel, and especially within a narrowed channel, will deepen that river and will at the same time prevent the overflow of vast quantities of lands in the Southern States. The two objects may well be coupled together; and although we may have doubts, as I have myself, about our right to appropriate money for reclaiming lands, yet I have no doubt that the proper appropriation of money to confine the Mississippi within its bounds and make a channel direct to the Gulf will improve the entire navigation of the river and remedy the frequently recurring sand-banks there. The very means which will prevent overflow will improve vastly the navigation of the river.

Hence, I have no trouble upon that point. The wording of the amendment of the gentleman from Tennessee is objectionable to me, but I do not care particularly for that. What I ask is that such an object as this may be carried on by an additional appropriation for the survey of the river, as the amount now named in the bill is already too small for carrying on the survey of the lakes. But let the appropriation be increased and both of these works may go on together. If this appropriation can be increased $20,000, or even $15,000, both objects can be accomplished. In view of the vast importance of both, I think this additional appropriation ought to be made. I move, therefore, as preliminary to the motion of the gentleman from Tennessee, [Mr. YOUNG,] to strike out $75,000 and insert $90,000. Then a portion of the appropriation can be taken for the survey of the Mississippi.

Mr. HOLMAN. I would consent to make the appropriation $80,000, together with the proceeds of these vessels.

Mr. CONGER. There need not be any change in the language in regard to proceeds of the vessels.

Mr. HOLMAN. Those proceeds will not be less than $20,000.

Mr. CONGER. The gentleman should not stand upon $10,000 in a matter which interests half the country.

Mr. HOLMAN. I move to make the amount $80,000.

Mr. KELLEY. The gentleman from Michigan [Mr. CONGER] withdraws his amendment and I renew it. Mr. Chairman, I do not know whether the sum named by one or the other of the gentlemen is a proper one for this work. I desire, however, to say that if any work can be proposed which will be national, it is work relating to the navigation of the Mississippi River. The last few weeks have given to engineers and legislators new light and positive instructions upon the question of the method of securing a system of free navigation to the ocean, to the States and Territories through which the Missouri, the Ohio, and other confluents of the Mississippi flow. I believe that to extend at intervals up the Mississippi from its mouth the plan so successfully executed by Captain Eads at its mouth will make those rivers navigable to the extent of twenty or thirty thousand miles. I am not advocating any special work; but I do say that no dollar should be withheld that is required for proper and adequate surveys and suggestions as to how this truly national work may best be done.

If anything can be national in this country the improvement of the Mississippi River is; and to talk of it as a scheme for protecting overflowed lands is to belittle or evade the question. The commerce of the greatest valley of the world is to be affected by this measure. If the opening of commerce to the whole northern portion of the Mississippi Valley, extending from the water-shed of the Alleghanies to the summit of the Rocky Mountains, (for such are the boundaries of that valley,) be not national, nothing can be. Niagara is local; Mount Hood is local; all the other great physical peculiarities of the country may be described as local, but the greatest commercial work that can be undertaken and the most thoroughly national is the ascertaining at the earliest possible day how the Mississippi and its tributaries may be most quickly and permanently opened to ocean commerce.

Mr. ATKINS. I do not wish to make any extended remarks on this subject. As I understand the amendment of my colleague [Mr. YOUNG] he proposes simply to carry out the design of the appropriation as originally made for the survey of the Mississippi River, and I do not see any reason why the language of the bill might not have been so framed as to carry out that original design. As it is, the language of the bill would clearly divert the sum from its original object. Now what harm can there be in adopting the amendment of my colleague, when it simply appropriates this fund as originally designed, unless this House proposes to change its purpose with regard to the survey of the Mississippi River? I shall not undertake to say one word as to the importance of this survey to the whole country.

The Mississippi River does not belong to the States through which it runs. It is national property. It is a national franchise. It belongs to this nation. It is the great ligament of this nation, and until you can sever the Mississippi River you cannot sever this Union. It is not worth while to talk about localities; it is not worth while to look at this thing with jealous eyes, with sectional eyes; it is a national object. It is as much to the interest of the northern man as to the man who lives at the Balize.

I trust it is not the purpose of this House to change the original design of this appropriation. If it is the purpose to let it stand as originally designed, then adopt the amendment of my colleague from the Memphis district.

[Here the hammer fell.]

Mr. MONEY. I move to strike out the last word.

The design of this amendment, Mr. Chairman, is simply to continue the law appropriating a sum for the navigation and improvement of the Mississippi River. The remarks of the gentleman from

Indiana [Mr. HOLMAN] (and I hope I will have his attention) were certainly unworthy of him and the subject under consideration. He speaks of this as a scheme for the protection of private interests, for the protection of private property, to prevent the overflow of a few farms of alluvial land on the banks of the Mississippi. The work covers six sovereign States of this Union and is for the benefit of the whole country. It is to reclaim an area of 32,000 square miles, equal to one-half of New England, from the inundation and ravage of the waters of the Mississippi. Its object is strictly national, and in no sense can it be termed, looking to the scope and extent of the work and of its influence, a local measure. It is a subject in which every man in this Republic has an interest, the manufacturers of New England and of the Middle States as well as the agriculturists of the Western and of the Southern States. It is a subject which must, at a very early period, engage the attention of every statesman and every business man in the whole country. It cannot be ignored by the Congress of the United States any longer, because through the whole extent of the country, in the North and East as well as in the South and West, there is a demand that this extensive alluvial country shall be reclaimed. Political economists begin already to see in its capacity and its resources the means by which this national debt of ours may be paid. They begin to see that the whole cotton market of the world may be monopolized by the United States, by the cotton which may be produced when these alluvial lands are reclaimed, a product which brings more gold into our Treasury than all the other products, North, South, East, or West.

There is nothing in this amendment, nothing in any one single feature of it, which can be called a local measure. It is all national, national in its extent, national in its benefits and in its influence on the future of this country. I ask this committee will consider this question in all its grand extent and consequences before they reject an appropriation of the small amount of $25,000.

With all respect to the gentleman from Indiana himself, I must say that he has not acquitted himself this morning in a manner worthy of his reputation and his broad views on this national question. It is impossible for us to ignore a measure so important as this, and if this Congress refuses to appropriate the amount asked for, if it refuses to initiate a measure so grand as the reclamation of 32,000 square miles of the richest land on this continent, then it will prove itself unequal to one of the greatest questions which has presented itself to the American mind. And I tell you, Mr. Chairman, the people of this country will demand that other representatives shall come upon this floor and this great measure which to-day is being frowned upon shall be taken into consideration and helped to a successful issue. We appropriated over seven millions of dollars for the purchase of the barren, rocky, and ice-bound coasts of Alaska, worth nothing to this country, and here it is now proposed to refuse the appropriation of $25,000 to initiate the reclamation of 32,000 square miles in the heart of our country, inhabited by a homogeneous people, identified with us in every respect. I appeal to the good sense of this House to support this amendment and enable this work to have an auspicious beginning.

[Here the hammer fell.]

Mr. HOLMAN. My proposition is to make the sum $80,000, and I rise now for the purpose of asking that debate on this subject be closed.

The CHAIRMAN. The gentleman from Indiana asks that a vote shall now be taken on this proposition.

Mr. HOLMAN. I ask the committee to consent that debate on this subject shall close. But in the first place I feel it is due to myself to say a word on what has just fallen from the lips of the gentleman from Mississippi, [Mr. MONEY.]

I have always taken the ground, and I believe that has been the common sentiment of our predecessors on this floor and in both Houses of Congress from the time Louisiana was acquired, from the time we have had the control of the Mississippi River throughout its whole course, that the improvement of its navigation is a work of national importance and that the appropriation of public money for that purpose is clearly within the power of Congress. At one period of our history questions were raised as to whether the power to regulate commerce did not confine the appropriation of money to the seaboard. But that doctrine gave way long since, and no question is now entertained that appropriations may be made from the public Treasury for the improvement of those great natural channels of commerce in the interior of our country. I favor the appropriation of any sum of money required for the improvement of the navigation of the Mississippi River and its tributaries. These are works of common interest to the whole country and to the whole people. They affect the subject of commerce in its widest aspects.

But it is another question whether the Government should appropriate money having in view directly the reclamation of overflowed lands within the limits of States. I concede that it is proper and necessary in improving the navigation of the Mississippi River that dikes and levees should be built, and if incidentally the effect of constructing such works should be to reclaim adjacent lands, that would be entirely proper. I would not withhold the appropriation of money to construct a dike because incidentally benefit should accrue to the adjacent proprietor in reclaiming his land from the overflow of the river. On the contrary, I should very much rejoice that while a great public object is accomplished benefit should incidentally result to the citizens of the particular State where the works happen to be.

Mr. GUNTER. Will the gentleman yield to me for a question.

Mr. HOLMAN. Yes, sir.

Mr. GUNTER. Does not the gentleman from Indiana know that a large portion of these lands overflowed in Louisiana and Mississippi and other Southern States consists of Government lands, not individual lands? And if they are Government lands, is it not legitimate to make an appropriation to reclaim them?

Mr. HOLMAN. The gentleman says they are Government lands——

Mr. GUNTER. No, sir; I ask you, do you not know that is the case?

Mr. HOLMAN. I do not know that such is the case. But if it were the case I would say that the Government never yet has undertaken the experiment of entering a State and carrying on public works with a view to the improvement of the value of its lands. I am willing to appropriate money for the improvement of the navigation of the Mississippi River, and if the great delta of the Mississippi is thereby also improved, I should be very glad of it. But I deny the power of Congress to appropriate money out of the public Treasury for the specific purpose of reclaiming the lands of any State of this Union.

[Here the hammer fell.]

Mr. HURLBUT rose.

Mr. HOLMAN. After the gentleman from Illinois [Mr. HURLBUT] shall have been heard, I will ask that the debate on this paragraph be closed.

Mr. WELLS, of Missouri. I desire also to say one word.

Mr. HOLMAN. I ask unanimous consent that after these two gentlemen shall have been heard debate shall close.

The CHAIRMAN. Is there objection to the proposition of the gentleman from Indiana?

Mr. YOUNG. I reserve the right to close the debate, if I think it necessary to do so, after the gentleman from Illinois and the gentleman from Missouri have been heard.

Mr. HURLBUT. There is no subject which demands more careful attention of Congress, or which, in my judgment, has larger possibilities of good, than this which is now before the Committee of the Whole; the possibility, either by the direct action of the Government itself or by the joint action of the United States and the States, of so regulating the Mississippi River as to prevent the destruction which is imminent all over that country. I cannot understand how any gentleman who is at all familliar with that region can hesitate to help these people, whose system has been broken up by events in the last ten or twelve or fourteen years, to save the great works which have hitherto secured that vast belt of country bordering on the river from destruction. How any one can refuse help for that purpose, on the ground of those old constitutional restrictions which in practice have been destroyed long since, I cannot comprehend.

I hope the gentleman from Tennessee, [Mr. YOUNG,] who has this matter in charge, will distinctly put his amendment for the continuance of these surveys. We have already done this thing. We have authorized the engineers to commence their surveys, and they have made one report; and now it is proposed that we shall stop the opportunity of acquiring that correct information upon which some future Congress can act in giving relief to that great delta and putting it in a condition where it shall be what the joint action of God and man would make it, the very garden of the country. I hope the amendment will be adopted.

Mr. ATKINS. I desire to ask the gentleman from Illinois a question. Is it not his opinion that a system of levees would improve the navigation of the Mississippi and also improve the navigation of the tributaries of that river?

Mr. HURLBUT. There is no doubt that the Mississippi River is controllable by the appliances of modern science, and that every step that is taken toward deepening and regulating the bed of the river will act directly upon the improvement of the adjacent country, there can be no doubt of that.

Mr. WELLS, of Missouri. It will be perceived by reading the paragraph in the bill that it includes the surveys not only of the lakes, but also of the Mississippi River; and the object of the amendment is to specify what portion of this money shall be used for the survey of the Mississippi River as provided for in the pargraph. I regret very much that the gentlemen who represent the lake district should oppose this amendment with the view of preventing the Mississippi River from having its proportion of this money.

In conversation with General Comstock, but a few days ago, he told me he had commenced the survey of the Mississippi River at Cairo, and gone down below Columbus. It was a very tedious job. The work had to be done in the winter time, and he had removed a portion of his men from Lake Erie when work could not progress there and taken them to the Mississippi River; and he further said if hereafter Congress should appropriate money for the improvement of its navigation, or leveeing the river, millions of dollars would be saved by a proper survey being made now. He said that of the money expended on that river to-day for its improvement from Cairo to the mouth of the Illinois River, thousands of dollars would have been saved to the Government if there had been a proper survey made years ago, when they could have ascertained the current and the washing of the respective banks.

I trust there will be no further opposition to allowing a portion of this money to be used for that purpose. I cannot conceive the object of these gentlemen in opposing this amendment. They say the total amount of the appropriation is not sufficient to carry on the two works. But I hold under all the circumstances connected with the improvement of the Mississippi River, as well as the necessary surveys

of the lakes, that they should be put on an equal footing. I trust the amendment authorizing the use of $25,000 for this purpose—that is, about one-fourth of the total appropriation—may be adopted.

The question being taken on Mr. CONGER's amendment, increasing the amount to $90,000, it was adopted.

The CHAIRMAN. The question is next on the amendment offered by the gentleman from Tennessee, [Mr. YOUNG.]

Mr. HOLMAN. I ask that that amendment may be again read.

The Clerk read as follows:

Add these words:

Provided further, That $25,000 of the foregoing sum shall be expended under the direction of the Chief of Engineers in continuing the survey of the Mississippi River and its tributaries, with a view of determining the proper method of reclaiming from overflow the alluvial lands of the Mississippi Delta.

Mr. HOLMAN. I move to amend the amendment by striking out all after the words "Mississippi River" and inserting the following:

With a view to the improvement of the navigation of that river and its tributaries.

Mr. YOUNG. I cannot accept that amendment.

The question being taken on Mr. HOLMAN's amendment to the amendment, there were—ayes 28, noes 82.

So (further count not being called for) the amendment to the amendment was not agreed to.

The question being taken on Mr. YOUNG's amendment, it was agreed to.

The Clerk resumed the reading of the bill, and read the following paragraph:

That upon the happening of the contingency on which the Secretary of the Treasury is authorized to issue bonds of the United States in payment to James B. Eads on account of the improvement by a system of jetties at the mouth of the Mississippi River, under and by virtue of the provisions in the act of March 3, 1875, entitled "An act making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes," the Secretary of the Treasury is hereby authorized to pay the sum that shall become due to the said James B. Eads in money instead of the issue of such bonds, and the sum necessary for said purpose is hereby appropriated.

Mr. HOLMAN. I desire to make a slight modification in that paragraph. I move to amend by inserting after the word "contingency" these words:

Prior to the 1st day of January, 1878.

This will leave the next Congress to deal with the subject as they may think proper.

The amendment was agreed to.

Mr. HALE. I offer the amendment which I send to the desk. I ask the chairman of the committee to listen to the reading of it, that he may see if there is any objection to it. I do not see any myself.

The Clerk read as follows:

Add the following:

The balance of about $18,000 of the appropriation for surveys for sea-coast defenses now standing on the books of the Treasury Department is hereby also made available for the surveys and reconnaissances by the engineer officers attached to the headquarters of the various military divisions and departments, and for the publication of maps for the use of the War Department and of the Army.

Mr. HOLMAN. I think I must raise the point of order upon that. It is impossible to form any judgment as to the amount of this appropriation unless the gentleman has a statement of it from the Treasury.

Mr. HALE. The amount is not to exceed $18,000. This is only making available previous appropriations made to complete certain works that are now going on. The amendment was handed to me with a printed paper from the War Department, which I will not take up time to have read.

Mr. HOLMAN. The object is to continue this survey?

Mr. HALE. To complete it. I will modify the amendment by making it read "not to exceed $18,000."

Mr. HOLMAN. Let the amendment, as modified, be read.

The amendment, as modified, was read.

Mr. HOLMAN. As the hour of twelve o'clock has arrived, I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BUCKNER reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 4632) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and had come to no resolution thereon.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By Mr. CABELL: The petition of citizens of Floyd and Montgomery Counties, Virginia, for a post-route from Christiansburgh, via Altizer's Store, in Montgomery County, Fulcher's, in Floyd County, Alum Ridge, and Indian Creek, to Greasy Creek, to the Committee on the Post-Office and Post Roads.

By Mr. CAULFIELD: The petition of importers of Chicago for an amendment to the revenue laws changing the manner of transporting imported goods, to the Committee of Ways and Means.

By Mr. CHAPIN: The petition of Adelia E. Ball and Edwin P. Ball, administrators, for an extension of letters-patent for an improvement in operating steam stamps, to the Committee on Patents.

By Mr. CROUNSE: The petition of W. H. Stratton and others, of Nebraska, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. FELTON: The petition of citizens of Georgia, for a post-route from Cave Spring to Livingston, Floyd County, Georgia, to the same committee.

By Mr. FREEMAN: The petition of citizens of Pennsylvania, that pensioners be paid from the date of their discharge from the Army, to the Committee on Invalid Pensions.

By Mr. GLOVER: The petition of letter-carriers of Saint Louis, Missouri, for an increase of pay, to the Committee on the Post-Office and Post-Roads.

By Mr. HATCHER: The petition of letter-carriers of Saint Louis, of similar import, to the Committee on Appropriations.

By Mr. HAMILTON, of Indiana: Two petitions from citizens of Columbia City, Indiana, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

By Mr. KEHR: The petition of letter-carriers of Saint Louis, Missouri, for an increase of pay, to the Committee on Appropriations.

By Mr. LAWRENCE: The petition of L. Boyd and others, of Springfield, Ohio, for the abolition of the oath of office, to the Committee on the Judiciary.

By Mr. MORRISON: The petition of F. E. Atwood and other citizens of Alton, Illinois, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

By Mr. PIERCE: The petition of H. M. Davis, widow of the late Rear-Admiral Davis, for a pension for herself and children, to the Committee on Invalid Pensions.

By Mr. SPRINGER: The petition of John A. Petefish, and other citizens of Cass County, Illinois, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

By Mr. TERRY: A paper relating to the establishment of a post-route from Dublin to White Gate, Virginia, to the Committee on the Post-Office and Post-Roads.

By Mr. WARREN: Memorial and resolutions of the citizens of Brookline, Massachusetts, relative to counting the electoral votes, to the Committee on the Judiciary.

By Mr. WELLS, of Missouri: The petition of citizens of Saint Louis, Missouri, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

IN SENATE.

FRIDAY, *February* 23, 1877—10 a. m.

The recess having expired, the Senate resumed its session.

NAVAL APPROPRIATION BILL.

Mr. SARGENT. Mr. President, I gave notice last night, when the Senate was rather full, at the time of the adjournment, that if the Senate did not go on then with the naval appropriation bill, I should ask to take it up at ten o'clock this morning. I trust that we may wait a few moments for a quorum, so that I may carry out my purpose. The Senate is rather thin now to proceed to business.

Mr. SPENCER. The bill might be read meanwhile.

The PRESIDENT *pro tempore*. The Senator from California moves, as was the understanding at the close of the session last evening, the present consideration of the bill named. Is there objection? The Chair hears none.

DISABILITY BILLS.

Mr. MERRIMON. I ask the Senator from California to let the naval bill be suspended, in order that I may pass a few disability bills reported from the Committee on the Judiciary yesterday. They will take but a minute or two.

Mr. SARGENT. I will not object. The naval bill may be laid temporarily aside.

Mr. DAVIS. I should like to know what bills the Senator from North Carolina proposes to call up.

Mr. MERRIMON. Disability bills.

Mr. DAVIS. I understand the bills are to remove political disabilities. Of course there is no objection to bills of that character reported from the Committee on the Judiciary.

Mr. MERRIMON. I move that the Senate proceed to the consideration of the bill (H. R. No. 3260) to remove the disabilities of Lawrence S. Baker, of Tarboro, North Carolina.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on the Judiciary with amendments.

The first amendment was in the first line of the bill, to strike out the words "legal and;" so as to read:

That all political disabilities imposed, &c.

The amendment was agreed to.

The next amendment was to strike out all after the words "North Carolina," in line 7, to the end of the bill, in the following words:

And that the said Lawrence S. Baker be, and he is hereby, restored to all the rights and privileges of a citizen of the United States of America.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed and the bill to be read the third time.

The bill was read the third time and passed, two-thirds of the Senators present voting in favor thereof.

Mr. MERRIMON. I move that the Senate proceed to the consideration of the bill (S. No. 915) to remove the political disabilities of D. H. Hill, of North Carolina.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on the Judiciary with an amendment, in line 5, after the words "imposed by," to insert "the fourteenth amendment to the Constitution of the United States by;" and in line 6, to strike out the word "war" and insert "rebellion;" so as to read:

That the political disabilities of D. H. Hill, of North Carolina, imposed by the fourteenth amendment to the Constitution of the United States, by reason of his participation in the late rebellion, be, and the same are hereby, removed."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, two-thirds of the Senators present voting in favor thereof.

Mr. MERRIMON. I move that the Senate proceed to the consideration of the bill (S. No. 1278) to remove the political disabilities of John S. Marmaduke.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed, two-thirds of the Senate voting in favor thereof.

NAVAL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4616) making appropriations for the naval service for the year ending June 30, 1878, and for other purposes.

The Chief Clerk proceeded to read the bill, the amendments reported by the Committee on Appropriations being acted on as they were reached in order in the reading of the bill.

The first amendment was in line 14, to increase the appropriation for "pay of commissioned and warrant officers at sea, on shore, on special service, and of those on the retired list and unemployed, and for the actual expenses of officers traveling under orders, and for pay of the petty officers, seamen, ordinary seamen, landsmen, and boys, including men of the engineers' force, and for the Coast Survey service, seven thousand five hundred men, from $6,250,000 to $7,270,000."

The amendment was agreed to.

The next amendment was to insert, the following clause after line 105:

For expenses of observing the transit of Mercury on May 6, 1878, at various points in the United States, $1,500.

The amendment was agreed to.

The next amendment was in line 159, to increase the appropriation "for equipment of vessels" from $700,000 to $970,000.

Mr. DAVIS. That is a large increase, an increase of $270,000 in this one item; and I think I am correct in saying that it is an increase over the estimate.

Mr. SARGENT. The estimate was $1,250,000 and last year the amount appropriated was $970,000.

Mr. DAVIS. The Senator no doubt has given the matter more thought than I have. Upon a further examination of the estimates I find that the estimate for the present year is a million and a quarter and that the amount appropriated last year was $970,000, exactly the sum that is now proposed, so that I withdraw any objection to the amendment.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was in line 171, to increase the appropriation "for contingent expenses of the Bureau of Equipment and Recruiting, namely: For expenses of recruiting and fitting up receiving-ships, freight and transportation of stores, transportation of enlisted men, printing, advertising, telegraphing, books and models, stationery, express charges, internal alterations, fixtures and appliances in equipment-buildings at navy-yards, foreign postage, car-tickets, ferriage, and ice, apprehension of deserters, assistance to vessels in distress, continuous-service certificates and good-conduct badges for enlisted men, including purchase of school-books for training-ships," from $40,000 to $75,000.

The amendment was agreed to.

The next amendment was in line 223, to increase the appropriation "for necessary repairs of naval laboratory, hospitals, and appendages, including roads, wharves, out-houses, steam-heating apparatus, sidewalks, fences, garden and farms, cemeteries, furniture, head-marks for graves," from $10,000 to $25,000.

The amendment was agreed to.

The next amendment was in line 227, to increase the appropriation "for the maintenance of the several naval hospitals and naval laboratory" from $25,000 to $35,000.

The amendment was agreed to.

The next amendment was in line 254, to increase the appropriation "for preservation of vessels on the stocks and in ordinary; purchase of materials and stores of all kinds; labor in navy-yards and on foreign stations; preservation of materials; purchase of tools; wear, tear, and repair of vessels afloat, and for general care and protection of the Navy in the line of construction and repair; incidental expenses, namely, advertising and foreign postages," from $1,500,000 to $3,300,000, and after the word "dollars," in line 255, to strike out the following proviso:

Provided, That no proposal for materials to be furnished under this or any other section of this act shall discriminate against or in favor of the production of any State or section of the Union.

Mr. DAVIS. It will be noticed that that item is an increase over the House appropriation of $1,800,000; in other words, more than double the amount appropriated by the House. The House appropriated $1,500,000. The present item is now fixed by the Committee on Appropriations at $3,300,000, being $1,800,000 in advance of the House appropriation. It would strike any one giving the subject even a passing thought as being a very large increase, and something extraordinary ought to be the cause of it if the increase is to be made. In my judgment, $3,300,000, even if necessary, (and I do not question that it is, because I have not sufficient knowledge,) is more money than can be properly and economically expended during any one fiscal year, and more than ought to be expended. As to striking out the proviso, I see no harm that it would do if it remained in the bill. There is not any great good that would come from it, but there must have been an object in the House in inserting the proviso. There must have been some reason for it or it would not have been put there. However, I should be glad to hear from the Senator having charge of the bill why the great increase takes place.

Mr. SARGENT. In the first place, in reference to the proviso, by observing the debates of the House the explanation given by a member from Pennsylvania shows that the proviso ought not to be on this bill. I understand the explanation of it to be that in the revenue marine, which has no connection with this bill, an advertisement was made for the purpose of purchasing Tennessee iron. I suppose that they wanted Tennessee iron, and it was stated by a member from Tennessee that it is the best iron in the world. Nevertheless, to prevent that discrimination in advertising for any particular class of iron, the proviso was put in this bill; but as it does not apply to this bill at all, it had better go out, for that reason as well as on account of the merits of the case. If any Department of the Government wants Pennsylvania iron, or Swedish iron, or any other particular iron for any particular purpose, they have a right to advertise for it.

In reference to the increase, it is the amount of the appropriation for several years before this last year. By the appropriation of this year, perhaps both parties striving to make a showing before the people in view of the presidential election, our appropriation bills were diminished somewhat. The appropriations for the Bureau of Construction and Repair and also for Steam Engineering were cut down to a very small figure. Out of the ordinary appropriation for the Navy, as heretofore made, the Secretary of the Navy has been putting into efficient condition iron-clads of the Navy without asking extra appropriations for that purpose. Instead of repairing old wooden ships, which need to be rerepaired and rerepaired again, and which never would be of any permanent value, he has expended the money in putting the iron-clads into condition and has succeeded in finishing all the single-turreted monitors, and they are very admirable for defense. He is also putting in complete repair the double-turreted monitors, which are five, giving out contracts for that purpose. To aid in this work, we this year give to the Bureau of Construction and Repair $3,300,000. Last year this appropriation was cut down. The result was to leave these five double-turreted monitors in the different ship-yards where they are being repaired or put in order, and where iron is being put in instead of white oak. Ships which cost probably from $25,000,000 to $30,000,000, by the expenditure of seven or eight millions of dollars, are being put in complete order. These are now, one of them in the ship-yard in New York, one in the yard at Chester, one in Philadelphia, one in Delaware, and one at Mare Island. We understand that the appropriation made here will complete this work entirely, and give the Government some of the most powerful iron-clads in the world. We shall then be complete for all defensive purposes so far as ships go. The great iron-clads of Europe are stronger than these, unquestionably, but they could not get into our harbors. Therefore, for all purposes of defending our great cities we shall have the most powerful implements of war that can be devised.

If Congress had done as it usually did, and appropriated for the current fiscal year the $3,300,000, the deficiency would not have occurred. Instead of that they made the appropriation the amount less named by my friend from West Virginia. It is proposed, however, that part of this amount for the next year shall be available for the present year in order that this work may go on now, because it would be much more economical to continue it. Furthermore, it is a great hardship to those who have entered into contracts to have their yards burdened up with these ships. These remarks apply to both this item and the next item relating to steam engineering.

Of course, if there should be extensive debate on this matter and it were thought necessary to convince the Senate, we ought to have more Senators here, but this explanation was I think satisfactory to every member of the committee. I hope there will be no further objection to the amendment.

Mr. DAVIS. The Senator probably did not mean to say just what he did say, that the $3,300,000 was called for last year. I suppose he meant to say that it was reduced last year.

Mr. SARGENT. I did not intend to say that.

Mr. DAVIS. I only want to correct that remark. I ask the Senator whether I understood him correctly in saying that previous to the present fiscal year $3,300,000 was the usual appropriation for the items specified here?

Mr. SARGENT. Yes, sir; that was the amount in 1875–'76 and in 1874–'75.

Mr. DAVIS. I see a provision here following on the next page that a million and a half of this sum is to be made available for the present fiscal year. That would in part explain and take away the force of what I said a moment ago, that it was more money than would be economically spent in a single fiscal year, as there will be nearly one and a half years to expend the money in. The increase both in the item now under consideration and in the next one to which the Senator's remarks apply is very large and required, as I thought, an explanation to know why such an increase was necessary. The Senator's explanation, however, that this was the regular appropriation until last year and that a part of it is made available for the present year, relieves a part at least of the objection that struck my mind. Therefore I make no further objection to the amendment.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was in line 265, to increase the appropriation for repairs and preservation of boilers and machinery on naval vessels; for fitting, repairs, and preservation of machinery and tools in the several navy-yards; for labor in navy-yards and stations not included above, and incidental expenses; and for purchase and preservation of oils, coals, metals, and all materials, and stores, from $800,000 to $2,000,000; and at the end of the clause to insert the following proviso:

Provided, That of the sum hereby appropriated an amount not exceeding $1,500,000 in the Bureau of Construction and Repair and $750,000 in the Bureau of Steam Engineering shall be available at once to complete necessary work already on hand and under contract, and which cannot be longer delayed without injury to the work and loss to the Government.

The amendment was agreed to.

Mr. KERNAN. I ask the gentleman in charge of the bill whether he can expect these large changes to be made without a vote. I do not want to raise any question now.

Mr. SARGENT. I know they are large amounts, and they are important. They can be reserved in the Senate.

Mr. KERNAN. With that understanding, that they can be called up and explained in the Senate, I shall make no objection now.

The Chief Clerk resumed the reading of the bill:

The next amendment of the Committee on Appropriations was to strike out the following paragraphs:

That a commission of nine members be created, in the manner hereinafter provided, whose duty it shall be to examine and inquire into the present condition of the Navy of the United States, as to its *personnel* and material, and into the laws and usages now governing the naval service; to consider the relation of the commercial to the national marine; what active floating naval force, including the type and class of vessels, their armament and equipment, should be maintained in time of peace, and what should be kept in readiness for actual service in event of sudden war; what number and kind of vessels should be constructed annually to make up for decay, destruction, and casualty; what changes are required in naval architecture, in ordnance, in armor, and in the instruments of defensive warfare by the advance of naval science; how the Government can obtain the best designs and models of the same; and especially to consider what measures are necessary to protect and extend our rapidly growing commerce on the Pacific Ocean and in Asiatic waters; and to report to Congress, through the President, during the months of December, 1877, or January, 1878, the results of their investigation, recommending such legislation as they may deem requisite to bring the Navy up to the highest standard of effectiveness consistent with wise economy.

That the said commission shall consist of the Admiral, the General of the Army, two Senators, to be designated by the President of the Senate, and three members of the House of Representatives, to be designated by the Speaker of the House of Representatives, said Senators and Representatives being such as will be also members of the Forty-fifth Congress; and two officers of the Navy, to be designated by the President, one of whom shall also act as the secretary of the commission.

That said commission shall have power to send for records, books, and papers, and to summon and examine witnesses. And the Secretary of the Navy is hereby directed and empowered to furnish the commission with all facilities within his control for the convenient prosecution of their labors. But no expense shall be incurred by the United States on account of said commission except the regular and current salaries of the persons employed on the commission; but that all expenses incurred shall be borne by said commission.

Mr. DAVIS. It strikes me that the bill as it now stands, coming from the House, creating a commission of nine persons, asks for a great deal of information. If it could be properly gotten and put before Congress it would certainly be valuable to persons making up their minds as to the present condition and what is necessary for the future of the Navy; and unless there is some objection that I know not of, it appears to me we ought to agree with the House in regard to these items. The bill does not contemplate an expenditure of money for this purpose, I believe; or at least not to any great extent, and perhaps no expenditure whatever. The information which such a commission would obtain would be valuable. Whether or not all the provisions of the bill could be properly carried out I know not. I hope the Senator having charge of the bill will give us his objections to the proposition as it stands in the bill. The House certainly must have had an object in placing it there.

Mr. SARGENT. Take the whole of it and never was a greater absurdity attempted in legislation. Here we have coupled together enormous subjects which would require the proposed commission to visit all parts of the country, to examine witnesses, and pay the expenses out of their own pockets.

All expenses incurred shall be borne by said commission.

It is absurd on its face. Then again the constitution of the commission is such that most of them will know nothing about naval affairs. Think of the idea of putting the General of the Army on a board to report on a system of naval warfare! I should like to know what two Senators and three members are willing to discharge the functions under this bill and examine witnesses, without provision even for being supplied with a sheet of letter-paper. It says this shall be without expense to the United States, but the Secretary of the Navy is required to transport these people wherever they want to go.

This matter was fully argued in the committee and my friend was present and heard the arguments. I think he should not ask me to discuss it. But if this is to be seriously debated, I decline to do it with the Senate so thin because I do not want to repeat what I have to say hereafter. If the Senate will allow this provision to go out *pro forma* and then reserve it with the other amendments Senators wish reserved to be acted on in the Senate, very well.

Mr. DAVIS. One word. I have nothing to say as to what occurred in committee. I do not agree with the Senator from California, however, in what he says as to what occurred in committee.

Mr. SARGENT. Do you say that it was not fully discussed in committee in your presence? I do not say we came to any conclusion upon it, but it was argued in the committee. That is all that I said.

Mr. DAVIS. I have nothing to say as to what occurred in committee further than that I do not agree with the Senator from California on that. I am positive when I say I do not agree with him.

The Senator says that this whole proposition is absurd. This has been grafted upon the bill by the other branch of this Congress after debate; and it may be just as absurd for the Senate to say that there is no sense in it as it was in the House to put it here. I care not, and I know not whether it can be properly carried out; but I think it improper in the Senate to say that it is absurd and ridiculous. If there be an addition necessary to provide for the needful expenditures, which would be very little, that can easily be remedied; but that does not make the whole proposal absurd. I think, on the contrary, there is a great deal of good sense in it; and as the Senate is thin, and the Senator does not care about discussing the bill now, and I myself want to hear him—there are times I like to hear him, but at other times I do not—perhaps this matter had better be deferred for the present.

Mr. SARGENT. I ask that this go out *pro forma*, to be reserved for the consideration of the Senate.

Mr. DAVIS. Very well.

The amendment was agreed to.

Mr. SARGENT. Now let Senators indicate the amendments that they desire reserved, and we will take a recess until the Senate is fuller.

The bill was reported to the Senate as amended.

Mr. DAVIS. I believe there are three amendments to be reserved, two by the Senator from New York [Mr. KERNAN] and the last one by myself.

The PRESIDENT *pro tempore*. Those amendments will be reserved.

Mr. COCKRELL. The increase of $1,020,000 on page 2, line 15; the increase of $200,000 on page 7, line 159; the increase of $1,800,000 on page 11, line 255, and the increase of $1,200,000 on page 12, line 265, I desire to have reserved.

Mr. SARGENT. Very well. Let the others be concurred in and then I will move for a recess.

The PRESIDENT *pro tempore*. The amendments indicated on page 2, page 7, page 11, and page 12 will be reserved.

Mr. COCKRELL. And then that as to the commission at the close of the bill.

The PRESIDENT *pro tempore*. The question will be on concurring in the amendments in gross, save those which have been specially reserved.

The amendments not excepted were concurred in.

Mr. SARGENT. I move that the Senate take a recess.

Mr. DORSEY. I hope not; I have a bill to call up.

Mr. SARGENT. Let the appropriation bill, then, be laid aside temporarily.

The PRESIDENT *pro tempore*. The bill will be laid aside temporarily.

HOT SPRINGS RESERVATION.

Mr. DORSEY. I move to proceed to the consideration of the bill (H. R. No. 2382) granting the right of way to the Hot Springs Railroad Company over the Hot Springs reservation in the State of Arkansas.

The PRESIDENT *pro tempore*. Is there objection?

Mr. DORSEY. The bill was read yesterday.

Mr. DAVIS. I did not hear it yesterday, and the Senator well knows if there is any question on a bill, as I am told there was on this yesterday, it cannot pass this morning.

Mr. DORSEY. I did not know that there was any question on the bill yesterday, except that the morning hour expired and the Senator from California called up an appropriation bill. This bill comes with the unanimous indorsement of the committee to whom it was referred after being there over a year. It is a bill that provides for perfecting the entries of four or five thousand people who are in a most distressed condition. I do not believe any more important measure is before Congress requiring action than this bill. It is a bill that

meets with the approval of the delegation in Congress from that State and of the Legislature, and the reports of the committees of both Houses of Congress are unanimous. I do not see how there can be any objection to it. It is entirely a local matter.

Mr. McCREERY. I think the Senator from Iowa [Mr. WRIGHT] desires to be heard on this subject. He is not present. He made some remarks on it yesterday. He certainly wanted to look into it.

Mr. DORSEY. I understand that the Senator from Iowa wished an amendment made yesterday; but an amendment suggested by my colleague meets his views, as I understand, and will be satisfactory to him. Then there was one section which he desired to have stricken out, and in that I concur, and I shall ask to have it stricken out.

Mr. McCREERY. I think it would be well to wait until the Senator from Iowa shall come in.

Mr. DORSEY. I hope the Senate will proceed to the consideration of the bill.

Mr. CLAYTON. Let the bill be read again for the information of the Senator from West Virginia.

Mr. DORSEY. I have no objection to the bill being read.

The PRESIDENT *pro tempore*. The bill will be read for information.

Mr. DAVIS. The Senator says "let the bill be read for the information of the Senator from West Virginia." I ask that the bill be read for the information of the Senate, not the Senator from West Virginia.

Mr. DORSEY. The bill was read yesterday morning. I have no objection to its being read again for the information of anybody who wants to hear it.

The PRESIDENT *pro tempore*. The bill will be read.

The Secretary read the substitute reported by the Committee on Public Lands for the bill.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill? The Chair hears none.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 2382) granting the right of way to the Hot Springs Railroad Company over the Hot Springs reservation in the State of Arkansas.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Arkansas [Mr. CLAYTON] to the amendment of the committee.

Mr. CLAYTON. I ask the Secretary to read the amendment as I propose to have it amended to conform to the ideas of the Senator from Iowa, [Mr. WRIGHT.]

The PRESIDENT *pro tempore*. The amendment to the amendment, as modified, will be read.

The CHIEF CLERK. It is proposed in line 6, of section 1, after the word "repeal," to strike out the following words:

Provided, That nothing in this section shall be construed to affect the right of the United States to collect and receive rents already due.

And to insert in lieu thereof:

And the Secretary of the Treasury is hereby authorized and directed to pay to the settlers upon said reservation all rents collected from them by said receiver, after deducting therefrom the expenses of collecting such rents; and for that purpose a sufficient sum is appropriated out of any money in the Treasury not otherwise appropriated.

Mr. WRIGHT. I suggest to my friend from Arkansas that as that amendment now stands the effect of it would be that you first deduct the expenses of administering the trust and then you still have to pay to the settlers the entire amount.

Mr. CLAYTON. No; what is left; the balance only.

Mr. WRIGHT. Then you ought to prepare the amendment in such form that they shall be paid only *pro rata* or paid a percentage of what is left. As it is now, you first deduct the entire expenses and then require the whole amount be paid to them after that.

Mr. CLAYTON. I intended to cover that point, and if the amendment does not it can be amended.

Mr. OGLESBY. I ask the Senator from Arkansas upon what ground it is he offers that amendment anyway?

Mr. CLAYTON. Upon the ground that it is unjust to the settlers on the reservation to make them pay rents. They were required to pay rent for lands they occupied. Some of them occupied the lands for twenty or thirty years, and their occupation has been no detriment to the public whatever but a great benefit. If they had not put improvements on these lands the public would have been inconvenienced and the Government would have suffered, because it is the interest of the Government to have its afflicted people receive the benefit of these waters. If they had not gone on the reservation it never would have yielded to the Government one dollar of revenue. The Government has never charged the settlers in such cases; and this is a stronger case than any other case of settlement on the public lands.

Mr. PADDOCK. Is it not true that the Government is collecting rents on the improvements in proportion to the value of the improvements?

Mr. CLAYTON. The Government is collecting rents for the buildings these men have erected. It is a great hardship. The people there are suffering in these hard times. A very large sum of money has been drawn from them during the past year and many of them are unable to pay it. Some have paid it, and I think it is no more than right that that should be refunded.

Mr. OGLESBY. I do not object to the Senator from Arkansas making an effort here to save his constituents from the payment of what he considers a burden. The Senate ought not to forget that the Committee on Public Lands have considered this bill somewhat hastily, not as fully as they desired to consider it, and that in the Committee on Public Lands of the Senate this point was considered in connection with the bill. The committee recommended the bill and are willing to stand by the bill, subject to such sensible amendments as shall be proposed by this body, and the committee did expect that it would undergo some amendment here. The general spirit of the bill we heartily indorsed. I do personally heartily indorse the general spirit of the bill. I do not wish, for one, to make any money off these people; nor do I believe the Government does; and I think if the Government undertakes it, it will fail in the long run from my personal examination of such matters. We put this provision in the first section of the amendment upon due consideration:

Provided, That nothing in this section shall be construed to affect the right of the United States to collect and receive rents already due.

That proviso was considered in the committee, and agreed to.

Besides, if the amendment which the Senator from Arkansas [Mr. CLAYTON] proposes is carried, there are a large number of men as I am told who occupy these buildings that have habitually paid rent to the men who claimed to own them. The men who claimed to own them own them no longer. The title is in the Government. Is there any hardship in those men that rented from the claimants paying to the Government that rent which they were paying to the claimants? What particular hardship is there in that? The Government has been at great expense in this matter, and all I ask as a member of the Committee on Public Lands or as a citizen of the country is that the Government shall be saved harmless from expense or loss; and I take it it will be no great hardship if those people pay what has been assessed against them.

I shall be very glad if this bill can be passed and these titles can be arranged by resale or release. I for one shall be very glad to have the Government out of the business of receiving rents from lands or other property that, although the Government has a legal title to and does own, yet it does not care to speculate in. It strikes me that the Senate had better let this bill go along as it stands on that point.

Mr. CLAYTON. The Senator says he does not desire the Government to be out of money in this transaction. If he will look at my amendment he will see that it does not leave the Government out anything. The first thing I propose to do is to deduct the expenses arising from the collection of these rents and after that the money that is left to be returned *pro rata* to the persons who have paid it.

Mr. OGLESBY. The Senator's amendment, if I get the gist of it, involves some very complicated accounts between the receiver or the Court of Claims or some other Department of the Government and each individual who has paid any rents there for the last twelve months. Each account is to be opened, the expenses to be settled with each man or a *pro rata* part of what the expenses have been charged to each, and then the balance paid to him. The truth about it is that it is no great hardship for those men to pay the same rent to the Government that they paid to the old claimants. Sometime or other before the bill is finally disposed of I may have something to say about it. It is a bill that has given considerable trouble to the committee and is worthy of the attention of this body. It is not a very large tract. There are three or four sections of land, and the hot springs occupy a large portion of one of the sections. The title has been vested in the United States by the decision of the Supreme Court of the United States.

Mr. CLAYTON. I want to ask the Senator from Illinois whether he will not accept this amendment. I withdraw the other and offer this, which I think will be acceptable:

And the Secretary of the Treasury is hereby authorized and directed to repay to the settlers upon said reservation all rents arising from the use of the buildings and other improvements thereon as have been or may be collected by said receiver; and for that purpose a sufficient sum is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

This merely provides for refunding to those poor people down there the rents that they have been compelled to pay for the occupation of their own buildings, buildings erected by themselves and occupied by themselves, and I certainly think no person can object to that.

Mr. INGALLS. Can the Senator inform us the amount that has been collected?

Mr. CLAYTON. I cannot.

Mr. OGLESBY. If the Senator from Arkansas would take time to frame an amendment which shall be clear, free from ambiguity, and relate only to the people upon that reservation who have built their own residences, hotels, or business houses on their own ground or on their own supposed ground, and who have not paid any rent to anybody, but have only paid rent to the Government since the decision of this case by the Supreme Court, I believe as to that class I should not object.

Mr. CLAYTON. That is what I want.

Mr. OGLESBY. But I should want the amendment so clear and pointed as that there could be no trouble upon it upon that point. I see no hardship in having those other people who did pay rent to the old claimants pay that same rent or a less rent to the Government. I would be glad if the receiver had taken much less rent than he has

charged; but then I am not informed of the facts as the receiver was. I am satisfied that the Government does not wish to make money out of these people. I do not believe it would be wise for the Government to undertake to make money or to earn revenues out of the buildings and grounds there under the circumstances. I think the people of the United States would not desire to do so.

And if I may venture to take another liberty in regard to this subject, not forgetting my relation to this body and as a member of the Committee on Public Lands, I would suggest that in the long run the Government would lose in that. I think it would profit by letting the people down there have that land at a dollar and a quarter an acre and quit the business. I have very serious doubts about the propriety of the Government undertaking to peddle out the water at the Hot Springs or to dealing it out or dividing it out. I rather think it would be better for all the people of the United States if it were in the hands of the State of Arkansas or in possession of the people of that county, or what is better still, in the individual ownership of the occupants of that territory. I think in the long run the Government will lose in the way of appropriations, costs, charges, delays, litigations, more than it will ever earn out of it.

Then these people have an equitable claim anyhow. They went down there to live, cast their lot with those waters and amid those people; and according to western policy, now of many years' standing, they have a sort of right to have the land at the lowest possible rate, even if they shall be required to pay anything. They are settlers; they are a sort of pre-emptors, and I would be quite liberal with them in getting rid of this portion of the public domain.

This bill has been considered in committee, and I am still of the opinion that I was in the committee when the bill was reported, that it is not a perfect bill. It was drawn hastily, because the circumstances were somewhat exacting. I have not felt that the bill is in that clear and precise language upon the subject-matter with which it deals, that it ought to be in order to prevent litigation between these very people themselves. So a little study of this bill as it goes along will not hurt any; and I should not be surprised if some good amendments might be made to it. The general spirit of the bill I favor; the general purpose of the bill the committee favors, and I know the committee would be glad to see it passed; but it must go slowly and be considered well.

Mr. ALCORN. Mr. President, if I understood the Senator from Illinois correctly, he proposes that the rents already collected by the United States shall be restored to the people who reside in their own houses; but he intimates that where persons are residing there who rent houses from others it would be proper for the Government to receive rents from that class. So I understand him; but perhaps I did not correctly appreciate him.

Mr. OGLESBY. The Senator will remember that I am opposed to changing this bill at all in this respect. The Senator from Arkansas proposes that amendment, and asks my consent. I tell him it will be less objectionable than the amendment he first proposed. I think it would be no very great hardship to let the matter stand as it is, and as provided for in the bill. I would not amend it in that respect at all; but I said this to him as I remember: If any class is to be relieved from the payment of rent to the Government, or to be relieved by having rents paid by them returned to them, it would probably be as nearly right as we can get it, to return the rents to those people who own their own buildings and had not previously to the decision of the Supreme Court paid anybody any rent. If I understand his amendment, that is it. It is to relieve those persons who live in their own houses upon ground claimed by themselves from the payment of rent; and it would be no great hardship to let the others who had paid the claimants rent pay the Government the same rent they had paid the claimants. The amendment, however, is the amendment of the Senator from Arkansas, not mine. I would let the bill remain as it is.

Mr. ALCORN. I do not see the equity of the Senator's distinction that he would draw. It seems to me that if there should be any preference given here, equity would require that the preference should go in favor of the claimants rather than the persons who have gone without color of title and entered upon the Government land. I do not think it is justice, I do not think it is right or equity, that any of these people should be required to pay rent. I do not suppose there can be another such instance found in the history of this Government. I do not suppose, if you will examine the records of this Government from its first Congress down to the present time, you can find a parallel to the case that now exists in the State of Arkansas and in the vicinity of and in the city of Hot Springs.

More than fifty years ago this land was entered by the claimants; they have held it for that length of time; they have exercised color of title. Upon two separate occasions Attorneys-General of the United States, and I may say two distinct and able Attorneys-General, also decided that these claimants were entitled to their patents. Under a technicality, and by reason of an omission, not on the part of these claimants, but on the part of an officer of the Government of the United States, after an occupancy of over fifty years, the Supreme Court of the United States have declared that the property rests in the Government of the United States. The claimants had gone on to terrace those mountains, pull them down, build houses, and rent them out to such persons as were willing to take them. Others went forward, built houses upon the Government reservation on the supposition that the title to the property would be ultimately decided in favor of the Government; and they went on in defiance of the claimants' title, entered upon the lands, and built houses. It is not proposed that these persons shall be made to pay rent. It is not proposed by the amendment of the Senator from Arkansas that any person shall be required to pay rent. The title to the property has been decided to be in the Government, but the Government has placed no improvements there. There is not a house, there is not a single improvement upon all the Hot Springs reservation that was placed there by the Government of the United States. The Government of the United States made no objection to the occupancy of the land by the claimants who are there under color of title and who have been there for fifty years. The Government of the United States has now in its Treasury the money of the claimants that was paid into the Treasury over fifty years ago for that property. It holds it to-day. It has taken the property away from the claimants, but has said nothing with regard to the restitution of the money that was paid for this property. It does not strike me as a case in which the Government has exercised any great amount of tenderness toward the people of Hot Springs.

The suggestion made by the Senator from Illinois, that he believes this will be a bad speculation on the part of the Government of the United States, is one that strikes me as looking in the direction of the truth. The Government of the United States will not profit by taking this Hot Springs property into its possession; and if it undertakes, as he says, to peddle out the hot water at Hot Springs the result will be a loss to the Government. Already the receiver, as I understand, has gone on to lease a portion of the hot water, and I am told—I do not know the fact to be so, but I believe it is true—that the party to whom he has leased has commenced a system of blasting whereby some two or three of the best springs on the reservation have been already dried up, and the chances are that before they get through with it no springs will be left by reason of the experiments that are carried on by this receiver who was sent there and those who take leases under him.

While the reservation was held by the claimants there were certain bathing places on the side of the mountain that were really given for charitable purposes. I have seen on the mountain at Hot Springs scores of poor people who were lying about without any other shelter than the broad heavens bathing in the waters that were there given by the claimants to the uses of charity. The pittance upon which they lived was supplied them by the visitors to the springs and by the inhabitants of the village. To-day, however, I understand that the poor have no privileges there. The water is all to be leased by a beneficent Government, and the poor man who goes crippling to the Hot Springs finds no longer a place in which he can bathe without price and without money. The Government of the United States has undertaken to peddle out the hot water to the lame and to the halt and to the afflicted. A beneficent Government it is if it shall pursue this policy!

If the suggestion of the Senator from Illinois is carried out, that this property shall be ceded to the State of Arkansas and let the State of Arkansas take it and dispose of it among its citizens who occupy the Hot Springs, it will be one of the wisest things this Government has ever done touching a matter of such small consideration. These are citizens of Arkansas, and its Legislature might be looked to to deal justly by its citizens. It would settle the question between them in a manner satisfactory to the citizens. The Government of the United States never will, I fear, settle it in a manner satisfactory to those people.

Men went to these springs with the last remnant of the fortune that they had. They went on this reservation and built houses, taking from the claimant a lease reserving a ground-rent for a term of years. They expended the last dollar that they had to erect their houses, and some of them had scarcely finished their dwellings when the title, to their surprise, was decided to be in the Government of the United States, a receiver was sent there, and they were told that unless they paid rent to the Government they must be ejected from their houses. A gentleman from the county in which I live in Mississippi two years ago went to the Hot Springs. He invested there the little sum remaining to him in a house, that he might live in for the purpose of being cured of his affliction, a rheumatism under which he had labored for a number of years. He had been in the past a man of fortune. He had an interesting family consisting of a wife and children. He had built his house, as I am informed. A certain rent was assessed against it by the agent of the United States. He was unable to pay it. He was ejected from the house and died of starvation, and was buried at the expense of the people of Hot Springs, the people who occupied this reservation. Cases of hardship and of starvation are occurring there that are appalling to contemplate.

While the Government of the United States was voting here $20,000 to feed the poor of the city of Washington, it was at the same time plundering the people of Hot Springs, the beggars of Hot Springs, the afflicted of Hot Springs, of the small pittance they had upon which they could live. It has starved that community. Not only that, but from some design or other, reports were circulated that the people there intended to resist the collection of rent. Some of them are no longer able to pay; and this is called resistance. When the receiver applied to them to pay or get out, they said "We cannot pay; put us out." This occurred in a few instances, and thereupon soldiers were sent there under the pretense that the people of Hot Springs intended

to rebel against the authority of the Government of the United States; and thus the good, law-abiding citizens of Hot Springs were insulted by the presence of soldiers there menacing them with the threat "If you dare raise your finger against the authority of the United States you will be ejected at the point of the bayonet." A beneficent Government this, if this policy is to be carried out!

I feel assured that this body is not acquainted with the hardship that has been imposed upon these people. I feel that Congress has not become acquainted with, and is not aware to this day of the hardship and outrage that are being perpetrated on a portion of the citizens of this country. The South has felt that she has been trampled under the feet of power. Can you expect her feeling to be changed in the presence of circumstances like these, when you vote $20,000 to care for the poor of the city of Washington and wrest from the starving beggars of Hot Springs $40,000 in money to be brought into your Treasury?

I claim, Mr. President, that these people are entitled to consideration at the hands of the Government. I claim this for the claimants and for the occupants as well. Every man who knows anything of the situation of these people has a heart for their sufferings. There is no man, I care not who he may be, that would go to the Hot Springs and witness the suffering of these people who would not agree with me; for remember there is no man, woman, or child in Hot Springs who is not there as an invalid or living upon that which is derived from the necessities of the invalids. There is no commerce there, no mine or mining there, no business there except hotel-keeping and bathing in the water of the hot springs. There is merchandizing incidental to this; but it is an incident merely. But what says the Supreme Court? After having decided this case:

> In conclusion we feel bound—
>
> Say the court—
>
> to decide that none of the claimants are entitled to the lands in question.

I ask the Senate to mark the language of the court. The court were apprised, allow me to say here, of the hardship that was being imposed by the stern necessities of the law. These people lost their property, remember, upon a technicality. They had paid their money into the Treasury, I repeat; the Government has the money to-day in its Treasury that it derived from these people for the purchase of the property. It makes no provision for its restoration. The court was satisfied of the hardship it was imposing. The court said:

> The claims advanced all depend on one or other of the titles which we have considered, and all are equally untenable.

Now mark what follows:

> Whatever hardship, if any, may ensue from this declaration of the law of the case, we have no doubt, will be duly taken into consideration by the legislative department of the Government in dealing with the subject of the future disposition of those lands.

The court commends to the consideration of Congress, to the legislative department of the Government, the hardship of these people, and it recommends that it be alleviated. I trust, Mr. President, that the amendment of the Senator from Arkansas will be adopted and that the Government of the United States will make haste to take its hand off the poor and the distressed of Hot Springs; that it will relieve them of the rent they are daily paying; that it will relieve them of the presence of the collector, the receiver; that it will relieve them of the presence of the soldiers; and that it will relieve them of the fearful embarrassment of poverty that now enshrouds them.

Mr. DORSEY. I suggest to my colleague to withdraw his amendment; I have one to offer on the same subject.

Mr. CLAYTON. If I could have a vote on this, I should like to have it, because I feel that I owe a duty to those people, who are my constituents. I feel that they have been outraged in this matter; that their money has been extracted from them when it ought not to have been by the Government. I do not blame any officer of the Government for this. The Court of Claims has done its duty, the receiver has done his duty. There is no blame to be attached to them; but I think Congress ought to extend relief. I would sooner take a vote on this amendment. If it is voted down, that is an end of it.

Mr. DORSEY. I suggest to my colleague——

Mr. CLAYTON. Let us have a vote on the amendment.

Mr. DORSEY. We cannot have a division now, for there is not a quorum present. I suggest to my colleague that while I appreciate everything he says and understand the justice of the amendment he offers and think it ought to be adopted, yet I see around me that there is some opposition to it. I suggest, therefore, that all the words be stricken out in section 1, beginning with line 7 down to line 9, inclusive.

Mr. CLAYTON. The objection to that is that it would relieve those who have not paid rent and not relieve those who have. The good citizens on the reservation, who obeyed the laws and paid the rents, would have no relief, while those who have resisted the payments of rents would get relief. That would not be fair. I wish to see all treated alike. I think it is right that all these rents should be returned. If that cannot be done, let us return the rents they have paid on their own buildings, the buildings they put up with their own money and their own hands. Certainly no one can object to that.

Mr. DAWES. I should like to inquire of the Senator from Arkansas if the bill provides for the re-imbursement to these tenants of all that the Government has received?

Mr. DORSEY. No, the bill does not.

Mr. DAWES. I think the bill should do that.

Mr. CLAYTON. The amendment I offer does that.

Mr. DAWES. Does the amendment of the Senator from Arkansas go further than that, and require the Government to re-imburse them for what they paid to outsiders?

Mr. CLAYTON. O, no; not at all.

Mr. DAWES. Then I should like to hear the Senator from Illinois, who said he was opposed to the amendment, state why the Government of the United States having taken this money into their hands should not pay it back. I ask this because I did not have the benefit of hearing all the remarks of the Senator from Illinois. It seems to me that if the amendment only provides for paying back to these tenants what the Government itself has taken in the form of rent, less the expenses, unless there is something which I have not heard, it is proper.

Mr. DORSEY. I will say to the Senator from Massachusetts that the amendment of my colleague simply provides that what has been collected for rents on the improvements——

Mr. CLAYTON. Does my colleague speak of the first amendment I offered?

Mr. DORSEY. The last amendment of my colleague simply provides that the amount of money collected for the use of the buildings and improvements constructed by the occupants of them and owned by them shall be returned. Some of those persons have occupied those buildings for more than fifty years, many of them for ten, twenty, or thirty years. I think that nearly all of them have all that they have in the world in these buildings and improvements upon which they have been paying a very onerous rent. The rents down there, I believe, are greater than in any part of this city. I think on the main street the receiver, under instruction from the Court of Claims, has charged $10 a front foot for the use of land per annum. For example, for a lot fifty feet front the occupant would have to pay $500 a year for the use of it and then pay a good rent for the use of the building on such lot which he himself constructed.

Now, I submit that never before has the Government anywhere charged rent to any person occupying the public domain, much less charged rent not only for the occupation of the public domain, but for the improvements which the settler himself had put upon the public domain. Every dollar of it ought to be returned; but I am sure that the citizens on that reservation would much prefer to pay this rent and have this bill passed, so that they may get a title, than to have the bill fail on account of this question; and for that reason I suggest that my colleague withdraw his amendment.

Mr. ALCORN. I wish to make one remark just here in relation to the receiver if the Senate will allow me, and I do not intend to become troublesome about this matter. The honorable Senator from Arkansas who sits by my side [Mr. CLAYTON] says that nobody blames the receiver. The receiver is blamed, very properly I think, by the citizens of Hot Springs for the manner in which he has exercised his duties, and I will state a case now. It has not come within my own knowledge, but I undertake to say that the statement I make of it is true. A gentleman had a building to which was attached a yard. He rented his building and paid for it, and as a matter of course supposed he had rented the ground occupied by the yard. After he had rented his building, however, and they had extorted from him every dollar they could get for the building, then he was told that unless he rented his yard that would be taken from him and it would be rented out in order that others might put buildings upon that. One of the original claimants there, an old woman eighty years of age, who has been upon that reservation, I venture to say, forty-five years, old Mrs. Hale—I will name her—had her house standing back from the street a short distance. She perhaps occupies a room of it, renting out the rest. The grounds before her house and fronting on the street have been taken and have been leased out, and they have now put up shops or houses in front of her dwelling bordering upon the street. My own judgment is that the receiver has acted for the Government, that he has acted in a way that is calculated to bring to the Government every dollar of rent that he could get. How far he could have exercised a tenderness for the people there I will not undertake to say; but it is my opinion that he has not sought to do any such thing as that.

Mr. DORSEY. While concurring generally in what the Senator from Mississippi has said, I do not feel called upon to raise any question as to the manner in which the receiver has discharged his duties. His duties were very difficult, very onerous, and I fear that if the good man we read of had gone there he might have found some trouble to please everybody. I have nothing to say on that subject. I do not agree in many things that the receiver has done; I have objected in court, and I object here; but under the instructions he received his duties were onerous. I presume, inasmuch as they came from a high court, that they were justified in law, though I am bound to say that I do not know where the law is. I think that under those instructions the receiver has done probably the best he could.

Now, concurring in what the Senator from Mississippi has said, I have a letter here from a gentleman who was born at Hot Springs and is now probably forty years of age, who has raised a family there. I refer to Colonel Sumpter. He owns a house which stands back from the main street probably ten to fifteen rods, and has a yard in front of it extending one hundred and fifty or two hundred

feet. The receiver has been charging him a rent, as he says in his letter, of $2,400 a year for this building and one or two other buildings. Now the receiver has rented out his front yard. He made the offer of it to the writer of the letter in the first instance at $6,200 a year, and said if he would not take it he would rent it to somebody else. He has so rented it.

Mr. CLAYTON. I cannot allow this reflection on the receiver to pass unchallenged. I believe that Mr. Morgan, the gentleman who was appointed receiver for that reservation, is an honest man and has tried to do his duty by the Government under his instructions. He went there with instructions to treat this property as the property of the United States without reference to the occupants upon it. He went there with instructions to rent out the property for the most it would bring, and if the property held by Mr. Sumpter could be leased to somebody else for $6,000, of course he put that price upon it. I apprehend when the truth comes to be known it will be found that Mr. Sumpter was endeavoring to hold a very large tract of land there, much larger than was neccessary for his house and his buildings. I know myself, and can bear testimony to the fact, that Mr. Morgan is an honest, faithful public official. There is no more honest or faithful official in the United States than he, in my opinion. Of course, as my colleague said, if the good man from above himself were to go there and undertake to carry out the orders of the court in relation to the property he would be assailed by citizens living there. They think it is their property and look to the receiver; they do not look to the law or to the court, but to the receiver, and hold him responsible.

Mr. DORSEY. My colleague will permit me to suggest, if he is answering me, that I do not know that I said anything that justified his answer.

Mr. CLAYTON. I am answering my friend on the left, the Senator from Mississippi, [Mr. ALCORN.]

Mr. ALCORN. If the Senator is answering me I will say that I said I believed the receiver had acted for the Government and without regard to the people.

Mr. CLAYTON. I believe I have the floor.

Mr. ALCORN. Certainly; and I would not have undertaken to take it from you if you had not referred to me.

Mr. CLAYTON. If I had not said what I say now, the inference might have gone forth that the receiver had been oppressing and trying to inflict hardships on the people there. I say the receiver did nothing more than his lawful and sworn duty under his oath and his bond. He was required to give a bond of $100,000. Under his oath he did his duty in my opinion and nothing more. No blame ought to attach to him.

Mr. WRIGHT. I assume that it is the purpose and wish of the Senators from Arkansas to get this bill through. It is certainly a matter of very great importance to these people that legislation should be had on this subject I see but little prospect of passing this bill if this game of cross-purposes shall be continued. I am exceedingly anxious, observing at all times the interests of the Government, to do whatever our friends in Arkansas may desire touching this reservation. I submit to both of them, however, that there has been an adjudication of the highest court in this land giving the title to the property to the United States; and pursuant to that decree a receiver has gone there and has been renting that property precisely as required by the decree, and has received money which has gone into the Treasury of the United States upon the basis that this is the property of the United States.

Now, I have understood from my friend from Arkansas who has the bill in charge [Mr. DORSEY] that the great wish on the part of these settlers is that they shall have legislation so as to secure their title, that the amount that has been paid for rent is entirely unimportant to them compared with the question of title.

Mr. DORSEY. That is true.

Mr. WRIGHT. I suggest, therefore, whether it is not better for our friends that they leave this section as it was reported by the committee, whatever of hardship there may be in it, and a hardship conceded by all, rather than to endanger this bill or delay its pasage by raising questions upon it that must inevitably provoke discussion and which must inevitably divide the friends of the bill.

I wish to say before I take my seat that all I desire in connection with this bill is this: I feel it important that these persons shall be secured in their title to this land. I think they ought to have it. I think at the same time that the Government ought not to have its interests unjustly jeopardized. I shall therefore seek to amend the bill, so as to leave it that they shall have a full and fair opportunity to obtain the property at a fair, reasonable compensation; but that the Government shall not under any circumstances be made liable for improvements upon that property from any appraisement or assessment made by the commissioners or otherwise. If that can be done, I cannot see how there can be harm to the Government; and it seems to me at the same time there would be right to the settlers.

Another thing I would suggest to my friend from Arkansas who has the bill in charge. As the bill now stands it contemplates that if the property shall not be taken at the appraisement by the commissioners or the persons appointed to do it, then the land shall be sold at public auction at the city of Little Rock. I propose to amend the bill so as to provide that the sale shall not be for less than for the appraised value. I can see, knowing full well how these things occur with us in the West, that if there is to be a public sale hereafter there may be combinations by which they will all refuse to buy their lands at the appraisement and wait for the public sale, and then by combinations at the public sale the lands will all be bid off at a mere nominal sum. I want to avoid this; and, to save time, I want to have it so that the settlers shall obtain their land at merely a reasonable and fair compensation. I think if these things are accomplished and they get their titles, they will be satisfied. Of course my friends from Arkansas know more about this matter than I do; but it would seem to me that the great important matter for them now is that they should have such legislation as would take this matter out of the hands of the receiver, avoid these continued wrongs, and they get the title to their lands; for our friends will see that unless we have some such legislation as this, this receivership will continue, these rents will have to be paid, and those wrongs of which they now complain will still continue. Of course they want to avoid all that.

It seems to me therefore, I repeat, that if these settlers can get the titles to their property, the amount they have paid heretofore in the way of rents, though it may be a very great hardship in many instances, it would be better for them to surrender, than to endanger their titles at present.

Mr. CLAYTON. Mr. President, in the expectation and the hope that Congress will at some future day, as it will be in its power to do, refund these rents to these people that have been so unjustly, as I think, wrested from them, I withdraw my amendment. I hope that at some future time, a time when nothing will be jeopardized—for I see it may jeopardize the bill to raise the question now, as it seems to lead to discussion—Congress will, perhaps at its next session, do justice to these people and refund these rents that have been wrested from them by the operation of this law. I withdraw the amendment.

Mr. DORSEY. I also withdraw the amendment I proposed to strike out, so that the bill will stand as it came from the committee.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on Public Lands as a substitute for the bill.

Mr. DORSEY. I move to strike out section 6 in the following words:

SEC. 6. That it shall be the duty of said commissioners to fix, by appraisement, the value of all improvements upon said reservation, and the value of all improvements on the lands reserved herein, or upon lands condemned or taken for the purposes herein named; and to fix the cash value of every and each subdivision that said commissioners shall make of said lands.

Mr. ALCORN. I call the attention of the Senate to the fact that here is a direct proposition to rob the people at Hot Springs. If you shall strike out the sixth section, and have no appraisement of the property of the people there, the houses that they have built, and then go forward to assess the value of that property, the Government of the United States will by that process simply appropriate the property of these people to itself. The land belongs to the Government; and in law it is true that the man who builds a house upon the land of another thereby attaches to the freehold that which he cannot remove without the consent of the land-holder; but the Government has never up to this time acted upon that principle. This is the first time that the Government has ever undertaken to take the improvements erected by settlers and appropriate them to its own use.

Mr. DORSEY. I can explain this to the Senator from Mississippi and the Senate, I think, so that everybody will see the purpose. Section 6 provides for the appraisement of certain buildings and improvements on this land. Section 15 provides that in case the person in whose favor the commissioners shall adjudicate, and who has the right to buy the land, fails to do so, the Government of the United States must pay the person owning the improvements for them. That is seriously objected to by many Senators; and I propose now to strike out both section 6 and section 15, so that no obligation whatever on the part of the Government can be made by any action of the settlers on the reservation. That is all this does. It does not rob any settler; it does not rob any man; it does not give a chance to rob the Government. It is a just and fair thing. I move that sections 6 and 15 be stricken out together.

Mr. ALCORN. If you strike them out, as a matter of course you strike out the very thing that is least objectionable.

The PRESIDENT *pro tempore*. The Senator from Arkansas moves first to strike out the sixth section of the substitute.

The amendment to the amendment was agreed to.

Mr. DORSEY. Now I move to strike out section 15.

The PRESIDENT *pro tempore*. The Secretary will report the section.

The CHIEF CLERK. It is proposed to strike out the fifteenth section of the amendment, in the following words:

SEC. 15. That all parties who do not enter the lands that the commissioners adjudicate they have the right to enter, and who do not remove their improvements before the same are sold at public sale, and all persons whose improvements have been condemned, their assigns or legal representatives shall, after said public sale, present their certificates of appraisement for such improvements to the register of the United States land office at Little Rock, who shall indorse upon each certificate the amount paid for the particular subdivision of land upon which the improvement therein described is situated; and such certificate so indorsed shall be forwarded to the Commissioner of the General Land Office, who shall certify the same to the Secretary of the Interior; and upon his indorsement the certificate shall be paid out of the fund arising from the sales of lands herein provided for, and covered into the United States Treasury for that purpose by section 16 of this act.

Mr. DORSEY. I hope that that section will be stricken out.

The amendment to the amendment was agreed to.

Mr. CLAYTON. I move to add as an additional section:

SEC. —. That a suitable tract of land, not exceeding five acres, shall be laid off by said commissioners, and the same is hereby granted to the county of Garland, in the State of Arkansas, as a site for the public buildings of said county.

I will only say, in explanation of this amendment, that the county seat of Garland County is located at this place, and that the authorities are now occupying property belonging to the United States, as other settlers are. I think it would be right to give the commission the privilege of laying off a suitable tract of land, not exceeding five acres, for the benefit of the county, for their public buildings.

Mr. OGLESBY. It seems to me the Senator ought to provide in the amendment, to which I for one have no objection, that the five acres shall not be taken from the mountain in which are the Hot Springs, and which is specifically reserved in the bill.

Mr. CLAYTON. Of course it will not be taken from that land.

Mr. DORSEY. It could not be.

Mr. CLAYTON. It could not be; they could not occupy it.

Mr. OGLESBY. I think as we have reserved the mountain where the Hot Springs are and the boundaries are yet to be fixed by this commission, it would be proper to except it in the amendment just proposed.

Mr. CLAYTON. I will amend my amendment so as to provide that five acres may be laid off from land not reserved for the future use of the United States.

Mr. OGLESBY. "Which shall be taken from no part of the land herein reserved to the United States."

Mr. CLAYTON. Very well.

Mr. OGLESBY. "Which shall be no part."

Mr. CLAYTON. I take it for granted the commissioners would not do such a thing as that. In the first place, the land proposed to be reserved is a mountain and unfit for occupation; and in the second place——

Mr. OGLESBY. The Senator will pardon me; the members of this commission are to fix the boundaries to this line. That boundary is not yet fixed.

Mr. CLAYTON. Let the amendment suggested be made, but it will only be out of abundant caution.

Mr. CHAFFEE. I suggest to the Senator from Arkansas that he change the word "public" to "county" before "buildings," so as to read "county buildings."

Mr. CLAYTON. The amendment says "for public buildings of said county." I think that is the correct expression, although I do not stand upon it.

Mr. CHAFFEE. I understood it differently.

Mr. CLAYTON. No; it is "for the public buildings of said county."

The PRESIDENT *pro tempore*. The Secretary will report the amendment to the amendment as it is proposed to be modified.

The Chief Clerk read as follows:

SEC. —. That a suitable tract of land, not exceeding five acres, shall be laid off by said commissioners, and the same is hereby granted to the county of Garland, in the State of Arkansas, as a site for the public buildings of said county: *Provided*, That the tract of land hereby granted shall not be taken from the land reserved herein for the use of the United States.

The amendment to the amendment was agreed to.

Mr. WRIGHT. In line 7 of section 13, after the word "sale," I move to insert the words "for not less than the appraised value thereof;" so as to read:

Shall be sold by direction of the Secretary of the Interior to the highest bidder at public sale for not less than the appraised value thereof at the land office at Little Rock.

Mr. DORSEY. I hope that amendment will be adopted.

The amendment to the amendment was agreed to.

Mr. ALCORN. I move to insert the following proviso at the end of section 5:

Provided further, That the word "claimant" used in this act shall be construed to mean a party holding or occupying ground on such reservation under color of title against the United States previous to the decision of the Hot Springs case by the Supreme Court of the United States, on the 24th day of April, A. D. 1876; and the word "occupant" used in this act shall be construed to mean a party holding or occupying ground on such reservation without any color of title; and in case of any conflicting claims or rights growing out of them between claimants and occupants, they are remitted to the local courts having jurisdiction over the county in which such reservation is situate for settlement by and under such procedure as is known and recognized in such courts.

Mr. DORSEY. The words "claimant" and "occupant" mean no such thing in the bill. The word "claimant" means a man who has a building or improvements which he does not occupy. The word "occupant" means a person who has a house and building or improvements which he does occupy. For example, a man may have a house on the outside of the reservation in which he lives and a store down in the town where he does business. He would be the occupant of one and the claimant of the other. In my opinion, if the amendment proposed by the Senator from Mississippi should prevail, this whole case would revert back to the courts and the old claimants would come in and take possession of this land over again. That is all there is about it. It has been in litigation now for fifty years, and if the amendment should pass it would be in litigation for fifty years longer, and the old claimants would have possession of the land. I hope it will not prevail.

Mr. ALCORN. If that should be the effect of this amendment I should regard myself as very unfortunate; but it was in order to protect the people against this litigation and against any wrong which I think the bill will invoke that I offered the amendment. Now, let us look at it a moment and see what this bill does. There are two classes of persons recognized in the bill——

JOURNAL OF THURSDAY'S PROCEEDINGS.

The PRESIDENT *pro tempore*, (at twelve o'clock.) The Chair will have to interrupt the Senator from Mississippi. It becomes the duty of the Chair to announce that the legislative day of Thursday has expired. The Journal of yesterday will be read.

Mr. DORSEY. Before the Journal is read, I desire to give notice that I shall call up this bill immediately after the morning hour.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on motion of Mr. MITCHELL, and by unanimous consent, the further reading was dispensed with.

RECUSANT WITNESS—CONRAD N. JORDAN.

Mr. MITCHELL. The Sergeant-at-Arms has a recusant witness whom he has had in charge for some days, and he has had no opportunity to present him to the bar of the Senate as ordered to do by a resolution of the Senate passed some days ago. He is now in waiting with the witness and would be glad to have an opportunity of executing the order of the Senate.

Mr. INGALLS. What is the name of the witness?

Mr. MITCHELL. Conrad N. Jordan.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of this matter?

Mr. DAVIS. To the consideration of what?

The PRESIDENT *pro tempore*. The proposition is to have a recusant witness presented at the bar of the Senate.

Mr. MITCHELL. The proposition is that the Sergeant-at-Arms shall present this recusant witness at the bar of the Senate in order that the resolution of the Senate passed some days ago may be executed.

Mr. JOHNSTON. I ask the Senator to allow me to call up a bill which will not occupy any time.

Mr. MITCHELL. I have no objection to the bill being called up, but I shall object to its consideration until this matter is disposed of.

Mr. JOHNSTON. It is a disability bill and will not take any time.

Mr. MITCHELL. I have no objection to a bill of that kind.

PETITIONS AND MEMORIALS.

Mr. EDMUNDS presented a petition of citizens of Vermont, praying an amendment to the pension laws so as to allow arrears of pension from the date of the discharge of the soldier; which was ordered to lie on the table.

Mr. DAWES presented the memorial of Franklin Rives, of Washington, District of Columbia, praying Congress to buy the stereotype plates and extra volumes of the Congressional Globe; which was referred to the Committee on Appropriations.

Mr. EATON presented a petition of citizens of Connecticut, praying an appropriation of $10,000 to complete the coast survey of the harbor of New Haven; which was referred to the Committee on Appropriations.

The PRESIDENT *pro tempore* presented the petition of James C. Bradley and 32 others, of Michigan, praying Congress to pass an act granting pensions in all cases from the date of discharge of the soldier; which was ordered to lie on the table.

He also presented a memorial of the Legislative Assembly of Montana, in favor of the establishment of a branch mint at Helena, Montana; which was ordered to lie on the table.

He also presented the petition of Lewis S. Jones and 75 others, of Manistee County, Michigan, praying Congress to make an appropriation for survey of the outlet to Portage Lake, Michigan; which was ordered to lie on the table.

He also presented the petition of A. W. Farr and 96 others, of Manistee County, Michigan, praying Congress for an appropriation for a survey of the outlet to Portage Lake, Michigan; which was ordered to lie on the table.

Mr. LOGAN presented a petition of citizens of Chicago, praying that the law imposing taxes on deposits, circulation, and capital of banks be repealed; which was referred to the Committee on Finance.

He also presented a petition of citizens of Elgin, Illinois, praying that the law imposing taxes on deposits, circulation, and capital of banks be repealed; which was referred to the Committee on Finance.

Mr. McMILLAN presented the petition of Messrs. Doughty & Card, attorneys, Lake City, Minnesota, praying payment for legal services and expenses incurred in behalf of the United States in the case of Parish *vs.* The United States in the Court of Claims; which was referred to the Committee on Claims.

He also presented a joint resolution of the Legislature of Minnesota, in favor of the establishment of a post-route from Lake Park to Crookston, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the following joint resolution of the Legislature of Minnesota; which was read and referred to the Committee on Pensions:

Be it resolved by the Legislature of the State of Minnesota, That, whereas a certain bill relating to pensions, the same being House file No. 394, has been introduced into the House of Representatives by Representative WILLIS, which said bill provides that all applicants for pensions (insane persons and the minor children of

deceased soldiers excepted) must file their applications for the same prior to January 1, 1877, or forfeit all claims upon the Government of the United States to any pension previous to the filing of their said application: Therefore,

Be it resolved, That our Senators and Representatives in Congress be requested to oppose the passage of said bill, (House file No. 394,) unless amended by extending the period of limitation for forfeiture of prior claim at least two years or until January 1, 1879.

Resolved, That the secretary of state be instructed to forward to our Senators and Representatives in Congress a certified copy of this joint resolution as soon as possible after its passage.

J. L. GIBBS,
Speaker of the House of Representatives.
J. B. WAKEFIELD,
President of the Senate.

Mr. INGALLS presented a petition of citizens of Kansas, praying for the removal of limitations upon pensions, and that in all cases they may date from the discharge of the soldier; which was ordered to lie on the table.

Mr. WALLACE presented the memorial of the Board of Trade of Philadelphia, Pennsylvania, in favor of an appropriation for and recommending the establishment of a temporary colony near the north pole for purposes of scientific exploration; which was referred to the Committee on Naval Affairs.

Mr. MAXEY presented the petition of H. C. Wood, M. D., of Philadelphia, Pennsylvania; J. M. Toner, M. D., of Washington, District of Columbia, and J. R. Chadwick, M. D., of Boston, Massachusetts, praying for an appropriation for the publication of the catalogue of the National Medical Library; which was referred to the Committee on the Library.

Mr. CONKLING. I present a petition of Hiram J. Penrod, doctor of medicine, of New York, and many other persons touching a bill favoring polar explorations. This petition is brief; it is signed by a large number of men who I may call eminent citizens. I am requested to ask that it be printed in the RECORD and unless some Senator sees objection to that I make that request.

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none. It will be so printed.

The petition is as follows:

NEW YORK, *February* 17, 1877.

To the honorable Senators and Representatives in Congress assembled:

The undersigned, feeling a deep interest in the polar explorations already made by our own countrymen, as also by those of other nations, believe that the plan of Captain Howgate for the locating of a colony, far northward in the arctic regions, is the most feasible of any heretofore projected for the successful explorations of these regions and for the discovery of the north pole, do approve of the bill now pending before Congress appropriating $50,000 for the establishment of the colony, and respectfully urge the passage of the bill.

John H. Boynton, president Maritime Association, port of New York; Boyd & Hincken, James W. Elwell & Co., Benjamin F. Metcalf, John Zittlosen, James E. Ward & Co., Gerhard & Brewer, Benham & Boysen, John Norton, jr., & Son, shipping and commission merchants; John D. Jones, president Atlantic Mutual Insurance Company; J. P. Paulson, President Sun Mutual Insurance Company; Thomas Hale, vice-president Pacific Mutual Insurance Company; Arthur Leary, for National Lloyds; Ellwood Walter, President Mercantile Mutual Insurance Company; Alfred Ogden, president Orient Mutual Insurance Company; Ferdinand Stagg, vice-president Union Mutual Insurance Company; Daniel Drake Smith, president Commercial Mutual Insurance Company; A. Low & Brothers, foreign importers; Charles H. Marshall & Co., Grinnell, Mintuen & Co., Nath. L. & George Griswold, Thomas Dunham's Nephew & Co., ship-owners; Snow & Burgess; Thomas J. Owen & Son, shipping and commission merchants; Howland & Aspinwald, foreign importers; Lawrence, Giles & Co., ship-owners; R. W. Cameron & Co., shipping and commission merchants; George Wilson, secretary New York Chamber of Commerce; C. H. Mallory & Co., steamship-owners; Young, Smith & Co., foreign importers; Jonas Smith & Co., ship-owners; Johnson & Higgins, average adjusters; John D. Fish & Co., ship-owners; J. H. Winchester & Co., Lunt Brothers, Salter & Livermore, shipping and commission merchants; Floyd & Mewins, commission merchants; George W. Rosevelt, ship-owner; J. F. Ames, agent Portland Steamship Company; William B. Hilton, agent New York Balance Dry Dock; William A. Freeborn & Co., copper merchants; Smith W. Anderson, agent New York Screw Docks; Bucknam & Co., ship-owners; John C. Smith, superintendent Maritime Exchange; Perry Chubb, manager of Sea Insurance Company; E. Sanchez y Dolz, shipping and commission merchant; George W. Brown, shipping commission merchant; Stephen H. Mills, commission merchant; F. Wight & Co., copper merchants; Baxter & McVoy, ship-owners; Philip J. Kiernan, Wm. B. Smyth, Fred C. Schmidt, commission merchants; Thomas Norton & Co., shipping and commission merchants; A. K. Hadley, Theodore G. Case, Wm. L. Snyder, D. A. Hulett, Miles Beach, Robert Lyon, jr., Edward T. Bartlett, J. W. Huntley, counselors at law; Francis H. Smith, submarine builder; Potter & Robertson, architects; George W. Dow, importer India goods; L. H. Rogers & Co., stationers; Theodore Weston, engineer, 120 Broadway; Alfred Wagstaff, jr., State senator fifth district, New York; Abram C. Wood, of Barrett, Nephews & Co.; John D. Vermeale, of Goodyear's Rubber Manufacturing Company; Henry Hentz & Co., Robert Dillon, cotton merchants; J. Yeoman, cotton broker; Calvocoressi & Rodocanachi, cotton exporters; James F. Wenman & Co., cotton brokers; E. K. Powers, superintendent New York Cotton Exchange; James S. Dean, ship-builder; Andrew G. Meyers, manufacturer of plumbing material; J. D. Blanchard, manufacturer of glue; J. H. Cheever, manufacturer of rubber; J. F. Fiske, iron manufacturer; Buckhatlen Martin & Co., wholesale grocers; W. H. Stanford, secretary Old Dominion Steamship Company; H. A. Howe, president Niagara Fire-Insurance Company; Wm. R. Crowell, secretary Phœnix Insurance Company; B. F. Walcott, president Hanover Fire-Insurance Company; Levi P. Morton, of Morton, Bliss & Co., bankers.

NORTHERN BOUNDARY LINE.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States:

To the Senate and House of Representatives:

I transmit herewith a report from the Secretary of State, bearing date the 20th instant, with its accompaniments, being the report of the commissioner of the United States and of the officers of engineers attached to the commission appointed to determine the boundary line between the United States and the possessions of Great Britain from the northwest angle of the Lake of the Woods to the summit of the Rocky Mountains. These reports announce the completion of the labors of the commission, whereby the entire boundary line between the United States and the possessions of Great Britain is marked and determined except as to that part of the territory of the United States which was ceded by Russia under the treaty of 1867.

U. S. GRANT.

WASHINGTON, *February* 23, 1877.

The message was ordered to lie on the table and be printed.

REPORTS OF COMMITTEES.

Mr. WRIGHT, from the Committee on Claims, to whom was referred the petition of Moses Brooks, praying for the payment of bounty and pensions for the loss of his two sons in the Union Army during the late war, reported adversely thereon, and he moved that the claim be rejected; which was agreed to.

Mr. CHAFFEE, from the Committee on Patents, to whom was referred the bill (S. No. 1219) authorizing the Commissioner of Patents to extend the patent of Horace A. Stone for improvement in the manufacture of cheese, reported it without amendment.

Mr. SARGENT, from the Committee on Appropriations, to whom was referred the petition of Mrs. A. P. Miles, praying for legislation that will authorize payment to her of certain amounts due her from the eastern band of North Carolina Cherokee Indians, asked to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs; which was agreed to.

BILLS INTRODUCED.

Mr. WRIGHT (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1281) for the relief of Ella Long; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. DORSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1282) for the enumeration of the youth of the District of Columbia between the ages of six and twenty years; which was read twice by its title, and referred to the Committee on the District of Columbia.

REPORT ON THE FLORIDA ELECTION.

Mr. SARGENT. I offer the following resolution:

Resolved, That 1,000 additional copies of the report of the majority and minority of the Committee on Privileges and Elections on the Florida election (Senate report No. 611) be printed and stitched with the evidence.

The PRESIDENT *pro tempore*. The resolution will be referred to the Committee on Printing.

Mr. SARGENT. Is it necessary to refer it? I should like to state the circumstances. There has been so great a call for both the majority and minority reports for the use of the commission that there are not enough copies left to be printed with the ordinary number of copies of the evidence. The document is not very large, and I think it will not be necessary to refer the resolution to the Committee on Printing.

The PRESIDENT *pro tempore*. If there be no objection, it will not be necessary. The Chair hears none. The question is on agreeing to the resolution.

The resolution was agreed to.

PAPERS WITHDRAWN.

On motion of Mr. INGALLS, it was

Ordered, That Francis A. Liebschütz have leave to withdraw his papers from the files of the Senate.

On motion of Mr. WHYTE, it was

Ordered, That Elizabeth R. McCracken have leave to withdraw from the files of the Senate her petition for pension, with the accompanying papers.

On motion of Mr. MAXEY, it was

Ordered, That Franklin Rounds, of the Chickasaw Nation, Indian Territory, an applicant for pension, have leave to withdraw his discharge, descriptive list, and other papers in support of his claim filed with the Committee on Pensions.

AMENDMENTS TO SUNDRY CIVIL APPROPRIATION BILL.

Mr. MORRILL. I am directed by the Committee on Public Buildings and Grounds to report certain amendments to the sundry civil bill. I do not ask to have them printed, but merely referred to the Committee on Appropriations.

The PRESIDENT *pro tempore*. The amendments will be so referred.

Mr. MORRILL. I am also directed by the same committee to report other amendments to the sundry civil bill which I ask to have printed and referred to the Committee on Appropriations.

The PRESIDENT *pro tempore*. The amendments will be referred to the Committee on Appropriations and printed.

Mr. BARNUM, Mr. CLAYTON, and Mr. DORSEY submitted amendments intended to be proposed by them respectively to the bill making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1877; which were referred to the Committee on Appropriations, and ordered to be printed.

DISABILITY BILLS.

Mr. WEST. I ask unanimous consent of the Senate to take up for consideration House bill No. 2197.

The PRESIDENT *pro tempore*. The Senator from Virginia [Mr. JOHNSTON] has been waiting for some time, having obtained the floor to take up a disability bill.

Mr. MITCHELL. I will give way to both Senators, in order to have passed a few bills removing political disabilities.

Mr. JOHNSTON. I move that the Senate proceed to the consideration of the bill (H. R. No. 2197) for the relief of Henry B. Kelly, of

Louisiana, from political disabilities imposed by the fourteenth amendment.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time and passed, two-thirds of the Senators present voting in favor thereof.

Mr. JOHNSTON. I move that the Senate proceed to the consideration of the bill (S. No. 1277) to remove the political disabilities of Catesby ap R. Jones, of Alabama.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed, two-thirds of the Senators present voting in favor thereof.

Mr. JOHNSTON. I move that the Senate proceed to the consideration of the bill (S. No. 1274) to remove the political disabilities of S. P. Moon, doctor of medicine, a citizen of Virginia.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed, two-thirds of the Senators present voting in favor thereof.

Mr. JOHNSTON. I move that the Senate proceed to the consideration of the bill (S. No. 1276) to remove the political disabilities of W. F. Carrington, of Virginia.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed, two-thirds of the Senaters present voting in favor thereof.

Mr. JOHNSTON. I move that the Senate proceed to the consideration of the bill (H. R. No. 3730) to remove the political disabilities of John D. Simms and Samuel V. Turner, of Virginia.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on the Judiciary with an amendment in line 6, after the word "late" to strike out the words "civil war," and in line 7, after the word "from" to strike out the words "John D. Simms and."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed, two thirds of the Senators present voting in favor thereof.

The title was amended so as to read:

A bill to remove the political disabilities of Samuel V. Turner, of Virginia.

Mr. JOHNSTON. I move that the Senate proceed to the consideration of the bill (H. R. No 3791) to remove the political disabilities of William A. Webb, of Virginia.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on the Judiciary with an amendment in line 3, after the word "all" to strike out the words "legal and;" so as to read:

That all political disabilities imposed by the fourteenth amendment of the Constitution on William A. Webb, of Virginia, be, and they are hereby, removed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed, two-thirds of the Senators present voting in favor thereof.

Mr. CLAYTON. I move that the Senate proceed to the consideration of the bill (S. No. 1096) to remove the political disabilities of R. C. Gatlin, of Arkansas.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on the Judiciary with an amendment in line 4, after the word "by" to strike out the words "the act of July 2, 1862, and;" so as to read:

That all the political disabilities imposed by the fourteenth amendment, &c.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, two-thirds of the Senators present voting in favor thereof.

Mr. ROBERTSON. I move that the Senate proceed to the consideration of the bill (S. No. 1272) to remove the political disabilities of William Butler, of South Carolina.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed, two-thirds of the Senators present voting in favor thereof.

Mr. ROBERTSON. I move that the Senate proceed to the consideration of the bill (S. No. 1136) to remove the political disabilities of Wade H. Gibbes, of South Carolina.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed; two-thirds of the Senators present voting in favor thereof.

Mr. MITCHELL. I suggest that we pass a general amnesty bill and have done with it.

Mr. MAXEY. I move that the Senate proceed to the consideration of the bill (S. No. 1273) to remove the political disabilities of William R. Jones, of Texas.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed; two-thirds of the Senators present voting in favor thereof.

Mr. MAXEY. I move that the Senate proceed to the consideration of the bill (H. R. No. 3636) to remove the political disabilities of Richard S. Kinney and William R. Jones.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on the Judiciary with an amendment, in line 5 to strike out the words "and of William R. Jones, of Laredo, Texas," and in line 6 to strike out the words "reason of their participation in the late war" and to insert "the fourteenth amendment to the Constitution of the United States;" so as to read:

That the political disabilities of Richard S. Kinney, of San Antonio, Texas, imposed by the fourteenth amendment to the Constitution of the United States, be, and the same are hereby, removed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed; two-thirds of the Senators present voting in favor thereof.

The title was amended so as to read: "An act to remove the political disabilities of Richard S. Kinney."

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of War, transmitting the memorial of the Colorado delegation in favor of the removal of the military post of Fort Garland and its establishment near the reservation, and recommending an appropriation therefor; which was referred to the Committee on Appropriations, and ordered to be printed.

ORDER OF BUSINESS.

Mr. CONOVER. I move that the Senate proceed to the consideration of the bill (S. No. 1010) for the relief of Julius S. Bohrer, master in the United States Navy. It is a short bill and will lead to no discussion.

The PRESIDENT *pro tempore*. Is there objection to the motion?

Mr. WRIGHT. Let the bill be read for information.

The Chief Clerk read the bill.

Mr. LOGAN. I object. I object to paying any man who was discharged from the service under a cloud.

Mr. CONOVER. He was illegally dismissed.

Mr. LOGAN. That does not make any difference.

The PRESIDENT *pro tempore*. The Senator from Illinois objects, and the motion cannot be entertained.

TRUSTEES OF ANTIETAM NATIONAL CEMETERY.

Mr. LOGAN. I move to proceed to the consideration of the bill (H. R. No. 1231) for the relief of the board of trustees of the Antietam national cemetery.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of War to expend $15,000 for the purpose of discharging the balance of the indebtedness incurred by the board of trustees of the Antietam national cemetery in establishing the same and improving the grounds thereof, and the proper burial therein of the soldiers who fell on the battle-field of Antietam; and the Secretary of War is to provide for the preservation and superintendence of the cemetery as one of the national cemeteries of the United States under the laws now in force in regard to national cemeteries; but the sum appropriated to discharge the present existing indebtedness is not to be paid until the legal title to the property shall be vested in the United States.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REDICK M'KEE.

Mr. SARGENT. I move that the Senate proceed to the consideration of the bill (H. R. No. 620) for the relief of Redick McKee, which is pending on a motion to reconsider, entered by the Senator from Wisconsin, [Mr. HOWE.]

The motion was agreed to, and the Senate proceeded to consider the bill.

The PRESIDENT *pro tempore*. The question is on the motion to reconsider the vote on the third reading of the bill.

Mr. COCKRELL. Let the bill be read.

The Chief Clerk read the bill, as follows:

Be it enacted, &c., That the memorial and claims of Redick McKee, late disbursing agent of the Indian department in California, (Miscellaneous Document 102, printed February 25, 1871,) be, and hereby are, referred for examination and settlement to the Secretary of the Interior. If the Secretary shall find the allegations and statements of the claimant verified by the records of the Department, or other satisfactory evidence, he shall allow him such relief as may be equitable and just, to be paid out of any money in the Treasury not otherwise appropriated.

Mr. MORRILL. Is there any report with this bill?

The PRESIDENT *pro tempore*. There is a report. The report will be read.

The Secretary read the following report, submitted by Mr. SEELYE, from the Committee on Indian Affairs of the House of Representatives, March 3, 1876:

In 1850 or thereabouts, the said McKee was appointed by President Fillmore one of three commissioners upon Indian affairs in California, and also purchasing and disbursing agent for the commission.

In the execution of this trust, which was then one of great difficulty and importance, and which he seems to have fulfilled with remarkable success, the said McKee avers that an indebtedness of the United States Government to him was contracted, the evidence of which, he also avers, exists upon the records of the Interior Department, but which has never been paid.

The Interior Department, from which information respecting this matter has been sought, has "stated that it was not prepared, without a full examination of the case, to give an opinion upon the merits of the allowance suggested by the claimant in his memorial," and also that, "should the proposed joint resolution meet the approval of Congress, Mr. McKee's claim will receive careful attention at the hands of the Department."

And also an act, in precisely the same terms as the present bill, passed the House of Representatives March 19, 1872, but failed of action in the Senate.

The committee, therefore, report back the bill, with a recommendation that it pass.

Mr. SARGENT. The bill simply refers the case for examination to the Department. I think there can be no objection to it.

The motion to reconsider was not agreed to.

The PRESIDENT *pro tempore*. The question is on the passage of the bill.

The bill was passed.

Mr. MORRILL subsequently said: I desire to enter a motion to reconsider the vote by which the Senate this morning passed the bill (H. R. No 620) for the relief of Redick McKee. I do this at the request of my colleague, [Mr. EDMUNDS.]

The PRESIDENT *pro tempore*. The motion will be entered.

PROOF IN HOMESTEAD ENTRIES.

Mr. WRIGHT addressed the Chair.

Mr. MITCHELL. I believe I have the floor.

The PRESIDENT *pro tempore*. The Senator from Oregon has the floor. Does he yield to the Senator from Iowa?

Mr. MITCHELL. I must decline to yield any further until the matter I have in charge is disposed of.

Mr. WRIGHT. I appeal to my friend now to let us transact some morning business. It is within the morning hour.

Mr. MITCHELL. I will state that the Sergeant-at-Arms informed me a few minutes ago that he is called away from the Senate almost every moment and he cannot remain here very well, and therefore desires this matter to be disposed of.

Mr. WRIGHT. I appeal to my friend to allow me to call up a little bill which has once passed both Houses and has been reported favorably from the Committee on Public Lands. It is a matter of very great importance to the settlers on the public lands, and I am sure there is no objection in the world to it. It is a short bill of only two sections.

Mr. MITCHELL. It may be a very short bill and I have no doubt it is a meritorious bill, or it would not have been reported by the Senator from Iowa.

Mr. WRIGHT. If it leads to any discussion I will not press it.

Mr. MITCHELL. Very well.

Mr. WRIGHT. I move that the Senate proceed to the consideration of the bill (S. No. 1225) to amend section 2291 of the Revised Statutes of the United States, in relation to proof required in homestead entries.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that the proof of residence, occupation, or cultivation, the affidavit of non-alienation, and the oath of allegiance, required to be made by section 2291 of the Revised Statutes, may be made before the judge, or, in his absence, before the clerk, of any court of record of the county and State, or district and Territory, in which the lands are situated; and if the lands are situated in any unorganized county, such proof may be made in a similar manner in any adjacent county in the State or Territory; and the proof, affidavit, and oath, when so made and duly subscribed, shall have the same force and effect as if made before the register or receiver of the proper land district; and the same shall be transmitted by such judge, or the clerk of his court, to the register and the receiver, with the fee and charges allowed by law to him; and the register and receiver shall be entitled to the same fees for examining and approving said testimony as are now allowed by law for taking the same.

Mr. INGALLS. That is a good bill and ought to pass.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CORRECTION.

Mr. OGLESBY. Mr. President——

Mr. WITHERS. Will the Senator from Illinois yield to me a moment to have an error in the RECORD corrected in the name simply of a person whose disabilities the committee report to remove?

The PRESIDENT *pro tempore*. That is a matter of privilege.

Mr. WITHERS. On page 81 of the RECORD of yesterday's proceedings, and I call attention to it in order that it may be corrected, "S. P. Moon, M. D., of Virginia," should be "S. P. Moore." The name occurs in the title of Senate bill No. 1274.

The PRESIDENT *pro tempore*. That correction will be made.

LAND AT STEVENS POINT, WISCONSIN.

Mr. OGLESBY. I ask the indulgence of the Senate to take up a bill which was referred to the Committee on Public Lands and which I reported back last session without amendment. It will take but a few minutes to pass the bill. It is just and involves a very small amount of capital, and therefore I ask for its present consideration.

The motion was agreed to; and the bill (H. R. No. 1947) granting to the city of Stevens Point, Wisconsin, a certain piece of land was considered as in Committee of the Whole. It instructs the Commissioner of the General Land Office of the United States to cause to be patented to the city of Stevens Point, Wisconsin, the island in the Wisconsin River, within the corporate limits of the city of Stevens Point, Wisconsin, in section 31, township No. 24 north, in range 8 east, of the fourth principal meridian in that State.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REPRESENTATIVES OF Z. B. WASHBURN.

Mr. OGLESBY. I move that the Senate proceed to the consideration of the bill (H. R. No. 3093) for the relief of the legal representatives of Zachariah B. Washburn, deceased.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. The preamble recites that on the 20th of January, 1836, Zachariah B. Washburn did enter and purchase, of the proper officers, the west part of the northeast fractional quarter of section 24, in township 18 north, of range 11 west, of the second principal meridian, in the district of public lands then subject to sale at Danville, Illinois, and did thereupon receive a certificate of purchase therefor, in which the land was erroneously described as the northwest fractional quarter of section 24, and also a patent therefor was afterward issued to Washburn, in which the lot was also erroneously described.

The bill authorizes the Commissioner of the General Land Office to issue to the legal representatives of Zachariah B. Washburn a patent for the west part of the northeast quarter of section 24 in the township and range aforesaid.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHEYENNE CITY, WYOMING.

Mr. PADDOCK. I desire to call up House bill No. 3566.

Mr. MITCHELL. I desire to give notice that I shall give way to this bill, as I understand I have the floor, and then I shall insist upon it without any joking on the subject.

Mr. PADDOCK. I assure the Senator from Oregon that there will be no objection to this bill.

Mr. MITCHELL. I give way to the consideration of the bill indicated by the Senator from Nebraska, but after that I shall insist on the floor, because this party is under arrest; he has been under arrest by order of the Senate for several days. There has been no opportunity to present him at the bar of the Senate. He himself, as he informs me, has been desirous of coming before the Senate to purge himself of contempt. That is an opportunity that ought to be accorded to him, and it should be accorded to him at once. It is in his power to purge himself of the contempt, and he ought to be permitted the opportunity, and if he does not do so he ought to be dealt with as the law directs.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Nebraska.

The motion was agreed to; and the bill (H. R. No. 3566) to authorize the board of trustees of the city of Cheyenne, Wyoming Territory, to enter and purchase for the use of said city certain public lands, was considered as in Committee of the Whole.

Mr. MERRIMON. Does the bill appropriate any land?

Mr. PADDOCK. It comes from the Committee on Public Lands by a unanimous report, and is a House bill.

Mr. MERRIMON. Does it donate any land.

Mr. OGLESBY. It conveys no land. It is taking part of land already donated for one purpose and giving it to the same town for another.

Mr. PADDOCK. And requiring them to pay for it.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

RE-ISSUE OF BOUNTY-LAND WARRANTS.

Mr. MITCHELL. Mr. President——

Mr. PADDOCK. I still hold the floor.

Mr. MITCHELL. I understand the Senator from Nebraska has an-

other little bill. I will yield for the purpose of allowing it to be passed.

Mr. MERRIMON. That is more than his share of opportunity. I do not want the Senator from Oregon to be parceling out the floor in this way.

Mr. PADDOCK. I am instructed by the Committee on Public Lands to report favorably——

Mr. COCKRELL. I do not think it is exactly right for the Senator from Oregon to hold the floor and parcel it out in this way.

Mr. MITCHELL. I have parceled out nothing.

Mr. PADDOCK. He simply yields for a report from the Committee on Public Lands.

The PRESIDENT *pro tempore*. Several Senators on both sides have had bills passed while the Senator from Oregon has held the floor.

Mr. MITCHELL. And now I am complained of because I have been generous and good.

Mr. MERRIMON. The matter that the Senator from Oregon wishes to bring before the Senate is a matter of privilege and can come before the Senate at any time.

Mr. MITCHELL. It is a privileged matter, and therefore I ask that it be considered now. I ask in justice to the witness who is under arrest and is ready to be heard.

Mr. MERRIMON. Then let him be brought forward at once.

Mr. PADDOCK. I simply want to make a report from the Committee on Public Lands, to which I think there will be no objection.

Mr. COCKRELL. Let it be read and we shall know.

Mr. PADDOCK. The Committee on Public Lands, having had under consideration the bill (S. No. 827) to amend section 2441 of the Revised Statutes of the United States, have instructed me to report it favorably, and I think there will be no objection to taking up the bill at once and acting on it. It is a matter in which my friend the Senator from Iowa [Mr. ALLISON] is interested for his constituency, and I think there will be no objection whatever to the bill.

The bill was read.

Mr. INGALLS. I object to the consideration of that bill.

The PRESIDENT *pro tempore*. Objection is made and the Chair cannot entertain the motion to consider it.

Mr. ALLISON. I suppose it goes to the Calendar.

The PRESIDENT *pro tempore*. It goes to the Calendar.

Mr. OGLESBY. It was not reported by the Committee on Public Lands.

Mr. INGALLS. I am glad to hear it.

Mr. ALLISON. Why not?

Mr. OGLESBY. It has not been before them.

Mr. MERRIMON. I ask what committee reported that bill?

Mr. ALLISON. Senators need not disturb themselves in relation to the bill. It is a bill prepared carefully at the Land Office and is a proper bill.

The PRESIDENT *pro tempore*. It is reported from the Committee on Public Lands.

Mr. WITHERS. The chairman says not.

Mr. PADDOCK. I understood the chairman of the committee did assent to the report of the bill.

Mr. OGLESBY. There is a mistake about it; that is all.

Mr. DAVIS. I did not understand what committee the bill had come from.

The PRESIDENT *pro tempore*. The Committee on Public Grounds.

Mr. INGALLS. The chairman says it did not.

Mr. SPENCER. I understand the bill has been objected to and goes over.

The PRESIDENT *pro tempore*. The bill goes to the Calendar, objection being made to its consideration.

Mr. PADDOCK, subsequently said. I desire to move that the bill (S. No. 827) to amend section 2441 of the Revised Statutes of the United States be recommitted to the Committee on Public Lands. There seems to have been a misapprehension in reference to the agreement of the committee in regard to the reporting of the bill.

The PRESIDENT *pro tempore*. The bill will be recommitted, if there be no objection.

JOHN H. FORNEY.

Mr. SPENCER. I desire to enter a motion to reconsider the vote postponing indefinitely the bill (H. R. No. 4439) to remove the political disabilities imposed upon John H. Forney, of Calhoun County, Alabama, by the fourteenth amendment of the Constitution of the United States. I desire to state that I have the consent of the chairman of the Judiciary Committee to enter that motion, as there was a mistake in the report. It was supposed that this man was a defaulter; but that is an entire mistake.

The PRESIDENT *pro tempore*. The motion will be entered.

RECUSANT WITNESS—CONRAD N. JORDAN.

Mr. MITCHELL. I desire to know if it requires a motion to bring the matter of the recusant witness before the Senate?

The PRESIDENT *pro tempore*. It does not. The Senator can ask for the return of the writ.

Mr. MITCHELL. I call for the reading of the return.

The PRESIDENT *pro tempore*. The return will be read.

The Chief Clerk read as follows:

UNITED STATES OF AMERICA, *ss:*

The Senate of the United States of America to John R. French, esq., Sergeant-at-Arms of the Senate of the United States, greeting:

By virtue of a resolution of the Senate of the United States passed on the 13th day of February, 1877, in the following words, to wit—

"Whereas Conrad N. Jordan, cashier of the Third National Bank, New York, was, on the 7th day of February, 1877, at ten o'clock a. m., duly served with a *subpœna duces tecum* issued by the Senate Committee on Privileges and Elections, commanding him to appear before such committee on the 8th day of the present month, to then and there testify in reference to subject-matters under consideration by said committee, being matters relating to the controversy concerning the electoral votes for President and Vice-President, and to bring with him a full and exact statement of the accounts, as shown by the books of said Third National Bank, of Samuel J. Tilden, William T. Pelton, and ABRAM S. HEWITT, from the 1st day of June, 1876, to the 6th day of February, 1877;

"And whereas said Conrad N. Jordan has refused to respond to such subpœna, has failed to appear before said committee as required by said subpœna, or to produce such statement of accounts as required: Therefore,

"*Resolved*, That an attachment issue forthwith, directed to the Sergeant-at-Arms of the Senate, commanding him to bring said Conrad N. Jordan forthwith to the bar of the Senate to answer for contempt of a process of this body"—

you are hereby commanded to arrest forthwith Conrad N. Jordan wherever he may be found and have his body at the bar of the Senate to answer for a contempt of the authority of the Committee on Privileges and Elections, one of the standing committees of the Senate, and also for a contempt of the authority of the Senate of the United States, in refusing to obey an order of the Committee on Privileges and Elections to appear before the said committee after being duly summoned thereto. And this shall be your warrant for so doing.

Hereof fail not, and make return of this warrant with your proceedings thereon indorsed, on or before the 16th day of February, 1877.

In witness whereof I have hereunto set my hand and affixed the seal of the Senate of the United States this 13th day of February, in the year of our Lord 1877, and of the Independence of the United States of America the one hundred and first.

[SEAL.]

T. W. FERRY,
President of the Senate pro tempore.

[Return.]

SENATE OF THE UNITED STATES,
February 16, 1877.

To the Hon. T. W. FERRY,
President pro tempore of the Senate of the United States:

I have this day made service of this warrant, and now have the within-named Conrad N. Jordan in my custody.

J. R. FRENCH,
Sergeant-at-Arms Senate United States.

The PRESIDENT *pro tempore*. The Chair understands the witness is in the Chamber.

Mr. MITCHELL. I offer the following resolution:

Resolved, That the witness, Conrad N. Jordan, be brought to the bar of the Senate by the Sergeant-at-Arms.

The resolution was agreed to.

The PRESIDENT *pro tempore*. The Sergeant-at-Arms will execute the order of the Senate, and bring the witness to the bar of the Senate.

The SERGEANT-AT-ARMS appeared at the bar of the Senate with the witness and said: Mr. President, Conrad N. Jordan is at your bar.

The PRESIDENT *pro tempore*. The Sergeant-at Arms announces the witness at the bar of the Senate. The witness will step forward.

The witness stepped forward to the area in front of the desk, and was accommodated with a chair.

The PRESIDENT *pro tempore*. What is the further pleasure of the Senate?

Mr. MITCHELL. If the witness desires to make any statement, I presume he has the privilege.

The WITNESS. I shall be pleased if the Secretary of the Senate will read such statement as I have to make.

The PRESIDENT *pro tempore*. The witness makes a statement, which will be read.

The Chief Clerk read as follows:

Mr. President, before stating the grounds of my objections to producing the documents called for by the Committee on Privileges and Elections, permit me to disavow any intentional disrespect of the orders of your honorable body. I was ready to come here immediately upon the receipt of a telegram from the Sergeant-at-Arms, and did so come when thus summoned on a previous occasion. And further, Hon. O. P. MORTON, as chairman of that committee, had in his hands a telegram that I would be here on the 14th instant, at least twelve hours before the officer charged with my arrest left this city, and in fact I reached Washington and had reported to the Sergeant-at-Arms that I constituted myself his prisoner one day day before his deputy had returned. I would further state that my action in this matter was in accordance with an arrangement with the president of the bank, Mr. John W. Ellis, who left New York on the morning of the 13th instant in order to testify before this committee and before he was summoned, and who is the proper officer of the bank to summon in order to secure the production of its books or papers.

I have declined to answer the summons of your committee to produce the books or papers of the bank upon the following grounds:

First, that as cashier of the Third National Bank of the city of New York I am not the custodian of the books, papers, or accounts of that bank, and have no control over them. The president of the bank, as the representative of the board of directors, is the officer charged with that duty. He has been present and in attendance on the committee since last Thursday, and is at their service at any moment; and

Second, I have declined to answer any questions without the advice of the counsel of the bank or such counsel as the board of directors of the bank may provide. I respectfully ask that I be permitted such advice and counsel.

Again, disavowing any attempt to treat the orders of the Senate with contempt, and apologizing for any action on my part which might seem to bear that interpretation, I wait the further action of your honorable body.

Very respectfully submitted.

C. N. JORDAN,
Cashier of the Third National Bank of the City of New York.

Mr. MITCHELL. Mr. President, I offer a resolution which I send to the Chair.

The Chief Clerk read the resolution, as follows:

Whereas Conrad N. Jordan was, on the 7th day of February, 1877, by the authority of the Senate, summoned as a witness to give testimony and to produce certain papers, on the 8th day of February instant, before the Committee on Privileges and Elections, upon a matter under inquiry before such committee, to wit, an investigation into the eligibility of John W. Watts, a presidential elector in Oregon, and the facts attending the appointment of presidential electors in said State, in pursuance of a resolution of the Senate adopted December 22, 1876;

And whereas said Conrad N. Jordan failed to appear or testify or produce such papers, as required to do by such summons, which facts have been reported to the Senate: Therefore,

Resolved, That the President of the Senate be instructed to certify the facts under the seal of the Senate to the district attorney for the District of Columbia.

I desire to state, Mr. President, that the committee gave the witness an opportunity to purge himself, so far as in his power, after the order of arrest was made by the Senate. He was given the privilege to come before the committee and testify; he came before the committee; and that the Senate may know the course of the witness when there, I ask that his testimony may be read. It is not very lengthy. It is on page 468 of the printed testimony.

The Secretary read as follows:

WASHINGTON, D. C., *February* 17, 1877.

CONRAD N. JORDAN sworn and examined.

By Mr. MITCHELL:

Question. You live in New York?
Answer. I do, sir.
Q. You are cashier of the Third National Bank?
A. I am.
Q. You were served with a subpœna issued by the Senate Committee on Privileges and Elections on the 7th of this month, were you not, requiring you to appear before this committee on the 8th day of February?
A. I was served with a paper purporting to be a subpœna. I had no evidence that it was so.
Q. You say that you were served with a paper purporting to be a subpœna?
A. Yes, sir.
Q. Was it not a subpœna?
A. Signed by Mr. French, and Mr. French had delegated his powers to a gentleman by the name of Bangs or Banks. I neither knew Mr. French's signature nor did I know Mr. Bangs.
Q. You do not mean to say that the subpœna was signed by Mr. French, do you?
A. I think it was.
Q. Was not the subpœna signed by O. P. MORTON, the chairman of the Committee on Privileges and Elections?
A. I correct it; it was. The back was indorsed, signed by Mr. French—I forget his name—and then assigning whatever powers he had. I think that was the language of the instrument.
Q. Was there a copy of the subpœna left with you?
A. Yes, sir.
Q. Have you that with you?
A. I have not.
Q. What did you do with it?
A. I destroyed it.
Q. Did you make any question about the legality of the service at the time it was made on you?
A. I don't know that I did.
Q. Do you know that you did not?
A. I don't know that I did—whether I did or did not; I don't know. I don't remember.
Q. You do not know, then, whether you did or did not make any objection to the legality of the service?
A. No, sir; I made no attempt to carry it out. That is all I can say.
Q. What do you mean by that?
A. I did not come here.
Q. You treated it with contempt, did you?
A. I can't say that I treated it with contempt.
Q. You refused to obey it?
A. I refused to obey it.
Q. Why?
A. Because I thought if Mr. French needed me he would do just as he did before, telegraph me or send for me as he did before.
Q. Did not that subpœna require you to attend before the Committee on Privileges and Elections on the 8th day of this month, peremptorily?
A. It did.
Q. Did not that subpœna also require you to bring with you a statement of the accounts of Samuel J. Tilden, Colonel Pelton, and ABRAM S. HEWITT, as shown by the books of the Third National Bank of New York, from the 1st of June last to the time of the service of the subpœna?
A. It did; but as to the accounts of Colonel Pelton and Mr. HEWITT, I have no such accounts.
Q. I am not asking what you have.
A. I am just answering the question.
Q. No, sir; you are not. I am simply asking you the question whether that subpœna did not call upon you to produce a statement of these accounts before the committee, on the 8th of this month?
A. It did.
Q. And you refused to obey the subpœna?
A. I did.
Q. Why?
A. On the ground that, as cashier of the Third National Bank, I had no power or control over the books or records of the bank; and I declined upon that ground.
Q. Did you make any explanation or excuse to the chairman of the Committee on Privileges and Elections, or to the Sergeant-at-Arms?
A. I shall decline to answer any further questions. I shall require to see my counsel before I shall answer any questions whatever.
Q. You decline to answer any other questions put by the committee or by any member of the committee, do you?
A. I do.
Mr. KERNAN. He says until he sees his counsel.
The WITNESS. Until I have the opportunity to see my counsel.

By Mr. MITCHELL:

Q. Have you not had ample time to consult counsel since this subpœna was served on you?
A. No, sir; I have not.
Q. The subpœna was served on you the 7th of this month, was it not?
A. Yes, sir.
Q. Requiring you to appear on the 8th?
A. Yes, sir.
Q. And yet you say you have not had ample time to consult your counsel?
A. I will explain why. I supposed all this time, as I explained to the Sergeant-at-Arms, that I would be telegraphed by him, saying when to be here, in which case I would quietly respond, as I did, saying that I would be here. I telegraphed to Mr. O. P. MORTON, the chairman, saying that I would be here on a given day; and in consequence of that I made no attempt. I was here yesterday. I was not well and I went to bed.
Q. You say you telegraphed Mr. MORTON that you would be here on a certain day?
A. Yes, sir.
Q. When did you do that?
A. It is now three days ago.
Q. Then that was about the 14th or 15th of this month?
A. My impression is that it would be the 14th or 13th.
Q. From the time that the subpœna was served on you, then, on the 7th of February, requiring you to appear before the committee on the 8th, you neither responded to the subpœna by coming yourself, or by furnishing any statement of accounts, or by offering any excuse to either the chairman of the committee, to any member of the committee, to the committee, or to the Sergeant-at-Arms?
A. Other than the telegram alluded to, I have not.
Q. Which telegram was not sent until long after the action of the Senate requiring the Sergeant-at-Arms to present you at the bar of the Senate for contempt?
A. Yes, sir.
Q. I understand you to say that you have not had time to consult counsel?
A. I have not.
Q. And that you decline to answer any further questions before the committee until you have time to consult counsel?
A. I do.
Q. Now, I ask you this question: Will you please produce to me, for the inspection and use of this committee, the books of the Third National Bank of New York City, showing the account contained therein of Samuel J. Tilden, from the 1st of June last until the 1st of February?
A. Until I consult my counsel, I decline to answer that question.
Q. I will ask you another question: Will you please produce to me, as acting chairman of this committee, for the use of the committee, and for inspection, a statement of the account of Samuel J. Tilden, as shown on the books of the Third National Bank, from June 1, 1876, to the 1st of February, 1877, showing the amount deposited, the date thereof, the amount of each disbursement, and the date?
A. I answer as before.
Q. You decline to answer?
A. I decline to answer until I consult counsel.
Q. What time do you want in which to consult counsel?
A. I shall telegraph him to come from New York.
Q. Your counsel is in New York?
A. Yes, sir.
Q. I understand you decline to answer these questions.
A. I do.
Q. Did you not state in substance and effect to Mr. Bangs, the deputy sergeant-at-arms, who served the subpœna on you in this case on the 7th of the present month, that you would not obey it?
A. I may have done so; I don't remember.
Q. Do you not know that you stated to him that you would not obey the subpœna?
A. I do not; but it is possible that I may have, because I should have determined then as I determine now, not to answer any questions.
Q. You should have determined then as you determine now?
A. Pardon me; in reference to bringing these books or the statement of the accounts of the bank; that I should have declined to do then, as I now decline to do it.
Q. Do you decline peremptorily now to do it?
A. I decline as before, except under advice of counsel.
Q. You knew before you left New York, of course, from the subpœna, what you were expected to do when you arrived here?
A. Perfectly.
Q. And you did not consult any counsel?
A. I did not.
Q. Did you consult with any person?
A. I did not.
Q. Did you see Samuel J. Tilden?
A. I did not.
Q. Whom did you consult with?
A. No one.
Q. Whom did you consult with in regard to your action?
A. No one, except the officers of our bank.
Q. Which officers did you consult with?
A. The president and vice-president.
Q. What is the name of the president?
A. John W. Ellis.
Q. Who is the vice-president?
A. Parker Handy.
Q. What did they tell you to do?
A. I think they concurred with me as to the impropriety of delivering the records of the bank; but the president, Mr. John W. Ellis, is here and can speak for himself.
Q. Did Mr. John W. Ellis, the president of the Third National Bank, give you any directions, as the cashier of the Third National Bank, as to the course you should take when you came upon the stand as a witness?
A. I decline to answer that question until I have consulted my counsel.
Q. You decline peremptorily?
A. I do.
Q. Did the vice-president of the bank, Mr. Parker Handy, give you any directions as to what course you should take as a witness before this committee?
A. I decline, as before, to answer until I have consulted my counsel.
Q. Did the directors of the Third National Bank, acting officially or otherwise, give you any direction as to the course you should take as a witness when you came before this committee?
A. I decline, as before.
Q. You decline to say whether they did or did not?
A. I do, as before, without the advice of counsel.
Q. Do you mean to say to this committee that you have not had abundant time to consult all the counsel you might wish to in regard to your rights and duties as a witness before this committee?
A. I may have had such opportunity. I have not availed myself of it.
Q. Do you not know that you have had ample time?
A. I have not made an attempt.
Q. Did you expect to wait until you were called upon the stand and then make this excuse that you would not answer until you had consulted counsel?
A. I decline to answer, as before, except under advice of my counsel.
Q. But you did not make any attempt, in all these two weeks that have elapsed, or nearly two weeks, since you were served with a subpœna, to take the advice of any counsel, or anybody else?

A. I decline to answer, as before.
Q. Are you in the custody of the Sergeant-at-Arms now?
A. I am.
Q. You have not yet been presented at the bar of the Senate?
A. I have not.

Mr. MITCHELL. Now turn to page 483.

The Chief Clerk read as follows:

CONRAD N. JORDAN recalled and examined.

By Mr. MITCHELL:

Question. You heard the testimony of Mr. Ellis just now in reference to your statement to him that you had received a dispatch, and that that was the reason why you had not gone to Washington, did you?

Mr. MITCHELL. That will do for that. Now I ask that the testimony of Mr. John W. Ellis be read, beginning on page 476. It is necessary, in order to show what transpired.

Mr. COOPER. I wish to inquire under what authority that which has been read, the testimony of Mr. Jordan, was taken. I understood he was here under attachment to answer at the bar of the Senate, and I wish to inquire of the Senator from Oregon what authority there is in a committee to take the testimony of a witness under imprisonment by attachment, until the order of the Senate is had.

Mr. MITCHELL. If the Senator had been in when the case was opened, he would have heard what I said in reference to that matter then. It is true the Senate had directed the Sergeant-at-Arms to arrest this witness and bring him before the Senate. Before that order was executed by the Sergeant-at-Arms, the witness voluntarily came before the committee; came to the committee-room himself, not in the custody of the Sergeant-at-Arms, but on his own motion, as we supposed, to testify and give explanations as to why he had not appeared. The committee thought it was no more than right to give him that opportunity, and they permitted him to go on the stand, and he proceeded to testify in the manner which has appeared from what has been read.

Mr. COOPER. I submit to the Senator, the committee having given him that opportunity, is he not discharged from the order of the Senate to bring him to the bar?

Mr. MITCHELL. By no manner of means.

Mr. COOPER. Is he not discharged by virtue of the examination? That is the point I make.

Mr. MCMILLAN. Will the Senator from Oregon yield for a question?

Mr. MITCHELL. Certainly.

Mr. MCMILLAN. Was the order to the Sergeant-at-Arms to report the witness to the Senate and present him at the bar of the Senate made subsequent to this voluntary appearance of the witness? ["O, no."]

Mr. MITCHELL. O, no; this was before his appearance. And what has been read, what little examination there was, shows that the witness refused to answer any questions put to him which were intended to elicit the evidence which the committee desired to obtain. He did answer some questions as to why he did not appear.

Mr. COOPER. Then, Mr. President, the remedy is plain. You can bring him to the bar of the Senate for contempt in refusing to answer, but you cannot hold him now in contempt for having failed to obey a subpœna. That is the point. He is here under arrest for having disobeyed your subpœna. Now the committee take him and examine him; your subpœna is intended for an examination, and the committee having examined him he is released by all rules of law and ought to be discharged from the present arrest, whatever the committee may do afterward.

Mr. MITCHELL. That, of course, is the Senator's opinion. It may be correct. I am not disputing it now; it will be a matter to be considered when the resolution comes up for consideration. But I ask that the rest of the testimony be read.

Mr. SAULSBURY. Mr. President, I do not know that we ought, in the consideration of the resolution by which this gentleman is at the bar of the Senate as for contempt in not appearing before the committee, to read testimony given before the committee subsequent to that time, because of the effect it may have in prejudicing the proper consideration of the resolution under which he is here. I think the point taken by the Senator from Tennessee [Mr. COOPER] is well taken, that the action of the committee in permitting the witness to testify before the committee after the issue of the attachment was a waiver of the attachment. But I say in considering that subject I question very much the propriety of suffering any examination that was made subsequent to the time when the attachment was ordered to be read before the Senate, because of the effect it may have in prejudicing a proper and due consideration of the resolution ordering the attachment.

Mr. MITCHELL. Mr. President——

Mr. KERNAN. If the Senator from Oregon will allow me a minute, I shall be obliged to him.

Mr. MITCHELL. I will yield to the Senator.

Mr. KERNAN. I wish to state to the Senate that Mr. Jordan was under arrest when he was brought before the committee; he was in the custody of the Sergeant-at-Arms. He, early in the examination which has been read, stated that he had not control over the books and accounts which he had been summoned to produce and declined to answer questions until he could consult counsel. Notwithstanding this a long examination ensued, not with a view to excuse him, but rather, as it seemed to me at the time, with a view to throw suspicion upon others.

I only wish to say that he certainly testified while he was here under arrest in the charge of the Sergeant-at-Arms. I did not take any objection to this examination because I had discovered, as I thought, that this examination was to throw, if possible, suspicion upon other persons, and I was not willing to give color to that by interposing an objection. I was willing to leave it to the Senate to do whatever it deemed proper in reference to the bank accounts which he was subpœnaed to produce. It is due also to say that I never had any communication with Mr. Jordan before he was brought before the committee. The communication addressed to me by Mr. Tilden through the press, which you have all read, shows that he is not disposed to shrink from a full investigation of his bank account or any other matter touching his actions.

Mr. Jordan was examined while under arrest, and answered as he did. I did not make any objections to this, although it seemed to me at the time extraordinary to bring a man before us and examine him who was in contempt and in custody of the Sergeant-at-Arms, because I believed that if I did object it would be supposed that some one desired to prevent a full investigation of the bank accounts which the witness was summoned to produce. Mr. Tilden certainly has no such wish.

Mr. MERRIMON. Mr. President——

The PRESIDENT *pro tempore*. The Chair will state the question. The Senator from Oregon has asked for the reading of a paper. Does the Senator from Delaware object?

Mr. SAULSBURY. I said that I questioned exceedingly the propriety of reading that evidence.

The PRESIDENT *pro tempore*. Then the Senator does not object.

Mr. MERRIMON. Mr. President, the facts of this case, as I understand them, are these: Some days ago the Committee on Privileges and Elections issued a subpœna, about which there was some question, commanding this witness to appear before that committee to be examined. The subpœna was what is called in law a *subpœna duces tecum*, to bring certain papers and to testify touching those papers and certain accounts that were mentioned. The witness did not come as in obedience to the summons. Thereupon, by order of the committee, the acting chairman came before the Senate and asked that an order be entered directing the Sergeant-at-Arms to bring the witness to the bar of the Senate. The effect of that order was to cause him to show cause, not to put him in contempt, but to show cause why he should not be attached for contempt; that was the effect of it. The Sergeant-at-Arms did his office; he brought the witness to the city, and the witness was in his custody. Whether he was immediately in his manual possession made no difference; he was in *custodia legis*.

Mr. MITCHELL. When? At what time?

Mr. MERRIMON. When the Sergeant-at-Arms had him and when he went before the committee.

Mr. MITCHELL. Well, probably when he went before the committee. But he was not brought here by the Sergeant-at-Arms.

Mr. MERRIMON. He came here at the command of the Sergeant-at-Arms. He was in the custody of the law.

Mr. MITCHELL. No, sir; the witness came because he saw in the newspapers that the Senate had directed the Sergeant-at-Arms to secure his arrest.

Mr. MERRIMON. While the witness was thus in the custody of the Sergeant-at-Arms, or pending the order to the Sergeant-at-Arms to bring him, it was improvident for the Committee on Privileges and Elections to examine him at all until he had come to the bar of the Senate in custody of the Sergeant-at-Arms and had answered the order to show cause. It might be that the Senate would imprison him; it might be that the Senate would fine him; we could not tell what the Senate would do upon his answering the order to show cause. Nevertheless the committee examined him; and, now when he is here to answer for having failed to come before the Senate to answer that order to show cause, this improvident examination of the witness touching a matter before the committee and which has no connection with this order to the Sergeant-at-Arms to bring him to the Senate, is brought before the Senate at this moment when we are considering the order upon him to show cause. It seems to me that that is very unfair to this witness. It may be that this testimony is going to aggravate the case, so far as the point before the Senate goes. He is here to answer for failing to obey the summons, for failing to go before the committee. He is not here for failing to answer questions that were propounded to him. The chairman of the committee has not said that the committee directed him to come and move against this witness because he failed to answer those questions. The examination was improvident; and it is out of order, it is irregular, it may be prejudicial to this witness that what he said before the committee when certain questions were propounded to him pending that order should be read before the Senate now. I do not know whether it will turn out so or not; but according to the regular course of things that examination ought not to be read at this moment. When he shall have purged himself, when he shall have answered to the satisfaction of the Senate and shall have been discharged, if he shall be discharged, for failing to come in pursuance of the summons, then I take it he will be taken before the committee and proper questions will be propounded to him. If he fails to answer them as he is in law bound to do, then the committee will bring him before the bar

of the Senate for failing to respond to questions which he was required to answer.

Mr. MITCHELL. It is not very material to me whether this testimony or these statements made by this witness before the committee be read now or not, but I desire to reply to what the Senator from Tennessee [Mr. COOPER] suggested. The Senator advances the proposition that because this witness was under arrest and the Sergeant-at-Arms had been directed by the Senate to produce him at the bar of the Senate, the fact that the committee saw proper to permit him to go on and testify if he desired to do so is a waiver of any right on the part of the Senate to proceed against him for the original offense. That is the proposition. Now, I deny that proposition. I deny it upon the record made in this case. I deny it as a matter of law.

What was the offense for which this witness was to be brought to the bar of the Senate? It was not merely for a failure to attend before a certain committee of this body; that was a part of the offense, it is true; but he was ordered to be brought to the bar of the Senate not only for failing to appear——

Mr. MERRIMON. When was the subpœna issued?

Mr. MITCHELL. On the 7th; but for a failure to testify, and not for that alone; but for a failure to bring with him certain papers that he was directed to bring in the original subpœna. The offense was a failure to attend, a failure to testify, a failure to produce certain papers, all of which he was called upon to do by the subpœna, and for failing to do which the Senate by a unanimous vote directed the Sergeant-at-Arms to bring him to the bar of the Senate that he might be dealt with according to law.

There can be no mistake about this, and my statement of the facts will not be questioned by any one, I take it. If my statement is questioned, then I shall read from the record the resolution directing the Sergeant-at-Arms to bring Mr. Jordan here, which recites that on the 7th of this month a *subpœna duces tecum* was served upon him commanding him to appear on the 8th before the Committee on Privileges and Elections and commanding him to bring with him before that committee certain books and accounts. My friend from Tennessee says because the committee, of its own generosity, thinking that the witness was willing to respond to the subpœna by the production of the accounts and thereby purge himself of the contempt so far as in his power, gave him that opportunity, that in law is a waiver on the part of the Senate of any right on its part to proceed against the witness for the original contempt. Why, most certainly not. What is the law in reference to this matter upon which my resolution sent to the Clerk a few moments ago, is based? It is found in section 104 of the Revised Statutes, and is as follows:

> Whenever a witness summoned as mentioned in section 102 fails to testify, and the facts are reported to either House, the President of the Senate or the Speaker of the House, as the case may be, shall certify the fact under the seal of the Senate or House to the district attorney for the District of Columbia, whose duty it shall be to bring the matter before the grand jury for their action.
> Whenever a witness summoned as mentioned fails to testify——

Mr. JONES, of Florida. Will the Senator permit me to ask him a question?

Mr. MITCHELL. Certainly.

Mr. JONES, of Florida. Does he conceive that that statute applies to the case of the non-production of papers?

Mr. MITCHELL. I do.

Mr. JONES, of Florida. How do you make that appear? It says when he fails to testify.

Mr. MITCHELL. That is a part of the testimony. The testimony of the witness is not merely the answers that come by word of mouth to questions propounded, but it covers any legal testimony. These papers are as much testimony as any statement the witness might make as testimony. They are a part of the testimony. Besides, the order of the Senate in this case directing this witness to be brought to the bar of this body recites the reasons why that order was adopted by the Senate, and those reasons are, first, because he failed to appear; second, because he failed to produce the papers that the subpœna called for; and lastly, because he refused to testify.

The witness never, until the present hour, has complied with any one of the three requirements of that proceeding. He has never testified; and the only information that we have as to the fact that he was permitted to go before the committee at all is the testimony that has been read. If that is competent for the purpose of showing this Senate that he was before the commitee, then it is also competent to show that he failed to testify when he did go before the committee, because the statements of the witness read show that he threw himself back upon what he supposed to be his reserved rights to decline answering any questions until he had the privilege of consulting his counsel, although nearly two weeks had elapsed from the time the witness was served with the subpœna until the time that the committee gave him an opportunity to purge himself of the offense.

He has never testified; he has refused to testify; and it will not do for the Senator from Tennessee to say that if he is called before the committee and refuses to testify, then the committee will issue an order directing its chairman to present him at the bar of the Senate for refusing to testify. Why? Because the Senate has already directed that he shall be presented at the bar of the Senate, among other things for the refusal to testify, and he never has testified.

Mr. COOPER. Will the Senator read the order without the preamble?

Mr. MITCHELL. Yes, sir, I will. The order of the Senate is in the following words:

> Whereas Conrad N. Jordan, cashier of the Third National Bank, New York——

Mr. COOPER. No, I just want the order without the whereases.

Mr. MITCHELL. This is the order, and I want it all. The difficulty with the Senator is that he wants a part. I want it all.

Mr. COOPER. I want the order without the preamble.

Mr. MERRIMON. What is the date of that order?

Mr. MITCHELL. The date is the 13th day of February, and it reads:

> Whereas Conrad N. Jordan, cashier of the Third National Bank, New York, was on the 7th day of February, 1877, at ten o'clock a. m., duly served with a *subpœna duces tecum* issued by the Senate Committee on Privileges and Elections, commanding him to appear before such committee on the 8th day of the present month to then and there testify in reference to subject-matters under consideration by said committee, being matters relating to the controversy concerning the electoral votes for President and Vice-President, and to bring with him a full and exact statement of the accounts as shown by the books of said Third National Bank, of Samuel J. Tilden, William T. Pelton, and ABRAM S. HEWITT, from the 1st day of June, 1876, to the 6th day of February, 1877;
> And whereas said Conrad N. Jordan has refused to respond to such subpœna, has failed to appear before said committee as required by said subpœna, or to produce such statement of accounts as required: Therefore,
> *Resolved*, That an attachment issue forthwith, directed to the Sergeant-at-Arms of the Senate, commanding him to bring said Conrad N. Jordan forthwith to the bar of the Senate to answer for contempt of a process of this body.

Now, even admitting the proposition advanced by the Senator from Tennessee to be good law, it cannot affect this case; and why? From the simple fact that the witness never has testified before the committee.

Mr. JONES, of Florida. Will the Senator be kind enough to read the return of the Sergeant-at-Arms to that order?

Mr. MITCHELL. Certainly, I will read it. The return is as follows:

> SENATE OF THE UNITED STATES,
> *February* 16, 1877
>
> To Hon. T. W. FERRY,
> *President pro tempore of the Senate of the United States:*
>
> I have this day made service of this warrant, and now have the within-named Conrad N. Jordan in my custody.
>
> JOHN R. FRENCH,
> *Sergeant-at-Arms Senate United States.*

I submit, Mr. President, to the Senate, that, even admitting all to be true, as a matter of law, as stated by the Senator from Tennessee, that if the witness had gone before the committee and testified and answered questions in regard to the matter of inquiry before that committee, it would be a waiver of the right of the Senate to proceed against him at once, it cannot affect this case, for the simple reason, as shown by the very paper read at the desk—by the very same paper that shows that he went before the committee—that he peremptorily refused to testify; that he would not answer a solitary question relating to the matters pending before the committee; that he declined to testify, and gave as a reason that he wanted the privilege of consulting counsel. Then will it be said that there has been a waiver of the right of the Senate to proceed against this witness for contempt? Most assuredly not. Not for a solitary moment can any such proposition as that be successfully maintained.

Is there any evidence here of a single fact that in the opinion of the Senator from Tennessee amounts to a waiver? There is not, unless we say that the paper purporting to be the statement made by the witness before the committee is evidence of that fact. If that is evidence of the fact, it is also evidence, I submit to the honorable Senator, of the further fact that the witness instead of testifying refused to testify.

Mr. JONES, of Florida. Refused to produce papers.

Mr. MITCHELL. Not only in reference to that matter, but in reference to every other matter. He not only refused to produce the papers in answer to a question put to him, but he refused to answer any question. When a certain question is propounded to him he states that he declines to answer that question, and not only that one, but he will not answer any question that the committee or any member of the committee puts to him until he has the privilege of consulting counsel, when he had had two mortal weeks since the subpœna was served upon him to consult counsel.

Then I say, Mr. President, admitting all the force of the objection made here as a matter of law, that if he had gone before the committee and testified that would amount to a waiver, it cannot affect this case; from the fact that it appears conclusively that he did not testify and that the original sin for which he was called to the bar of the Senate stands uncondoned by any act of the Senate, by any act of the committee, and what is worse still by any act of the witness when he had an opportunity to purge himself. Why, Mr. President, that would be a strange doctrine to obtain in the Senate of the United States.

Mr MERRIMON. Will the Senator allow me to ask him a question?

Mr. MITCHELL. Certainly.

Mr. MERRIMON. I ask the Senator what is the proceeding against this witness for now?

Mr. MITCHELL. We are proceeding against this witness for the offense that he committed in refusing to respond to the *subpœna duces tecum* and in refusing to testify before the committee.

Mr. MERRIMON. Where is the authority to proceed against him for refusing to testify?

Mr. MITCHELL. Where is the authority?

Mr. MERRIMON. The committee has sent no order here and no report to the Senate directing proceedings against him for refusing to testify.

Mr. MITCHELL. I beg pardon of the Senator from North Carolina. The trouble with him is that his memory is so short in reference to this matter that he cannot remember far enough back to remember all the facts of the case.

Mr. MERRIMON. I will thank you to point me to them.

Mr. MITCHELL. Certainly. The original resolution asking the acting chairman of the committee to bring this matter to the attention of the Senate recited that this witness was served on a certain day with a subpœna to appear on a certain other day before the committee to testify, and recited furthermore that he had refused to appear and that he had refused to testify.

Mr. MERRIMON. As I said a while ago and as the order shows, this witness was brought here in the custody of the Sergeant-at-Arms because he failed to appear before the committee in pursuance of that summons. It was upon that ground that the order was issued; and it is in the nature of an order to show cause why he should not be attached. At the time that order was entered this witness had not been before the committee; no questions had been propounded to him; and this whole examination which is being read here to his prejudice at this moment was not in existence at the time that order was entered in the Senate, and it was taken sometime after that. I undertake to say—and I believe I can do it truly—that the Committee on Privileges and Elections have made no order and taken no action with a view to ask the Senate to proceed against this witness for failing to answer questions.

It may be, as I said awhile ago, that the Senate will put him in contempt, fine him or imprison him because he did not come in pursuance of the command of the summons. They may do that, or they may discharge him if he proposes to go before the committee now and be examined. As I said awhile ago, I repeat now that while there is nothing wrong imputed to the Senator from Oregon at all, the examination of this witness while he was in the custody of the law was improvident; it ought not to have taken place; and he ought to be treated now as though he had not been before the committee, for that improvident examination may prejudice his case when he is here to answer for failing to come.

Mr. MITCHELL. I am not particular whether that statement is read or not. I do not care a copper whether it is read or not. I think, as a matter of justice to the witness, it would perhaps be proper that it should be read.

Mr. MERRIMON. Let me say another word. The Senator will remember that grave questions may arise as to whether when these inquiries are propounded to this witness regularly before the committee he will be bound to answer them. I take it that he is not to be put in contempt for failing to answer a question when his right has not been passed upon or considered by the committee at all.

Mr. MITCHELL. The Senator from North Carolina appears to think that there can be no contempt on the part of a witness for refusing to testify except where he comes before the committee and a question is propounded to him. I submit that that hardly can be good law.

Mr. MERRIMON. The Senator misapprehends me. I say that it is competent for the Senate to put him in contempt for failing to appear before the committee; and that is the motion now, to put him in contempt for failing to come before the committee. He may purge himself of that; he may assign a sufficient excuse for which the Senate will discharge him and direct him to go before the committee; or, if it turns out that he stubbornly refused to go, the Senate may punish him for that. Then when he shall go before the committee in pursuance of the order of the Senate, after he has purged himself of the contempt for failing to go originally, then the further questions that were propounded to him may be propounded to him again. Then he may raise the question of his right to refuse to answer; and then it may be the committee will ask the Senate to put him again in contempt for refusing to answer, as well as for the contempt in refusing to come.

Mr. MITCHELL. The Senator from North Carolina is certainly too good a lawyer to advocate the doctrine here that a witness cannot be held in contempt for refusing to testify unless he is absolutely before the committee and refuses to answer a certain question propounded to him. There are two ways of refusing to testify. I may be summoned to appear before a committee of this body or before a court of this District, and I may refuse to testify in two ways: I may refuse to testify in the first place by saying to that committee and its officer or to that court and its officer, "I do not recognize your right to bring me before your committee and will not testify at all."

Mr. COOPER. Would that be contempt for failing to testify?

Mr. MITCHELL. Certainly it would.

Mr. COOPER. Or for failing to answer the process? They are distinct propositions. That would be a failure to answer the process, but certainly not a failure to testify.

Mr. MITCHELL. Yes, it would be a failure to answer the process, it is true, and it would be furthermore a failure to testify. And then there may be another failure to testify, and that is where a witness is before a committee and certain questions are propounded; he may fail to testify for various reasons; he may fail to testify because he is stubborn and does not wish to testify on the subject. He may fail to answer a particular question because he thinks in law he ought not to be compelled to answer that particular question. He may fail in court to answer a particular question because the answer might criminate himself, although that would be no excuse before a committee.

Mr. COOPER. Will the Senator from Oregon answer me whether he insists before this body that a witness can be placed in contempt for failing to testify, he never having had the opportunity to testify; for failing to answer questions when no questions have ever been asked?

Mr. MITCHELL. I insist that I will point the Senator from Tennessee to the resolution adopted by the Senate which recites the fact of the failure to testify.

Mr. COOPER. I submit that the resolution does not. The order is for failing to obey the process of the Senate.

Mr. MITCHELL. I have read the order.

Mr. COOPER. It was for failure to obey the process.

Mr. SAULSBURY. Will the Senator from Oregon allow me a moment?

Mr. MITCHELL. Yes, sir.

Mr. SAULSBURY. The resolution offered this morning by the Senator from Oregon is the question before the Senate; that is a resolution to send this witness to the courts of the country for failing to obey the process of this body. That in substance I understand to be the purport of the resolution.

I hold that that resolution cannot be properly adopted by the Senate, because the witness has had no opportunity to purge himself of the contempt with which he is charged. A *subpœna duces tecum* issued requiring the witness to appear before the Committee of Privileges and Elections of this body. He failed to appear, and then an order was issued that he should be arrested and brought to the bar of the Senate; for what purpose? That he might purge himself from contempt. That was the object and the purpose of the order requiring him to be brought to the bar of the Senate; and yet, before a single question has been propounded by the President of this body to the witness, a resolution is offered by the Senator from Oregon to send this witness to the courts of the country, without affording him the privilege before this body of purging himself of the contempt with which he is charged.

Now, Mr. President, I am anxious to uphold the dignity of this body, though, as is known to the members of the Senate, when the order was pending requiring the arrest of the party in default here I objected, because there had been an improvident issuance of the *subpœna duces tecum*, but I am equally anxious to uphold the rights of persons who are brought to the bar of the Senate. This gentleman has had no opportunity of purging himself of the contempt with which he is charged in this matter.

Mr. MITCHELL. I did not yield for a speech, because I was not through.

Mr. SAULSBURY. If the Senator objects, I am on the floor by his courtesy and will give way.

Mr. MITCHELL. The Senator from Delaware says the witness has had no opportunity to purge himself. He has had an opportunity. He was brought to the bar of the Senate and, upon my own motion, he was permitted to make any statement he might desire to make, and he presented a written statement that was read in the presence of the Senate.

Mr. SAULSBURY. Perhaps I may have something more to say when the Senator gets through.

Mr. MITCHELL. I shall take but a few moments longer.

Mr. SARGENT. Is this matter privileged, I ask the Chair, or can it be laid aside?

The PRESIDENT *pro tempore*. It can be laid aside by order of the Senate.

Mr. SARGENT. I should like to remind Senators that we ought to pass the naval appropriation bill this afternoon.

Mr. MITCHELL. In order that we may get a vote I will occupy no further time.

Mr. WHYTE. I desire to say one word before we take a vote on this proposition.

Mr. DAVIS. I have no wish to continue this case until another day, but the Senator well knows that a single objection carries the resolution over until to-morrow.

Mr. WHYTE. O, no, it is a privileged question.

Mr. DAVIS. That is my judgment at any rate. I will reserve the objection to the resolution.

Mr. WHYTE. Mr. President, the hardship of passing the resolution at this time is too apparent for any one to do it without due deliberation. If the resolution is passed this witness is held in the custody of the Sergeant-at-Arms until the action of the grand jury of the District of Columbia. Whenever that may take place no one can now predict. The whole thing is wrong from beginning to end. This party was summoned on the 7th of February last under a *subpœna duces tecum* instructing him to appear before the Committee on Privileges and Elections, and to bring with him certain books and papers relating to the accounts of the three persons named by the Senator from Oregon. Subsequently, having failed to attend, an order of the Senate was passed commanding the Sergeant-at-Arms to bring him before the Senate or before the committee which is the representative of the Senate. That order was issued on the 13th day of February. On the 14th, I think, he telegraphed that he would ap-

pear on a certain day, and on the 16th he appeared in Washington in response to the order of the Senate, and on the 18th he testified before the Committee on Privileges and Elections.

Mr. MITCHELL. Will the Senator allow me to ask a question right here?

Mr. WHYTE. Yes.

Mr. MITCHELL. The Senator is mistaken in supposing that he ever did testify, because he never did; he has never answered any question; but suppose that were all true, does that as matter of law wipe out the original offense?

Mr. WHYTE. Yes.

Mr. MITCHELL. It does?

Mr. WHYTE. Yes.

Mr. MITCHELL. I should like to see some law on that point.

Mr. WHYTE. I will show you some in a few minutes. I know that is what you want exactly. [Laughter.]

Mr. MITCHELL. Yes.

Mr. WHYTE. The Senator is confounding two different processes, one a process upon a failure to appear, another a different process which is to be taken where he refuses to testify. One specially is provided for under the law of Congress that the President of the Senate certifies to the district attorney where the party refuses to testify.

Mr. MITCHELL. Will the Senator allow me a question?

Mr. WHYTE. Certainly, a hundred if you wish.

Mr. MITCHELL. Suppose a man is subpœnaed to appear in court on a day certain to act as juror; he does not appear on the day fixed in the summons, but he does appear a week later and takes his place on the jury and the end of the term comes; I want to know if that fact prevents the court from imposing a penalty on him for failing to appear?

One other question——

Mr. WHYTE. One at a time. Do not let us run them together. It is your misfortune that you are running two things together, and now you want to run two questions together. If we had a juror here, I would answer that question; but we have a witness.

Mr. MITCHELL. One question. Now we will take the witness. Suppose a witness is summoned to appear in court, I will say on a day certain, to give his testimony in a case which it is supposed will come up for trial on that day. He does not appear; he delays the action of the court; he keeps the court and witnesses in waiting; he obstructs the course of justice. Afterward he appears. An attachment is issued for him, for instance, and he takes knowledge of that through a statement in a newspaper, and he goes sneaking into court and places himself upon the witness-stand and is examined by the court. Now, I want to know if the Senator from Maryland will claim as a matter of law that that wipes out the original sin of failure to appear so that the court cannot impose a penalty on him.

Mr. WHYTE. I will tell my friend——

Mr. MITCHELL. I say that the Senator cannot produce any such law.

Mr. WHYTE. I tell my friend that the rules that prevail in Parliament are constantly different from those that prevail in a court of law, and I will show him that the parliamentary law in England and in America is exactly the same and that the moment a witness is brought to the bar of the Senate or of the House for failing to appear he is discharged. In a court of law where a witness fails to appear upon an original summons but afterward appears upon an attachment for contempt, then the court has the right either to discharge the attachment without punishment or to fine him. But could the court examine him as a witness and then send him to jail and let him rot there? No, Mr. President, if the court examines him as a witness, all it can do is to fine him for his past contempt.

But the principles prevailing in courts of justice in that regard are not similar. We have no right to send this man to jail and punish him. On the contrary when we have exhausted our power by sending the Sergeant-at-Arms for him and bringing him here, the proceedings drop. I will show my friend from Oregon that that is the principle of law prevailing in England and America which he will find stated plainly in May on Parliamentary Law:

> The attendance of a witness to be examined before a select committee is ordinarily secured by an order signed by the chairman by direction of the committee. But if a party should neglect to appear when summoned in this manner, his conduct is reported to the house, and an order is immediately made for his attendance.

That was precisely what we did on the 13th of February.

> If, in the mean time, he appears before the committee, it is usual to discharge the order for his attendance

That is the law laid down by May and pursued always in Parliament.

Mr. MITCHELL. As a matter of discretion, of course.

Mr. WHYTE. There is no discretion about it. It is laid down, and so my friend the Senator from Oregon——

Mr. MITCHELL. The law read by the Senator does not say that that fact discharges him by operation of law. It is usual to discharge the witness, as a matter of discretion in the body.

Mr. WHYTE. Never except where he refuses to attend is there any other proceeding. The moment he attends and appears before the committee the proceedings drop.

And so is the law in this country, too. Now I quote for the edification of my friend, the Senator from Oregon, Wilson's Parliamentary Law. It is Indiana parliamentary law, which prevails here to a great extent. On page 298 of Wilson's Digest the rule is thus stated:

> If the witness should neglect to appear when summoned in this manner, his conduct is reported to the house, and an order is immediately made for his attendance.
>
> If, in the mean time, he appears before the committee, the order is discharged.

Here is a case on all-fours with the case of this man brought to the bar of the Senate. He was summoned. It was a *subpœna duces tecum* to bring certain books and papers belonging to the Third National Bank of New York. He failed to respond and appear in accordance with that order. He was reported to this House, and on the 13th of February we passed an order directing the Sergeant-at-Arms to bring him before the House. Before that order was executed, that is to say, before he was taken into custody by the Sergeant-at-Arms, he came to Washington, having previously notified the chairman of the committee that he would attend. He comes to Washington and goes before the committee, makes his appearance. He is brought here at the bar of the Senate under that order, or he is not here at all; I mean legally here. Having been so brought, there is no principle of parliamentary law, there is no warrant in parliamentary procedure which justifies this Senate in passing the order now upon the table. It is a different case for which that order should provide. If this witness is now taken before the Committee on Privileges and Elections and asked to produce these books, and replies, as he has replied at the bar of the Senate, that he is not the custodian of these books of the Third National Bank, but that the president, representing the corporate authority of the bank, has them in his charge and custody—if he makes that answer, and he is reported to the Senate, there is no lawyer in the Senate that will not say he is justified in refusing to produce that over which he has no control. Therefore you cannot pass an order reporting him to the court of the District of Columbia as having committed a misdemeanor in failing or refusing to testify. He does testify; he does bear witness; he does say, "I cannot produce these papers; they are not in my power; they are not in my custody; they are in the custody of the president of the bank; you can send for him and compel him to produce them."

I submit, Mr. President, that on such a state of case as this will not the Senate be guilty of such stultification as it seems to me it would be guilty of in passing an order of this character?

Mr. MITCHELL. The Senator from Maryland undertook to show the Senator from Oregon some law applicable to this case. The Senator has produced two authorities; one laying down what is supposed to be the law in England, another stating the law in America. I submit now that if the Senator from Maryland bases his argument and undertakes to sustain his position here upon the doctrine of the law as laid down by those two authorities, then the Senator from Maryland needs to be edified a little himself in the law. What are these authorities? Do they hold to the doctrine that the appearance of a recusant witness in Parliament, or the appearance of a recusant witness in Congress after the time he must appear by the subpœna, operates *ipso facto* to discharge him? Is that the position? Is it that that fact discharges the witness and wipes out the contempt of which he was guilty? Why, Mr. President, the authorities read do not state any such proposition. The authority in England states that in that case it is usual to do—what? To discharge the witness? That is true. As a general rule it would be the exercise of a proper discretion upon the part of the Senate and upon the part of the House to discharge a witness who had failed to appear in the first instance but who afterward voluntarily came forward and gave his testimony. I say it would be the proper exercise of a discretion on the part of the Senate to discharge such a witness. But to hold that that fact discharged him in law, wiped out the original offense, condoned the original sin, is a proposition, I submit, that the Senator from Maryland, however superior his legal attainments, cannot sustain before this Senate or any other tribunal. I submit that the parliamentary law in this respect is in no essential respect different from the law of the judicial courts, and that the questions I put to the Senator from Maryland in reference to a juror and in reference to a witness in a court of justice are pertinent and applicable. The Senator admits, and is compelled to admit, that in those cases in courts of justice the appearance would not wipe out the original offense, and therefore he is compelled to fall back upon the proposition that there is a distinction between the rule as applicable to courts of justice and as applicable to Parliament or Congress.

Then I submit that the Senator from Maryland must produce some better law than that. I am surprised at my democratic friends on the other side raising these technical objections. Why, Mr. President, the Senate of the United States has not undertaken to convert its committee-rooms into bastiles. The Senate of the United States and its committees have not in the case of recusant witnesses confined them in prisons and put them on bread and water. The witness at the bar of the Senate to-day is an illustrious example of the contrary rule, so far as the Senate of the United States is concerned. He has not been imprisoned, except technically; he has not been confined, as he will tell you, in any jail or prison-pen, nor yet in any committee-room of the Senate, and deprived of his liberty. No proceeding of that kind can be laid to the door of the Senate of the United States.

Mr. COOPER. Will the Senator allow me to ask him what he is seeking to do now? Is it not that?

Mr. MITCHELL. I am seeking to have the Senate of the United States vindicate its process.

Mr. COOPER. How? By putting him in a bastile?

Mr. MITCHELL. How? In pursuance of law.

Mr. WITHERS. What law?

Mr. COOPER. How?

Mr. MITCHELL. In pursuance of law, by turning the witness over to the courts, and not making a bastile out of the committee-rooms of the Senate. Will the Senator from Tennessee or the Senator from Virginia take the position here that the Senate of the United States can have its process treated with contempt without any resort or attempt whatever to vindicate its authority? Certainly not; of course not. What would the Senators have us do? The witness has been called upon by a subpœna in the first place to produce certain papers. It is not for the witness to judge as to the competency or incompetency of those papers. What he was expected to do, and the only thing he was expected to do, was to produce certain, papers which he has failed to do.

Mr. JONES, of Florida. Does he not offer a reason for their non-production?

Mr. MITCHELL. Certainly he does, and now is the time and here the proper place and the only proper place to submit that reason, and he has done it, as was his right to do. If that reason is a satisfactory one to the Senate, he should be discharged. That is another thing. I will vote with my friend from Florida and with all my democratic friends if they can satisfy me that the reason submitted here by this witness is a good one and justifies him in refusing to obey the process of the Senate. But that does not touch this question; that is a different question.

Not wishing to take any further time, because in this matter we are taking up entirely too much of the time of the Senate, I submit the case. I have felt it necessary to say this much in vindication of the course of the committee.

The PRESIDENT *pro tempore*. The question is on the resolution.

Mr. SARGENT. I should like to hear the explanation of the party. I have forgotten really the excuse.

Mr. JONES, of Florida. I ask that the resolution be reported.

The PRESIDENT *pro tempore*. The resolution will be reported.

The Chief Clerk read the resolution, as follows:

Whereas Conrad N. Jordan was on the 7th day of February, 1877, by the authority of the Senate, summoned as a witness to give testimony and to produce certain papers on the 8th day of February instant before the Committee on Privileges and Elections, upon a matter under inquiry before such committee, to wit, an investigation into the eligibility of John W. Watts, a presidential elector in Oregon, and the facts attending the appointment of presidential electors in that State, in pursuance of a resolution of the Senate adopted December 22, 1876; and whereas said Conrad N. Jordan failed to appear, or testify, or produce such papers, as required to do by such summons, which facts have been reported to the Senate: Therefore,

Resolved, That the President of the Senate certify the facts, under the seal of the Senate, to the district attorney for the District of Columbia, and that the witness, Conrad N. Jordan, remain for the present in the custody of the Sergeant-at-Arms.

Mr. WHYTE. Mr. President, there is no provision of law which authorizes you to certify that Jordan failed to produce any papers. The provision of the law is in these words:

SEC. 104. Whenever a witness summoned as mentioned in section 102 fails to testify—

Not to produce papers; not to appear; but "fails to testify"—

and the facts are reported to either House, the President of the Senate or the Speaker of the House, as the case may be, shall certify the fact under the seal of the Senate or House to the district attorney for the District of Columbia, whose duty it shall be to bring the matter before the grand jury for their action.

Mr. MERRIMON. Mr. President, whatever has been said, this witness is before the Senate now under this resolution:

Resolved, That an attachment issue forthwith, directed to the Sergeant-at-Arms of the Senate, commanding him to bring said Conrad N. Jordon forthwith to the bar of the Senate for contempt of the process of this body.

He is not here to testify; he is here and here only for the purpose of answering why he did not come before the committee in pursuance of the command of the summons; and, it seems to me, it is irregular and outside of this case for us to take into consideration in this connection any improvident examination that was had of him before the Committee on Privileges and Elections or any other body. He has put in his answer, which, with one addition, I think would be sufficient to purge him of the contempt, if there were contempt in not obeying that summons. I desire to hear now what the temper of the witness is, and to have the Chair put this question: Having put in this answer, is he willing now to go before the Committee on Privileges and Elections and answer all the questions that may be lawfully propounded to him, and which he is bound to answer in law?

The PRESIDENT *pro tempore*. There is a resolution pending. If there be no objection, the Chair will——

Mr. MITCHELL. I have no objection to the question being propounded, because I desire to get the answer.

Mr. MERRIMON. Before we get into confusion about this let us see exactly the logic of this thing. This witness is brought to the bar of the Senate to answer for failing to obey the command of the Senate to go before the Committee on Privileges and Elections. He sets forth in his answer certain excuses for not going. If we are satisfied that there was excuse for that, surely we are not going to turn him loose now, if he refuses still to go before the committee, and I want to see if he is willing to go before the committee.

Mr. JONES, of Florida. Allow me a question?

Mr. MERRIMON. I will, because I want to get at the proper course of action about this matter.

Mr. JONES, of Florida. I understand that the witness is here for refusing to do three things, not one, but three. First, failure to appear in response to the *subpœna duces tecum*; secondly, refusal to testify——

Mr. MERRIMON. No, not for that.

Mr. JONES, of Florida. Thirdly, for refusal to produce books and papers.

Mr. MERRIMON. No, he is here now simply for failing to come in obedience to the command.

Mr. JONES, of Florida. What command?

Mr. MERRIMON. To appear before the committee.

Mr. KERNAN. Will the Senator from Florida allow me to state that whenever we proceed against this man for refusing to testify, we must proceed by reporting to the Senate, which has never been done, that we asked him certain questions and he refused to answer them. We have never reported him to the Senate at all for refusing to testify. Whenever he does that, we will report the questions we put and his refusal to answer them. We have reported him to the Senate for refusing to obey its subpœna. That is the only ground of complaint, I submit, that there is before the Senate against him, at this time, and we cannot have any other ground of complaint until we make a report, that he has been before us and that we asked him to testify to certain matters and that he declined. We have never even reported the evidence which was taken irregularly while he was before us under arrest.

Mr. CONKLING. Will my colleague allow me to ask him a question?

Mr. KERNAN. Certainly.

Mr. CONKLING. After the witness failed to attend, and after this order of attachment was made by the Senate, did he come before the committee voluntarily for any purpose?

Mr. KERNAN. I will answer. I went up one morning to the court-room and he was there after he had been arrested. I never have had a word of conversation with him, and I do not know whether he came voluntarily or whether the Sergeant-at-Arms brought him in involuntarily. In his testimony it was brought out that he was there under arrest; and I know that when they stopped examining him, the committee remanded him to the Sergeant-at-Arm's custody. That is all I know about it.

Mr. CONKLING. Was he examined?

Mr. KERNAN. He was examined by the Senator from Oregon, and one answer was that he had not control of the books and papers.

Mr. MITCHELL. The Senator will allow me. The Senator says he was examined, and examined by me. He was placed upon the witness-stand, but he refused to answer the questions. That was the fact. He refused to produce the papers.

Mr. KERNAN. Whenever we seek to punish him for not testifying we must proceed for that, and report the questions put him and the answers he gave and what answers he refused to give. Then the Senate can proceed against him for refusing to testify. But we have done no such thing. He was under arrest when he was there, and he is brought here under an original warrant for not appearing in obedience to the subpœna. We ought not to mix the two things together.

Mr. MITCHELL. One word, Mr. President. The resolution pending is simply my own resolution. It is not reported from the committee; it was simply my motion of what ought to be done in this particular case. I regard it as a case of gross contempt, so far as that is concerned, of the process of the Senate. This witness was not only subpœnaed to appear before the committee, but he was subpœnaed to produce certain papers. He is in contempt for a failure to appear, for a failure to produce certain papers, and for a failure to testify—all three. They are all mentioned. He was ordered under arrest. While he did go before the committee, he has never yet produced the papers.

Mr. EATON. Will my friend allow me to ask him a question?

Mr. MITCHELL. Certainly; two of them if you wish.

Mr. EATON. I wish to make an inquiry of the Senator from Oregon. I ask him if he intends to produce this witness before the committee at all?

Mr. MITCHELL. The testimony which we expected to obtain by this witness I suppose has been virtually obtained in other directions. I will now submit to the Senate and to the witness the proposition that, if he is willing to state to the President of the Senate and the Senate that he will go before the committee and answer any proper questions, I will not insist upon the resolution, the question whether they are proper questions or not to be determined afterward, for if he declines to answer a question he can be reported. If he is willing to do that, I will not insist on the resolution.

Mr. BLAINE. Why, then, does not the Senator from Oregon have that question propounded to the witness by the Chair? That is the proper way to do.

Mr. MITCHELL. I shall be perfectly satisfied with that.

Mr. COOPER. I shall object to the witness going on the stand here and answering any question. The Senate is not to determine upon his rights now. He has the privilege of being interrogated by the committee and the committee is to ask questions and report to

us, and then the Senate may adjudge. It would be unjust to the witness, in contempt by the attachment, brought to the bar of the Senate and put upon the witness-stand, to be questioned here. He has the right to answer why he did not obey this summons, and certainly it would be unjust to ask him questions now as to what he would do or what he would not do.

Mr. BLAINE. Will the Senator from Tennessee permit me to interrupt him a moment?

Mr. COOPER. Certainly.

Mr. BLAINE. Does the Senator from Tennessee state that it would be unjust for the President of the Senate to ask the witness, "Are you now willing to appear before the Committee on Privileges and Elections to answer all proper questions addressed to you by that committee?"

Mr. COOPER. I should say it would be unjust, because——

Mr. BLAINE. Then the Senator has queer ideas of justice.

Mr. COOPER. That is not the proposition which has been insisted upon.

Mr. BLAINE. That is precisely the proposition I understand the Senator from Oregon to make.

Mr. MITCHELL. That is the proposition; and I propose, if the witness answers that question in the affirmative, to withdraw the resolution.

Mr. COOPER. I wish to offer a resolution in lieu of the one proposed by the Senator from Oregon. Unquestionably, I have no objection, if the witness wants the privilege of answering the question, to letting him do so; but I think it is the duty of the Senate to act upon the original attachment, the process, the contempt for which he is here.

Mr. MITCHELL. That is just what we are doing.

Mr. COOPER. I offer the following as a substitute for the resolution of the Senator from Oregon:

That the witness, Conrad N. Jordan, having appeared at the bar of the Senate in custody of the Sergeant-at-Arms upon an order of the Senate heretofore made, and having purged himself of contempt for failing to obey its process, it is

Ordered, That the witness be discharged from said arrest, and that he appear before the Committee on Privileges and Elections, there to testify.

Mr. BURNSIDE. It seems to me that it is well understood by all Senators that the question at issue has been settled both before the committee of the House and the committee of the Senate. If this witness will answer the simple question suggested to be propounded by the Chair, as to whether he is willing to go before the committee now to answer any proper questions, I think that ought to settle the matter, because both committees have agreed not to have any examination upon the very matter on which this witness was required to testify. We all know that to be a fact.

Mr. CONKLING. What is that question, if the Senator please?

Mr. BURNSIDE. There are several questions touching it. Both committees have dropped examination into the private accounts of Mr. Tilden and the private accounts of Mr. Chandler; they have dropped all investigation with reference to such matters. That is a fact known to everybody.

Mr. CONKLING. I do not know it.

Mr. BURNSIDE. I beg the Senator's pardon. I have been told so. The president of Mr. Tilden's bank, a friend of mine, and the cashier himself told me so. The president of the bank took the accounts of Mr. Tilden out of his pocket and said he was quite ready to present those accounts whenever called upon, but he had been relieved from that obligation. I was informed that certain things had been agreed upon, in other words, a compromise had been made between the two committees. If there was anything at issue here, notwithstanding the fact that the witness is a personal friend of mine, I should vote for making him answer all proper questions, and I should be in favor of using all necessary force to make him answer such questions, but I see no reason why he should be placed under any restraint at this time, if he will express a willingness to the President of the Senate to go before the committee and answer all proper questions. I submit to the Senate that it would be proper for the President of the Senate to ask him a question of this character, and if he is willing to answer all proper questions before the committee let that end the matter.

With reference to the action of the House, I do not think, because men are treated badly by the House committees and put under restraint when they ought not to be, (and I do not know that they are treated badly, but it is the understanding of a great many people that witnesses have been treated badly by the House committee,) it is any reason why the Senate committee should keep a witness under restraint when no good can result from it.

Mr. BLAINE. Mr. President, I know nothing whatever about any compromise that was made or to be made in regard to questions that may be intended to be addressed to this witness. I do not wish to be understood as believing myself at all in the policy of going into every back-room and private drawer and personal memorandum and portemonnaie and bank-account of every man in the United States, whether he is a democrat or whether he is a republican. I do not wish to conclude myself in regard to that question at all, either in regard to what is proposed to be done here or what may be done elsewhere over which I have no control. On that I reserve my judgment, or rather, if I should express my judgment, I would express a very great contempt for a great deal that has been done by both sides in that matter, and if there is any justification in what has been proposed here it is simply on the basis of the *lex talionis*. It is not, probably, parliamentary to refer further to the matter, but when blows are struck there will inevitably be blows given back again.

Probably that is the reason why this witness is at the bar of the Senate to-day; but, being here, I submit that the only question you can address to him, the only question by rule known to parliamentary procedure, is for him to purge himself of contempt, if he be in contempt, by answering to the President of the Senate that he is ready to go before the committee to answer all proper questions.

I have seen an attempt to make a witness say that he would answer all questions, but I never saw a parliamentary body insist on that yet. There is always the reservation whether the question be a proper one, reserving it first to the committee, next the reserved right of the witness to refuse, and finally the right of the body itself here to determine whether it is a proper question. That does no injustice to the witness; that does no injustice to any party whom the witness may represent or whose interests may be in his keeping; it does no injustice to the committee and it maintains in its full force the dignity and propriety of procedure in the Senate.

Mr. MITCHELL. I desire to offer a resolution in lieu of the one which I previously presented.

Mr. SAULSBURY. Will the Senator allow me to ask a question of the Senator from Maine?

Mr. MITCHELL. Yes, sir.

Mr. SAULSBURY. I concur very generally in the views expressed by the Senator from Maine, but I desire to ask him a question because I know his great familiarity with parliamentary usage. The questions which he says are proper to be asked would be proper in my judgment; but has not the witness in fact been discharged by the action of the committee? I desire to propound the question to the Senator from Maine: if a witness has been ordered to appear at the bar of the Senate and before that order is executed he appears before the committee and is there examined, is not that a discharge of the order commanding him to appear at the bar of the Senate?

Mr. MITCHELL. What evidence is there that he was examined before the committee?

Mr. SAULSBURY. I am asking the Senator from Maine a question, and I do not think it proper to answer a question while I am asking one.

Mr. MITCHELL. Perhaps I have been impertinent, and if I have I apologize.

Mr. SAULSBURY. Not at all.

Mr. MITCHELL. I say that he never was examined, but he refused peremptorily to answer any question before the committee.

Mr. JONES, of Florida. There is a difference of opinion in the committee on that.

Mr. SAULSBURY. I should like to have the opinion of the Senator from Maine on this question.

Mr. BLAINE. I ask the Senator from Delaware to state the latter part of his question again. I did not correctly apprehend it.

Mr. SAULSBURY. I have no doubt the views expressed by the Senator from Maine in reference to the proper procedure to be had are correct, unless the witness himself has been discharged from the fact that he appeared before the committee and was there interrogated. The question I propound is whether if, after the order issues to bring a witness to the bar of the Senate, he appears before the committee and is there interrogated, it does not operate to discharge the witness from the contempt under which he is placed?

Mr. BLAINE. The Senator from Delaware addresses to me a question of fact, not a question of principle. Of the facts which transpired in the committee-room, I am entirely ignorant. I only find a recusant witness at the bar of the Senate, and I am dealing with the fact as it now exists here *in presenti*. I know nothing beyond the fact that I see him here, and he is brought here by an authorized committee of this body; he is presented at the bar of the Senate to be dealt with, and the ordinary and proper mode, I am merely repeating myself in saying, is to address to him that question which has assumed really the position of a formula in such cases. The only question to be addressed to him, and that is the touchstone, is: Are you ready and willing now to go before the committee and answer all proper questions? Does not the Senator from Delaware agree with me that that is a very proper, a very pertinent, and a very reasonable question to be addressed to the witness?

Mr. SAULSBURY. Certainly; I agree that that is the proper course, but it appears from the papers read at the desk that the witness has actually appeared before the committee, and that he has been interrogated. Therefore, the point of my inquiry to the Senator from Maine is whether that should not operate to discharge the witness from any contempt that he may be in.

Mr. BLAINE. On the mere question of whether he would come here from New York and appear before the committee it might, but evidently it did not in the minds of the committee discharge him from contempt, or they would not have presented him here. The mere fact of his personal presence in the committee-room would not discharge the contempt; if he sat there with sealed lips he might as well have remained in New York.

Mr. COOPER. The committee have not reported him since he has been in the committee-room, but this action was taken by the committee before that time.

Mr. BLAINE. There again, the Senator from Tennessee will permit me to say, he is dealing with questions of fact not before the Senate.

Mr. COOPER. The Senator from Maine will not contend that he was not before the committee?

Mr. BLAINE. It is a question on which it is not proper for the Senate to hear testimony even.

Mr. COOPER. That is the fact.

Mr. BLAINE. The Senator is speaking of what took place in the committee-room. The fact for us to deal with is that the committee, acting with proper authority, have brought this witness before the bar of the Senate.

Mr. COOPER. He is not here by the action of the committee; he is here by an order of the Senate, and he has been before the committee since that order was made.

Mr. MITCHELL. He never has been discharged from the original order.

Mr. BLAINE. I have simply to repeat that he is then here by a higher authority than I supposed, and he can discharge himself from contempt of the Senate by a simple answer, yes.

Mr. COOPER. Yet he has answered in writing, and why do you require any further answer?

Mr. BLAINE. I have not heard the answer.

Mr. COOPER. He has answered in writing.

Mr. BLAINE. I have not heard an answer to that question.

Mr. COOPER. It was read, for he answered in writing. That is the reason why I insist you cannot address to him any further question; he has answered.

Mr. MITCHELL. I propose to modify my original resolution; and if that modification should be adopted and the question answered in the affirmative, then I hold in my hand another resolution which I shall offer. The first resolution is as follows:

Resolved, That the President of the Senate propound the following question to the witness: Are you now willing to appear before the Committee on Privileges and Elections and submit to examination?

I wish to state as part of my argument that if this resolution should be adopted and the witness should answer in the affirmative, I shall then offer this resolution:

Resolved, That the witness, Conrad N. Jordan, upon his appearance before the Committee on Privileges and Elections for examination, be discharged from contempt in refusing to respond to the subpœna.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Oregon in lieu of the original resolution; which will be read.

The Chief Clerk read the amendment of Mr. MITCHELL.

Mr. BLAINE. That is proper.

Mr. JONES, of Florida. It seems to me we are losing sight of the whole point in the controversy. This gentleman has come in here to purge himself of contempt. He has filed his answer. The record shows the ground upon which he was arrested:

Whereas Conrad N. Jordan, cashier of the Third National Bank, New York, was, on the 7th day of February, 1877, at ten o'clock a. m., duly served with a *subpœna duces tecum* issued by the Senate Committee on Privileges and Elections, commanding him to appear before such committee on the 8th day of the present month, to then and there testify in reference to subject-matters under consideration by said committee, being matters relating to the controversy concerning the electoral votes for President and Vice-President, and to bring with him a full and exact statement of the accounts, as shown by the books of said Third National Bank, of Samuel J. Tilden, William T. Pelton, and ABRAM S. HEWITT, from the 1st day of June, 1876, to the 6th day of February, 1877;

And whereas said Conrad N. Jordan has refused to respond to such subpœna, has failed to appear before said committee as required by said subpœna, or to produce such statement of accounts as required: Therefore,

Resolved, That an attachment issue forthwith, directed to the Sergeant-at-Arms of the Senate, commanding him to bring said Conrad N. Jordan forthwith to the bar of the Senate to answer for contempt of a process of this body.

Under that attachment this witness is now here and he has brought in his answer. The sufficiency of that answer is the only question now before the Senate, and unless it is proposed to furnish him counsel to frame a new answer or to get a committee of the Senate to prepare one for him, I take it this case must stand upon the answer now before the Senate. The witness had a right to present his own defense, and what is it? It is that the books, the possession of which the committee desired, are not under his control, and that has been made to appear to the satisfaction of the Senate. Then there is no other question before the body, because it would be folly to insist, as is proposed by the substitute of the Senator from Oregon, that he shall testify without these books. What is a *subpœna duces tecum*? It is not a process to require the presence of a witness to speak from matters within his own knowledge.

Mr. MITCHELL. If the Senator will allow me I will state that this witness is desired for various reasons.

Mr. JONES, of Florida. I am going by the record. I am following the record as I find it here and I do not think it is legitimate now to go beyond it.

Mr. MITCHELL. Certainly not.

Mr. JONES, of Florida. The witness says in his answer that it is not in his power to produce these books. You propose now to question him without the books, when the whole object of the subpœna was to obtain the possession of the books and papers in order that he might go before the committee and explain them. How is he going to give the information the committee desires when he has not the books, when, as he shows, those books and papers are beyond his control, being within the custody and jurisdiction of the corporate authorities, whose action he is powerless to control? Therefore, when he says to the Senate that he cannot produce those books and papers, it is an end of the whole case. If his explanation on that point is satisfactory, he ought to be discharged, and discharged at once, because it would be folly to retain him.

Mr. MERRIMON. Mr. President, I am not exactly satisfied with the resolution which the Senator from Oregon offers as a substitute for his original proposition. I wish this recusant witness simply to say that he is willing to go before the committee and to make such answer as he may be lawfully required to make, and he ought not to be required to do anything further.

I wish to say another word. Something has been said about a compromise whereby certain examinations were not to be gone into on the part of the Committee on Privileges and Elections. I wish to say to the Senate and to the country, as a member of that committee, that I know nothing about any such compromise; and if any such compromise has been made I protest against it. I am willing that the examination shall be made as fully as possible on either side. I am only anxious here now to protect the right of this witness, as I would desire to be protected myself under like circumstances.

Mr. SARGENT. Unless we can have a vote on this question I shall move to lay it aside in order to proceed with the naval appropriation bill.

Mr. MERRIMON. I trust the Chair will propound to this witness the question whether he will answer all lawful questions propounded to him by the committee.

Mr. MITCHELL. There is no objection to that.

Mr. KERNAN. I wish to make a personal explanation. I heard what was said by the Senator from Rhode Island, and as a member of the Committee on Privileges and Elections, I wish to say that as to any compromise or arrangement I have no knowledge of it; I was no party to it. I wish to say that throughout the investigations by that committee, as my course is shown by the record, wherever there was an allegation that there was anything fraudulent or corrupt anywhere, I have uniformly acted with the committee and endeavored to have witnesses answer all proper questions and give us the truth.

Mr. BURNSIDE. I did not mean to say that I understood there had been a compromise between the two committees. I think I did use the word "compromise," but I meant to say that the two committees came to an understanding that it was not worth while to push this investigation any further, because it was of no importance whatever. The accounts of Mr. Chandler, I believe, had been presented and were absolutely in the hands of the House committee, but it was my understanding from good authority that those accounts were given up, and that the Senate committee agreed not to insist upon the delivery of the accounts of Mr. Tilden from Mr. Ellis. If I have been misinformed, I should be happy to be corrected.

Mr. MITCHELL. In view of what has been said by the Senator from Rhode Island and the Senator from New York, it is but justice to the committee, of which I have been the acting chairman for the last two or three weeks, to say that if there was any such arrangement between the two committees I know nothing about it. I never have spoken to any member of the House committee, I believe; in fact, I do not know who the members of the investigating committee in the House are. That is all that I desire to say in regard to that matter. I hope we may have a vote on the resolution.

Mr. COOPER. As one of the members of the Committee on Privileges and Elections, I wish to state that I have not been at a meeting of that committee since the resolution was offered and carried to present this witness to the Senate, and I have no knowledge of any proceeding since that time in any way. The last time I was there as a member of the committee was when the order was made to bring this witness before the Senate.

Mr. SAULSBURY. As disclaimers on the part of the members of the Committee on Privileges and Elections are in order, I will take occasion to say as a member of that committee that I have not attended any meeting of the committee since the subpœna in this case was issued, and I have no knowledge whatever of any arrangement which may have been made; and I do not know anything about it.

Mr. MAXEY. The witness was required by subpœna to appear before the Committee on Privileges and Elections as bailee of the bank's books. That order was issued by the Senate. He appears here and in a written answer, which he has the right by law to make in this body, says, "I am not the bailee." Now, that is a complete answer and discharges the witness.

Mr. MERRIMON. The committee want him for another purpose.

The PRESIDENT *pro tempore*. The question is on the resolution last submitted by the Senator from Oregon, which will be reported as modified.

The Chief Clerk read as follows:

Resolved, That the President of the Senate propound the following question to the witness: "Are you now willing to appear before the Committee on Privileges and Elections and answer all proper questions?"

Mr. MERRIMON. I suggest "all lawful questions."

Mr. SARGENT. "All proper questions."

Mr. BLAINE. That is right.

The PRESIDENT *pro tempore*. It is due the witness to state that before a vote was taken upon any proposition he desired to make a

statement to the Senate. Is there any objection? The Chair hears none. Mr. Jordan, you can make the explanation you desire.

The WITNESS. In the first place I will say that I am prepared to answer any proper question that may be put to me by the committee. Next, as some statements have been made by the Senator from Oregon which seemed to reflect upon me, I should like to make some little explanation in regard to them. I went to the room of the Committee on Privileges and Elections in the custody of the Sergeant-at-Arms. I reported on that morning at his rooms two hours before any one was there. I went with him to the room of the committee and there I was summoned as a witness. I did not go of my own volition into the witness's chair; I was put there. I answered such questions as I did answer under protest, as I should do again under similar circumstances, but under the circumstances, being brought as I was, I believed I was arrested needlessly. The telegram to the chairman of the committee, Mr. O. P. MORTON, was in his hands. He transferred it to Mr. MITCHELL, and in spite of that I was arrested. Now, this is the offense to me, and it is the offense by reason of which I declined to answer any question while in the committee-room. I declined on the ground that I was then under arrest. I am now prepared to say to the President of the Senate that I am ready to answer any proper questions propounded to me by that committee.

The PRESIDENT *pro tempore*. The question is on the resolution submitted by the Senator from Oregon.

Mr. CONKLING and others. It is not necessary now.

Mr. MITCHELL. I withdraw the resolution on the statement made by the witness, and offer the following resolution:

Resolved, That the witness, Conrad N. Jordan, upon his appearance before the Committee on Privileges and Elections for examination, be discharged from contempt in refusing to respond to the subpœna.

Mr. WHYTE. I shall not vote for that resolution. The witness states that he was subpœnaed after he got into the committee-room.

Mr. MITCHELL. No, he does not state anything of the kind.

Mr. WHYTE. He states that he was arrested, and after he got into the committee-room he was there committed for contempt.

The WITNESS. I was there put in the chair. I did not go there to testify of my own volition.

Mr. WHYTE. Was he ever subpœnaed, and by whom?

The WITNESS. I was subpœnaed.

Mr. WHYTE. Let us understand by whom. I want to know whether the Sergeant-at-Arms ever subpœnaed the witness at all.

Mr. MITCHELL. When?

Mr. WHYTE. Before he was arrested.

Mr. MITCHELL. Certainly the witness was subpœnaed.

Mr. WHYTE. Let us get at the facts.

Mr. SARGENT. I understand the witness to say, *sotto voce*, that he was subpœnaed, in reply to the question of the Senator from Maryland.

Mr. WHYTE. By whom?

Mr. MITCHELL. By the Sergeant-at-Arms.

Mr. WHYTE. I should like to hear the Sergeant-at-Arms say that he subpœnaed him.

Mr. MITCHELL. The record is better evidence of the fact.

Mr. WHYTE. Where is the record? Is the record here?

Mr. MITCHELL. I am not the custodian of the records of the Senate. The Senator has access to the records of the Senate.

Mr. MERRIMON. It has been read.

Mr. WHYTE. The original subpœna upon which the resolution was based?

Mr. MERRIMON. The witness was summoned by the Sergeant-at-Arms through his deputy, who made affidavit that he had served the subpœna.

Mr. WHYTE. I venture to affirm that that man was not deputized when he served this subpœna.

Mr. MERRIMON. The record shows that he was.

Mr. INGALLS. Is the resolution offered by the Senator from Oregon subject to amendment?

The PRESIDENT *pro tempore*. It is.

Mr. INGALLS. I move to strike out all after the word "resolved," and insert:

That the witness, Conrad N. Jordan, be now discharged.

Mr. BLAINE and others. That is right.

Mr. MITCHELL. I accept the amendment.

Mr. KERNAN. Let the amendment be read.

The Chief Clerk read the amendment.

Mr. MITCHELL. He is to be discharged from contempt simply.

Mr. SARGENT. Of course from contempt simply.

Mr. MITCHELL. I do not desire to have him discharged as a witness, because we propose to examine him on other matters.

Mr. INGALLS. I will add the words "from contempt."

The PRESIDENT *pro tempore*. The Secretary will report the resolution as modified.

The Chief Clerk read as follows:

Resolved, That the witness, Conrad N. Jordan, be now discharged as from contempt.

The amendment was agreed to.

The resolution, as amended, was agreed to.

The PRESIDENT *pro tempore*. Mr. Jordan is discharged from contempt.

The witness thereupon withdrew.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed, without amendment, the following bills:

A bill (S. No. 286) for the relief of W. S. McComb, of the State of Georgia; and

A bill (H. R. No. 1271) to authorize the printing and distribution of the eulogies delivered in Congress on announcement of the death of the late Allen T. Caperton, a Senator from the State of West Virginia.

The message also announced that the House had passed the bill (S. No. 1270) to authorize the printing and distribution of the memorial addresses on the life and character of the late Michael C. Kerr, Speaker of the House of Representatives, with amendments in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*.

A bill (S. No. 691) for the relief of Edward A. Leland;

A bill (S. No. 1185) to ratify an agreement with certain bands of the Sioux Nation of Indians and also with the northern Arapaho and Cheyenne Indians;

A bill (H. R. No. 901) for the relief of J. E. Robertson & Co., of Indianapolis, Indiana;

A bill (H. R. No. 2690) to refund to the mayor and city council of Baltimore certain moneys illegally assessed and collected for internal-revenue tax;

A bill (H. R. No. 3163) to authorize the Ocean City Bridge Company to maintain and operate a bridge heretofore erected over and across Synepuxent Bay, in Worcester County, Maryland; and

A bill (H. R. No. 4668) to perfect the revision of the statutes of the United States and of the statutes relating to the District of Columbia.

EULOGIES ON THE LATE SPEAKER KERR.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the bill (S. No. 1270) to authorize the printing and distribution of the memorial addresses on the life and character of the late Michael C. Kerr, Speaker of the House of Representatives.

The amendments of the House of Representatives were in line 1 to strike out the word "nine" and insert "twelve;" in line 4, to strike out the word "six" and insert "nine."

The amendments were concurred in.

PACIFIC RAILROAD ACTS.

Mr. WEST. I call for the regular order.

The PRESIDENT *pro tempore*. The Senator from Louisiana calls for the regular order, which is Senate bill No. 984.

Mr. SARGENT. That is not the regular order; I beg pardon. We were proceeding with the naval appropriation bill when interrupted by the morning hour.

Mr. WEST. I shall not interfere with the Senator from California in the appropriation bill with which he is charged, but I object to having a bill which is the regular order of the Senate set aside without a formal understanding. That is all I desire, and the Senator understands it well enough.

Mr. SARGENT. Let the railroad bill be passed over with the same understanding as before.

The PRESIDENT *pro tempore*. The Chair understood the Senator from Louisiana to call up the bill, he having the right to call for the regular order at any time.

Mr. SARGENT. I suggest that it be laid aside temporarily, that the naval appropriation bill may be considered.

Mr. WEST. Without prejudice to its order?

The PRESIDENT *pro tempore*. Without prejudice to its order. Subject to the call of the Senator from Louisiana it will be laid aside temporarily for the purpose of considering the bill that has been pending.

Mr. KERNAN. I ask the Senator from California to yield to me for a statement which I wish to make now.

Mr. SARGENT. Very well.

ELECTORAL VOTE OF OREGON.

Mr. KERNAN. When the acting chairman of the Committee on Privileges and Elections and the chairman of the subcommittee on the electoral vote of Oregon made the report the other day of the majority I said to the Senate that I dissented from the report. I ought to have said then what I state now, that my colleagues of the minority of the committee unite with me in dissenting from that report.

I have only one other word to say. I desire to call the attention of the chairman of the committee and to have corrected one word which is very important in this evidence and which I see is erroneously printed. In the translation of the telegram on page 253 the telegram as printed begins with the word "know." This is not correct. It should be "no," and then there should be a period, and another sentence then begins. I appeal to the Senator from Oregon if that is not correct?

Mr. MITCHELL. That is a misprint; it should be "no."

Mr. KERNAN. It should be "no," because it is a telegram appar-

ently in answer to one of the 28th. The first word of the telegram is "no," and not "know."

Mr. MITCHELL. That is correct.

Mr. SARGENT. Now let us proceed with the appropriation bill.

Mr. KERNAN. I thank the Senator from California.

NAVAL APPROPRIATION BILL.

The Senate resumed the consideration of the bill (H. R. No. 4616) making appropriations for the naval service for the year ending June 30, 1878, and for other purposes, the question being on concurring in the amendments made as in Committee of the Whole which had been reserved for separate votes.

The PRESIDENT *pro tempore*. The first reserved amendment will be reported.

The CHIEF CLERK. The Senate, acting as in Committee of the Whole, in line 14, struck out after the word "men" the words "six million two hundred and fifty" and inserted the words "seven million two hundred and seventy;" so as to read:

For pay of commissioned and warrant officers at sea, on shore, on special service, and of those on the retired list and unemployed, and for the actual expenses of officers traveling under orders, and for pay of the petty officers, seamen, ordinary seamen, landsmen, and boys, including men of the engineers' force, and for the Coast Survey service, seven thousand five hundred men, $7,270,000.

Mr. SARGENT. That matter was very fully debated yesterday upon the deficiency bill. It is a simple matter of arithmetic which was fully explained then, and I do not see that there can be any objection.

The amendment was concurred in.

The PRESIDENT *pro tempore*. The next reserved amendment will be reported.

The CHIEF CLERK. The next reserved amendment is in line 159, after the word "navy-yards" to strike out the words "seven hundred" and insert "nine hundred and seventy;" so as to read:

For equipment of vessels: For coal for steamers' and ships' use, including expenses of transportation; storage, labor, hemp, wire, and other materials for the manufacture of rope; hides, cordage, canvass, leather; iron for manufacture of cables, anchors, and galleys; condensing and boat-detaching apparatus; cables, anchors, furniture, hose, bake-ovens, and cooking-stoves; life-rafts for monitors; heating-appartus for receiving-ships; and for the payment of labor in equipping vessels, and manufacture of articles in the several navy-yards, $970,000.

Mr. SARGENT. That makes the same amount that is allowed for the current fiscal year. We have not increased it at all. I do not think there will be any criticism on that amendment. There are only two cases where we have made a variation from the amount allowed for this year.

Mr. COCKRELL. What is the amount allowed for the present year?

Mr. SARGENT. The amount allowed for the current fiscal year is $970,000.

The amendment was concurred in.

The PRESIDENT *pro tempore*. The next reserved amendment will be reported.

The CHIEF CLERK. On page 11, line 254, the Senate as in Committee of the Whole struck out after the word "postages" the words "one million five" and inserted "three million three," and after the word "dollars" in line 255 struck out the following proviso:

Provided, That no proposal for materials to be furnished under this or any other section of this act shall discriminate against or in favor of the production of any State or section of the Union.

So as to read:

For preservation of vessels on the stocks and in ordinary; purchase of materials and stores of all kinds; labor in navy-yards and on foreign stations; preservation of materials; purchase of tools; wear, tear, and repair of vessels afloat, and for general care and protection of the Navy in the line of construction and repair; incidental expenses, namely, advertising and foreign postages, $3,300,000.

Mr. COCKRELL. I hope the amendment will not be concurred in without the yeas and nays. Let us have the yeas and nays on the amendment.

Mr. SARGENT. Very well.

Mr. WHYTE. This is more than a double appropriation; it is an increase from $1,500,000 to $3,300,000. I hope the Senate is not going into that sort of extravagance.

Mr. SARGENT. It is not an extravagance. It is the amount which has been appropriated from year to year down to the amount provided for this fiscal year, when, under influences which the Senator knows very well, a spirit of rivalry between both parties to see how far the service could be cut down, the amount was reduced $1,800,000 from the ordinary appropriations. The Secretary of the Navy for a number of years past has been using the ordinary appropriations for the Bureau of Steam-Engineering and the Bureau of Construction for the purpose of putting in efficient order the iron-clads. The work upon all the single-turreted monitors has been completed and they have been made valuable and effective for means of defense. A year and a half ago this work was extended to the five double-turreted monitors, and out of the ordinary appropriations they were proceeding to make repairs upon them to put them in thorough order. In place of white oak, for instance, iron was substituted. If this work could be completed, we should have the five most powerful monitors in the world, and the proportion of the amount appropriated which would be available for this purpose, I understand, would complete them. There are five of these in the ship-yards. They are under contract to be completed. There is one in New York, two in the State of Pennsylvania, one in Delaware, and one at Mare Island. The work certainly ought to be done. It can be done better if it is done continuously than by interruption. The Secretary of the Navy made some remarks upon this matter in his annual report which are well considered, and I ask the attention of the Senate to them:

Of the amount of appropriations asked for the next year—

He says—

as hereinafter stated, I beg to suggest that the sum of $1,550,000 of the amount estimated for the Bureau of Construction and Repair and $750,000 of that estimated for the Bureau of Steam-Engineering be made available at once, in order that the repairs of our five double-turreted iron-clads, which have been for some time regularly progressing out of the current annual appropriations, may be completed. These have been delayed in the hands of the contractors during the current year by the fact that the appropriations made for these bureaus were not sufficient for their continuance. The reasons why this should be done at once are many, and will be readily understood. The vessels are, as I have said, in the hands of the contractors, actually in a state of partial repair. These repairs, to be economically and properly done, should progress regularly as a continuous work, with the different parts advancing simultaneously, of homogeneous material, on a concurrent plan, under the same general direction, and, as far as possible, with the same workmen. To stop it from time to time must involve more or less of change in all these conditions, to the manifest increase of the cost and injury to the quality of the work. Delay involves also increased cost of superintendence, care-taking, and preservation, and risk of injury or loss to the public property. The work can be done now cheaper than at any other time, and if done now it will give employment at a season of great distress for establishments and workmen to whom it is not only kindness but practical wisdom on the part of the Government to afford all proper encouragement and assistance. Besides, the ships are useless to the Government while in progress of repair, but when concluded they will constitute a large element of the strength of our Navy, and, adding immensely to its fighting power, will raise it to a position more in harmony with our national responsibility and requirements.

The secretary states carefully the reasons why this should be done. It will be observed that by making a portion of this appropriation available immediately, the amount for the next fiscal year is not so great, and it is the most favorable season of the year, between now and next September or October, when a portion of these moneys may be applied. The amount of $1,800,000 less than was appropriated for this fiscal year, it is not proposed to appropriate at all. That remains in the Treasury. It is simply a return to the scale of appropriations which existed before this curtailment for the current year was made.

The Senator should understand that the cost of the Navy is not in construction and repair and steam engineering; it is in housekeeping. For instance, more than one-half of the whole amount appropriated by this bill goes for pay of officers and pay of men, a large portion of it goes for provisions and clothing and items of that kind; but when you cipher it down to the portion which is available to keep our Navy afloat, to make these repairs either temporary or permanent, you will find it to be a small portion of the whole. Furthermore, to show that the amount asked to be appropriated is not extreme, I should like to call attention to one passage in the Secretary's report, where there are some reflections worthy of attention. He says on page 24:

How small these appropriations of less than $13,000,000 really are for the carrying on of our naval service at this time will be seen by comparing them with the naval appropriations made in 1856, $15,701,968.49; in 1857, $14,125,434.55; in 1858, $13,109,359.36, and in 1859, $15,987,079.49, a period when the Navy consisted of only about fifty sailing-vessels, with a dozen side-wheel steamers, and about the same number of screw-vessels, against the twenty-three sailing-ships and one hundred and twenty-three steamers now on the register; when our motive-power was the free wind of heaven, and our ships were not supplied with expensive steam machinery of great weight, occupying great space on shipboard, and required neither the large supply of fuel, appliances, and material necessary to the use of this machinery, nor the numerous body of officers and men employed to prepare, operate, and preserve it; when armored ships were unknown, and the armaments of our most powerful cruisers consisted principally of 32 and 64-pounders, against 200-pound rifles and 15-inch guns of these times; when the materials and supplies for naval use were comparatively cheap; when skilled labor was not half its present price, and its working-hours had not been reduced by one-fifth; and when the pay-roll of the Navy had not assumed half its present proportions, and contained but few invalids and no reserve-list.

I think that these considerations ought to be borne in mind when we speak of the amount of appropriations made at the present time. We propose by this bill to exceed but little the amount of appropriations made in the days to which the Secretary refers, when the steam-machinery and other appliances had not been introduced.

Mr. KERNAN. Will the Senator in charge of the bill state the entire amount appropriated by the bill as it came from the House?

Mr. SARGENT. The whole amount appropriated by the bill, as it came from the House, was $12,492,524.40, less by $300,000, or thereabouts, than the appropriation last year.

Of course we can allow these iron-clads to remain in a state of incompletion. They are cumbering the yards. Private parties have taken contracts to put them in order. There is one at Chester, one at Philadelphia, one in Delaware. We can allow them to stay there and deteriorate, if we see fit, but it would seem the part of wisdom to finish them up; and as the amount asked for is only the ordinary amount usually appropriated for the Bureau of Construction and Repair, with the exception of this present fiscal year, it seems to me the request is reasonable, especially as it is proposed to be distributed between the time of the passage of the bill, the 4th of March, and a year from next July.

Mr. WHYTE. The usual appropriation is just what we do not want to have. The great trouble that we have had heretofore has been that the usual appropriations were entirely too large. What I want to get rid of is those large appropriations and get down to a condition that the financial affairs of the country justify. I am sure we should reflect upon the startling statement that from 1864 down

to this time we have spent $125,000,000 in repairing old vessels in the Navy. People can hardly believe such a statement.

Mr. SARGENT. Has the Senator a document from which he reads or to which he refers?

Mr. WHYTE. Yes, I refer to the statement of the chairman of the Committee on Naval Affairs of the House of Representatives.

Mr. SARGENT. I have not the statement here.

Mr. WHYTE. I take his statement. I go a step further, and say that the money has been so expended and so wasted upon these old vessels that the amount put in repairs has in many instances exceeded the original cost of the vessel itself. I call the attention of the Senator from California to that point. The original cost of the Pensacola was nearly $500,000, of the Kearsarge $292,948, and of the Lackawana $451,069, making the total cost of these three vessels $1,243,987. The repairing of these vessels was as follows: The Pensacola, $1,000,000; the Kearsarge, $612,122; and the Lackawana, $766,364. Here is the startling announcement that the repairs on these three vessels are nearly 100 per cent. advance on the original cost; and now we are told that we must go on with this extravagant expenditure of the public money. I hope that this amendment will not be concurred in.

Mr. SARGENT. My friend's argument would be excellent if it were based upon facts. If he is sure of his facts, he reasons well; but his premises are not always scund. In reference to the vessels which he mentions, the Kearsarge, the Lackawana, and the Pensacola, the original cost is estimated simply on the contract price for their hulls, and the cost of equipment, the sails, the armament, and displacing and replacing it, and everything of that kind, is not included. Furthermore, in regard to the repairs spoken of, all vessels were built of white oak during the war, and they were so rotten that it was difficult to find a sound place in the keel big enough to fasten the vessel. Necessarily great cost was incurred in repairing them; but to take a single element of the original cost and to say that the repairs have exceeded the original cost is not a fair argument. My friend will find, if he will investigate the matter as I have done in reference to all such criticisms, that they simply refer to the original making of the vessel before the vessel was launched, and all that was put upon the foundation thus created, the superstructure is not in the computation at all, while all these items are in the computation for repairs.

When these vessels are repaired and good live-oak or iron is put into them, to a certain extent they become imperishable or almost imperishable, like the ship called the Constitution, built nearly a century ago, the hull of which is still sound. These vessels need repair from the condition of the work which was put on them, and they should be put in a sound condition, although I do not believe generally that there is economy in expensive repairs upon old vessels. Few have been built in the Navy since 1864, and unless repairs were put upon them our Navy would not be in a condition to go to sea at all, or if it did, in the shape of wooden coffins, which would afford an opportunity for the loss of lives of our gallant sailors and officers and the Government property on board those vessels. Cases of such loss have occurred; many of these old vessels have been lost and never been heard of, I believe, because there was not money enough appropriated to put them in efficient repair.

Mr. WINDOM. Mr. President——

Several SENATORS. Let us vote.

Mr. WINDOM. I do not wish to say anything if we can vote.

The amendment was concurred in.

Mr. COCKRELL. I asked for the yeas and nays on concurring in the amendment, but the gentleman seemed to be afraid of committing themselves to the record. I desire however to say that I was one of those who voted "no" on the amendment.

Mr. SARGENT. The Senator can have the credit of that statement.

The PRESIDENT *pro tempore*. The next reserved amendment will be reported.

The CHIEF CLERK. On page 12, line 265, the Senate as in Committee of the Whole struck out after the word "stores" the words "eight hundred thousand" and inserted "two million," and after the word "dollars" in line 266 inserted the following proviso:

Provided, That of the sum hereby appropriated an amount not exceeding $1,500,000 in the Bureau of Construction and Repair and $750,000 in the Bureau of Steam Engineering shall be available at once to complete necessary work already on hand and under contract, and which cannot be longer delayed without injury to the work and loss to the Government.

So as to read:

For repairs and preservation of boilers and machinery on naval vessels: For fitting, repairs, and preservation of machinery and tools in the several navy-yards; for labor in navy-yards and stations not included above, and incidental expenses; and for purchase and preservation of oils, coals, metals, and all materials and stores, $2,000,000: *Provided*, That of the sum hereby appropriated an amount not exceeding $1,500,000 in the Bureau of Construction and Repair and $750,000 in the Bureau of Steam Engineering shall be available at once to complete necessary work already on hand and under contract, and which cannot be longer delayed without injury to the work and loss to the Government.

Mr. SARGENT. The considerations which I advanced in reference to the other item apply strictly to this. They must go together or else the increase in one case is useless.

The amendment was concurred in.

The PRESIDENT *pro tempore*. The next reserved amendment will be reported.

The CHIEF CLERK. On pages 18, 19, and 20 the Senate as in Committee of the Whole struck out the following provision:

That a commission of nine members be created, in the manner hereinafter provided, whose duty it shall be to examine and inquire into the present condition of the Navy of the United States, as to its *personnel* and material, and into the laws and usages now governing the naval service; to consider the relation of the commercial to the national marine; what active floating naval force, including the type and class of vessels, their armament and equipment, should be maintained in time of peace, and what should be kept in readiness for actual service in event of sudden war; what number and kind of vessels should be constructed annually to make up for decay, destruction, and casualty; what changes are required in naval architecture, in ordnance, in armor, and in the instruments of defensive warfare by the advance of naval science; how the Government can obtain the best designs and models of the same; and especially to consider what measures are necessary to protect and extend our rapidly growing commerce on the Pacific Ocean and in Asiatic waters; and to report to Congress, through the President, during the months of December, 1877, or January, 1878, the results of their investigation, recommending such legislation as they may deem requisite to bring the Navy up to the highest standard of effectiveness consistent with wise economy.

That the said commission shall consist of the Admiral, the General of the Army, two Senators, to be designated by the President of the Senate, and three members of the House of Representatives, to be designated by the Speaker of the House of Representatives, said Senators and Representatives being such as will be also members of the Forty-fifth Congress; and two officers of the Navy, to be designated by the President, one of whom shall also act as the secretary of the commission.

That said commission shall have power to send for records, books, and papers, and to summon and examine witnesses. And the Secretary of the Navy is hereby directed and empowered to furnish the commission with all facilities within his control for the convenient prosecution of their labors. But no expense shall be incurred by the United States on account of said commission except the regular and current salaries of the persons employed on the commission; but that all expenses incurred shall be borne by said commission.

Mr. WHYTE. This seems to me a very inexpensive inquiry. It is the appointment of a commission to make inquiry, to report to Congress, without any expense to the country, as to some policy that ought to be adopted for the future of the United States Navy, and I can hardly see what good can come from striking out of existence such a commission as has been proposed by the House. It is not to cost anything. It is only diverting a certain amount of naval talent to give us the benefit of their service between now and the next session of Congress. If it were an expensive service, I should oppose it, but only the salary is to be paid out to those parties which they already receive. If they were to have a junketing expedition around the country in Government vessels, I should be opposed to it; but it is proposed that the expense shall be paid out of the pockets of the commission. If we can get distinguished gentlemen like admirals and others, without any expense to Government, to give us a treatise upon a future policy in regard to the Navy, I do not think we ought to refuse it. I should like to hear some good reason for rejecting this proposition of the House.

Mr. SARGENT. Junketing expeditions are so popular that I do not know that it is gracious to object to them. Now it is proposed here that the Admiral, the General of the Army, two Senators, and three Members of the House, and two naval officers shall be a commission. By the way, the naval officers are very much in the minority on the board, and the Secretary of the Navy, who is not to be placed upon the board, is to "furnish the commission with all facilities within his control for the convenient prosecution of their labors." They would be required in "the convenient prosecution of their labors" to visit all the navy-yards. It may be, as I see they are to watch the "commerce on the Pacific Ocean and in Asiatic waters," that they will make a visit there and go to China, for aught I know. If this commission is raised, we certainly ought to raise the contingent fund of the Navy by fifty or a hundred thousand dollars, and I give notice that I shall feel compelled to move an amendment to increase the contingent fund of the Navy for this purpose. I know just what it means. The Senate passed a resolution some two or three years ago instructing the Committee on Naval Affairs to visit the different navy-yards and report upon certain matters. I think a very useful report was made in that case, but it cost the Government considerable money. The Secretary of the Navy, under exactly this kind of a provision, did put a vessel at the command of the committee and they went upon their expedition. It was a very pleasant one, I have no doubt. They visited the navy-yards and they reported their opinions as to what ought to be done with reference to the various yards, the naval hospitals, &c. They were very pleasantly entertained.

I do not want Senators to vote under the idea that this would not cost the Government anything. There is the idea carried into the provision that it will not cost the Government anything, but I think that is deceptive. For instance, it is said that the commission "shall have power to send for records, books, and papers," which is all right, and they are to have the power "to summon and examine witnesses;" and yet the provision is made "that all expenses incurred shall be borne by said commission." I should like to know where you are going to summon witnesses from and who is to pay their mileage. If you suppose that the members of the House and the Senate, the Admiral of the Navy and two other naval officers, and the General of the Army are going to pay out of their pockets for witnesses and their attendance, I think you would be mistaken in that belief. If the opinions of the Admiral of the Navy are wanted upon these different matters, let us require those opinions to be laid before Congress. If we want him to send for witnesses who are to appear and testify before him, we ought to furnish the money to pay for those witnesses who appear before him. There is not a single person here who may not be laid under contribution by Congress, for anything he knows.

I am aware that we have a very few moments, and I do not wish to prolong the debate; but it seems to me that the proposition as it

appears in the bill is not such as will operate. We require duties of these persons which we ought not to enjoin upon them at their expense. We ought not to require the Admiral of the Navy and two naval officers, whatever we may provide in regard to ourselves, to send for and examine witnesses and pay the witnesses out of their own pockets. I do not think that we ought to send them all over the country upon this special duty and require them to pay their traveling expenses. It is said that all this can be done without the examination of witnesses. Then why insert the clause in regard to witnesses? If the information can be obtained without traveling and is in the possession of these officers now, why not call for a report upon these different matters from either of the officers mentioned? Why not require a naval board, if you want simply their experience, to sit in Washington and consider these various matters and lay the information before Congress; but to make a roving commission and put in it a suspicious provision that would make it a junketing excursion, I think is of exceedingly doubtful propriety.

Mr. WHYTE. It is extraordinary that the Senator from California did not discover this fact last year and make objection to precisely a similar commission in regard to the Army. We passed the appropriation bill last year for the pay of the Army with just such a provision in it.

Mr. SARGENT. I had not charge of the Army bill, but I will introduce the Senator from Iowa [Mr. ALLISON] who had it in charge, and he will reply to the Senator from Maryland.

Mr. ALLISON. We introduced that provision in the Army bill last year as the only means of solving a difficult question with reference to the pay, rank, and numbers of the Army. I will say for the benefit of my friend from Maryland that, although that commission was requ red to report on the first day of the present session, we have not heard one single word from them yet with reference to this great subject. Of that commission my honorable friend from Louisiana [Mr. WEST] is a member. They have not had time to give that thorough examination to the re-organization of the Army which it should have, so that this time we have not an intelligent opinion upon the question of the numbers of the Army or the pay and rank of the Army.

These mixed commissions are not generally very effective. We have had several recent examples of this character of commissions. I do not think, with all due respect to my friend from Maryland, that this proposed commission will be of any service whatever with reference to the Navy. If we are to re-organize the Navy let it be done by the leading officers of the Navy, and let them make their recommendations to Congress. It cannot be expected that two Senators and three members of the House of Representatives can intelligently re-organize the Navy of the United States between now and the beginning of the next session.

Mr. WHYTE. I would not object to any change in the *personnel* of the commission, but as to the act of the last session of Congress appointing a commission in relation to the Army I expect beneficial results to come from it. Although they have not yet reported, I have no doubt that by the meeting of Congress next winter we shall have an able and intelligent report from that commission. I think the condition of the Navy is such that there ought to be a commission to inquire whether there should not be some change in the management of that Department of the Government. We have had complaints all over this land about extravagance in the Navy. All over the country the cry has come up that money has been most lavishly expended and there are no results to show for it. It is due to the people that some commission, some intelligent body of men, made up entirely of naval officers if you please, should take charge of the whole subject and report to Congress some definite policy by which the money of the people, wrung from them by taxation, shall procure for them some beneficial fruits for its expenditure.

Mr. SARGENT and Mr. BOUTWELL addressed the Chair.

Mr. BOUTWELL. I yield to the Senator from California.

Mr. SARGENT. I shall not detain the Senate long. I do not care to go into a discussion of the assertions that have been made at the expense of the Secretary of the Navy or the entire Department as to the economical management of his Department. I insist, however, as a fact that the Secretary of the Navy has been careful and economical; that he has produced the best possible results from the money placed in his hands. I fairly believe this to be true from an examination of the testimony. If a man is to be judged simply by the floating rumors of charges made here and there, God knows that many who stand fair and who are deserving to stand fair, would have very hard usage.

I shall not detain the Senator from Massachusetts except to say that the commission appointed last year was not such a mixed-up commission as this is proposed to be. There was as much reason that the Admiral of the Navy should be put on the board last year in order to re-organize the Army as that the General of the Army should be put on the board now proposed to re-organize the Navy; but I do find an appropriation made for the expense of the Army commission, and the Secretary of War was not required to furnish facilities for taking the commission around the country either.

Mr. WEST. Let me call the attention of the Senator from California to another fact. In this case the Secretary of the Navy, the head of the Department, is left off the board, and in the other case the Secretary of War was put on.

Mr. SARGENT. Certainly; the Secretary of War was put on the board re-organizing the Army, while the Secretary of the Navy is ignored in this case. Of course before this bill can become a law and go into effect the present Secretary of the Navy will cease to exist, if gentlemen have any prejudice against the present Secretary of the Navy. If that would influence their leaving him off, why not take the next one, who in the range of possibility, until the question is finally decided—and it is only within the range of possibility—may be of different politics from the present Secretary.

Mr. HEREFORD. O, no!

Mr. SARGENT. My friend from West Virginia says "O, no." I hope he is correct. But there seems to be something extraordinary, there seems to be something sinister about the endeavor to raise a commission to re-organize the Navy which, while it includes the General of the Army, leaves off the Secretary of the Navy.

Mr. BOUTWELL. Mr. President, I expect to follow the committee in this amendment, and I do so because I think the question of the character of the Navy is entirely a political question. I mean by that that it is not a question as to how ships shall be built. Therefore we find such a commission provided for as is contemplated by this bill. I have for many years given some thought to the question of the expenditures in the Navy Department, and while we still adhere, with variations of opinion from time to time arising, to the idea of former times, I imagine that we are discontented with that former idea. We are expending large sums of money and securing small practical results; yet in the expenditure of these sums I have no doubt there has been as much economy as is usually attained in the administration of public affairs. Now then, if the time has not come when we can abandon the idea of fighting battles upon the open sea, we should not only not abolish the policy which we have heretofore pursued, but we should extend that policy by increasing the naval armament for such purposes. But I am of the opinion that the time passed several years ago when it was for the interest of this country to make the least preparation for an open-sea fight. Anybody who looks at the character and extent of this country, the number of its people, and the magnitude of our influence as a nation, must see that an open-sea fight would settle nothing in any controversy that we might have with any power upon the face of the globe, and to be expending money year after year, whether one million a year or ten millions a year or twenty millions a year, with the idea that something is to be gained in a naval contest, has no foundation in any generous conception of public policy.

Therefore, for one, although I stand alone, I am prepared to say that it is not the interest of this country to expend a dollar for naval appropriations directly except such as are necessary for coast defenses. To such perfection has the construction of torpedoes and steam-rams been carried that there is not a navy on the face of the earth which could enter a harbor that is protected by these modern inventions. Therefore, wherever these inventions are known and applied for the purposes of defense they are more complete than any means of defense that ever before were known. When we have provided for the defense of our coast and when we have taken means of policing the seas, which should be simply such an armament as is necessary for the protection of commerce in time of peace, we have done all that is required of us as a nation. For one I think we ought to abandon the idea of maintaining a navy for the purpose of contesting for our rights on the open sea against any power on the face of the globe.

What would follow from such a policy? By that policy the construction of large vessels upon which enormous sums are expended would be dispensed with. We can construct war vessels of about a thousand tons each capable of carrying eight or ten guns, capable of sailing with greater rapidity than the large vessels which now exist, for half a million dollars apiece, and we can keep them afloat for $40,000 a year. We could construct two of these vessels each year for a million dollars, and we could keep forty of these vessels on the ocean for two million dollars more. I submit that such a system (perhaps not exactly that amount of expenditure, perhaps not exactly that number of vessels, but a naval system based upon the idea that we are to show the flag and protect the commerce of the country in time of peace) could be maintained for an expenditure not exceeding five or seven million dollars a year. Consider that in the recent great wars there have been no naval engagements. Nothing is settled by contests upon the open sea.

If we are prepared to enter upon this policy, and this is a simple question, we do not need a commission. If we are prepared to take a different course and enter upon another line of policy to declare what we ought to declare to this country, it needs no preparation for war in time of peace. The countries of Europe to-day are supporting 2,700,000 men in arms. They are paying $600,000,000 a year for the support of their armies. They are paying $200,000,000 a year for the support of navies. They are paying $600,000,000 a year for interest on debts created by war. Twelve or fourteen hundred million dollars a year are drawn from the people of Europe for the maintenance of armaments in time of peace and for the interest on a public debt contracted mostly in the prosecution of useless wars. For us I think our duty clear that we should set an example to the world that we pay not a dollar for the purpose of preparing for naval contests upon the sea. Such is the pre-eminence of this country to-day, so valuable is it as a market for the products of every nation on the globe, that we can command our rights by withdrawing our diplomatic representatives from any country on the face of the earth. We are inde-

pendent of any danger of hostile attacks from any country on the face of the globe. If we demand nothing but what is our right, it will be conceded by every civilized nation of the world.

My suggestion is that whenever we take a departure it shall be upon the idea that we are not to maintain armaments for the prosecution of offensive wars. In connection with a change like this in the Navy I have to say that if we would appropriate so small a sum as $2,500,000 a year in bounties to those who would construct commercial vessels upon the models furnished by the Bureau of Construction and Repair in the Navy, we could put upon the sea two hundred steamships of twenty-five hundred tons each, capable of carrying naval armaments, if it were necessary, which would render us in time of war ready for any emergency. Consider that upon this continent south of us trade is substantially suspended with the United States merely because we are destitute of the means of communication with them. We have but a little of the trade of Mexico; we have not more than a tenth of the trade with the states of South America, merely because we have no lines of steamships by which we can communicate with the people of those countries. If we are to expend money in any direction, I submit that we should give the small sum of $8 a ton to merchants who should build iron steamships of not less than a thousand tons burden, to be employed exclusively in the foreign trade. For two million and a half dollars a year for ten years we could furnish the means of opening commercial intercourse with every considerable country on the face of the earth, and in time of war convert these vessels to the uses of the Government.

There, Mr. President, are the views that I entertain in regard to the Navy, hastily stated, but the result of considerable thought and examination of this subject; and I believe the time will come when the country will say that the expenditures for a Navy should be reduced to just such a sum as is necessary and no more than is necessary to police the seas in time of peace and furnish coast defense to protect the country as far as necessary in time of war.

Mr. WHYTE. Mr. President, I do not desire to be put in a false position, even if it be agreeable to the Senator from California to do so, by the statement that I have any feeling toward the Secretary of the Navy.

Mr. SARGENT. Not at all.

Mr. WHYTE. I thought the Senator intimated I had some feeling toward the Secretary.

Mr. SARGENT. No, sir; not at all.

Mr. WHYTE. I was speaking of the general management in time past of the Navy Department, and have never spoken about the Secretary of the Navy personally.

Mr. SARGENT. My belief is that the Secretary and the Senator are friends.

Mr. WHYTE. The Senator also intimated that I had taken wild rumors flying around as the basis upon which I justified the remarks which I made awhile ago on this subject. I took no such rumors, if there be any, but I took the sworn testimony of one of the first admirals of the country, and I desire now to read it in the presence of the Senate, very briefly, to show that I was entirely justified in the remarks which I made. Admiral Porter, in his testimony on the 29th of May, 1876, before a committee of the House, said:

> The amount calculated for these gradual additions to the Navy may appear large in the aggregate, but it is in fact small when compared with the appropriations estimated for from 1866 to 1876, ($251,779,000,) which, after deducting pay of officers and men and expenses of the Marine Corps, amount, for navy-yards, repairs, equipment, and building a few small vessels, to an average of $18,200,000 annually. This, too, after an expenditure of $280,000,000 during the war, which ought to have left us a powerful Navy. With all this expenditure, we are not at present provided with a single first-class vessel, either for defense or for fast steaming, nor have we one powerful rifle-gun in the Navy.

Again, he said:

> Our Navy, taken as a whole, is worth nothing, and the sooner the country understands that fact the better. It would require a great stretch of credulity to make one believe that the Navy is in the flourishing condition represented by Chief Constructor Hanscom in his late report to the honorable Secretary of the Navy.

And again:

> Many officers of the Navy who now hold prominent positions were in the service in its palmy days, and can draw a just comparison between its condition now and then.
>
> They have seen it recede from the high position it once held, and realize its inefficiency to protect our interests at home or abroad; yet they have been obliged to stand quietly by and witness the Navy go from bad to worse without power to prevent it.

And again:

> I may, therefore, say that our Navy as compared with others is like a foot-soldier armed with a pistol encountering a mounted man clad in armor and carrying a breech-loading rifle. It would be easy to determine how little chance the man on foot would have should such a conflict occur.

Commander Meade, of the Navy, said in his examination on the 27th of May, 1876:

> Question. Since the publication of Mr. Hanscom's report have you made the comparison to which you allude?
>
> Answer. Yes, sir; I took the list as Hanscom gives it and compared it with the official returns of the English navy, and found that this comparison is not correct, and that it is calculated to deceive all but experts. I made the comparison correctly and carefully, and it is from that comparison that I speak now. This report is not correct; it is a false comparison and is calculated to deceive.

Therefore, Mr. President, I favor a commission of intelligent experts and I oppose the striking out of this whole section, but, if it is left in, I will gladly propose to put the Secretary of the Navy at the head of it and to confine it to naval officers and naval experts, that they may tell us what is the truth between these conflicting statements of naval constructors and intelligent and honorable officers of the Navy.

Mr. SARGENT. Mr. President, Admiral Porter may be an authority upon questions of economy for some, but he is not at all with me. The whole gravamen of Admiral Porter's testimony is to inculcate the idea that we ought to have vessels like the Thunderer or those great iron-clads that cost somewhere from three millions to nine millions of dollars, with guns that cost from a hundred to two hundred and fifty thousand dollars apiece. That is the style of navy the Admiral wants. I do not know but that it might be well to have such things, but I know that in the present situation of our finances we cannot afford such expensive defenses, I was going to say such expensive luxuries.

I would further say that, in my judgment, knowing something of the facts, the most expensive time the Navy has ever seen was during the brief period that Admiral Porter was practically the Secretary of the Navy. There were at that time larger expenditures and with the least warrant of law that I have ever known in all the history of the Navy Department, from the foundation of the Government down to the present time. He certainly is not good authority to me.

I know, furthermore, that Admiral Porter is a man who expresses what views he has in the extremest possible language. If he takes an opinion upon a matter he is intolerant of any opposition, and the person who opposes his ideas is very apt to hear from him subsequently; and sometimes, perhaps, he does injustice to those with whom he differs.

I hope, however, that we may have a vote upon this bill and pass it, as it is the last of the appropriation bills before the Senate. I am perfectly willing, if Senators desire it, that we shall have the yeas and nays upon this question, it having been fully debated upon both sides. The bill ought to be passed and go to the House of Representatives. I have had before my mind the fear of an extra session. I have that still to some extent. We very soon shall be called into joint session again, probably to-morrow, if not to-night, and then we do not know how soon we may be able to resume the regular business.

Mr. WITHERS. Mr. President, I only wish to occupy the time of the Senate for about two minutes to state my reasons for opposing this commission and favoring the proposition of the committee to strike it out.

I am for striking out this part of the bill because it provides a commission a majority of whom are members of Congress to investigate and decide upon certain questions almost every one of which necessitates the knowledge of an expert; and I think it is an utter absurdity to send out two members of the Senate and three of the House, with the General of the Army and only three naval officers, whose business would give them a knowledge the subject which they were to investigate, in order to give information upon these subjects which require the knowledge of an expert so that any opinion might be given which would be worth consideration.

Mr. NORWOOD. I would like to ask the Senator from Virginia why the committee did not reform the provision of the bill instead of striking it out altogether, and place this commission in the hands of experts?

Mr. WITHERS. The committee did not think that it was necessary or proper that they should undertake to remodel and entirely destroy, as it would have done in effect, the provision as embodied in the bill by the action of the House of Representatives. They contemplated a mixed commission.

In addition to that, another objection I have to it is that it provides legislation upon this appropriation bill in a new direction, creating a commission, involving an entire change possibly in the whole Naval Department, which I do not think ought to go upon an appropriation bill. A third reason is that it provides for a commission with authority to perform very many and very important duties without making provision to pay them one cent. Although it is possible, if it were carried into effect, that we might find other deficiency bills presented to us to provide for the payment of this commission, yet, as the bill itself made no provision for paying them anything, I thought it unjust to require members of this House and officers of the Navy and of the Army to spend as much time as would be absolutely required in order to make an intelligible report without paying anything for it. And as to this spontaneous service, as to this idea of securing service without adequate compensation, I do not believe in it at all. I believe that men who work for adequate compensation will much more effectually work than those who expect to do the work for nothing.

These are in brief the reasons why I vote to strike out this portion of the bill.

Mr. DAVIS. Mr. President, I believe that this provision is in the right direction. Some inquiry ought to be made. It may not be just what many of us would like or what it ought to be; but as the bill, necessarily almost, will go to a conference committee and the whole subject can there be opened upon, I have been disposed to favor the amendment of the committee, thinking that in conference probably something better than is now before us will be obtained.

The amendment was concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 4554) for the support of the government of the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. LAWRENCE T. NEAL of Ohio, Mr. JULIAN HARTRIDGE of Georgia, and Mr. WILLIAM U. CRAPO of Massachusetts, managers at the conference on the part of the House.

HOT SPRINGS RESERVATION.

Mr. ALLISON. I am ready to submit the report of the conference committee on the Indian appropriation bill.

Mr. DORSEY. I want the Senate to go on with the Hot Springs bill, which was laid aside to take up the bill which has just been disposed of.

Mr. ALLISON. Very well; I will not antagonize the Senator's bill.

Mr. WEST. If I can get the consent of the Senator from Iowa who represents the Judiciary Committee in the pending measure relating to the Pacific Railroads, [Mr. WRIGHT,] I shall be willing to have the Senate bill No. 984 go over again informally to enable the Senate to act upon the bill which the Senator from Arkansas [Mr. DORSEY] now desires to call up, with the understanding that if it leads to any protracted debate I at least, and I believe the Senator from Iowa also, will be compelled to call for the regular order.

Mr. WRIGHT. I do not think there is any objection to that. I appreciate the very great importance of the bill, which the Senator from Arkansas has in charge, to the people to be affected by it; and I shall therefore not interpose any objection to its present condition, but with the understanding stated by the Senator from Louisiana, [Mr. WEST.]

Mr. DORSEY. I am much obliged to the Senators for their consideration.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 2382) granting the right of way to the Hot Springs Railroad Company over the Hot Springs reservation in the State of Arkansas.

Mr. DORSEY. When the bill went over for the morning hour, the amendment of the Senator from Mississippi, [Mr. ALCORN,] I believe, was pending.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Mississippi to the amendment of the Committee on Public Lands, which will be read.

The CHIEF CLERK. The amendment to the amendment is at the end of section 5 to insert:

Provided, That the word "claimant," used in this act, shall be construed to mean a party holding or occupying ground on such reservation under color of title against the United States previous to the decision of the Hot Springs case by the Supreme Court of the United States on the 24th day of April, A. D. 1876; and the word "occupant," used in this act, shall be construed to mean a party holding or occupying ground on such reservation without any color or title; and in case of any conflicting claims or rights growing out of them between claimants and occupants, they are remitted to the local courts having jurisdiction over the county in which such reservation is situate for settlement by and under such procedure as is known and recognized in such courts.

Mr. ALCORN. I have offered that amendment in order to simplify the bill and to save the unfortunate people of Hot Springs from litigation, from strife among themselves. I have offered it as an index-board to the commissioners who may be appointed and whose judgment may not be all that the appointing power may have hoped for. It will be observed that the commissioners appointed under this bill have plenary powers. There is no court that overlooks their decision. They go there to adjudicate the rights of those people. I would send them there without embarrassment upon them and I would not open the way for their being approached or charged with favoritism.

Any Senator who will read section 5 of this bill will find that the words "occupants" and "claimants" are mixed together conjointly in the same paragraph, sometimes with the conjunction "and" and in other instances, not however in that section, with the conjunction "or." Sometimes the phrase is "claimants and occupants," at other times it is "claimants or occupants." Now I can very well understand how claimants "and" occupants may hold title to the same property. A claimant and an occupant may feel that he is entitled under this bill to have his rights observed. The same property may be held by a claimant and may be tenanted by an occupant. The amendment severs them; the amendment states to the commission what they are and what they shall be, and says no more.

I have not offered it in any hostility to the bill; I have offered it in a spirit of friendliness to the bill. I have offered it because I feel that the people of Mississippi and of the whole country are just as much interested in this matter as are the people of Arkansas outside of Hot Springs. They are the people who are directly interested, and I have given them an appeal to the courts of their own county, where their rights may be adjudicated if it shall appear that they have not been dealt with properly by our agents.

Now, while I am up, I wish to reply to what my friend on my right, the Senator from Arkansas, [Mr. CLAYTON,] said this morning in relation to this receiver. I have made no charge upon the integrity of the receiver. I have not intimated that he had not gone there and executed the law of the case. I know nothing of him; the people of Arkansas know nothing of him. He was sent there from abroad, as are all the officials of the country who are sent to the South, to dispose of the rights of that people. He was sent perhaps for the reason that he had no sympathy with the people of Arkansas; that he had no sympathy with the people of Hot Springs. I know not how that is; I only know that he has not manifested, since he has been there, any sympathy for those people. He has pursued the law; he has claimed the last penny; he has demanded "the pound of flesh." It has been yielded to him by the poor afflicted mendicant for whose government and for whose control he has been put there.

I have stated the case briefly as it exists. These people were not squatters upon the public lands, nor can they be held to be squatters upon public lands. The Attorney-General, Mr. Wirt, gave it as his opinion, when he was filling that office, that the claimants were entitled to a patent for the land. Reverdy Johnson, when he was Attorney-General of the United States, gave a like opinion, and he died with a judgment of the law of the case different from that which has been proclaimed by the Supreme Court. Be that as it may, however, the court has decided otherwise, and all submit to the decision of the court. It is the law, whether it is justice to these people or not. More than that, the Commissioner of the General Land Office has given it as his opinion that this is an exceptional case; that thousands of patents have been issued to claimants where the objection rested as it was held to rest in this case, and which the court has decided to be fatal to the title of the claimants. The Commissioner holds that it has not been the rule to consider such failures upon the part of the surveyor-general as were relied on here to be fatal to the title of the claimants, but that in all cases that objection has been overruled and the patent has issued.

Here I have nothing to do with the claimants; I have nothing to do with the occupants; but I do know those people and I do know the hardship that has been imposed upon them. It was their misfortune. As a Senator here, while taking from them their property, while disregarding the intimation of the Supreme Court that they are entitled to the consideration of Congress—for the Supreme Court says so—I would not give them a lawsuit; I would not offer a temptation to the commissioners, but I would decide and define in the bill precisely what we were doing. I would state in plain, unmistakable terms what we mean by "claimant" and what we mean by "occupant." If we cannot agree upon that, how can you hope the commissioners will agree upon it? If it is not right, strike it out. If the occupant should have all, give it to him; if the claimant should have it, give it to him; but do not send them to this commission with the terms "occupant" and "claimant" jumbled up together in a form that will lead to dissatisfaction, that will lead to injustice, that will lead to the perpetration of wrong.

Mr. DORSEY. Mr. President, this property has been in litigation for more than forty years. In that time the different persons claiming it have been in almost every court in this country, certainly through all the courts of the State of Arkansas; certainly through the Court of Claims, and finally to the Supreme Court of the United States. I think in almost every instance, in almost every court, the decision has been against these claimants. In the Court of Claims, and in the Supreme Court of the United States, the decision has been in favor of the Government of the United States.

These persons called "claimants" have no more right than any other settler or squatter on that reservation. The bill as it now stands, without the amendment of the Senator from Mississippi, simply provides and intends to provide for permitting every person owning improvements, owning buildings, owning stores, to buy the lands on which their improvements are located. If there is a lawsuit in that I should like to have it pointed out.

The old claimants, so called, the three persons who formerly held possession of this property, have got a very large number of buildings there, I do not know how many; and it is true that under this bill those persons will have a very large possession for which, of course, they will have to pay just the same as anybody else. But if the amendment of the Senator be put into the bill it will throw, I think, two-thirds of the occupants of the reservation into the courts of that State. Why? Because during the last ten years or fifteen years the old claimants holding possession of this property, as shown by the decision of the court, without a title, have made contracts by which lots are held. There are a great many contracts between the persons formerly having possession of the reservation and the occupants there. How many of them there are exactly I do not know; what the conditions of all of them are I cannot tell; but certainly they are conditions that would lead to litigation between the occupants and the old claimants. That litigation might go on for years, and in the mean time, the old claimants being wealthy, strong, prominent citizens, and many of the occupants very poor, and of course very weak, the latter would stand a very small show indeed in maintaining possession of their property as against the old claimants.

Mr. ALCORN. Will the honorable Senator answer me one question? I do not wish to interrupt him.

Mr. DORSEY. I will try to answer; I do not know whether I can or cannot.

Mr. ALCORN. I just wish to point the Senator to one difficulty in this bill, and it is the one that I seek to obviate. Here is a claimant. The claimant, as I understand the bill, is the party who heretofore held the land under color of title.

Mr. DORSEY. No, sir; the Senator is mistaken.

Mr. ALCORN. If he is not, then I want to know it. He built a house and he leased that house; none of them has any right to the land; it belongs to the Government, but he built a house ten years ago; he leased it to A, B, or C; now they are the occupants; he is the claimant, for the house was his; he built the house. Now, under your bill to whom are you going to give it?

Mr. DORSEY. To the man who owns the improvements.

Mr. ALCORN. Why not say so, then?

Mr. DORSEY. The bill does say so.

Mr. ALCORN. The bill does not say so.

The PRESIDENT *pro tempore*. Senators will please address the Chair.

Mr. DORSEY. The bill says that the owner of the improvements shall have the sole right to buy.

Mr. ALCORN. But there is no owner.

Mr. DORSEY. There is an owner; or there is supposed to be an owner.

Mr. MERRIMON. But he has no right at all.

Mr. DORSEY. This commission is appointed for the purpose of settling that question, whether there is an owner or not. We assume that there are owners. That is the very purpose of passing this bill. There are four or five thousand people there, with a large number of houses, stores, and shops; and we assume that they do own them.

Mr. ALCORN. Now I will ask the Senator to have my amendment read, to see whether it conflicts with his idea.

Mr. DORSEY. If the Senator will allow me to conclude, I will accommodate him. What the bill means by the terms "occupant" and "claimant" is simply this, and I thought I had explained it this morning: There are many people down there who own as many as half a dozen buildings. They only occupy one. These old claimants own a very large number of buildings; they only occupy one themselves; they lease out the others. The word "claimant" is used, so that they can purchase the buildings they own, whether they occupy them or not. It covers buildings that they built and own, and therefore claim. That is the intention. I want to add that the citizens on that reservation, these old claimants, all three of them, together with the delegation in Congress who visited that place, every one of them, has agreed to this bill.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Mississippi [Mr. ALCORN] to the amendment.

The amendment to the amendment was rejected; there being on a division—ayes 19, noes 22.

Mr. ALCORN. Now I move to strike out all after the word "that," the first word in the substitute, and insert:

> The order of the Court of Claims in the matter of appointing a receiver of the Hot Springs reservation in the State of Arkansas, under section 5 of the act of June 11, 1870, be, and the same is, so far modified as to suspend the collection of rents by said receiver until Congress shall direct by law what disposition shall be made of said reservation.

I merely desire to call the attention of the Senate to the fact that we are here legislating with regard to the habitations of 4,000 people in Arkansas, and that we have that legislation attached to an amendment to a railroad bill, hurriedly drawn up, confusedly stated, with incongruities existing in the body of the bill which will lead simply to litigation, to the disappointment and distress of that community. I simply propose in my amendment that the collection of rents shall be suspended; that the next Congress may hear this matter, that they may take it under advisement. I shall not be here, but let them take it under advisement, and prepare such a bill as will be just to the people and satisfactory to the Government, and that will lead to no litigation among them. I call for the yeas and nays on this amendment.

Mr. DORSEY. I do not know but that the Senator from Mississippi is correct in saying that this bill has been hastily drawn and is full of incongruities. I want to say, however, that the bill was drawn more than a year ago; that it has been reported from the Committee on Public Lands unanimously and from a committee in another place in the same way; that it meets the approval of the delegation in Congress from that State, without respect to party, and of the citizens on that reservation without a single exception. I speak for the people of that State and for the citizens on the reservation.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Mississippi to the amendment.

Mr. ALCORN. The Senator from Arkansas makes a very broad statement, and one which, if he were put to the proof, I judge he would not be able to establish. So far as this bill is concerned the committee will bear me out in the statement that the bill reported is different altogether from the one that was referred to them. They have cut the bill out from the beginning. It came to this body an attaché, the tail end of a railroad bill. The committee have at least reversed the order of things, for they have now the bill in front and the railroad in the rear. Perhaps that is as it should be; but I undertake to say that if any Senator who has it before him will look at the bill he will find that the committee have striken out all the provisions of the bill as it was presented here and have recommended another and a different bill altogether. I call upon the honorable chairman of the committee to state to the Senate whether it is not as I have stated. It now comes an amendment to a railroad bill. It is not the bill that was presented from the House of Representatives.

The bill is not satisfactory to the people of Arkansas in the aggregate. I will not undertake to say to whom it is satisfactory or who is opposed to it, for I have not heard from Arkansas on that point; but I hold that the Senate now has the disposition of this property, and that the people of the United States have the right to speak and that it is their duty to speak; or, if they propose to leave it to Arkansas, make a donation of the property to the State of Arkansas, and let the Legislature of the State dispose of it; and the people of that State will be satisfied with that disposition. If, however, you see proper to take it here for disposition and for legislation, if you refuse to give it to the people of Arkansas, that they may dispose of it, and you see proper to dispose of it here, then certainly we are not to be crowded down on the idea that, because this measure is satisfactory to the Senators from Arkansas and to the delegation from Arkansas, we are forestalled from expressing an opinion on this subject.

I hold that the position I take upon this subject is a good one, that you have mixed up here "occupants" and "claimants" so that there is not a lawyer on this floor who can undertake to define what they mean as the bill stands. The Senator from Arkansas undertakes to give the meaning and the interpretation of the bill. I confront him with my poor judgment that his interpretation of the law is not correct. He talks about owners. There are no owners there. The property belongs to the Government. Not a man upon that reservation can take a stick of timber, a board, or anything else without becoming a trespasser. The property is that of the Government. It is for you, Senators, to dispose of it.

I ask you to look at the bill and not now saddle these people, who have been as the Senator says for forty years in law, with a lawsuit for forty years to come, or subject the poor man there who is not able to pay his way for favors to be kicked out of his house without day.

I will not charge and do not intimate that there is anything intentionally wrong in this bill. That would be unbecoming me and I have no such insinuations to cast; but I do say——

Mr. DORSEY. I should like to have the Senator explain what he means by saying that men will be kicked out of their houses unless they have got money to pay their way. What does he mean by that?

Mr. ALCORN. I mean by that, sir, that they have been kicked out of their houses because they have not had money to pay.

Mr. CLAYTON. When?

Mr. ALCORN. Since this receiver has been appointed.

Mr. CLAYTON. I deny it most emphatically.

Mr. ALCORN. I do not say——

Mr. CLAYTON. Do you mean to say because they had not money to pay properly?

Mr. ALCORN. I am not talking about "properly."

Mr. CLAYTON. Improperly.

Mr. ALCORN. What I say I say understanding the force of the language that I use. I say that the man there who has not been able to pay his rent has had to leave his premises. Has he not? Did I say that it was improperly so? I say that the man who is not able to pay lawyers and who is not able to go there to obtain favors needs the protection of Congress. That is what I say. It is for the poor fellows that I speak who are now occupants and claimants at Hot Springs.

Gentlemen talk about "the claimants." Who are "the claimants?" They are broken down in fortune and bending under the weight of years. It is true that they have been contending for this property, some of them for the last fifty years, and it is true that they paid their money for the property, and it is true that the money is now in the Treasury of the United States and that no provision has been made for returning it to them. Yes, sir, it is true that the widow stands there hanging over the grave, the survivor of her family, ejected from the house that was built by her husband, who died long, long years ago. Yes, sir, she is there. If she is entitled to no consideration at the hands of Congress, I ask that she shall not be saddled with a lawsuit by a bill that is unjust, that is complex on its face, and that will not be understood alike by any two men who undertake to interpret it.

Now, Mr. President, I have said all I intend to say on the subject.

Mr. WRIGHT. Mr. President, I do not profess to any very great familiarity with the controversy touching the Hot Springs reservation. My attention has been called somewhat, however, to the litigation touching that reservation and the condition of the people upon the same since such decision. I have had some letters on the subject, and gentlemen who claim to know something of their condition and the necessity of legislation have conferred with me on the subject, attempting to point out the difficulties and also the need of some legislation at this time.

It seems that for many years there were conflicting claims to the property known as the Hot Springs reservation. Litigation ensued which continued for many years, and was finally, something over a year ago, decided by the highest court in the land, and the title to the property was found to be in the United States. The consequence was that all the persons upon that land were there without title. That judgment stands, in no manner set aside or reversed.

We are therefore confronted with this condition of things, that some three or four sections of land are found there the title to which

is in the United States, as much and as absolutely and entirely as that of any land that was ever held. There are persons, however, upon these lands as settlers. Many of the settlers and claimants there regarded that they had good titles. These titles were subjected to judicial examination, and it was found that they were without title, and, as I have already said, the title is in the United States. These claimants or occupants, many of whom have put large sums of money in the way of improvements upon these lands, come to Congress and ask that they shall have such legislation as shall relieve them from the burdens of the receiver who is there and the rents that they are paying, and at the same time that they can have provision made to secure to themselves the title to their little homes.

Since the decision was made by the Supreme Court of the United States a receiver has been appointed, who has been collecting from time to time rents from the persons who are upon these lands, and these rents go to the benefit of the United States. Now it strikes us all as being inequitable and unjust that these persons who are there should be required to pay these rents. In strict law of course, as the decree stands of the Supreme Court, they are required to pay, and they have been complying for the most part with the law in making these payments; but it will not do to leave the matter in this way and leave these persons without title and to be required to be continually paying rent or be dispossessed. They want to remain in possession of their homes.

As I understand it, this bill, prepared by the Committee on Public Lands after conference with the persons interested in it, after conference also with the officers of the Land Department of the Government, and after taking into consideration the rights of the Government in connection with this property, proposes a commission that shall go there and appraise the different subdivisions of this property, it being given the power to subdivide also and determine what each of these several pieces of land is worth, and give to the occupants the opportunity to buy first under the appraisement. Of course, when they buy the land that is thus appraised they take with the land the improvements that are upon it.

I do not understand that it is contemplated that the Government is to derive profit from the improvements on these lands, but that the Government proposes by this commission to give to the settlers there, the occupants there, the opportunity to get a title to their homes, and that it is not anticipated that there is to be large profit made by this arrangement, but that the Government will deal justly and equitably with the people that are there, the aim being for the most part that the Government shall get fair compensation for its property and also have a return for the expenses connected with the disposition of the property there found, and that, when the appraisement is made and all these occupants or claimants shall have had an opportunity to buy under this law, if it shall turn out that any portion of this property shall not thus be bought under appraisement, then it is to be put up at public auction in Little Rock and there sold to any person who may see proper to buy, but at a sum not less than the appraisement.

It seems to me that this is equitable and just. If there is any one thing that is a crying shame in our legislation and in connection with the grants of lands that are made and the title held by the Government in reservations upon which persons have gone as settlers or squatters so called, it is that we leave the title of those persons so uncertain and so confused as that litigation ensues, continuing for years.

The Government ought not to hold a partnership with these persons. The Government ought to part with its title; the Government ought to give the title to the persons who are upon these lands, and it ought to provide a means of parting with its title and surrendering the property to the persons that are equitably entitled to it. I understand that by this bill it is proposed to do so.

It may be that there are defects in this bill. There were some defects in it that I pointed out to the Senator having the bill in charge, and he consented at once to amend it accordingly. There may be other defects still in the bill. What I think we ought to aim to do largely is this: so provide that the settlers on this property should have a title to their homes; that the Government should not hold in partnership with them, and that steps should be taken by which they can get their homes by paying a fair reasonable compensation. If this bill effectuates that object—and I understand that such is the belief of the persons interested in it—I am for it. All the persons interested, as I understand from the Senator from Arkansas, are agreed on this bill. The entire delegation from the State are agreed upon it. I understand it has the approval also of the Land Department. Of that I am not certain, but I have been so informed. If so, I think we are reasonably safe in following the lead of the committee on this bill.

Mr. MERRIMON. I beg to ask the Senator a question.

Mr. WRIGHT. I do not profess to be so familiar with the bill as to be able to answer, but I will try.

Mr. MERRIMON. I ask the Senator whether the words "claimant" and "occupant" in line 5 of section 5 are used synonymously, or if they are intended to represent distinct classes of people; and, if they do represent distinct classes of people, whether the difficulty suggested by the Senator from Mississippi does not arise and will it not give rise to endless litigation among the people?

Mr. WRIGHT. What is the question?

Mr. MERRIMON. Whether the words "claimant" and "occupant" in line 5 of section 5 are used as synonymous terms?

Mr. WRIGHT. I think not.

Mr. MERRIMON. Then they represent different classes?

Mr. WRIGHT. I understand so.

Mr. MERRIMON. Then John Smith has made an improvement, built a house, stables, &c. He is a claimant, for he is not in possession; he has allowed somebody to come into possession who is the occupant. Now, when these parties come before the commissioners to establish their right, who is entitled under this bill: the man in possession or the man who claims?

Mr. DORSEY. The man who owns the improvements.

Mr. MERRIMON. There is nobody there who does own the improvements at all. Nobody has any right there at all.

Mr. PADDOCK. Somebody must own the improvements.

Mr. DORSEY. The man who made the improvements.

Mr. MERRIMON. Then say so. That is what the Senator from Mississippi proposed to do.

Mr. WRIGHT. I will endeavor to answer the inquiry of my friend from North Carolina, and perhaps I can answer it as well by asking him a question. Would he have the bill so framed as that only occupants should be entitled to buy this land?

Mr. MERRIMON. I simply want to see the difficulty solved, and avoid litigation. I say that there will be endless litigation if it goes the way it is now.

Mr. WRIGHT. If my friend thinks it is so, he ought to be able to suggest some means to get us out of the difficulty.

Mr. MERRIMON. The Senator from Mississippi did offer an amendment which did obviate the difficulty, and it was rejected.

Mr. WRIGHT. I think that went very far beyond what the Senator thinks it did.

Mr. MERRIMON. I believe an amendment can be readily devised that will obviate the difficulty, and the friends of the bill, it seems to me, ought to desire that it should be done.

Mr. OGLESBY. I do not take the interest in this measure that the representatives in Congress from the State of Arkansas feel in the subject and in the bill. It was not possible for the Committee on Public Lands, with all the attention that it could give to this intricate subject, to take the same interest in it that the people occupying the reservation and their friends in the two Houses of Congress take in the subject. We knew when this subject came before us that it would be an embarrassing one. For myself, I have been absent many weeks and have not been present in the committee during the deliberations, whatever they have been on this subject, but I knew that it would be beset with difficulties at the start; and it is beset with difficulties even yet.

Now, to start out, Congress has the same right to look at any claim the original claimants to that ground had as to look merely at the rights and interests of the people who are there now occupying it. If Congress chooses to go back to the three different interests at stake, represented by three different claimants, and say which of those three original claimants shall have this land, we can do so. If we choose to go back and say that all three of them ought to have it all, notwithstanding the decision of the Supreme Court, Congress can do it. But the Committee on Public Lands, after giving the subject the best consideration they could, thought that as the Court of Claims and the Supreme Court of the United States, with all the facts before them, with able counsel representing the claimants, had decided that the title to these three or four sections of land was in the United States and in neither of those three persons, and thereby made it public domain again, thought they would take what seemed to be a more liberal view than that.

This committee could not tell which one of these three claimants had the best right. There were three contestants for these hot springs. This committee could not tell which had the best right. This Congress could never find out which of these three claimants had the best right unless they would go behind a returning board, [laughter,] and then the trouble never would end. So the Committee on Public Lands concluded that they would look on this public domain as they would at public domain west of the one hundredth meridian or east of it. We found it occupied by men, women, and children, by landlords and merchants, by traders, and by a great many people in good health and by a greatly larger number of people beset in some way or other with some sort of malady or other. The waters are supposed to have great curative qualities. It is expected the place will become in time a great national resort, and that a great many poor people will go there to get rid of those diseases that human flesh has ever been and I suppose ever will be heir to. So the Committee on Public Lands thought they would take that view of the subject which would meet the conditions of the people living there rather than the rights of the old three claimants.

Now, I do not wish Congress to understand, nor the friends of the three old claimants to understand that the committee did not believe Congress had a right to look at their interests also. We have been thinking on that subject for this body. Whether we have thought wisely or not as a committee is another question. We did expect when this bill came up into this body it would be thoroughly discussed, that it would be examined, because there are many millions of dollars at stake, I am told. The property is worth two or three or four million dollars. I have heard it estimated as high as $5,000,000.

Others put it lower. There are a great many interests there. So we believed that when the subject came up it would receive the attention of the Senate in that frank and generous spirit that ever characterizes this body in seeking out the true remedy for the wrongs of mankind.

I owe it to frankness to say that the Committee on Public Lands, while recommending this bill, as they do recommend its passage, felt that it was not perhaps the best disposition of the property, or to speak more correctly, that it was not disposed of in the best possible way; that the methods and machinery for the disposition of it were not exactly satisfactory in all respects. For my own part, what I dreaded more than anything else was the possibility that the occupants, the people down there, would be thrown into litigation under this bill, and as for that under almost any other bill.

To start on, they have got now under the decision of the Supreme Court no title; the title is in the United States, but the people say they have vested rights here; they sincerely believe it. I have no doubt the old three claimants think each one of them that he ought to have the whole of it, and when the three old claimants found that each one of them could not get the whole of it then I think they would have considered that they three together ought to have it all, and I expect they could be got to compromise now and divide equally. But it is out of their hands by the decision of the Supreme Court.

Now, then, come back to the machinery of the bill. We found that if we said these commissioners should divide this land out between the claimants and the occupants, we should be troubled, and so would the commissioners, with what was the signification and legal meaning of "claimants." The committee decided that by the word "claimants" they did not mean one of the old three claimants, that they did not mean a claimant under color of title existing prior to the decision of the Supreme Court; but they meant by "claimant" one who had made improvements on twenty feet, forty feet, or one hundred feet, or an acre, or five acres of the ground, who put the improvements upon it, a hotel, or a boarding-house, or a residence, or a cottage, but did not live in it, possibly absent from the Springs, or living in other buildings on the reservation; but as such persons had built the house and made the improvements, we tried to use apt language to describe this sort of claimant we would include in this law. As distinguished from that "claimant," and as a separate person from him, we define an "occupant." We make two classes, the "occupants" and the "claimants." Now the occupant may be the owner of the house and the improvement. Bear that in mind. But a man may not be the owner of the improvement and yet be an occupant.

Then another class came into view. Who would that other person be? If the occupant on public land of a house belonging to the people of the United States had no claim to it, what other person could have an equitable claim to it? Manifestly the person that put it there, that built it and improved it. Therefore we say a claimant by reason of having made improvements on the ground, as an occupant, and if it be an occupant as distinguished from a claimant, if he made the improvements he is protected. If he did not make the improvement the man who did make it is protected, and ought to be I think in equity. The commissioners provided for by this bill bring witnesses before them; they bring proof before them to ascertain who made the improvements or whether the person who occupied the ground, him or herself, made the improvements; and that is as close as we can get to the subject. It is as definite as we can be; it is as definite as this bill is.

Now if any Senator on this floor can find more apt language than is used in this bill to carry out those two ideas, I would welcome it, as I doubt not the Senator from Arkansas would. If you go beyond our meaning of the word "claimant," and put in "claimant under color of title," the Senate will see that you go back at once to a class of men who claim to have owned the land prior to the decision of the Supreme Court. As the Committee on Public Lands wished to steer clear of those claimants and to recognize a subsequent and altogether different class from those, they used the language in the fifth section, which I will now read:

That it shall be the duty of said commissioners to show, by metes and bounds on the map herein provided for, the parcels or tracts of lands claimed by reason of improvements made thereon—

Is not that plain enough to go by—

or occupied.

There may be houses or lots there that no one is occupying; there may be nobody in the building, but there the building would be; and a claimant, because he put it there, not because he owned the ground, not because he had a title to the land there, could go before those three commissioners and show by proof that he made the improvement. The moment he establishes his right, the commissioners have no trouble, if they be governed by proof honestly and fairly, as we suppose the commission will be, to give to each occupant of fifteen feet frontage on a street, or twenty feet, or forty feet, or one hundred feet, for there is a little narrow street running down by the stream, and it is the most valuable portion of the property, and there is where all the business is carried on. These claimants and occupants are all jostled in together there in one continuous mass up and down that street, or up and down that stream, some occupying little shops, barber-shops, some little saloons, some all kinds of buildings, from the lowest order up to those where respectable and valuable business is carried on.

These commissioners have got to make a plat and survey, with the frontage of every lot, of the size of it, and of every building on it, and they have got to fix the value upon it on proof given to them, and they give the claimant, if he made the improvement, the prior right to purchase at the price fixed by the commissioners; and they give the occupant the prior right to buy where he made the improvements, at the price fixed by the appraisers.

If you can get out of this trouble on any better plan than that, gentlemen, say so. The committee felt, and I think correctly felt—and I believe the good sense of the Senate will sustain them in the end—that the Government of the United States cannot afford to go down there speculating in this property; that it had no desire to go down there and occupy this property for the purpose of receiving rent from it. I believe if the Government were to undertake it for any length of time it would be involved in more loss than it would gain, and a vast amount of other trouble would come out of it which I do not care about describing now either directly or inferentially. The Government had better get away from it, in my opinion. Therefore, I said this morning, I have no objection as a Senator on this floor to giving it to the State of Arkansas, or giving it to the county of Garland, or, better still, giving it to the occupants of the ground.

I would be willing to take a dollar and a quarter an acre for all the land there is there, so far as the Government is concerned, if you will just let us get out of this mess of stuff without another dollar. The Government never will make a dollar out of it. The expenses we shall be required from year to year to meet, in my opinion, the appropriations we shall be required from time to time to make to keep the springs in repair, to erect hospitals, eleemosynary institutions, to open parks, construct highways, sidewalks, promenades, and bridges, and everything else, would consume more than we should ever get out of the land. Nor do I believe it is the just principle. I believe the juster principle is to give it to the people who have been occupying it, who have been living on it.

Mr. President, suppose the Supreme Court of the United States had decided that the title to the property belonged to Mr. Rector; Rector thought the court would decide that way, or the assignees of Rector did. If that had been the decision of the Supreme Court, does anybody suppose that the occupants of that ground would have remained there paying no rent, or that they would have a title in that property recognized for an instant? Not at all. Take either one of the other claimants; if the Supreme Court had put the title in any of them, these occupants would all have had to pay rent forever.

I am replying now more particularly to the argument about the rent directed by the Court of Claims to be collected there until the United States shall divest itself of what title it has in the property. So I said, and I say again, that I do not believe on reflection Congress would feel that it would be a good investment for the United States to retain that property and undertake to lease it or rent it out. They had better get rid of it, and I think get rid of it on the easiest possible terms. I would fix the purchase-money to the occupants at such rates that they would have no difficulty in meeting it. Mind you there is ground there not occupied by anybody. There is plenty of ground there which there is no building on and no improvements on. That is to be sold also by these commissioners, and the money put in the Treasury from the sales of that land. As to the people there and the ground held by them, I would be very liberal.

It is not unreasonable to expect that the three old claimants who thought they owned that property, who attracted public attention to it, who in one way or another doubtless contributed to its improvement and development, have felt and feel now that they have been harshly dealt by by the Government and that we ought in passing any bill on this subject to consult their interest. The trouble about that—coming back to that point again—is that Congress cannot determine which of the three had the legal right, or which of the three had the most equitable right to all or to any portion of it. Therefore we dispose of it as we do of other public land. The trouble was in making a distinction between a claimant and an occupant, so that both could go before this commission and get something like a fair settlement. When the price is fixed by the commissioners, and they take it at that price, the bill goes on to direct and define how the Commissioner of the General Land Office shall issue a patent to them. They get possession of the patent and get possession of the property, whether it be a small lot or a large one, whether it have a house on it or no house on it, but the title goes out of the United States into the custody and keeping of these people.

Since the property has been decided to belong to the United States there are several powers conferred on this board of commissioners that if properly exercised must be of great benefit to that town. For instance, they lay it off into blocks and squares, into lots, into streets, and into alleys, and they have the power to go where there is an inconveniently narrow street and widen it. They have the right to condemn property upon it, remove it, and make the Hot Springs of Arkansas accessible to the public. If it were not in the United States that could not be done now without very great expense by a municipal government there. But it so happens that the title is in the Government and as we are to dispose of it we can provide now for a system of subdivision of the land into blocks, lots, squares, streets, and alleys, that will make it far more acceptable as a visiting-place and as a habitable place than it ever was before.

The bill also reserves the mountain out of which these hot springs flow. That is reserved not as a public park, I wish the Senate to understand. It is not dedicated to the public. There is no provision made in the bill for the United States spending a dollar. It simply reserves the mountain out of which the hot springs flow from sale at all; and at any time hereafter the Government will have the choice to dispose of that mountain either by sale or by donation, and any vested rights that may arise from improvements made upon that reserved piece of ground will not involve the Government in expense in the future. So we have been looking, if I may be excused for saying so again, quite as much to the interest of the public and the Treasury of the Government for the future as we have toward the accommodation of the occupants and claimants of the present.

The Committee on Public Lands has no sort of interest in this bill separate from the most generous and public spirit. It is due to say that the delegation in Congress from that State have. They are more deeply concerned and the bill I understand has been largely prepared under their supervision and by their consent. It is not likely true that everybody has agreed to it any more than it is likely true that everybody ever will agree to any bill; but I am assured by gentlemen who take the responsibility of saying so to me, that it does embody the sentiment of the people living there and of their representatives in Congress, that it does meet with the favor of the Land Department of the Government, and it is recommended by the Committee on Public Lands; and therefore in its spirit, in its principle, is pretty well indorsed and Congress can afford to pass it I suppose with considerable security.

One more remark and I will conclude. What is most desirable, in my humble opinion more desirable than anything else, is to dispose of it so as to accommodate those people and entail no future liabilities upon the Treasury in consequence of it. This much I have thought it necessary to say because the bill came from the Committee on Public Lands.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Mississippi to the amendment of the committee.

Mr. MAXEY. I call the attention of the Senate to section 19 of this proposition. In that section the United States in the exercise of the right of eminent domain grants to the Hot Springs Railroad Company a reservation through the Hot Springs reservation of one hundred feet in width. There is not in that section 19, nor anywhere else in the bill, any protection whatever granted to occupants or claimants within the hundred feet.

Mr. DORSEY. Let me say to the Senator from Texas that this railroad passes over and through a very worthless valley. There are no occupants; there are no buildings, and no improvements of any kind within some distance of the railroad. In granting this right of way we have simply done what the citizens of that place have petitioned us to do. It is some distance away from the springs, and in no manner affects the right of any settler.

Mr. CLAYTON. And the road is a completed road.

Mr. DORSEY. Mr. President, I hope we shall have a vote.

Mr. MAXEY. I will call the attention of the Senator from Arkansas to the fact that the line of railroad is specifically designated on the face of this bill. I supposed the purpose of the railroad was to go through the village of Hot Springs. If that is so it must necessarily interfere with some one of the claimants or occupants.

Mr. DORSEY. That is not so. I am entirely familiar with the location of the railroad and the location of the owners of property. It is not true that it passes over any property now occupied, and it is not true that it goes within half a mile of the hot springs.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Mississippi to the amendment of the committee.

Mr. ALCORN. I wish to say a single word for the purpose of correcting, not a misstatement by any means, but an inference that might be drawn from the remarks of the Senator from Illinois. He stated, or at least the Senate would have inferred from his remarks, that the occupants were in no worse condition to-day than they were when the decision of the Supreme Court was rendered, in this, that they were then paying rent to the claimants of this land and to-day they are paying rent to the Government of the United States. I wish to say that as a matter of fact that is not correct, in this, that the occupants who are protected under the provisions of this bill, if we understand the bill aright, have in many cases, for mere nominal sums, being poor people, taken ground-rents, the claimant, as a matter of course, always protecting himself against the statute of limitations. For mere nominal sums of one, or five, or fifty dollars a year, they have taken ground-rents for a term of years upon particular portions of the reservation. They went forward and built their houses. Then the Government comes and takes the property—and here is the hardship of the case—takes the occupant's home, his house, and the only thing of value to the Government at the present time, and rents out his house. This disturbs the original claimant in the ratio of perhaps $5 a year; it disturbs the occupant in the ratio of everything he possesses. Not able to pay the rent, he must leave his house, which represents everything that he possesses.

Now I propose by my amendment to remit this matter to the next Congress, simply suspending the rent the occupants and claimants have been drained of at the rate of sixty or seventy thousand dollars during the last twelve months; and I apprehend that when the time comes for them to make purchase they will have been drained of everything that they possess, and they will be unable to purchase.

Mr. PADDOCK. I should like to ask the Senator from Mississippi if the effect of his amendment is not to go behind the decision of the Supreme Court and to open up all the questions of title?

Mr. ALCORN. Not at all. If I thought so, I would not offer it.

Mr. PADDOCK. I think it is.

Mr. ALCORN. I do not think so, for certainly nothing can go behind the decision of the Supreme Court.

Mr. PADDOCK. That was a question which the Committee on Public Lands did not at all consider. They simply took the situation as they found it, subsequently to the decision of the Supreme Court.

Mr. ALCORN. Certainly the amendment I first offered was a plain one. It simply undertook to define the relation of occupant and claimant, so that there should be no confusion in the construction of the law when it came to pass, not upon their rights but their equities that have been recognized by Congress. That was all. Now, if it shall be the pleasure of the Senate to pass the bill in its present form, I certainly shall content myself with the reflection that I have endeavored to discharge a duty which I felt every Senator owed and which I have construed only for myself.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Mississippi to the amendment of the committee.

Mr. ALCORN. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. McCREERY, (when Mr. STEVENSON'S name was called.) I wish to state that my colleague is confined to his room by indisposition.

The roll-call having been concluded, the result was announced—yeas 8, nays 40; as follows:

YEAS—Messrs. Alcorn, Bogy, Davis, Goldthwaite, McCreery, Robertson, Saulsbury, and Whyte—8.

NAYS—Messrs. Allison, Bailey, Blaine, Booth, Bruce, Cameron of Wisconsin, Chaffee, Clayton, Conkling, Conover, Cragin, Dawes, Dorsey, Edmunds, Ferry, Harvey, Hereford, Hitchcock, Ingalls, Johnston, Jones of Florida, Kelly, Logan, McDonald, McMillan, Maxey, Merrimon, Mitchell, Morrill, Oglesby, Paddock, Patterson, Randolph, Sargent, Teller, Wadleigh, West, Windom, Withers, and Wright—40.

ABSENT—Messrs. Anthony, Barnum, Bayard, Boutwell, Burnside, Cameron of Pennsylvania, Christiancy, Cockrell, Cooper, Dennis, Eaton, Frelinghuysen, Gordon, Hamilton, Hamlin, Howe, Jones of Nevada, Kernan, Morton, Norwood, Ransom, Sharon, Sherman, Spencer, Stevenson, Thurman, and Wallace—27.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the committee as a substitute for the bill.

The amendment was agreed to, as follows:

Strike out all after the enacting clause and insert:

That so much of section 5 of an act of June 11, 1870, in relation to the Hot Springs reservation of Arkansas, as provides for the appointment of a receiver by the court, be, and the same is hereby, repealed: *Provided*, That nothing in this section shall be construed to affect the right of the United States to collect and receive rents already due.

SEC. 2. That it shall be the duty of the President of the United States, upon the passage of this act, to appoint three discreet, competent, and disinterested persons, who shall constitute a board of commissioners, any two of whom shall constitute a quorum, who are hereby authorized to perform and discharge the duties specified by this act, and for that purpose shall meet at Hot Springs, in the State of Arkansas, within thirty days after their appointment, and shall, before entering upon the discharge of their duties, subscribe to the usual oath for civil officers, and shall, at their first meeting, organize by the election of one of their number as chairman of the board, having given ten days' notice of the time and place of meeting in some daily paper published at Hot Springs, which notice shall be continued during the entire session of said board of commissioners, and all the evidence herein provided to be taken by said board shall be taken at Hot Springs.

SEC. 3. That it shall be the duty of said commissioners, after examination of the topography of the reservation, to lay out into convenient squares, blocks, lots, avenues, streets, and alleys, the lines of which shall correspond with the existing boundary-lines of occupants of said reservation as near as may be consistent with the interests of the United States, the following-described lands, to wit: The south half of section 28, the south half of section 29, all of sections 32 and 33, in township 2 south and range 19 west; and the north half of section 4, the north half of section 5, in township 3 south and range 19 west, situate in the county of Garland and State of Arkansas, and known as the Hot Springs reservation.

SEC. 4. That before making any subdivision of said lands, as described in the preceding section, it shall be the duty of said board of commissioners, under the direction and subject to the approval of the Secretary of the Interior, to designate a tract of land included in one boundary, sufficient in extent to include, and which shall include, all the hot or warm springs situate on the lands aforesaid, to embrace, as near as may be, what is known as Hot Springs Mountain, and the same is hereby reserved from sale, and shall remain under the charge of a superintendent, to be appointed by the Secretary of the Interior: *Provided, however*, That nothing in this section shall prevent the Secretary of the Interior from fixing a special tax on water taken from said springs, sufficient to pay for the protection and necessary improvement of the same.

SEC. 5. "That it shall be the duty of said commissioners to show, by metes and bounds on the map herein provided for, the parcels or tracts of lands claimed by reason of improvements made thereon" or occupied by each and every such claimant and occupant on said reservation; to hear any and all proof offered by such claimants and occupants and the United States in respect to said lands and in respect to the improvements thereon; and to finally determine the right of each claimant or occupant to purchase the same, or any portion thereof, at the appraised value, which shall be fixed by said commissioners: *Provided, however*, That such claimants and occupants shall file their claims, under the provisions of this act, before said commissioners within six calendar months after the first sitting of the said board of commissioners or their claims shall be forever barred; and no claim shall be considered which has accrued since the 24th day of April, 1876.

SEC. 6. That the said commissioners shall have power to compel the attendance of witnesses and the production of papers touching the occupancy or improvements of or on said lands, or any other matter in any wise belonging or appertaining either to the said lands or the improvements thereon; shall have power to examine under

oath all witnesses that may come before them; and all testimony shall be reduced to writing, and preserved as hereinafter provided.

SEC. 7. That said commissioners shall have power to remove, or cause to be removed, all buildings or obstructions upon the said Hot Springs reservation when the same may be necessary to carry out the provisions of this act, as also all obstructions to streets, alleys, or roads, to be laid off, straightened, or widened, as herein provided for.

SEC. 8. That the commissioners shall have power to straighten or widen any of the present streets or alleys in the town of Hot Springs, and to lay off such additional streets, alleys, and roads in said Hot Springs reservation, or in the town, before the sale or disposition of any of the property herein mentioned, as the convenience of the public and the interest of the United States may require, and for that purpose may condemn all buildings that they may find necessary to condemn in order to straighten or widen said streets and alleys, or to lay off new streets, alleys, and roads, and also all buildings or improvements on the reservation herein made, and to fix the value on all property thus condemned.

SEC. 9. That it shall be the duty of said commissioners, without delay, to file, in the office of the Secretary of the Interior, the map and survey herein provided for, with the boundary-lines of each claim clearly marked thereon, and with each division and subdivision traced and numbered, accompanied by a schedule showing the name of each claimant, and of each lot or parcel of land, the appraised value thereof, numbers to correspond with such claim upon the map; also all of the evidence taken by them respecting the claimants' possessory right of occupation to any portion of the Hot Springs reservation and their findings in each case; also their appraisal of each tract or parcel of land, and the improvements thereon; and it shall be the duty of said commissioners to issue a certificate to each claimant, setting forth the amount of land the holder is entitled to purchase, and the valuation fixed thereon, and also showing the character and the valuation fixed upon the improvements of said tract or parcel of land, and to issue a certificate or certificates to all persons whose improvements are condemned, as herein provided, showing the value of said improvements.

SEC. 10. That it shall be the duty of the Secretary of the Interior, within thirty days after said commissioners file said report and map in his office, to instruct the United States land officers of Little Rock (Arkansas) land district to allow said lands to be entered as hereinafter provided, and to cause a patent to issue therefor; and it shall be the duty of the land officers authorized to sell said lands to give twenty days' public notice in the Little Rock and Hot Springs newspapers that said lands are subject to entry in accordance with the provisions of this act.

SEC. 11. That any claimant or occupant, his heirs or legal representatives, in whose favor said commissioners have adjudicated, shall, under such rules and regulations as the Secretary of the Interior may prescribe, have the sole right to enter and pay for, at the price fixed by said commissioners, the amount of land the commissioners had adjudged that they were entitled to purchase, at any time within twelve months next after the land officers give the public notice herein required.

SEC. 12. That upon the failure of any claimant or occupant in whose favor the commissioners have adjudged to pay the valuation fixed upon said land within the time and in the manner herein prescribed, then said lands, together with all other lands that no one has an adjudicated right to purchase under this act, shall be sold by direction of the Secretary of the Interior to the highest bidder at public sale, for not less than the appraised value thereof, at the land office at Little Rock, after notice of such sale has been advertised three months in some newspaper in the town of Hot Springs, and in such other papers as he may designate, said lands and improvements to be sold together; and the proceeds arising from the sale thereof shall be paid to the receiver of public moneys at the land office in Little Rock, Arkansas.

SEC. 13. That any claimant or occupant who does not desire to purchase the lands adjudicated to him or her at the valuation fixed by said commissioners shall have the right to remove any improvements made on said land, at his or her own cost, before the time fixed for the payment for said lands.

SEC. 14. That the money arising from the sale of the lands shall be paid into the Treasury in the same manner as other moneys arising from the sale of public lands, and held for the purpose herein specified and at the further disposal of Congress; and the money arising from water rents shall be under the control of the Secretary of the Interior, and expended by him for the purposes hereinbefore stated, an account of which shall be annually rendered to Congress, showing the amount received, the amount expended, and the amount remaining on hand at the end of each fiscal year.

SEC. 15. That the United States marshal for the judicial district of Arkansas in which the Hot Springs may be situated shall execute all processes required to be executed by this act.

SEC. 16. That said commissioners shall hold their offices for the period of one year from the date of appointment and shall have power to employ competent engineers to make the maps and surveys herein provided for, at a reasonable compensation; to employ a stenographer, who shall also act as clerk, at a compensation of not more than $8 per day; to rent an office and purchase the necessary stationery; and the compensation of said commissioners shall be $10 per day each, all of which shall be paid by the Secretary of the Interior upon the certified vouchers of said commissioners.

SEC. 17. That the right of way be, and the same is hereby, granted to the Hot Springs Railroad Company, a company duly incorporated and organized under the laws of the State of Arkansas, to construct, maintain, and operate its line of railroad upon, over, and across the Hot Springs reservation in the State of Arkansas, as follows: Commencing on the east line of the south half of section 33, in township 2 south of the base-line, in range 19 west of the fifth principal meridian, in the county of Garland and State of Arkansas, at a point about six hundred feet from the southeast corner of said section; thence running up a ravine parallel to and south of the Benton wagon-road, westwardly through said section, to a point where the same will intersect with the Malvern stage-road at a point south of the graveyard on said reservation.

SEC. 18. The right of way hereby granted shall consist of a strip of land fifty feet wide on each side of said railroad, measured from the center line thereof, from the point on the east line of said section of land where said railroad enters the same to the terminus of the track of said road: *Provided*, That said railway company may purchase upon the same terms as individuals land for shops, depots, and other purposes, not exceeding twenty acres: *Provided, however*, That Congress may at any time alter, amend, or repeal this section.

SEC. 19. That a suitable tract of land, not exceeding five acres, shall be laid off by said commissioners, and the same is hereby granted to the county of Garland, in the State of Arkansas, as a site for the public buildings of said county: *Provided*, That the tract of land hereby granted shall not be taken from the land named herein for the use of the United States.

The bill was reported to the Senate as amended and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

On motion of Mr. DORSEY the title of the bill was amended so as to read: "A bill for the disposition of the reservation of Hot Springs, and for other purposes."

DISTRICT TAX BILL.

The PRESIDENT *pro tempore* laid before the Senate the action of the House of Representatives nonconcurring in the amendments of the Senate to the bill (H. R. No. 4554) for the support of the government of the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes, and asking for a conference on the disagreeing votes.

Mr. DORSEY. I move that the Senate grant the conference asked for.

The motion was agreed to.

By unanimous consent, the President *pro tempore* was authorized to appoint the committee on the part of the Senate.

Messrs. SPENCER, DORSEY, and BARNUM were appointed.

EXECUTIVE SESSION.

Mr. WRIGHT. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After thirteen minutes spent in executive session, the doors were re-opened, and (at five o'clock and forty minutes p. m.) the Senate took a recess until to-morrow, Saturday, February 24, at ten o'clock a. m.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 23, 1877.

The SPEAKER. The Chair decides that a new legislative day has been reached, and the Chaplain will now offer prayer.

Prayer by the Chaplain, Rev. I. L. TOWNSEND.

The Journal of yesterday was read and approved.

ENROLLED BILLS SIGNED.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 901) for the relief of J. E. Robertson, of Indianapolis, Indiana; and

An act (S. No. 691) for the relief of Edward A. Leland.

SMOKING IN THE HALL.

The SPEAKER. The Chair desires the attention of the House for a moment while he directs attention to a matter of complaint which has come to him. It has been a subject of repeated complaint that Rule 65 is violated on the floor of the House. That rule is as follows:

Smoking is prohibited within the bar of the House or gallery.

The Chair desires to say that the complaint which comes to him to-day is that gentlemen who are not members of the House, but who are here by the courtesy of the House, are in the habit of smoking within the bar of the House. The Chair has noticed that members sometimes in the hurry of coming from the cloak-room to vote keep their cigars in their hands, but hereafter the Chair requests that members when they come into the Hall of the House from the cloak-room, where they have the privilege of smoking, will see that they do not smoke within the bar. The ventilation of the Hall is a subject of serious complaint and a source of injury to the health of members; and smoking inside the bar of the House increases and augments the difficulty in that respect. The Chair hopes that, therefore, from now until the close of the session he will have no further complaints in this respect.

Mr. BANKS. Will the Chair allow me to ask him a question?

The SPEAKER. Certainly.

Mr. BANKS. If it is not the privilege and duty of gentlemen to smoke cigars here, why is it that from a half dozen to a dozen cigar-stands for the sale of cigars are found in this part of the Capitol?

The SPEAKER. In answer to that question the Chair desires to say that since he was called to the position which he now occupies he has given no permission for any cigar-stand whatever anywhere about the building, and that the fault, if there be any in that respect, does not rest with the present occupant of the Chair.

Mr. BANKS. I ask consent to offer a resolution instructing the Committee on Public Buildings to report a resolution that shall forbid the sale of cigars within that part of the Capitol controlled by the House of Representatives.

The SPEAKER. The Chair soon after occupying the place he now holds was besieged by persons desiring to have stands in the south wing of the Capitol for every conceivable purpose as to the sale of articles. These applications became oppressive to the Chair, notwithstanding constant refusal upon his part. He therefore transferred that duty to the Committee on Public Buildings and Grounds, believing it is not a part of his duty to allow these stands about the building. The Chair has always entertained the opinion that they ought not to be here at all, that persons who pay rent in the city should be treated properly, and that persons should not be allowed to sell in the Capitol without the payment of any rent. The Chair will entertain the resolution of the gentleman from Massachusetts, [Mr. BANKS.]

Mr. BANKS. I offer then the following resolution:

Resolved, That the Committee on Public Buildings be instructed to report forthwith a resolution forbidding the sale of cigars within that portion of the Capitol controlled by the House of Representatives.

Mr. FRYE. Will the gentleman allow an amendment to insert after the word "cigars" the words "or any other merchandise?"

Mr. BANKS. I accept that amendment.

Mr. KELLEY. Do not include newspapers.

Mr. FRYE. No; I ask the gentleman to add these words, "or any other merchandise, except newspapers, periodicals, and photographs."

Mr. HEWITT, of New York. Literary ware.

Mr. BANKS. I ask for the reading of the resolution as modified.

The Clerk read the resolution, as modified, as follows:

Resolved, That the Committee on Public Buildings be instructed to report forthwith a resolution forbidding the sale of cigars or any other merchandise, except newspapers, periodicals, and photographs, within that portion of the Capitol under the control of the House of Representatives.

Mr. HOLMAN. Is that resolution in order.

The SPEAKER. The Chair rules that it is in order.

Mr. HOLMAN. It is a very late hour in the session to be adopting a resolution like that. Let it be referred to the Committee on Public Buildings and Grounds.

The SPEAKER. Does the gentleman from Massachusetts [Mr. BANKS] desire a reference?

Mr. BANKS. No, sir; I desire a vote on the resolution. It is certainly in order, because the Chair called attention to this matter as interfering with the business of the House.

The SPEAKER. The Chair thinks that the resolution is clearly in order. The House has a right to protect itself.

Mr. BANKS. I call the previous question on the adoption of the resolution.

The previous question was seconded, there being on a division—ayes 91, noes 59.

The main question was then ordered, being upon the adoption of the resolution.

Mr. LANDERS, of Indiana. I desire to ask a question for information. I want to know what is meant by the term "merchandise?" I want to know whether it includes spirituous liquors?

The SPEAKER. It is not within the province of the Chair to answer that question.

The question was taken upon the adoption of the resolution; and on a division there were—ayes 84, noes 74.

Before the result of the vote was announced,

Mr. FRANKLIN called for tellers.

The question was taken upon ordering tellers; and there were 34 in the affirmative.

So the affirmative being more than one-fifth of a quorum, tellers were ordered; and Mr. BANKS and Mr. HOLMAN were appointed.

The House again divided; and the tellers reported that there were—ayes 70, noes 88.

Before the result of this vote was announced,

Mr. BANKS called for the yeas and nays.

Mr. HARRIS, of Virginia. O, no; this is too small business for the yeas and nays.

The question was taken upon ordering the yeas and nays, and upon a division there were ayes 28, noes 127.

So (one-fifth not voting in the affirmative) the yeas and nays were not ordered.

The resolution accordingly was not adopted.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed, without amendment, bills of the following titles:

A bill (H. R. No. 3163) to authorize the Ocean City Bridge Company to maintain and operate a bridge heretofore erected over and across Synepuxent Bay, in Worcester County, Maryland; and

A bill (H. R. No. 4668) to perfect the revision of the statutes of the United States and of the statutes relating to the District of Columbia.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. No 4559) making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1877, and for prior years and for other purposes.

TARIFF LAWS.

Mr. KELLEY, by unanimous consent, presented the following memorial of the Philadelphia Board of Trade, relative to the tariff laws; which was referred to the Committee of Ways and Means, and ordered to be printed in the RECORD:

To the honorable the Senate and House of Representatives of the United States:

The following memorial respectfully showeth that the Philadelphia Board of Trade deprecates a change under the plea of revision in the tariff and internal-revenue laws of the country, believing that any agitation concerning them at this time must result largely to the prejudice of the industrial interests of the United States; and while we recognize many errors and conflicting rules in the present tariff, they are of minor importance compared with the vast benefits resulting from our present protective laws.

In view of the foregoing, the Philadelphia Board of Trade respectfully requests your honorable bodies to make no change or alteration in the present tariff of duties, believing stability in our revenue laws to be of great importance and that any material change would unsettle business and prove a great disadvantage to our people generally.

Resolved, That our manufacturing interests are rapidly developing under the beneficent protection of our tariff laws, which, continued for a few years longer, will enable our manufacturers and producers to compete with their fellow-manufacturers in all parts of the world.

And your memorialists will ever pray, &c.

JAMES O. HAND, *Vice-President.*
GEO. L. BUZBY, *Secretary.*

PHILADELPHIA, *February* 19, 1877.

DEFICIENCY APPROPRIATION BILL.

Mr. HOLMAN asked and obtained unanimous consent to have taken from the Speaker's table the bill, with Senate amendments, (H. R. No. 4559,) making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1877, and for prior years, and for other purposes; and the bill, with the amendments, was ordered to be printed and referred to the Committee on Appropriations.

JOHN W. DODD & CO.

Mr. HILL, from the Committee of Ways and Means, reported back the bill (H. R. No. 4252) for the relief of John W. Dodd & Co., of Indianapolis, Indiana; and moved that the committee be discharged from its further consideration and that it be referred to the Committee on Public Buildings and Grounds.

The motion was agreed to.

MEMORIAL ADDRESSES ON THE LIFE AND CHARACTER OF SPEAKER KERR.

Mr. VANCE, of Ohio. I ask unanimous consent to take from the Speaker's table for action at this time Senate bill No. 1270, to authorize the printing and distribution of the memorial addresses on the life and character of the late Michael C. Kerr, Speaker of the House of Representatives.

The bill, which was read, provides that nine thousand copies of the memorial addresses on the life and character of the late Michael C. Kerr, Speaker of the House of Representatives, be printed; three thousand copies for the use of the Senate and six thousand copies for the use of the House of Representatives; and that the Secretary of the Treasury have engraved and printed the portrait of Mr. Kerr to accompany the same, for which the sum of $500, or so much thereof as may be necessary, is appropriated out of any moneys in the Treasury not otherwise appropriated.

There being no objection, the bill was taken from the Speaker's table and read a first and second time.

Mr. VANCE, of Ohio. I am instructed by the Committee on Printing to move to amend this bill so as to provide for the printing of twelve thousand copies in all; of which three thousand copies shall be for the use of the Senate and nine thousand copies for the use of the House of Representatives. That is the usual proportion in the distribution of copies.

The amendments were agreed to; and the bill, as amended, was ordered to a third reading, read the third time, and passed.

Mr. VANCE, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRINTING EXTRA COPIES OF DOCUMENTS.

Mr. VANCE, of Ohio, asked and obtained unanimous consent to have taken from the Speaker's table and referred to the Committee on Printing the following concurrent resolutions:

Resolved by the Senate, (the House of Representatives concurring,) That there be printed 4,500 extra copies of the Report of the Commissioner of Fish and Fisheries for the years 1874 and 1875; of which 1,000 copies shall be for the use of the Senate, 2,500 for the use of the House of Representatives, and 1,000 for the use of the commissioner of fish and fisheries.

Resolved by the Senate, (the House of Representatives concurring,) That there be printed 4,500 extra copies of the Report of the Commissioner of Fish and Fisheries for the years 1875 and 1876; of which 1,000 shall be for the use of the Senate, 2,500 for the use of the House of Representatives, and 1,000 for the use of the commissioner of fish and fisheries.

Resolved by the Senate, (the House of Representatives concurring), That 5,000 additional copies of the testimony taken before the Committee on Privileges and Elections in regard to the late presidential election in the States of Louisiana, Florida, and South Carolina, and to the casting of the electoral votes in the State of Oregon, be printed; 1,500 for the use of the Senate and 3,500 for the use of the House of Representatives.

Resolved by the Senate, (the House of Representatives concurring,) That of a digest of the opinions of the Attorneys-General and of the decisions of the Federal courts with reference to international law and kindred subjects, prepared at the Department of State, there be printed, in addition to the usual number, 500 copies for the use of the Senate, 1,500 copies for the use of the House of Representatives, and 1,000 copies for the use of the Department of State.

EULOGIES OF SENATOR CAPERTON.

Mr. WILSON, of West Virginia, asked and obtained unanimous consent to have taken from the Speaker's table the bill (S. No. 1271) to authorize the printing and distribution of the eulogies delivered in Congress on the announcement of the death of the late Allen T. Caperton, a Senator from the State of West Virginia; which was read a first and second time.

The bill, which was read, provides that nine thousand copies of the eulogies delivered in the two Houses of Congress upon the late Allen T. Caperton, a Senator from the State of West Virginia, be printed; three thousand copies for the use of the Senate and six thousand copies for the use of the House of Representatives; and that the Secretary of the Treasury have engraved and printed the portrait of Mr. Caperton to accompany the same, for which the sum of $500, or so

much thereof as may be necessary, is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated.

The bill was ordered to a third reading, read the third time, and passed.

Mr. WILSON, of West Virginia, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

W. S. M'COMB.

Mr. COOK. I am instructed by the Committee on Military Affairs to report back, with a unanimous recommendation in favor of its passage, Senate bill No 286, for the relief of W. S. McComb, of the State of Georgia.

Mr. WILSON, of Iowa. Let the bill and report be read.

The bill was read, directing the proper accounting officers of the Treasury to settle the claim of W. S. McComb, of the State of Georgia, for furnishing stable room for Government animals after the suppression of hostilities in the late war, and for which a voucher is now on file in the Treasury Department, and to allow him the sum of $195, the amount named in the voucher.

Mr. WILSON. As there is a voucher on file, I will make no objection to the bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. COOK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. HOLMAN. I desire to move that the House now resolve itself into Committee of the Whole to resume the consideration of the sundry civil bill.

Mr. BRIGHT. Pending that motion, I move that the House resolve itself into Committee of the Whole on the Private Calendar.

The SPEAKER. This being Friday, the Chair entertains the motion of the gentleman from Tennessee [Mr. BRIGHT] as taking precedence of the motion of the gentleman from Indiana.

Mr. BRIGHT. This is objection day.

The question being taken on the motion of Mr. BRIGHT, there were—ayes 72, noes 98.

Mr. BRIGHT called for tellers.

Tellers were not ordered.

So the motion of Mr. BRIGHT was not agreed to.

The question then recurring on the motion of Mr. HOLMAN that the House resolve itself into Committee of the Whole to resume the consideration of the sundry civil appropriation bill, the motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. HAMILTON, of Indiana, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 3163) to authorize the Ocean City Bridge Company to maintain and operate a bridge heretofore erected over and across Synepuxent Bay, in Worcester County, Maryland; and

An act (H. R. No. 4668) to perfect the revision of the statutes of the United States, and of the statutes relating to the District of Columbia.

GOVERNMENT FOR THE DISTRICT.

The SPEAKER announced the appointment of Mr. NEAL, Mr. HARTRIDGE, and Mr. CRAPO as the committee of conference on the part of the House upon the disagreeing votes of the two Houses on the bill (H. R. No. 4554) for the support of the government of the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes.

SUNDRY CIVIL APPROPRIATION BILL.

The House then, in accordance with the motion previously adopted, resolved itself into Committee of the Whole (Mr. BUCKNER in the chair) and resumed the consideration of the bill (H. R. No. 4680) making appropriations for sundry civil expense of the Government for the fiscal year ending June 30, 1878, and for other purposes.

The pending amendment was that offered by Mr. HALE, to insert the following:

The balance, not to exceed $18,000, of the appropriation for survey for coast defenses now standing on the books of the Treasury Department is hereby made available for the surveys and reconnaissances by the engineer officers attached to the headquarters of the various military divisions and departments and for the publication of maps for the use of the War Department and the Army.

Mr. HOLMAN. The date of the appropriation should be inserted. Let the amendment be modified by inserting after the word "appropriation" the words "of February 10, 1875."

Mr. HALE. I have no objection to that modification.

The amendment, as modified, was adopted.

Mr. PIERCE. I move to amend by inserting the following:

National Medical Library: For printing and stereotyping three thousand copies of the catalogue of the National Medical Library, and to obtain the necessary type to have the work done by the Government Printer in the style approved by the Surgeon-General, $50,000.

Mr. HOLMAN. I make the point of order that there is no law authorizing the appropriation.

Mr. PIERCE. If there is not, I hope we shall make one. The National Medical Library, the catalogue of which it is proposed to print, is the largest——

The CHAIRMAN. The Chair must sustain the point of order unless the gentleman from Massachusetts [Mr. PIERCE] can show some law authorizing the appropriation.

Mr. PIERCE. This National Medical Library is established by the Government of the United States. This is a simple proposition to print a catalogue of that library. Now I submit that this must be within the provisions of the law. The library is the property of the United States; it is so by the laws of the United States. It cannot be possible that Congress in a bill of this kind cannot order the printing of a catalogue of a library which the Government has purchased and now owns.

Mr. HOLMAN. It is very clear that there must be some express law authorizing such an expenditure as this.

Mr. WARREN. Does the gentleman contend that we cannot pass a law to provide for binding books for our library?

Mr. HOLMAN. Certainly you can, but you cannot put it on an appropriation bill.

The CHAIRMAN. The Chair must sustain the point of order.

The Clerk read as follows:

For purchase of stock for the nursery and care of the same, $500.

Mr. WARREN. I raise a point of order on this clause of the bill, that there is no existing law authorizing the appropriation. There is doubtless a general law establishing this nursery, just as there is a general law establishing the National Medical Library; but there is no express law authorizing this appropriation.

Mr. HOLMAN. I concede the point of order. Let the clause go out.

The CHAIRMAN. The Chair rules that the clause just read is out of order.

The Clerk read as follows:

For improving various reservations, $2,000.

Mr. HOLMAN. I move to amend by inserting after what has just been read the following:

And the Commissioner of Public Buildings and Grounds is hereby prohibited from taking down or removing any paling or fence now inclosing any of the reservations, parks, or squares belonging to the United States in the city of Washington, unless hereafter expressly authorized by Congress.

Mr. HALE. I raise a point of order on this amendment.

Mr. HOLMAN. If the gentleman raises a point of order I shall merely have to change the form of the amendment. Why make that point of order?

Mr. HALE. Well, to begin with, I do not think this is a good thing to do; and besides, it is new legislation.

Mr. HOLMAN. I trust the gentleman from Maine will allow a vote on my proposition.

Mr. HALE. I must insist on the point of order because I think——

The CHAIRMAN. The Chair sustains the point of order.

Mr. HOLMAN. In lieu of the words stricken out, I move to insert the following:

Provided, That no sum of money herein appropriated shall be expended by the Commissioner of Public Buildings and Grounds to take down or remove any fence or paling around any square or reservation in the city of Washington.

Now the object of this is very apparent. The vandalism of removing these fences around inclosures and turning into public commons the parks of this city ought to have been rebuked long since, as not only necessarily expensive in the expenditure of large sums of money, but taking away from this city so far as these parks are concerned their principal elements of beauty. If there ever was a piece of vandalism perpetrated anywhere it was in the removal of the inclosure around the reservation at the northwest corner of Pennsylvania avenue and Seventh street, one of the coziest, most cheerful, country-like spots in this city; in removing the fence around it and turning it into a common, making it no more graceful or attractive to the eye than the ordinary streets of the city. I am afraid the same vandalism will invade Lafayette Square, and when we come back here we shall find that too has had the iron fence taken down and that beautiful piece of ground turned into a common. My amendment is offered for the purpose of putting a stop hereafter to these acts of vandalism.

Mr. HALE. Mr. Chairman, I shall be very glad to take lessons in taste from the gentleman from Indiana, but I cannot agree with him on this because in my judgment one of the most unsightly objects which arrests the eye of the beholder in the city of Washington are these fences about the different reservations and other pieces of Government property. They have the appearance, with their high iron fences, of the inclosures surrounding jails, and are dark, gloomy, forbidding places, instead of being pleasant, cheerful, and attractive spots where people might congregate. These fences instead of being maintained ought every one of them to come down and the pleasant parks and reservations of the city should be seen in whatever beauty we give them by our appropriations. The gentleman is all wrong in this regard, and instead of discouraging the taking down of these unsightly fences we ought to encourage it. I yield the remainder of my time to the gentleman from Pennsylvania, [Mr. CLYMER.]

Mr. CLYMER. Mr. Chairman, I try in all matters involving the expenditure of the public money to follow the lead of the Chairman of the Committee on Appropriations; but, sir, on this point——

Mr. MILLS. I raise the point of order that questions of taste are not proper questions for discussion on this floor.

Mr. CLYMER. I have the floor and will proceed. I was about to say, Mr. Chairman, that on all questions involving the expenditure of public money I am in the habit of agreeing with the chairman of the Committee on Appropriations, but in a matter of taste and public convenience and what is most attractive to the eye I trust we may each be allowed to exercise his own individual opinion. In the olden time, before proper police regulations were enforced in this city, when animals were allowed to stray at large and go upon the public reservations, when the parks and other reservations in this city were injured by these incursions, it was proper to provide the parks should be fenced and inclosed as though they were prison-yards. But now, sir, when there is no longer any such necessity, in my judgment it does seem to be a sort of barbarism to keep these green spots, these oases in this great city, closed to the public and surrounded with iron fences. These fences are a matter of expense which hereafter need not be incurred, and surely if we are to be governed in this by that good taste which seems to prevail in other large cities of the world we would take these fences down. It would be better to do as they do in the olden countries, where higher and more refined taste prevails in respect to these matters, and put up on all these reservations the mere notification, "These grounds are committed to the care of the public." Nowhere in any continental city is there any necessity for other protection of the trees, plants, and shrubbery in the public parks than that notification—that they are committed to the care of the public. I believe our own people are as well educated, as mindful of what good taste requires, as desirous to have their public parks as convenient and as beautiful as any people on the continent. Therefore, I would be willing to have all these fences around the public reservations in this city removed.

Mr. HARRISON. I move to strike out the last word for the purpose of giving the gentleman from Indiana some information. He wishes to know why these fences have been taken down. Now, there is the best reason in the world why they were taken down. They were taken down because some one wanted to have the job to put up a new fence. [Laughter.] The old fence was a perfect one, better far than the present one, and yet some person wanted a job to put up a new one. That was the reason why the old one was torn down and the present one was put up. Another object seems to have been to let the boys take that old fence to play see-saw upon the reservation, as can be seen any day by any one who passes that place. [Laughter.]

The gentleman from Pennsylvania [Mr. CLYMER] says that in foreign countries they have their parks open and leave them to public taste for protection. That is true. But there is behind that a police regulation so effective that, if the public taste does not protect the parks, every one desecrating them is thrown into prison and punished severely. We cannot do that here, but the idea of having in this city, which has so much required to be done for it, fences pulled down that would last for years, simply to give some contractor a chance to put up a new fence or to satisfy the æsthetic taste of a few individuals, is absolute folly.

The question was taken on Mr. HOLMAN'S amendment; and it was agreed to, ayes 67, noes not counted.

The Clerk resumed the reading of the bill, and read as follows:

For pedestal for the statue of General George H. Thomas, the unexpended balance of the sum appropriated for this purpose in the act of July 31, 1876, is hereby re-appropriated and rendered available.

Mr. CATE. I offer the following amendment, to come in immediately after that paragraph:

For second installment for the colossal statue of Admiral Farragut, $5,000.

Mr. HOLMAN. That amendment should come from the Committee on the Library, and I see that the chairman of that committee is present, the gentleman from Pennsylvania, [Mr. CLYMER.]

Mr. CLYMER. That is right; it is proper that this appropriation should be made.

Mr. HOLMAN. It is a subject which the Committee on the Library is of course conversant with. I know there is a law authorizing this contract to be made, and if the committee decide that this amount is due, all right.

Mr. CLYMER. Proper evidence has been furnished to the Committee on the Library that this installment is due.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read as follows:

Construction, maintenance, and repair of military telegraph lines: For the construction and continuing the construction, maintenance, and use of military telegraph lines on the Indian and Mexican frontiers; for the connection of military posts and stations, and for the better protection of immigration and the frontier settlements from depredations, especially in the State of Texas and the Territories of New Mexico and Arizona, and the Indian Territory, under the provisions of the act approved March 3, 1875, $15,000.

Mr. THROCKMORTON. I move to amend that paragraph by adding to it the following:

And it is made the duty of the operators of the line, when Associated Press dispatches and others of general news are transmitted over it at Government expense, to give one copy of the same for the use of the citizens at each station, when requested.

Mr. HOLMAN. I wish for the present to reserve the point of order on that amendment.

Mr. THROCKMORTON. I will explain the object of the amendment. I would not be understood as reflecting at all upon the officers in charge of the military telegraph line. They have usually been exceedingly kind to the people of the country through which the line passes, but at one single station the people have been refused the use of the Associated Press dispatches. Those dispatches cost the Government nothing, as I understand it, and this amendment only proposes to require that one copy may be delivered to the citizens at any station upon the line where they request it, and I hope the amendment will be adopted.

Mr. TOWNSEND, of New York. I rise to oppose this amendment, and while upon my feet I wish to call the attention of the committee to certain remarks made by the gentleman from Illinois [Mr. HARRISON] yesterday. He said:

I am exceedingly glad to hear so sensible a speech from the gentleman from New York, [Mr. TOWNSEND.] He has spoken argument, and has not shown his temper or his teeth.

Now, sir, this is the second time that the gentleman has arraigned my manners in this House. I have not chosen that gentleman as my guardian and I repudiate his guardianship, and I say to him, through you, sir, that it is easy to be impertinent without being witty.

Mr. HARRISON. And the gentleman illustrates his statement.

Mr. TOWNSEND, of New York. I hope the gentleman will let my manners alone when they are not connected with the public business.

The question was taken on Mr. CATE'S amendment; and it was agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For geographical surveys of the territory west of the one hundredth meridian, and for preparing, engraving, and printing the cuts, charts, plates, and atlas-sheets for geographical surveys west of the one hundredth meridian, $20,000; which shall be immediately available.

Mr. SCHLEICHER. I move to amend that paragraph by striking out "$20,000" and inserting in lieu thereof "$50,000."

Mr. Chairman, any one who is familiar with the nature of this work will readily see that, for the purpose of continuing this work in the field and also the publication of maps connected with this survey, $20,000 is entirely insufficient and such an appropriation would result in crippling the work.

Now I would like to call the attention of the House to this fact: that there has been, for the several years through which this survey has been carried on, perishable stock accumulated, worth between one and two hundred thousand dollars. And I would ask gentlemen here to consider whether it is a wise policy to cripple this work and to keep this perishable property on hand, or if it would not be wiser to use it to its full extent and utilize the work which has been previously done. I have myself examined some of the work done on these surveys, and I can say that it compares very favorably with any work of that kind done anywhere in Europe. There is at present no civilized government which does not carry on work of a similar nature.

It seems to me that it must be clear to everybody that one of the most practical branches of knowledge is an intimate knowledge of our country, and that knowledge can neither be acquired nor imparted without these surveys and maps. It is a policy recognized by every civilized government, and this Government has followed it in the past. The Committee on Appropriations have recognized the usefulness of these surveys by making an appropriation, but I ask now is it a wise policy to cripple this work when there is a large stock of perishable material on hand, and merely keep the work scarcely alive, instead of placing those in charge of it in a condition to prosecute the work vigorously and to the best interests of the country?

Mr. FORT. I am in favor of appropriating liberally for the purpose of collecting this information. But unless some different policy is adopted by Congress, it sometimes occurs to me that the whole thing ought to be dispensed with. The information is collected, and this report is made and it is printed for the use of the Department. The next thing is that we see in some newspaper a statement that Wheeler's report has been made and is ready for distribution, and then thousands of letters come to us asking for a copy of that report. We get no copies whatever for free distribution among the people, and if we had copies we would have to pay the postage on them to the people. Now, unless Congress is ready in the first place to pay the postage on these documents, for the printing of which they pay, it occurs to me that it is not worth while to spend so much money in making the collection of this information.

Why, sir, you might as well require members of Congress to pay for the printing of these documents as to require them to pay the postage on them. Worse than all that, you have to answer every one of these letters that come to you asking for a copy of these works, and you cannot answer them in a moment; you must explain why you cannot furnish the copies, and it is a great labor to do so.

In my judgment something ought to be done by Congress, either to provide for distributing these works among the people or to satisfy them that members of Congress cannot furnish them. They all expect them. I received this morning several letters asking for these very reports, because the writers of those letters had seen in the public press a statement that these reports were now ready for distribution. Now the fact is that we have none of these reports for distribution.

If we appropriate so much money to collect this information (and

I am in favor of it) I think it is quite time we should go further and provide for distributing this information among the people. What good does it do the people to collect all this information and file it away in the War Department or Interior Department, or elsewhere? What distribution is made of these documents I do not know. I presume of the documents published a very limited number are distributed among the people. While we are at this thing, and appropriating so much money for collecting this information, let us determine how this information shall be distributed among the people.

Mr. LANE. I move to strike out the last word, for the purpose of saying that I concur most fully in what has been said by the gentleman from Illinois, [Mr. FORT.] We are continually importuned by our constituents for these reports, or the results of these surveys. That indicates to my mind, and I must be guided by the wishes of my people, the importance and value of this work. I insist that there should be appropriated an amount commensurate with the value of the work. I think also with the gentleman from Illinois [Mr. FORT] that an appropriation should be made to enable us to distribute this work among our constituents. I yield the remainder of my time to the gentleman from Connecticut, [Mr. WAIT.]

Mr. WAIT. I certainly hope this amendment will be adopted. I look upon these reports as most valuable. Representing as I do a district in an Eastern State, I can say that I have sent all the copies allotted to me to my district and placed them in public libraries, and they are invaluable to the public for examination. They give a knowledge of the West, of the resources of that country, especially of the mineral resources, the character of its soil, its climate and productions. Coming as I do from the far East, I can say that I value these reports very highly and have sent them to the public libraries in my district, where the public can examine them and acquaint themselves with what the West is and its resources.

In regard to distributing these reports, I desire to say that I send mine to my district by express for fear they will be lost. The public institutions to which I give these works are willing to pay the cost of expressage, or indeed any price, in order to obtain them. For one, I certainly hope that the amendment will prevail, and that the sum of $50,000 will be appropriated to carry on these surveys and to complete this important work. I do not know that I can say anything further.

Mr. WELLS, of Mississippi. I wish to ask the gentleman this question: While I am in favor of this appropriation, I would ask him if there should not be an amendment providing some means of distributing these reports?

[Here the hammer fell.]

The CHAIRMAN. The time of the gentlemen has expired.

Mr. WAIT. I am willing to vote for an amendment of that kind. I want this information published so that it can be distributed among the people.

Mr. ATKINS. I want to say that I think the House of Representatives ought to consider this proposition a little. I have made some little investigation in regard to it. I do not profess to be by any means a scientific man. I want to say that I am not opposed to an appropriation for this purpose.

The point I want to bring to the attention of this House is that we are making appropriation for duplicate and triplicate work. There are three surveying parties in the field; one under Lieutenant Wheeler, to which this paragraph relates, one under Major Powell, and one under Professor Hayden. Now I assert it to be the fact that these three surveying parties or companies have been to a considerable extent going over the same territory and making the very same surveys. The Government is appropriating for these three companies to make the same report with similar maps.

Mr. WIGGINTON. They are very different reports.

Mr. ATKINS. I beg the gentleman's pardon, they go over the same territory.

Mr. WIGGINTON. While in some instances they may go over the same territory, the surveys are different; some of them are geological and some are geographical surveys.

Mr. ATKINS. They embrace the same territory.

Mr. LANE. Wherein?

Mr. ATKINS. In Wyoming and in Utah and Southern California.

Mr. LANE. I do not think that is so.

Mr. WIGGINTON. The gentleman is mistaken, at least as to their embracing the same territory in Southern California.

Mr. ATKINS. I think this appropriation is intended to subserve scientific purposes. We all want these geological and geographical surveys, and deem them important for the information of the people. But I apprehend, I believe that these three appropriations contain more of personal interest than they do of any purpose to subserve the best scientific interests of the country. I believe these three companies ought to be consolidated. I expressed a wish the other day that this matter should all be handed over to the President of the United States, believing that he would appoint a commission that would do this work more economically and more perfectly than it is now being done. I however offer that only as a suggestion; I make no motion about it. But I certainly think the Committee on Appropriations have reported a sufficient sum for these purposes. They propose to appropriate $20,000 to enable Lieutenant Wheeler to complete his survey. They also propose an appropriation of $20,000 for the continuation of Major Powell's survey. I understand that both these gentlemen get transportation from the Army. Lieutenant Wheeler is an officer of the Army. Professor Hayden, however, does not get, as I understand, any Army transportation. Hence the appropriation for his surveying company has been enlarged to $50,000.

I think the bill appropriates enough for these purposes. I believe that the duty of Congress (it cannot be done this session, but it should receive prompt attention next session) is to take up this subject and put it into the hands of a committee that will make proper investigation and report, so that the House can act advisedly, and that we may not make appropriations here for three companies doing duplicate and triplicate work, making duplicate and triplicate maps and duplicate and triplicate reports.

Mr. FORT. I move to amend the amendment by adding the following:

And the further sum of $50,000 is hereby appropriated for printing the report of such survey, to be distributed by Congress. And all public documents published by order of Congress shall pass in the mail free of postage.

Mr. HOLMAN. I make a point of order on that amendment.

The CHAIRMAN. The amendment is out of order.

Mr. FORT. I modify the amendment by striking out the last clause.

Mr. HOLMAN. It is still subject to the point of order. In the first place there is no law authorizing this report to be hereafter made; secondly, under the rule this subject must go to the Committee on Printing.

The CHAIRMAN. The point of order is sustained.

Mr. SCHLEICHER. I hope that my amendment will be adopted. This book and these maps are of such a character that they are not expected to be found in every house; it is not everybody in the community that wants them. But they ought to be in every local library; and I believe that the present mode of distribution, giving every member of Congress three copies, is sufficient to insure their distribution to the various local libraries throughout the country. In this way these documents are accessible to all those who take an interest in them. Those who do not take interest enough in them to visit the libraries in order to see them, have no business to have them at home.

The gentleman from Tennessee [Mr. ATKINS] makes a great mistake in confounding a geological survey with a geographical survey. One is the basis of the other. The country must first be laid out and examined topographically and geographically, and afterward the geologist goes over the ground and finds what substances it contains. The two methods of survey are not connected at all.

My friend from Tennessee appears to impute personal motives in connection with this matter. I am sure the gentleman has no right to impugn the motives of those who urge this increased appropriation. Such imputations are entirely out of place.

Mr. ATKINS. I beg the gentleman's pardon. I do not question the motives of any member of Congress; but I know the fact that there are persons going about this Capitol soliciting votes of members in regard to this matter.

Mr. SCHLEICHER. Well, that may be so. Such applications are made on almost every bill coming before us; and if such persons urge good reasons which convince our judgment, I see no objection, because it is not supposed that every member of Congress is well-posted upon every subject, scientific and otherwise; and if upon information obtained from some one better informed than himself he feels satisfied and supports a measure, then I say he is perfectly right.

I wish to call attention to the fact that this company has on hand probably one hundred and forty or one hundred and fifty mules, and a large quantity of perishable property—tents, and other sorts of supplies. Are these things to lie idle, and are the mules not to be fed for want of money? Is it not better economy to give money enough to do vigorous work and when the work has been completed, stop?

Mr. ATKINS. If there are supplies on hand why not use them in the Army?

Mr. HOLMAN. I rise for the purpose of asking that the debate on this paragraph terminate. The early passage of this bill, as gentlemen must see, is a matter of the highest public importance, and the ordinary time has been consumed in this debate. But before asking that the debate close, I wish to make one or two suggestions.

My friend from Tennessee [Mr. ATKINS] is mistaken in one respect. There are four of these surveys provided for in this bill. An appropriation of $18,000 for Major Elliot's survey has been added to the bill to-day, making the fourth survey authorized by the bill, these surveys being substantially in the same region of country.

Mr. WIGGINTON. Does the gentleman speak of geographical or geological surveys?

Mr. HOLMAN. Topographical surveys mainly, but involving at the same time scientific research.

This bill with the amendments put upon it since it came into the House appropriates already $15,000,000. It appropriates $18,000 for Major Elliot's survey. It appropriates $20,000 for Lieutenant Wheeler's survey; and Lieutenant Wheeler, as I hope gentlemen will understand, is an officer belonging to the Engineer Corps of the Army. This $20,000 therefore is simply the appropriation for this civil duty, while he has the benefit of Army transportation and of a military establishment—part of the Engineer Corps of the Army. Twenty thou-

sand dollars is appropriated to Major Powell's survey and $50,000 for Professor Hayden's.

Mr. SPRINGER. Will the gentleman allow me to correct a statement of the gentleman from Tennessee [Mr. ATKINS] who said that Major Powell has Army transportation. He has not.

Mr. HOLMAN. It is a fact, I believe, that he has not. After careful examination, taking into view the magnitude of this bill, it is the conviction of the Committee on Appropriations that you cannot make further additions to the bill without carrying it not only largely beyond the wants of the Government, but largely beyond the capacity of the Treasury.

The CHAIRMAN. The gentleman's time has expired.

Mr. SEELYE rose.

Mr. HOLMAN. Before taking my seat I wish to ask that debate on this subject close; and if there be no objection I will move that all general debate on this subject be closed after the gentleman from Massachusetts has been heard.

The CHAIRMAN. Is there objection?

There was no objection, and it was ordered accordingly.

Mr. SEELYE. Mr. Chairman, the suggestion made by the gentleman from Tennessee [Mr. ATKINS] respecting the consolidation of these surveys seems to me eminently practical and wise; and I hope the next Congress will not pass without the organization of a bureau of surveys to which this whole important business shall be referred. But we have these three separate divisions engaged in this most valuable work, with a corps of observers and explorers well organized, and it would be a very unsound economy to disband them, and very unwise to cripple them by inadequate appropriation.

I suppose gentlemen here understand that almost one-half of the area of the United States, forty-nine-hundredths lying west of the ninety-eighth parallel and most of it west of the one hundredth parallel, exclusive of Alaska, is not susceptible of cultivation except through engineering or mechanical appliances, and that the United States has not an acre of public land left for disposal to settlers except that land which cannot be made productive except by engineering appliances. This one-half of our territory, of which with all these surveys have done hardly 7 per cent. has yet been explored, remains land of which we know nothing.

It has been said these three parties cover the same ground, and to a certain degree that is true, but they do not conflict. Lieutenant Wheeler's object is largely military and very desirable. Major Powell's and Professor Hayden's objects are largely geographical and in a subordinate degree scientific.

Now, Mr. Chairman, gentlemen must remember such an expedition as this needs to be thoroughly organized, needs to be accompanied by competent explorers, men competent to do geographical, geological, or any other of the scientific works connected with these expeditions, needs quite a corps of laborers not quite competent to do that work and who cannot be furnished without an adequate appropriation. Therefore it is very unwise economy, for instance, to engage a person capable of carrying out surveys by triangulation where one man is able to do the work sufficient for five topographers—it is very unwise economy to oblige that one man to do the work for only three topographers and then oblige him to do the work of a topographer, a topographer costing perhaps $1,500 a year, and a man competent for triangulation surveys costing $3,000 a year. To cut down these appropriations produces exactly that result. You are obliged to have these high scientific men for these surveys, and to cut down the appropriations makes these scientific men do not simply scientific work but mechanical work, which is a very costly and uneconomical procedure. I hope the appropriation which the gentleman from Texas has suggested will be promptly voted by the committee, and that the increased appropriation which I understand the Committee on Public Lands has unanimously directed shall be voted for Major Powell.

[Here the hammer fell.]

Mr. HOLMAN. Perhaps there will be no objection to passing this over, to be taken up for consideration in connection with the other surveys.

Objection was made.

The committee divided; and there were—ayes 92, noes 39.

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Mr. HOLMAN and Mr. SCHLEICHER were appointed.

The committee again divided; and the tellers reported—ayes 114, noes 33.

So the amendment was agreed to.

Mr. EDEN. I give notice I shall demand a vote in the House on this bill.

Mr. HANCOCK. I move the following amendment.

The Clerk read as follows:

For the examination of and report upon the most practical route for commercial, postal, and military purposes, from Austin, Texas, to Eagle Pass, on the Rio Grande, and to extend said examination and report, permission having been obtained through the Department of State from the government of Mexico, to the bay of Topolovampo, on the gulf of California, under the Secretary of War, $10,000.

Mr. HOLMAN. I make the point of order there is no law for any such work. It seems to me there is enough money spent on surveys in this bill already.

Mr. HANCOCK. I wish to be heard on the point of order. I do not know that there is any special statutory provision for this work. Indeed there are but few laws which have been passed by Congress appropriating money for such work which have ever been extended to the section of the Union from which I come. We do not have any laws that authorize the expenditure of money in our section of the Union, because there has been very little legislation for a great while applicable to that section of the country.

The CHAIRMAN. Does the gentleman admit that there is no law authorizing this expenditure?

Mr. HANCOCK. I say there is no express statutory provision, but I do submit that the amendment is entirely in order in this view: It is in the interest of the postal service of the country, and I maintain that it does not require any literal express statutory provision to provide for more efficiency and greater benefits that may be secured in that branch of the service. But I maintain that it is in the interest of the military service of the country that this survey and exploration should be made. It is a route that is possessed of sufficient importance to have attracted the attention of the executive branch of the Government and led to an official correspondence between the Secretary of State and the government of Mexico, in consequence of which permission was obtained to make this exploration. It is represented as being probably the best route from salt water to salt water on this continent. The amount is very insignificant, and, in the interest of these different services, it seems to me that Congress should have the power to make a little appropriation for the purpose of carrying out the survey and explorations that are here asked for.

And under this view the amendment, it seems to me, is clearly legitimate and in order. We certainly have power to make appropriations of small sums of money for the purpose of ascertaining whether a postal route may be advantageously established in a particular locality, or through a particular district or country. In many instances, if explorations had been made in advance, they would have proved of very great value.

It is certainly of great importance in a military point of view that we should have a correct understanding of the topography of this country, its accessibility, and the distance intervening between different points.

Mr. HOLMAN. The gentleman is not discussing the point of order.

Mr. HANCOCK. I have been endeavoring to discuss the point of order, and I submit the amendment is clearly in order for the reasons I have stated.

The CHAIRMAN. The Chair thinks this amendment is excluded by the rule.

Mr. ATKINS. I offer the following amendment:

After the word "available" insert the following:
Provided that no transportation shall be furnished by the War Department.

It has been asserted that no transportation has been furnished Lieutenant Wheeler. I assert that transportation has been furnished; and I propose now, as the House has increased the appropriation to $50,000 by the adoption of the amendment of the gentleman from Texas, that this amendment shall also be adopted.

Mr. THROCKMORTON. I ask that the amendment may be again reported.

The amendment was again read.

Mr. SCHLEICHER. I wish to remark that the gentleman from Tennessee is in error in stating I had said that Lieutenant Wheeler never received any transportation from the quartermasters. I stated that he got it occasionally when some of the party were in need of it from the quartermaster at a post where they could spare it. In those circumstances it would be given, but not in a regular way. To show that it is not regular and to be relied upon I mentioned the fact that the expedition owns between one hundred and twenty and one hundred and forty mules for their own outfit and transportation. Transportation is occasionally given as a matter of accommodation, when it does not interfere with the service at the posts, when the quartermasters happen to have spare transportation on hand. The effect of the gentleman's amendment would be to make impossible this courtesy which is also sometimes a very important service and which costs the Government nothing.

Mr. FORT. Is the amendment in order?

The CHAIRMAN. The amendment is in order and debate upon it is exhausted.

Mr. FORT. I ask to have the amendment again read.

The amendment was again read.

Mr. FORT. I would like to say a word upon that.

The CHAIRMAN. The committee is now dividing on the amendment.

Mr. FORT. The Government very often have the transportation and it does not cost them a cent.

The question being taken, there were—ayes 18, noes 57; no quorum voting.

Tellers were ordered; and Mr. ATKINS and Mr. SCHLEICHER were appointed.

The committee again divided; and the tellers reported—ayes 30, noes 77.

So the amendment was not agreed to.

The Clerk read the following paragraph:

Support of National Home for Disabled Volunteer Soldiers:
For current expenses, including construction and repairs, namely: for Central

branch, Eastern branch, Northwestern branch, Southern branch, and for outdoor relief and incidental expenses, $880,000.

Mr. TERRY. I offer the following amendment:

Add these words at the end of the paragraph:
And the term of office of some of the managers of said House having expired, Hon. W. S. HOLMAN, of Indiana, is hereby appointed a manager——

Mr. HOLMAN. I make the point of order on that amendment.

Mr. BANNING. Let it be read through.

Mr. HOLMAN. I make the point of order that it is not authorized by law.

Mr. TERRY. I ask that the reading of the amendment may be completed.

The Clerk continued the reading of the amendment, as follows:

of said National Soldiers' Home for Disabled Soldiers in place of J. S. Cavender, whose term expired April 21, 1876.
L. A. Harris, of Ohio, is hereby appointed a manager of said National Home for Disabled Soldiers in place of L. B. Gunckel, whose term expired April 21, 1876.
And Richard Coulter, of Pennsylvania, is appointed one of said managers in place of James S. Negley, whose term expired April 21, 1876.
And Hon. S. A. HURLBUT, of Illinois, is hereby appointed a manager of said Soldiers' Home in place of Thomas O. Osborn of said State, who is United States minister to Venezuela.

Mr. HOLMAN. While I feel very grateful to the gentleman who has included my own name in the amendment, I desire that that name shall be stricken out and that the gentleman from Wisconsin, Mr. RUSK, may be substituted in my place. If that be done I have no objection to the amendment.

Mr. TERRY. I desire to say that the name of the gentleman from Indiana [Mr. HOLMAN] was inserted without his knowledge, and simply because those who desired this action deemed him eminently qualified for the place.

Mr. HOLMAN. I feel very much complimented, but I must insist upon the condition that that name be stricken out and the name of the gentleman from Wisconsin substituted.

Mr. TERRY. Very well; I accept the suggestion of the gentleman.

Mr. FORT. I make the point of order on the amendment.

Mr. SAYLER. I would like the gentleman from Illinois [Mr. FORT] to state his point of order to the House in full and the grounds for it. I undertake to say that the amendment is not subject to the point of order.

Mr. HOLMAN. No, sir. It is a change of law, but it is manifestly in the interest of economy, so that it seems to me that it is in order.

The CHAIRMAN. The Chair does not see how it is in the interest of economy.

Mr. TERRY. I am not able to see how the amendment is open to a question of order. It is not a change of law. The law provides for the appointment of managers on the occurrence of vacancies and the amendment involves no expenditure of public money.

The CHAIRMAN. But how were those appointments to be made?

Mr. TERRY. Under the law by joint resolution of the two Houses. But anything that can be done by joint resolution can unquestionably be done by an act of Congress.

Mr. BANNING. With the permission of the gentleman from Virginia, I will read the law. Section 4826 of the Revised Statutes is as follows:

SEC. 4826. Nine managers of the National Home for Disabled Volunteers shall be elected from time to time, as vacancies occur, by joint resolution of Congress.

It will be seen that this amendment proposes no change in the law, and now I will read what their qualifications are to be:

They shall all be citizens of the United States, and all residents of States which furnished organized bodies of soldiers to aid in suppressing the rebellion commenced in 1861; and no two of them shall be residents of the same State, and no person who gave aid or countenance to the rebellion shall ever be eligible. The term of office of these managers shall be for six years, and until a successor is lected.

This bill passed the House last session with the single exception of the vacancy in Wisconsin, being a new vacancy that has occurred since then. I hope therefore there will be no objection to the amendment, and that, as we have to appoint these managers, we shall appoint them now.

Mr. BANKS. This is not the proper place for the appointment of these officers. An appropriation bill may very well regulate the laws for the government of these institutions, but it is not a proper place to put in appointments.

The CHAIRMAN. Will the gentleman state how this is in the interest of economy? The Chair does not see it.

Mr. TERRY. I do not see how it is to cost anything.

Mr. FORT. You can appoint all the officers of the Government in the same way in an appropriation bill.

Mr. BANKS. The question of economy does not affect the matter in any way. I can see how an amendment regulating the government of these institutions can be put on this bill if it reduces expenditures. But this is not a law regulating the government of the institution; it is a legislative appointment provided for by a distinct provision of law and it cannot come into this bill.

Mr. BANNING. This is not a new appointment to be made by the House. The present law provides for this appointment. It is economy, because it saves the printing of a new resolution or bill; if we put the amendment on this bill it is so much economy.

The CHAIRMAN. The Chair thinks that this should be done by a concurrent resolution, and that it is not in order as an amendment to the appropriation bill.

Mr. SAYLER. I desire to offer an amendment to this effect, that the "foregoing appropriation is made upon the conditions following, to wit:" and then I will add the amendment offered by the gentleman from Virginia, [Mr. TERRY.] I claim that we have a right to make a conditional appropriation, and therefore the amendment cannot be subject to any point of order, inasmuch as it is not a change of any existing law.

Mr. EDEN. I make the point of order on that amendment that it is not germane to the bill.

Mr. BANKS. This is the same amendment precisely that was offered by the gentleman from Virginia.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SAYLER. I am sorry that I was overruled without having an opportunity to write out my point of order or to be heard upon it.

The Clerk resumed the reading of the bill, and read as follows:

For the support of the Leavenworth military prison at Leavenworth, Kansas, $40,000.

Mr. PHILLIPS, of Kansas. I offer the following amendment to come in at the end of that paragraph:

Also, for the erection of workshops and a chapel for said prison, $25,000.

I desire to say that there has been an effort to build a chapel and workshop for several years past, and no adequate appropriation has been provided for it. The appropriation contained in this paragraph is simply for the expenses of maintaining the convicts there. We passed, a little above this, an item providing an appropriation of $15,000 for the expenses of maintaining convicts in State penitentiaries. The amendment which I offer is a necessary one. It reduces expenditures and is in the line of economy, and I ask its adoption.

The question was taken on the amendment; and on a division there were ayes 9, noes not counted.

So the amendment was not agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For furnishing artificial limbs or appliances, or commutation therefor, and for transportation, $100,000.

Mr. MCMAHON. I desire to make an inquiry of the chairman of the Committee on Appropriations, and it is whether the amount appropriated for artificial limbs in this bill is the amount estimated for by the Surgeon-General?

Mr. HOLMAN. The estimate was $150,000, but we have appropriated already for the present fiscal year $213,000 and allowed that to be available at once; so that the amount appropriated for the next fiscal year will largely exceed the estimates of the Pension Bureau. In view of the appropriation of so large a sum as $213,000 for the balance of the year, the Committee on Appropriations were of the opinion that an appropriation of $100,000 now was ample for next year. These artificial limbs are only furnished once in five years. Before the passage of the act of last August, which gave the right to artificial limbs to soldiers who had lost a limb above the elbow and above the knee, the whole estimate for this purpose was $52,000. That sum we appropriated in conformity with the estimate of the Pension Bureau. Afterward we passed an act extending the benefit of artificial limbs to the class of persons I have named, and we also transferred this duty to the Surgeon-General, instead of its being performed under the Commissioner of Pensions. We appropriate this year, in addition to the $52,000 estimated by the Pension Bureau, $213,000, and now we have appropriated $100,000; so that the gentleman will perceive that, taking the whole amount together, we appropriate largely beyond the estimates.

Mr. MCMAHON. Do I understand that the estimate comes from the Pension Office?

Mr. HOLMAN. This year it comes from the Surgeon-General; last year it came from the Commissioner of Pensions.

Mr. MCMAHON. The deficiency was $213,000?

Mr. HOLMAN. Yes, sir.

Mr. MCMAHON. And this bill appropriates $100,000?

Mr. HOLMAN. Yes, sir.

Mr. MCMAHON. Now, what I want to know is, if the Surgeon-General did not ask for $50,000 more?

Mr. HOLMAN. Yes; but on looking at the estimates made by the Commissioner of Pensions last year, and by the Surgeon-General this year, and considering also the large sum we appropriated for deficiency, $213,000, considering the subject altogether, we were satisfied that an appropriation of $100,000 is sufficient. The gentleman will see that we appropriate for the next year altogether $313,000 as against $52,000, the entire estimate of the Pension Bureau. We believe that the amount we propose to appropriate is ample.

Mr. GLOVER. I desire to ask the chairman of the Committee on Appropriations a question. I desire to inquire whether the existing law allows these soldiers to make commutation for their artificial limbs?

Mr. HOLMAN. Yes, sir.

Mr. GLOVER. Upon that subject I wish to say a word; and in order to do so I move to strike out the last word. Recently I have been directed to investigate two of the soldiers' homes, and have come in contact in one of them with over three thousand disabled soldiers, and in the other with about six hundred. The information I gather on this

subject, as I believe without exception from the officers in charge, is that the commution should be abolished; that probably in nine cases out of ten the soldiers do not take these artificial limbs; they get the commutation for them and the money is squandered in the most unbecoming dissipation and is absolutely of no benefit to the soldier.

Mr. KELLEY. Will the gentleman permit me one moment?

Mr. HOLMAN. I want to say a word, first, if you please.

Mr. KELLEY. I ask the gentleman to yield to me.

Mr. HOLMAN. The object of commutation is to place all the soldiers on one level, so that those who can use limbs and those who cannot shall receive the same assistance from the Government.

Mr. GLOVER. I move to amend by striking out the words "or commutation therefor." I believe that it is no benefit to the soldier to allow him a commutation and that my amendment will be a great saving to the Government.

Mr. KELLEY. I rise to oppose the amendment. I am ready to admit the force of the suggestion of the gentleman as to many of the inmates of soldiers' homes, where they are cared for and are likely to misapply the money they receive for commutation. There are, however, others who have families outside of the soldiers' homes, and who are enabled to and who do apply any little money they may receive for commutation to aid in the support of their families.

There is another class, not admitted to the soldiers' homes, who in spite of their loss of limbs struggle manfully to support themselves. They certainly should have an opportunity for commutation, if their wounds are such that they cannot wear these artificial limbs. The amendment if limited to parties in soldiers' homes who have no persons dependent upon them might be less objectionable. I am opposed, however, to the amendment as a general proposition.

Mr. HOLMAN. I do not think these words "or commutation therefor" should be stricken out. I think the soldiers should all be placed upon the same footing; that each should receive the same amount of benefit from the Government, either in the shape of artificial limbs or commutation in money. Further than that, there are a great many soldiers who think proper to obtain their own artificial limbs. They go to the establishments where artificial limbs are furnished and purchase them for themselves, and the money paid them by the Government as commutation enables them to pay for the limbs they thus procure.

Mr. McMAHON. As the law of the last session was very carefully considered, I trust this amendment will be withdrawn.

Mr. GLOVER. I will withdraw the amendment.

The committee rose informally, and the Speaker resumed the chair to receive a

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed without amendment bills of the House of the following titles:

A bill (H. R. No. 1231) for the relief of the board of trustees of the Antietam National Cemetery;

A bill (H. R. No. 1947) granting to the city of Stevens Point, Wisconsin, a certain piece of land;

A bill (H. R. No. 2197) for the relief of Henry B. Kelley, of Louisiana, from political disabilities imposed by the fourteenth amendment;

A bill (H. R. No. 3093) for the relief of the legal representatives of Zachariah Washburn, deceased; and

A bill (H. R. No. 3566) to authorize the board of trustees of the city of Cheyenne, Wyoming Territory, to enter and purchase for the use of said city certain public lands.

The message further announced that the Senate had passed, with amendments in which the concurrence of the House was requested, bills of the following titles:

A bill (H. R. No. 3260) to remove the disabilities of Lawrence S. Baker, of Tarborough, North Carolina;

A bill (H. R. No. 3636) to remove the political disabilities of Richard S. Kinney and William R. Jones;

A bill (H. R. No. 3730) to remove the political disabilities of John D. Simons and Samuel V. Turner, of Virginia; and

A bill (H. R. No. 3791) to remove the legal and political disabilities of William A. Webb, of Virginia.

The message also announced that the Senate had passed, and requested the concurrence of the House in, bills of the following titles:

A bill (S. No. 915) to remove the political disabilities of D. H. Hill, of North Carolina;

A bill (S. No. 1096) to remove the political disabilities of R. C. Catlin, of Arkansas;

A bill (S. No. 1136) to remove the political disabilities of Wade H. Gibbes, of South Carolina;

A bill (S. No. 1225) to amend section 2291 of the Revised Statutes of the United States in relation to proof required in homestead entries;

A bill (S. No 1272) to remove the political disabilities of William Butler, of South Carolina;

A bill (S. No. 1273) to remove the political disabilities of William R. Jones, of Texas;

A bill (S. No. 1274) to remove the political disabilities of S. P. Moore, doctor of medicine, a citizen of Virginia;

A bill (S. No. 1276) to remove the political disabilities of W. F. Carrington, of Virginia;

A bill (S. No. 1277) to remove the political disabilities of Catesby ap Jones, of Alabama; and

A bill (S. No. 1278) to remove the political disabilities of John S. Marmaduke.

SUNDRY CIVIL APPROPRIATION BILL.

The committee resumed its session for the consideration of the sundry civil appropriation bill.

The Clerk read the following:

Department of Agriculture:

For labor, manure, repairing concrete walks and laying new concrete walks, purchase of trees for arboretum, and for tools and repairs of mowing-machines; in all, $5,000.

Mr. DUNNELL. I move to amend by inserting after the paragraph just read that which I send to the Clerk's desk.

The Clerk read the following:

For continuing and completing the preparation of a report on forestry, as provided for by an act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1877, and for other purposes, approved August 15, 1876, $3,000.

Mr. DUNNELL. It will be remembered that at the last session of Congress an appropriation of $2,000 was made in the legislative, executive, and judicial appropriation bill, to be "expended by the Commissioner of Agriculture as compensation to some man of approved attainments, who is practically well acquainted with methods of statistical inquiry, and who has evinced an intimate acquaintance with questions relating to the national wants in regard to timber, to prosecute investigations and inquiries, with the view of ascertaining the annual amount of consumption, importation, and exportation of timber and other forest products, the probable supply for future wants, the means best adapted to their preservation and renewal, the influence of forests upon climate, and the measures that have been successfully applied in foreign countries, or that may be deemed applicable in this country, for the preservation and restoration or planting of forests."

Under this provision, the Commissioner of Agriculture appointed an eminent gentleman from New York, Dr. Franklin B. Hough, who, in September or October of last year, entered upon the prosecution of this work. But the amount appropriated was altogether too small. Dr. Hough has found it impossible to prosecute the work to completion for want of sufficient funds. The entire amount of the appropriation had to be applied for his compensation. Thus he was unable to obtain information from foreign countries although he had entered into correspondence with all the schools of forestry and many other scientific schools in Europe. He has already expended money from his own means in the prosecution of this enterprise. The Commissioner of Agriculture, in a letter which I ask the Clerk to read, has recommended the appropriation of an additional sum to enable Dr. Hough to go on with this work and complete it.

The Clerk read as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D. C., February 19, 1877.

In pursuance of the act of 14th August, 1876, I appointed Hon. Franklin B. Hough, of New York, to perform the duties required by that law in relation to timber lands of the United States.

This is a most important subject and one about which the public interest is very much alive. Mr. Hough represents to me, and I am very sure with good reason, that the act of Congress referred to does not make such an appropriation as will enable him to make a thorough examination of the subject and such a report as will be satisfactory to the country.

I most heartily recommend that such an appropriation be made as will indemnify Mr. Hough for the necessary expenses he must incur in his prosecution of investigation. The public will look anxiously for Mr. Hough's report, and I trust he may be enabled to make such a one as will be creditable to him and satisfactory to the important interests involved.

I have the honor to be, most respectfully,

FRED'K WATTS,
Commissioner of Agriculture.

Hon. WILLIAM S. HOLMAN,
Chairman of Committee on Appropriations:

[Here the hammer fell.]

Mr. HOLMAN. This examination was entered into by virtue of a clause in the legislative, executive, and judicial appropriation bill of last session, which provided that $2,000 of the money appropriated for the use of the Agricultural Department should be devoted to this object—a very proper provision, I think. Now, the gentleman who has been employed, and who seems to be a gentleman of respectable attainments in this field of inquiry, wishes to make some personal inspection of the timber lands of the United States, and also to obtain some translations of communications which he has received from foreign countries in European languages. It seems to me that a small appropriation for these two purposes would be very proper; but I do not think so large a sum as $3,000 is required. I trust the gentleman from Minnesota [Mr. DUNNELL] will concede that $2,000 is ample for this purpose. We will not object to that.

Mr. DUNNELL. I assent to such a modification of my amendment.

The amendment of Mr. DUNNELL, as modified by striking out "$3,000" and inserting "$2,000," was agreed to.

The Clerk read as follows:

GENERAL MISCELLANEOUS.

To pay Shepherd S. Everett for clerical services in the Committee on War Claims of the House of Representatives, rendered necessary by reports of the commissioners of claims, $400.

Mr. McCRARY. I move to amend by inserting after the paragraph just read the following:

To pay George P. Bradstreet for clerical services to the committee on the part of the Senate to devise a plan for counting the electoral votes and for a settlement of questions arising thereon, $100.

To pay M. H. Northrup for clerical services to the committee on the part of the House to devise a plan for counting the electoral votes and for a settlement of questions arising thereon, $100.

Mr. HOLMAN. Both these propositions are subject to a point of order, because these gentlemen, as I understand, were both in public employment; and the services for which the amendment proposes to pay them were extra services. There is a law expressly prohibiting payment for such extra services. But I have been informed that this work was generally performed outside of the usual hours of business, and was in addition to services of these gentlemen as clerks of the House. As they have performed valuable additional service, I do not press the point of order.

Mr. McCRARY. I suppose there will be no objection to the amendment. The committees in both Houses have recommended it.

The amendment was adopted.

Mr. WARNER. I move to amend by inserting after the paragraph just adopted the following:

To pay to the widow of Hon. Orris S. Ferry, late a Senator of the United States from the State of Connecticut, the sum of $2,500.

I understand that there is no objection to this amendment, and it is hardly necessary for me to say anything in its favor.

Mr. HOLMAN. Let it go.

The amendment was agreed to.

Mr. RIDDLE. By direction of the Committee on Invalid Pensions I offer the following amendment, to come in after the amendment just adopted:

To enable the Clerk of the House to pay the clerk of the Committee on Invalid Pensions of the Forty-fourth Congress the same compensation from the time of his appointment as is now allowed by law to the clerks of the Committee of Claims and War Claims, and for the same length of time, deducting such sums as have already been paid him.

Mr. HOLMAN. I must make a point of order on this amendment in its present form. I will not object to paying to the clerk of the Committee on Pensions the same sum that is paid to these other officers; but I object to the form in which this amendment is put. A proposition fixing compensation should be independent and specific. I presume, of course, that the law fixes the compensation of this clerk, and that the amendment proposes an increase.

Mr. JENKS. This does not increase it; it does not make a change of one cent in the amount.

Mr. HOLMAN. Why not fix the compensation of this clerk without reference to other clerks, as can readily be done? Nothing so complicates matters and creates uncertainty as to our rule of compensation as this fixing of salaries by a reference to the salaries of somebody else.

Mr. JENKS. This does not change at all the compensation of this clerk.

Mr. HOLMAN. What is his salary now?

Mr. JENKS. Exactly the same as these others in amount. I will state the purpose of the amendment. When the session shall have expired, this clerk's salary under the existing provision will cease. There will then be no person in charge of the papers of the Committee on Invalid Pensions. Every one knows that this committee, having referred to it during the present session nearly two thousand bills, receives a large amount of evidence which, if not preserved, must be duplicated every year. To employ this clerk through the recess to take charge of the papers will avoid the necessity for rewriting letters and getting up new testimony. The object of this amendment is that there shall be some one in charge of these papers until the next session. The amount of the pay is not changed.

Mr. HOLMAN. I must insist on the point of order. In the legislative appropriation bill the House has very largely reduced the number of permanent clerks in the Senate; and we cannot consistently create a new permanent clerk in the House while insisting that such clerks in the Senate be reduced. In the Senate the same reason exists as in the House for a permanent clerk of the Committee on Invalid Pensions. If I should be a member of the committee of conference on the legislative bill, which may be appointed perhaps to-day, and if on consideration it should be found proper that there shall be in the Senate a permanent clerk of the Committee on Invalid Pensions, I will consent that the same rule shall be applied in the House. But certainly gentlemen ought not to ask the House to discriminate in favor of permanent clerks as against the Senate. I therefore must make the point of order that this amendment proposes to continue as a permanent clerk a gentleman who under existing law is simply employed during the session.

Mr. RUSK. Mr. Chairman, I think the point of order is not well taken.

The CHAIRMAN. The Chair will hear the gentleman on the point of order.

Mr. RUSK. The facts are these: The Committee on Invalid Pensions have more private business than any other committee in this House. They have had referred to them during this Congress about fourteen hundred and fifty private bills. The clerk of that committee, by its authority, is required to call upon the Pension Office for all the papers pertaining to each case. It is the only committee in the House which receives original papers. The clerk is also required to be responsible for all these original papers and their return to the Pension Office. At the close of Congress he has to see all these cases are returned, fourteen hundred and fifty in number, and that the committee is credited with their return. It will take him at least two or three months to close up the business of the committee in proper shape, and I hope the gentleman from Indiana will permit this amendment to pass.

Mr. RIDDLE. To show that the point of order is not well taken, I ask the Clerk to read from Barclay's Digest what I have marked.

The Clerk read as follows:

CLERKS OF COMMITTEES.

No committee shall be permitted to employ a clerk at the public expense without first obtaining leave of the House for that purpose.—*Rule* 73. [Such leave is usually granted to a portion of the committees, for a part or the whole of the session, as they may deem the service necessary; and six of the committees have permanent clerks, namely: Of Claims, by resolution of February 18, 1843; of Ways and Means, by resolution of February 18, 1856; on Public Lands, by resolution of May 27, 1862; on Appropriations, by resolution of December 12, 1865; on War Claims, by resolution of January 19, 1874; and on Invalid Pensions, by resolution of June 18, 1874.]

Mr. HOLMAN. If that statement is true as published in Barclay's Digest, then of course there is no necessity for this motion. I am satisfied, however, that it is not correct. I have the law before me of last session, which fixes five as the number of permanent clerks of committees; for the Committee of Ways and Means, the Committee on Appropriations, the Committee of Claims, the Committee on War Claims, and the Committee on Public Lands.

Mr. RUSK. The gentleman has left one out.

Mr. HOLMAN. No; only five were fixed by law at the last session of Congress. The Chairman will see that the only effect of the proposed amendment is to make this a sixth permanent committee clerk of this House, and the reason I make the point of order is this: The question of adjustment of clerks of the two Houses comes up before the conference committee on the legislative appropriation bill, and I trust gentlemen will not embarrass that committee by this proposed increase of the number of permanent committee clerks.

The CHAIRMAN. The authority sent up by the gentleman from Tennessee and which was read at the Clerk's desk seems to be conclusive on the point of order.

Mr. HOLMAN. I have the law of the last session before me, and that fixes the number of permanent committee clerks at five. It was not intended to make the clerk of the Committee on Pensions a permanent clerk. It was never a permanent clerkship but for one session. Gentlemen will see that to put this amendment upon this bill will only embarrass the committee of conference on the question of the adjustment of the clerks in the two Houses. That bill is already full of embarrassments, and gentlemen must see every one of these amendments placed upon the bill only diminishes the probability of the two Houses coming together on these appropriation bills. I therefore trust this amendment will not be agreed to.

The CHAIRMAN. The Chair thinks the amendment is not liable to the objection, and therefore overrules the point of order. As to the suggestion of the gentleman from Indiana, that is for the House to determine, each member for himself, in voting for or against the amendment.

The amendment was again read.

Mr. FORT. Should not the sum be fixed in the amendment?

Mr. RIDDLE. That sufficiently fixes the amount.

Mr. RUSK. It is the same sum.

Mr. RIDDLE'S amendment was agreed to.

Mr. KNOTT. I move to amend by adding the following.

The Clerk read as follows:

To pay Charles W. Beckham for services as clerk to select committee on the powers, privileges, and duties of the House of Representatives in counting the electoral votes, for two months, at the rate of $50 per month, $100.

Mr. HOLMAN. I wish to inquire of the gentleman from Kentucky whether this clerk was in the public employ when these services were rendered?

Mr. KNOTT. I will state the circumstances. He was, sir.

Mr. HOLMAN. What pay did he receive?

Mr. KNOTT. He has nevertheless rendered extraordinary services, worth five times the sum proposed to be paid him by the amendment.

The amendment is offered in pursuance of the unanimous request of the committee, leaving it to myself to fix the amount, and I have fixed what I consider a very insignificant sum in view of the very extraordinary amount of work that young man has done.

Mr. HURLBUT. I would like to ask the gentleman from Kentucky whether the committee ever had leave to employ a clerk?

Mr. KNOTT. They never asked leave to employ a clerk. Nevertheless he ought to be paid for his services.

Mr. HOLMAN. What compensation has he been receiving?

Mr. KNOTT. The ordinary compensation of clerks.

Mr. HOLMAN. Six dollars a day. I think the gentleman from Kentucky must allow me to make the point of order.

Mr. KNOTT. The same thing has been done for other clerks where they performed extra duties. I hope there will be no objection to paying this young man the hundred dollars.

The CHAIRMAN. Does the gentleman from Indiana insist on his point of order?

Mr. HOLMAN. I do.

The CHAIRMAN. The Chair sustains the point of order.

Mr. MORRISON. I offer the following amendment:

After the paragraph just adopted insert the following:
To enable the Clerk of the House of Representatives to pay bills for printing necessarily done at a private establishment on the order of the chairman of the committee investigating the election in Louisiana, $3,290, to be approved by the Committee of Accounts.

Mr. CONGER. I raise the point of order on that amendment. The law requires that all printing of the House shall be done at the Public Printing Office. That point of order has been raised before, and has been sustained.

Mr. WILSON, of Iowa. Unless where provision has been made otherwise by the chairman of the Committee on Printing.

The CHAIRMAN. The point of order is made by the gentleman from Michigan that this is in violation of the law requiring all public printing to be done at the Government Printing Office.

Mr. HALE. I ask the gentleman from Michigan to withhold the point of order until we have an explanation from the gentleman who has offered the amendment.

Mr. MORRISON. Mr. Chairman, after the return of the Louisiana committee, and at a time when it was supposed the testimony taken by the committee would be of some use and would go before the electoral commission, the Public Printing Office had partially suspended operations for want of appropriations, or on account of press of work, or for some other cause. When I applied to have the work done I was informed that it could not be done for some weeks. I supposed I would be liable to some censure unless I had the testimony taken before the committee in a shape to be used to go before the commission; and not doubting the power to have it done, or not supposing anybody in the House under the circumstances would object, I had the printing done at a private establishment. Those are the facts in relation to the matter.

Mr. HALE. This is all that the committee has had printed at a private establishment?

Mr. MORRISON. This is the testimony taken by one of the subcommittees. The other testimony has been delivered at the Government Printing Office, and the printing of the testimony taken by two of the subcommittees, delivered there more than three weeks ago, is yet unfinished.

Mr. HALE. I hope on that statement the point of order will be withdrawn.

Mr. CONGER. I suppose the point of order must be sustained of course. But I desire to say I understand a partial and mutilated report of testimony was printed at this private printing office, which was not such as ought to have been printed for the use of the House. Therefore I insist on my point of order.

Mr. WILSON, of Iowa, rose.

Mr. MORRISON. I desire to say just one word in reply to the gentleman from Michigan, [Mr. CONGER.] When the committee left New Orleans the testimony was not all written up. So much of it was printed as had been forwarded and received by the committee, and that not received was not printed.

Mr. HALE. Perhaps the gentleman from Michigan refers to another matter in connection with another committee. I do not think his objection applies to this proposition, and I hope upon the statement of the chairman of the committee, although he was mistaken undoubtedly as to his powers, since it is evident that he acted in good faith, the point of order will be withdrawn. I do not think the objection of the gentleman from Michigan applies in this case.

Mr. WILSON, of Iowa. I presume and must presume, Mr. Chairman, that the act of the gentleman from Illinois [Mr. MORRISON] in this case was done unwittingly of the privileges of the House, and, so far as he was concerned individually, in good faith. But, sir, certain things have transpired in connection with investigating committees of this House during this Congress in this very direction which impel me to call the attention of this House to what has been done. For example, the Committee on Commerce was instructed to investigate relative to certain discriminations at Pittsburgh. They took the testimony, but never reported to this House. I found the testimony in the hands of a man who had bought it and paid for it—testimony taken by a committee of the American Congress in the hands of a man who had bought it and paid for it!

Mr. LUTTRELL. When was that? When was it that the committee failed to make their report?

Mr. WILSON, of Iowa. I have already stated it. Why did the gentleman not listen?

Mr. LUTTRELL. I was listening.

Mr. WILSON, of Iowa. I stated that it was during this Congress. The committee never reported to this House and have not reported to this day.

Mr. LANE. I rise to a question of order. Is the gentleman from Iowa speaking to the point of order?

Mr. WILSON, of Iowa. I am addressing myself to the point of order.

Now the difficulty connected with this transaction is this, that a committee of this House should presume to do anything with its testimony before Congress has first seen it. It should have reported it here and asked the House to order it to be printed, and if the Public Printer could not have printed it, then it might have asked leave to go to a private source.

Now, sir, I cast no censure upon the gentleman from Illinois, [Mr. MORRISON,] because he has stated in a straightforward manner why this came about, and he did not suppose that he was doing any wrong. I must accept and do accept that statement. But, sir, in the future no chairman of an investigating committee should presume for a moment to do anything with testimony taken before his committee at the public expense without first coming to the House with it.

The CHAIRMAN. If the point of order is insisted on the Chair thinks that it is well taken.

Mr. CONGER. I must insist on it.

Mr. MORRISON. What, then, becomes of my amendment?

The CHAIRMAN. The Chair sustains the point of order, and the amendment is not before the committee.

Mr. BLOUNT. I understood that the point of order was withdrawn.

The CHAIRMAN. It was not withdrawn.

Mr. MORRISON. Who makes the point of order?

The CHAIRMAN. The gentleman from Michigan, [Mr. CONGER.]

Mr. CONGER. If the gentleman from Illinois will answer me one question I think I can withdraw the point of order. I desire to ask whether the testimony for the printing of which he asks this appropriation was printed exactly as it was taken?

Mr. MORRISON. So much of it as had been received at the time.

Mr. CONGER. All that had been received was printed?

Mr. MORRISON. Yes, sir.

Mr. CONGER. Well, then, I may have mistaken the character of that publication, and if that be so I withdraw the point of order.

Mr. MORRISON. The whole testimony has since been sent to the Public Printing Office to be printed and the work will be done during the summer, probably by the 4th of July.

The question was taken on Mr. MORRISON's amendment, and it was agreed to.

Mr. LANE. I desire to offer an amendment.

Mr. HOLMAN. I trust that gentlemen will allow the printed bill to be read through, and will then offer their amendments as separate paragraphs to the bill.

Mr. LANE. The bill is open to amendment at this point and I desire to offer it here.

The CHAIRMAN. The Chair will entertain the gentleman's amendment when the bill has been read through.

The Clerk resumed the reading of the bill, and read the last paragraph, as follows:

That the sum of $375,000, or so much thereof as may be necessary, be appropriated to pay the amount due to mail contractors for mail service performed in the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Texas, Tennessee, and Virginia in the years 1859, 1860, 1861, and before said States respectively engaged in war against the United States; and the provisions of secion 3480 of the Revised Statutes of the United States shall not be applicable to the payments herein authorized: *Provided*, That any such claims which have been paid by the Confederate States government shall not be again paid.

Mr. CONGER. I make the point of order upon that paragraph that it is contrary to existing law and that it repeals an existing law.

There are two points of order against this paragraph. The first is that this appropriation is without any authority or warrant of any law in existence; and secondly, and especially, that it is in direct violation of the existing law of the land. I call the attention of the Chair to a section of the Revised Statutes which it is proposed to repeal simultaneously with the passage of this amendment changing the existing law:

SEC. 3480. It shall be unlawful for any officer to pay any account, claim, or demand against the United States which accrued or existed prior to the 13th day of April, 1861, in favor of any person who promoted, encouraged, or in any manner sustained the late rebellion, or in favor of any person who during such rebellion was not known to be opposed thereto and distinctly in favor of its suppression; and no pardon heretofore granted or hereafter to be granted shall authorize the payment of such account, claim, or demand, until this section is modified or repealed. But this section shall not be construed to prohibit the payment of claims founded upon contracts made by any of the Departments, where such claims were assigned or contracted to be assigned prior to the 1st day of April, 1861, to the creditors of such contractors, loyal citizens of loyal States, in payment of debts incurred prior to the 1st day of March, 1861.

Now, sir, the points of order which I have raised in reference to this paragraph have been ruled upon, over and over again ever since that law was passed, by every Speaker and by every chairman of this House. I make the points again, that the Chair may again rule upon these questions.

But the chairman will remark in addition that the Congress of the United States is called upon by this provision to pay an amount of money contingent upon the amount which the Confederate States may have paid. I know of no law—and I make that as an additional point—authorizing the Government of the United States to pay that additional amount left unpaid by the confederate government. That is a provision of this amendment. I will not dwell upon the proposition; it seems so plain.

Mr. CLYMER. I move that the committee now rise.

Mr. HALE. Let us finish this bill now.

The motion of Mr. CLYMER was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BUCKNER reported that the Committee of the Whole

on the state of the Union had had under consideration the bill (H. R. No. 4682) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes, and had come to no resolution thereon.

ORDER OF BUSINESS.

Mr. CLYMER. I move that the House now take a recess until to-morrow morning at ten o'clock.

Mr. WILSON, of Iowa. On that motion I ask for the yeas and nays.

Mr. HALE. Let us take a vote by division first.

The SPEAKER. The Chair will first test the sense of the House by a *viva voce* vote.

The question was then taken by a *viva voce* vote; and the Speaker announced that he was unable to decide.

Mr. WILSON, of Iowa. Let us have the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 131, nays 108, not voting 51; as follows:

YEAS—Messrs. Ashe, Atkins, Bagby, John H. Bagley, jr., Banning, Blackburn, Bland, Bliss, Blount, Boone, Bradford, Bright, John Young Brown, Buckner, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Candler, Carr, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Davis, De Bolt, Dibrell, Durham, Eden, Egbert, Ellis, Faulkner, Felton, Finley, Forney, Franklin, Fuller, Glover, Gunter, Andrew H. Hamilton, Robert Hamilton, Henry R. Harris, John T. Harris, Hartridge, Hartzell, Hatcher, Abram S. Hewitt, Hill, Hooker, House, Humphreys, Hurd, Jenks, Thomas L. Jones, Knott, Lamar, Franklin Landers, Lane, Levy, Lewis, Luttrell, Lynde, Mackey, Maish, McFarland, McMahon, Metcalfe, Milliken, Mills, Money, Morrison Mutchler, Neal, Odell, John F. Philips, Poppleton, Rea, Reagan, John Reilly, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Savage, Sayler, Scales, Schleicher, Sheakley, Singleton, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Swann, Teese, Terry, Thomas, Thompson, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Charles C. B. Walker, Gilbert C. Walker, Walling, Walsh, Ward, Warren, Whitthorne, Wigginton, Wike, Alpheus S. Williams, Jere N. Williams, Willis, Benjamin Wilson, Yeates, and Young—131.

NAYS—Messrs. Adams, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Beebe, Belford, Bell, Bradley, William R. Brown, Burleigh, Buttz, Campbell, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Cutler, Danford, Darrall, Denison, Dobbins, Dunnell, Eames, Evans, Flye, Fort, Foster, Freeman, Frye, Garfield, Goodin, Hale, Haralson, Hardenbergh, Benjamin W. Harris, Hathorn, Haymond, Hendee, Hoge, Holman, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kehr, Kelley, Kimball, George M. Landers, Lapham, Le Moyne, Lynch, Magoon, McCrary, Monroe, Morgan, Nash, New, Norton, Oliver, O'Neill, Page, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, John Robbins, Robinson, Sobieski Ross, Rusk, Seelye, Sinnickson, Smalls, A. Herr Smith, Stevenson, Strait, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Alexander S. Wallace, John W. Wallace, Warner, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Andrew Williams, Charles G. Williams, James Wilson, Alan Woodjr., Woodburn, and Woodworth—108.

NOT VOTING—Messrs. Abbott, Ainsworth, Anderson, Bass, Blair, Horatio C. Burchard, Chapin, Davy, Douglas, Durand, Field, Gause, Gibson, Goode, Hancock, Harrison, Hays, Henderson, Henkle, Goldsmith W. Hewitt, Hoar, Hopkins, Hunton, Frank Jones, King, Lawrence, Leavenworth, Lord, MacDougall, McDill, Meade, Miller, O'Brien, Packer, Payne, Phelps, Piper, Purman, James B. Reilly, Sampson, Schumaker, Stephens, Stowell, Tarbox, Watterson, Wheeler, Willard, James Williams, William B. Williams, Wilshire, and Fernando Wood—51.

So the motion was agreed to.

During the call of the roll the following announcements were made:

Mr. CALDWELL, of Alabama. I desire to state that my colleague, Mr. HEWITT, and the gentleman from Iowa, Mr. MCDILL, are absent and paired.

Mr. O'NEILL. I desire to state that my colleagues, Mr. PACKER and Mr. JAMES B. REILLY, are absent and paired; if present Mr. PACKER would vote "no" and Mr. REILLY would vote "ay."

Mr. HENDERSON. I am paired with Mr. AINSWORTH, of Iowa. I presume that if present he would vote "ay;" I would vote "no."

Mr. BRADLEY. My colleague, Mr. WILLIAM B. WILLIAMS, having become very much indisposed, has left the Hall and retired to his room.

Accordingly (at three o'clock and forty minutes p. m.) the House took a recess until to-morrow morning at ten o'clock.

AFTER THE RECESS.

The recess having expired, the House was called to order by the Speaker at ten o'clock a. m., Friday, February 23.

POST-OFFICE APPROPRIATION BILL.

Mr. HOLMAN. I am directed by the Committee on Appropriations to report back the bill, with Senate amendments, (H. R. No. 4187,) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes; and to move that the House non-concur in the Senate amendments and request a committee of conference on the disagreeing votes of the two Houses thereon.

The motion was agreed to.

Mr. HOLMAN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DEFICIENCY APPROPRIATION BILL.

Mr. WALDRON. I am directed by the Committee on Appropriations to report back the bill, with Senate amendments, (H. R. No. 4559,) making appropriations to supply deficiencies in the appropriations for the year ending June 30, 1877, and for prior years, and for other purposes, and to move that the House non-concur in the Senate amendments and request a committee of conference on the disagreeing votes of the two Houses thereon.

The motion was agreed to.

Mr. WALDRON moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had agreed to the amendments of the House to the bill (S. No. 1270) to authorize the printing and distribution of the memorial addresses on the life and character of the late Michael C. Kerr, Speaker of the House of Representatives.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. No. 4616) making appropriations for the naval service for the fiscal year ending June 30, 1878.

The message also announced that the Senate insisted on its amendments, disagreed to by the House, to the bill (H. R. No. 4554) for the support of the government of the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes, had agreed to the conference asked by the House, and had appointed Mr. SPENCER, Mr. DORSEY, and Mr. BARNUM as conferees on the part of the Senate.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. HOLMAN, by unanimous consent, reported back from the Committee on Appropriations Senate amendments to the bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes, and moved that the House non-concur with the amendments and ask a conference with the Senate on the disagreeing votes of the two Houses.

There being no objection, it was ordered accordingly.

NEW EDITION OF REVISED STATUTES.

Mr. DURHAM. I ask unanimous consent to report back, for immediate consideration, the bill (S. No. 1216) to provide for the preparation and publication of a new edition of the Revised Statutes of the United States. The Committee on the Revision of the Laws have directed me to report back this bill and ask that it be passed with an amendment.

There being no objection, the bill was read, as follows:

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, one person, learned in the law, as a commissioner for the purpose of preparing and publishing a new edition of the first volume of the Revised Statutes of the United States.

SEC. 2. That in performing this duty said commissioner shall be required to incorporate into the text of the Revised Statutes as published in the year A. D. 1875, under the act of June 20, 1874, all the amendments which have been made in the revision so published since the 1st day of December, 1873, and all that shall be made up to the close of the present session of Congress, with marginal references to such amendatory acts and to all the decisions of the several courts of the United States (as far as the same may have been published) which may have been made subsequent to those already cited in the margin of the present revision, and may include also citations to such judicial decisions of the various State courts as he may deem important; and he shall also make marginal references to the various statutes passed by Congress since the 1st day of December, 1873, not expressly therein declared to be amendments to the Revised Statutes, but which, in the opinion of said commissioner, may in any manner affect or modify any of the provisions of the said Revised Statutes, or any of the amendments thereto, indicating in such marginal notes by a difference in type the references to statutes of this kind; and he shall revise the indexes, and incorporate therein references to the additions herein required.

SEC. 3. That there shall be included in said edition the Articles of Confederation, the Declaration of our National Independence, the ordinance of 1787 for the government of the Northwestern Territory, the Constitution of the United States, with foot-notes referring to the decisions of the Federal courts thereon, the act to provide for the revision and consolidation of the statute laws of the United States, approved June 27, 1866, and the act providing for publication of the Revised Statutes and the laws of the United States, approved June 20, 1874, as well as the present act.

SEC. 4. That said new edition shall be completed in manuscript by said commissioner by the 1st day of January, A. D. 1878, and by him presented to the Secretary of State for his examination and approval, who is hereby required to examine and compare the same, as amended, with all the amendatory acts, and, within one month after having been submitted to him, shall, if the same shall be correct, certify to the correctness of the revision as amended, and cause 15,000 copies of the same to be printed and bound at the Government Printing Office, under the supervision of said commissioner, at the expense of the United States, and without unnecessary delay.

SEC. 5. That said commissioner shall receive, as full compensation for all services above required to be performed by him, the sum of $5,000.

The amendment reported by the committee was read, as follows:

Strike out all of section 4, and insert in lieu thereof the following:

SEC. —. That said new edition shall be completed in manuscript by said commissioner by the 1st day of January, A. D. 1878, and by him presented to the Secretary of State for his examination and approval, who is hereby required to examine and compare the same, as amended, with all the amendatory acts, and, within two months after having been submitted to him, and when the same shall be completed the said Secretary shall duly certify the same under the seal of the Secretary of State, and when promulgated as herein provided, the printed volume shall be legal evidence of the laws therein contained in all the courts of the United States and of the several States and Territories; and said Secretary shall cause 15,000 copies of the same to be printed and bound at the Government Printing Office, under the supervision of said commissioner, at the expense of the United States, and without unnecessary delay.

Mr. DURHAM. I will state the object of this amendment. The original bill does not make the Revised Statutes evidence in all the courts. The amendment provides for that deficiency in the Senate bill.

Mr. HOLMAN. Why does not the amendment use the words "conclusive evidence" instead of "legal evidence?" Or would it not be better to say "legal and conclusive evidence?"

Mr. DURHAM. We thought that to make the statutes legal evidence was as far as we ought to go.

Mr. HOLMAN. I think when a statute is made evidence it ought to be final.

Mr. DURHAM. I have no objection at all to the modification suggested by the gentleman.

Mr. HOLMAN. I move then to insert after "legal" the words "and conclusive."

Mr. DURHAM. I have no objection to that.

The amendment of Mr. HOLMAN was adopted; and the amendment of the committee, as thus amended, was agreed to.

The bill, as amended, was ordered to a third reading, read the third time, and passed.

Mr. DURHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the President of the electoral commission had notified the Senate that the commission had arrived at a decision of the questions submitted to it in relation to the electoral votes of Oregon, and that the Senate was ready to meet the House for the purpose of laying before the two Houses the report of the commission, and to proceed with the count of the electoral vote for President and Vice-President.

POST-ROUTES.

Mr. CLARK, of Missouri, obtained the floor.

Mr. HALE. I rise to a parliamentary inquiry.

The SPEAKER. The Chair will hear the gentleman in one moment.

Mr. CLARK, of Missouri. I ask unanimous consent to report from the Committee on the Post-Office and Post-Roads the general bill establishing post-routes, and ask that it be put on its passage.

The SPEAKER. Is there objection?

Mr. HALE. I object.

Mr. GARFIELD. If it can be put on its passage without being read at length, I think there will be no objection.

The SPEAKER. The Chair is informed that this is, with some additional routes, the same post-route bill heretofore passed by the House.

Mr. CLARK, of Missouri. I will state that no post-route bill has passed both Houses of Congress since last May.

Mr. CONGER. There is no doubt about the necessity for the passage of this bill; but I think we have more important business this morning.

Mr. CLARK, of Missouri. It will not be necessary to read the bill except by its title. I hope the gentleman will withdraw his objection.

Mr. CONGER. If the bill can be passed upon the reading of the title, I have no objection; but if it leads to any discussion I must object.

The SPEAKER. By unanimous consent, as the Chair understands, the reading of the bill is waived.

The bill (H. R. No. 4692) establishing post-roads was read a first and second time, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. CLARK, of Missouri, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORT OF ELECTORAL COMMISSION.

The SPEAKER laid before the House the following communication; which was read and laid on the table:

WASHINGTON, D. C., *February* 23, 1877.

SIR: I am directed by the electoral commission to inform the House of Representatives that it has considered and decided upon the matters submitted to it under the act of Congress concerning the same, touching the electoral vote from the State of Oregon, and has transmitted its decision to the President of the Senate, to be read at the meeting of the two Houses, according to said act.

NATHAN CLIFFORD,
President of the Commission.

Hon. SAMUEL J. RANDALL,
Speaker of the House of Representatives.

COUNTING ELECTORAL VOTES.

Mr. McMAHON. I offer the resolution which I send to the Clerk.

The SPEAKER. The gentleman from Maine, [Mr. HALE,] as the Chair understands, desires to raise a point of order.

Mr. HALE. The submission by the Chair of the communication from the commission answers the parliamentary inquiry which I had in view. I did not propose to raise the point until there was a quorum here. I wish to raise a point of order on any proceeding which does not look to a joint meeting of the two Houses at once. But I will waive my point until I hear the resolution of the gentleman from Ohio.

The SPEAKER. The Chair would like the opportunity to announce three or four conference committees.

Mr. HALE. To that I have no objection. I will reserve the point of order, presuming that I shall be recognized hereafter.

NAVAL APPROPRIATION BILL.

The SPEAKER. The Chair is advised that the gentleman from Georgia [Mr. BLOUNT] desires to have the naval appropriation bill taken from the Speaker's table in order that the amendments of the Senate may be non-concurred in and a conference with the Senate asked. If there be no objection this order will be made.

There was no objection.

CONFERENCE COMMITTEES.

The SPEAKER announced the appointment of the following committees of conference on the part of the House:

On the deficiency appropriation bill, Mr. WALDRON, Mr. ATKINS, and Mr. HAMILTON of New York.

On the naval appropriation bill, Mr. BLOUNT, Mr. WHITTHORNE, and Mr. HALE.

On the legislative, executive, and judicial appropriation bill, Mr. HOLMAN, Mr. CLYMER, and Mr. WALDRON.

On the post-office appropriation bill, Mr. HOLMAN, Mr. BLOUNT, and Mr. FOSTER.

COUNTING THE ELECTORAL VOTE.

The SPEAKER. The gentleman from Ohio [Mr. McMAHON] is on the floor to offer a resolution.

Mr. HALE. I now raise my point of order.

The SPEAKER. The gentleman will state it.

Mr. HALE. My point is that nothing is now in order except to inform the Senate that the House is now in readiness to meet the Senate in this Hall for the purpose of proceeding with the electoral count. As part of this point of order the gentleman from Iowa [Mr. WILSON] has a motion or resolution covering the point.

The SPEAKER. The gentleman from Ohio [Mr. McMAHON] submits a resolution, which will be read by the Clerk, and the gentleman from Maine raises a point of order on it.

The Clerk read as follows:

Resolved, That the Senate be notified that the House of Representatives will be ready to meet the Senate in joint convention at one o'clock p. m., this day, for the purpose of continuing the count of the electoral vote.

Mr. WILSON, of Iowa. Now, Mr. Speaker, I offer this resolution and raise the point of order that nothing is in order but what is there indicated; that it is a question of the very highest privilege.

The Clerk read as follows:

Resolved, That the Clerk of the House notify the Senate that the House is now ready to meet them in joint meeting of the two Houses to count the vote for President and Vice-President.

The SPEAKER. The gentleman from Iowa will state his point of order.

Mr. HALE. Does the gentleman offer that as a substitute for the proposition of the gentleman from Ohio?

The SPEAKER. The Chair so understands, and it will be first voted on. The Chair was going to state that he cannot see where the point of order comes in. He considers the proposition of the gentleman from Ohio to be in order and that the proposition of the gentleman from Iowa is in order as an amendment to that resolution.

Mr. HALE. That will give the House the opportunity of voting on both propositions?

The SPEAKER. The question will first recur on the amendment.

Mr. WILSON, of Iowa. I have a thought in that connection which I would like to state.

The SPEAKER. The Chair will be glad to hear it.

Mr. WILSON, of Iowa. Under the law under which we are now counting the electoral vote for President and Vice-President, the Hall of the House of Representatives is as much at the disposal of the Senate as it is at the disposal of the House. The very moment that joint commission notifies us they have a report ready for our action, it is not within the power of one House, without the concurrent action of the other body with whom we act in this matter under the law, to delay that count. Now, the Chair will observe that the act making provision for counting the votes arranges for the first meeting in this Hall, and I claim that it is not any greater violation of the spirit of that act that the Senate should ask us to meet them in subsequent meetings in their Hall than by any act of ours we should shut our doors to prevent them from coming into this Hall, designated under the act as the place of meeting.

I offer the resolution which has been read as a substitute for that of the gentleman from Ohio, and the matter can be determined by a majority of the House.

The SPEAKER. Does the gentleman from Iowa ask any ruling of the Chair on the proposition?

Mr. WILSON, of Iowa. I am well aware the Chair has ruled heretofore——

Mr. CLARK, of Missouri. I rise to a point of order. I insist gentlemen shall take their seats, so we may hear.

Mr. WILSON, of Iowa. If this can be voted on as a substitute, then I have no further point to raise.

The SPEAKER. Gentlemen on both sides of the House will take their seats and preserve order.

The Chair thinks it due to the House, as the gentleman from Iowa has in partial degree raised the point of order as to the proposition of the gentleman from Ohio, to say that the course proposed in that resolution is the course which has been pursued heretofore without objection by the House. The motion to take a recess not beyond ten o'clock of the next day is in the very words of the law itself. The proposition of the gentleman from Ohio, therefore, to invite the Senate within that time seems to the Chair to be perfectly in order. The original proposition of the gentleman from Ohio and the amendment moved by the gentleman from Iowa are both in order, for the reason that the House has the right, under the law, within the time stated—that is, before the next day at ten o'clock—to say when they should meet.

Mr. WILSON, of Iowa. Let me say one word.

The SPEAKER. The Chair will hear the gentleman with pleasure.

Mr. WILSON, of Iowa. The Chair has held heretofore that no business is in order during this interval, and for that reason I have come to the conclusion——

The SPEAKER. The Chair has so held in the case of a single return from a State.

Mr. WILSON, of Iowa. Both are the same. [Cries of "Vote!" "Vote!" from the republican side of the House.]

ARMY APPROPRIATION BILL.

Mr. ATKINS. Mr. Speaker, I rise to a privileged question. I ask unanimous consent of the House to allow me this morning, by instructions of the Committee on Appropriations, to report the Army appropriation bill.

Mr. HALE. Wait until after the question has been stated to the House.

Mr. HOLMAN. It is necessary this report should be made before any action is taken.

Mr. ATKINS. It is to avoid any difficulty that I now propose to make this report for printing and committal.

The SPEAKER. The Chair hopes consent will be given, because it is desirable all the appropriation bills should be introduced.

Mr. GARFIELD. I hope there will be no objection.

Mr. ATKINS, by unanimous consent, from the Committee on Appropriations, reported a bill (H. R. No. 4692) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes; which was read a first and second time, ordered to be printed, and referred to the Committee of the Whole on the state of the Union and made a special order therein after the sundry civil appropriation bill shall have been disposed of.

Mr. HALE and Mr. CONGER reserved all points of order on the bill.

COUNTING THE ELECTORAL VOTE.

The SPEAKER. The question is on the substitute of the gentleman from Iowa [Mr. WILSON] for the resolution of the gentleman from Ohio, [Mr. MCMAHON.]

Mr. BROWN, of Kentucky. I ask that the original resolution and substitute be again reported.

The resolution and substitute were again read.

The question being taken on the substitute, there were—ayes 126, noes 38.

Mr. SPRINGER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 146, nays 87, not voting 57; as follows:

YEAS—Messrs. Adams, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Beebe, Belford, Bell, Blair, Bland, Blount, Bradley, John Young Brown, William R. Brown, Buckner, Horatio C. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Eames, Eden, Evans, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Goodin, Hale, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hatcher, Hathorn, Haymond, Hendee, Henderson, Hoar, Hoge, Holman, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kehr, Kelley, Kimball, King, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Lynch, Magoon, MacDougall, McDill, Miller, Mills, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Page, Phelps, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, Reagan, John Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Seelye, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Tarbox, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Warren, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, and Woodworth—146.

NAYS—Messrs. Abbott, Ainsworth, Ashe, Atkins, John H. Bagley, jr., Banning, Bradford, Bright, Cabell, John H. Caldwell, William P. Caldwell, Carr, Cate, Caulfield, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Cutler, Davis, Dibrell, Durham, Egbert, Field, Finley, Forney, Franklin, Fuller, Gause, Gunter, Andrew H. Hamilton, Robert Hamilton, Henry R. Harris, John T. Harris, Hartzell, Hooker, House, Humphreys, Hunton, Hurd, Knott, Franklin Landers, Lane, Levy, Lynde, Mackey, Maish, McMahon, Metcalfe, Money, Morrison, Mutchler, John Reilly, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Scales, Sheakley, Singleton, Slemons, Southard, Springer, Stanton, Stenger, Stone, Swann, Terry, Thompson, Tucker, John L. Vance, Robert B. Vance, Waddell, Walling, Walsh, Warner, Whitthorne, Wigginton, Wike, Jere N. Williams, Benjamin Wilson, and Yeates—87.

NOT VOTING—Messrs. Anderson, Bass, Blackburn, Bliss, Boone, Samuel D. Burchard, Chapin, John B. Clarke of Kentucky, De Bolt, Douglas, Durand, Ellis, Faulkner, Gibson, Glover, Goode, Hartridge, Hays, Henkle, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Hopkins, Jenks, Frank Jones, Thomas L. Jones, Lamar, Lewis, Lord, Luttrell, McCrary, McFarland, Meade, Milliken, O'Brien, Odell, Packer, Payne, John F. Philips, Piper, Poppleton, Purman, James B. Reilly, Sayler, Schleicher, Schumaker, William E. Smith, Sparks, Stephens, Teese, Thomas, Turney, Gilbert C. Walker, Ward, Watterson, Wheeler, and Young—57.

So the substitute was adopted.

During the roll-call the following announcements were made:

Mr. STENGER. My colleague from Pennsylvania, Mr. HOPKINS, is absent on account of sickness.

Mr. A. S. WILLIAMS. My colleague from Michigan, Mr. DURAND, is absent an account of sickness.

Mr. STEVENSON. My colleague from Illinois, Mr. ANDERSON, is absent by leave of the House.

Mr. MONEY. I desire to state that Mr. YOUNG, of Tennessee, is absent on account of sickness.

Mr. HUNTON. My colleague from Virginia, Mr. GOODE, is detained from his seat by sickness.

Mr. O'NEILL. My colleagues, Mr. JAMES B. REILLY and Mr. PACKER, are absent and paired.

Mr. WILSON, of Iowa. My colleague, Mr. MCCRARY, and Mr. HEWITT of Alabama are paired on this series of votes.

Mr. STEVENSON. I ask that the reading of the names be dispensed with.

Mr. HOOKER, and Mr. VANCE of Ohio, objected.

The result of the vote was then announced as above recorded.

The SPEAKER. The question recurs on agreeing to the original resolution as amended.

The question being taken, there were—ayes 142, noes 72.

Mr. VANCE, of Ohio. I demand tellers.

Tellers were ordered.

Mr. HURLBUT. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 156, nays 89, not voting 45; as follows:

YEAS—Messrs. Adams, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Beebe, Belford, Bell, Blair, Bland, Blount, Bradley, John Young Brown, William R. Brown, Buckner, Horatio C. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Cason, Caswell, Chapin, Chittenden, Conger, Crapo, Crounse, Cutler, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Evans, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Gunter, Hale, Robert Hamilton, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hatcher, Hathorn, Haymond, Hendee, Henderson, Hoar, Hoge, Holman, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kehr, Kelley, Kimball, King, Lamar, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Lynch, Magoon, MacDougall, McDill, McMahon, Miller, Milliken, Mills, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Page, Phelps, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, Reagan, John Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Schleicher, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Strait, Tarbox, Teese, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Warner, Warren, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, and Woodworth—156.

NAYS—Messrs. Abbott, Ainsworth, Ashe, Atkins, John H. Bagley, jr., Banning, Blackburn, Boone, Bradford, Bright, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Carr, Cate, Caulfield, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Davis, De Bolt, Dibrell, Egbert, Field, Finley, Forney, Franklin, Fuller, Gause, Glover, Andrew H. Hamilton, Henry R. Harris, John T. Harris, Hartzell, Hooker, Hopkins, House, Humphreys, Hunton, Hurd, Jenks, Knott, Franklin Landers, Lane, Levy, Lynde, Mackey, Maish, Metcalfe, Money, Morrison, Mutchler, John F. Philips, John Reilly, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Scales, Sheakley, Slemons, Southard, Springer, Stanton, Stenger, Stone, Swann, Terry, Thompson, Tucker, John L. Vance, Robert B. Vance, Waddell, Gilbert C. Walker, Walling, Walsh, Whitthorne, Wigginton, Wike, Jere N. Williams, Yeates, and Young—89.

NOT VOTING—Messrs. Anderson, Bass, Bliss, John B. Clarke of Kentucky, Douglas, Durand, Ellis, Faulkner, Gibson, Goode, Goodin, Hartridge, Hays, Henkle, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Frank Jones, Thomas L. Jones, Lewis, Lord, Luttrell, McCrary, McFarland, Meade, O'Brien, Odell, Packer, Payne, Piper, Poppleton, Purman, James B. Reilly, Sayler, Schumaker, William E. Smith, Sparks, Stephens, Stowell, Thomas, Turney, Ward, Watterson, Wheeler, and Benjamin Wilson—45.

So the resolution as amended was adopted.

During the roll-call,

Mr. BROWN, of Kentucky, said: My colleague, Mr. WATTERSON, was quite sick yesterday evening, and I doubt not that is the cause of his detention from the House to-day.

The result of the vote was then announced as above recorded.

Mr. MCMAHON. I move to reconsider the vote by which the resolution as amended was adopted.

Mr. HALE. I move to lay the motion to reconsider upon the table.

Mr. HANCOCK. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 175, nays 74, not voting 31; as follows:

YEAS—Messrs. Abbott, Adams, Ainsworth, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Bell, Blair, Bland, Blount, Bradford, Bradley, John Young Brown, William R. Brown, Buckner, Horatio C. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Cason, Caswell, Chapin, Chittenden, Conger, Crapo, Crounse, Culberson, Cutler, Danford, Darrall, Davy, De Bolt, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Evans, Felton, Flye, Forney, Fort, Foster, Freeman, Frye, Garfield, Gause, Goodin Gunter, Hale, Robert Hamilton, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hartridge, Hartzell, Hatcher, Hathorn, Haymond, Hays, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Holman, Hoskins, Hubbell, Hunter, Hurlbut, Hyman Joyce, Kasson, Kehr, Kelley, Kimball, King, Lamar, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Lynch, Mackey, Magoon, MacDougall, McCrary, McDill, Miller, Milliken, Mills, Monroe, Morgan, Morrison, Nash, Neal, New, Norton, Oliver, O'Neill, Page, Phelps, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, Reagan, Riddle, John Robbins, William M. Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Schleicher, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Tarbox, Teese, Thornburgh, Throckmorton, Martin I. Townsend Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace,

Warner, Warren, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Wike, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Yeates—175.

NAYS—Messrs. Atkins, John H. Bagley, jr., Banning, Blackburn, Boone, Bright, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Cate, Caulfield, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Davis, Dibrell, Egbert, Ellis, Finley, Franklin, Fuller, Glover, Andrew H. Hamilton, Henry R. Harris, John T. Harris, Henkle, Hooker, Humphreys, Hurd, Jenks, Thomas L. Jones, Knott, Franklin Landers, Lane, Levy, Luttrell, Lynde, McMahon, Money, Mutchler, O'Brien, Odell, John F. Philips, Poppleton, John Reilly, Rice, Roberts, Miles Ross, Scales, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Terry, Thompson, Turney, John L. Vance, Robert B. Vance, Waddell, Gilbert C. Walker, Walling, Walsh, Whitthorne, Wigginton, Jere N. Williams, and Benjamin Wilson—74.

NOT VOTING—Messrs. Anderson, Ashe, Bass, Beebe, Bliss, Carr, John B. Clarke of Kentucky, Cox, Douglas, Durand, Faulkner, Field, Gibson, Goode, Goldsmith W. Hewitt, Hopkins, House, Hunton, Frank Jones, Lewis, Lord, Maish, McFarland, Meade, Metcalfe, Packer, Payne Piper, Purman, James B. Reilly, Sayler, Schumaker, Sheakley, Stephens, Swann, Thomas, Tucker, Ward, Watterson, Wheeler, and Young—31.

So the motion to reconsider was laid upon the table.

At the conclusion of the roll-call Mr. HUBBELL said: I ask unanimous consent that the reading of the names be dispensed with.

Mr. VANCE, of Ohio. I object.

The SPEAKER. Objection being made, the Clerk will read the list of names.

The list having been read, the vote was then announced as above recorded.

COUNTING THE ELECTORAL VOTES.

At eleven o'clock and fifty-five minutes a. m., the Doorkeeper announced the Senate of the United States, who then, headed by their President *pro tempore* and accompanied by their Sergeant-at-Arms and Secretary, entered the Hall, the members and officers of the House rising to receive them.

The PRESIDENT *pro tempore* of the Senate took his seat as Presiding Officer of the joint meeting of the two Houses, the Speaker of the House occupying a chair upon his left.

Senators INGALLS and ALLISON, the tellers appointed on the part of the Senate, and Mr COOK and Mr. STONE, the tellers appointed on the part of the House, took their seats at the Clerk's desk, at which the Secretary of the Senate and the Clerk of the House also occupied seats.

The PRESIDING OFFICER. The joint meeting of Congress for counting the electoral vote resumes its session.

The two Houses, having separated pending submission to the commission of objections to the certificates of the State of Oregon, have re-assembled to receive and to coincide, or otherwise, with the decision of that tribunal.

The decision, which is in writing, by a majority of the commission, and signed by the members agreeing therein, will now be read by the Secretary of the Senate and be entered in the Journal of each House.

The Secretary of the Senate read as follows:

ELECTORAL COMMISSION,
Washington, D. C., February 23, A. D. 1877.

To the President of the Senate of the United States, presiding in the meeting of the two Houses of Congress under the act of Congress entitled "An act to provide for and regulate the counting of the votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," approved January 29, A. D. 1877.

The electoral commission mentioned in said act, having received certain certificates and papers purporting to be certificates, and papers accompanying the same, of the electoral votes from the State of Oregon, and the objections thereto submitted to it under said act, now report that it has duly considered the same pursuant to said act, and has by a majority of votes decided and does hereby decide that the votes of W. H. Odell, J. C. Cartwright, and J. W. Watts, named in the certificate of said persons and in the papers accompanying the same, which votes are certified by said persons, as appears by the certificates submitted to the commission as aforesaid, and marked number one (1) N. C. by said commission, and herewith returned, are the votes provided for by the Constitution of the United States, and that the same are lawfully to be counted as therein certified, namely:

Three (3) votes for Rutherford B. Hayes, of the State of Ohio, for President; and

Three (3) votes for William A. Wheeler, of the State of New York, for Vice-President.

The commission has by a majority of votes also decided, and does hereby decide and report, that the three persons above named were duly appointed electors in and by the State of Oregon.

The brief ground of this decision is that it appears, upon such evidence as by the Constitution and the law named in said act of Congress is competent and pertinent to the consideration of the subject, that the before-mentioned electors appear to have been lawfully appointed such electors of President and Vice-President of the United States for the term beginning March 4, A. D. 1877, of the State of Oregon, and that they voted as such at the time and in the manner provided for by the Constitution of the United States and the law.

And we are further of opinion that by the laws of the State of Oregon the duty of canvassing the returns of all the votes given at an election for electors of President and Vice-President was imposed upon the secretary of state and upon no one else; that the secretary of state did canvass the returns in the case before us and thereby ascertained that J. C. Cartwright, W. H. Odell, and J. W. Watts had a majority of all the votes given for electors and had the highest number of votes for that office, and by the express language of the statute those persons are deemed elected; that in obedience to his duty the secretary made a canvass and a tabulated statement of the votes showing this result, which according to law he placed on file in his office on the 4th day of December, A. D. 1876. All this appears by an official certificate under the seal of the State and signed by him and delivered by him to the electors and forwarded by them to the President of the Senate with their vote.

That the refusal or failure of the governor of Oregon to sign the certificate of the election of the persons so elected does not have the effect of defeating their appointment of such electors; that the act of the governor of Oregon in giving to E. A. Cronin a certificate of his election, though he received a thousand votes less than Watts, on the ground that the latter was ineligible, was without authority of law and is therefore void.

That although the evidence shows that Watts was a postmaster at the time of his election, that fact is rendered immaterial by his resignation both as postmaster and elector, and his subsequent appointment to fill the vacancy so made by the electoral college.

The commission has also decided and does hereby decide by a majority of votes and report that as a consequence of the foregoing and upon the grounds before stated the paper purporting to be a certificate of the electoral vote of said State of Oregon, signed by E. A. Cronin, J. N. T. Miller, and John Parker, marked No. 2 N. C. by the commission and herewith returned, is not the certificate of the votes provided for by the Constitution of the United States, and that they ought not to be counted as such.

Done at Washington, District of Columbia, the day and year first above written.

SAMUEL F. MILLER.
W. STRONG.
JOSEPH P. BRADLEY.
GEO. F. EDMUNDS.
O. P. MORTON.
FRED'K T. FRELINGHUYSEN.
JAMES A. GARFIELD.
GEORGE F. HOAR.

The PRESIDING OFFICER. Are there any objections to the decision of the Commission?

Senator KELLY. I have the honor to file certain objections to this decision signed by Senators and Representatives.

The PRESIDING OFFICER. The Senator from Oregon having submitted an objection to this decision, it will be read by the Clerk of the House.

The Clerk of the House read as follows:

The undersigned, Senators and Members of the House of Representatives of the United States, object to the decision of the joint commission directing the counting of the vote of John W. Watts, an alleged elector for the State of Oregon, as given for Rutherford B. Hayes for President of the United States and for William A. Wheeler, of New York, for Vice-President, and rejecting the vote of E. A. Cronin as cast for Samuel J. Tilden, of New York, for President, and Thomas A. Hendricks, of Indiana, for Vice-President, on the following grounds:

1. John W. Watts was not elected a presidential elector for Oregon.
2. He (J. W. Watts) was not legally appointed as a presidential elector.
3. He (Watts) was disqualified to receive any appointment as presidential elector or the vote as such, in that he held an office of trust and profit under the United States.
4. E. A. Cronin was elected a presidential elector for the State of Oregon, and in accordance with law as such cast a legal vote as an elector for Samuel J. Tilden for President and Thomas A. Hendricks for Vice-President, and the vote so cast should be counted.

JAMES K. KELLY,
WM. PINKNEY WHYTE,
HENRY COOPER,
J. E. McDONALD,
T. M. NORWOOD,
FRANK HEREFORD,
Senators.

LA FAYETTE LANE,
E. F. POPPLETON,
G. A. JENKS,
JOHN L. VANCE, of Ohio,
J. W. THROCKMORTON,
SCOTT WIKE,
P. D. WIGGINTON,
J. K. LUTTRELL,
Representatives.

The PRESIDING OFFICER. Are there further objections to the decision of the commission? [After a pause.] There being none, the Senate will withdraw to its Chamber, that the Houses separately may consider and determine the objection.

Accordingly, at twelve o'clock and ten minutes p. m., the Senate withdrew.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By the SPEAKER: Memorial of the Legislative Assembly of Montana Territory, for a change in the boundary lines of said Territory, to the Committee on the Territories.

By Mr. BOONE: The petition of William F. Fagan, E. B. Eddings, and 26 other citizens of Kentucky, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. BUCKNER: Joint resolutions of the Legislature of Missouri, protesting against the removal of the Sioux Indians to the Indian Territory, to the Committee on Indian Affairs.

By Mr. CATE: Memorial of the Legislature of Wisconsin, asking for the repeal of the law demonetizing silver, to the Committee on Banking and Currency.

By Mr. DANFORD: The petition of Isaac W. Hall and other citizens of Quaker City, Ohio, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

By Mr. DE BOLT: The petition of Cornell Cheney and 66 others, of Harrison County, Missouri, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. DUNNELL: The petition of J. K. Fancher and 100 other citizens of Minnesota, of similar import, to the same committee.

By Mr. HENDERSON: The petition of Benjamin S. Ferris and 17 other citizens of Princeton, Bureau County, Illinois, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

By Mr. HUMPHREYS: The petition of citizens of Sullivan County, Indiana, of similar import, to the same committee.

By Mr. REA: The petition of letter-carriers and citizens of Saint Louis, Missouri, to re-instate the pay of letter-carriers, to the Committee on the Post-Office and Post-Roads.

Also, the petition of citizens of De Kalb County, Missouri, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

Also, the petition of citizens of De Kalb and Gentry Counties, Missouri, for the removal of limitation on the time for applications for pensions, to the Committee on Invalid Pensions.

By Mr. ROBINSON: The petition of John A. Charles and 62 other citizens of Fairmount, Indiana, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

Also, the petition of M. S. Bundy and other citizens of New Castle, Indiana, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

By Mr. THOMAS: Two petitions, one from Samuel Hambleton, J. L. Adkins, and other citizens of Talbot County, the other from Robert B. Dixon and other citizens of Talbot County, Maryland, for the repeal of the bank-tax laws, to the same committee.

By Mr. THORNBURGH: A paper relating to the establishment of a post-route from Rogersville to Estillville, Tennessee, to the Committee on the Post-Office and Post-Roads.

Also, the petition of Thomas L. Duncan, late a private in Company I, Seventh Tennessee Mounted Infantry, for a pension, to the Committee on Invalid Pensions.

IN SENATE.

SATURDAY, *February* 24, 1877—10 a. m.

The recess having expired, the Senate resumed its session.

ELECTORAL VOTE OF OREGON.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate a communication from the president of the electoral commission. It will be read.

The Secretary read as follows:

WASHINGTON, D. C., *February* 23, 1877.

SIR: I am directed by the electoral commission to inform the Senate that it has considered and decided upon the matters submitted to it under the act of Congress concerning the same, touching the electoral votes from the State of Oregon, and herewith, by direction of said commission, I transmit to you the said decision, in writing, signed by the members agreeing therein, to be read at the meeting of the two Houses according to said act. All the certificates and papers sent to the commission by the President of the Senate are herewith returned.

NATHAN CLIFFORD.
President of the Commission.

Hon. THOMAS W. FERRY,
President of the Senate.

Mr. LOGAN. I move that the House of Representatives be notified that we are ready to meet them.

The PRESIDENT *pro tempore*. The Senator from Illinois moves that the House be notified that the Senate is ready to meet the House for the purpose of receiving the decision of the commission.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Secretary of the Senate will so notify the House.

CREDENTIALS.

Mr. JOHNSTON. Is it in order to make a motion?

The PRESIDENT *pro tempore*. Legislative business is not in order.

Mr. CHRISTIANCY. If it be now in order, I present the credentials of my colleague from Michigan for re-election to the Senate for six years from the 4th of March next, and ask that they be read.

The PRESIDENT *pro tempore*. It is in order. The Chair rules that credentials may be read, that matter pertaining to the *personnel* of this body. The credentials will be read.

The credentials of THOMAS W. FERRY, elected a Senator by the Legislature of Michigan for the term of six years commencing March 4, 1877, were read and ordered to be filed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, at eleven o'clock and three minutes a. m., by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. WILLIAM S. HOLMAN of Indiana, Mr. JAMES H. BLOUNT of Georgia, and Mr. CHARLES FOSTER of Ohio managers at the conference on the part of the House.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 4616) making appropriations for the naval service for the year ending June 30, 1878, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES H. BLOUNT of Georgia, Mr. W. C. WHITTHORNE of Tennessee, and Mr. EUGENE HALE of Maine managers at the conference on the part of the House.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 4559) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1877, and prior years, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. HENRY WALDRON of Michigan, Mr. J. D. C. ATKINS of Tennessee, and Mr. ROBERT HAMILTON of New Jersey managers on the part of the House.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. WILLIAM. S. HOLMAN of Indiana, Mr. HIESTER CLYMER of Pennsylvania, and Mr. HENRY WALDRON of Michigan managers on the part of the House.

PERSONAL EXPLANATION.

Mr. BOGY, (at eleven o'clock and thirty minutes a. m.) Mr. President, I desire to make an explanation to the Senate. I presented a few days ago to the Senate resolutions from my State purporting to have passed both houses of the Legislature, instructing the Senators from that State and requesting the members of the House to vote for what is generally known as the Texas Pacific Railroad bill. At the time I presented the resolutions I believed they had passed both branches of the Legislature of my State. They were inclosed to me by a member of the Legislature, and from a hasty perusal of the letter in my seat I was satisfied they had passed both branches, and so believing I felt it to be my duty to present them. I have not his letter at this moment, and it may be I did not file it away, as is my habit. Now I see by the papers that the resolutions did not pass both branches, but were in fact rejected in the senate.

I therefore feel it to be my duty to myself and to the Legislature to make this explanation. The resolutions were presented to the Senate as having passed, when in fact they did not pass.

ELECTORAL VOTE OF OREGON.

At eleven o'clock and fifty minutes a. m. Mr. G. M. ADAMS, Clerk of the House of Representatives, appeared below the bar and said:

Mr. President, I am directed by the House of Representatives to notify the Senate that the House is now ready to meet them in joint meeting of the two Houses to count the votes for President and Vice-President.

The PRESIDENT *pro tempore*. The Senate will now repair to the Hall of the House of Representatives.

The Senate accordingly proceeded to the Hall of the House of Representatives.

The Senate returned to its Chamber at twelve o'clock and ten minutes p. m. and the President *pro tempore* resumed the chair.

The PRESIDENT *pro tempore*. The Senate, having returned from the joint meeting in the House of Representatives, separated upon an objection submitted to the decision of the commission upon the certificates from the State of Oregon. The Chair will lay before the Senate that objection in writing. It will be read by the Secretary.

The Secretary read as follows:

The undersigned, Senators and Members of the House of Representatives of the United States, object to the decision of the joint commission directing the counting of the vote of John W. Watts, an alleged elector for the State of Oregon, as given for Rutherford B. Hayes for President of the United States and for William A. Wheeler, of New York, for Vice-President, and rejecting the vote of E. A. Cronin as cast for Samuel J. Tilden, of New York, for President, and Thomas A. Hendricks, of Indiana, for Vice-President, on the following grounds:

1. John W. Watts was not elected a presidential elector for Oregon.
2. He (J. W. Watts) was not legally appointed as a presidential elector.
3. He (Watts) was disqualified to receive any appointment as presidential elector or the vote as such, in that he held an office of trust and profit under the United States.
4. E. A. Cronin was elected a presidential elector for the State of Oregon, and in accordance with law as such cast a legal vote as an elector for Samuel J. Tilden for President and Thomas A. Hendricks for Vice-President, and the vote so cast should be counted.

JAMES K. KELLY,
WM. PINKNEY WHYTE,
HENRY COOPER,
J. E. McDONALD,
T. M. NORWOOD,
FRANK HEREFORD,
Senators.

LA FAYETTE LANE,
E. F. POPPLETON,
G. A. JENKS,
JOHN L. VANCE, of Ohio,
J. W. THROCKMORTON,
SCOTT WIKE,
P. D. WIGGINTON,
J. K. LUTTRELL,
Representatives.

Mr. SARGENT. I offer the following resolution:

Resolved, That the decision of the commission upon the electoral vote of the State of Oregon stand as the judgment of the Senate, the objections made thereto to the contrary notwithstanding.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

Mr. EDMUNDS. I ask for the yeas and nays, Mr. President.

The yeas and nays were ordered.

Mr. KELLY. Mr. President, I believe we are limited to ten minutes in our speeches?

The PRESIDENT *pro tempore*. The Senator is correct.

Mr. KELLY. I hardly think it is necessary to begin an argument

in that length of time; but I wish the Senate to pass upon this point distinctly. It appears that the decision recites the fact that on 7th day of November Mr. J. W. Watts, who is objected to, was a postmaster. That fact is clear and indisputable. The commission say that, nowithstanding that fact, he still was eligible; that if he did not hold the office at the time he cast the vote, on the 6th of December, he is not disqualified. In my judgment that is a decision in plain violation of the Constitution of the United States. The Constitution says:

Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

That strikes at the very beginning of the time when an elector claims to be appointed; that is, at the election. "Election" and "appointment" are here synonymous, and the Revised Statutes of the United States provide that—

The electors of President and Vice-President shall be appointed in each State on the Tuesday next after the first Monday in November.

That is the day when they are to be appointed, in November. They cannot be appointed afterward. If an elector were ineligible at that time it would be impossible to render him a qualified elector by subsequent resignation. In support of this position I refer to a decision made by the supreme court of California, Searcy *vs.* Grow, 15 California Reports. I have not time to read it; I simply refer to it and also to two other decisions which will be remembered by every Senator.

In the State of Rhode Island the governor, under the peculiar laws of that State, submitted to the supreme court of Rhode Island the question whether Mr. Corliss, who was holding an office of trust under the United States on the day of election, was a person who could be chosen an elector. He had resigned the office after the election, but was holding it on the day of the election. The supreme court of Rhode Island held that he was ineligible; that to be eligible to be elected or appointed he must have been qualified on the day of election. Here is a solemn decision of the supreme court of Rhode Island.

The same thing was settled by the Legislature of Vermont. A man by the name of Sollace, a postmaster, was voted for, and a few days after the election he resigned. The Legislature of Vermont, being convened, by the very fact that they appointed another man, held that Sollace was ineligible and sustained the doctrine for which I contend.

Mr. EDMUNDS. Will the Senator let me tell him that the Legislature did not appoint him?

Mr. KELLY. I understand that the Legislature convened immediately afterward and appointed him.

Mr. EDMUNDS. The Senator is entirely mistaken.

Mr. CONKLING. It passed a bill authorizing another.

Mr. KELLY. That is virtually the same thing.

Mr. EDMUNDS. No, the Legislature passed a general law amending the old law, so as to make it absolutely clear that the electors in all future time would have a right to fill every sort of vacancy.

Mr. CONKLING. Including that one.

Mr. EDMUNDS. Including that one.

Mr. KELLY. I am sorry my time is so limited, or else I should be glad to hear from the Senator from Vermont a little longer in explanation of what he asserts; but taking the very ground suggested, it shows that the person voted for was not considered eligible; else the Legislature would not have passed a law authorizing the other electors to supply that vacancy. They recognized the fact that he being ineligible some legislation was required so as to fill the vacancy.

Here are three decisions, the decision of the Legislature of Vermont, the decision of the supreme court of Rhode Island, and the decision of the supreme court of California; and in addition we have the fact that in 1837 a joint committee appointed on the part of both Houses, of which the Senate portion consisted of Felix Grundy, Henry Clay, and Silas Wright, upon an investigation of this matter declared it to be the doctrine of the Constitution that no person holding the office of postmaster could be elected or chosen, and that a subsequent resignation did not cure the defect. If anything can be settled by legislative precedents, it seems to me that this point was settled by the unanimous decision of a joint committee of both Houses of Congress, by the Legislature of a sovereign State, and by two supreme courts. Indeed it seems to me that it does not require any adjudication to settle a point that is so plain as this.

Mr. MITCHELL. Will my colleague allow me to interrupt him?

Mr. KELLY. I cannot. You will have ten minutes. My colleague is in the habit of interrupting me every time I get up to speak when he knows my time is limited. I think it is almost discourteous, but I will withdraw that word.

Mr. MITCHELL. Probably it is no more discourteous than to decline in the abrupt manner that my colleague has done.

Mr. KELLY. I surely cannot be called upon to give part of my time when my colleague will have ten minutes to answer me.

Mr. MITCHELL. I simply desired to say that my colleague has misapprehended the decision of the commission, and I wished to give him an opportunity to set himself right.

Mr. KELLY. I suppose my time has been exhausted by these questions, and I will not say anything further.

Mr. MERRIMON. Mr. President, I cannot give the sanction of my judgment to the several decisions made by the electoral commission upon the main questions submitted to them. In my opinion its decisions contravene the spirit of the Constitution and as well that of the statute creating it, and unhappily give life and effect to the grossest fraud upon the ballot-box, establish wrong, and deprive the American people of the Chief Magistrate duly elected and fasten upon them one not so elected.

In the few minutes allowed me in this debate, I will state a very brief summary of the grounds of my opinion.

The Constitution provides in clause 2 of section 1 of article 2, as follows:

Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

This clause of the Constitution plainly provides that the *States* shall have the right to elect the President and Vice-President, and defines how the power to be exercised for that purpose shall be exercised:

Each State shall appoint, in such manner as the Legislature thereof may direct, &c.

This power is absolute. It implies the right and power to appoint unqualifiedly, as the Legislature may direct, with one limitation, to wit:

But no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

To *appoint* electors means to make all laws and regulations, and to provide all tribunals, and to do all things necessary to their complete appointment. Neither in terms nor by necessary implication has the Federal Government, or any department thereof, any power to regulate or modify the manner of such appointment, or to reject or reverse the same when made as the Legislature shall direct, if the same shall not conflict with the clause of the Constitution just cited making certain classes of persons ineligible. With this exception, to determine who is an elector is unqualifiedly within the jurisdiction of the State. And when the properly constituted State authorities, the lawful State tribunals, whether one or more, shall have ascertained according to the laws of the State who is an *elector*, and shall have done all necessary things, made all necessary inquiries and decisions to that end, the United States—the Senate and House of Representatives sitting to count and counting the electoral vote for President and Vice-President—are bound to accept such elector and cannot reject him, or review, modify, or reverse any action or decision of the proper State authority in relation to his appointment. It is the right, the duty of the State to appoint.

The elector when so appointed is an officer or agent to do an official act for the State appointing him, affecting the several States and the United States. As soon as electors are appointed by the State, they come within the jurisdiction and authority of the United States under and in pursuance of the Constitution and laws. The Constitution further provides that—

The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate.

Such electors must comply in all respects with the provisions just cited and all proper statutory regulations to execute the same. When they shall have voted for President and Vice-President and the vote as cast by them shall come before the Senate and House of Representatives in joint session, then the two branches of Congress, according to their respective organizations, must by necessary implication, inquire whether the Constitution and laws of the United States have been complied with; whether there was a Legislature of the State which did direct the appointment of such electors; whether such appointment was ascertained to have been made by the proper authorities of the State designated and provided by the laws of the State for that purpose, that is, by the authorities provided by the State to ascertain who shall have been appointed; whether persons purporting to be such authorities were such according to law and proceeded in their office according to law; who were the duly ascertained authorities of the State in any way connected with the appointment of such electors, as for example, who duly composed the Legislature; who was the governor, the secretary of state, the returning board, and the like. Ordinarily the two branches of Congress would take official notice of the Legislature and the several officers of the State, but in case the existence or right of these shall be duly questioned, then solemn inquiry must be made and all decisions made to that end, not for the purpose of reviewing, modifying, or reversing their action, but to see, first, that they had the right under the constitution and laws of the State to act, and secondly, that they did act according to law.

To make such inquiries and such decisions is essential, else how could the Senate and House of Representatives know that persons purporting and claiming to be electors for a State were indeed so according to law? The two branches must know who were electors, that the persons claiming so to be were such; and this implies necessarily the power to make all inquiries and decisions for that purpose. But for the existence of such a power of inquiry, decision, and judgment, conspirators might easily supplant and defeat the purposes of the Constitution. This is one of the cases where under our system the Federal Government is bound to act upon and accept, and can-

not review, modify, or reject the action of the State government; it can only through its properly constituted agencies inquire and determine who were the lawful State authorities to ascertain results and what they did in ascertaining who were electors. If Congress or any other Federal tribunal could review, modify, or reverse the action of the lawful officers of the State, how, I ask, could it be said that the State *appointed* the electors?

Now, let us apply this exposition of the Constitution to the case of the returns from the State of Florida. It was the duty and the right of the properly constituted authorities of that State to *ascertain*, and they alone could ascertain lawfully, who were duly elected electors for President and Vice-President at the late election. If such authorities did act *according to the laws of that State and ascertain that certain persons were elected* electors, then the Senate and House of Representatives were bound to accept the returns as made by such electors, whether such ascertainment was correct or erroneous, and for the reason, that it is the right and the duty of the State to appoint the electors and to do all things and make all inquiries in and about such appointments. All such acts, inquiries, and decisions were matters solely within the jurisdiction of the State.

But it was the duty of the Senate and House of Representatives and the electoral commission under them to ascertain on questions being properly raised, whether there was the State of Florida in lawful relation with the United States; to take official notice of the constitution and laws of that State, to inquire who were the lawfully ascertained officers of that State in any way connected with the ascertainment of the result of the late presidential election there, particularly who was the duly ascertained governor, secretary of state, attorney-general, and comptroller of public accounts, and whether these three latter officers composed the returning board and whether they exercised their office in that respect according to the laws of that State in ascertaining who were duly elected electors. Ordinarily, perhaps, the Senate and House of Representatives would take official notice of these officers and their official acts, but not in case of question of their existence or their lawful conduct. Then solemn inquiry must be regularly instituted, and if it turned out that the officers purporting and claiming to be such were not duly ascertained to be such, or that they proceeded in their offices in defiance of the law as expounded by the supreme judicial tribunal of that State, then the returns ought to have been rejected as null and void.

In this case the evidence which ought to have been admitted by the commission proves that the secretary of state, the attorney-general, and the comptroller of public accounts composed the returning board of the State of Florida; that this board had lawful authority to canvass the returns of the election from the several counties; that they had only the ministerial power to count the vote, to aggregate it as it came to them; that, however, they exercised judicial powers and undertook to inquire and determine whether the vote as cast was lawful or unlawful, and in the exercise of such power falsely and fraudulently rejected the whole vote of one county and the vote of many precincts in other counties in that State, and thus willfully and corruptly and unlawfully ascertained that the persons favorable to the election of the republican candidates were elected electors; that they did this in the face and defiance of repeated decisions of the supreme court of that State expressly deciding that this board had only ministerial powers, and not judicial powers; that if the vote had been duly counted then the candidates favorable to the democratic candidates would have been ascertained to be elected; that this board did not proceed according to the law of that State, and did not ascertain the result of the election there, and as a necessary consequence the returns from that State ought at least to have been rejected.

This opportunity will not allow me to advert specially to the cases of the returns from Louisiana and Oregon, but the decisions of the electoral commission in those cases are in several respects grossly erroneous for the like and other reasons.

Mr. ANTHONY. Mr. President, I wish to correct a citation which the Senator from Oregon made from the decision of the supreme court of Rhode Island, or rather to enlarge it. Among the questions submitted to the supreme court were first as to the eligibility of the candidate for elector who held the office of centennial commissioner, and fourth to the election of the democratic candidate next highest on the list. Upon this point the supreme court said:

> We think the disqualification does not result in the election of the candidate next in vote, but in a failure to elect.

Mr. KELLY. I knew that, but I referred to the other point of their decision.

Mr. MORTON. I believe, Mr. President, it was not argued by anybody upon the commission that Cronin was elected; that Tilden had a vote in Oregon; but the minority of the commission took the ground that there were but two electors chosen in Oregon, and that Hayes had but two votes in that State. Watts was postmaster at La Fayette on the 7th day of November. It was argued therefore that he was not elected, that the election was a failure so far as he was concerned, and that but two were elected. On the 13th of November Watts resigned. On the 14th his resignation was accepted, and on the same day the office was transferred to another, and to another building. When the electors met on the 6th of December, Watts handed in his resignation as an elector, and was afterward chosen to fill the vacancy, and cast his vote. Although Watts was not a postmaster or an office-holder on the 6th of December when the electors voted it was argued that there was no such vacancy in the college of electors as that college had a right to fill, and therefore that the election by the college was a nullity.

On the other hand, Watts, Odell, and Cartwright received majorities of the people's votes ranging over 1,000 above their highest competitors. The secretary of state canvassed the vote on the 4th day of December, made his certificate of the result, showing the election of Odell, Cartwright, and Watts, which was filed in the office of the secretary of state. The secretary of state was the canvassing or returning officer for the State of Oregon. I read from the Oregon statutes:

> The county clerk, immediately after making the abstract of the votes given in his county, shall make a copy of each of said abstracts, and transmit it by mail to the secretary of state, at the seat of government; and it shall be the duty of the secretary of state, in the presence of the governor, to proceed within thirty days after the election, and sooner if the returns be all received, to canvass the votes given for secretary and treasurer of state, State printer, justices of the supreme court, member of Congress, and district attorneys; the governor shall grant a certificate of election to the person having the highest number of votes, and shall also issue a proclamation declaring the election of such person.

Now, in regard to the officers named including members of Congress it is declared that the secretary of state shall canvass the votes and that the governor shall issue a certificate to the persons having the highest number of votes. He is not a canvassing officer; his duty is simply ministerial, and it is made his peremptory duty to issue a certificate to the persons having the highest number of votes. The law makes the declaration as to who is elected. The law declares that the person having the highest number of votes is elected, and it requires no declaration upon the part of any officer of that result. Then I turn to the electoral law of Oregon. I first read the sixtieth section:

> The votes for the electors shall be given, received, returned, and canvassed as the same are given, returned, and canvassed for members of Congress.

That brings it directly under the law that I have read. The secretary of state, as in the case of members of Congress, is to be the returning officer, and the secretary of state is to return as elected the person having the highest numbers of votes as in the case of member of Congress. I read on:

> The secretary of state shall prepare two lists of the electors elected and affix the seal of the State to the same. Such lists shall be signed by the governor and secretary, and by the latter delivered to the college of electors at the hour of their meeting on such first Wednesday of December.—*General Statutes*, section 60, page 578.

The duty of the governor is imperative, to sign the list which is made out by the secretary of state, who, as in the case of members of Congress, is made the canvassing and returning officer. The governor is no part of the returning board, has nothing to do with the canvassing of the votes, but is absolutely required to sign the list made out by the secretary of state. Then I read section 59:

> The electors of President and Vice-President shall convene at the seat of government on the first Wednesday of December next after their election, at the hour of twelve of the clock at noon of that day, and if there shall be any vacancy in the office of an elector, occasioned by death, refusal to act, neglect to attend, or otherwise, the electors present shall immediately proceed to fill by *viva voce* and plurality of votes such vacancy in the electoral college, and when all the electors shall appear, or the vacancies of any shall have been filled as above provided, such electors shall proceed to perform the duties required of them by the Constitution and laws of the United States.—*General Laws*, section 59, page 578.

It was contended by a majority of the commission that this law authorized the college of electors, a majority, to fill a vacancy arising from any cause, from death, refusal to act, failure to attend, failure to elect, or from any cause that can be imagined.

It was the purpose to give the college of electors the right to fill any vacancy, so that the State of Oregon should be fully represented in the electoral college. The college of electors, the majority, exercised this unquestioned right. Watts on the 6th day of December was not a Federal office-holder; he was as completely qualified as any citizen in Oregon.

We hold, therefore, that it was wholly immaterial whether he was a postmaster on the 7th day of November or not; because if he was not a Federal office-holder on the 6th of December, if he was then qualified, that brought him within the meaning of the Constitution. His election was not invalidated any more than the election of a Senator would be who was elected before he was thirty years old, but was thirty years old when he took his seat.

But that question became immaterial because he resigned the office of postmaster before the 6th day of December, was completely qualified, and then the college of electors had the right to elect him to fill the vacancy.

To remove any doubts he himself resigned the office of elector, so as to make a vacancy in the electoral college certain, and then the college of electors, under the unquestionable authority of the law, elected him to fill the vacancy, so as to make the electoral college complete and lawful under all circumstances and in any view of the case.

Mr. CONKLING. Mr. President: Oregon meant to appoint the republican presidential electors.

The people of Oregon, by a plain and undenied majority, honestly and intentionally voted for the republican presidential electors.

Two certificates having been received from Oregon, the question of the count of her votes has been examined by the electoral commission.

A majority of the commission have sent us two things:

First; a decision that the vote ought to be counted as the people of

the State really and honestly meant it to be counted and as they declared at the ballot-box it should be counted.

Second; a statement of reasons by which the decision was reached by the commissioners.

On the first matter thus reported, namely the decision that Oregon's vote should be counted as designed and directed by the people of Oregon, the Senate is required to express its judgment.

The form of this expression is proposed in the pending resolution—

That resolution does not, as I understand it, summon any Senator to express his opinion of the reasons assigned for the decision submitted to us.

I therefore say nothing about the argument or the reasons which appear in the paper read in the joint meeting to-day. Every Senator is entitled to his own argument, and his own mode of arriving at his opinion.

I believe Oregon's votes should speak as those who had the right and power to utter the voice of that State, meant they should speak.

My vote here will express this judgment; all beyond this I disclaim.

In the brief moments allotted to this discussion, an argument would not be possible; I shall therefore attempt no statement of my reasons.

Indeed, could an argument be made in the ten minutes given to each Senator, I would not attempt to make one.

I will do nothing to retard or defer for a moment the conclusion of the presidential count. On the contrary, I will in every lawful way hasten the proceeding, to the end that at the earliest hour the vote of the last State may be counted, and the result declared under the law, quietly, certainly, and conclusively.

I therefore surrender, in the interest of expedition, the remainder of my time.

Mr. SAULSBURY. Mr. President, I shall not attempt to discuss the Oregon question, but I shall avail myself of this opportunity to express very briefly my opinions in reference to the conclusions of the commission. The time limited for debate will not allow a full expression of the grounds of dissent, nevertheless I shall not permit this opportunity to pass without at least entering my protest against the action of the commission, not only in reference to the case of Oregon but also in the cases of Louisiana and Florida. In the latter State every department of her government has expressed unqualified disapproval of the unwarranted and unauthorized action of the two returning officers who fraudulently certified the election of the Hayes electors. That the Tilden electors were fairly elected in Florida is now beyond question, and the proof of that fact was tendered to the commission. Yet ignoring the very right of the matter, the majority of the commission proclaim to the people of the country that their authority and power under the Constitution and laws as they existed at the time of the creation of the commission is insufficient to overcome technicalities and inquire into the fraudulent action of a returning board. This proclamation neither meets the demands of justice and right, nor the just expectation of the American people. On the contrary it subverts right, and throws the mantle of protection over fraud.

In the Louisiana case the decision of the commission is simply monstrous. In that State it is not denied that the majority for the Tilden electors was from six to nine thousand—a majority larger than that given for any party in more than one-half of the States of the Union.

It is not denied that the returning board, notorious for its fraudulent action on former occasions, rejected in violation of law and in disregard of the rights not only of the people of Louisiana, but of the people of the whole country, more that 10,000 democratic votes, and fraudulently certified the election of the Hayes electors.

I am aware that an excuse has been made in the Senate of the United States and elsewhere for the action of the returning board of Louisiana in rejecting this large number of democratic votes on the alleged ground that there had been violence and intimidation which prevented a free and fair election. I will take this opportunity to say in reply to all such excuses, that after having visited that State and spent five weeks in investigating this very question, the conclusion which I have arrived at is that there have been more perjuries committed to prove intimidation and justify the unauthorized, illegal, and fraudulent action of the returning board in rejecting democratic votes than there were persons in the State whose votes were influenced by intimidation.

The excuses which are made for the action of this returning board are almost I had like to have said as criminal as the action of the returning board itself, because they impute to the democratic party of that State, which was honestly seeking to have a peaceful and fair election, a disposition to use violence and murder and intimidation and encourage acts which no civilized people on the face of the earth would not condemn and disapprove. The people of Louisiana knew, and knew full well, that it was their interest to have a peaceful and quiet election, because they knew that this returning board upon the least excuse whatever would defeat the result of their efforts and throw out the votes cast in the election. But I have no time to go further into that matter.

It is not denied that two of the persons certified by this board as elected and who voted for Hayes were at the time of their appointment Federal office-holders and ineligible as electors under the Constitution of the United States on the 7th day of November last. The proof of fraud on the part of the returning board in the rejection of votes from nearly one-half the parishes of the State, as well as of the ineligibility of two electors, was not only tendered to but pressed upon the commission. Yet the commission decided that such proof was inadmissible, and closed its ears to the demand of the people of the country for an honest count of the votes and the rightful settlement of the dispute. The action of the corrupt returning board of Louisiana is interposed as an estoppel to the demands of justice enforced by the voice of more than half of the American people. What would my Lord Mansfield have said could such a case have come before his court? Would he have refused to inquire into fraud when the proof was tendered? No, sir; he would have awarded an investigation and demanded its exposure, even if it shook the throne or impeached the most solemn judgment of the House of Lords. Yet this commission has declared that no fraud, however patent and susceptible of proof, can be shown to impair the validity of the action of a canvassing board, which must remain, notwithstanding such fraud, firm and stable forever.

I shall say nothing of the *personnel* of the commission; but neither the high character of its members nor their official position can shield their decision from the criticism of their countrymen. The American people will not be satisfied; they ought not to be satisfied. It defeats for the time being our elective system of government and will greatly impair confidence in the permanency of free institutions. It will do more; it will bring reproach upon republican government among the nations of the earth. I can only enter in the time allowed my protest as a citizen and Senator against conclusions so monstrous and so violative of right.

Mr. BOGY. Mr. President, the question is too grave and too important to allow it to pass without entering my solemn protest against the decision of the commission. The time allowed to each Senator is too short to enter into any argument.

In the State of Florida a returning board, acting not only outside of the law but in violation of the law as decided by the supreme court of that State, I may say robbed the people of the State of Florida of the vote they had given to Tilden and transferred it to the other candidate. I repeat, this was done in violation of law as decided by the supreme court of that State. In the State of Louisiana a returning board, acting also outside of the law and in the most corrupt manner, which is notorious and known to the whole country, without law or authority also robbed the people of that State of a majority which they had given to Tilden of some 8,000 or 10,000 votes and transferred them to the other candidate. In the State of Oregon an elector who held office at the time he was voted for, and was thereby ineligible under the Constitution of the United States, is yet sustained as a legal elector because his vote was necessary to secure a majority to the republican candidate. Under this condition of facts it is my duty as a Senator to enter my protest against the conclusion arrived at by the commission.

Mr. President, I voted for the law creating the commission. I did it because we all saw that the votes of these three States would come before the joint session. We feared we were partisans with strong attachments for one side or the other, and fearing our impartiality, and not confident in our own strength to resist party influences, we decided to create a commission which we thought would occupy a higher plane, beyond the reach of party, and beyond the influence of any party feeling. Upon that tribunal we placed five of the judges of the Supreme Court of the United States, men eminent for their official position and for their high character. We thereby thought that we were creating a tribunal far beyond the reach of party or the influence of partisan feeling; but the country will have to decide whether this tribunal created by us has justly met the expectations of the majority of the two Houses of Congress who created it. Indeed, it will also have to decide whether the public expectation has been fairly and justly met.

In my opinion, the tribunal thus created was as much under the influence of party as the returning boards in Florida or in Louisiana. Indeed, I believe it was more so and more completely under the influence of partisan feeling than either of the returning boards of those States. Therefore, sir, I and those like myself who voted for the commission with this understanding and this just expectation are sadly disappointed, and I believe the country will be disappointed and the decision arrived at by the commission will not be sustained by a majority of the people of the United States.

By that decision a person is forced into the office of President of the United States not elected by the people, a person is to be inaugurated as the Chief Magistrate of this country against whom a popular majority of 300,000 stands recorded, and against whom a majority of the electors also voted; and yet by the judgment of this commission he is forced upon the people of this country as the Chief Magistrate of the nation.

Sir, to me it is the beginning of a new era, the beginning of a dark period for this country, presaging the greatest evils. It seems to me that we are in the condition of Rome under Augustus, when the dark shadow of the empire gradually rose above the horizon and cast its gloom over the world. Augustus, day by day, through his satellites and parasites and corrupt supporters and adherents, gradually absorbed in his hands all the power of the republic, and through these vile and unworthy instruments extended his government over the vast empire from the city to the most distant province and from the center to the circumference. The virtue of the

old Roman had departed, and in its place a system of corruption was inaugurated. From that day the liberty of Rome was lost forever, and there was inaugurated that dark imperial despotism which swayed the scepter of the world for many long years. We have arrived at that period. We have passed and left behind us the days of the purity of our fathers. We openly disregard the will of the people, and by *finesse* and special pleading and chicanery and cunning and ability, as Augustus had, we subvert and defy their will and inaugurate in lieu of that fraud the most gigantic and notorious. The people of the United States will so understand it, and if there be anywhere the power to correct this and repudiate it it is with them, and it is to them I appeal. My hope, if any I have, is with them alone. We are making history. What we do here to-day will be recorded. The actors are known. Their names will be inscribed on its pages, and by that tribunal they will be judged. I feel as an American who would be willing to submit to any sacrifice for the glory and happiness of my country; that what we are now doing will be for all time anything but a bright page in the nation's history. I repeat, my hope is with the people, and with them alone; and to that tribunal I appeal.

Mr. MCMILLAN. Mr. President, the conclusion of the commission in its decision upon the case of Oregon is so very clearly stated, with the reasons for that decision, that perhaps nothing need be added; but I wish to express very briefly my views upon one question arising out of the facts in that case.

It has been contended by the supporters of the governor of that State, to justify the appointment of the elector Cronin, that Watts was ineligible for election on the day of election; that therefore the election was void; and the election being void, there was no vacancy to be filled by the board of electors remaining; therefore, under the law of Oregon, the electors could not fill it.

Mr. President, it seems to me that the persons taking that position lose sight of one very important matter. The office of elector at the last election was not an office created on that occasion which had never been filled. The office of elector is an office established by the Constitution of the United States, and the office has existed ever since the adoption of the Constitution of the United States. It has been filled time and again by the various electors chosen at the presidential elections to perform the duties of that office. In the State of Oregon, at the presidential election preceding the one in November, the office of elector in that State was filled by the electors appointed at that time. The term of the electors terminated with the discharge of their duties on that occasion; and the office having then been filled, the functions of the office having been discharged by the electors then appointed, when they cease to discharge the duties of their office there is a vacancy, because the office has once been filled; the people were to fill that vacancy. Grant that the attempt to elect Watts was void, grant even that position, which I do not do by any means, then there is still a vacancy, and two electors having been appointed in November under the Constitution and laws, they had a right to fill the remaining vacancy in that office. This is not the case of an office created by law which has never been filled. Only in that case would the position apply which is urged by the opponents of the election of Watts. So that every ground which has been urged in this case is without foundation, and the attempt to defeat the vote of Oregon, not challenged as being impaired with any indirectness or fraud on the part of the people, by the party claiming to be democratic, is beyond all that I can conceive of as consistent, right, or honest.

The PRESIDENT *pro tempore*. The question is on the resolution of the Senator from North Carolina.

Mr. WALLACE. I offer the following substitute; strike out all after the word "resolved" and insert:

That the vote of W. H. Odell, and the vote of J. C. Cartwright, cast for Rutherford B. Hayes, of Ohio, for President of the United States, and for William A. Wheeler, of New York, for Vice-President of the United States, are the votes provided for by the Constitution of the United States, and that the aforesaid Odell and Cartwright, and they only, were the persons duly appointed electors in the State of Oregon at the election held November 7, A. D. 1876, there having been a failure at the said election to appoint a third elector in accordance with the Constitution and laws of the United States and the laws of the State of Oregon, and that the two votes aforesaid should be counted, and none other, from the State of Oregon.

Mr. SARGENT. Mr. President, I do not wish to delay the vote in this matter; but it strikes my mind that it is a notable circumstance that not a single member of the commission countenanced and not a member of the Senate, so far as I have observed, has risen to defend the operations whereby Mr. Cronin was made an elector in the State of Oregon or the college which he created—not one. All that great preparation, all that machinery seems to have been constructed in vain. We are brought down to the simple question whether Watts at the time that he acted in the electoral college had a right to cast the vote of an elector of the State of Oregon. Mr. Cronin departs from the scene, and with him depart in the distance Mr. Patrick and the other agents who acted in the questionable manner that has been developed by the testimony taken by the committee of the Senate. I think this is well. The other course might, perhaps, have erected a precedent that would have led to consequences fatal in our future. We certainly have virtue enough to reject without distinction of party such bald, miserable schemes as this for imposing upon the will of a people.

The Senator from Oregon [Mr. KELLY] alluded to a case in 15 California Reports, Searcy *vs.* Grow, and held that the doctrine inculcated in it would lead to the conclusion that Watts was not only ineligible at the time of his election by the people, but ineligible at the time he was chosen by the college of Oregon to fill a vacancy existing. I do not think that is a fair deduction from the language of that decision. It may tend to show that at the time of the election by the people, although they were ignorant of the disqualification of the man whom they elected, this disqualification did prevail and that he was not elected. But this decision does not show or countenance the idea that the power of the people was exhausted in the election and could not continue and empower the college to act in selecting Watts or any other man to fill a vacancy which might exist. The supreme court of California in this case says:

We do not see how the fact that he became capable of taking the office—

That is, the person claiming it, and by resignation—

after they—

The people—

had exhausted their power, can avail the appellant. If he was not eligible at the time the votes were cast for him, the election failed.

Now, admit that that is good law, the people did not exhaust their power at the time they voted in November for electors, because they had provided by a careful statute that if any accident happened in that electoral college on the day of meeting, by which a person did not appear there from any cause, "otherwise" being the word used, and being equivalent to the words "any cause" used in the statute of Virginia, the people would still preserve their entire power to repair the loss in their college and secure their full vote in making a President of the United States. All the States had done this with more or less perfectness. Some of them, as in the case of Rhode Island, had so framed their law that if the person voted for were ineligible, and therefore was not elected, then there was no power in the college to fill that vacancy. The statute of Vermont was liable to the same criticism. The supreme court in the one case and the Legislature in the other ascertained these defects and they were remedied by the passage of appropriate general laws. But suppose that general law had been passed by the State before the occasion arose, would anyone say that it would not operate as much as if it was passed after the occasion arose? If there could be a difference in the degree of respect accorded to the respective cases, the statute which was made for general purposes and before a particular case arose should have more sanction, more authority, more respect than one that was made in the presence of the case and where it might be dictated by party expediency.

The State of Oregon had provided in the amplest manner for filling a vacancy in case the people themselves should fail to elect, or in case the man elected failed to attend or in any way was incapacitated. The law of the State is clear and plain, and is as perfect as that of any State. Now, the people of that State have acted in perfect good faith under valid and adequate laws. Shall their will be defeated?

Who stand on the equitable side of this proposition; those who are claiming that it is not right that one-third of the voice of the people of a State shall be deprived of a hearing, or those who contend for the opposite? Why, sir, each Senator must judge for himself as to his course of duty; but it seems strange to me that the Senator from Oregon has for months tried by various means and finally by his concluding argument, which was characterized by considerable ability, to prevent the voice of his State being fully heard. He would deprive his State of its due and adequate voice. It might do him injustice to say that this is because that voice is against his party affiliations. I will not assume to judge him. But other Senators who cannot have any personal connection with this matter might admit that it is a great hardship to a State, to be avoided if by any equitable means it can be by any construction which can be by reasonable intendment applied—it is a great hardship to deprive a State of representation in the electoral college. It is a degradation of the State, that should not result from hair-splitting. Rather let the honest voice of the State be heard, unless party behests are stronger than right. Justice demands it; decency compels it.

Is not that the case? Is not that the real equity of the matter? Ought we not to construe these statutes beneficially in favor of the remedy, in favor of preserving the right of a State and its voice in the highest function that a State can perform, that of the selection of President of the United States?

Now, it is not the question here what may have been done in Louisiana or what may have been done in Florida. That may have been done rightly or wrong ully. The eight who voted in those matters and in this may have been partisans and the seven who voted the other way may have been non-partisan. That is not the question. The question now is when a State in the Union, entitled to as much rights as California, New York, Illinois, or any other State, has in its laws provided a way in which a vacancy in its college shall be filled, and that vacancy has been filled by a person eligible at that time, whether the will of the State shall be fairly carried out, whether equity shall prevail, and such construction be placed on its laws and its obligations as to give it its natural voice.

It seems to me that under ordinary circumstances and removed from the case which now shadows us, which now clouds us in this Capitol and in the country generally, there would be very little difference of opinion on a matter like this. I trust the votes will show

that there is less difference at the present time than mere partisans expect and seek.

The PRESIDENT *pro tempore*. The question is upon agreeing to the resolution.

Mr. MORTON. Mr. President, I believe I have one minute left.

The PRESIDENT *pro tempore*. The Senator has spoken once. He cannot speak again.

Mr. MORTON. I thought I had a minute left.

The PRESIDENT *pro tempore*. A Senator can speak but once, no matter how much of his time he occupies when on the floor. He cannot exceed ten minutes.

Mr. WHYTE. Mr. President, when I cast most reluctantly my vote for the electoral commission bill, I did it with the declaration in this body that I deemed it a democratic surrender; but in response to the appeal from the country for an "*honest count*" and in the belief that men could be found who preferred that there should be neither stultification nor dishonor connected, in any way, with the presidential office, and that the "*true and lawful vote*" of every State should be ascertained, I abandoned my own views and supported that measure.

The ministerial duty of discovering, by *inspection* of the papers, which was the true and lawful vote of a State, I had supposed, was lodged in the President of the Senate, but on all sides came up the denial that such a *tremendous* power as ascertaining the true and lawful vote could reside anywhere but in the two Houses of Congress. Testimony as to the eligibility of electors, fraud in the elections, villainy of the returning boards, and the whole subject of the presidential election had been raked over as with a harrow, by congressional committees in all the disputed States. We were told that the investigation of this important and all-absorbing question, beneath which lay the peace and the prosperity of millions of people, must be submitted to a grand commission composed of five Senators and five Representatives, and the infusion of a non-partisan judicial element must be put into it by withdrawing from the Supreme Court of the United States and adding to the commission five of its judges.

Well, Mr. President, what, in the language of the law, was this commission to do? To consider and decide—

Whether any and what votes from each State are the votes provided for by the Constitution of the United States, and how many and what persons were duly appointed electors in such States.

These are the words of the law, and so the people understood it when they indorsed our support of this bill. The people believed that this high commission was appointed for the express purpose of going into the inquiry and ascertaining what were the real and lawful votes of every State in this Union. They were beaten in a game of confidence. They trusted implicitly that from this high commission there would come the truth, the real truth, and nothing but the truth. The people did not understand the fine language of legal construction. They did not know that two little words were to defeat all that they had hoped for, and after the mountain had been in labor it would bring forth a mouse.

The commission—

So reads the law—

Shall proceed to consider the same with the same powers, if any, now possessed for that purpose by the two Houses acting separately or together," &c.

And here again—

and may therein take into view such petitions, depositions, and other papers, "if any," as shall by the Constitution and now existing law be competent and pertinent in such consideration.

Mr. President, the plain people did not understand that those two little words "if any" had been injected into the body of their great hope. So when Florida and Louisiana came before this extraordinary tribunal, all the "depositions and other papers," except the bare certificates and their accompanying papers, were not to be "considered and taken into view," and proof of fraud and crime, bribery and political corruption, and everything except what spoke for the republican candidates, were *aliunde* the ascertainment of an "honest count." And now for Oregon: that power, which before was merely ministerial, and not judicial, at once assumes the nicest exercise of judgment, and the certificate of the governor, positively required under the act of 1792, becomes *aliunde*, and the Watts certificate, without the governor's authentication, constitutes the paper title for the three electoral votes of Oregon. The people of Oregon had no right to elect a disqualified person as elector. The power of the State was coupled with the restriction.

"You may choose electors, but not Federal officers." That is a condition-precedent to the operation of the power. The power does not exist if you violate the inhibition. To prevent its violation, and in aid of the officers who were to recognize State electors, the act of 1792, passed by many of the men who framed the Constitution, commanded the executive authority of the State to certify to three lists of "the names of the electors," and under the constitution of Oregon the governor is sworn to obey the Constitution and laws of the United States. That is the "supreme law of the land." The governor of Oregon obeyed the Federal law and respected his oath in refusing to enter the name of Watts in the list of electors; for he would have been false to his duty had he certified to an elector who he knew was "incapable of being elected."

And now we are told by a majority of this electoral tribunal that Watts was eligible, and by the force of this one vote, cast in plain violation of the Constitution, Rutherford B. Hayes is to be President of the United States for the next four years.

Florida torn from Mr. Tilden by the plainest perversion of the law; Oregon captured in defiance of the clear inhibition of the Constitution, and Louisiana wrung from its people, who, by a majority of 10,000, repudiated the republican candidate! By such instrumentalities as these he is to be inducted into the presidential office, but, in the eyes of the people, he takes the commission to that exalted station stained and blackened with the most glaring frauds that ever disgraced a civilized country.

The PRESIDENT *pro tempore*. The Senator's time has expired.

Mr. MITCHELL. Mr. President, I had not intended to say anything further on the Oregon question, and especially I had not intended to say anything at this time, nor would I were it not for the fact that my colleague, [Mr. KELLY,] in the criticism that he offered to the finding of the commission, had so misrepresented—I will not say willfully, but, out of charity, inadvertently—the decision of the commission in reference to this matter. Nor would I yet say anything were it not for the fact known to me and not known generally to the Senate that the remarks of my colleague upon this occasion and the criticisms offered by him will be telegraphed and published all over the State of Oregon, when perhaps the explanations offered by the Senator from Indiana, the Senator from California, and others will not find their way before the people of that State.

I understand my colleague, in the objection that he has urged, to imply that the commission decided that, if a person who is ineligible to be appointed presidential elector afterward resigns the position that made him ineligible, therefore that made him an eligible person at the time he casts his vote. I do not understand that the commission decided any such thing. The commission did decide, however, that, even granting for the argument that Mr. Watts was ineligible at the time of the election by reason of the fact that he at that time held an office of trust and profit under the United States, if before he cast his vote for President and Vice-President he resigned the office that made him ineligible, and also resigned his commission as presidential elector, and then the vacancy occasioned by this latter resignation was filled by the electors present, these facts taken together did make him eligible and that the vote cast is good. That I understand to be the decision of the tribunal, and I indorse it to the fullest extent.

Mr. President, a few days since a committee of this body authorized by a resolution of the Senate to investigate all the facts in relation to this electoral controversy in Oregon submitted a report to the Senate. It was my desire to have that report incorporated in the RECORD. Objection was made from the democratic side of the House, although on the very same day I find voluminous reports from investigating committees copied in the RECORD. I cannot state my indorsement of the findings of the commission in this case better than by reading, which I propose to do, the conclusions of that committee in that report, a committee of the Senate composed of sixteen members of this honorable body, and that report indorsed by a majority of that committee:

The committee summarize their conclusions of fact and law as follows:

1. John W. Watts was at the date of the election, November 7, 1876, a postmaster at La Fayette, Yam Hill County, Oregon, of the fourth class; the appointment of which is not presidential, but exclusively in the power of the Postmaster-General. That such office is one of trust and profit under the United States.

2. That the whole number of voters receiving and forwarding their mail through this post-office did not exceed one hundred.

3. That the fact that he was postmaster was not generally known in the State, or in any part of it outside of his own precinct, until several days after his election. Nor does it appear affirmatively that any voter who voted for Watts knew that the fact of his being postmaster disqualified him from being appointed an elector.

4. That his (Watts's) majority in the State over Cronin was 1,049 votes.

5. That Watts resigned his office as postmaster on the 13th November, 1876, and his successor was appointed on the 23d of the same month. Watts's resignation was accepted by the Postmaster-General on the 14th November, 1876, and on the same day J. B. Underwood, special agent of the Post-Office Department, took possession of the office under special directions from the Postmaster-General, at which day Watts ceased to discharge the duties of postmaster.

6. That on the 4th of December, 1876, the secretary of state, who under the laws of Oregon is the canvassing officer, canvassed the votes for presidential elector in the presence of the governor, as provided by law, and officially declared that Odell, Cartwright, and Watts, the republican candidates, had received the highest number of votes.

7. That Governor Grover issued his certificate to Odell, Cartwright, and Cronin, instead of to Odell, Cartwright, and Watts, the persons whom the secretary of state declared officially had received the highest number of votes.

8. That the governor placed such certificates in the hands of the secretary of state in triplicate, each copy containing the three names Odell, Cartwright, and Cronin, a short time before the meeting of the electoral college on the same day; and he, the secretary of state, delivered all three thereof to said Cronin, who refused, although repeatedly requested to do so by both Odell and Cartwright, to deliver such certificates, or *any* of them, to Odell and Cartwright, or either of them, or exhibit them for inspection or otherwise.

9. That upon failure and peremptory refusal upon the part of Cronin to either deliver or exhibit such certificates, or any of them, to either Odell or Cartwright before or after the organization of the college, or to the electoral college after the same had organized, although repeatedly requested to do so by the individual members of the college, both before and after the same had organized, and also by the president of the college in pursuance of a vote of the college, said Watts tendered his resignation as an elector, which resignation was accepted by the college, then constituted by Odell and Cartwright; whereupon, and upon the withdrawal of Cronin to another portion of the room to declare vacancies and organize a college of his own, the electors present, Odell and Cartwright, filled the vacancy in the office of elector, by a *viva voce* and plurality of votes, by appointing John W. Watts such elector. That the college thus organized voted by ballot for President and

Vice-President of the United States, resulting in three votes for Rutherford B. Hayes, of Ohio, for President, and three votes for William A. Wheeler, of New York, for Vice-President.

10. That Cronin, after his refusal to deliver or exhibit the certificates of the governor, and before Odell and Cartwright had appointed Watts to fill the vacancy in the office of elector, withdrew to a further corner of the room occupied by the electors and declared or attempted to declare two vacancies in the office of elector, and immediately filled them, or attempted to fill them by the appointment of J. N. T. Miller and John Parker, two democrats, neither of whom had received any votes whatever for elector, at the election on the 7th November; after which these three, Cronin, Miller, and Parker, claiming to be an electoral college, cast two votes for Rutherford B. Hayes, of Ohio, for President, and two votes for William A. Wheeler, of New York, for Vice-President, and one vote for Samuel J. Tilden, of New York, for President, and one vote for Thomas A. Hendricks, of Indiana, for Vice-President; said Cronin voting for Tilden and Hendricks, and Miller and Parker respectively for Hayes and Wheeler.

11. That a conspiracy was entered into among leading democratic managers in New York, California, and Oregon for the purpose of depriving the majority of the people of the State of Oregon of their choice for President and Vice-President, and securing one electoral vote for the democratic candidate for President by the refusal on the part of Governor Grover to issue a certificate to Watts and by issuing it to Cronin, regardless of law or the right of the case; which conspiracy was, so far as in their power, executed by the refusal of the governor to issue to Watts a certificate and by his issuing it to Cronin.

12. That in pursuance of this conspiracy large amounts of money were sent to Oregon by the democratic managers in New York, and at the request of the democratic managers in Oregon, which moneys were used improperly and corruptly in furthering such conspiracy, the sum of $3,000 in gold coin of such moneys having been paid to and received by said Cronin; $3,000 more of such moneys having been paid to Hill, Durham, and Thompson, of Portland, Oregon, ostensibly for their services as lawyers, but in fact to subsidize the daily and weekly Oregonian, the leading newspaper of the State claiming to be republican, and of which W. Lair Hill, one of said law firm, is editor, into a defense of the action sought to be accomplished through such conspiracy.

That this conspiracy to defraud the people of a State and nation out of their choice for President and Vice-President, marked as it was at every step by intrigue, corruption, and fraud, setting aside law and precedent, ignoring in its inception and execution the grandest idea upon which our Government rests—the will of the majority as expressed at the ballot-box—had its origin in the family of Samuel J. Tilden, the democratic candidate for President, and with a member of that family, W. T. Pelton, who was also, at the time, secretary of the national democratic committee. And if Samuel J. Tilden was not himself a party to and had no knowledge of the scheme, then it must be said that he was ignorant of what was transpiring in his own household in reference to a transaction which was intended to establish his title to the Chief Magistracy of the nation; as most, if not all, the dispatches addressed to and sent by W. T. Pelton in reference to this matter passed in and out of the door of Mr. Tilden's residence, No. 15 Gramercy Park, New York City, to and from his own nephew, member of his own family, sleeping under his roof, and dining at his table. Besides, it must also be said, if he was not a party, that he was ignorant of a dispatch sent to him from Portland, Oregon, on December 1, purporting to come from Governor Grover, but which was in the handwriting of J. H. N. Patrick, in the same cipher used by Patrick, Pelton, and others, informing him (Tilden) six days in advance, that the action of Governor Grover would be just what it proved to be when the six days had elapsed.

As conclusions of law, the committee find—

1. Conceding Watts to have been ineligible to be appointed an elector, it is clear this fact could not, under any possible state of circumstances, much less under the circumstances of this case, operate to elect Cronin, a minority candidate.

2. That Governor Grover, in assuming to determine this question of the ineligibility of Watts, acted without his jurisdiction, and his act was *ultra vires* and void.

3. That the certificate of the governor is no part of the appointment of an elector; that it is simply evidence of an appointment, but not a conclusive one, and may be inquired into by the counting tribunal and disregarded or set aside, either in whole or in part, for mistake or fraud.

4. That the college represented by Odell and Cartwright was the only and true electoral college in Oregon, and the votes cast by it for President and Vice-President should be counted.

5. That the action of the secretary of state in canvassing the vote for electors and declaring who had received the highest number of votes is in this case, under the laws of Oregon, conclusive as to the persons appointed electors, and cannot be questioned either by the governor in issuing a certificate or by any other tribunal.

6. That the record made to the President of the Senate through the certificate of the college of electors represented by Odell, Cartwright, and Watts, the persons declared by the secretary of state to have received the highest number of votes, is conclusive upon the point as to whether there was any vacancy in the college, and as to how and by whom and with whom such vacancy was filled, and cannot now be questioned by the President of the Senate, either House of Congress, or the electoral tribunal.

7. That admitting Watts to have been ineligible to appointment as an elector, having received the highest number of votes and having taken his seat in the electoral college, participating in its proceedings, and having voted for President and Vice-President, the question of his ineligibility never having been raised or passed upon by any competent tribunal prior to that time, his act was that of an officer *de facto* acting under color of title and being clothed with all the insignia of office, is therefore binding and effectual as to third persons and the public, binding upon the people whose votes he received at the polls, binding on the electors present whose votes he received in his appointment to fill a vacancy, binding and effective as to the candidates for President and Vice-President for whom he cast his vote as an elector, binding upon the State and the nation, the Legislature and Congress, and cannot now be questioned by any power on earth.

8. That the resignation of Watts as an elector created a vacancy in the office of elector, which could be legally filled under the statutes of Oregon by the electors present; and it was their duty under the statute to fill such vacancy, and it was so legally filled by them.

9. That conceding Cronin to have been an elector, (which we deny,) his refusal to exhibit or deliver to the college of electors his certificate from the governor, or to deliver or exhibit to Odell or Cartwright their certificates wrongfully retained and in his possession, and his withdrawing and organizing a college of his own, was upon his part such a "*refusal to act*," within the meaning of the statute of Oregon, as to occasion a vacancy in the office of elector, which Odell and Cartwright could, under the statutes of Oregon, legally fill, and which it was their duty to fill. And it is immaterial to inquire, in so far as the effect of the action of Odell and Cartwright is concerned, whether the vacancy filled by them by the appointment of Watts was occasioned in fact and in law by Watts's resignation or by Cronin's refusal to act. In either view of the case there was a vacancy, and it was the duty of Odell and Cartwright to fill it. And the fact that Cronin attempted to organize a college of his own, is conclusive against him on this point.

10. That the electors present, Odell and Cartwright, in determining as to whether a vacancy existed in the office of elector, and in filling such vacancy, were under no obligation in law to inquire as to whom the governor had issued his certificate as the third elector, whether to Watts or Cronin. It was enough for them to know that there was a vacancy, occasioned either by Cronin refusing to act or Watts's resignation, it is immaterial which; and there being such a vacancy, in any possible view of the case, whether Cronin or Watts was the one legally appointed, the electors present had the right, and it was their duty, to appoint such person as they saw proper to fill it; and the record of their action in that regard is conclusive and cannot be inquired into.

The PRESIDENT *pro tempore*. The Senator's time has expired.

Mr. KERNAN. Mr. President, I am surprised that the Senator from Oregon [Mr. MITCHELL] should avail himself of an occasion like this and under circumstances which restrain us in debate to attempt to insinuate fraud on the part of Samuel J. Tilden, of New York. I am the more surprised, sir, because Mr. Tilden and his friends and that party with which he acts have struggled from the beginning of this contest about the electoral vote to have a tribunal that would unearth fraud and condemn it, and let no candidate receive a vote by such means. The Senator from Oregon and his political friends have voted constantly to sustain the decision of a tribunal which says it will not look into allegations of fraud to affect this vote; and my political friends and I have voted against that decision. He has voted to close the door to any investigation of alleged frauds; he votes to sustain the decision of the commission that they cannot examine into frauds by which electoral votes were procured; and yet, doing that and having the benefit of that position, he can come here and read from a report that is not yet before us in print, with the purpose of throwing dirt at the candidate of the democratic party at the last election. The imputation is unjust; it is untrue; it is unfair. I have been from the beginning in favor of looking into fraud in Louisiana, Florida, Oregon, and wherever it was alleged to exist. I said, let us reject the vote that is obtained by fraud; such a vote should never be cast for a President, much less should it elect a President.

A few words on this subject of fraud. In November after the election President Grant said in a public document that there must be a fair and honest count of the votes. He said further to the public, that the man who would take the office of President stained with a well-grounded suspicion that he took the office by a title procured by fraud was unworthy of being the President of these United States. I agreed to that then; I agree to it now. His sentiments on this subject were received with approval by the mass of honest men of both parties throughout the United States. In January, when the suspicion as to illegality and fraud as to the electoral vote of Louisiana especially had strengthened instead of abated, we passed a law constituting a tribunal that could investigate allegations of fraud, that could throw out votes which were procured by fraud, that could say which were honest votes after investigating, that could bring a President in without tincture of fraud as to his title if they would examine into the facts. That law was received with great favor by the great mass of men of both parties of the country, because they believed that the execution of that law would throw out votes which were fraudulent and manufactured, and that the votes counted if they should elect the President would be honest votes, and the people would feel that their Government had not been dishonored and their country disgraced by well-grounded suspicion that manufactured and fraudulent votes elected a President rather than the real votes of the citizens. That was the reason, in my judgment, that this law was received with favor.

But, sir, has the decision of the commission relieved the country from this feeling which existed as to fraud? The votes of Louisiana elect a President, and do the honest mass of both parties feel that it is an election by the people of the United States, or by the majority of the votes cast in Louisiana? No, sir. All evidence to prove that the returning board in Louisiana on the action of which Mr. Kellogg's certificate was based had no jurisdiction to decide the question whether votes should be thrown out or not for certain reasons; all evidence to show that the returning board acted corruptly, illegally, and fraudulently in rejecting ten or twelve thousand votes cast and giving the certificates to the republican candidates, was shut out. We have no relief from this suspicion of fraud, and to-day your President comes in by the decision of this commission, resting his title on the votes as returned by J. Madison Wells and his three associates in Louisiana.

Early in the proceedings of that body I learn that they determined that the certificate of the governor based upon the return of the returning or canvassing board was conclusive; and although they found a State saying "We will prove to you that the governor and returning board conspired to give a false certificate to men who were not elected," they decided that they could not hear that evidence and could not reject the vote. That it must be counted. Sir, we have therefore not had what I trusted we would have, a decision that would relieve us all, no matter which candidate it brought in, from the fear, the uneasiness, the suspicion that false and manufactured votes in a downtrodden State, made up fraudulently by dishonest men, should turn the scale and elect the President.

Now, sir, I am one of those who believe in standing by the Constitution and the laws. I am one of those who have felt that the people of this country can take care of this Government in the long run through the ballot-box. I am against disorder; I am against revolutionary means. I say to the people of the country, this is your Government; elections will quickly come around again; be true to yourselves and your country, and in the elections in the States hereafter, and in the presidential election which is to occur hereafter at no distant day, you will be able to put the result beyond the power of dishonest, fraudulent returning boards in every State of this

Union. In this is my faith and hope. I am against fraud. I am amazed that men will aid in shutting the doors against showing it where it exists. I hoped this law and the commission created by it would vindicate truth and justice and rebuke fraud if it existed; and that by its action the country would be relieved from the apprehension that bold, corrupt men could defeat the will of the people and elect a President by trickery and fraud. A President will come in being elected by the electoral votes of Louisiana, given by the electors certified by the returning board after an offer to show that the certificates of their election were false and fraudulent. This is an evil, but it is an evil which the mass of the people at the ballot-box can, and I believe will, remedy, and warn dishonest men of all parties against hereafter attempting to manufacture votes to elect a President of the United States against the will of the people.

Mr. EATON. Mr. President, in the brief time allotted me under this law, while I might find some fault with the law as attempted to be enforced against the constitutional rights of the Senate, I shall not undertake to discuss this question. At another time, in this place and in another place, I will discuss this question.

But, sir, while I agree in part with what has been said by my distinguished friend from New York, [Mr. KERNAN,] I do not agree to all that he has said. He trusts to the people, to the ballot-box. Sir, the people trust to us here first. Here it is for us to do our duty. Let us do it.

Mr. President, I should not have risen upon this occasion except that my friend, my cherished friend from Kentucky, now out of his seat by illness, [Mr. STEVENSON,] said the other day that he thanked God there was such unanimity in the vote of the democracy of the Senate upon the bill creating the electoral commission. I regret that my friends around me—many of whom like my friend from Georgia [Mr. GORDON] and others felt as I felt on that occasion, I know—did not see fit to vote with me, but I thank God that He endued me with the strength necessary to stand by my own constitutional convictions.

Sir, the manifest will of the people of the United States has been defeated by the action of this unwarranted, unconstitutional commission. I say unwarranted by the Constitution of the United States. Sir, there was a duty devolving upon the Senate and the House of Representatives, and that duty Congress abandoned. Thirty years of political life, thirty years of political thought have convinced me that it is always safest to stand by the Constitution. Talk was made and reports came up here that doubtless influenced many members of this and the other House of Congress that the people demanded a commission, that the people demanded something new. Sir, I deny it now, as I denied it by my vote. What the people demanded at our hands was to exercise the duty which the Constitution devolved upon us. And now, while I know I differ with my distinguished friend from New York, and may differ with every other man in this Chamber, I do not hesitate to say here that if I had in the hollow of my hand the power of the House of Representatives, I would say to this unconstitutional commission, "Thus far mayest thou go, but no farther." They have refused to do the only thing that permitted them to be constituted; they have refused to go behind fraudulent returning boards. It is not for me to tell the House of Representatives what their duty is. They would not listen to me if I were to attempt it, nor would I arrogate any such function; but I say on my honor before God that if I had the power of that House, I would stop the action of this returning board, for I call it a returning board. Think of it! Refuse to investigate frauds in Louisiana, refuse to investigate frauds in Florida; refuse to go behind the certificate of the governor in one State and go right behind it in another! I may not blame them for going behind this last certificate. I am not very clear what I would have done in that matter. It is a matter of no earthly consequence in regard to that. They saw fit to go behind that because it was necessary to elect their man, while they did not see proper to go behind the action of a returning board rotten to the heart, if it had a heart. They refused to go behind that and refused to look into the election returns in Florida, which they knew had just seated a democratic governor, all parties conceding his election, now in power, now performing the executive duties of that State. If they had gone behind that action, Samuel J. Tilden, of New York, would have been declared, as he has been elected, President of the United States.

Sir, at another time I propose to discuss this question fully. I simply rose to-day for the purpose of vindicating the vote which I gave here weeks ago. If it was to be taken over again, I do not think I should stand alone on this side of the Chamber.

Mr. WITHERS. Mr. President, I do not deem that I should be doing justice either to myself or to the section which I represent if I did not raise my voice on this occasion in reprobation and disapproval of the decision which has been reached by the commission in the investigation of this presidential question. It is useless for me to give expression to the deep sentiment of disappointment which pervades my heart when I contrast the consequences which have resulted from the action of the commission with the hopes, the aspirations, and the expectations of the people of this great country when the commission was appointed.

The people of this country had then the right to expect that this high judicial tribunal would bring to the investigation of the case before them an absolute judicial fairness, so far at least as the persons who composed that commission were drawn from the highest judicial tribunal of the land. They had a right to expect that they would establish some principle of law by which every question should be adjudicated and upon which each decision would be predicated. But what do we find? Did any such rule prevail? Was any such principle established? On the contrary, their rulings are on one side or the other, just as the necessities of party may prompt; and to sustain this assertion I quote from their official proceedings the rulings in two or three instances. In the Florida case we find that this order was made:

Ordered, That no evidence will be received or considered by the commission which was not submitted to the joint convention of the two Houses by the President of the Senate with the different certificates, except such as relates to the eligibility of F. C. Humphreys, one of the electors.

This was decided in the affirmative—yeas 8, nays 7. Then, on motion of Mr. Commissioner ABBOTT, it was

Ordered, That in the case of Florida the commission will receive evidence relating to the eligibility of Frederick C. Humphreys, one of the persons named in certificate No. 1, as elector.

Very good. Here is a decision of the commission that they had the constitutional right and authority to go behind the returns and receive evidence as to eligibility of an elector. When it came to Louisiana the same question arose, and what was the order of the commission? Mr. Commissioner BAYARD offered the following as a substitute for a resolution previously offered:

Resolved, That no person holding an office of trust or profit under the United States is eligible to be appointed an elector, and that this commission will receive evidence tending to prove such ineligibility as offered by counsel for objectors to certificates 1 and 3.

The question being on the adoption of the substitute, it was decided in the negative.

Precisely antagonistic and directly contrary to the previous decision, and by a similar vote, with the exception of one, Mr. Justice Bradley voting to receive evidence in the case of Florida and voting against receiving any evidence in the case of Louisiana.

Now, sir, I will not allege that the action of the commission was controlled by the fact that in the Florida case the ineligibility could not be sustained, because proof had been published to the world that at the time Humphreys was appointed an elector he had resigned the office which he previously held and that therefore the objection to him would be untenable, and that the contrary condition existed in the case of Louisiana; but the fact remains, that the same commission ruled diametrically opposite in the one case to what they ruled in the other. Again, in the case of Florida they ruled:

That it is not competent under the Constitution and the law, as it existed at the date of the passage of said act, to go into evidence *aliunde* on the papers opened by the President of the Senate in the presence of the two Houses to prove that other persons than those regularly certified to by the governor of the State of Florida, in and according to the determination and declaration of their appointment by the board of State canvassers of said State prior to the time required for the performance of their duties, had been appointed electors, or by counter-proof to show that they had not, and that all proceedings of the courts or acts of the Legislature, or of the executive of Florida, subsequent to the casting of the votes of the electors on the prescribed day are inadmissible for any such purpose.

Such was the ruling in the case of Florida; that ruling was reiterated in the case of Louisiana; and yet when we come to Oregon we find that the broad seal of the State (which possessed so much sanctity in the case of Louisiana and Florida that it could not be questioned, and that no issue could be raised upon any paper covered thereby) afforded no protection and possessed no sanctity whatever.

Again it is argued, and with great force, and I admit the cogency of the argument, and subscribe to it, that in this case of Oregon the great paramount duty was to see that the voice of the people as expressed at the polls had found its utterance in the electoral college and that the electors who had been selected by the people as the exponents of their political faith should exercise the power with which they were therein invested. The popular voice, in other words, is permitted to control the case in Oregon; but in Louisiana the popular voice is ignored, and by the fraudulent action of a returning board, a board of such character that I shall not now attempt to describe it. Here then the popular voice which it is not denied was uttered at the polls, giving at least eight thousand majority to the electors of their choice, is utterly ignored and destroyed by the action of the returning board.

Now, sir, I am not unaware of the fact that attempts have been made to draw a distinction and to show that in the case of Florida the question of the eligibility of the elector was considered as to the time he cast his electoral vote and not at the time of the election by the people, which was not the case in the other State. Well, sir, I have read you the ruling in the one case and in the other, and you find that no such distinction is expressed upon the official records of this commission at all, but they stand precisely and identically upon the same footing.

I subscribe fully to the doctrine uttered by the Senator from New York, [Mr. CONKLING,] and the Senator from Indiana, [Mr. MORTON,] and other Senators upon this floor, that in questions of doubt we should always give the preference to that man or that candidate who the facts satisfy us represents the choice of the people and the voice of the people. All I ask is that the application of the principle should be uniform, and the same rule should be applied in the one State as in the other.

The effect of this decision upon the people will be most unhappy. Dissatisfaction is already spreading throughout the length and breadth of the land such alarm, such consternation, such dissatisfac-

tion as has never before been witnessed in this country; and the most dexterous hair-splitting, the most ingenious sophistry can never deceive the people. No, sir, they cannot recognize, and will refuse, I undertake here to say, forever to recognize any of the fine-spun legal subtleties with which this great wrong and outrage is sought to be covered up, and "all that sage or sophist ever writ" will fail to satisfy them that the decisions of this commission have not been partisan in the extreme, and controlled by considerations of party fealty and party policy alone, and in violation of every principle of justice, of equity, and of fair dealing.

Mr. JONES, of Florida. Mr. President, I am unwilling to cast a silent vote upon this great question. After listening with much interest to what has been said by distinguished Senators here, I am not satisfied to sit quietly and let this question pass by without giving my views in regard to it. The Senator from New York who sits farthest from me [Mr. CONKLING] said a while ago that this was a case which had a great equity in it, a case in which the voice of the people should be permitted to control; and I agree with him to a certain extent; but, sir, on the very same principle that the voice of the people of Oregon should be permitted to control, so the voice of the people of Florida should have been permitted to control. Has it been the case? We know it was otherwise from the records of this Senate, which present the most indisputable evidence to the contrary that the voice of the people of my State has not been heard in this great contest; or, if heard, has not been respected. I say it, sir, with all due deference to the commission which has rendered the judgment which we are now called upon to review and the judgment in the case of Florida which practically disfranchised the majority of the voters of that State.

What is the law of that State as announced by her highest tribunal? It was, as I had occasion to say in a previous discussion, that the vote actually cast under all the restrictions of law prescribed by her legislative authority should determine the popular choice. Has that been the case? No, sir. The Supreme Court, our highest tribunal, to which we look for protection and security and safety, held—and, as I said also when I spoke here before, through a majority of judges who are republican—that the law of that State was that the vote actually cast at the polls should be held to determine the election. The vote of Florida as cast at the polls indicated that the people had selected the Tilden electors, and I say here that, if they had decided otherwise and had indicated their choice to be Rutherford B. Hayes, and an attempt was made by my party to deprive him of his just rights, I would have repudiated it, if it were the last act of my life.

Now, sir, what is the question here? We have been told by the Senator from Oregon [Mr. MITCHELL] that Mr. Watts resigned his office as elector. I have heard no Senator intimate to whom such a resignation, under the laws of Oregon or under the laws of the United States, could be tendered. To whom can an elector resign his position? Will gentlemen answer me? Is there any provision in the Statutes of the United States, in the Constitution of the United States, in the laws of Oregon which provides for a resignation of that description?

Mr. SARGENT. He resigns to the power that can fill the vacancy.

Mr. JONES, of Florida. That is a new principle of law. I never heard it announced before.

Mr. SARGENT. It is a universal principle of law.

Mr. JONES, of Florida. I disagree with the Senator from California on that subject. My understanding of the law on that subject is that the power which appoints is the only power that can receive a resignation. That is the universal doctrine, and it was the doctrine laid down in the case of General Shields, to which allusion has been repeatedly made on this floor, that the power which appoints is the power that accepts a resignation. I know then of no authority to receive the resignation of an elector.

But it is clearly my opinion that there were but two electors elected in the case of Oregon. I want it distinctly understood that I place my vote upon that ground, without the least disposition to do injustice to the people of that State. The Constitution of the United States says that—

> Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

What is the meaning of this clear language? It says to the people of the several States: "You may elect electors equal in number to your congressional delegation on one condition"—because it is all here in the same sentence—"*provided* you will not select any man who occupies an office of trust or profit under the United States." That is the condition which the Constitution has coupled with this power, and the States to-day possess no authority to elect electors but what they derive from article 2, section 1, of the Constitution, which I have just read.

Mr. LOGAN. Will the Senator allow me? I heard him ask the Senator from California the question about whom the electors resigned to. I should like to put this question to him: whether if a member of Congress in the House of Representatives should send his resignation to the Speaker, the Senator would not consider that a good resignation?

Mr. JONES, of Florida. I would not.

Mr. LOGAN. It has been so decided by the House of Representatives, however.

Mr. JONES, of Florida. I have the opinion of high authority to the contrary, right in my hand.

Mr. LOGAN. I was not talking about any individual, but I can give the Senator an instance where the House received the resignation of a member and it was considered a good resignation. I can give the name of the member and the circumstance. It has been done frequently.

Mr. JONES, of Florida. In the case of General Shields, which has been referred to so often, and that too by the Senator from Illinois who has just interrupted me, it was held that a resignation of the office of Senator tendered to the occupant of the chair which you now hold was not good and could not be tendered to him. They said to him when Mr. Douglas advocated his right to resign here that he must go back to Illinois and resign, and that the Senate had no right to act upon his letter of resignation on the principle which I stated a while ago that inasmuch as the Legislature of Illinois had given him his authority as Senator, no other authority on earth could withdraw it and accept the resignation, and that when he sent up his letter of resignation to the Chair here, in order to create a vacancy somewhat similar to that which is said to have been created by Mr. Watts, it is well known as a matter of public history that that letter of resignation was considered insufficient to vacate the office of Senator by the best constitutional lawyers who held seats at that day in this body. Mr. Webster took the ground that there was nothing to resign, but other Senators held that the State which conferred the office could alone accept the resignation.

What did Mr. Webster say when General Shields sent in his resignation after it was evident that it would be determined that he could not hold his seat because he had not been nine years a citizen of the United States? When the time for entering upon the duties of the office arrived he had not been nine years a citizen of the United States, and inquiry was had into his qualifications, and the committee found that he was disqualified, and that he was not entitled to the office. Then, in order to avoid the difficulty, he attempted to resign; and what said Mr. Webster? I will read his language:

> Mr. WEBSTER. I have but very few words, sir, to address to the Senate, and I shall not trouble them again. I desire to say to the Senator from Illinois that he does his friend no service by opposing the immediate decision of this question. Is it not obvious that if the executive appointment occur in the recess a question must arise as to whether there was a vacancy and what sort of a vacancy? If a man has no seat, how can he resign his seat? If the election was void a vacancy cannot be created by resignation—there is a vacancy already. Then I suggest to Senators—those who say that the question is so clear—that, however it may now be decided by the Senate, the question must hereafter be whether there was a vacancy when the resignation, so called, was made.

The PRESIDENT *pro tempore*. The Senator's time has expired. The question is on the amendment submitted by the Senator from Pennsylvania, [Mr. WALLACE.]

Mr. COCKRELL. I offer a substitute for the resolution.

The PRESIDENT *pro tempore*. There is a substitute pending.

Mr. WALLACE. I withdraw my substitute so that the Senator from Missouri may offer his.

Mr. COCKRELL. I move as a substitute to strike out all after the word "resolved" in the resolution and insert:

> That inasmuch as J. W. Watts was on November 7, 1876, a deputy United States postmaster and held an office of trust and profit under the United States, he was ineligible by the terms of the Constitution to the office of elector for the State of Oregon, and W. H. Odell and J. C. Cartwright were the only electors duly appointed by the State of Oregon and their votes only should be counted, and the decision of the electoral commission should stand as the judgment of the Senate only so far as their decision sustains the votes cast by said Odell and Cartwright.

The PRESIDENT *pro tempore*. The question is on agreeing to this amendment of the Senator from Missouri, [Mr. COCKRELL.]

The Secretary proceeded to call the roll.

Mr. EDMUNDS, (when his name was called.) My friend from Ohio [Mr. THURMAN] is confined to his house by illness. I am sure that he would vote in favor of this amendment, and out of respect to him, although I have not made a formal pair, I withhold my vote.

Mr. PATTERSON, (when his name was called.) On this question I am paired with the Senator from Kentucky, [Mr. STEVENSON.] If he were present he would vote "yea," and I should vote "nay."

Mr. WINDOM. I am paired with the Senator from West Virginia, [Mr. DAVIS.] If present I have no doubt he would vote "yea," and I should vote "nay."

The roll-call having been concluded, the result was announced—yeas 24, nays 39; as follows:

YEAS—Messrs. Bailey, Barnum, Bayard, Bogy, Cockrell, Cooper, Dennis, Eaton, Goldthwaite, Gordon, Hereford, Johnston, Jones of Florida, Kernan, McCreery, McDonald, Maxey, Merrimon, Norwood, Ransom, Saulsbury, Wallace, Whyte, and Withers—24.

NAYS—Messrs. Alcorn, Allison, Anthony, Blaine, Booth, Boutwell, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Clayton, Conkling, Conover, Cragin, Dawes, Dorsey, Ferry, Frelinghuysen, Harvey, Hitchcock, Howe, Ingalls, Jones of Nevada, Logan, McMillan, Mitchell, Morrill, Morton, Paddock, Robertson, Sargent, Sherman, Spencer, Teller, Wadleigh, West, and Wright—39.

ABSENT—Messrs. Davis, Edmunds, Hamilton, Hamlin, Kelly, Oglesby, Patterson, Randolph, Sharon, Stevenson, Thurman, and Windom—12.

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the resolution of the Senator from California, [Mr. SARGENT.]

The Secretary proceeded to call the roll.

Mr. EDMUNDS, (when his name was called.) I withhold my vote for the reason I stated before.

Mr. BLAINE, (when Mr. HAMLIN'S name was called.) My colleague was called from the Senate by sudden illness this morning. He said nothing about his vote; but I feel authorized to state that if he were here he would vote with me on this question, as he was authorized to state on Monday last that had I been present I would have voted with him on the Louisiana question.

Mr. PATTERSON, (when his name was called.) I am paired with the Senator from Kentucky, [Mr. STEVENSON.] If he were present he would vote "nay," and I should vote "yea."

Mr. WINDOM, (when his name was called.) I am paired with the Senator from West Virginia, [Mr. DAVIS] on this question. I have no doubt he would vote "nay," and I should vote "yea."

The roll-call having been concluded, the result was announced—yeas 40, nays 24; as follows:

YEAS—Messrs. Alcorn, Allison, Anthony, Blaine, Booth, Boutwell, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Clayton, Conkling, Cragin, Dawes, Dorsey, Ferry, Frelinghuysen, Harvey, Hitchcock, Howe, Ingalls, Jones of Nevada, Logan, McMillan, Mitchell, Morrill, Morton, Oglesby, Paddock, Robertson, Sargent, Sharon, Sherman, Spencer, Teller, Wadleigh, West, and Wright—40.

NAYS—Messrs. Bailey, Barnum, Bayard, Bogy, Cockrell, Cooper, Dennis, Eaton, Goldthwaite, Gordon, Hereford, Johnston, Jones of Florida, Kelly, Kernan, McCreery, Maxey, Merrimon, Norwood, Ransom, Saulsbury, Wallace, Whyte, and Withers—24.

ABSENT—Messrs. Conover, Davis, Edmunds, Hamilton, Hamlin, McDonald, Patterson, Randolph, Stevenson, Thurman, and Windom—11.

So the resolution was agreed to.

Mr. SARGENT. I offer the following resolution:

Resolved, That the House of Representatives be notified that the Senate has determined the objection to the decision of the commission upon the electoral vote of Oregon, and is prepared to meet the House to proceed with the count of the electoral votes.

The resolution was agreed to.

The PRESIDENT *pro tempore*. The Secretary will execute the order of the Senate.

ORDER OF BUSINESS.

Mr. McDONALD. On account of my absence from the Senate in the earlier part of the session, a delay has occurred in the announcement of the death of the late Speaker of the House of Representatives. Early this week I gave notice to the Senate that I should to-day ask that the House resolution relating to this subject be taken up for consideration by the Senate. I will state that it is not my purpose to ask an adjournment of the Senate at the close of the eulogies unless there should be no longer any occasion for remaining in session. If there should be a call from the House of Representatives or if the House of Representatives should be still in session so that we might possibly be called upon, I shall ask that the resolution in regard to the adjournment out of respect to the memory of the deceased be not put at this time. My purpose in calling up the resolution is that proper notice may be taken of the death of the late Speaker of the House of Representatives, and that the record on this subject may be complete.

The PRESIDENT *pro tempore*. The Senator from Indiana moves that the resolutions of the House in respect to the memory of the late Speaker be taken from the table.

Mr. EDMUNDS. That cannot be done.

The PRESIDENT *pro tempore*. It is not legislative business. Obituary addresses are not legislative in character.

Mr. EDMUNDS. I do not want to stand in anybody's way on a matter of this kind; the subject commends itself to my hearty approval; but the law under which we are acting does not, in my opinion, allow us to do anything except that which is necessary for the preservation of our existence, (as electing a Secretary, if we should happen to be without one, or anything of that kind,) until the count is completed, except when the commission is sitting, and the law provides that we may then do our other business; because you can see the effect of it. If this be in order, then any other question of a similar character would be, and by endless debates we might be never able to do the duty that the law imposes.

I am very sorry to interpose this objection, because I feel as strongly as my friend does the sympathy and respect that we ought to show to the memory of this deceased gentleman, whom I had the pleasure to know personally and to respect highly; but I cannot allow for one, without a protest on my part, any subject of this kind to be taken up until the matter that we have in hand shall be concluded.

Mr. McDONALD. I fear if this is not done now there will be no other appropriate time during the session; and it is certainly not legislative business.

Mr. SHERMAN. If my friend will allow me, an objection occurs to me that I am afraid would interfere with the purpose he has in view. When we receive a message from the House, having sent word to the House that we will attend at their pleasure, we must go, and that might interrupt the consideration of the resolutions.

Mr. McDONALD. In that case this matter might be suspended at once.

Mr. SHERMAN. But that would interrupt the proceedings under the resolutions.

Mr. LOGAN. If after we commence with the obituary addresses a message should come from the House, it would break the proceedings of the Senate.

The PRESIDENT *pro tempore*. The Chair supposed that this was, as it is, a matter relating to obituary addresses, and that it could not be construed as legislative business. As objection has been raised by the Senator from Vermont, the Chair will submit the question to the Senate whether the Senate will allow the consideration of these obituary resolutions.

Mr. McDONALD. I would rather not press the motion at this time unless it is entirely satisfactory to the Senate.

Mr. BOUTWELL. The Senator from Indiana had better withdraw it.

Mr. McDONALD. I withdraw the motion.

The PRESIDENT *pro tempore*. The motion is withdrawn, objection being raised by the Senator from Vermont.

ELECTORAL VOTE OF OREGON.

At three o'clock and fifty minutes p. m., Mr. G. M. ADAMS, Clerk of the House of Representatives, appeared below the bar and delivered the following message:

Mr. President, the House of Representatives have passed the following:

Ordered, That the vote purporting to be an electoral vote for President and Vice-President and which was given by one J. W. Watts, claiming to be an elector for the State of Oregon, be not counted.

I am also directed to inform the Senate that the House of Representatives is now ready to meet the Senate in joint convention in the Hall of the House of Representatives.

The PRESIDENT *pro tempore*. The Senate will now repair to the Hall of the House of Representatives.

The Senate accordingly proceeded to the Hall of the House of Representatives.

The Senate returned to its Chamber at four o'clock and twenty minutes p. m., and the President *pro tempore* resumed the chair.

ELECTORAL VOTE OF PENNSYLVANIA.

The PRESIDENT *pro tempore*. The Senate having withdrawn from the joint meeting upon an objection submitted to the certificate from the State of Pennsylvania, the Secretary will now read that objection.

The Secretary read as follows:

The undersigned Senators and Representatives object to the counting of the vote of Henry A. Boggs as an elector for the State of Pennsylvania, on the grounds following, namely:

That a certain Daniel J. Morrell was a candidate for the post of elector for the State of Pennsylvania at the election for electors of President and Vice-President on the 7th day of November, 1876, and was declared by the governor of the State of Pennsylvania to have been duly elected an elector at said election.

And the undersigned aver that the said Daniel J. Morrell was not duly elected an elector for the State of Pennsylvania because for a long period before and on the said 7th day of November, 1876, and for a long period subsequent thereto the said Morrell held an office of trust and profit under the United States; that is to say, the office of commissioner under the act of Congress approved March 3, 1871, entitled "An act to provide for celebrating the one hundredth anniversary of American Independence by holding an international exhibition of arts, manufactures, and products of the soil and mine, in the city of Philadelphia and State of Pennsylvania, in the year 1876," to which he was appointed by the President of the United States under the provisions of said act.

Wherefore the undersigned aver that the said Morrell could not be constitutionally appointed an elector for the State of Pennsylvania on the said 7th day of November, 1876, under the Constitution of the United States.

And the undersigned further state that on the 6th day of December, 1876, the said Morrell did not attend the meeting of the electors of the State of Pennsylvania, and that he was not according to the laws of Pennsylvania and under the Constitution of the United States duly elected an elector of said State and could not be constitutionally and legally declared duly elected as such elector, and had no legal right to attend the said meeting of electors.

And the undersigned further state that the college of electors had power under the law of Pennsylvania to fill vacancies in the office of elector under and by virtue of the law of Pennsylvania, which is in the words following and by none other whatsoever, namely:

"If any such elector shall die, or from any cause fail to attend at the seat of government at the time appointed by law, the electors present shall proceed to choose *viva voce* a person to fill the vacancy occasioned thereby, and immediately after such choice the name of the person so chosen shall be transmitted by the presiding officer of the college to the governor, whose duty it shall be forthwith to cause notice in writing to be given to such person of his election, and the person so elected [and not the person in whose place he shall have been chosen] shall be an elector, and shall with the other electors perform the duties enjoined on them as aforesaid."

And the undersigned further state that under said law the electors present had no authority to appoint the said Henry A. Boggs to fill the vacancy of the said Daniel J. Morrell or on any other grounds whatever, and that said supposed appointment of said Henry A. Boggs was wholly without authority of law and was and is null and void.

Wherefore the undersigned aver that the said Henry A. Boggs was not duly appointed by the State of Pennsylvania in the manner that its Legislature directed, and that he was not entitled to cast his vote as elector for said State, and that his vote as such should not be, because it cannot be constitutionally, counted.

And the undersigned hereto annex the evidence to sustain the above objections which has been taken before the committee of the House of Representatives on the powers, privileges, and duties of the House.

WILLIAM A. WALLACE, Pennsylvania.
M. W. RANSOM.
WM. PINKNEY WHYTE.
W. S. STENGER.
J. R. TUCKER, Virginia.
CHARLES B. ROBERTS, Maryland.
JAC. TURNEY, Pennsylvania.
W. F. SLEMONS, Arkansas.
F. D. COLLINS, Pennsylvania.
WM. MUTCHLER, Pennsylvania.
ALEX. G. COCHRANE, Pennsylvania.
JOHN L. VANCE, Ohio.
G. A. JENKS, of Pennsylvania.

Mr. CAMERON, of Pennsylvania. Mr. President——

Mr. WALLACE. Let the testimony be read.

Mr. CAMERON, of Pennsylvania. I ask leave to offer a resolution.

Mr. CONKLING. Has the reading been finished?

The PRESIDENT *pro tempore*. It has been finished.

Mr. WALLACE. The testimony has not been read.

Mr. SARGENT. I object to the reading of the testimony. It is very voluminous.

The PRESIDENT *pro tempore*. Objection being made, the Chair will submit the question to the Senate.

Mr. CAMERON, of Pennsylvania. Is not my resolution in order?

The PRESIDENT *pro tempore*. It is in order. The Secretary will report it.

The Secretary read as follows:

Resolved, That the vote of Henry A. Boggs be counted with the other votes of the electors of Pennsylvania, notwithstanding the objections made thereto.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania [Mr. WALLACE] asks that the testimony be read, to which the Senator from California [Mr. SARGENT] objects. The Chair will submit the question to the Senate.

Mr. WALLACE. Is it not our right to have any part of the document read here?

The PRESIDENT *pro tempore*. The question is not debatable.

Mr. WALLACE. The question is not debatable, but I simply desire to know if a part of the document, the testimony, cannot be read. It is the only evidence that we have.

The PRESIDENT *pro tempore*. The Chair will submit the question to the Senate, Shall this testimony be read?

The PRESIDENT *pro tempore* put the question and declared that the ayes appeared to prevail.

Mr. SARGENT. I ask for a division.

Mr. CAMERON, of Pennsylvania. I ask for the yeas and nays.

Mr. WALLACE. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. BAYARD. I should like to know in regard to this testimony what is the character of it. How does it appear?

Mr. SARGENT. I suppose the facts are fairly stated in the objection. The testimony is extremely voluminous and that is the reason why I make objection to its being read.

Mr. WITHERS. As I understand it, here is an objection with facts accompanying it. I think it is important to us in voting to have the testimony read in order to know whether the objection is sustained.

Mr. SARGENT. I suppose the facts are admitted. Does anybody contest them? The testimony is extremely voluminous.

The PRESIDENT *pro tempore*. The testimony, questions and answers, covers so much paper. [Exhibiting the document.]

Mr. BAYARD. I do not think that any member of the Senate desires that in voting upon the question the testimony should be shut out from the Senate. First, the subject is a very grave one, and if members of the House and Senate upon their volition and personal responsibility have signed objections, in my own opinion, whatever may be the views of the majority, it is the duty of the Senate and it is the right of every member that the facts should be made known.

Mr. CLAYTON. I ask whether this question is debatable.

The PRESIDENT *pro tempore*. It is not debatable. The Chair so stated, and debate is proceeding by unanimous consent.

Mr. INGALLS. I am convinced that the testimony could all be read in the course of twenty minntes. It is not very voluminous.

The PRESIDENT *pro tempore*. Is there objection to having the testimony read?

Mr. CAMERON, of Pennsylvania. I object.

The PRESIDENT *pro tempore*. Objection being made to the reading, the question is submitted to the Senate, upon which the yeas and nays have been ordered.

Mr. CONKLING. I beg to ask a question. Is it true or not that in other cases the testimony annexed to objections has been read in joint convention?

The PRESIDENT *pro tempore*. There has been one case where there was no objection raised where the reading was asked for and there was no objection. The Chair submitted it to the joint meeting. This is not the only case where testimony has been read in the Senate where it was not read in joint meeting.

Mr. CONKLING. The testimony was not read in the joint meeting?

The PRESIDENT *pro tempore*. It was not.

Mr. CONKLING. May I make a further inquiry? How many pages are there of the testimony,—I do not mean what has been read, or the certificates.

The PRESIDENT *pro tempore*. The Secretary will state the number of pages.

The SECRETARY. There are sixteen pages.

Mr. CONKLING. Are those sixteen pages full of testimony or are they broken pages, some of them containing a little and some containing more?

The PRESIDENT *pro tempore*. As near as possible sixteen full pages.

The SECRETARY. I have made some allowance for broken pages.

Mr. CONKLING. It would not take ten minutes to read it.

Mr. CAMERON, of Pennsylvania. If the Senator from New York will allow me, if my colleague desires that this testimony shall be read, I shall make no objection. It is so ridiculous that I cannot believe any man on the soil of Pennsylvania would believe that anybody but Mr. Hayes was entitled to the full vote of that State.

The PRESIDENT *pro tempore*. The Chair will remind the Senator that debate is not in order.

Mr. CAMERON, of Pennsylvania. I know it is not; I have no right to debate it, but I am only expressing my surprise that a man so learned as my colleague should have raised a point on this case.

I am willing to allow the testimony to be read for the purpose of letting him have the excuse to his foolish constituents, if he has any that are so foolish, and giving him the benefit of all the testimony. I therefore withdraw my objection and will let the testimony be read, repeating at the same time that I will not allow what I have admitted for Pennsylvania to be taken as a precedent in regard to other States.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania withdraws his objection, and the reading will proceed, if there be no objection.

Mr. WALLACE. Let the certificate of appointment which is annexed also be read.

The PRESIDENT *pro tempore*. The certificate will be read.

Mr. PATTERSON. I do not want to object and will agree that this paper shall be read, but it is not to be made a precedent.

The PRESIDENT *pro tempore*. The Chair will state that the reading will proceed by common consent. In case of any objection the Chair will submit the question to the Senate.

The Secretary read the certificate, as follows:

UNITED STATES OF AMERICA, DEPARTMENT OF STATE.

To all to whom these presents shall come, greeting:

I certify that the document hereunto annexed is a true copy from the records in this Department.

In testimony whereof I, Hamilton Fish, Secretary of State of the United States, have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

Done at the city of Washington this 23d day of February, A. D. 1877, and of the Independence of the United States of America the one hundred and first.

[SEAL] HAMILTON FISH.

Ulysses S. Grant, President of the United States of America, to all who shall see these presents, greeting:

Know ye that, reposing special trust and confidence in the integrity and ability of Daniel J. Morrell, and on his nomination by the governor of the State of Pennsylvania as delegate from said State, I do appoint the said Daniel J. Morrell a commissioner on the commission authorized to be constituted under and by virtue of the act of Congress to provide for celebrating the one hundredth anniversary of American Independence by holding an international exhibition of arts, manufactures, and products of the soil and mine in the city of Philadelphia and State of Pennsylvania in the year 1876, approved March 3, 1871.

In testimony whereof I have caused these letters to be made patent and the seal of the United States to be hereunto affixed,

Done at the city of Washington this 29th day of April, A. D. 1871, and of the Independence of the United States of America the ninety-fifth.

[SEAL.] U. S. GRANT.

By the President:

HAMILTON FISH, *Secretary of State.*

The PRESIDENT *pro tempore*. The testimony will now be read, if there be no objection.

The Secretary proceeded to read the testimony, as follows:

WASHINGTON, D. C., *February* 22, 1877.

JOHN REILLY, a member of the House from the State of Pennsylvania, sworn and examined.

By Mr. FIELD:

Question. Do you know Daniel J. Morrell, of Pennsylvania?
Answer. I do.
Q. How long have you known him?
A. I suppose fifteen or eighteen years.
Q. Where does he reside?
A. In Johnstown, Cambria County, Pennsylvania.
Q. Was he one of the centennial commissioners appointed by the President?
A. Yes, sir.
Q. Is he still such?
A. I believe he is; he was at the close of the exhibition; I have not heard of him in connection with it since.
Q. How near to him do you live?
A. I live within thirty-eight miles of him.
Q. Do you know him very well?
A. Yes, sir.
Q. Is he the same gentleman who was appointed one of the presidential electors in the State of Pennsylvania?
A. Yes, sir.
Q. On the republican ticket?
A. Yes, sir.

By Mr. BURCHARD:

Q. Did you serve with him on the centennial commission?
A. No, sir.
Q. Did you vote for him?
A. I did not.
Q. You have no personal knowledge as to what you have testified to, have you?
A. I have seen Mr. Morrell at the centennial exhibition in the discharge of his duties.
Q. What duties did you see him perform at the exhibition?
A. I saw him around there. I do not know that I can state specifically that I saw him perform any particular act.
Q. Did you not see 20,000 other individuals about there at the same time?
A. I saw a great many more than that.
Q. One hundred thousand?
A. Perhaps 200,000.
Q. Walking about the grounds?
A. Yes, sir.
Q. Can you mention any particular thing you saw Mr. Morrell do at that time?
A. No, sir; but it is a well-known fact that he was a centennial commissioner.
Q. It is rumor and general information that you have on the subject?

A. I may state that I had from Mr. Morrell himself, directly, a statement that he had paired with a man on the day of the election, for the purpose of attending to his duties as centennial commissioner.

By Mr. FIELD:

Q. You saw him at the centennial exhibition in the apparent discharge of his duties?
A. Yes, sir.
Q. And you heard him speak of his duties as centennial commissioner?
A. Yes, sir.
Q. Is he universally reputed to be a centennial commisioner?
A. Yes, sir; he was formerly a member of Congress.
Q. Do you know that he was the candidate for presidential elector?
A. Yes, sir.
Q. Do you know that it was the same person?
A. Yes, sir.

By Mr. BURCHARD:

Q. Do you know that from him?
A. I do not know that I ever heard him speak of it himself directly.

By Mr. FIELD:

Q. But it was well understood among the people in Pennsylvania that Daniel J. Morrell, who was centennial commissioner, was also a candidate for presidential elector on the republican ticket?
A. It was generally understood in that district. I cannot speak as to the whole State.

WASHINGTON, D. C., *February* 23, 1877.

JOHN WELSH sworn and examined.

By Mr. TUCKER:

Question. Where do you reside?
Answer. I reside in Philadelphia, Pennsylvania.
Q. Were you a candidate for the position of presidential elector at the late presidential election, and were you certified as one of the electors for the State of Pennsylvania?
A. I was, from the first district.
Q. Did you attend the college of electors?
A. I did.
Q. And cast your vote?
A. Yes, sir.
Q. Do you hold any office of honor, trust, or profit under the United States?
A. No, sir.
Q. What is your connection with the centennial exhibition?
A. I am a director and also president of the Centennial Board of Finance, which was chartered by the United States on the 1st of June, 1872. It is a stock company. I was elected a director in April, 1873, and every year since then by the stockholders, and have been chosen president every year by the directors.
Q. Were you president of that corporation on the 7th of November, 1876?
A. I was.
Q. And on the 6th of December, 1876?
A. Yes, sir, and am still.
Q. You are a stockholder in the corporation?
A. I am a stockholder in the corporation.
Q. And have been since 1873?
A. Yes, sir.
Q. You held no position as centennial commissioner?
A. No, sir.
Q. Do you know Mr. Daniel J. Morrell?
A. I do.
Q. Was he a centennial commissioner under appointment of the President?
A. He was and is.
Q. He was acting as such on the 7th of November, 1876, and on the 6th of December, 1876?
A. Yes, sir.
Q. Is he the same gentleman who was elected one of the presidential electors for the State of Pennsylvania?
A. He is.
Q. Did he appear at the meeting of the electors?
A. He did not.
Q. Did he assign any reason for not appearing?
A. He was not present. I cannot say that he ever assigned any reason for his absence.
Q. Did he send a letter?
A. No. I think he was absent and that his place was supplied.
Q. Who was appointed in his place?
A. If I recollect right, it was Mr. Boggs, of Cambria County, the same county that Mr. Morrell lives in.
Q. Who appointed Mr. Boggs?
A. He was appointed by the electoral college.
Q. Did he hold any Federal office?
A. I think not.
Q. His title as an elector for the State of Pennsylvania was due to an appointment by the college of electors?
A. Entirely.
Q. To fill the place of Mr. Morrell?
A. Yes, sir.

By Mr. LAWRENCE:

Q. The corporation was a mere private stock corporation?
A. Yes, sir.
Q. You had no appointment from the President of the United States?
A. No, sir.
Q. There is no salary fixed by law to the office of director or president?
A. The law allows a salary to be paid to the president and the treasurer, but I have never received any salary. I declined to receive it.
Q. The law does not fix any salary?
A. No, sir.

By Mr. BURCHARD:

Q. The salary would have been paid by the corporation?
A. Yes, it would have been paid by the corporation.
Q. And your relation to the centennial exhibition was simply that of stockholder in this corporation and of an officer elected by the stockholders?
A. I was elected a director by the stockholders and president by the board of directors.

By Mr. LAWRENCE:

Q. You are no more an officer of the Government of the United States than would be a director of a railroad company incorporated by Congress?
A. No, sir. I have never held any office under the United States.

By Mr. TUCKER:

Q. Did you give any bond as president of the Board of Finance to the United States?
A. Yes, sir; not as president of the Board of Finance. Congress appropriated $1,500,000, and there was a provision in the appropriation bill that the president and treasurer should give a bond in $500,000. That bond was given by us, signed by one hundred citizens of Philadelphia.
Q. You executed that bond?
A. Yes, sir.
Q. To whom was the bond given?
A. I suppose the Secretary of the Treasury. The bond was conditioned on our applying the money to the purpose stated, namely, having the building open on the 10th of May, free of debt. The bond was filed and vouchers to the amount of $1,727,000 were sent voluntarily by us.
Q. Is this the provision of law on the subject, [reading?]
A. Yes, sir; that is it.
Q. You say that you presented vouchers?
A. Yes, sir.
Q. When?
A. In the course of the season we sent to the Treasury Department vouchers for $1,727,000. They were sent at various periods during the summer.
Q. Did you send them all to the Treasury before the presidential election?
A. Long before.
Q. Did you get an acquittance or discharge of the bond?
A. No, sir; we got no acquittance or discharge.
Q. The bond, therefore, is still outstanding as an obligation?
A. Yes, sir; I do not know whether the Government ever gives up a bond.
Q. It gave you no acquittance?
A. No, sir.
Q. Was there any provision for returning this money to the Government?
A. I have no opinion to offer on that subject. There is a difference of opinio on the subject between gentlemen skilled in the law. My own reading of it is that there is no provision for the return of the money to the Government until after the stockholders shall be paid unless there be a profit, but I pretend to express no opinion on the subject. It was submitted to the court and the circuit court has determined that there is no such provision in the law, in other words, that the money which we have on hand belongs to the stockholders; but an appeal has been taken to the Supreme Court of the United States and it will be argued there.
Q. Then the question was whether there was any money to be paid to the Government in any event?
A. The question was whether any money was to be paid to the Government out of the capital or out of the profits. The construction of the court is that it was to come out of the profits.
Q. Then the court has decided that there is an obligation to refund the money to the Government if there shall be a profit sufficient for that purpose?
A. Yes, sir.
Q. Do you hold any fund in your hands now awaiting the decision of that case?
A. We do. We placed before the court a statement that we have about $2,000,000 on hand for which there are two claimants.
Q. Who are the two claimants?
A. The stockholders and the Government. We asked the court to instruct us what to do with the money.

By Mr. BURCHARD:

Q. You were the president of a board of directors, elected by the stockholders under sections 4 and 5 of the act of 1872?
A. Yes, sir.
Q. There has been no change in the law, to your knowledge, in reference to the duration of your term of office or your duties in regard to the Government?
A. No, sir; no change.
Q. That law provides that the president, two vice-presidents, treasurer, and secretary, and such other officers as may be required to carry out the purpose of the corporation, shall hold their respective offices during the pleasure of the board, and the board adopts by-laws for its own government?
A. Yes.
Q. And you are in no way represented as an officer of the United States?
A. No, sir.
Q. You had no power to incur any liability to be charged to the United States?
A. No, sir. Each of the acts of Congress has had specific provisions in that respect—that no debt or responsibility should be incurred on behalf of the United States.
Q. And your relation to this money which was appropriated by Congress was simply that of applying it as the law required?
A. Yes, sir.
Q. But it was appropriated to the corporation?
A. Entirely.
Q. For the purpose of the exposition?
A. Yes.
Q. And the act required the president of the board and the treasurer to give bond to the United States?
A. Yes.
Q. You had no special custody of the funds?
A. The treasurer had custody of the funds, but a bond was required from the president as well as the treasurer.
Q. Your only relation to it was simply that of giving a bond?
A. Yes. The fund was under the control of the board of directors to be disposed of by them. I was their servant. The funds were all applied in exact accordance with the memorial sent to Congress and signed by me, and it is a very curious fact that the $1,500,000 asked for was precisely the amount that was required.
Q. You hold no office of profit or trust under the United States unless the giving of a bond created you an officer?
A. No, sir. If so, I am an officer of the United States in a great many instances, for I am on a good many custom-house bonds for the last fifty years.

By Mr. TUCKER:

Q. You say that $1,500,000 was just enough?
A. Just enough to enable us to open the exhibition.
Q. How much money have you on hand now interpleaded between the Government of the United States and the stockholders?
A. Something rising $2,000,000. We cannot yet determine the amount, because there are certain large claims which may or may not be allowed. If the Government is to be refunded the $1,500,000, then we shall pay 25 per cent. to the stockholders, and in the other case we shall have probably 85 per cent. to pay to the stockholders.

WASHINGTON, D. C. *February* 24, 1877.

DANIEL J. MORRELL sworn and examined.

By Mr. TUCKER:

Question. Where do you reside?
Answer. Johnstown, Pennsylvania.
Q. Are you or have you been a centennial commissioner by appointment of the President of the United States?
A. Yes, sir.
Q. What was the date of your appointment, and up to what time did you hold the office?
A. I don't remember the exact date, but I think it was in 1871 or 1872.
Q. You were appointed by commission by the President?

A. I was nominated by the governor of Pennsylvania and commissioned by the President of the United States.
Q. Are you still a centennial commissioner?
A. Yes, sir.
Q. And you have continued to be such from the time of your appointment until the present time?
A. Yes, sir.
Q. Were you a candidate for the position of elector at the late presidential election held on November 7, 1876?
A. I was nominated and voted for as an elector.
Q. Was your election certified to you by the governor of the State?
A. Yes, sir.
Q. Did you attend the meeting of the college of electors?
A. No, sir.
Q. Did you resign the position?
A. No, sir; I did not. I was advised that it was not necessary that I should resign, but that I should not attend; that I was not eligible.
Q. Not eligible by reason of your being a centennial commissioner?
A. Yes, sir.
Q. You absented yourself on that account?
A. I did.
Q. Who was appointed in your place?
A. Henry A. Boggs.
Q. Henry, not Harry?
A. I have always understood that Henry was his name; he is called Harry generally, however.
Q. He was appointed in your place?
A. That was my understanding. I was not present at the meeting of the electors.

By Mr. BURCHARD:

Q. Are you paid any compensation out of the Treasury of the United States as centennial commissioner?
A. No compensation whatever from any source.
Q. The position you hold is under the act creating the centennial commissioners?
A. Yes, sir.

Before the reading was concluded,

Mr. WALLACE. These facts are not denied, I understand my colleague to say, and I am satisfied the reading need not proceed further in order to make up the case in the form of a demurrer on the facts stated in the objection.

The PRESIDENT *pro tempore*. The reading will be suspended. The resolution offered by the Senator from Pennsylvania [Mr. CAMERON] will be reported.

The Secretary read as follows:

Resolved, That the vote of Henry A. Boggs be counted with the other votes of electors of Pennsylvania, notwithstanding the objections made thereto.

Mr. WALLACE. The only point I have to make in this case is that I believe this to be a plain, distinct violation of that provision of the Federal Constitution which prohibits any person holding an office of trust or profit under the Federal Government being chosen an elector, and there is no provision in the Pennsylvania statutes for filling such a vacancy. It is plainly proved here that Mr. Morrell was a United States commissioner on the 7th day of November when he was voted for as an elector. The mode of appointment of Federal electors in Pennsylvania is through the people at the ballot-box. Evidence shows that Morrell is an officer—nay, it is admitted; Morrell recognizes the fact himself, and he did not attend the meeting of electors but was absent therefrom, and another man was chosen by the remainder of the board to fill his place. There was no election by the people by reason of his ineligibility. That is the substantial ground of the objection to his vote in this case. There was no choice by the people of Mr. Morrell on that day. He was ineligible under the Federal Constitution, and being ineligible, there was no election. That being the case, a reference to the Pennsylvania statutes will satisfy Senators that there was no power in the remainder of the electoral college to fill any such place. The provision of the statutes is as follows:

It shall be the duty of the secretary of the Commonwealth, on receiving the returns of the election of electors, as hereinafter directed, to lay them before the governor, who shall enumerate and ascertain the number of votes given for each person so voted for, and shall thereupon declare, by proclamation, the names of the persons duly elected.

Those are the words "*duly* elected." Section 140 provides:

If any *such* elector—

That is an elector "duly elected"—

shall die, or from any cause fail to attend at the seat of government, at the time appointed by law, the electors present shall proceed to choose *viva voce* a person to fill the vacancy occasioned thereby, and immediately after such choice the names of the persons so chosen shall be transmitted by the presiding officer of the college to the governor, whose duty it shall be forthwith to cause notice in writing to be given to such person of his election, and the person so elected [and not the person in *whose place* he shall have been chosen] shall be an elector.

Here plainly is demonstrated the proposition that the man who is to be chosen by the board of electors is one who is to fill the place of an elector duly elected. If Mr. Morrel was not eligible he could not be elected by the people and he was not elected on the 7th of November, and it necessarily follows that the vacancy, if it be called a vacancy, but which is really a failure to elect, could not be filled by the college of electors, there being no provision for such a case. He did not attend and his place was filled without any lawful authority so to do. Mr. President, this is all there is in this case.

Now, it is argued that the college of electors had the right to fill the vacancy if on the day on which they came to cast the vote Mr. Morrell was not there, or, in other words, that that is the time at which the question of eligibility is to be ascertained and determined. Although the high authority of the electoral commission is interposed in order to sustain that proposition, it seems to me that it cannot be sustained for a moment. Can it be that my colleague, with his influence in the State of Pennsylvania, might have been placed at the head of the electoral ticket in that State in November, 1876, and with the power and patronage of the Federal Government at his command, as it is, succeed thereby, in being elected an elector, in carrying through the electoral ticket of which he is the head, and then on the 5th of December, before the college meets, shall resign his place, and after he shall have resigned another man be put in his stead to fill the college which his position, power, and influence have created and through which the Federal patronage at his command has given the control of the vote of the State to the party that he represents? And yet that is their doctrine, contended for by Senators and announced by the commission; for if a Federal officer of any grade can be selected in this way, then a Senator of the United States may be chosen in the same way and the inhibition of the Federal Constitution is made of no value whatever; but on the contrary the power and patronage of the Federal Government are used to carry through an electoral ticket, and to nullify its plain letter as well as its spirit, and when the college comes to cast its vote, he has resigned his place, and, as in the Oregon case, he may be re-appointed.

If such a Senator-elector is thus chosen and has resigned his place as an elector and the place is filled by somebody else who votes, and the Federal Constitution may thus be construed, it is in effect nullified. It seems to me that this is a plain case of a failure to elect. There is no provision in the statutes of Pennsylvania for filling such a vacancy. There was no vacancy Mr. Morrell was not legally appointed and the vote ought not to be counted.

Mr. CAMERON, of Pennsylvania. Mr. President, I would not have attempted to say another word except for the parallel which my colleague drew between Mr. Morrell and myself. He talked about my being elected an elector, which was very complimentary on his part, I have no doubt; but I do not think there is anything in the suggestion. Mr. Morrell had no particular popularity above anybody else on the ticket. Mr. Morrell, I venture to say, though I do not remember anything about the details of the vote, did not get 100 votes more than any other elector on the ticket. I doubt whether he got as many as some. He is a very respectable gentleman, living in Cambria County, where he could have had no particular influence except that which any other member of the party would have.

I am sorry that my colleague, who is so good a lawyer and so excellent a gentleman, for whom I have such high personal regard, should have talked to-day much as if he had been a lawyer living up in Clearfield County, as he does, engaged in a suit between two gentlemen who had a contest about a trade in horses. Then he might have made such an argument as that for the purpose of affecting an ignorant jury, though the juries in his county are very intelligent; but his argument was one not fitted for this place. I mean that in no disrespect to him. He does not doubt that the people of Pennsylvania voted for Mr. Hayes. He does not believe that under any circumstances last year the people of Pennsylvania would have voted for Mr. Tilden. The intention of the law is that the opinions and wishes of the people shall be represented by the electors, and they did it in giving their votes for Mr. Hayes and Mr. Wheeler.

Mr. Morrell accepted the place of centennial commissioner when he thought he was going to render a service to the State and to the country by giving his services gratuitously in that capacity. He never dreamed that the position was an office. No other man believed it was an office. There was no profit in it; and if the exhibition had failed there would have been no honor in it. But it did succeed and every man who served there has derived great honor for having given his services to the country. You all remember the contest we had in the Senate and how difficult it was to get anybody to recognize that the place of the centennial commissioner would even be considered respectable. Mr. Morrell devoted himself to the enterprise and he gave his services freely and arduously. After a while when the country began to see that Mr. Tilden was going to force his election by all sorts of tricks, all sorts of machinery, then he was told that there might be a doubt about the legality of his appointment as an elector although he served without expecting honor and without any profit at all. Lest he might endanger the expression of the opinion of Pennsylvania he failed to go to the meeting of the electors, or rather intentionally refused to go, and the college of electors, finding that there was a vacancy, filled it according to the law; and they gave their votes, all the votes to which that great State is entitled, for Hayes and Wheeler. My colleague from the western part of the State is just as proud of that State as I am; and I am sure if he could be here without the party shackles upon him, he would be just as unwilling as I am to see one iota of the credit due to that great State taken from her. I am sure that when he goes to bed to-night he will be sorry that he has made the attempt.

Mr. EATON. Mr. President, I simply want to read a part of the Constitution of the United States:

Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

Now, if I understand this case, it rests here: A B was apparently chosen by a large popular majority one of the electors of the State

of Pennsylvania. He was at the time an officer under the United States Government. Now, let me illustrate by supposing that my good friend, the senior Senator from Pennsylvania, had been chosen in the same way one of the electors of that State. It would have been void; the action of the people of that State would not have been legal; he could not have been appointed an elector. If he could not have been appointed an elector he had no position or office to resign. That is the only point here. That was the point decided in the Oregon case, and we are called upon again to decide it; and I presume it will be decided in this case as it was in the other—wrongly, in my judgment.

Let me illustrate again; and I should like any Senator on this floor to answer the argument. I will suppose that I had been placed in nomination in Connecticut as one of the electors of that State, holding as I do a seat on the floor of the Senate. By the terms of the Constitution of the United States I could not be appointed an elector for the State of Connecticut. Therefore the action of the people of the State in choosing me would have been void; it would have been as though they had voted for a dead man or an alien. I could not resign that position; I should have nothing to resign. Before a man can resign an office he must be by law elected or appointed to that office. I can resign the position of Senator of the United States, because by law I am a Senator of the United States; I could not resign the office of elector, had I been apparently elected to it by the people of Connecticut, because the organic law of the land says I cannot be elected to that office; and therefore the action of the people of the State of Connecticut would have been void.

I submit, Mr. President, that if the Constitution, the organic law of the land, is not to be waived, then we ought to take this case into deliberate consideration. This man had no office to resign. He was never elected an elector. He could not be. The Constitution says he could not be appointed to that office, and therefore if he received every vote in the State of Pennsylvania, large and important though it may be, he could not be an elector in that State. I submit, therefore, that this man ought not to be regarded as having been chosen as an elector.

Mr. LOGAN. I should like to ask the Senator from Connecticut a question.

Mr. EATON. I shall be happy to answer, if I can.

Mr. LOGAN. I believe under an act of Congress we appoint trustees for the Smithsonian Institution.

Mr. EATON. Yes, sir.

Mr. LOGAN. Would the Senator consider a trustee appointed for the Smithsonian an officer under the law as contemplated by the Constitution, an officer holding an office of trust and profit, making a man ineligible to be an elector?

Mr. EATON. The answer that I shall give my friend is this: I am bound to say that I do not regard this as a very strong case after the action of the Senate in the Oregon case. [Laughter.] I am bound to say that; but what I desire to say to my distinguished friend from Illinois is this—and he will not deny it—that no man who was the possessor of an office of honor and trust under the United States could be elected to the position of elector so that he could resign that position.

Mr. LOGAN. That was not the question I put. I put the question whether the position of a trustee of the Smithsonian Institute was an office of profit under the Constitution.

Mr. EATON. I do not know that I am any more bound to answer that than I should be if my friend asked me whether a constable knew the law.

Mr. LOGAN. I will ask the Senator a direct question. I believe that this centennial exposition was incorporated and stock issued, like a railroad company?

Mr. EATON. And bad stock too. [Laughter.]

Mr. LOGAN. It does not make any difference about that. It being a corporation, I ask the Senator if a man appointed as commissioner in connection with that corporation is an office contemplated by the Constitution of the United States. I ask if as a lawyer he believes that?

Mr. EATON. I am bound to say just what I said before, that in my judgment this case is not as strong a case as the one that the Senate has already disposed of. But this man is not the officer of a corporation at all. He is an officer appointed not by a corporation, unless the United States is a corporation. I think he received his appointment from the President of the United States.

Mr. LOGAN. Certainly; without any fee or emolument.

Mr. EATON. Is the President of the United States the head of a corporation?

Mr. LOGAN. No, sir; but this is an incorporated company, having its trustees, and by an act of Congress it received a donation of so much money, and in that act it was provided that certain persons should be appointed for the purpose of seeing it carried out. I ask the Senator if he believes that the position of such a trustee is an office as contemplated by the Constitution? The duty is entirely in connection with a corporation.

Mr. EATON. I am bound of course to give a respectful answer to my distinguished friend from Illinois. I thought I had already done so when I said that in my judgment this case was not as important a one as that which has already been decided; but I say this, (and I desire to hear some argument from some one against it,) that if a man by the Constitution of the United States cannot be appointed to an office there is nothing for him to resign. He cannot resign an office unless he can hold that office according to law. That is my objection here.

Mr. MORTON. Mr. President, the objection as I understand in this case is that there was not such a vacancy in the electoral college in Pennsylvania as the college could fill; that Morrell was a centennial commissioner on the 7th day of November, and, therefore, that his election as elector was void and not merely voidable; that it being void there was no election, and there being no election, the college of electors could not appoint his successor or one to fill the vacancy. I dissent from that doctrine entirely. In the first place, I insist that if he was a centennial commissioner on the 7th of November his election was not void, but simply voidable, to put the worst legal aspect upon it; and if it was voidable only, his absence caused a vacancy that could be filled by the college of electors.

In the second place, if I were to admit that the election was void on the 7th of November, still if the college of electors did assume to fill the vacancy, and the person whom they appointed acted as elector, and cast the vote, he voted as an officer *de facto*, and his vote is just as good as that of any other elector.

If a person is chosen a Senator before he is thirty years old, the election is not void, but is simply voidable. If when the time comes to take his place he is qualified, he then can be sworn in as a Senator. That principle will not be controverted. And if the college of electors, assuming that they had the power to fill the vacancy, did fill it, Mr. Morrell not attending, the person whom they appointed was an officer *de facto*. I insist that the appointment was legal; but if it was not legal—I am putting it now upon the ground that the person appointed had no right to be appointed, or the electoral college had no power to appoint him, but putting it upon either ground—if he exercised the office and cast the vote, it cannot thereafter be questioned.

There is a case precisely like it in the State of Virginia. Colonel Holliday was chosen an elector of that State on the 7th of November; he was a centennial commissioner, and he is now. He failed to attend the meeting of the college of electors; they appointed another in his place, and that person cast the vote of an elector for Virginia. If you strike out one vote in Pennsylvania, you are bound on every principle of law and honor to strike out one in the State of Virginia. The facts are precisely the same. The Senator from Virginia understands the case, and he will recognize the truth of what I say.

But, Mr. President, I want for one to say that I regard this whole thing as standing upon technicalities, and if it were to succeed it would inflict a fraud upon the people of Pennsylvania. The college of electors was designed by the fathers of the Constitution to be a deliberative body, and for that reason Federal officers were forbidden to be members. But it has come around that so far from being a deliberative body they are pledged in advance in every instance to vote for a particular person, to carry out the wishes of a particular party. The purpose of the framers has been entirely defeated; and it makes no difference whether a man is a Federal office-holder, a member of Congress, or what position he holds, he is to carry out the pledge he gives to the party that nominates him, and the fact of his being an office-holder has become wholly unimportant. It is an old maxim of the law that when the reason of the law ceases the law itself ought to cease, and we now know as well as we know anything that it is a matter of utter indifference whether an elector is an office-holder or not.

All of these statutes in the different States are substantially the same in regard to filling vacancies by the college of electors. They should be liberally construed, not to defeat the wishes of the people, but to carry out the wishes of the people; and the idea of disfranchising a State, silencing her voice in the election of President, because an elector holds a little, contemptible office, one not known to anybody at the time he was voted for, that the man did not think of himself as amounting to an office, the idea of disfranchising a State is to commit a fraud! Talking about fraud, I appeal to my friend from Pennsylvania what could be a greater fraud than to silence the voice of Pennsylvania because one elector was a centennial commissioner, a thing the people knew nothing about or, if they did, never dreamed of it amounting to a disfranchisement? I say that a thing like that is a fraud. Talk about the imputations upon Louisiana and upon Florida; I should like to know, when you come down to practical results, what can be a greater fraud upon the people of a State than to deprive them of their vote because the holding of a petty, contemptible office is trumped up at the last moment.

Mr. WALLACE. Will the Senator permit me?

Mr. MORTON. Not out of my time, I beg my friend. Yes, I will yield. I never refuse to do that.

Mr. WALLACE. I have only to say that possibly, if the Senator will permit us to investigate the condition of the actual vote in the State of Pennsylvania, he may discover that there are wrongs and frauds there; he may discover that the majority that appears to be cast there for these electors does not belong of right and of truth to his side of the issue.

Mr. MORTON. I cannot yield to my friend all the time. I only yielded to let him ask a question. If I have any time left, I only want to say that, so far as the law is concerned, these objections are utterly futile; there is nothing in them. Even according to the let-

ter of the law, there is nothing in them. But, coming down to the substance, if you were to give force and effect to these objections, you would recognize a fraud upon the three millions of people in the State of Pennsylvania. After insisting upon an objection of that kind, it is too late to talk about fraud.

Mr. MERRIMON. I want to ask the Senator from Indiana in all candor, notwithstanding his declamation on the subject, how if an ineligible person shall be appointed by a State to be an elector, if his view is correct, the United States Government could take advantage of the act of the State at all?

Mr. MORTON. I do not think the Government can take advantage of it. I have always said the Government could not do it.

Mr. MERRIMON. Then, sir, if he is correct in that view, the State of Pennsylvania, as the Senator from Pennsylvania on my left [Mr. WALLACE] said awhile ago, might have elected the venerable Senator his colleague [Mr. CAMERON] an elector while he was a United States Senator; he might have gone into the electoral college and voted; and Congress would be bound to accept it.

Mr. MORTON. Will my friend answer me a question?

Mr. MERRIMON. I will if I can.

Mr. MORTON. Take now the strong case that the Senator from Pennsylvania himself had been chosen; I ask under the present system of government and the election of electors, what difference that could make? The theory upon which this system was first started has utterly failed. Now the electors are pledged in advance to carry out the wishes of their party and if they fail to do it they are infamous. Therefore it makes no difference in point of fact whether the elector is an office-holder or not. The reason has passed away entirely.

Mr. MERRIMON. Then, if the Senator is correct, the Constitution is a dead failure, which I do not believe. It is not pertinent that we shall now inquire into the policy and the considerations that entered into the formation of the Constitution. It was framed by our fathers, and it has come down to us. We are bound to live under it until we change it, unless we repudiate it, which I am not willing to do. I insist that the position taken by the Senator from Indiana is an erroneous one, and that the Federal Government has ample and complete power to protect itself against the act of a State in this way. If the State government will venture to select a person who is ineligible under the Constitution, and allow him to undertake to act in behalf of the State, and to go into the electoral college and cast the vote of the State for President and Vice-President, the remedy is in the hands of the United States; that is, when it shall come to count the vote of the State as cast by that ineligible person, the Congress sitting to count the electoral vote must reject it, and the Congress would be false to the United States and its Constitution if it failed to do it.

Mr. LOGAN. Will the Senator allow me to ask him a question at that point?

Mr. MERRIMON. I will.

Mr. LOGAN. Under the Constitution a Senator or member of Congress has to be a resident of the State from which he is elected. Suppose a person should be elected to the United States Senate who had not resided in the State the number of years required by the Constitution and the fact was not made known to the Senate. He comes in and takes the oath and has a seat as a Senator here. Suppose a trial of impeachment should take place and a two-thirds vote should be cast and his vote should make the two-thirds necessary. The record is made up, and I ask the Senator if that impeachment would fail if it was discovered afterward that the person had no right to a seat in the Senate?

Mr. MERRIMON. I am very frank to say to the Senator that a proper proceeding might be instituted in the Senate to set aside that judgment before the court adjourned.

Mr. LOGAN. I am speaking of the effect after the record is made up and the act has been accomplished. I ask the Senator if there is any way to reach it? Would not that be a good vote?

Mr. MERRIMON. After the act was done.

Mr. LOGAN. Very well; that is the point I am making.

Mr. MERRIMON. I trust the Senator will not take my time.

Mr. LOGAN. Not at all; I was merely asking a question.

Mr. MERRIMON. Yes, sir; and I am ready to answer in all candor and frankness. In the case I put awhile ago of the senior Senator from Pennsylvania, if he had cast the vote in the electoral college of Pennsylvania, he being a Senator, and the vote had been accepted by the United States and counted, then it would be good. It would be a decision; that would be the end of the controversy; but if pending the count, pending the controversy, a question should be presented in an orderly and regular way as to whether his vote should be counted, it would not only be competent for the two branches of Congress sitting together to reject it in the count, but it would be the duty of Congress to reject it under the circumstances. I admit very frankly that if the vote shall go unquestioned and is counted, there is a determination, there is a judgment, there is the award of the election, the proclamation of the election, and that is the end of controversy; but if the inquiry is instituted pending the count, as is the case here, it is the duty of Congress to see that this provision of the Constitution is enforced; and unless this is the way to enforce the provision of the Constitution when it shall be violated, I confess we can have no remedy on the face of the earth. Therefore it was that I put what I thought was a pertinent question to the Senator from Indiana, how if the position claimed is correct, advantage can be taken of the case and States are under no check to appoint as an elector one who is ineligible under the Constitution. That is the case before the Senate now. I understand that it is conceded that the person elected was such an officer; he held such an office as to render him ineligible. Is that so? If so, he was not elected, and there was no vacancy. As has been insisted ably by the Senator from Pennsylvania on my left, [Mr. WALLACE,] there was no vacancy contemplated by the Constitution of the United States; and there was no vacancy, it seems to me, which might be filled by virtue of the provision of the statute of Pennsylvania. Therefore this vote ought not to be counted.

A great deal of declamation is indulged here about depriving a State of the right to vote. That is all outside of the case. This is a pure, dry question of law. If he is not entitled to vote, if they have made a misadventure, they must do like other people who have made a misadventure, they must abide by it; they lose that much of their voice in the count for President and Vice-President because they did not do their work thoroughly and properly, according to the Constitution and laws of the country. They are no worse off than other people and they ought not to be any better off than other people. If there has been a misadventure it is not only the right under the Constitution, but it is just and proper in every sense that the American people should have their Constitution and laws duly administered.

Mr. SARGENT. Mr. President, we are dealing here with the acts of electors. We are not to decide upon the validity of their election. The case is exactly parallel to the one stated by the Senator from Illinois, [Mr. LOGAN,] of a person being a member of the Senate and yet constitutionally ineligible, that ineligibility not being known, and he, sitting in impeachment proceedings and his vote being necessary to make a two-thirds majority. If by his vote that two-thirds majority is obtained and a person is condemned thereby and perpetually disfranchised, the act is past and the person is disfranchised; and any court or any body which shall thereafter pass upon the question of that disfranchisement must hold that it was valid notwithstanding the person who cast the decisive vote was ineligible. So the act of the elector in Pennsylvania entered on the journals of that college is conclusive in its result and we must give effect to the action of that person. You cannot inquire into the constitution of the body by which his vote was cast. Otherwise we assume a power certainly not granted to us by the Constitution. We have no power to try the title of these persons. The principle of law is broad and plainly stated in all the authorities, that where a person acts under color of election his acts in the office are valid as to the public and third parties, even if there is a constitutional disability as is contended in this case. I will call attention to the single case which I cited the other day, reported in 1 Gilman, Illinois Reports, page 529, where it was held:

> It is a general principle of the law that ministerial acts of an officer *de facto* are valid and effectual when they concern the public and the rights of third persons; although it may appear that he has *no legal or constitutional right* to the office. The interests of the community imperatively require the adoption of such a rule.

Mr. MERRIMON. But here the State is the actor. The State is not a third person.

Mr. SARGENT. The State is interested in having the act of that person stand. The interest of the community, as the law is laid down so well in Illinois, requires that the action of the elector shall stand. If that is not so, if it does not stand, then the State is disfranchised, and when we call attention to the consequences which would follow the disfranchisement of a State, we are told, "O, that is declamation." On the contrary, it is a consequence arising from our acts that by all means ought to be avoided, if it can be done in equity. If it can be done by any reasonable construction, every benefit should be given to the State.

A strong argument was suggested in favor of that position by the Senator from Indiana, who said that where the reason of the rule ceases the rule itself ceases. If applying that principle to a constitutional provision is a strong application of it, at any rate we should go far toward applying such a principle, if it were possible, to save the rights of a State and prevent it from being disfranchised. As the Senator has stated, it is very well known that the original construction of the electoral college was to make a deliberative body, and in the fear of Federal influence and favor swaying men's minds, leading them not to cast their votes dispassionately, but rather for private gain, and under the influence of power, this restriction was placed upon them. All that has been swept away. Were the Constitution remodeled, unquestionably it would be changed in view of the existing order of things, and there would be no necessity for a provision of this kind; but here we are to search away down into an insignificant office where there is no profit attached to it, where it can scarcely be called an office of honor at all, except to cast more honor upon his State, and a little might be reflected upon him; but by no reasonable definition of the words "an office of profit or trust" could it be contended that a centennial commissioner of the exhibition held such an office.

Mr. HARVEY. I wish to suggest to the Senator——

Mr. MERRIMON. What remedy has the United States?

Mr. SARGENT. I cannot answer both questions at once.

Mr. HARVEY. I suggest to the Senator that the office of centennial commissioner comes really from the State, the governor of the

State appointing or designating who shall be the centennial commissioners, and in this case Governor Hartranft appointed Mr. Morrell.

Mr. SARGENT. That statement is undoubtedly correct. Now I will hear the Senator from North Carolina.

Mr. MERRIMON. What remedy has the United States?

Mr. SARGENT. I do not say that the United States needs a remedy. If the State needs a remedy there is power to institute proceedings by *quo warranto* or by any other legal means. If necessary you could simply by a greater interval of time between the election and the meeting of the electoral college give time for summary proceedings in order to determine the right of the elector; there may be some machinery provided where there can be evidence taken according to the processes of the common law; but where a man has acted for the people in good faith as Mr. Morrell did, under color of election, his act is valid. If he had gone into the college and cast his vote there, I would still contend that under the principle of law which I have stated and which is so well sustained in all the books, we should give full faith to his acts as concerned the public of his own State, the public of the United States, and third parties, aside from himself. If he were to gain by his acts, if there were a question whether certain compensation should come to him or not, or if he were to get other advantage, it might be that his act might not be valid to bring that benefit to himself; but where he has acted in a public capacity and in good faith, and where the people who elected him acted in good faith, the act should be beneficial to the State and prevent the disfranchisment of the State.

Mr. CHRISTIANCY. I ask for the reading of the Pennsylvania law attached to these papers. I have not the statutes before me.

Mr. MORTON. I have the statute of Pennsylvania, if that is what the Senator wants.

Mr. CHRISTIANCY. Then will the Senator do me the kindness to read the law?

Mr. MORTON. I will send it to the Senator.

Mr. CHRISTIANCY. I will not take the time to read the whole statute, because I find it would take more time than I have to spare; but I will simply say that the statute of Pennsylvania, as I read it, clearly enough, when it speaks of the person elected as an elector failing to attend, refers to the person who has had the greatest number of votes and who has by a mere ministerial body been declared elected. Now, neither that canvassing board nor the governor has any judicial power to determine any question of qualification or disqualification. Hence, as I read the statute, it would apply to this case and cover just such a contingency as this. But there is still another ground. If Mr. Morrell was not disqualified, then he certainly comes clearly within the statutes.

How are we to determine this question and what kind of question is it? Whether this elector was qualified or disqualified. It is a question of law and fact. In other words, it is a judicial question which, when it depends upon evidence *aliunde*, and not upon facts of which we are bound to take notice as we are bound to know who are members of each House, can only be determined by the judicial power of the United States or by the judicial power of the State. The Constitution of the United States has placed the judicial power in the Supreme Court of the United States and in such inferior courts as Congress may from time to time establish; and there rests all the judicial power of this Government except what the Constitution has on its face invested in some other body. It has vested in the two Houses respectively the full judicial power, if you may choose so to call it, of determining the election and qualifications of its own members; and, because it has done so and because we have been in the habit of going into evidence to establish any fact in connection with an election of members of the Senate or House, it has been inferred that we have a right to go further, and determine the election and qualification of other officers. I deny that there is any such power. I say that it is a judicial question only, and can only be decided by the judicial power of the State where the question arises and under some law existing in that State, or by the judicial power of the United States under some act of Congress; and this must be done before the time when the elector is to perform his official action. We have no such act of Congress. The case might be tried upon *quo warranto* in the States; I will not undertake to say definitely or to intimate my opinion whether a *quo warranto* in a Federal court might or might not determine it without a statute.

Now it lies upon those who object to the qualification of this elector to sustain that objection by legal proof, and that legal proof is the judicial determination of some court. The Senate is not a court; the House of Representatives is not a court; and they have no more right to determine a question of that kind than they have to try an indictment for treason. Where is the authority? Will some one be kind enough to point out the provision of the Constitution which gives to Congress or either House this power to determine the question?

Besides that, the testimony taken as it has been here, not taken before us and in our presence, is not evidence in this case; it is not judicial evidence, not evidence upon which we could act if we were a court.

Mr. MITCHELL. I understand it has not been reported from a committee of the Senate.

Mr. CHRISTIANCY. If it had been it would never make it judicial evidence to determine a judicial question.

Mr. MITCHELL. Certainly not.

Mr. CHRISTIANCY. Now, until it has been judicially determined and that judicial evidence is brought before us, I am authorized to say that there is no evidence whatever that this elector was disqualified; and, if not disqualified and he staid away from the electoral college, another man might have been elected in his place under the statute of Pennsylvania. I am authorized to say, therefore, that the elector was not disqualified. That is all I wish to say, and it is, in my view, sufficient.

Mr. McDONALD. Mr. President, the language of the Constitution is that "no person holding an office of trust or profit under the United States shall be appointed an elector." It has been contended here that, notwithstanding these plain words, an incompetent and unqualified person may be appointed. My colleague has discovered a new mode of amending the Constitution. He says that when this provision was placed there it was the expectation that the electors thus appointed would cast such votes as should correspond with their own judgment; but that in practice they stand pledged to cast the vote in accordance with the will of those who have elected them; and, therefore, he insists that because this has become the practice, therefore, the provisions of the Constitution in regard to qualification are no longer to be regarded.

Mr. MORTON. Will my colleague allow me to say that I do not insist upon that, but I insist that that is an excellent reason for construing the statutes liberally, so as not to defeat the will of the people by a technicality.

Mr. McDONALD. My colleague refers to the ancient maxim of the law that where the reason for the law ceases the law may be termed obsolete; but I never understood that that could be applied to constitutional provisions, provisions in the nature of organic law, by which government was organized and its powers defined. I apprehend it would be a strange rule to apply to such laws, and it is seldom ever found to have application except where after a long series of years the whole subject to which the law was originally addressed has fallen into entire disuse.

Again, it is claimed that, because the Constitution of the United States prescribes certain qualifications for Senators, the same rule applies in reference to the selection or appointment of electors; but the language of the Constitution in regard to the eligibility of Senators is very different. It is as follows:

> No person shall be a Senator who shall not have attained to the age of thirty years.

Not that he may not be appointed, but that he shall not be a Senator until he has attained that age. The language is entirely different, and the construction that has been given to these two different clauses of the Constitution on that question has been entirely different.

But, Mr. President, I shall not sustain the objection made in this case; not because I do not believe that we have a right to reject an unqualified elector and one incapable of being appointed under the Constitution, but because I am not able to satisfy my mind that one holding a commission in the centennial exhibition, in a quasi-corporation created by an act of Congress, is holding an office of trust or profit under the United States. If I felt satisfied on that point I should be compelled to hold that he was incapable of being appointed an elector, and therefore he had no office to resign, and no absenteeism on his part could confer on those who had assembled there, and who had been duly elected, the authority to fill his place. But I do not think that one holding an office or position in the centennial exhibition is holding an office of trust or profit under the United States; and therefore I shall not vote to sustain the objection in this case.

Mr. CONKLING. Mr. President, the Senator from Indiana [Mr. McDONALD] has assisted me in indicating a ground on which may rest my vote on this resolution. The Constitution of the United States, conferring on the States the power and right to appoint electors, ordains:

> But no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

I cannot dismiss these words as if they had been canceled or superseded by the custom or practice of political parties. I cannot read them as if they were equivalent or analogous to these preceding words of the Constitution:

> No person shall be a Senator who shall not have attained to the age of thirty years.

No inference to be drawn from this provision, no case or instance under it, informs me in respect of the force and effect of a provision essentially different.

The language first read is an inhibition addressed to two parties, addressed to the State, and also addressed to the person whose right to be appointed an elector may be drawn in question. It is a prohibition which speaks and operates at the threshold of the proceeding it touches. It forbids the appointment. It forbids it from the beginning, and forbids it throughout. It does not, as in the case of membership of the House or of the Senate, merely require that a certain age shall be reached before the person who has been appointed or elected may be qualified to enter an office. Its meaning is different and greater. Its legal effect is so distinguishable, that no resemblance exists perceptible to me and useful now.

The pending resolution must be acted on in the presence of the applicable words, forbidding as they do, at every stage, the appoint-

ment as elector of a person holding an office of trust or profit under the United States.

The question is not the same we should have if the honorable Senator from Pennsylvania before me [Mr. CAMERON] was one of those appearing as electors in this certificate. Without expressing an opinion upon the question as it would then be, it may well be doubted whether we could close our eyes to the fact that he sits here, and is a Senator, and therefore one whom the Constitution says shall not be appointed an elector.

Of his official existence and character and identity, duty might compel each Senator to take judicial notice, or notice in law and in fact.

So, too, if in the text of the Constitution the name of Daniel J. Morrell appeared, if the words were "Daniel J. Morrell shall not be appointed an elector," I should see difficulties which I do not find now—difficulties like those in the case supposed of one of the Senators from Pennsylvania having been voted for as a presidential elector. The provision is that one holding an office of trust or profit under the United States shall not be appointed an elector. There must be a time, there must be a place, there must be a proceeding, there must be a mode appropriate to enforcing such a command of the Constitution. The fact involved must be ascertained, and made effective. The law holds that to be certain which can be rendered certain. It can undoubtedly be rendered certain that Daniel J. Morrell held, if he did hold, an office of profit or trust. The question here is whether the Senate, engaged in the proceeding now pending, is bound to take notice, whether it has been informed by evidence which it is bound to regard, that the person in question was disqualified by the Constitution; the question is whether this is the forum, this the time, this the place, in which by the proof proposed, this provision of the Constitution is to be executed.

This command of the Constitution does not execute itself. It must be executed by a proceeding adapted to it, appropriate to it, and competent to the end. Whether this is such a proceeding, whether the evidence before us is evidence adequate to inform and satisfy the Senate, and whether therefore we are bound, by the exclusion of this vote, to attempt now to execute the Constitution in this respect, is an inquiry which, I imagine, few Senators are prepared to say is wholly free from doubt. I cannot say so. It is somewhat beclouded by doubt. The allegation that Mr. Morrell held such an office as the Constitution denotes is involved in doubt, so far as the Senate may be found to inquire, there is doubt. That doubt I prefer to resolve in favor of the right of the Commonwealth of Pennsylvania to make her voice fully heard in the choice of a Chief Magistrate. I prefer to say that, so far as my vote can aid it, the presidential count should proceed and all the votes shall be counted; and further that by no doubtful construction shall be stifled or disparaged the voice of any State honestly uttered, and expressing the intention of a majority of her electors, be that expression what it may.

Therefore, without being able to avail myself of all the positions which have been stated in the debate, I conclude that this is not a case the facts of which we are bound judicially or otherwise to notice without evidence, nor a case the facts of which are so brought before us and so established by evidence that we must ascertain them, and must then declare that this is the proceeding, and this the forum in which a decision adverse to the State of Pennsylvania may properly be demanded. I resolve the doubt in favor of the honest truth, the undenied truth, and I shall vote for the resolution declaring that the vote of this elector as well as of the twenty-six other electors chosen by the intention of the voters of Pennsylvania shall be counted.

Mr. MAXEY. Mr. President, the doctrine enunciated by the Senator from Indiana [Mr. MORTON] seems to me novel and startling. It is in effect that although the Constitution of the United States declares that a person holding an office of trust or profit under the United States, and Senators and Representatives in Congress, shall not be appointed to the office of elector and such a party is appointed, his appointment is voidable and not void, and that unless proceedings are legally taken to avoid the appointment the election or appointment thereby becomes valid. That is the substance and essence of his position. To my mind it is novel and startling. The Constitution of the United States declares that—

> Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.

But that is a power secured to the State by the Constitution and springs out of the Constitution, with an onerous condition attached thereto. What is that?

> But no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The State in accepting the right to select her own electors accepts it with the condition annexed that the parties appointed shall not be Senators, shall not be Representatives, shall not be persons holding offices of trust or profit under the United States, and any appointment in violation of this is a breach of the Constitution. Very well. Now what is necessary to constitute a valid election? There must, first, be competent persons lawfully qualified to confer the office; second, there must be a person lawfully competent to receive the office thus conferred. These two must conjoin to produce a valid election.

A man cannot be elected to an office unless it be by persons competent in law to confer that office; neither can those competent voters or persons elect a man who is forbidden by the Constitution or law to receive that office. The two must conjoin to a common point before you have a valid election. If therefore either of these is wanting, either a person lawfully competent to receive the office or voters lawfully competent to confer the office, the election is a nullity, it is void. If then the election was void at its date, there was a failure to comply with the law, and there being no vacancy but a failure to elect, which is essentially different, it is not in the power of any one to fill the place. Why? Because the act of Congress in pursuance of the right conferred by the Constitution requires that the electors shall be appointed on the Tuesday next after the first Monday in November. If they are not appointed on that day they cannot be appointed afterward. If this man was not competent to receive the appointment on that day he was not appointed on that day. If he was not appointed on that day, then no substitute for him after that date can be appointed. It is a logical absurdity to say that you can confer the appointment by substitution when the party for whom another is attempted to be substituted himself was forbidden by the Constitution to be appointed to or hold the office. It is an absolute, a logical absurdity to take such a position as that.

Again, the Senator says, in reply to a question, that if the office were attempted to be conferred upon the Senator from Pennsylvania or upon a Representative, under our present system of electing Presidents, it would practically make no difference, because all that has passed away; and the practice in effect looks to the candidates for President and Vice-President, without the voters knowing or caring who are the electors. Sir, I have yet to learn that the custom of any party can override the Constitution of our common country.

Mr. MORTON. Will the Senator allow me to make a statement?

Mr. MAXEY. Certainly.

Mr. MORTON. In the case of Cæsar Griffin, in Virginia, Chief-Justice Chase decided that the fourteenth amendment, which prohibited certain classes of persons from holding office under the State or the United States, does not execute itself, and cannot be executed without an act of Congress. Now, I ask my friend how this provision could, in any point of view, be executed without an act of Congress providing a method of ascertaining the fact.

Mr. MAXEY. The case put and the case before the Senate are essentially variant. The Constitution of the United States in the case under consideration contains the only command (which is a prohibition) that can be given and absolutely executes itself upon that question. It requires no assistant or aiding law to execute it; it is an absolute prohibition of the Constitution which in terms says that certain parties shall not be appointed. While the fourteenth amendment provides for the removal of disabilities, it is impossible for Congress by act to change or modify the clause under consideration. Now it is conceded, and that reduces it to a practical absurdity, that if a Senator or Representative in Congress, known to be so, is appointed, his appointment is a nullity. It is no more a nullity in that case than it is a nullity if the humblest officer who holds an office of trust or profit under the United States is appointed. *Ex uno disce omnes.* By taking the more striking case of prohibition, a Senator, and showing that he is disqualified, all the rest follows, because all stand on the same grade and the same level.

But again the doctrine of *ab inconvenienti* is brought to bear by the Senator from Indiana in assistance of his doctrine in this, that because there may be in Virginia a man who is disqualified, hence this man in Pennsylvania ought to be counted; in other words two wrongs make a right. If the man in Virginia is disqualified, let him go down. It is no technical objection to the right of a State. It is the duty of the State to comply with the Constitution, and if the State attempts to appoint men that the Constitution of our common country says shall not be appointed, it is the State's misfortune. Sir, I am as far as any living man from attempting to deprive a State of its right; but the State must comply with the Constitution as we are all sworn to do.

The policy of the Constitution forbids Senators and Representatives in Congress from appointment as electors, although not Federal officers, but serving the States and people in Congress; and then by one sweeping clause forbids from appointment as electors all persons, without exception, holding offices of trust or profit under the United States; thus designing the election to be absolutely free from Federal influence.

But the other day in the case of Louisiana a doctrine that I hold dear, as dear as I do my life, the doctrine of State rights was flung in our teeth with the charge that we in that case were depriving the State of her rights and denying the doctrine of State rights. Talk to one when a State is bound hand and foot with an alien to the soil and laws of Louisiana never elected governor, but called governor and placed over that people by Federal power against her will, with a Legislature never elected by the people, but put in office and kept there by the Federal bayonet, and a judiciary put in power by this so-called governor and bastard legislature and itself the result of unlawful connection—tell me not that this triplet of fraud and illegality can speak the voice of a sovereign State! Sir, my effort was to save the State and let the true voice of its people be heard and not the voice of these pretended authorities who in no sense represent the State. I am a State rights man and I was in favor of seeing that the rights of that State should be heard, but not heard through voices

not representing the State of Louisiana. As well mistake the hootings of the owl for the soft, sweet notes of the southern mocking-bird.

In this particular case from Pennsylvania I am not prepared to say, for I am not sufficiently conversant with this position of commissioner to say whether, *strictissimi juris*, this man is an officer or not, and unless in the strictest sense of the term he was an officer, equity and good morals demand that his vote should be counted. I am not speaking to this point but to the doctrine which the very able Senator from Indiana [Mr. MORTON] has presented and which doctrine in my opinion is startling and subversive of the Constitution. Whenever you permit the doctrine to come in that the habits, the usages, the customs of this party or that party or of anybody can override the Constitution of the United States, you admit a dangerous doctrine; it is startling to this country. It is the Grecian horse within the gates of Troy. And, Mr. President, it seems to me that something of this sort must have been permeating the minds of the electoral commission, something of this kind was at the bottom of every judgment we have had here. If a man was not duly appointed on the 7th day of November it was impossible, absolutely impossible to appoint him after that day, and no reasoning can shake this impregnable position.

The PRESIDENT *pro tempore*. The Senator's time has expired.

Mr. COCKRELL. Mr. President, I shall vote to count the vote of this elector with the other votes of the State of Pennsylvania. I may be mistaken in my conception of the law, but I cannot conclude that this is an officer of the United States in the contemplation of the Constitution.

But no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

* * * * * * *

The President * * * shall nominate, and, by and with the advice and consent of the Senate, shall appoint embassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law, but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of Departments.

These commissioners, as I understand, were not nominated and by and with the advice and consent of the Senate appointed, and I hold that they are not officers of the United States in the strict sense of the word. I desire to call the attention of the Senate for a moment to the act of the 3d March, 1871, in regard to the appointment of these commissioners, to be found on page 470 of volume 16 of the Statutes:

That an exhibition of American and foreign arts, products, and manufactures shall be held under the auspices of the Government of the United States.

* * * * * * *

That a commission to consist of not more than one delegate from each State and from each Territory of the United States, whose functions shall continue until the close of the exhibition, shall be constituted, whose duty it shall be to prepare and superintend the execution of a plan for holding the exhibition, and, after conference with the authorities of the city of Philadelphia, to fix upon a suitable site.

* * * * * * *

That said commissioners shall be appointed within one year from the passage of this act by the President of the United States, on the nomination of the governors of the States and Territories respectively.

Now, I hold that without the nomination of the governors of the States and Territories, these officers could not be constituted by the President, and they are not, therefore, officers of the United States in the sense of the Constitution. They may be officers of the State and officers holding some color of authority from the United States, but they are not in the sense of the Constitution officers of the United States. In the case of the United States *vs.* Hartley, Mr. Justice Swayne defined an office thus:

An office is a public station or employment conferred by the appointment of government. The term embraces the ideas of tenure, duration, emolument, and duties.

Under this act, section 7:

That no compensation for services shall be paid to the commissioners or other officers provided by this act from the Treasury of the United States; and the United States shall not be liable for any expenses attending such exhibition, or by reason of the same.

In the case of Sheboygan County *vs.* Parker, 3 Wallace, 93:

A county officer is one by whom the county performs its usual political functions or offices of government; and a special board of commissioners appointed to perform a duty, which shall, though relating immediately to the county the ordinary county officers have not the power to transact without special legislation, are not county officers.

The functions here did not belong exclusively to the United States, and although they were constituted by this act of Congress they do not belong exclusively to the United States. The governors of the States nominate these commissioners and the President commissions them as a mere matter of form to represent their States at the centennial exhibition. I know it has been held by high judicial authority that they are officers of the United States, but I cannot concede the soundness of that view of the case. Believing that Mr. Morrell was not a person holding an office of profit or trust under the United States, I think he was eligible. It may have been an office of honor, but that is not excluded by the terms of the Constitution:

No Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

He must hold an office of trust or of profit, and that office must be one under the United States. Under the Constitution the President has the power of appointment; he has the power of appointing every constitutional officer of this Government without any authority or nomination from the governors of the States, and those officers who must come to him under the nomination of a governor of a State are not the officers contemplated by the terms of this Constitution who shall not be appointed electors. These officers, as I assert, (and I have it from good authority,) were never nominated by the President and by and with the advice and consent of the Senate appointed to these positions; they were nominated by the governors of the States to him. That was an optional act with them; they could do it or not, as they chose. If the governors refused to nominate, the President could not have appointed or constituted them officers. It may be said, however, that the heads of the departments could, and that the President is the head of the executive department. Now I hold that, under the language of this Constitution, it is a violation of the spirit of it to say that the President is the head of any department of the Government.

This is the language:

But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of Departments.

That does not refer to the Chief Executive.

The PRESIDENT *pro tempore*. The Senator's time has expired. The question is on agreeing to the resolution.

The resolution was agreed to.

Mr. SARGENT. I move that the House be notified of the action of the Senate and that it is ready to meet the House to continue the further count of the votes.

The motion was agreed to.

Mr. WINDOM. I move that the Senate take a recess until Monday at ten o'clock.

The motion was agreed to; and (at six o'clock p. m.) the Senate took a recess until Monday, February 26, at 10 o'clock a. m.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 24, 1877.

The Senate having withdrawn, the House (at twelve o'clock and twelve minutes p. m.) was called to order by

The SPEAKER, who said: The Chair decides that a new legislative day has been reached, and the Chaplain will now offer prayer.

Prayer by the Chaplain, Rev. I. L. TOWNSEND.

The Journal of yesterday was read and approved.

ENROLLED BILLS SIGNED.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, by unanimous consent, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 1231) for the relief of the Board of Trustees of the Antietam National Cemetery;

An act (H. R. No. 1947) granting to the city of Stevens Point, Wisconsin, a certain piece of land;

An act (H. R. No. 2197) for the relief of Henry B. Kelly, of Louisiana, from political disabilities imposed by the fourteenth amendment;

An act (H. R. No. 3093) for the relief of the legal representatives of Zachariah B. Washburn, deceased; and

An act (H. R. No. 3566) to authorize the Board of Trustees of the city of Cheyenne, Wyoming Territory, to enter and purchase for the use of said city certain public lands.

ORDER OF BUSINESS.

Mr. LANE obtained the floor and yielded to

Mr. CLYMER, who submitted the following resolution:

Resolved, That for the more careful consideration of the objections to the report of the electoral commission in the Oregon case, the House now take a recess until ten o'clock on Monday morning.

Mr. HANCOCK. I rise to a point of order on that resolution.

Mr. CLYMER. I desire to say that my object——

The SPEAKER. The resolution is not debatable.

Mr. LANE. I ask unanimous consent that the gentleman from Pennsylvania [Mr. CLYMER] may make a statement.

Mr. HUBBELL. I object.

Mr. HOSKINS. I call for the yeas and nays on the resolution.

Mr. CLYMER. Do gentlemen on the other side refuse to hear a statement as to the object of this resolution?

Mr. TOWNSEND, of New York. I object to debate.

The SPEAKER. The gentleman from Texas [Mr. HANCOCK] rises to a point of order, and will state it.

Mr. HANCOCK. My point of order is this: That in accordance with the law under which we are now proceeding, which may be said to be a law somewhat enabling in its character, after the commission has come to a conclusion which has been presented to the two Houses and objections taken, it is not within the power of either House to take a recess until the electoral vote is passed upon, nor to take a recess at all except in the contingency contemplated and provided for in the fifth section of the electoral act; and that under the fourth section of that act, which must be construed as in harmony with the provision of the Constitution of the United States upon the same subject, it is the duty of each House, when acting separately upon any question connected with the determination of the electoral vote, to proceed to that determination without a recess.

The fourth section of the act provides—

That when the two Houses separate to decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or upon objection to a report of said commission, or other question arising under this act, each Senator and Representative may speak to such objection or question ten minutes, and not oftener than once; but after such debate shall have lasted two hours, it shall be the duty of each House to put the main question without further debate.

Now, Mr. Speaker, I maintain that this is a clear direction to the two Houses as to the manner in which they shall proceed when in separate session to consider objections raised to the decision of the commission upon electoral votes; that this act does not enlarge the power of either House beyond what they might have under the Constitution, to take a recess when they have separated from the joint session into separate session to consider objections to an electoral vote. In other words, the Constitution provides that the President of the Senate shall open the certificates containing the electoral votes, and the votes shall then be counted. No doubt objection might be taken to the counting of the votes; and this bill provides for objections being taken to the votes even where there are not two certificates. But it has never been the practice, nor does the Constitution contemplate, that when objections are taken and the Houses separate to consider those objections, the one or the other shall take a recess and postpone the determination of the question.

I say, then, that this law does not and could not enlarge the power of either House; nor can either House, when in separate session for this purpose, do otherwise than is contemplated that they shall do under the Constitution—proceed to the consideration of the electoral vote, or questions that may be raised upon it, without a recess.

I may feel as keenly as others the mortification and disappointment of defeat; but I hope I shall not so far lose my manhood as to be unable to go on and perform the duty that devolves upon me as a member of this House. Under the Constitution and laws I hold that there is no authority given to either House to procrastinate, to delay, to resort to any legislative or parliamentary expedients to postpone the action enjoined upon the two Houses under the Constitution. The law under which we are acting does not enlarge the power of either House in this respect; and they have no more authority to take a recess than if this law had not been passed.

Mr. CLYMER. Mr. Speaker, this is a question of order and not of manhood, and it would seem to be a work of supererogation that a question which has already received four distinct positive determinations by this body is again to be decided. Therefore I do not propose to waste the time of this House or perhaps to insinuate that the Speaker of this body is not capable of discharging the simplest duty of his place; that is, to follow in a beaten path. I therefore submit the question of order to the Chair. I wish further to say that in making this motion I have done it for a reason——

Mr. TOWNSEND, of New York. I object to debate.

Several MEMBERS. Let him go on.

Mr. CLYMER. In arguing this question of order I have a right, as the gentleman who made the point has apparently impugned my motive and that of the gentlemen who sustain the resolution——

Mr. HANCOCK. I hope I was not so understood.

Mr. CLYMER. I have the right to say that so far as I am concerned, and I believe so far as the large majority of those with whom I act on this floor are concerned, this motion is made and sustained in good faith. This Oregon question involves issues of the highest moment to all the people, and if those who wish to present their reasons for opposing the finding of the commission ask for time, ask for a day, ask that the quiet of a Sabbath may come over them and their outraged feelings before this vote is taken, it is not wonderful. I have made the motion in good faith.

Mr. TOWNSEND, of New York. I rise to a point of order.

The SPEAKER. The gentleman from Pennsylvania [Mr. CLYMER] will confine himself to the question of order.

Mr. CLYMER. I have tried to do so.

The SPEAKER. The Chair desires to say that he did not confine the gentleman from Texas strictly to the point of order, and therefore he felt that the gentleman from Pennsylvania had a right to reply in some slight degree to the remarks of that gentleman.

Mr. BROWN, of Kentucky. Would it be in order to respond to some of the suggestions of the gentleman from Pennsylvania?

The SPEAKER. Not unless directly upon the point of order. Each side having now been heard once, the Chair thinks it his duty to confine the discussion strictly to the point of order.

The Chair has already decided this point. On the 10th of this month, when the electoral vote of the State of Florida was under consideration, the same question arose and was decided.

An appeal was then taken from the decision of the Chair, and that appeal was laid upon the table by a vote of 156 to 76. The yeas and nays were not attempted to be called on laying the appeal on the table, for what reason the Chair knows not. Since that decision the Chair has with great industry consulted various persons whose names, were he at liberty to give them, would be recognized as of gentlemen of well-known knowledge of and experience in parliamentary law, and he has yet to find any one who dissents from the opinion then expressed and the ruling then made, which was that a motion under the law and in the words of the law to take a recess until the next day at ten o'clock a. m. was in order.

The Chair desires to have read by the Clerk two clauses of the law upon which his ruling was based, first, a portion of section 5 and, in the next place, the whole of section 4.

The Clerk read as follows:

And no recess shall be taken unless a question shall have arisen in regard to counting any such votes, or otherwise under this act, in which case it shall be competent for either House, acting separately, in the manner hereinbefore provided, to direct a recess of such House not beyond the next day, Sunday excepted, at the hour of ten o'clock in the forenoon.

SEC. 4. That when the two Houses separate to decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or upon objection to a report of said commission, or other question arising under this act, each Senator and Representative may speak to such objection or question ten minutes, and not oftener than once; but after such debate shall have lasted two hours, it shall be the duty of each House to put the main question without further debate.

The SPEAKER. The Chair overrules the point of order made by the gentleman from Texas [Mr. HANCOCK] and decides the motion of the gentleman from Pennsylvania is in order.

The question recurred on Mr. CLYMER'S motion.

The House divided; and there were—ayes 107, noes 133.

Mr. FRANKLIN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 112, nays 158, not voting 20; as follows:

YEAS—Messrs. Ainsworth, Ashe, Atkins, John H. Bagley, jr., Banning, Blackburn, Bliss, Boone, Bradford, Bright, Buckner, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Cate, Caulfield, Chapin, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Davis, De Bolt, Dibrell, Ellis, Faulkner, Field, Finley, Forney, Franklin, Fuller, Gause, Glover, Gunter, Andrew H. Hamilton, Robert Hamilton, Henry R. Harris, John T. Harris, Hartridge, Hartzell, Henkle, Holman, Hooker, House, Humphreys, Hunton, Hurd, Jenks, Thomas L. Jones, Knott, Lamar, Franklin Landers, George M. Landers, Lane, Levy, Luttrell, Lynde, Mackey, Maish, McFarland, McMahon, Money, Morrison, Mutchler, O'Brien, Odell, John F. Philips, Poppleton, Rea, John Reilly, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Sayler, Scales, Sheakley, Singleton, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Swann, Terry, Thompson, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Gilbert C. Walker, Walling, Walsh, Warner, Whitthorne, Wigginton, Wike, Jere N. Williams, Benjamin Wilson, Yeates, and Young—112.

NAYS—Messrs. Adams, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Beebe, Belford, Bell, Blair, Bland, Blount, Bradley, John Young Brown, William R. Brown, Horatio C. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Carr, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Cutler, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Egbert, Evans, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Goodin, Hale, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hatcher, Hathorn, Haymond, Hays, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kehr, Kelley, Kimball, King, Lapham, Lawrence, Leavenworth, Le Moyne, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, Metcalfe, Miller, Milliken, Mills, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Page, Phelps, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Purman, Rainey, Reagan, John Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Schleicher, Seelye, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Tarbox, Teese, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Ward, Warren, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, and Woodworth—158.

NOT VOTING—Messrs. Abbott, Anderson, Bass, Douglas, Durand, Gibson, Goode, Goldsmith W. Hewitt, Hopkins, Frank Jones, Lewis, Meade, Packer, Payne, Piper, James B. Reilly, Schumaker, Stephens, Thomas, and Wheeler—20.

So the House refused to take a recess.

Mr. LANE. Mr. Speaker, I move the House take a recess until half past nine o'clock on Monday morning next. [Cries of "No!" "No!" on the republican side of the House.]

Mr. HALE. I rise to a point of order.

Mr. SPRINGER. I should like to have the gentleman state his point of order.

The SPEAKER. The gentleman from Maine will state his point of order.

Mr. HALE. My point of order is that the privilege of the House to take a recess has been exhausted on one motion; that this is a dilatory motion and should not be entertained; that the regular order is the consideration of the objections to the decision of the joint commission in the case of Oregon, and that the call for the regular order which is now made brings them up at once. While I do not wish to begin the debate, being upon the floor upon the point of order, I nevertheless claim that privilege.

Mr. LANE. Mr. Speaker, I wish to state——

Mr. TOWNSEND, of New York. I object.

Mr. LANE. I am on the floor on the point of order, and wish to direct the attention of the Chair to that section of the electoral law which provides that the House shall have the right to take a recess not beyond ten o'clock the next day, except where the next day shall be Sunday, and then it shall have the right to take a recess until ten o'clock on Monday morning following. Now, if they have the right to take a recess until half past seven o'clock this evening surely we have a right to take a recess until half past nine o'clock Monday morning under the law.

The SPEAKER. The Chair is unable to recognize this in any other light than as a dilatory motion.

Mr. LANE. It was made in no such spirit.

The SPEAKER. The Chair is unable to classify it in any other way. Therefore he rules that when the Constitution of the United States directs anything to be done, or when the law under the Constitution of the United States enacted in obedience thereto directs any act by this House, it is not in order to make any motion to ob-

struct or impede the execution of that injunction of the Constitution and the laws. [Applause.]

The Chair is sorry to hear any manifestation of applause, as it is in direct contravention of the rules.

Mr. LANE. I desire to say in justice to myself, and I think I am entitled to that privilege, that the motion was not made in any such spirit. [Cries of "Order!" on the republican side.] I am claiming that as a matter of personal privilege.

The SPEAKER. The Chair will state to the gentleman from Oregon——

Mr. LANE. I trust the Chair will not allow it to go upon the record that I made the motion in any such spirit.

The SPEAKER. The Chair has not attempted to characterize the gentleman's motives nor to indicate what they were. That belongs to a higher power. [Laughter and applause.]

Mr. LANE. That higher power I am willing to submit to. [Applause.]

Mr. WALLING. I rise to a question of order. It is that this demonstration in the galleries and on this floor is out of order and ought to be suppressed, unless it ceases.

The SPEAKER. The Chair sustains the point of order, and directs that the demonstration shall cease. Should it occur again the Chair will direct the galleries, if the noise should occur there, to be cleared; and he will call by name any gentleman on the floor who indulges in such disorderly manifestations.

Mr. COX. I hope the rules will be enforced on the floor and that it will be cleared first. The disturbance came from the floor.

The SPEAKER. The Chair is unable to see how business could proceed if the floor was cleared.

Mr. LANE. I desire to present the order which I send to the desk.

The SPEAKER. The gentleman from Maine [Mr. HALE] has been recognized. The gentleman from Oregon [Mr. LANE] will be recognized to offer a substitute.

ELECTORAL VOTE OF OREGON.

Mr. HALE. I offer the following order:

Ordered, That the count of the electoral vote of the State of Oregon shall proceed in conformity with the decision of the electoral commission.

Mr. LANE. I offer the following as a substitute:

Ordered, That the vote purporting to be an electoral vote for President and Vice-President, and which was given by one J. W. Watts, claiming to be an elector for the State of Oregon, be not counted.

Mr. HALE. I do not propose to open the debate from this side of the House, but yield for that purpose to the gentleman from Ohio, [Mr. LAWRENCE.]

Mr. LAWRENCE. Mr. Speaker, in the few remarks I shall submit on this question I will not impugn the motives or call in question the patriotism of any gentleman upon this floor. I think we will all agree that it is our duty to consider this question with perfect candor and fairness, without passion, without excitement, and with a purpose to ascertain what is our duty in strict accordance with the principles of law. I have always had an abiding faith that the "sober second thought" of the people and of Congress would demand that whatever result is worked out on this presidential question in the forms prescribed by law shall be accepted and acquiesced in as final and conclusive. This should be the guiding principle, the acknowledged duty of every American citizen. To cut loose from this is to embark on the shoreless ocean of doubt and danger and storm, if not of anarchy or revolution. Whenever the public judgment can tolerate this, the days of the Republic will be numbered. When that period shall arrive, then soon this grand experiment of ours, of freedom and free government, will only be known in the history of the dead and buried republics which strew the pathway of time. I have so much confidence in the people, so much in the good judgment of their Representatives in Congress, that I cannot believe we have commenced or will begin any such calamitous career as this. I trust and believe that God in His providence has in store for us a better fate than this.

Now, Mr. Speaker, what is the question before us? At the presidential election in Oregon on the 7th of November last the republican candidates for electors, Odell, Watts, and Cartwright, received a majority of the popular vote, a majority of the votes of the qualified electors of the State.

There are some facts, I take it, about which there can now be no controversy. The first prominent fact is this: that Odell and Cartwright, two of the republican electors, as it is conceded on all hands, were duly appointed; that they received a majority of the votes of qualified voters of the State of Oregon, and that they have all the evidence of title to the electoral office which is required either by the act of Congress or by the statute of Oregon. The second great fact to which I wish to call the attention of the House is, that it has been decided by a unanimous vote of the electoral commission that Cronin, who received the governor's certificate of election, was utterly without title, and that he had no authority whatever to act or vote as an elector. When this question has been determined by a unanimous vote of the electoral commission, I shall regard it as so completely settled as that it is unnecessary to discuss it before this House.

Here then are these two facts: first, that Odell and Cartwright, two of the republican electors, were beyond all question duly appointed, and that they were authorized to act as electors; and that there was no other candidate who was entitled to give any vote for President and Vice-President, unless it was Watts, who received also a majority of the popular vote.

I care not, Mr. Speaker, for any question now before us whether Watts was ineligible, and so was not elected and could not be elected, or whether he was a *de facto* officer by virtue of his election; for in either event, after he had resigned there was a vacancy in the electoral office which was properly filled by the appointment of Cartwright and Odell. When the electoral college composed of Cartwright and Odell met, Watts tendered his resignation, and it was accepted. If he was elected, and as such became an officer *de facto*, his resignation created a vacancy. If he was not elected, if there was a non-election, then I shall maintain that there was a vacancy in the office of elector, and whether the vacancy arose from the resignation of Watts as a *de facto* officer, or by reason of a non-election, in either event the vacancy was properly filled by the re-appointment of Watts by the two remaining electors, and that therefore the three votes for President and Vice-President cast by Odell, Cartwright, and Watts were the votes required by the Constitution, and that they ought to be counted.

I know it has been said that Watts was ineligible; that because of his ineligibility there was no election; that if there was no election there could be no vacancy, because there can be no vacancy unless there has been an incumbent. I shall endeavor to show that this is an entirely mistaken view of the subject; that there was a vacancy, as I have already remarked, and that it was properly filled. The act of Congress upon this subject contains two provisions. First, the act says:

That each State may by law provide for the filling of any vacancies which may occur in its college of electors when such college meets to give its electoral vote.

Now that applies to a vacancy which exists on the day when the college of electors meets, and in a case where there has been an election.

But it provides, second—

That when any State has held an election * * * and *failed to make a choice*, the electors may be appointed on a subsequent day, in such manner as the Legislature of such State may direct.

Now, that provision of the act of Congress was designed to meet a case of non-election. How has the statute of Oregon provided for such a case as that? By the statute of Oregon it is provided that—

The electors of President and Vice-President shall convene at the seat of government on the first Wednesday of December * * * and if there shall be any vacancy in the office of an elector occasioned by (1) death, (2) refusal to act, (3) neglect to attend, or (4) otherwise, the electors present shall immediately proceed to fill * * * such vacancy. .

Now, if there was a non-election, I insist that it created a vacancy, otherwise than by death, refusal to act, or neglect to attend; and that therefore, by virtue of that provision of the statute of Oregon, Odell and Cartwright had authority to fill the vacancy. Let us see whether that is not a fair construction of this statute of Oregon. In the first place, this statute is to be liberally construed. It is a statute in aid of public rights. It is a statute designed to give the people of Oregon that right which the Constitution of the United States intended they should exercise; nay, makes it imperative upon them that they shall exercise, to appoint three electors, so that the State may be fairly represented in the electoral college. If there is any doubt about the proper construction of the statute, that doubt should be construed in favor of the authority to fill the vacancy.

But the question has been decided by the courts. I have no time to discuss or read the decided cases, and I will only name some of them, as follows: State *vs.* Adams, 2 Stewart's Alabama Reports, 231; State *vs.* City of Newark, 3 Dutcher, 185; State *vs.* Irvin, 5 Nevada, III; and there are many other cases to which I might refer.

It is perfectly certain that in the ten minutes allotted to me I cannot fully present the entire argument on this question. I can only therefore refer to the argument I had the honor to make in the Oregon case before the electoral commission.

The same result would follow even if Cronin had been duly elected and had the proper evidence of title to the electoral office. The record of the proceedings of Cartwright, Odell, and Watts shows that Cronin was not present at the *time* and place when the electoral college met. His absence, by *express statute*, created a vacancy. His absence is proved by three distinct evidences of the fact:

First. It is shown by the proceedings of Cartwright, Odell, and Watts, and this is conclusive evidence.

Second. It is shown by the so-called record of the proceedings of Cronin, Parker, and Miller, which admits that Cronin did not meet with Cartwright and Odell.

Third. The same record shows by inference the same fact.

The statute of Oregon requires the electors to meet at twelve o'clock m. on the 6th day of December. The record of Odell, Cartwright, and Watts shows the meeting of their college at this time. The record of Cronin and his appointees does not pretend to show any meeting at this time. It only pretends that the meeting was on the 6th day of December, and *non constat* it was long after the appointed time—long after the college met, voted for President and Vice-President, and adjourned. It is by no means a case where Cronin was present insisting on a right to vote with the two acknowledged electors, Odell and Cartwright. The vacancy occasioned by the absence of Cronin, even if he were an elector, was therefore duly filled. In any event, the three votes of Oregon have been lawfully given to Hayes and Wheeler; they are *the* votes required by the Constitution, and in law, in morals, in all justice, they are to be counted.

[Here the hammer fell.]

Mr. LANE. I desire to say that I cannot compass the legal aspects of this case in ten minutes, and therefore I yield my time to the gentleman from Pennsylvania, [Mr. CLYMER.]

Mr. CLYMER. In after times, Mr. Speaker, this place, these scenes, shall be memorable. It will be told that in this the home of thirty-eight sovereignties, dedicated to the exercise of all the powers necessary for the peace, welfare, prosperity, and progress of more than forty millions of freemen, and consecrated by the name of him whose character is the embodiment of all that is great and pure, a crime against justice and the popular will was consummated, the iniquity of which has no parallel, as its perfidy has no limit.

For weary years the people had striven to rid themselves by the peaceful methods of law from the clutch of those who had seized power amid the agony and convulsions of civil war. The unlawful and partisan use of military power, the seductions of place and patronage, the violent appeal to the passions and prejudices of the people, the unchristian efforts to array sections and races in bitter hate, and the systematic and unblushing resort to corruption and fraud made the final struggle desperate and doubtful. The right triumphed. And in November last a solemn verdict was rendered, by which the wrongs and outrages, the infamy and disgrace, the nepotism and debauchery, the venality and imbecility of existing administration, was to be ended. Honest men rejoiced and were content, thieves trembled and plotted. That verdict must be reversed, or the vengeance of a long-suffering and outraged people would find its victims. How in order to accomplish this end the electoral votes of Florida and Louisiana were corrupted and stolen in solemn mockery of justice and right, I will not detail. The sickening and disgraceful story is familiar to every one. The people stood aghast at the bold, bad, damnable conspiracy. Their Representatives assembled here in December last intent upon defeating the consummation of the crime. Committees of this House were sent to the several States to inquire into and demonstrate it. As the testimony was gathered it became so transparent that no one, unless blinded by partisan prejudice or actuated by corrupt motives, attempted to excuse or justify it. Dreading the horrors of civil war, which were threatened and imminent, willing to exhaust all peaceful methods, relying with unshaken faith in the justice of our cause, a great majority of the democrats in Congress, abandoning what I believed to be their constitutional prerogative, agreed to submit the question to a commission chosen from the two Houses of Congress, adding to it ministers of the law, who, by reason of their exalted position, their generally received reputation for learning and their supposed impartiality, it was hoped would do equity and execute justice. How reluctantly I gave my assent to and vote for the measure I desire to place on record; how honestly I intended to abide by it I have hitherto attempted to illustrate by my every act and vote during the dreary progress of the consummation of the foul crime.

No one will be so dishonest as to assert or claim that the electoral bill could have become a law had it not been understood and believed that under it all the facts, all the frauds, all the villainies of the returning boards would be inquired into. Who would have been so unscrupulous as to assert that ministers of law and justice, no matter what their political faith, would be so recreant to the principles of their great profession, so lost to its highest obligations, so unmindful of its uniform and unbroken creed, that fraud vitiates and destroys all it taints—that by it the most solemn deeds of men are dissolved, the compacts of nations are broken up, and that under its withering breath even the great seal of a State is scorched and crumbles into dust? From the days of Moses, the first lawgiver, until this transaction, it was held impossible to vivify or sanctify it. Yet here, now, in this the very temple of liberty and home of justice and law, in the high presence of forty millions of people, and for their enslavement and debasement, we are confronted by admitted and unquestioned fraud, into which the breath of life has been breathed by those whose sworn duty it is to exterminate and destroy it. By it, and it alone, the highest elective dignity on earth is to be conferred upon one who was rejected by a vast majority of his countrymen; by it, and it alone, a usurper and political bastard is to occupy the seat of Washington; by it, and it alone, all our miseries in the past are to be perpetuated, and our hopes of reform in the immediate future are to be blasted; by it, and it alone, the spirit of the people is to be broken, their faith in human justice undermined, and their belief in the efficacy and value of popular government is to be shaken, if not utterly destroyed.

These are some few of the natural and logical results flowing from the unholy and iniquitous decisions made by a majority of the electoral commission. When faith, trust, hope, respect, and reverence are exterminated by one cruel blow of perfidy and injustice, who may justly estimate the effects upon existing civilization, who may predict the occurrences of the future? If the very frame-work of government is undermined and shaken, if unrest and distrust pervade the land, if men should long for that sense of personal security which flows from absolutism, if they should abstain from and spurn the use of the ballot because it may be steeped in fraud with impunity, if they should lose all respect for rulers and laws, if they should scoff at holy things and deride the sanctity of oaths, if they should cease to regard all obligations imposed by law and morals, if these and their attendant evils should come to us and our near posterity, he who shall write our history will, if he be guided by philosophic generalization, recur to and narrate the transactions and events, the nefarious methods and legalized villainies of this stupendous presidential crime and in them discover the germs of national demoralization and decay.

It might be difficult to determine who shall be held chiefly responsible for the despondency, disquiet, and illy-suppressed rage which pervade the minds of a large majority of the people. With them, I had, until quite recently, thought that the president of the Louisiana returning board combined more of the qualities of an abandoned political desperado than any man in the land. It was he who by perjury and fraud made it possible that the electoral vote of Louisiana might be stolen and counted, if there should be found some one who by his position and voice could determine finally that the villainies of the returning board should not be inquired into. It seemed impossible that his bad eminence could be eclipsed, but in this, in common with a large majority of my countrymen, I was mistaken, and for them and on my own account I beg the pardon of J. Madison Wells for the unintentional injustice. We in this House assisted in developing one the latchets of whose shoes even Wells, in all his moral deformity, is unworthy to unloose. Their precious names will go to posterity linked together, as those between whom, here in this Capitol, in the very temple of justice, the rights and liberties of the people were betrayed and crucified!

Sir, my great and indeed chief hope is that the enormity of the crime will bring its sure punishment. I thank the good people of the States that we in this Hall will have the power to curb, restrain, and keep in due subjection to their will, as expressed through us, him who I would fain believe will be an unwilling usurper. That no act of his shall pass unquestioned, that no wish of his detrimental to the true interests of the people can be made effectual, that the revenues cannot be squandered, that the Army and Navy may not be used to intimidate the people and overthrow Commonwealths, that the public burdens may be lightened, and that the rights and liberties of all the people of all sections may be guarded and protected—these are some of the great blessings which the majority on this floor will have it in their power to preserve for the people despite presidential returning boards in Florida and Louisiana and their confederates in this Capitol. Over our seats they at least will have no control. We hold them from a power in which fraud is not a recognized and cherished factor, and to that power, the sovereign people, we will appeal not only to sustain us, but to avenge the appalling crime against law and justice and the rights and liberties of the people of all the States, about to be consummated. Seize the glittering bauble of the Presidency if you will. It shall be.

"A barren sceptre in *your* gripe
Thence to be wrenched by an unlineal hand,
No *friend of yours* succeeding."

Mr. BURCHARD, of Illinois. If the governor's certificate were conclusive evidence of title to the office of elector in Oregon, the papers submitted to the joint meeting of the two Houses would establish the existence of two electoral colleges or two bodies claiming to be electoral colleges, that met and cast their votes as electors of the State. The simple question would then be presented, which of these two colleges is to be considered the proper college and decided to have cast the vote for the State of Oregon? One of these bodies claiming to be an electoral college consisted in the first instance of but one person named in the governor's certificate, a minority candidate who had received a certificate from the governor of his election and who met by himself, so far as appears upon these papers, at a different time from that prescribed by the statute of Oregon and proceeded to organize an electoral college by himself. The only evidence forwarded to the President of the Senate to show the right of J. N. T. Miller and John Parker to act as electors is in the certificate signed by them jointly with E. A. Cronin, which is as follows:

This is to certify that on the 6th day of December, A. D. 1876, E. A. Cronin, one of the undersigned, and John C. Cartwright and William H. Odell, electors, duly appointed on the 7th day of November, A. D. 1876, as appears by the annexed certificate, to cast the vote of the State of Oregon for President and Vice-President of the United States, convened at the seat of government of said State, and for the purpose of discharging their duties as such electors; that thereupon said John C. Cartwright and William H. Odell refused to act as such electors; that upon such refusal the undersigned, J. N. T. Miller and John Parker, were duly appointed electors, as by the laws of Oregon in such cases made and provided, to fill the vacancies caused by the said refusal; that thereupon the said electors, E. A. Cronin, J. N. T. Miller, and John Parker, proceeded to vote by ballot, as by law provided, for President and Vice-President of the United States.

Done at the city of Salem, county of Marion, and State of Oregon, this 6th day of December, A. D. 1876.

E. A. CRONIN,
J. N. T. MILLER,
JOHN PARKER,
Electors for the State of Oregon, to cast the vote of said State for President and Vice-President of the United States.

The other body claiming to be a college, consisting of W. H. Odell and J. C. Cartwright, certified to us by the governor as duly elected, met at the hour of twelve o'clock m. upon the day prescribed by the statute of the State of Oregon, and proceeded at that hour, under the law of Oregon which authorizes the filling of vacancies, to fill a vacancy which existed in their electoral college. The record of their proceedings is as follows:

SALEM, OREGON, *December* 6, 1876—12 o'clock m.

This being the day and hour fixed by the statutes of the United States and of the State of Oregon for the meeting of the electors of President and Vice-President of the United States for the State of Oregon, the electors for President and Vice President of the United States for the State of Oregon met at Salem, the seat of

government of said State of Oregon, at twelve o'clock noon of the 6th day of December, A. D. 1876, said day being the first Wednesday in December.

Present, W. H. Odell and J. C. Cartwright.

The meeting was duly organized by electing W. H. Odell chairman and J. C. Cartwright secretary.

The resignation of J. W. Watts, who was on November 7, A. D. 1876, duly elected an elector of President and Vice-President of the United States for the State of Oregon, was presented by W. H. Odell, and after being duly read, was unanimously accepted.

There being but two electors present, to wit, W. H. Odell and J. C. Cartwright, and the State of Oregon being entitled to three electors, the electors present proceeded to and did declare that a vacancy existed in the electoral college, and then and there, under and by virtue of the provisions of section fifty-nine, (59,) title nine, (9,) chapter fourteen, (14,) of the General Laws of Oregon, (Deady and Lane's Compilation,) the said electors, W. H. Odell and J. C. Cartwright, immediately, by *viva voce* vote, proceeded to fill said vacancy in the electoral college.

J. W. Watts received the unanimous vote of all the electors present, and was thereupon declared duly elected to the office of elector of President and Vice-President of the United States for the State of Oregon.

The certificate signed by Cronin, Miller, and Parker simply certifies that the three electors, Odell, Cartwright, and Cronin, met upon the 6th day of December, at no hour named; that Odell and Cartwright refused to act, and Miller and Parker were appointed to fill the vacancies.

The Revised Statutes of the United States which authorizes the filling of vacancies provides that—

Whenever a State has held an election for the purpose of choosing electors and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such manner as the Legislature of the State may direct.

The Legislature of Oregon had by law provided that—

The electors of President and Vice-President shall convene at the seat of government on the first Wednesday of December next after their election, at the hour of twelve of the clock at noon of that day; and if there shall be *any vacancy* in the office of an elector occasioned *by death, refusal to act, neglect to attend, or otherwise*, the electors present shall immediately proceed to fill by *viva voce* and plurality of votes *such vacancy* in the electoral college; and when all the electors shall appear or the vacancies, if any, shall have been filled as above provided, such electors shall perform the duties required of them by the Constitution and laws of the United States.

The gentleman from New York, [Mr. COX,] in the few remarks which he made the other day, gave a definition of the word "otherwise," which, I believe, is correct, namely: in any other manner or any other form or for any other cause. Then, if the office of an elector was vacant, the State of Oregon authorizes the two other electors to meet at twelve o'clock on that day to proceed to fill the vacancy, and they are not authorized to do it at any other time. The Cronin certificate neither shows that he attended nor that Odell and Cartwright refused to act at the hour named, while the latter show that their college met, organized, they being the only electors present, and proceeded regularly to fill the vacancy in strict conformity with the law of the State.

But because Cronin bungled in the management of his part of the scheme, planned in New York and telegraphed in cipher to Oregon, the action of the governor of the State in certifying to the election of the minority candidate is repudiated and disowned. It is admitted that Cronin was not elected, but claimed that Watts's ineligibility created a vacancy that the college had no power under the statute to fill.

The decision of the supreme court of Rhode Island has been referred to here and elsewhere. But the language of the statutes of Rhode Island in relation to the filling electoral vacancies is very different from that in the Oregon statutes. The Rhode Island statute expressly requires the Legislature to be called together to fill a vacancy in case of a failure to elect, and in another section it provides for filling vacancies by the other electors, in case, after an election by the people, "any electors, chosen as aforesaid, shall after their said election decline or be prevented from any cause from serving therein." The supreme court of Rhode Island substantially held that the vacancy must be filled by the Legislature, and arose from a failure to elect, and could not therefore be filled by the other electors upon the ineligible elector declining to act.

Mr. SPRINGER. Will the gentleman allow me——

Mr. BURCHARD, of Illinois. I have not time.

Mr. SPRINGER. Will the gentleman answer me this question, if the courts did not hold in that case that Corliss was not elected?

Mr. BURCHARD, of Illinois. I have given you the language of the statute and the decision of the court.

The language of the Oregon statute is "that the electors shall convene," &c., if there shall be any vacancy in the *office* of an elector—"if there shall be any vacancy." It does not specify whether the man shall have been elected or not, but if the office is vacant. Surely the office is vacant if it has never been filled. A house is vacant just as much before it is occupied by a tenant as it is when the occupants have been turned out or voluntarily left it. Under that statute the electors who met at twelve o'clock on the 6th of December were authorized to fill that vacancy and they did fill it.

I desire more particularly to argue and present this point. Of course this great subject embraces other questions upon which we could claim the vote of Oregon, and which I have not time to discuss at length. I would be glad to follow the objections that I have heard urged here many times.

I stated the other day that I thought there was no power at this presidential count to go into the question of eligibility. I repeat that statement. I believe we stand here as inspectors of an election, or as judges after the votes have been cast, and we are merely to enumerate those votes; we are not to go into a judicial investigation to ascertain whether those who voted in the various colleges were eligible or not.

[Here the hammer fell.]

Mr. BROWN, of Kentucky. Mr. Speaker, we have nearly reached the end of the swelling scene; part farcical, part tragical. Farcical in that it has been a burlesque upon truth and justice; tragical in that it has been murderous to every principle of law, fair dealing, and honor that should govern among men.

I was in favor of the bill creating this electoral commission; I indulge now in no childish repinings over the result. I thought we could trust the selected men of the highest court of the foremost government in the world.

Human laws cannot put limitations upon fraud; they may punish, but they cannot prevent. We trusted these men and they have betrayed our trust. All laws must be administered by human agencies; if you have the corrupt judge, no matter what your laws may be, you hear a false judgment. Jeffreys was a just judge save where the interests of the Crown were concerned. Bacon, "the wisest and the meanest of mankind," took bribes, yet rendered, with one or two exceptions, just judgments. Hale, although refusing to take the civic oaths of Cromwell, yet was made one of his judges.

Our judges of the Supreme Court hold their offices for life, with liberal salaries; are independent of the mutations of politics, each having his personal and official honor to maintain, and I thought that surely there—if the depravity of radicalism was not universal—we could find integrity. My confidence was generous, patriotic, undoubting in these men and in our case submitted. But in this electoral commission supposed incorruptible sages, in their exalted positions, have played the part of banded jockies, and have done in the face of the world that which hungry mountebanks should scorn. They have done

> Such an act,
> That blurs the grace and blush of modesty;
> Calls virtue, hypocrite; takes off the rose
> From the fair forehead
> And sets a blister there.

And these successors of John Marshall! To-day how must each feel "his title, like a giant's robe, hang loose about him." Suspicion is whispered that certain judicial commissions bear the dark and damning stain of intrigue and ring jobbery; and that the first judgment of their holders was the price paid for their promotion. These indeed are days of degeneracy and shame. Read and consider the record of the decisions of the majortity of these men; note their shuffling tricks, their inconsistencies, their evasions; and they are such as would bring the blush to neophytes in learning; such as pigmies in self-respect and honor would abhor.

In the fable we read that the cat was changed by the fairy into the fine lady; yet at the banquet, upon the appearance of a rat, this fine lady chased it. Apply the story and you need no suggestion to draw a conclusion from its moral.

You have but a "barren scepter in your gripe." Your fresh garlands entwine around your hatchment. Your party stands to-day surrounded and saturated with such turpitude that the judgment of the hour and of mankind hereafter must be against it.

Your jugglers have proclaimed your victory, but it is tarnished with shame and accompanied by perjury and every species of fraud. The republican party is in the attitude of—

> A cutpurse of the empire and the rule,
> That from a shelf the precious diadem stole
> And put it in his pocket.

What of the South? The conduct of her Representatives during the last few months has refuted the slanders of years. Their votes and utterances here have been for peace, law, order.

The South has been familiar with misfortune; sorrow and defeat have mingled in her experience. She has drunk the cup of bitterness to the dregs, but thank God is a stranger to dishonor, and most of us from that section stand for the faithful and inflexible execution of the electoral bill. Honor says it, policy says it; without we drift into confusion. Our escutcheon is unstained. We can better afford to accept disappointment and defeat than by parliamentary shifts and tricks to avoid the orderly execution of the law against which only eighteen democrats of this House and only one in the Senate voted.

Something has been said of bargaining with the South. You cannot win them over by bribes; they want nothing but justice. I see before me a distinguished and cherished friend from that section, [Mr. LAMAR,] a gentleman of the highest ability and unspotted integrity; honored by his people and worthy of their trust. I speak not by his authority, but as his name has been mentioned in this connection, I say that I am sure he would shrink from such a coalition as his soul would recoil from a cruel wound of dishonor.

The men you could bribe in the South are not worth having. You would loathe them when you got them; they would have no following or influence at home. And if they were to join with your party to sustain it in its past and present policy, they would find themselves political pariahs in the land of their birth. Nothing will conciliate the South but justice, and you will so find it. They want rest, order, home rule. Your largess there will be thrown away if given to corrupt. These people are your peers, equals, before the law; and neither

by bribery nor force can you change them from serfdom to villainy. In the precious name of their manhood and womanhood I repudiate the intimation with scorn unutterable.

There will be no division in the democracy. Lay not that flattering unction to your souls. It is a difference to-day only among them as to the policy of the hour. And now I ask you, my countrymen of the republican party, in the name of justice, of peace, of truth, of liberty, of civilization, in the name of all these, I ask you to halt. Forbearance has its limits; I say it not in menace but in sorrow and solemn earnestness.

The manacles must fall from the limbs of our sister Southern States. You must call off your dogs. These unfortunate people have been baited and badgered until the just sentiments of the world in indignation condemn your cruel policy.

Is yours to be an imitation of the celebration of a Roman victory with these long-suffering States chained to your triumphal car? Are the clanking of their chains to be heard mingling with your hosannahs to liberty and free government? If the fraudulent action of a villainous returning board of a State is so sacred in your eyes that by reason of State rights you will not go behind the certificate of a governor whom you have adjudged a usurper, how dare you longer keep your soldiers there to sustain the thieves who have been necessary to your disgrace, unless it is by a bargain with successors in villainy?

While you stand up for the inviolability of State rights, while you cannot go behind the corrupt return of a board in Louisiana that huckstered the vote of their State from one end of the country to the other for a price, you organize the Legislature of that State with your bayonets. While the gentleman from Ohio [Mr. FOSTER] says that "the flag shall float only over States and not provinces, over freemen and not slaves," your President forbids in South Carolina a peaceful celebration of the anniversary of the birth of Washington! While the gentleman from Ohio says this, your Senate on the same day, twelve years after the close of the war, is refusing amnesty and your President has a pardon for every bribe-taker and every whisky thief!

"States and provinces—freemen and slaves!" What means this language, but a confession on the part of the gentleman from Ohio [Mr. FOSTER] who represents the district of Mr. Hayes that sovereign Commonwealths have been degraded and their citizens denied their rights? Ah! well do you know the crimes you have committed upon these States. But I must hurry on as my ten minutes are nearly gone.

Inconsistency and contradiction mark the whole course of your policy. You have seemed to try to achieve for yourselves the lament of Junius concerning a party of whom he wrote, you have given "immortality to the perishable parts of your infamy." What a hollow mockery will be the pageant of your inauguration of your President. With this record, with the sun of truth blazing upon the iniquities by which your power was obtained, this instead of being the day of your victory will be the day of your death. The vials of the people's indignation will be emptied upon you; you will hear the hisses of scorn for what you have done. The page of history will record the eternal verdict against you. Just so surely as a God of justice rules the affairs of men, just so surely will the victories of truth and justice in time prevail.

Democrats, peace, courage, prudence, moderation! I implore you now to remember the millions whom we represent.

As I have stood here for moderation and peace throughout this Congress, I accept to-day defeat, bitter as it is, rather than dishonor. I "bear the ills I have rather than fly to those I know not of." When I am asked to give my vote to resist the execution of this law, my answer is, no objective point is given to which we would move that would not bring upon us confusion, anarchy, and chaos.

The strength of our position is in its moral grandeur. Let us not impair this and throw away our great opportunities. Let us not take counsel of our passions. Principle, statesmanship, policy—all these command us to stand by the execution of the law we have made. We agreed to trust certain men, and they have betrayed us. To rush into revolution would be suicidal; it is madness. Be patient; the people will rebuke the iniquities of which we complain. The day of deliverance will soon come. The authors of misrule will call upon the mountains to fall upon them to hide them and their crimes from the sight of men. There will be no divided democratic party. Those who so prophesy only proclaim what they wish.

Unshaken, unseduced, let us stand for our honor, like Clan Alpine's oak, "the firmer it roots him, the ruder it blows." [Loud applause.]

[Here the hammer fell.]

Mr. SAMPSON. Mr. Speaker, we have had many searching investigations since the commencement of this session in relation to transactions connected with the late presidential election. Gentlemen on the other side of the House have been crying "fraud, bribery, and corruption" from the time they first set their feet upon this floor at the commencement of the session. Yet in this very case, in connection with the Oregon election, we find the first positive evidence of bribery; we find the first evidence of a bribe taken to influence a man in relation to casting an electoral vote, that bribe being taken by a democrat and paid by a democrat. The evidence in the Oregon case, when you examine it, demonstrates these facts. It is not rumor; it is sworn evidence taken before a committee of the Senate.

I wish to call attention to a few of the leading facts in connection with the Cronin vote. About the 13th of November it came to light that Mr. Watts, one of the republican electors, was a postmaster. From that time telegrams and letters and politicians were pouring into the State of Oregon in order to see if a democratic vote could not be secured. Mr. Cronin had many letters directed to him. He had many conferences with his party friends, who urged upon him the necessity of casting that vote; but he repeatedly declared, and declared to the chairman of the democratic committee of that State, Mr. Bellinger, that he would not cast that vote, even if Governor Grover should issue a certificate to him. But that man was "seen," between the 28th of November and the 2d of December, by Mr. Patrick, who went from Omaha at the instance of some one in New York City. That man was "seen" in the city of Portland. He was met on the streets by Mr. Bellinger. He was invited to go up and see Mr. Patrick. He then declared he would have nothing whatever to do with this transaction. But he was prevailed upon to go. He went into Judge Strong's office and there found Mr. Patrick. He came down with a pledge upon his lips to cast that vote. He went to Salem and received the certificate from Governor Grover on the morning of the election. He went into the electoral college; he retained that certificate in the face of decency and against all right; and he cast that vote. On the next Friday he was taken to the bank of Ladd & Tilton, in the city of Portland, by Mr. Bellinger, and there were delivered to him drafts for $3,000 in gold.

These are the facts. Mr. Patrick was breathed on from Gramercy Park, New York City; Mr. Patrick breathed on Mr. Cronin; Mr. Cronin cast that vote and received the $3,000, after having repeatedly declared that he would not be a party to depriving the people of Oregon of their voice in this election.

Let me refer to another striking feature in this Oregon matter. I have not time to consider the law; but I wish to call attention to another fact. I notice that Governor Grover states in his evidence that he never announced what his decision would be in relation to the issuing of that certificate until the morning of the election, until he filed that written opinion which had been prepared days before, and until he whispered in the ear of his private secretary to issue that certificate to Cronin. What do we find? We find that on the 1st day of December there was sent from the city of Portland a telegram, which translated is as follows:

DECEMBER 11, 1876.

To Hon. SAMUEL J. TILDEN,
No. 15 Gramercy Park, New York:

I shall decide every point in the case of post-office elector in favor of the highest democratic elector and grant the certificate accordingly. Rule morning of 6th instant. Confidential.

That purported to come from Governor Grover himself or under his direction.

They say he never directed that telegram to be sent and that it was not sent by him or under his direction. I say there is positive internal and conclusive evidence that Governor Grover did dictate that telegram. Mr. Patrick saw him between the 28th and the 1st. He was there in the city of Portland. That telegram is in Mr. Patrick's handwriting. That telegram states that he would rule on the morning of the 6th, and what his decision would be. He did rule on the morning of the 6th, and did decide precisely as the telegram stated. He had a written opinion which he had been preparing some time before that, which he actually filed on that day, which bore date of that day.

Not only that, Mr. Speaker, but there were gathered there the democratic candidates for electors, one living between two hundred and three hundred miles from that point, and another living over three hundred miles from there; they gathered there on that day prepared to act as the body-guard of Mr. Cronin, in order that he should retain that certificate and cast that vote.

Not only that, but Mr. Cronin selected the very men who were to act with him before Governor Grover announced that decision. There is positive evidence he had done that before the opinion was pronounced. He selected Mr. Parker and Mr. Miller to act with him in the electoral college. Before the certificate was issued preparations were made, and a crowd of the leading democrats gathered there to see that performance.

Notwithstanding this, notwithstanding the decision had been made a week before, notwithstanding it had been communicated to the highest democratic authority in the United States, the chief at Gramercy Park, what the decision would be, we find Governor Grover donning the judicial robes of the State of Oregon, marching in and taking his seat in the room of the supreme court, and there hearing argument from ten in the morning until ten o'clock at night on that very proposition.

[Here the hammer fell.]

Mr. CALDWELL, of Tennessee. Mr. Speaker, we are now nearing a completion of the electoral count. We are able to see the end, and know that it means the inauguration of a minority candidate into the presidential office. No man denies that the people of this Republic have by more than a quarter of a million majority at the ballot-box expressed a preference for another candidate; but the public will is to be set aside and stand for nought and the will of faction be executed.

Sir, it is useless and would be distasteful to review the steps by

which we have been brought to this result. The most obvious, the most dangerous, the most criminal of all the influences that have conspired to produce it has been the wanton and wicked perversion of governmental powers by those in whose hands they were lodged. When a Cabinet minister, an executive counsellor became comptroller-general of the republican forces, subjecting himself to the necessity of abusing his high functions in the abject service of party, the design was deliberately formed, in my judgment, to thwart by all the power and patronage of Government that adverse judgment which the people stood ready to pronounce upon the general official delinquency that existed in all the Departments. They have pronounced that judgment, and although you may annul it through the machinery of servile and corrupt returning boards, and prevent its execution, there it stands and will forever stand, a perpetual record against you and an imperishable reminder of the transcendent villainies that have defeated its execution.

Mr. Speaker, I desire here, sir, briefly to state that I yielded such support to the electoral bill as a man always gives who has to choose between disagreeable alternatives, and I have as yet no occasion to regret the choice I did make. It did not seem to me that the Houses would ever agree upon so just a thing as the counting in of Governor Tilden. It did seem to me that in the event of that disagreement that seemed inevitable the republican party would force its candidate into the presidential office and force upon the outraged majority in this country the dire alternatives of submission to outrage or resistance by force. Resistance meant war, "the sum of all evils;" submission might have been construed into dishonor. I could not feel certain, sir, that the American people would restrain their righteous indignation in the presence of such a provocation and look for relief to the peaceful ballot or the tardy methods of the law. My vote, therefore, was in the interest of peace—to prevent the rule of force by providing a right of law.

Mr. Speaker, a few words now in reference to the principles by which the commission seems to be guided in the exercise of its great jurisdiction. It is painfully evident, sir, that the spirit of party has crept into and corrupted its deliberations. It seems but too manifest that a majority of the tribunal have been embarrassed by the almost insurmountable difficulty of laying down general principles that would leave in their applications every controverted vote to Hayes. Before the governor of Oregon certified to the election of Cronin, the doctrine, as I could collect it from the press and debates in the other end of the Capitol, was that the governor's certificate was conclusive, and behind it you could not go. Governor Grover's action made it necessary that this position should be abandoned, and the discomfited leaders are driven back to the returning boards. "You may look," said they, "to see if the governor's certificate is founded upon the decision of a returning board, but when you reach a returning board, then indeed do you approach an insurmountable barrier. To go behind that is to invade State rights—a sacred domain." To deny the solemn certification of the highest officer of a State and inquire into its truth is all right, a governor being supposed to be a cipher in a State government; but when you get to a returning board by overriding the governor you must stop, for there you reach the domain of State jurisdiction. There is no sanctity, according to this doctrine, about the solemn certificate of a mere governor, though he be a man like Grover, of high culture and repute among his people and worthy of a seat in the first deliberative assembly of the world. Though he be all this, and the highest executive officer of a prosperous and intelligent people, there is nothing sacred about his certificate, as there is about the certificate of the sweet-scented quartette we are now entertaining so royally in the basement of this building—the virtuous Wells, the meek Anderson, and their pious confederates in the business of peddling State franchises.

To be brief, Mr. Speaker, on this point, if you impute conclusiveness to either certificate, to concede it to the subordinate tribunal—the returning board—and deny it to the highest executive authority, the governor, is a gross absurdity that only the most frightful exingency of party could prompt fair-minded men to embrace.

Mr. Speaker, one other point. My idea has been that upon the various doubtful and disputed questions it would be right and just and patriotic to give the people the benefit of all the doubts. I had hoped the commission would take that view. It has seen proper to take a different view and has given to party, to a minority party, the benefit of every doubt. In Florida it decides to hear proof when a case of ineligibility cannot be made out against Humphreys. In Louisiana it refuses when a case of ineligibility can be made out against Levissee and Brewster. In Oregon it hears proof because the necessities of the one side require that proof shall be heard upon other points.

From Florida a protest came up from every department of her government against the counting of her vote for Hayes; still the commission count it. From Louisiana came an appeal from 10,000 voters, disfranchised by the returning board, and to that appeal the commission turn a deaf ear; but no technicality stands in the way of the commission when a small majority in Oregon plead for a recognition. Sir, I proceed no further with the review because the subject is sickening. This commission will pass into history and its judgments will meet the solemn and deliberate inquest of posterity.

I could wish for the honor of my country that its action had been such as to free it from all suspicion of that bias and prejudice that do so often pervert human judgment and defeat the ends of justice. As it is I have this to say, that if through its action, partisan, unfair, and dishonest as I believe it to be, Hayes should become President, I will and the people I represent will recognize him as the head of the Government, but they can never regard him as rightfully there. They will feel that justice, that fair play, that common honesty have been shamefully violated to place him there; and whatever consideration they accord him will be given to him as a President *de facto* and not one of right. They will submit because they will think it better to bear the evils they have than fly to others they know not of. They will trust to peaceful remedies, confident that sooner or later a righteous retribution will return upon the heads of the tormenters the unspeakable wickedness with which they have afflicted a nation.

Mr. WOODWORTH. Mr. Speaker, I did not know until I came into the Hall this morning that this opportunity was to be accorded to me. I cannot, of course, under the circumstances, and in a ten-minute speech, express myself as I desire upon the subjects involved in this debate.

The questions before the House, touching the electoral vote of Oregon, were learnedly argued in the presence of the commission, and have been deliberated upon here and throughout the country until nothing new remains to be said.

I have no disposition, sir, rising as I do late in this discussion, to repeat the now familiar arguments which support the finding of the commission. Upon those questions that may be denominated legal and constitutional questions, I shall content myself by saying that in my judgment the commission, acting in its high capacity of arbiter upon the dispute submitted, could have returned no other finding than the one it did return without violence to the Constitution of the United States and to the laws of Oregon, and without assault upon the rights of the people, not only of that State, but of the whole Union.

But, sir, aside from these questions there are other considerations clustering about the history of the electoral vote of Oregon, and of the crisis from which we shall soon emerge, which ought to be potent in shaping the judgment of the House upon the question soon to be called.

It is meet, it seems to me, that the attention of the House and of the country should be directed to these considerations, as has been done to some extent by others; and I only regret now that my poor ten minutes will be too short to enable me to speak in detail.

Sir, we have heard to-day from the gentleman from Pennsylvania, [Mr. CLYMER,] and again from the gentleman from Kentucky, [Mr. BROWN,] as we have heard upon the occasions of each debate that has followed the preceding reports of the commission, charges of fraud hurled with whatever force of voice and of rhetoric these gentlemen were able to command against the party that was triumphant at last November's election, commingled with which were denunciations, bitter denunciations of the commission for finding upon the oaths and consciences of its members the fact of that triumph. I volunteer no defense of the commission. From such puerile and pusillanimous attacks it needs no defense.

I did not, sir, aid in the creation of this commission, but I am to-day proud as an American citizen in the knowledge that it occupies a position so exalted that even the swiftest arrow from the quivers of the little men who assail cannot reach it, and that its members walk among their calumniators like giants among pigmies; and so, sir, they shall take their place upon the page with which the historian is now busy. Neither the tearful words of the distinguished gentleman from Pennsylvania nor the ambitious philippic of the no less distinguished gentleman from Kentucky, to both of whom I have already alluded, will serve to quite destroy the commission or its members in the esteem of mankind, nor can anything that may be said upon this side of the Chamber add to the brightness of their already established good fame.

Partisanship is the crime of the commission. Is it not curious that while the supposed partisanship of the eight who concur is denounced there is a silence profound as the hush of death as to the at least equal partisanship of the seven who dissent? No one upon this side has uttered a word of censure of these seven, for no doubt they acted, as did their associates, upon an honest conviction, and were guided by a high sense of duty as they comprehended its dictations to them.

Sir, we have to-day been regaled not only with these expressions of impotent anger, but filibuster has been called in to aid those who cannot accept defeat. I am not surprised at this, nor at the chagrin and natural wrath of our democratic friends, for with everything to gain and nothing to lose they cunningly set a trap and were themselves caught; caught by the act of God, who disposes of all human events, and by the act of the Illinois Legislature, which disposed of Judge Davis. [Laughter.]

> They digged a pit, they digged it deep,
> They digged it for their brother;
> But through their sin they did fall in
> The pit they digged for 'tother.

[Renewed laughter.]

The quotation may be neither exact nor elegant, but its aptness will not be questioned.

Mr. Speaker, upon this whole subject I think we would do well to act upon the suggestion that was made the other day in the course of the Louisiana debate, and leave the reckoning for all these things to

the *dies iræ, dies illa*, to which the gentleman from Kentucky, [Mr. WATTERSON,] who gathers the lambs, so pathetically pointed as "the sweet by and by" of his party that loomed up before his enraptured vision somewhere in the *eons* of the shadowy future.

Seriously, sir, I have no inclination to exult in the discomfiture of the men who were their own victims.

No doubt many gentlemen upon that side, as I know there were some upon this, consented to the commission believing that it would prove a wise and constitutional means of settling an otherwise irreconcilable difference. For such all honor. But let them now abide by the results like men, as some of their number are inclined to do, and have done with the spume, the impotent raging of words, the Mexican symptom that we have been compelled to witness to-day and heretofore. From such exhibitions I am glad to note that the men here from the Southern States who were of the late confederacy are generally exempt, and that they are disposed to keep faith and to stand by the results of the law. I have noted it, and it has been noted I know by the people of the Northern States who accept it as a good omen for the future. I hope and believe that the incoming administration of President Hayes will be so considerate and just toward the section and the interests which they represent that their manly and dignified acquiescence now may turn to gratification hereafter—the gratification that springs from the consciousness that the best has been done for their interests and for the interests of the whole country.

It is, sir, a consideration second in importance to no other that the finding of the commission, upon which we are soon to pass, pronounces against the success of bribery and chicane in politics. Let gentlemen gather up for a moment in their memories the substance of the cipher telegrams, which the gentleman from Iowa [Mr. SAMPSON] so fully exposed, and the full history of the attempt to steal the electoral vote of Oregon, and my meaning will be apprehended.

Sir, since the first day of the present session charges of corruption and fraud against the republican party have been rung in this Chamber until its four walls seem never to have been silent with their echoes. Of whatever wrongs the republican party may be guilty (and I do not claim it to be perfect by any means) I have no words of palliation or excuse, nor have any been uttered upon this side. While we have been compelled to listen to these charges, uttered with the usual vehemence of falsehood, it was reserved until this closing act in the drama of the presidential count to reveal the white-souled purity of the source from which these charges emanate.

Look at it for a moment, gentlemen. Certain managers of a great national political party; a party which believes in its divine right to rule this country more solemnly than it believes in the right of God to rule the universe; a party which is frantic for power, with a half million of expectant henchmen, many of whom are now swarming the streets and avenues of this capital, blear-eyed with watching, lank with waiting, with an incurable itch for the loaves and fishes of public office—certain managers I say of such a party coolly and boldly attempt to utilize the genius that was able to steal a railroad to steal the franchise of the entire people of a State.

It is not, sir, alone the people who dwell upon the banks of the stream that erst heard

No sound save its own dashings

that were to have been the victims. The victims were to have been the whole American people. When the day dawns that shall witness the first success of such an attempted crime the people will do well to look carefully to the title-deeds of their democracy and to prepare for all that has been imagined or feared from the downfall of their liberties.

A bastard republicanism, the beginning of some unknown end, and the most terrible of despotisms will then usurp the place of a free and just government. Whoever attempts to corrupt the ballot-box or seeks to stifle its decrees stands proclaimed by the act an enemy to free institutions, and every hand in America should hold a whip to lash the scoundrel through the land. The crime of Oregon will go upon the page of history involving the names of men in high places and deep in the confidence and schemes of a great political party as the equal in perfidy, although wanting the attribute of manliness, of the crime of Aaron Burr and of the men who plotted against the Republic in 1861.

Sir, when the flag which the watchful statesman and sleepless attorney [Mr. FIELD, of New York] saw by the dim light of the midnight stars when the Senate was in the last agony of parturition for the law under which we are now acting shall be next lowered upon its staff, a heartfelt thank God will go up from all the length and breadth of the land that the man whose genius inspired this crime is not to be foisted upon the American people as their Chief Magistrate. [Applause.]

[Here the hammer fell.]

Mr. STEVENSON. Mr. Speaker, when this Congress assembled in December last it witnessed the great American people from one end of the country to the other divided upon the question as to which candidate had been lawfully elected to the high office of President of the United States. The business industries of the country were paralyzed, public confidence destroyed, and the danger of civil war was imminent. That Mr. Tilden had received a majority of more than two hundred thousand of the popular vote was not disputed. That he had secured a majority of the presidential electors in the several States and was lawfully entitled to be inducted into this great office was the firm belief of more than one-half of the people of this great country. The hour was one of great peril to our institutions, and many were apprehensive that we were but entering into the dark night of anarchy and confusion. After many weeks of angry discussion, which resulted in still further arousing the passions of the people, a measure of adjustment was proposed. It was believed that there was still patriotism enough left in the American Congress to vouchsafe an honorable and fair settlement of this most dangerous question. You remember, sir, we all recall at this moment how our hopes revived and how gladly we hailed the introduction of the bill recommended by a joint committee of conference of the Senate and House of Representatives. It was welcomed as the harbinger of peace by the people of this great country.

Mr. Speaker, I gave that bill my earnest support. It had upon this floor no friend more ardent in its advocacy than myself. I believed it to be a measure in the interest of peace. I believed that those who framed it, as well as those who gave it their support upon this floor, were honest in their statements, that no man could afford to take the Presidency with a clouded title, and that the object of this bill was to ascertain which of the candidates was lawfully entitled to the electoral votes of Florida and Louisiana. I never mistrusted for a moment that statesmen of high repute could in so perilous an hour, upon so grave a question "palter with words in a double sense."

Mr. Speaker, we who are the actors in this drama know, and history will record the fact, that the conference bill became a law, and the electoral commission was organized, *not* for the purpose of ascertaining which candidate had *prima facie* a majority of the electoral votes; *not* for the purpose of ascertaining that the governor of Florida and the *de facto* governor of Louisiana had given certificates to the Hayes electors. It was never dreamed that a tribunal consisting in part of five judges of the highest court upon earth was to be constituted whose sole duty was to report a fact known to everyman in the land: that the returning board of Louisiana had given the votes of that State for the Hayes electors. I state, sir, now, in the presence of this House and of the country, that the avowed object of that bill was to ascertain which candidate had received a majority of the legal votes of those States. The avowed object of the bill was to secure the ends of justice; to see that the will of the people was executed; that the Republic suffered no harm; to see, sir, that the title to this great office was not tainted with fraud. How well this tribunal has discharged the sacred trust committed to them, let them answer to history.

The record will stand, Mr. Speaker, that this tribunal shut its eyes to the light of truth; refused to hear the undisputed proof that a majority of 7,000 legal votes in the State of Louisiana for Tilden was by a fradulent returning board changed to 8,000 majority for Hayes. The republican Representative from Florida [Mr. PURMAN] has solemnly declared upon this floor that Florida had given its vote to Tilden. I am not surprised that two distinguished republican Representatives from Massachusetts [Mr. SEELYE and Mr. PIERCE] have in such thrilling tones expressed their dissent from the judgment of this tribunal. By this decision fraud has become one of the legalized modes of securing the vote of a State. Can it be possible that the American people are prepared to accept the doctrine that fraud, which vitiates all contracts and agreements, which taints the judgments and decrees of courts, which will even annul the solemn covenant of marriage, fraud which poisons wherever it enters, can be inquired into in all of the relations of human life, save only where a returning board is its instrument and the dearest rights of a sovereign people are at stake.

But we are told that we created this tribunal and must abide its arbitrament. I propose to do so in good faith. I have from the beginning opposed every movement that looked to delay. I have voted against all dilatory motions. But, sir, the decision of this tribunal is too startling and too far-reaching in its consequences to pass unchallenged. That the returning board of Louisiana will find no imitators in our future history is more than I dare hope. The pernicious doctrine that fraud and perjury are to be recognized auxiliaries in popular elections is one that may yet return to plague its inventors. The worst effect of this decision, Mr. Speaker, will be its lesson to the young men of our country. Hereafter old-fashioned honesty is at a discount and villainy and fraud the legalized instruments of success. The fact may be conceded, the proof overwhelming, that the honest voice of a State has been overthrown by outrage and fraud, and yet the chosen tribunal of the people has entered of solemn record that there is no remedy.

Oh judgment, thou art fled to brutish beasts.

Mr. Speaker, my criticism of the decision of this tribunal rests upon its finding in the cases of Louisiana and Florida; upon the Oregon case I have no criticism to offer. It is true that but two votes of this State could have been given to Hayes, had the decision first adopted by the commission been followed in the case of Oregon. However inconsistent it may be with other rulings of the commission, standing alone it is in the main correct. The sanctity of seal of State and certificate of governor applied only to Louisiana and Florida; the governor of Oregon was not "of the household of the faithful."

The people of Oregon cast their votes for Hayes, and no vote or act of mine shall stand in the way of its being so recorded. Such have been my convictions from the beginning, and the great wrong done to Louisiana and Florida cannot warp my convictions at this hour.

Mr. Speaker, we have now reached the final act in this great drama, and the record here made will pass into history. Time, the great healer, will bring a balm to those who feel sick at heart because of this grievous wrong. But who can estimate, what seer can foretell the evils that may result to us and our children from this judgment? Fortunate indeed will it be for this country if our people lose not faith in popular institutions; fortunate, indeed, if they abate not their confidence in the integrity of that high tribunal for a century the bulwark of our liberties. In all times of popular commotion and peril the Supreme Court of the United States has been looked to as the final arbiter, its decrees heeded as the voice of God. How disastrous may be the result of decisions so manifestly partisan I will not attempt to forecast.

Sir, let this vote be now taken and the curtain fall upon these scenes forever. To those who believe, as I do, that a grievous wrong has been suffered, let me entreat that this arbitrament be abided in good faith, that no hinderance or delay be interposed to the execution of the law, but that by faithful adherence to its mandates, by honest efforts to revive the prostrate industries of the country and restore public confidence by obedience to the constituted authorities, we will show ourselves patriots rather than partisans in this hour of our country's misfortune.

Mr. NEAL. Mr. Speaker, each successive decision of the majority of the members of the electoral commission has but added, if anything could add, to the dishonor and infamy of that tribunal, which, conceived in patriotism and organized in the interest of truth, justice, and peace, has, violating all law and annulling the Constitution itself, become the avowed champion and defender of perjury and fraud. But unless we upon this side of the House propose to forfeit our own self-respect and share with them their shame and dishonor, we must adhere strictly to the letter and spirit of the law under which they are empowered to act. To do otherwise will be to transfer from them to ourselves, in part at least, the opprobrium which they have so justly merited, and to lose all the advantages to be gained by a continuance in the straightforward, manly course that has characterized our action as a party thus far; and this in my judgment we cannot afford to do. I have endeavored on all occasions as a representative of the people to apply to my public acts the same rule of action that has guided me in the private walks of life, and applying this test here, it is perfectly clear to my mind that the paths of duty and honor alike lead in the direction I have indicated. There, and there alone, lies whatever hope we may dare to entertain for the perpetuity of the Republic. In no other way can there be even a possibility of preserving civil liberty and a free government. Both may survive the wrongful, unjust, and corrupt decisions of a partisan tribunal, with all their lamentable consequences, including that of the installation of a President counted in by fraud, until we can again appeal to the people for their reversal. But neither can exist where anarchy reigns supreme, and anarchy will prevail whenever an attempt to delay the declaration of the final result of the late presidential election, until after the 4th day of March, shall succeed. The popular idea that the President of the Senate will, in such a contingency, become the acting President of the United States until a new election can be held is entirely erroneous. The Government will in such a case be without an Executive head or officer, and there is no law under which the vacancy can be supplied by another election. It will be worse than folly, therefore, it will be suicidal, for us, one of the fundamental principles of whose party has ever been obedience to law, to refuse now to permit the enforcement of a law which we ourselves have enacted. I was about to say that it would be revolution itself. But whether that would be true or not, nothing can be more certain than that when the only law-abiding party in a country breaks from its mooring and drifts into the whirlpool of popular passion that is the beginning of the end.

Sir, the eyes of the nation are upon us. Our action is awaited with breathless anxiety. If we can rise above the level of the mere partisan politician and establish some claims to statesmanship, by subordinating passion to reason, and adopting the only policy that can save the Government, all will yet be well. But if we cannot do this, if driven to madness by a bitter sense of the outrageous and iniquitous wrong that has been perpetrated upon us we shall find ourselves unequal to the situation in which we are placed, then farewell, a long farewell to civil liberty and free government.

> A thousand years scarce serve to form a state;
> An hour may lay it in the dust; and when
> Can man its shattered splendor renovate,
> Recall its virtues back, and vanquish time and fate?

[Here the hammer fell.]

Mr LE MOYNE. In disposing of the questions now before us much allowance is to be made for the bitterness of the disappointment which the defeated party must naturally feel, and although participating fully in the bitterness of that disappointment, yet it seems to me the only duty of to-day is the duty of submission. But he who has considered the controversy as merely a contest between two parties has greatly underestimated its importance. The result is not only a triumph of the republican party, for one of the issues was whether a popular majority could peaceably change the administration of this Government in opposition to the minority while that minority had the control of the Federal offices. Any politician of ordinary intelligence can see that if the republican party had not controlled the office-holders it could not have came near enough to a majority to have continued the contest. The result shows how completely the people can be controlled by the office-holders. But the contest has brought us face to face with another great danger which threatens our national existence; that is, that we have such an army of office-holders appointed or to be appointed by the President, and our people are so infected with the greed for office that many men in both parties are willing to cheat for the control of the offices and many of them also willing to fight for them. Will this element be encouraged or repressed by the result; which has been demonstrated to be the stronger: the will of the majority of the people or the control of the machinery of the Government, including the power of appointment to the supreme bench?

The whole democratic party felt assured that they had secured the victory, and honestly believed that in all fairness they should be allowed honest returns and to inaugurate the President, but we found this was to be denied; we were called turbulent and ready for rebellion, and were threatened with the Army in spite of all this. Confident in the justice of our cause, we submitted it to an unfriendly tribunal, believing it impossible that party animosity could deny us justice. Here was a great tribunal organized, bound by no precedent, and had for its only cause the rights of 40,000,000 to an honest election. The criminal is arraigned, one party charging that a great people has been robbed of its most sacred rights and offering the proof, the other denying and pleading not guilty; and this whole people looked anxiously to know what is the very truth, and this great tribunal refuses to hear the case, and instead of trying the criminal on a technicality quashes the indictment. In the repetitions of history when a similar condition is reached, will the party having the popular majority repeat our experiment? No, sir; never. That majority will take its right, and those who have taught us this lesson can take the whole responsibility.

I do not complain so much of the result of this experiment as of the method by which it has been reached. To say that our proof shall not be heard is to acknowledge that the foreordained result could not otherwise have been secured.

What right had we to expect any better from judges? When did popular freedom ever get its support from the bench as against an organized existing tyranny in power? Never! On which side was the judiciary in the revolutionary war? It was with the existing government. Where was it in the struggle here with slavery? It was always in support of the present power. And what could you expect from a bench organized to decide a particular question in a particular way; and that, too, in deciding upon the rights of a President who would have the appointment of some of their associates? Was it feared that Mr. Tilden would strengthen the element unfriendly to the majority?

But we had no freedom of choice. This House had to abdicate and submit absolutely to some such tribunal. There was an influence which seemed to have its fountain-head in New York and the money centers of the country which was born of fear; and it was by that most despicable passion, the fear of loss of money, we were repressed and the bold disposition to stand up for our rights was smothered. We could not afford to be free. We had to choose between shame and danger, and like cowards we chose the shame; not our own shame, but it was the shame of constitutional liberty. Will the bondholder be made secure by this sacrifice? No. If in this Government we cannot be protected in life, liberty, and property, but to save our property we relinquish any share of liberty, will we give up that property to discharge old obligations? No, sir. The nation which through fear of loss relinquishes liberty is ripe for repudiation.

But, sir, this result has one consolation—we of the West are done in politics with the domination of New York. Under her leadership we have not only lost the victory after it had been fairly won, but, what is still worse, we have been disgraced.

If Mr. Tilden could only be made President by getting the vote from Oregon in opposition to the vote of a majority of the people he had better remain a private citizen. I have never believed in this Oregon road, and it does not satisfy me to say that it is only using the same means employed by the republicans. Such means are unworthy of any party or any cause, and no allegiance to party will ever make me acquiesce in dishonesty or trickery. And if Mr. Tilden either directly or indirectly consented to the purchase of a republican elector, he deserves double condemnation from every man who supported him. Sir, sooner than see the party which I have supported succeed in gaining the administration by such means, I would a thousand times prefer to see the republican party take it, loaded down with the frauds and outrages of Louisiana and Florida, and the military usurpation of South Carolina, believing that these outrages and this usurpation will be remembered and avenged by an intelligent people.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had adopted the following resolution:

Resolved, That the decision of the commission upon the electoral vote of the

State of Oregon stand as the judgment of the Senate, the objections made thereto to the contrary notwithstanding.

The Secretary of the Senate further announced that he had been directed to notify the House that the Senate was now ready to meet the House to proceed with the counting of the electoral votes for President and Vice-President.

ELECTORAL VOTE OF OREGON.

Mr. PHILLIPS, of Kansas. Mr. Speaker, it is to be regretted that the democratic majority of this House, during the whole of this controversy on the electoral count, has indicated by a turbulent and factious course and dilatory motions that it was their purpose to defeat the will of the people. It is also to be regretted that the partisanship and bitterness it has shown is not relieved by originality or wit. Has the democratic party lost all its versatility? Shall we never hear the last of military despotism, scalawags, and carpet-baggers? Shall "bull-dozer" and "returning board" be imbedded in our dictionaries—the latter as gross an outrage on the English language as the thing itself is on all good government and morals? They tell the same stale old story; the story with which they maligned the republican party in the canvass of last year; the same story with which in their wrath they impeached the result of the election last November; the very same with which they now calumniously seek to indict the electoral commission. The result in all its stages has rebuked them all.

Under these stale misrepresentations and calumnies, it is a relief to find the defeated democrat in the rôle of Jeremiah, the weeping prophet. How he doth moralize on the decadence of republics, and in this unexpected calamity like another Marius on the ruins of Carthage. Surely it must have been a desperate emergency that drove the reformer of Tammany to the Oregon telegrams and the Oregon negotiations, or the witty gentleman from New York to the Bible.

It was enough to abuse the politics of Florida and Louisiana. Failing in that region of alligators and parishes, an unhappy democracy might have found vent for its mortification and spleen in assailing the sins, real or imaginary, of the republican party. Why assail the commission? It is their own baby. They fished it out of the vasty deeps unfathomed by a political precedent, yet subject to the genius of parliamentary invention. I wish to remind them that there is a peculiar heinousness in the crime of child murder. Is it possible that they begin to discover it is unconstitutional? Are they in the habit of palming off unconstitutional measures on the country in the hope of reaping political advantage, and failing to do so do they contemplate going before the country to denounce their bantling as a wicked innovation on our fundamental law?

I am not here as the assailant or apologist of the measure. The day is past for either. It is a fact, and a notable one. It was a necessity, or sprang from the conviction that it was a necessity. I think existing forms were adequate. Had they been applied the result would have been precisely the same. Partisan bitterness had clouded the election with a doubt, and the dominant party, victory in its grasp, accepted your proposition that it might not be said that an American President had been unfairly chosen. Whatever posterity may say of it, the electoral commission was one of Uncle Sam's things—a tribute to his traditional love of fair play—voluntary, deliberate, unprecedented. Both parties were appealed to for their ablest and purest representatives. The Supreme Court, the highest representative of the national sense of justice and honor, held the scales. If we must appeal at all could we offer to the contemplation of the world a higher or better tribunal, or a fairer representative of all that was good in our Government and people?

Shall disappointed and imbittered partisanship belittle its capacity or impeach its fame? Can the patriotic American denounce its verdict as a crime, and "detestable?" Who shall dare to say that the mantle of Marshall has unworthily fallen? I do not hesitate to say, sir, that whether we weigh its proceedings by the standard of a just legal measure, whether we estimate it by its conception of the Constitution and the principles of the American Government, whether we consider the accomplished lawyers who presented each side of the case, its laborious and complicated investigations, or the verdicts it rendered, the electoral commission was not unworthy of the occasion, of our civilization, of our country.

"The stars in their courses fought against Sisera." Let no democrat flatter himself that he can fish the elements of the next presidential campaign from the result of this commission. The republicans said that Hayes was properly elected, and this judicial inquiry proves it. Campaigns based on calumny shall never again possess so much power. Let the traducer of the republican party stand face to face with Cronin's electoral college and the Oregon telegrams. Let him abuse the republicans of Louisiana. Let him abuse the republican portion of this commission and say that eight were partisans and seven judicial patriots, but let him remember that whatever may have been the price of a democratic governor, thank God not even the "bar'l" of money could buy a republican elector.

Alackaday! Our disconsolate democrat is the Cassandra of all politics, yet is his repentance imbued with religion and the spirit of prophecy. He is "a angel." An angel with which our literature is not altogether unfamiliar, for Sam Slick pointed to the gilded figures on his five-dollar clock and said, "Them with the bowie-knives is angels." Did these angels expect that the Presidency of the United States would be the reward of anarchy and murder? All humanity cries out against a conspiracy called an election which would compass its ends by such means. Low appeals have been made to the guilty traditions of the past and the jealousies of race, and in order to trample a helpless people under foot a cotton conscience has pandered to the meanest and lowest and basest passions of the human heart. Political rights to the negro have proved too often a fatal gift. Intimidation took the place of electioneering, and violence and murder took the field when an awakened spirit of independence would not be stifled. The reign of white law was a reign of terror. Vainly shall those who countenanced such proceedings hope to profit by them. The blood of the slain cries up from the ground against them. Could there be no redress for wrongs so grievous, no remedy for calamities so great? The gentleman from Kentucky spoke of a day of reckoning. That day of reckoning is here. The ghosts of a thousand murdered victims come up from the forests and swamps of the South to see it. I can almost fancy I hear the rustle of their garments in these Chambers, "*Dies iræ—dies calla!*"

Mr. HEWITT, of New York. Although I am physically in no condition to address the House, I feel nevertheless that I have a duty, a painful duty to perform which can no longer be deferred. The decision rendered this day is the completion of the fraudulent scheme for counting in a President who was not elected and for counting out a President who was elected by the votes of the people of this country. The consummation of this scheme was a foregone conclusion from the hour when the decision in the Florida case was rendered. It is not to be disguised that there is in this country a deep-seated feeling of injury, a keen sense of wrong. It comes up from the heart of the people, from every class; from the lawyer, the doctor, the clergyman, as well as from the farmer, the mechanic, and the laborer. I have been overwhelmed by letters from every part of the country appealing to me to do something that would make this outrage a nullity. These people feel, not that they have lost the fruits of victory; that is not what stirs their indignation—they feel that they were willing to confide their case to a just tribunal; that they did confide their case to a tribunal whose judgment is not a just one; that they and the members of this House who voted for that tribunal, and the members of the committee who framed the bill creating it, have been deceived. They ask me where the responsibility lies. They ask me whether this feeling is well founded; and I am compelled to say that it is. It is my purpose in the few minutes that I now have to try to fix that responsibility.

In the record which gives the decision in the Florida case appears this entry:

> Mr. Commissioner HOAR submitted the following order:
> *Ordered*, That evidence be not received.

This order was adopted by a vote of 8 to 7, the eight commissioners voting in the affirmative being Messrs. EDMUNDS, FRELINGHUYSEN, GARFIELD, HOAR, and MORTON, together with the three judges, Mr. Bradley, Mr. Miller, and Mr. Strong.

Now, as to the three judges, I propose to say only this: they took no part in the formation of this measure; they made no request to sit upon this tribunal; they were put there, so far as we know, without their consent, and probably against their will. Their action, therefore, is to be judged not by us, but by a higher tribunal, to whom they must render their account at the last. In regard to the other members of that tribunal, they are to be judged by the record which they have made in committee and in the discussions of the two Houses. Of Judge EDMUNDS I desire to bear witness that at no time to my knowledge did he express an opinion as to the power of this commission to go behind the returns. It might possibly have been inferred from his action on previous occasions that he entertained the view that the two Houses of Congress could go behind the returns; but neither in his speech on the bill nor elsewhere do I know that he ever expressed that view. Mr. FRELINGHUYSEN undoubtedly expressed the opinion that there was no such power. Mr. GARFIELD, in the discussion in this House, unquestionably expressed the opinion that there was such power. Mr. MORTON, in the discussion in the Senate, undoubtedly expressed the opinion that it was the bounden duty of the tribunal to go behind the returns. In replying to the Senator from Ohio, [Mr. THURMAN,] he stated in unmistakable language that the Senator from Ohio had declared that it was the judgment of every democratic member of the House and of the Senate that there was power to go behind the returns, and without this power the bill could not have received a single democratic vote in either House; and it was the judgment of every democrat who sat upon the committee that there was such power.

In regard to the remaining member of that commission, Mr. HOAR, in his speech in this House on the 25th of January he used the following language:

> Some gentlemen have spoken of this as a compromise bill. There is not a drop of compromise in it. How can that man be said to compromise who, having a just and righteous claim, asserts it, maintains it, enforces it by argument and *proof*, yielding no jot or tittle of it, to a tribunal so constituted as to insure its decision in accordance with justice and righteousness, so far as the lot of humanity will admit?

What does the word "proof" mean? There can be no "proof" without the right to take it and unless it is received. When, therefore, that commissioner brought in an order before the tribunal that evidence be not received, I hold it was in direct contradiction of his declaration made upon this floor that *proof* was admissible.

But I go further, Mr. Speaker. I will violate none of the confidence

which belongs to the deliberations of that committee. At the close of those deliberations, it was generally conceded that the injunction of secrecy was removed; but as some question has been raised about that, I wish to adhere strictly to the rule.

Mr. HOAR. No question is raised on my part.

Mr. HEWITT, of New York. The gentleman then relieves me from any embarrassment which I might have in referring to what passed in the committee.

Several MEMBERS. Let us have it.

Mr. HEWITT, of New York. Then I am allowed in speaking of the proceedings of the committee to say that the original draught submitted by the gentleman from Iowa [Mr. MCCRARY] contained this provision:

And the said Chief-Justice, together with the justices of said Supreme Court senior in office, shall constitute a tribunal to whom shall be referred the certificates objected to, together with the objections and all papers and *evidence* in the possession of the Houses of Congress relating thereto. * * *

In addition to the papers and proofs which may have been referred to said tribunal as aforesaid, they shall have power, if they deem it necessary, to send for persons and papers and to compel the attendance of witnesses; also, to cause testimony to be taken before one or more commissioners to be appointed by them for that purpose.

That bill proposed practically to submit the decision of this question to the Supreme Court of the United States; but, being objected to, a second draught was made which submitted it to a tribunal composed of five justices, and this clause was retained in the second draught of that bill. I heard not only no dissent, sir, to the proposition that a tribunal so constituted should be empowered to take testimony, but I heard from *every* member of that committee, including the gentleman from Massachusetts, that the tribunal had and would have such power under this bill. There was no protest against it.

Now then if Congress had the power to confer upon a tribunal so constituted the right to send for persons and papers and take testimony, how did they lose that power when they added five members of the House and five members of the Senate to such tribunal? If they had the power and conferred the power upon that tribunal, how could the commissioner who assented to the right of Congress, and therefore the right of these commissioners sitting as a tribunal, to take evidence, consistently bring in an order that no testimony should be received?

Mr. SPRINGER. I ask the gentleman from New York to turn to section 5 of MCCRARY'S bill.

Mr. HEWITT, of New York. I am afraid I have no time.

The SPEAKER. The gentleman has but one minute left.

Mr. HEWITT, of New York. If I have but one minute left I can only use it in this wise: I think that we have been deceived as to the position of certain gentlemen who sit upon that tribunal. I think their declarations in this House are at variance with their decisions on that tribunal. I can say that the feeling of injury is thus justified in this people; but I want to close what I have to say with this final remark: No matter how great the grievance, how deep the wrong, let us on our side of the House, representing this great democratic party who have been waging a war of principle, stand up like men to principle, and not allow ourselves to be driven from the firm ground of truth and justice by any violation of it upon the other side of the House. [Cries of "Good!" "Good!" and loud applause.]

[Here the hammer fell.]

Mr. HOAR. Mr. Speaker, I do not propose to debate whether the question of the right of Congress to pass upon the election, qualification, and return of presidential electors, a right expressly conferred in regard to its members and expressly withheld in regard to them, be a technicality, or whether it be one of the gravest questions of constitutional power. I do not propose to debate the question whether the alleged usurpations of power by the returning board of Louisiana counteracting what they claim were great crimes, should properly be encountered by a greater usurpation upon the part of Congress. I do not mean to debate whether the opinion be sound of one of the most distinguished leaders of the democracy, [Mr. BAYARD,] a member of this commission, uttered within two years in his place elsewhere:

Nowhere is the power given to either House of Congress to pass upon the election, either the manner or the fact, of electors for President and Vice-President; and if Congress or either House shall assume under the guise or pretext of telling or counting the vote to decide the fact of the election of the electors, then they will have taken upon themselves an authority for which I for one can find no warrant in the charter of our liberties.

Nor do I mean to discuss the question whether that gentleman and his colleague, who changed that opinion honestly I have no doubt, are more liable to the charge of partisanship than we are who adhere to it.

Mr. DAVIS. Will the gentleman from Massachusetts permit me to ask him a question right there?

Mr. HOAR. No, sir. I now propose to address myself directly to the charge made by the gentleman from New York, [Mr. HEWITT.] I spent three days in that gentleman's presence in putting into a bill the declaration that this question of going behind these returns should be submitted to the tribunal as a question about which he and I differed. We provoked the derision almost of the members of the committee by our care to avoid committing the tribunal to either view of this great fundamental question with our "if anys" constantly repeated. One of the very last acts of the committee of conference was this: One of its members said: "I am afraid you leave it open to some one to claim this bill requires us to go behind the action of the returning boards, instead of submitting it to this tribunal whether such right exists in the two Houses." Every member of that committee assured that gentleman that it was not so; that they perfectly understood it did not decide it, and when they got through, the gentleman from New York sitting within four feet of me, I rose and said: "Now, here is a question upon which we are all agreed. We agree that one side is to contend one way and the other side is to contend the other way, and the commission is to decide on that question. If any gentleman, however, can suggest clearer language than we have got in this bill let him rise and make the suggestion and we will all adopt it," and no man did it.

Further, Mr. Speaker, this bill went to another place and there the honorable Senator from Ohio, [Mr. THURMAN,] a distinguished and honored and honorable man, rose in his place to persuade a republican Senate to accept the bill and to differ with their republican associates in this House, and he said, "Here are certain questions concerning which the two parties differ," and he enumerated them. After stating three, he said:

Let us proceed to the fourth; that touches the amendments. It is that it is competent to go behind the certificate of the governor, and the directly opposite opinion that it is not competent to go behind the certificate of the governor.

Then, sir, comes another question:

The fifth is that it is competent to go behind the decision of a canvassing or returning board, and in opposition that it is not competent to do so * * * It is held by some that the decision of a returning board can be impeached for want of jurisdiction, and by another set that it cannot be. Then, sir, comes another question. Supposing them not to have gone beyond their jurisdiction but to have acted fraudulently, some say that their decision may be impeached for the fraud, because fraud vitiates everything, even the decisions of a court, and others say that no such inquiry is admissible at all.

Sir, we took the only course that was open to us. We provided a tribunal. * * * This bill leaves every question to this tribunal. * * * It decides not one of them; it does not intend to decide one of them.

No, not one. Now, when I turned to my republican associates in this House, that bill being passed by a republican Senate on the assurance of the man who framed the section, and said "there is not a drop of compromise in it; you are to go before that tribunal to assert, to maintain, to defend your claim, that they cannot go behind the decision of this canvassing board," am I to be charged with bad faith in the face of the House and of the country by a gentleman who shuts his eyes to those facts and undertakes to lead his party; he acting as he says, under a different understanding?

Mr. Speaker, a distinguished Senator from Massachusetts being charged, as I have been, with dishonor in the performance of a public duty, said, "We have a maxim in New England: when certain men make exhibitions of themselves, that in the mind of such a man there is a screw loose somewhere. In this man's mind all screws are loose. [Laughter and applause.] I am quoting Mr. Webster about Mr. Ingersoll, you understand. "The whole machine," said Mr. Webster, "is rickety, shaky, crazy, out of joint," and I have sometimes thought I have seen instances of gentlemen whom great responsibilities have brought into like condition of mind. [Laughter.]

Mr. COCHRANE. Mr. Speaker, we have again heard from the eight partisan members of the joint commission, and of course they have given Oregon to Hayes. Nothing else was expected. Men who could violate every principle of law and equity in the cases of Florida and Louisiana could scarcely be expected to do justice in the case of Oregon. The question involved in the Oregon case was a very simple one. The Constitution of the United States provides that "no person holding an office of trust or profit under the United States shall be appointed an elector." It was admitted that one of the republican electors, named Watts, was at the time of his election a postmaster. Being ineligible, his appointment as an elector was void, and under the law of Oregon, as announced by the chief-justice of the supreme court of that State, the elector upon the democratic ticket having the highest number of votes was duly elected. It made no difference, however, to the eight partisan commissioners what the law was. They proposed to declare Hayes elected, and they had one of a majority. By their decision they have won the plaudits of the leaders of their party. A cry of joy has gone up from the army of office-holders throughout the land; but the people whose rights have been disregarded and whose liberties have been threatened bow their heads in shame and grief. Some gentlemen have spoken about an attempt to bribe a republican elector. If such an attempt was made, I do here stamp it with my unqualified condemnation. The democratic party, unlike the republican, would never consent to ratify and indorse a fraud even if by so doing they could inaugurate a President. It is not pretended here, however, that any such bribery was consummated. Even although Cronin's vote be not counted, the fact yet remains that there were but two republican electors chosen and Mr. Hayes is not elected.

Mr. Speaker, I had thought it my duty, if under the Constitution and laws it could be done, to prevent the consummation of this fraud; not because of party, not for the sake of party, but in the name and for the sake of the American people. If under the Constitution and laws it cannot fairly be prevented, it is the duty of every Representative to cease opposing even so great an outrage as this. Let no democrat in this trying hour consent to an act unlawful or revolutionary. I say to gentlemen upon the other side of the House, that if they had honestly desired that this whole presidential matter should have

been decided by a fair and unbiased tribunal they should not have nominated as one of their members upon that tribunal a man who had prejudged the whole case, a man who had been bitterly hostile to the bill, and had declared in his place upon this floor that he believed the act to be unconstitutional.

The gentleman from Massachusetts, [Mr. HOAR,] in the defense which he has just made of the course he has adopted as a member of the commission, has said that he turned to his friends when the electoral bill was under discussion and assured them—I quote his language, which I took down at the time—that "there was not a drop of compromise in this bill." Well, the gentlemen surrounding the honorable member from Massachusetts could not have had much confidence in what he said because they voted against this compromise. There was not a member upon the other side of the House who countenanced the conspiracy to overthrow the will of the people who did not vote against this bill, and why? Because they believed that they had a certainty of counting in their President by fraud and inaugurating him by force. They knew they had Federal bayonets at their back. When they discovered that they could not defeat the bill they thus reasoned with themselves, "We will not trust honest, unbiased men to determine this matter; we will select a man from among us who has prejudged this whole case, who has gone as a visitor down into Louisiana and has sent broadcast over this whole land his partisan judgment; we will put him up as an honest judge to determine who has been elected President of the United States." Why, gentlemen, it was an outrage upon all decency and a violation of good faith. I rejoice to know that for one at least my vote did not help to send him there.

[Here the hammer fell.]

Mr. GARFIELD rose.

The SPEAKER. The time allowed for debate has expired. The original proposition will now be read and then the substitute.

The order moved by Mr. HALE and the substitute offered by LANE were again read.

The SPEAKER. The first vote will be upon the substitute.

Mr. LANE. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. LANE. I ask that the substitute may be again reported. I wish the House to observe this fact, that it only applies to the disqualification of Mr. Watts and does not reject the votes of the other electors.

The substitute was again read.

Mr. SPRINGER. Would the gentleman from Oregon admit an amendment that the votes of the other two electors be counted.

Mr. LANE. I deem such an amendment totally unnecessary. That follows as a matter of course.

The question was taken; and there were—yeas 152, nays 106, not voting 32; as follows:

YEAS—Messrs. Abbott, Ainsworth, Ashe, Atkins, John H. Bagley, jr., Banning, Beebe, Bell, Blackburn, Bland, Bliss, Blount, Boone, Bradford, Bright, John Young Brown, Buckner, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Candler, Carr, Cate, Caulfield, Chapin, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Cutler, Davis, De Bolt, Dibrell, Durham, Eden, Egbert, Ellis, Felton, Field, Finley, Forney, Franklin, Fuller, Gause, Glover, Gunter, Andrew H. Hamilton, Robert Hamilton, Hancock, Hardenbergh, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hartzell, Hatcher, Henkle, Abram S. Hewitt, Hill, Holman, Hooker, House, Humphreys, Hunton, Hurd, Jenks, Thomas L. Jones, Kehr, Knott, Lamar, Franklin Landers, George M. Landers, Lane, Lynde, Mackey, Maish, McMahon, Meade, Metcalfe, Milliken, Mills, Money, Morgan, Morrison, Mutchler, Neal, New, Odell, Payne, Phelps, John F. Philips, Poppleton, Powell, Rea, Reagan, Rice, Riddle, John Robbins, William M. Robbins, Roberts, Miles Ross, Savage, Sayler, Scales, Schleicher, Sheakley, Singleton, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Swann, Teese, Terry, Thompson, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Charles C. B. Walker, Gilbert C. Walker, Walling, Walsh, Ward, Warner, Warren, Watterson, Erastus Wells, Whitthorne, Wigginton, Wike, Alpheus S. Williams, James Williams, Jere N. Williams, Willis, Wilshire, Benjamin Wilson, Fernando Wood, Yeates, and Young—152.

NAYS—Messrs. Adams, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Blair, Bradley, William R. Brown, Horatio C. Burchard, Buttz, Campbell, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Eames, Evans, Flye, Fort, Foster, Freeman, Frye, Garfield, Hale, Haralson, Benjamin W. Harris, Hathorn, Hays, Hendee, Henderson, Hoar, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kelley, Kimball, King, Lapham, Lawrence, Leavenworth, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Nash, Norton, Oliver, O'Neill, Page, William A. Phillips, Pierce, Plaisted, Platt, Potter, Pratt, John Reilly, Robinson, Sobieski Ross, Rusk, Sampson, Seelye, Sinnickson, Smalls, A. Herr Smith, Stevenson, Strait, Stowell, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Alexander S. Wallace, John W. Wallace, White, Whiting, Willard, Andrew Williams, Charles G. Williams, William B. Williams, James Wilson, Alan Wood, jr., Woodburn, and Woodworth—106.

NOT VOTING—Messrs. Anderson, Bass, Burleigh, Douglas, Durand, Faulkner, Gibson, Goode, Goodin, Haymond, Goldsmith W. Hewitt, Hopkins, Frank Jones, Le Moyne, Levy, Lewis, Lord, Luttrell, McFarland, O'Brien, Packer, Piper, Purman, Rainey, James B. Reilly, Schumaker, Stephens, Tarbox, Thomas, G. Wiley Wells, Wheeler, and Whitehouse—32.

So the substitute was adopted.

During the roll-call the following announcements were made:

Mr. RAINEY. On this question I am paired with Mr. DOUGLAS, of Virginia. If he were present he would vote "ay," and I would vote "no."

Mr. BURLEIGH. On all political questions I am paired with Mr. JONES, of New Hampshire. Not being sure how he would vote if he were here, I desire to withdraw my vote.

Mr. WELLS, of Mississippi. I am paired with Mr. LUTTRELL, of California, on all these questions.

Mr. O'NEILL. My colleagues, Mr. PACKER and Mr. JAMES B. REILLY, are paired on this question.

The result of the vote was then announced as above recorded.

The question recurred on the resolution as amended.

The question being taken, the resolution as amended was agreed to.

Mr. CLYMER. I submit the following order:

Ordered, That the Senate be informed of the action of this House on the electoral vote of the State of Oregon, and that the House of Representatives is now ready to meet them in joint convention in its Hall.

The order was adopted.

LEAVE TO PRINT.

Mr. LANE. I ask unanimous consent to have printed in the RECORD some remarks in relation to the electoral vote of Oregon.

There was no objection, and leave was granted.

Mr. NEW. I ask unanimous consent to have printed in the RECORD some remarks on the Louisiana election.

There was no objection, and leave was granted.

Mr. SCALES. I ask the same privilege.

There was no objection.

Mr. LE MOYNE. I ask the same privilege.

There was no objection.

Mr. ATKINS. I ask the same privilege, that I may be permitted to have printed some remarks in relation to the Oregon case.

Mr. KELLEY. I object to any one having leave to print except the gentleman from Oregon, [Mr. LANE.]

The SPEAKER. If the gentleman desired to object in the case of other gentlemen except the gentleman from Oregon, he ought to have risen and objected in time. His objection can now only apply to the request of the gentleman from Tennessee.

Mr. KELLEY. I object to him and to anybody else having leave to print.

The SPEAKER. The gentleman has not the privilege to object after consent has been given.

Mr. KELLEY. I rose before the request of the gentleman from Tennessee was submitted.

The SPEAKER. Exactly so; and the gentleman from Tennessee has not permission in consequence of the objection of the gentleman from Pennsylvania; but other gentlemen got permission.

Subsequently,

Mr. KELLEY said: Learning as I do now for the first time, that other gentlemen than the gentleman from Oregon obtained leave to print their remarks, I withdraw my objection as regards the gentleman from Tennessee and all others.

The SPEAKER. Objection being withdrawn, the request of the gentleman from Tennessee is granted.

By unanimous consent, the same privilege was granted to Mr. WALLING, Mr. HOLMAN, Mr. WATTERSON, Mr. BLAND, Mr. FINLEY, Mr. SMALLS, Mr. REA, Mr. BOONE, Mr. YEATES, Mr. PHILIPS of Missouri, Mr. ROBBINS of North Carolina, Mr. FRANKLIN, Mr. BLACKBURN, Mr. BLISS, Mr. CLARK of Missouri, Mr. RICE, Mr. CANNON of Illinois, Mr. PAGE, Mr. WIGGINTON, Mr. MAGOON, Mr. BANNING, Mr. WARNER, Mr. HARRISON, Mr. HUMPHREYS, Mr. HENKLE, Mr. SOUTHARD, and Mr. CATE.

Mr. FORT. I move that the permission be general.

The SPEAKER. The Chair thinks it has been pretty general.

COUNTING THE ELECTORAL VOTES.

At three o'clock and fifty-five minutes p. m. the Doorkeeper announced the Senate of the United States.

The Senate entered the Hall, preceded by its Sergeant-at-Arms and headed by its President *pro tempore* and its Secretary, the members and officers of the House rising to receive them.

The PRESIDENT *pro tempore* of the Senate took his seat as Presiding Officer of the joint meeting of the two Houses, the Speaker of the House occupying a chair upon his left.

The PRESIDING OFFICER. The joint meeting of Congress for counting the electoral vote resumes its session. The two Houses having separately determined upon the objections to the decision of the commission on the certificates from the State of Oregon, the Secretary of the Senate will read the resolution adopted by the Senate.

The Secretary of the Senate read the resolution, as follows:

Resolved, That the decision of the commission upon the electoral vote of the State of Oregon stand as the judgment of the Senate, the objections made thereto to the contrary notwithstanding.

The PRESIDING OFFICER. The Clerk of the House of Representatives will now read the resolution adopted by the House of Representatives.

The Clerk of the House of Representatives read the resolution adopted by the House, as follows:

Ordered, That the vote purporting to be the electoral vote for President and Vice-President, and which was given by one J. W. Watts, claiming to be an elector for the State of Oregon, be not counted.

The PRESIDING OFFICER. The two Houses not concurring otherwise, the decision of the commission will stand unreversed, and the counting of the vote will proceed in conformity therewith. The tellers will announce the vote of Oregon.

Senator INGALLS, (one of the tellers.) Oregon casts 3 votes for Rutherford B. Hayes for President and 3 votes for William A. Wheeler for Vice-President of the United States.

The PRESIDING OFFICER. Having opened the certificates from

the State of Pennsylvania received by messenger, the Chair hands it to the tellers, and it will be read in the presence and hearing of the two Houses. A corresponding certificate, received by mail, is also handed to the tellers. If there be no objection the reading of the certificates will be waived, as at the last joint meeting of the two Houses, and the tellers will read simply the result of the vote.

Mr. TUCKER and Mr. SPRINGER objected.

The PRESIDING OFFICER. The certificates, then, will be read in full.

Senator ALLISON (one of the tellers) read the certificates in full.

The PRESIDING OFFICER. Are there objections to the certificates from the State of Pennsylvania?

Mr. STENGER. I submit on behalf of myself and others the objection which I send to the desk.

The PRESIDING OFFICER. The Clerk of the House will read the objection.

The Clerk of the House read as follows:

The undersigned Senators and Representatives object to the counting of the vote of Henry A. Boggs as an elector for the State of Pennsylvania on the grounds following, namely:

That a certain Daniel J. Morrell was a candidate for the post of elector for the State of Pennsylvania at the election for electors of President and Vice-President on the 7th day of November, 1876, and was declared by the governor of the State of Pennsylvania to have been duly elected an elector at said election.

And the undersigned aver that the said Daniel J. Morrell was not duly elected an elector for the State of Pennsylvania, because for a long period before, and on the said 7th day of November, 1876, and for a long period subsequent thereto, the said Morrell held an office of trust and profit under the United States, that is to say, the office of commissioner under the act of Congress, approved March 3, 1871, entitled "An act to provide for celebrating the one hundredth anniversary of American Independence by holding an international exhibition of arts, manufactures, and products of the soil and mine, in the city of Philadelphia and State of Pennsylvania, in the year 1876," to which he was appointed by the President of the United States under the provisions of said act.

Wherefore the undersigned aver that the said Morrell could not be constitutionally appointed an elector for the State of Pennsylvania on the said 7th day of November, 1876, under the Constitution of the United States.

And the undersigned further state that on the 6th day of December, 1876, the said Morrell did not attend the meeting of the electors of the State of Pennsylvania, and that he was not according to the laws of Pennsylvania, and under the Constitution of the United States, duly elected an elector of said State, and could not be constitutionally, and legally declared duly elected as such elector, and had no legal right to attend the said meeting of electors.

And the undersigned further state that the college of electors had power under the law of Pennsylvania to fill vacancies in the office of elector under and by virtue of the law of Pennsylvania which is in the words following, and by none other whatsoever, namely:

"If any such elector shall die, or from any cause fail to attend at the seat of government at the time appointed by law, the electors present shall proceed to choose *viva voce* a person to fill the vacancy occasioned thereby, and immediately after such choice the name of the person so chosen shall be transmitted by the presiding officer of the college to the governor, whose duty it shall be forthwith to cause notice in writing to be given to such person of his election, and the person so elected [and not the person *in whose place* he shall have been chosen,] shall be an elector, and shall, with the other electors, perform the duties enjoined on them as aforesaid."

And the undersigned further state that under said law the electors present had no authority to appoint the said Henry A. Boggs to fill the vacancy of the said Daniel J. Morrell, or on any other grounds whatever, and that said supposed appointment of said Henry A. Boggs was wholly without authority of law, and was, and is, null and void.

Wherefore the undersigned aver that the said Henry A. Boggs was not duly appointed by the State of Pennsylvania in the manner that its Legislature directed, and that he was not entitled to cast his vote as elector for said State, and that his vote as such should not be, because it cannot be constitutionally, counted.

And the undersigned hereto annex the evidence to sustain the above objections which has been taken before the committee of the House of Representatives on the powers, privileges, and duties of the House.

WILLIAM A. WALLACE, Pennsylvania;
M. W. RANSOM,
WM. PINKNEY WHYTE,
Senators.

W. S. STENGER, Pennsylvania;
J. R. TUCKER, Virginia;
CHARLES B. ROBERTS, Maryland;
F. D. COLLINS, Pennsylvania;
JAC. TURNEY, Pennsylvania;
W. F. SLEMONS, Arkansas;
WM. MUTCHLER, Pennsylvania;
ALEX. G. COCHRANE, Pennsylvania;
JOHN L. VANCE, Ohio;
G. A. JENCKS, Pennsylvania;
Representatives.

UNITED STATES OF AMERICA, DEPARTMENT OF STATE.

To all to whom these presents shall come, greeting:

I certify that the document hereto annexed is a true copy of the original now on file in this Department.

In testimony whereof I, Hamilton Fish, Secretary of State of the United States, have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

Done at the city of Washington, this 23d day of February, A. D. 1877, and of the Independence of the United States of America the one hundred and first.

[SEAL.] HAMILTON FISH.

EXECUTIVE CHAMBER,
Harrisburgh, Pennsylvania, March 10, 1871.

DEAR SIR: I have the honor to inform you, that in conformity with the recent act of Congress "to provide for celebrating the one hundredth anniversary of American Independence," &c., I have made the following appointments, which I submit for your approval:

Hon. Daniel J. Morrell, Johnstown, Cambria County, Pennsylvania, to be United States commissioner for Pennsylvania, in accordance with the provisions of the second section of the act.

Hon. Asa Packer, Mauch Chunk, Carbon County, Pennsylvania, to be the alternate United States commissioner for Pennsylvania, in accordance with the fourth section of the same act.

With assurances of my kindest regards, I am, general, very respectfully and truly yours,

JNO. W. GEARY.

General U. S. GRANT,
President of the United States, Washington, D. C.

WASHINGTON, D. C., *February* 22, 1877.

JOHN REILLY, a member of the House from the State of Pennsylvania, sworn and examined.

By Mr. FIELD:

Question. Do you know Daniel J. Morrell, of Pennsylvania?
Answer. I do.
Q. How long have you known him?
A. I suppose fifteen or eighteen years.
Q. Where does he reside?
A. In Johnstown, Cambria County, Pennsylvania.
Q. Was he one of the centennial commissioners appointed by the President?
A. Yes, sir.
Q. Is he still such?
A. I believe he is; he was at the close of the exhibition; I have not heard of him in connection with it since.
Q. How near to him do you live?
A. I live within thirty-eight miles of him.
Q. Do you know him very well?
A. Yes, sir.
Q. Is he the same gentleman who was appointed one of the presidential electors in the State of Pennsylvania?
A. Yes, sir.
Q. On the republican ticket?
A. Yes, sir.

By Mr. BURCHARD:

Q. Did you serve with him on the centennial commission?
A. No, sir.
Q. Did you vote for him?
A. I did not.
Q. You have no personal knowledge as to what you have testified to, have you?
A. I have seen Mr. Morrell at the centennial exhibition, in the discharge of his duties.
Q. What duties did you see him perform at the exhibition?
A. I saw him around there. I don't know that I can state specifically that I saw him perform any particular act.
Q. Did you not see 20,000 other individuals about there at the same time?
A. I saw a great many more than that.
Q. One hundred thousand?
A. Perhaps 200,000.
Q. Walking about the grounds?
A. Yes, sir.
Q. Can you mention any particular thing you saw Mr. Morrell do at that time?
A. No, sir; but it is a well-known fact that he was a centennial commissioner.
Q. It is rumor and general information that you have on the subject?
A. I may state that I had from Mr. Morrell himself, directly, a statement that he had paired with a man on the day of the election, for the purpose of attending to his duties as centennial commissioner.

By Mr. FIELD:

Q. You saw him at the centennial exhibition, in the apparent discharge of his duties?
A. Yes, sir.
Q. And you heard him speak of his duties as centennial commissioner?
A. Yes, sir.
Q. Is he universally reported to be a centennial commissioner?
A. Yes, sir, he was formerly a member of Congress.
Q. Do you know that he was the candidate for presidential elector?
A. Yes, sir.
Q. Do you know that it was the same person?
A. Yes, sir.

By Mr. BURCHARD:

Q. Do you know that from him?
A. I do not know that I ever heard him speak of it himself directly.

By Mr. FIELD:

Q. But it was well understood among the people in Pennsylvania that Daniel J. Morrell, who was centennial commissioner, was also a candidate for presidential elector on the republican ticket?
A. It was generally understood in that district. I cannot speak as to the whole of the State.

WASHINGTON, D. C., *February* 23, 1877.

JOHN WELSH sworn and examined.

By Mr. TUCKER:

Question. Where do you reside?
Answer. I reside in Philadelphia, Pennsylvania.
Q. Were you a candidate for the position of presidential elector at the late presidential election, and were you certified as one of the electors for the State of Pennsylvania?
A. I was, from the first district.
Q. Did you attend the college of electors?
A. I did.
Q. And cast your vote?
A. Yes, sir.
Q. Do you hold any office of honor, trust, or profit under the United States?
A. No, sir.
Q. What is your connection with the centennial exhibition?
A. I am a director and also president of the Centennial Board of Finance which was chartered by the United States on the 1st of June, 1872. It is a stock company. I was elected a director in April, 1873, and every year since then by the stockholders and have been chosen president every year by the directors.
Q. Were you president of that corporation on the 7th of November, 1876?
A. I was.
Q. And on the 6th of December, 1876?
A. Yes, sir; and am still.
Q. You are a stockholder in the corporation?
A. I am a stockholder in the corporation.
Q. And have been since 1873?
A. Yes, sir.
Q. You held no position as centennial commissioner?
A. No, sir.
Q. Do you know Mr. Daniel J. Morrell?
A. I do.
Q. Was he a centennial commissioner under appointment of the President?

A. He was and is.
Q. He was acting as such on the 7th of November, 1876, and on the 6th of December, 1876.
A. Yes, sir.
Q. Is he the same gentleman who was elected one of the presidential electors for the State of Pennsylvania?
A. He is.
Q. Did he appear at the meeting of the electors?
A. He did not.
Q. Did he assign any reason for not appearing?
A. He was not present; I cannot say that he ever assigned any reason for his absence.
Q. Did he send a letter?
A. No. I think he was absent and that his place was supplied.
Q. Who was appointed in his place?
A. If I recollect right, it was Mr. Boggs, of Cambria County, the same county that Mr. Morrell lives in.
Q. Who appointed Mr. Boggs?
A. He was appointed by the electoral college.
Q. Did he hold any Federal office?
A. I think not.
Q. His title as an elector for the State of Pennsylvania was due to an appointment by the college of electors?
A. Entirely.
Q. To fill the place of Mr. Morrell?
A. Yes, sir.

By Mr. LAWRENCE:

Q. The corporation was a mere private stock corporation?
A. Yes, sir.
Q. You had no appointment from the President of the United States?
A. No, sir.
Q. There is no salary fixed by law to the office of director or president?
A. The law allows a salary to be paid to the president and the treasurer, but I have never received any salary. I declined to receive it.
Q. The law does not fix any salary?
A. No, sir.

By Mr. BURCHARD:

Q. The salary would have been paid by the corporation?
A. Yes, it would have been paid by the corporation.
Q. And your relation to the centennial exhibition was simply that of stockholder in this corporation and of an officer elected by the stockholders?
A. I was elected a director by the stockholders and president by the board of directors.

By Mr. LAWRENCE:

Q. You are no more an officer of the Government of the United States than would be a director of a railroad company incorporated by Congress?
A. No, sir. I have never held any office under the United States.

By Mr. TUCKER:

Q. Did you give any bond, as president of the Board of Finance, to the United States?
A. Yes, sir; not as president of the board of finance. Congress appropriated $1,500,000, and there was a provision in the appropriation bill that the president and treasurer should give a bond in $500,000. That bond was given by us, signed by one hundred citizens of Philadelphia.
Q. You executed that bond?
A. Yes, sir.
Q. To whom was the bond given?
A. I suppose the Secretary of the Treasury. The bond was conditioned on our applying the money to the purpose stated, namely, having the building open on the 10th of May, free of debt. The bond was filed and vouchers to the amount of $1,727,000 were sent voluntarily by us.
Q. Is this the provision of law on the subject, [reading?]
A. Yes, sir; that is it.
Q. You say that you presented vouchers?
A. Yes, sir.
Q. When?
A. In the course of the season we sent to the Treasury Department vouchers for $1,727,000. They were sent at various periods during the summer.
Q. Did you send them all to the Treasury before the presidential election?
A. Long before.
Q. Did you get an acquittance or discharge of the bond?
A. No, sir, we get no acquittance or discharge.
Q. The bond, therefore, is still outstanding as an obligation?
A. Yes, sir. I do not know whether the Government ever gives up a bond.
Q. It gave you no acquittance?
A. No, sir.
Q. Was there any provision for returning this money to the Government?
A. I have no opinion to offer on that subject. There is a difference of opinion on the subject between gentlemen skilled in the law. My own reading of it is that there is no provision for the return of the money to the Government until after the stockholders shall be paid unless there be a profit, but I pretend to express no opinion on the subject. It was submitted to the court, and the circuit court has determined that there is no such provision in the law, in other words, that the money which we have on hand belongs to the stockholders; but an appeal has been taken to the Supreme Court of the United States and it will be argued there.
Q. Then the question was whether there was any money to be paid to the Government in any event?
A. The question was whether any money was to be paid to the Government out of the capital or out of the profits. The construction of the court is that it was to come out of the profits.
Q. Then the court has decided that there is an obligation to refund the money to the Government if there shall be a profit sufficient for that purpose?
A. Yes, sir.
Q. Do you hold any fund in your hands now awaiting the decision of that case?
A. We do. We placed before the court a statement that we have about $2,000,000 on hand, for which there are two claimants.
Q. Who are the two claimants?
A. The stockholders and the Government. We asked the court to instruct us what to do with the money.

By Mr. BURCHARD:

Q. You were the president of a board of directors elected by the stockholders under sections 4 and 5 of the act of 1872?
A. Yes, sir.
Q. There has been no change in the law, to your knowledge, in reference to the duration of your term of office or your duties in regard to the Government?
A. No, sir; no change.
Q. That law provides that the president, two vice-presidents, treasurer, and secretary, and such other officers as may be required to carry out the purpose of the corporation, shall hold their respective offices during the pleasure of the board; and the board adopts by-laws for its own government?
A. Yes.
A. And you are in no way represented as an officer of the United States?
A. No, sir.
Q. You had no power to incur any liability to be charged to the United States?
A. No, sir. Each of the acts of Congress has had specific provisions in that respect that no debt or responsibility should be incurred on behalf of the United States.
Q. And your relation to this money which was appropriated by Congress was simply that of applying it as the law required?
A. Yes, sir.
Q. But it was appropriated to the corporation?
A. Entirely.
Q. For the purpose of the exposition?
A. Yes.
Q. And the act required the president of the board and the treasurer to give bond to the United States?
A. Yes.
Q. You had no special custody of the funds?
A. The treasurer had custody of the funds, but a bond was required from the president as well as the treasurer.
Q. Your only relation to it was simply that of giving a bond?
A. Yes. The fund was under the control of the board of directors, to be disposed of by them. I was their servant. The funds were all applied in exact accordance with the memorial sent to Congress and signed by me, and it is a very curious fact that the $1,500,000 asked for was precisely the amount that was required.
Q. You hold no office of profit or trust under the United States unless the giving of a bond created you an officer?
A. No, sir. If so, I am an officer of the United States in a great many instances, for I am on a good many custom-house bonds for the last fifty years.

By Mr. TUCKER:

Q. You say that $1,500,000 was just enough?
A. Just enough to enable us to open the exhibition.
Q. How much money have you on hand now interpleaded between the Government of the United States and the stockholders?
A. Something rising $2,000,000. We cannot yet determine definitely the amount, because there are certain large claims which may or may not be allowed. If the Government is to be refunded the $1,500,000, then we shall pay 25 per cent. to the stockholders, and in the other case we shall have probably 85 per cent. to pay to the stockholders.

WASHINGTON, D. C., *February* 24, 1877.

DANIEL J. MORRELL sworn and examined.

By Mr. TUCKER:

Question. Where do you reside?
Answer. Johnstown, Pennsylvania.
Q. Are you or have you been a centennial commissioner by appointment of the President of the United States?
A. Yes, sir.
Q. What was the date of your appointment and up to what time did you hold the office?
A. I don't remember the exact date, but I think it was in 1871 or 1872.
Q. You were appointed by commission by the President?
A. I was nominated by the governor of Pennsylvania and commissioned by the President of the United States.
Q. Are you still a centennial commissioner?
A. Yes, sir.
Q. And you have continued to be such from the time of your appointment until the present time?
A. Yes, sir.
Q. Were you a candidate for the position of elector at the late presidential election held on November 7, 1876?
A. I was nominated and voted for as an elector.
Q. Was your election certified to you by the governor of the State?
A. Yes, sir.
Q. Did you attend the meeting of the college of electors?
A. No, sir.
Q. Did you resign the position?
A. No, sir; I did not. I was advised that it was not necessary that I should resign but that I should not attend; that I was not eligible.
Q. Not eligible by reason of your being a centennial commissioner?
A. Yes, sir.
Q. You absented yourself on that account?
A. I did.
Q. Who was appointed in your place?
A. Henry A. Boggs.
Q. Henry, not Harry?
A. I have always understood that his name was Henry; he is called Harry generally, however.
Q. He was appointed in your place?
A. That was my understanding. I was not present at the meeting of the electors.

By Mr. BURCHARD:

Q. Are you paid any compensation out of the Treasury of the United States as centennial commissioner?
A. No compensation whatever from any source.
Q. The position you hold is under the act creating the centennial commissioners?
A. Yes, sir.

The PRESIDING OFFICER. Are there further objections to the certificate from the State of Pennsylvania? [After a pause.] If there be none, the Senate will now withdraw, that the two Houses separately may consider and determine the objection.

The Senate then (at four o'clock and twenty minutes p. m.) withdrew to their Chamber.

Mr. VANCE, of Ohio. I move that the House take a recess until ten o'clock on Monday morning.

Mr. WALLING. I ask my colleague to waive his motion for a moment to enable me to offer a resolution.

Mr. VANCE, of Ohio. I yield for that purpose.

Mr. PAGE. I object.

Mr. WALLING. Let the resolution be read for information.

The Clerk read the resolution, as follows:

Resolved, That the Committee on the Powers and Privileges of the House of Representatives be, and are hereby, instructed to inquire into and report forth-

with, or without unnecessary delay, what are the powers and privileges of this House in view of the rulings and decisions of the electoral commission under the law creating such commission, which law authorized an inquiry into the facts of the presidential election in Louisiana and Florida, but which inquiry has been partisanly disregarded and defeated by said commission.

Mr. KASSON. I object to that; it is not in order as being business.

Mr. VANCE, of Ohio. I renew my motion that the House take a recess until Monday morning at ten o'clock.

Mr. WILSON, of Iowa. Upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 133, nays 122, not voting 35, as follows:

YEAS—Messrs. Abbott, Ainsworth, Ashe, Atkins, Bagby, John H. Bagley, jr., Banning, Blackburn, Bland, Bliss, Blount, Bradford, Bright, John Young Brown, Buckner, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Candler, Carr, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Davis, De Bolt, Dibrell, Durham, Eden, Ellis, Faulkner, Felton, Field, Finley, Forney, Franklin, Fuller, Gause, Gunter, Andrew H. Hamilton, Robert Hamilton, Hancock, Hardenbergh, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hartzell, Henkle, Abram S. Hewitt, Hill, Holman, Hooker, House, Humphreys, Hunton, Jenks, Thomas L. Jones, Kehr, Knott, Lamar, Franklin Landers, Lane, Levy, Lynde, Mackey, Maish, McFarland, McMahon, Meade, Metcalfe, Milliken, Mills, Money, Morrison, Mutchler, New, O'Brien, Odell, Payne, John F. Philips, Poppleton, Rea, Reagan, John Reilly, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Savage, Sayler, Scales, Schleicher, Sheakley, Singleton, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Swann, Tarbox, Teese, Terry, Thompson, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Gilbert C. Walker, Walling, Warren, Whitthorne, Wigginton, Wike, James Williams, Benjamin Wilson, Fernando Wood, and Yeates—133.

NAYS—Messrs. Adams, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Bell, Blair, Bradley, William R. Brown, Horatio C. Burchard, Burleigh, Buttz, Campbell, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Cutler, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Eames, Evans, Flye, Fort, Foster, Freeman, Garfield, Hale, Haralson, Benjamin W. Harris, Hatcher, Hathorn, Haymond, Hendee, Henderson, Hoar, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kelley, Kimball, King, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, Monroe, Morgan, Nash, Neal, Norton, Oliver, O'Neill, Page, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Robinson, Sobieski Ross, Rusk, Sampson, Seelye, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Ward, Warner, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, William B. Williams, Willis, James Wilson, Alan Wood, jr., Woodburn, and Woodworth—122.

NOT VOTING—Messrs. Anderson, Bass, Beebe, Boone, Chapin, Douglas, Durand, Egbert, Frye, Gibson, Glover, Goode, Goodin, Hays, Goldsmith W. Hewitt, Hopkins, Hurd, Frank Jones, Lewis, Luttrell, Miller, Packer, Phelps, Piper, Purman, James B. Reilly, John Robbins, Schumaker, Stephens, Thomas, Walsh, Wheeler, Jere N. Williams, Wilshire, and Young—35.

During the roll-call,

Mr. FRYE said: I am paired upon this question with Mr. HURD. If he were present he would vote "ay" and I should vote "no."

So the motion was agreed to; and accordingly (at four o'clock and fifty-two minutes p. m.) the House took a recess until Monday morning at ten o'clock.

AFTER THE RECESS.

The recess having expired, the House was called to order by the Speaker at ten o'clock a. m., (Monday, February 26.)

ORDER OF BUSINESS.

Mr. BURCHARD, of Illinois. I submit the resolution which I send to the Clerk's desk to be read.

Mr. CLYMER. It is manifest that there is no quorum present, and I therefore move a call of the House.

Mr. RICE. I move that the House now take a recess until five minutes before twelve o'clock.

Mr. WILSON, of Iowa. We have already taken one recess for this legislative day, and a motion for another is not in order. A call of the House is in order.

The SPEAKER. The motion for a call of the House is in order.

Mr. WOOD, of New York. The only business before the House is the discussion of the objections to the vote of an elector from the State of Pennsylvania. That discussion can proceed at this time.

The SPEAKER. The gentleman from Pennsylvania [Mr. CLYMER] raises the point that there is no quorum present, and the Chair is bound to recognize his right to do so. The Chair thinks that the most expeditious way to test the question is to have a call of the House.

Mr. WOOD, of New York. I think there are many speeches to be made here which less than a quorum can listen to quite as well as a full House, and they will have just as much effect. If the design of the gentleman from Pennsylvania [Mr. CLYMER] by his motion is to delay the consideration of the regular order, I am sorry he has made it.

Mr. CLYMER. I do not admit the right of the gentleman to inquire what my design is. It is manifest there is not a quorum of the House present, and I insist upon my right to raise that point.

Mr. WOOD, of New York. Technically the gentleman has that right.

Mr. KELLEY. We on this side of the House are ready to go on with the discussion.

Mr. MORRISON. But we are not; that is the difference between us.

The SPEAKER. The gentleman from Pennsylvania [Mr. CLYMER] is clearly in the exercise of his right, when he moves that there be a call of the House.

Mr. CONGER. Can the question whether there be a quorum present or not be raised without some action of the House?

The SPEAKER. The manner of raising it is by the motion of the gentleman from Pennsylvania, [Mr. CLYMER.] It is manifest there is not a quorum present; and by a division on the motion of the gentleman from Pennsylvania that fact can be accurately determined one way or the other.

Mr. McCRARY. I should like to appeal to the gentleman from Pennsylvania to withdraw his motion. There may not be a quorum present at this moment, but gentlemen on this side of the House are ready to go on with the debate. I have never before known a demand for a call of the House when any gentleman was willing to go on with the debate without a quorum.

Mr. CLYMER. I am very certain that this question will receive the most speedy settlement by pursuing the mode I have indicated. I therefore insist upon my motion for a call of the House. As to gentlemen being ready to proceed with the debate, I am informed that there are gentlemen on this side of the House who desire to engage in this discussion and who are not now in their seats.

Mr. BURCHARD, of Illinois. Will the gentleman allow me to say that so far as I am advised all the gentlemen on this side of the House who desire to speak upon the pending question are present and ready to proceed.

Mr. EDEN. Is debate in order?

The SPEAKER. It is not.

Mr. EDEN. Then I object to further debate.

The SPEAKER. The question is on the motion of the gentleman from Pennsylvania [Mr. CLYMER] that there be now a call of the House.

The question was taken; and upon a division there were—ayes 13, noes 53.

Mr. CLYMER. No quorum has voted, and I therefore ask that the roll be called.

The SPEAKER. The vote on a division developing the fact that there is no quorum voting, it is the duty of the Chair to direct the Clerk to call the roll.

The roll was called; and the following members failed to answer to their names:

Messrs. Abbott, Ainsworth, Anderson, Bagby, John H. Bagley, jr., Bass, Beebe, Belford, Blackburn, Bliss, Samuel D. Burchard, Burleigh, Buttz, Cabell, Chapin, Cochrane, Cowan, Culberson, Danford, Darrall, Douglas, Durand, Egbert, Ellis, Field, Flye, Fuller, Gibson, Glover, Goode, Goodin, Gunter, Robert Hamilton, Hancock, Henry R. Harris, John T. Harris, Hartzell, Haymond, Hays, Hendee, Henkle, Goldsmith W. Hewitt, Hill, Hoge, Hopkins, House, Frank Jones, King, Franklin Landers, Leavenworth, Levy, Lewis, Luttrell, Lynde, McFarland, Meade, Metcalfe, Milliken, Mills, Money, Mutchler, Payne, William A. Phillips, Piper, Platt, Pratt, Purman, Rainey, Rea, James B. Reilly, Savage, Sayler, Schumaker, Sheakley, Slemons, Smalls, Sparks, Stephens, Stone, Strait, Thomas, Turney, Charles C. B. Walker, Gilbert C. Walker, Ward, Watterson, Wheeler, White, Wike, Willard, Wilshire, Benjamin Wilson, Yeates, and Young—94.

The SPEAKER. Upon the call of the roll 196 members have answered to their names, which is more than a quorum.

Mr. ROBERTS. I desire to state that Mr. HOPKINS is absent on account of sickness.

Mr. FORT. I move that all further proceedings under the call be dispensed with.

The motion was agreed to, upon a division—ayes 151, noes 21.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had adopted the following resolution:

Resolved, That the vote of Henry A. Boggs be counted with the other votes of the electors of Pennsylvania notwithstanding the objections made thereto.

The message further announced that the Senate is now ready to meet the House for the purpose of proceeding with the count of the electoral votes for President and Vice-President.

ELECTORAL VOTE OF PENNSYLVANIA.

Mr. KELLEY. I offer the following resolution:

Resolved, That the vote of Henry A. Boggs be counted as an elector for the State of Pennsylvania, the objections to the contrary notwithstanding.

Mr. STENGER. I offer the following resolution, as a substitute for that of my colleague:

Resolved, That the vote of Henry A. Boggs, as an elector for the State of Pennsylvania, should not be counted, because the said Boggs was not appointed an elector for said State in such manner as its Legislature directed.

Mr. Speaker, I ask that the objection, together with the testimony, which was not read in the joint meeting of the two Houses, be now read, that members may vote intelligently.

The SPEAKER. The gentleman from Pennsylvania asks that the Speaker cause to be read the objection, and the Chair thinks it his duty to do so.

Mr. KELLEY. I understood the gentleman to refer to the testimony. I will ask the Chair whether the two hours allowed for debate on this question run while this paper is being read.

The SPEAKER. They do not.

The Clerk began the reading, but was interrupted by

Mr. KELLEY, who said: I rise to a question of order. Is the mover of the original resolution or of the substitute entitled to the floor?

The SPEAKER. The mover of the original resolution is entitled to the floor undoubtedly.

Mr. KELLEY. Then how could I be taken off the floor by my colleague?

The SPEAKER. The Chair means the gentleman who presented the original objection. In accordance with all parliamentary practice, the gentleman from Pennsylvania, [Mr. STENGER,] who presented the objection in joint convention, is entitled to control the floor in the first instance. He consents to his colleague speaking first.

Mr. KELLEY. Is he entitled under the law to the floor for more than ten minutes? Does not the law require the debate upon an objection to proceed in speeches not exceeding ten minutes each?

The SPEAKER. Whenever the debate commences the Chair will rule that according to the law no member has a right to more than ten minutes, and that the debate must close after two hours.

Mr. KELLEY. Is not the reading of such papers as part of a gentleman's speech (involving more than ten minutes as this paper evidently will) excluded by the terms of the law?

The SPEAKER. The gentleman from Pennsylvania, [Mr. STENGER,] if the Chair heard him correctly, did not suggest that the reading of the objection was to be in his time at all. He claimed the reading of the objection as a right, and the Chair is of opinion that it was his duty to order the objection to be read.

Mr. KELLEY. If each gentleman may ask that some official paper, the reading of which involves four or six times the ten minutes allowed him, may be read, what becomes of the provision of the law which restrains debate to two hours, divided in speeches of ten minutes?

The SPEAKER. It is always within the power of the House to have a paper read or not.

Mr. KELLEY. The question whether this paper shall be read has not been submitted to the House.

The SPEAKER. Because no one has asked to have it submitted.

Mr. KELLEY. Well, I am here now to object to further proceeding in the reading of that paper.

The SPEAKER. The Chair desires to say that he considers it part of his ministerial duty to lay before the House the objection. As to any paper accompanying the objection, the reading of that is within the control of the majority of the House, as has often been decided.

Mr. KELLEY. The House has had no voice upon the question whether this extraneous paper——

The SPEAKER. This is not an extraneous paper.

Mr. KELLEY. It has already been read in the hearing of the House.

The SPEAKER. It comes from the joint convention signed according to law.

Mr. CONGER. But it has been read in the presence of the joint convention.

The SPEAKER. It has not been read at all in the House.

Mr. CONGER. It has been read in the presence of the House; in the joint convention.

Several MEMBERS. Not at all.

Mr. CONGER. It was read in the hearing of us all.

Mr. WILSON, of Iowa. One word, if you please, Mr. Speaker. The law provides that "every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof." The law prohibits anything in the nature of argument. It is, of course, in order to read the objection now; that is, a clear, concise objection in writing, but not an argumentative paper accompanying the objection. Section 2 of the law precludes that.

The SPEAKER. The Chair thinks it is clearly within the province of any member to demand the reading of the objection.

Mr. WILSON, of Iowa. The objection as such.

The SPEAKER. If the majority of the House do not want to hear the testimony, they can so determine.

Mr. WILSON, of Iowa. Would the Chair hold that a paper in the nature of an argument—testimony, or something of that kind accompanying the objection—can be read by order of the House contrary to the very terms of this law?

The SPEAKER. The Chair thinks that the objections are really founded upon the testimony; but if the majority of the House do not desire to hear this testimony read, it is within the province of that majority, under the rules, to prevent it.

Mr. BANKS. The law forbids the reading of the testimony.

The SPEAKER. The Chair has ruled over and over again on this point.

Mr. WILSON, of Iowa. I beg the Chair's pardon; not on this point particularly.

Mr. BANKS. The law forbids the reading of the testimony; it is in the nature of argument.

The SPEAKER. That a majority of the House can determine.

Mr. BANKS. But if the law forbids the reading, it is not in the power of a majority to order the reading.

The SPEAKER. To what part of the law does the gentleman refer?

Mr. BANKS. The provision that the objection shall be stated clearly and concisely, without argument. The testimony is in the nature of argument.

The SPEAKER. In what part of the law is that provision?

Mr. WILSON, of Iowa. In section 2.

The SPEAKER. That applies to the joint convention.

Mr. BANKS. I will read the provision:

> Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one member of the House of Representatives before the same shall be received.

The SPEAKER. That is before objections are received by the joint convention.

Mr. SPRINGER. That reference to argument has nothing to do with the facts in the case. Will the Chair hear me on this point of order?

Mr. BROWN, of Kentucky. I think, Mr. Speaker, more time will be consumed in discussing this question than in reading the paper; therefore I demand the regular order of business.

The SPEAKER. The regular order of business is the reading of the paper asked for by the gentleman from Pennsylvania, and the paper will accordingly be read.

Mr. KELLEY. Including the testimony?

The SPEAKER. That is within the province of a majority of this House to determine, as the Chair has more than once suggested.

Mr. KELLEY. When will the time come to dispense with the reading of the testimony.

Mr. RICE. This testimony was part of the original objection, and was not read when the two Houses were in joint meeting. We cannot vote intelligently without knowing what that testimony is, and I ask that it be read.

The SPEAKER. The Clerk will proceed with the reading.

The Clerk proceeded to read the objections.

Mr. KELLEY. Now, the response in law to the objections made are so——

Mr. WALLING. I call for the continuation of the reading of the objections, including the testimony.

The SPEAKER. There is no occasion for either side to take any technical advantage, as the Chair proposes to submit the question to the decision of the majority of the House.

Mr. KELLEY. I have no desire to take any technical advantage.

The SPEAKER. The gentleman rose to object to the reading of the testimony.

Mr. KELLEY. No, Mr. Speaker; I supposed that was not asked for, but that the time had come for discussion.

The SPEAKER. The gentleman from Pennsylvania has objected to the reading of the testimony, and the gentleman from Ohio [Mr. RICE] has asked for its reading.

Mr. WALLING. I asked for its reading, and still continue to ask for its reading.

Mr. KELLEY. If that be demanded I shall not object, because the reading of the testimony will take less time than the ay and no vote might.

Mr. WALLING. I asked for the reading of the testimony, and its reading would have been proceeded with some time ago if the gentleman from Pennsylvania had not objected.

Mr. WILSON, of Iowa. If we are going in the face of the electoral act, which provides that nothing in the nature of argument shall be allowed to come in, then all that is necessary will be to bring in testimony that will take a whole day to read and that would be the same thing as taking a recess.

The SPEAKER. The gentleman from Iowa objects to the reading of the testimony.

Mr. WILSON, of Iowa. I certainly do.

The SPEAKER. Rule 141 of the House provides when the reading of a paper is called for and the same is objected to by any member, it shall be determined by a vote of the House. Objection being made, therefore, the question will be submitted to the House whether the paper shall be read or not.

Mr. WILSON of Iowa. Mr. Speaker, if you will bear with me for a moment I wish to remark, what has been read by the Chair is a rule of the House; but that rule of the House was suspended by this feature of section 2 of the electoral act, which absolutely prohibits any argument being read in connection with the objections.

The SPEAKER. The Chair considers it as the testimony presented in the joint meeting of the two Houses, upon which the objection itself was based.

Mr. WILSON, of Iowa. The Chair can see very well, under his previous rulings, that while in the performance of a constitutional duty anything in the nature of delay would be fatal to the execution of that duty, and therefore must be ruled out.

The SPEAKER. The Chair did not say "delay," but ruled out dilatory motions.

Mr. WILSON, of Iowa. This is a dilatory motion.

The SPEAKER. The Chair thinks not. The gentleman from Ohio asks for the reading of a paper accompanying the objections, and upon which the objections themselves are based.

Mr. WILSON, of Iowa. The Chair will see that while the testimony accompanying these objections will not take longer to read than would be occupied in a call of the yeas and nays, yet a time may come when all the testimony taken in one of the Southern States by one of our investigating committees may be attached to objections presented in the joint meeting, and the whole of that will be asked to be read, consuming two or three days perhaps.

The SPEAKER. The Chair will not rule, nor can he be asked to rule, on any such contingency until that contingency occurs.

Mr. BANKS. If the Chair rules to hear this testimony now I wish to say——

The SPEAKER. The Chair has not ruled that the testimony shall be read, but he has decided that, under the one hundred and forty-first rule, when the reading of a paper is called for and the same is objected to by any member, it shall be determined by a vote of the

House, and objection being made by the gentleman from Iowa the Chair will submit the question to the House. This whole question is within the power of the House, and in that regard the rule of the House is explicit.

Mr. BANKS. It is not within the power of the majority to have the testimony read in this case. That is a matter of argument which is expressly excluded by the letter of the law, and that law cannot be evaded by the Speaker by a pretended submission to the House.

The SPEAKER. The Speaker evades no responsibility, and never has since he has occupied the chair.

Mr. BANKS. Permit me to say this is an evasion, if the Chair claims the right to submit this to the House without a decision being made on the point of order. It is an evasion of the point of order to submit the question to the House.

The SPEAKER. The Chair passes by, and properly, as the Chair thinks, the suggestion of the gentleman that he desires to evade anything. He only does not desire to evade the one hundred and forty-first rule, which reads:

When the reading of a paper is called for and the same is objected to by any member, it shall be determined by a vote of the House.

Mr. BANKS. The gentleman from Iowa [Mr. WILSON] raised a question of order, and I ask the decision of the Chair on that question.

The SPEAKER. What is the point of order made by the gentleman from Iowa?

Mr. WILSON, of Iowa. I make the point of order that that rule is suspended by the operation of that provision of the law under which we are now acting, which I have read.

Mr. WALLING. There is so much confusion in the Hall that we on this side cannot hear what is going on. I would like to hear the gentleman from Iowa.

Mr. BANNING. It is hoped that the country will take notice who is making the delay now.

Mr. HENDEE. O, yes; no doubt it will.

Mr. WILSON, of Iowa. I do not know that I will ask for the ruling of the Chair. I desire to say that I never in my life appealed from the decision of the Speaker, because as a general proposition I believe the rulings of the Chair ought to be sustained.

Mr. COX. I ask that order be maintained. We cannot hear one word that is said.

The SPEAKER. The House will come to order.

Mr. WILSON, of Iowa. If the judgment of the Chair is clear that the one hundred and forty-first rule is not suspended by the provision of the law to which I have called his attention, then I will not raise the question to the extent of asking the Chair to rule upon it. If the Chair is perfectly satisfied on that point, then I am content that the question shall be submitted to the House.

The SPEAKER. The Chair is clearly of opinion that the call for the reading of the testimony attached to the objection is a call for the reading of a paper; and under the rule the Chair thinks it is not left to his volition to do otherwise than to submit the question to the House.

Mr. WILSON, of Iowa. Very well.

Mr. BANKS. Does the Chair overrule the point of order?

The SPEAKER. The gentleman from Iowa does not make the point of order.

Mr. BANKS. Then I make the point of order.

The SPEAKER. The gentleman from Massachusetts will submit in writing the point of order which he makes.

Mr. HALE. I would suggest to the gentleman from Massachusetts that he allow the question to be submitted to the House and withdraw his point of order.

Mr. BANKS. Very well. I withdraw the point of order.

The SPEAKER. The point of order being withdrawn the Chair will submit the question to the House. Shall the paper the reading of which is demanded by the gentleman from Ohio [Mr. RICE] be read?

Mr. PAGE. That is, the testimony?

The question being taken there were—ayes 88 noes 99.

Mr. RICE and Mr. VANCE, of Ohio, called for tellers.

Tellers were ordered.

Mr. HALE. I ask that rather than take up further time——

Many members called for the regular order.

The SPEAKER. The Chair appoints as tellers the gentleman from Ohio [Mr. WALLING] and the gentleman from Massachusetts, [Mr. BANKS.]

Mr. HALE. I think we had better have the paper read than take up so much time in calling yeas and nays. I think unanimous consent will be given if requested.

Objection was made.

The House again divided and the tellers reported—ayes 94, noes 100.

Mr. O'BRIEN and Mr. RICE called for the yeas and nays.

The yeas and nays were ordered.

Mr. KELLEY. Before the call of the roll proceeds, I ask the Chair again to state the question.

The SPEAKER. The question is: Shall this paper be read?

Mr. MCMAHON. I understand the paper asked to be read is the testimony upon which the objection is based.

The SPEAKER. That is not a parliamentary question.

Mr. RICE. It is a part of the objection. Let that be understood.

The yeas and nays were taken; and there were—yeas 133, nays 116, not voting 41; as follows:

YEAS—Messrs. Abbott, Ainsworth, Ashe, Atkins, John H. Bagley, jr., Banning, Beebe, Bland, Bliss, Boone, Bradford, Bright, John Young Brown, Cabell, John H. Caldwell, William P. Caldwell, Candler, Carr, Cate, Caulfield, Chapin, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Cutler, Davis, De Bolt, Dibrell, Durham, Eden, Egbert, Faulkner, Felton, Field, Finley, Forney, Franklin, Fuller, Glover, Goode, Gunter, Andrew H. Hamilton, Robert Hamilton, Hardenbergh, Henry R. Harris, Harrison, Hartridge, Hartzell, Hatcher, Henkle, Abram S. Hewitt, Hill, Holman, Hooker, House, Humphreys, Hunton, Hurd, Jenks, Thomas L. Jones, Kehr, Knott, Lamar, Franklin Landers, George M. Landers, Lane, Levy, Luttrell, Lynde, Mackey, Maish, McMahon, Money, Morrison, Mutchler, Neal, New, O'Brien, Odell, Payne, John F. Philips, Piper, Poppleton, Powell, Rea, John Reilly, Rice, Riddle, John Robbins, William M. Robbins, Roberts, Miles Ross, Savage, Scales, Schleicher, Sheakley, Singleton, William E. Smith, Southard, Springer, Stanton, Stenger, Stone, Swann, Teese, Terry, Thompson, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Charles C. B. Walker, Gilbert C. Walker, Walling, Walsh, Warner, Warren, Watterson, Whitthorne, Wigginton, Wike, Alpheus S. Williams, Jere N. Williams, Benjamin Wilson, Fernando Wood, and Yeates—133.

NAYS—Messrs. Adams, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Blair, Bradley, William R. Brown, Horatio C. Burchard, Burleigh, Buttz, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Eames, Evans, Flye, Fort, Foster, Freeman, Frye, Garfield, Goodin, Hancock, Haralson, Benjamin W. Harris, Hathorn, Haymond, Hays, Hendee, Henderson, Hoar, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kelley, Kimball, Lapham, Lawrence, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Nash, Norton, Oliver, O'Neill, Packer, Page, Phelps, William A. Phillips, Pierce, Plaisted, Platt, Potter, Pratt, Purman, Rainey, Reagan, Robinson, Sobieski Ross, Rusk, Sampson, Seelye, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Tarbox, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Alexander S. Wallace, John W. Wallace, Ward, G. Wiley Wells, Whitehouse, Whiting, Willard, Andrew Williams, Charles G. Williams, James Williams, William B. Williams, Wilshire, James Wilson, Alan Wood, jr., Woodburn, and Woodworth—116.

NOT VOTING—Messrs. Anderson, Bagby, Bass, Bell, Blackburn, Blount, Buckner, Samuel D. Burchard, Campbell, Douglas, Durand, Ellis, Gause, Gibson, Hale, John T. Harris, Goldsmith W. Hewitt, Hopkins, Frank Jones, King, Leavenworth, Le Moyne, Lewis, Lord, McFarland, Meade, Metcalfe, Milliken, Mills, James B. Reilly, Sayler, Schumaker, Slemons, Sparks, Stephens, Thomas, Erastus Wells, Wheeler, White, Willis, and Young—41.

So the House agreed that the evidence should be read.

During the roll-call,

Mr. ATKINS stated that his colleague from Tennessee, Mr. YOUNG, was detained from his seat by sickness.

At the conclusion of the roll-call,

Mr. HUBBELL said: I ask unanimous consent that the reading of the names be dispensed with.

Mr. RICE. I object.

The list of names having been read, the vote was announced as above recorded.

The Clerk proceeded to read the evidence annexed to the objection, which has already been published in the RECORD.

Mr. KELLEY. Mr. Speaker, I shall detain the House but very few moments. The objection in this case is so wanting in constitutional and legal support, and is based on principles which have been so often overruled in law, that I think this side of the House could well submit the question without uttering a word. The question raised is whether a director in a quasi-corporation created by the United States is rendered, by virtue of his holding that office, ineligible to the office of elector. I apprehend that no legal decision or constitutional provision can be found to sustain the affirmative thereof, and if one could be cited it would be simply to the effect that such an election was voidable and not void, and that after the vote had been cast and the result declared it was irreversible by any power.

But, as I said, I shall not consume the time of the House in argument, and will only add that I believe there will be but little said on the question on this side of the House.

The SPEAKER. The Chair understood that the gentleman desired to yield five minutes of his time to another gentleman.

Mr. KELLEY. No, sir; I have exhausted my ten minutes, so far as my power is concerned.

The SPEAKER. The gentleman stated differently to the Chair; that is all.

Mr. STENGER. Mr. Speaker, at the election on the 7th of November last Daniel J. Morrell was one of the twenty-nine candidates for presidential elector who received the highest number of votes in Pennsylvania. He was on that day and is still a member of the United States centennial commission. He did not attend the meeting of the electors on the 6th day of December following, and Henry A. Boggs was selected to fill the alleged vacancy by the other electors.

It is contended by the objectors that Mr. Morrell, as centennial commissioner, held an office of trust under the United States which made him ineligible as an elector; that under the laws of Pennsylvania there was no authority given to the other electors to substitute another for him, and that, therefore, the vote of Mr. Boggs ought not to be counted.

The Constitution of the United States ordains that "no Senator, or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector." Did Mr. Morrell, as centennial commissioner, hold "an office of trust or profit?" Inasmuch as there has been a judicial opinion emanating from high republican authority on this very point, I prefer to cite it rather than to give my own in the limited time allowed me. The supreme court of Rhode Island, in the matter of George H. Corliss, have authoritatively answered this question in these plain words:

We think a commissioner of the United States centennial commission holds an

office of trust under the United States, and that he is therefore disqualified for the office of elector of President and Vice-President of the United States.

And they proceed to show that in the discharge of this trust—

The duties and functions of these commissioners were various, delicate, and important; that they could be successfully performed only by men of large experience and knowledge of affairs; and that they were not merely subordinate and provisional, but in the highest degree authoritative, discretionary, and final in their character.

So much for that.

What is the meaning of this clause of the Constitution? It does not say "no person holding an office of trust or profit" shall *hold the position* of an elector; or that no such person shall *vote* as an elector, but no such person "shall be *appointed* an elector." It meets the citizen on the way to the polls, with his ballot in his hand, and says to him: You must not vote for any person as an elector who holds an office of trust or profit under the United States. If you do, your vote is thrown away, for even if such person receive a majority of the votes cast, such votes are utterly void and there will be one place in the electoral college unfilled. You cannot "*appoint*" an ineligible elector. To this effect is the decision, already cited, of the Rhode Island supreme court. They say:

We think the disqualification does not result in the election of the candidate next in vote, but in a failure to elect. In England it has been held that where electors vote for an ineligible candidate, knowing his disqualification, their votes are not to be counted any more than if they were thrown for a dead man or the man in the moon; and that, in such a case, the opposing candidate being qualified will be elected, although he has had a minority of the votes. (King *vs.* Hawkins, 10 East, 210; Reg. *vs.* Coaks, 3 El. and B., 253.) But even in England if the disqualification is unknown the minority candidate is not entitled to the office, the election being a failure. (Queen *vs.* Hiornes, 7 Ad. and E., 960; Rex *vs.* Bridge, 1 M. and Selw. 7.) * * * The question submitted to us does not allege or imply that the electors, knowing the disqualification, voted for the ineligible candidate in willful defiance of the law, and certainly, in the absence of proof, it is not to be presumed that they so voted. The only effect of the disqualification, in our opinion, is to render void the election of the candidate who is disqualified and to leave one place in the electoral college unfilled.

The office Mr. Corliss held in Rhode Island is exactly the same which Mr. Morrell held in Pennsylvania. Both were alike ineligible.

Mr. Corliss declined his position as an elector after the day of election and before the meeting of the electoral college, but the court disposed of that feature of the case as follows:

Before any person can decline he must first be elected, and no person can be elected who is ineligible; or, in other words, incapable of being elected.

Rhode Island has a statute which runs in this wise:

If any electors chosen as aforesaid shall after their said election decline the said office, or be prevented by any cause from serving therein, the other electors * * * shall fill such vacancies.

The court held that there was no power under this statute in the other electors to fill the place of Mr. Corliss, because the latter had not been chosen by the people, and that he, in attempting to resign his place as an elector, was attempting an impossibility, because he could not resign that which he was not entitled to and which he had no right to occupy.

The place was filled by the Legislature, convened by the governor by virtue of another statute.

Now let us look at the case in hand.

The Constitution of the United States authorizes and commands each State to appoint electors "in such manner as the Legislature thereof may direct." In Pennsylvania the Legislature has directed that the electors *shall be chosen by the people.* I have endeavored to show that as far as Mr. Morrell was concerned there was no appointment of an elector by the people, that there was a place unfilled. The other electors endeavored to fill this place by the appointment of Mr. Boggs, under a statute which reads as follows:

If any such elector shall die, or from any cause fail to attend at the seat of government, at the time appointed by law, the electors present shall proceed to choose, *viva voce*, a person to fill the vacancy occasioned thereby; and immediately after such choice the names of the person so chosen shall be transmitted by the presiding officer of the college to the governor, whose duty it shall be forthwith to cause notice in writing to be given to such person of his election; and the person so elected (and not the person in whose place he shall have been chosen) shall be an elector, and shall, with the other electors, perform the duties enjoined on them as aforesaid.

"If any *such* elector." What does this mean? Unquestionably, *any elector appointed by the people.* Mr. Boggs was not elected in place of an elector who had died, or who, from any cause, failed to attend, but in the stead of Mr. Morrell, who *was never an elector at all*, who was ineligible, who was incapable of being appointed. Mr. Morrell, in refusing to attend the meeting of the electoral college, made a show of declining a position which, in the language of the Rhode Island supreme court "he was not entitled to and which he had no right to occupy."

It was contended before the electoral commission in the case of Oregon, that when a person ineligible to appointment as an elector has received a majority of the votes cast and has acted in the capacity of an elector, "he is not a mere usurper, but an officer *de facto*, acting under color of title, and that his acts as such officer, in the absence of fraud, are binding upon third persons and the public." Had Mr. Morrell acted himself, had he cast his vote as an elector, this doctrine would doubtless have been advanced here. But he never acted at all. He never entered upon the duties of his office. He did not cast his vote. He declined to do so. He failed to attend. He was, therefore, not an elector *de facto* and this new-fangled doctrine is not applicable to this case.

Not being an elector *de jure*, because he could not be appointed on account of his disqualification, and not being an elector *de facto*, because he did not pretend to act under color of title, there was, on the day the electoral college of Pennsylvania met a place in it unfilled, and the laws of that State failing to prescribe any mode of appointment in such a contingency, the act of the other electors in choosing Mr. Boggs was simply a nullity and his vote ought not to be counted.

We are told that the governor of the State dare not inquire into the ineligibility of an elector. Governor Grover is charged with an usurpation of power in passing upon the ineligibility of Watts. It is asserted that the duty of the canvassing board, in such a case, is simply to see that a proper arithmetical calculation is made and certify to the appointment of the men receiving the highest number of votes. The argument is that there is no power in *the State* to declare an elector ineligible.

The certificate goes to the President of the Senate and is opened in the presence of the two Houses. It may accredit an alien, or a Senator, or a Representative, or any person "holding an office of trust or profit under the United States," but then, we are told, there is no power *there* to inquire into it. The two Houses are bound to take the certificate of the governor, based on the computation of the canvassing board, and ask no questions. The argument is that there is no power *in Congress* to declare an elector ineligible.

Thus this clause of the Constitution is rendered absolutely inoperative because we cannot find where the power to inquire and correct is lodged. It is as though it never had been written. It cannot assert itself in any way. It is "not self-executing." Men know that it is there and that it is being violated, but are powerless to enforce it. What a mockery such a doctrine is! I can never subscribe to it.

The power to count the votes is lodged in the two Houses of Congress. That is a power to separate the true from the false, or, in other words, to determine what are votes. The ballot of a person who is constitutionally disqualified as an elector is not a vote that is to be counted, and the two Houses of Congress, discriminating between the true and the false, must pass upon his disqualification and reject his so-called vote.

A few words with reference to the principle involved in this objection. I have made the objection in good faith, because I am profoundly impressed with the danger of the doctrine announced by the electoral commission that officers of the United States may use all their influence, patronage, and power in procuring their appointment as electors, and before the day arrives for casting their votes resign, and thus qualify themselves for reappointment by the other electors or have their places filled by persons suggested by themselves. So were Clay, Grundy, and Wright impressed when, in 1837, they said to the Senate:

The committee are of opinion that the second section of the second article of the Constitution, which declares that "no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector," ought to be carried in its whole spirit into rigid execution in order to prevent officers of the General Government from bringing their official power to influence the elections of President and Vice-President of the United States. This provision of the Constitution, it is believed, excludes and disqualifies deputy postmasters from the appointment of electors; and the disqualification relates to the time of the appointments, and that a resignation of the office of deputy postmaster after his appointment as elector would not entitle him to vote as elector under the Constitution.

It seems to me to be the duty of this House to place the seal of its condemnation upon the novel suggestion, borne of the exigencies of this crisis, that the disqualification of an elector relates to the time of the meeting of the electoral college, and not to the date of his appointment.

Mr. Speaker, the people of the United States have suffered some severe shocks during the late presidential canvass and since.

They have seen the Secretary of War acting as a delegate in a political convention and controlling the nomination of its candidates for President and Vice-President.

They have seen the Secretary of the Interior taking the championship of a political committee and conducting the campaign for the succession to the Presidency.

They have seen the Attorney-General issuing his commissions to deputy marshals by the thousand for the purpose of controlling the election.

They have seen an army of office-holders making their voluntary and forced contributions to aid in electing the candidates with whom the Administration was in sympathy.

They have seen the President of the United States send troops to certain States of the Union apparently for no other purpose.

And, when the election was over, they have seen him organize a commission, composed partially of Senators and Representatives, all of one political faith, and send them to a sovereign State to witness a fair count of the "votes actually cast" by a returning board that has never made a fair count since it has had an existence. They have seen these appointees of the President return and report to the country that this returning board, which had steeped itself in infamy and fraud, which had rejected 10,000 of the "votes actually cast," thereby reversing the decision and defeating the will of the people of the State, was entitled to the respect and commendation of the people of the country.

And they have seen one of these men who thus acted in a quasi-official capacity under the President placed, at the suggestion of the republicans of this House, upon the electoral commission to decide

how the vote of that very State should be counted. Surely, this interference of Federal office-holders and members of Congress in elections has gone far enough, in all conscience. But now we are told that any Federal office-holder may be appointed an elector, resign his office, and vote for President. In other words, a doctrine is announced under which the President of the United States, himself a candidate for the succession, may head an electoral ticket in the State in which he resides, use all the prestige of his great name and the patronage of his great office to carry that ticket at the polls, then resign the Presidency for three months, and vote for himself in the electoral college for the next term.

Mr. Speaker, I confess that I never was deeply enamored of the electoral bill. I had doubts as to its constitutionality, and have them still; but these I waived in deference to the superior wisdom and legal attainments of the men who framed it. I had doubts as to the *expediency* of passing it, but these I yielded to what seemed to be the demand of a majority of my constituents and for the preservation of the public peace. Indeed, I felt very much as a distinguished member of this House felt, when, in voting for it, he said:

Here, Lord, I give myself away,
'Tis all that I can do.

But, sir, amid all these doubts, I never dreamed that this commission would shock the moral sense of the country by refusing to unmask the frauds which lie beneath the certificates of Stearns in Florida and Kellogg in Louisiana, by asserting the pernicious doctrine that constitutionally disqualified persons are eligible as electors, and by deciding in two directly antagonistic ways inside of a week as to the admissibility of evidence touching the ineligibility of electors.

I do not wonder that there is deep anxiety on the other side of this Chamber as to whether this great fraud of counting in a President who was not elected is to be consummated. I commend to them the words of the distinguished Senator from Indiana, [Mr. MORTON,] uttered with what now seems to have been a prophetic voice, when, in 1875, from his place in the Senate, he sketched the period in our history through which we are now passing in this language:

There is imminent danger of revolution to the nation whenever the result of a presidential election is to be determined by the vote of a State in which the choice of electors has been irregular or is alleged to have been carried by fraud or violence, and where there is no method of having these questions examined and settled in advance; where the choice of President depends upon the election in a State which has been publicly characterized by fraud or violence, and in which one party is alleged to have triumphed and secured the certificates of election by chicanery or the fraudulent interposition of courts. Such a President would in advance be shorn of his moral power and authority in his office, would be looked upon as a usurper, and the consequences that would result from such a state of things no man can predict. But it may be compared to what has so often occurred in history, where the successor to the crown in a monarchy was believed by a large part of the nation to be illegitimate or not to be rightfully entitled thereto under the laws or usages of the nation.

Observe the language well: "Imminent danger of revolution where there is no method of having these questions examined and settled in advance!" What questions? Whether or not "the choice of electors has been irregular, or whether or not the State has been carried by fraud or violence."

To make the picture complete, he might have added, or where the "method of having these questions examined and settled in advance' has been established and an electoral commission appointed to examine and settle them, moved by partisan considerations, refuse to do it.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By Mr. BAKER, of Indiana: Joint resolution of the Legislature of Indiana, for the restoration of the names of John H. Killgore, George W. Johnson, and Owen Johnson, late members of Company A, Fortieth Regiment Indiana Veteran Volunteer Infantry, to their original places on the roll of the Army, to the Committee on Military Affairs.

By Mr. CANNON, of Utah: The petition of K. A. Duffield and other citizens of Highland, Utah Territory, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. FREEMAN: The petition of Jerrus M. Bryant, of Philadelphia, Pennsylvania, for arrears of pension, to the Committee on Invalid Pensions.

By Mr. JONES, of Kentucky: The petition of S. W. Price, late postmaster at Lexington, Kentucky, to be relieved from paying an amount of money stolen from said office without his fault or neglect, to the Committee of Claims.

By Mr. MORGAN: The petition of the letter-carriers of Saint Louis, indorsed by the board of trade of said city and other prominent citizens, that Congress re-instate the former pay of said carriers, to the Committee on Appropriations.

By Mr. NEAL: The petition of citizens of Ohio, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. O'NEILL: Resolutions of the Philadelphia Board of Trade, favoring the temporary colony near the north pole, to the Committee on Foreign Affairs.

By Mr. POTTER: The petition of Emory O. Briggs and 42 other citizens of Paw Paw, Michigan, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. STRAIT: Resolution of the Legislature of Minnesota, opposing the passage of the bill (H. R. No. 394) relating to pensions unless amended, to the Committee on Invalid Pensions.

By Mr. W. B. WILLIAMS: The petition of Thomas D. Gilbert and 39 others, of Grand Rapids, Michigan, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

IN SENATE.

MONDAY, *February* 26, 1877—10 a. m.

The recess having expired, the Senate resumed its session.

ELECTORAL COMMISSION.

The PRESIDENT *pro tempore*, (at one o'clock and twenty minutes p. m.) The Chair having received a communication from the president of the commission, he will lay it before the Senate. The Secretary will read the communication.

The Chief Clerk read as follows:

ELECTORAL COMMISSION,
Washington, D. C., February 26, 1877.

To the President of the Senate of the United States:

SIR: I am directed by the electoral commission, formed under the act of Congress approved January 29, A. D. 1877, entitled "An act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," to communicate to the Senate a copy of a resolution of the commission this day adopted, touching a vacancy therein occasioned by the physical inability of Hon. ALLEN G. THURMAN, a Senator and member of said commission, to proceed with its duties.

Respectfully, yours,

NATHAN CLIFFORD,
President of the Commission.

ELECTORAL COMMISSION, WASHINGTON, D. C.,
February 26, 1877.

Whereas Hon. ALLEN G. THURMAN, a member of this commission on the part of the Senate of the United States, has now communicated to the commission, by a letter, in writing, the fact that he has become physically unable to perform the duties required by the act of Congress establishing said commission; and

Whereas the said THURMAN has in fact become physically unable to perform the said duties: Therefore

Resolved, That the president of the commission forthwith communicate said fact to the Senate of the United States, as required by said act, in order that the vacancy so created in said commission may be lawfully filled.

A true copy.

Attest:

JAS. H. MCKENNEY, *Secretary.*

The PRESIDENT *pro tempore*. In compliance with the act the Senate will now proceed by *viva voce* vote to elect a Senator to fill the vacancy.

Mr. MCDONALD. I offer the following resolution:

Whereas the electoral commission created under the act of Congress approved January 29, 1877, entitled "An act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," has according to said act communicated to the Senate the fact of the physical inability of Senator ALLEN G. THURMAN, a member of said commission, to perform the duties required by said act: Therefore

Resolved, That FRANCIS KERNAN, a Senator from the State of New York, be, and he hereby is, appointed a member of said commission, to fill the place so made vacant by said physical inability of said THURMAN, as required by said act.

The PRESIDENT *pro tempore*. The Secretary will call the roll of the Senate.

The Secretary called the name of Mr. ALCORN, who answered "Yea."

Mr. BOUTWELL. Do we not vote by name?

Mr. ALCORN. Then I vote for Mr. KERNAN.

Mr. EDMUNDS. Voting "yea" for the resolution answers. There is only one name in the resolution, and you may as well vote "yea."

Mr. ALCORN. I suppose that would probably be as well. Let my name stand recorded "yea."

Mr. BAYARD, (when his name was called.) I vote for Senator FRANCIS KERNAN.

Mr. DAVIS, (when his name was called.) I vote for Mr. KERNAN.

Mr. MCDONALD, (when his name was called.) I vote for Mr. KERNAN.

The roll-call having been concluded, the result was announced as—yeas 46; as follows:

YEAS—Messrs. Alcorn, Allison, Anthony, Bailey, Bayard, Bogy, Boutwell, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Cockrell, Conkling, Cragin, Davis, Dorsey, Edmunds, Ferry, Frelinghuysen, Goldthwaite, Gordon, Harvey, Hitchcock, Johnston, Jones of Florida, Kelly, McDonald, McMillan, Maxey, Merrimon, Morrill, Morton, Oglesby, Patterson, Ransom, Sargent, Saulsbury, Sharon, Sherman, Spencer, Teller, West, Whyte, Windom, and Withers—46.

ABSENT—Messrs. Barnum, Blaine, Booth, Bruce, Clayton, Conover, Cooper, Dawes, Dennis, Eaton, Hamilton, Hamlin, Hereford, Howe, Ingalls, Jones of Nevada, Kernan, Logan, McCreery, Mitchell, Norwood, Paddock, Randolph, Robertson, Stevenson, Thurman, Wadleigh, Wallace, and Wright—29.

The PRESIDENT *pro tempore*. The resolution is agreed to, and the Senator from New York [Mr. KERNAN] is unanimously elected. The commission will be notified of the election.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. U. S. GRANT, jr., his secretary, announced that the President had, on the

23d instant, approved and signed the act (S. No. 1251) to remove the political disabilities of Joseph E. Johnston, of Virginia.

ORDER OF BUSINESS.

Mr. DAWES, (at two o'clock and eleven minutes p. m.) Mr. President, is it in order to offer an amendment to an appropriation bill for the sake of printing and reference?

The PRESIDING OFFICER, (Mr. MORRILL in the chair.) Nothing is in order now.

Mr. DAWES. That is as near nothing as well can be.

The PRESIDING OFFICER. Nothing is in order.

ELECTORAL VOTE OF PENNSYLVANIA.

At three o'clock and thirteen minutes p. m. Mr. G. M. ADAMS, Clerk of the House of Representatives, appeared below the bar and said:

Mr. President, I am directed to inform the Senate that the House of Representatives have—

Resolved, That the vote of Henry A. Boggs as an elector for the State of Pennsylvania should not be counted, because the said Boggs was not appointed an elector for said State in such manner as its Legislature directed.

And that the House is now ready to receive the Senate in the Hall of the House of Representatives.

The PRESIDENT *pro tempore*. The Senate will now repair to the Hall of the House of Representatives.

The Senate accordingly proceeded to the Hall of the House of Representatives, and returned to its Chamber at three o'clock and thirty minutes p. m., when the President *pro tempore* resumed the chair.

ELECTORAL VOTE OF RHODE ISLAND.

The PRESIDENT *pro tempore*. The Senate having returned from the joint meeting of the two Houses upon the objection submitted to the certificate of the State of Rhode Island, the Secretary of the Senate will now read the objection.

The Secretary read as follows:

The undersigned Senators and Representatives do hereby object to counting the vote of William S. Slater, alleged elector of the State of Rhode Island, and as reasons therefor assign the following:

First. That the said William S. Slater was not duly appointed elector by the State of Rhode Island at the election in said State on the 7th day of November, 1876.

Second. That George H. Corliss, according to the decision of the electoral commission rendered in the counting of the vote of John W. Watts, elector of the State of Oregon, if said decision be law, was duly appointed elector by the State of Rhode Island and the substitution for him of the said Slater was illegal and unconstitutional.

Third. If in any event it was competent to complete the electoral college of Rhode Island by adding another elector thereto, it could only have been done under the law as announced by the said electoral commission, if said decision be law, and pursuant to the laws of said State by act of the majority of the members of said college and not by the Legislature of said State.

JAMES K. KELLY,
J. B. GORDON,
Senators.

WM. J. O'BRIEN,
R. Q. MILLS,
G. A. JENKS,
L. A. MACKEY,
A. V. RICE,
JOHN L. VANCE,
FRANK L. HURD,
J. J. FINLEY,
A. T. WALLING,
E. F. POPPLETON,
M. I. SOUTHARD,
E. J. HENKLE,
J. K. LUTTRELL,
A. M. WADDELL,
WM. P. LYNDE,
Representatives.

Mr. KERNAN. I should like to have the certificate read showing how the appointment of the elector was made.

The PRESIDENT *pro tempore*. The Secretary will read it.

Mr. KERNAN. Simply the one in which it is stated how this gentleman was appointed,

Mr. HAMLIN. He was appointed by the Legislature.

Mr. KERNAN. Let that part be read. I do not care about the other papers at all.

Mr. BURNSIDE. If in order, I desire to offer a resolution.

The PRESIDENT *pro tempore*. The Senator from New York desires to have the certificate read.

Mr. BURNSIDE. I will state for the information of the Senator from New York that the elector was appointed both by the Legislature and also by the electoral college.

Mr. KERNAN. I should like to have the paper read to which I referred.

The PRESIDENT *pro tempore*. The Secretary will read the certificate of appointment.

The Secretary read as follows:

By His Excellency Henry Lippitt, governor of the State of Rhode Island and Providence Plantations:

Be it known that Samuel G. Arnold, of Middleton; Nathan F. Dixon, of Westerly; Charles H. Fisher, of Scituate, citizens and inhabitants of the State aforesaid, and having the qualifications requisite by the laws thereof and the Constitution of the United States for electors of President and Vice-President of the United States, were by the people of said State qualified, according to the laws thereof and in the manner directed by the Legislature thereof, on the 7th day of November, A. D. 1876, chosen electors of President and Vice-President of the United States.

And further be it known that George H. Corliss, of Providence, did, on said 7th day of November, A. D. 1876, receive a plurality of the legal votes given in at the election of electors of President and Vice-President of the United States; and doubts having arisen as to whether the said George H. Corliss did have the qualifications requisite for an elector, and as to whether there was an election of the number of electors to which the State is entitled, the governor, as provided by the laws of this State, did convene the General Assembly, at Providence, on the 1st day of December, A. D. 1876, and that the General Assembly, in grand committee, on said 1st day of December, A. D. 1876, made choice of—

William S. Slater, of North Smithfield, a citizen and inhabitant of the State aforesaid and having the qualifications requisite by the laws thereof and the Constitution of the United States, for an elector of President and Vice-President of the United States; which said Samuel G. Arnold, Nathan F. Dixon, Charles H. Fisher, William S. Slater, chosen electors as aforesaid, are according to a law of said State, pursuant to an act of the Congress of the United States, to give their votes at Bristol, in the State aforesaid, on the first Wednesday in December, A. D. 1876, for President and Vice-President of the United States, the term of whose offices is to commence on the 4th day of March next.

In testimony whereof I have hereunto set my hand and caused the seal of said State to be affixed, at Providence, this 2d day of December, in the year of our Lord 1876, and of independence the one hundred and first.

[SEAL.] HENRY LIPPITT.

By the governor:

JOSHUA M. ADDEMAN,
Secretary of State.

Mr. MAXEY. What date was the last elector appointed?

The SECRETARY. The 1st of December, by the Legislature.

Mr. ALLISON. Now let the Secretary read the other certificate.

The Secretary read as follows:

ELECTORAL COLLEGE, BRISTOL,
State of Rhode Island and Providence Plantations.

The undersigned, having been appointed by the qualified electors of said State in manner directed by the Legislature thereof electors of President and Vice-President of the United States, and having met and being now in session in Bristol, in the county of Bristol, in said State, and having received a communication from Hon. George H. Corliss, of Providence, claiming to have been chosen one of the electors, but declining to be present at the meeting of the electoral college, we, the undersigned, electors as aforesaid, have appointed Hon. William S. Slater, of North Smithfield, an elector to fill the vacancy occasioned by the absence of the said George H. Corliss by virtue of the statute of the State of Rhode Island.

In testimony whereof we have hereunto set our hands on the first Wednesday of December, in the year of our Lord one thousand eight hundred and seventy-six, at Bristol, in the county of Bristol, and State aforesaid.

SAMUEL G. ARNOLD,
NATHAN F. DIXON,
CHAS. H. FISHER,
Electors.

Mr. BURNSIDE. I offer the following resolution:

Resolved, That the vote of William S. Slater be counted with the other votes of the electors of Rhode Island, notwithstanding the objections made thereto.

The PRESIDENT *pro tempore*. The question is on agreeing to this resolution.

Mr. EDMUNDS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BAYARD. Mr. President, it is proper to be noted that before any decision had been made by the two Houses of Congress, or before the electoral commission appointed under act of Congress had made its decision both ways—two expressions of what I believe to have been the universal opinion of the citizens of the United States, of the legal profession, and all others—had been made under the grave, considerate action of the States of Rhode Island and Vermont, in cases where the limitations of the Federal Constitution upon the power of the State to appoint her electors had been disregarded. So plain and accepted was the public view of this question as to the prohibitions and limitations of the Constitution intended to hedge around and protect the election of President and Vice-President from influences impolitic and improper, and that no person holding an office of trust or profit under the United States, or being a Senator or Representative, was believed by any man to be competent to be appointed an elector. In the State of Rhode Island the case of Mr. Corliss, who held the office of one of the commissioners of the centennial exhibition on November 7, 1876, was first submitted by the governor to the judges of the supreme court of that State, who responded that Corliss was an officer of the United States, holding an office of trust as centennial commissioner at the time of the election, and consequently that his appointment as a presidential elector was void. In other words, that the State had not the power to appoint such an officer elector, and therefore there was not a "vacancy" in the office, but there had been a failure to appoint; and, thus instructed by the deliberate opinions of the judges of the supreme court of that State, Rhode Island availed herself of the opportunity given by the act of Congress, passed in pursuance of the Constitution, to provide a remedy for the failure to appoint one of her electors. The governor convened the Legislature, who by the action of its grand committee elected W. S. Slater as the fourth elector. In this way the failure to elect was remedied by the subsequent election of the fourth elector, who assumes now, and as I think lawfully, to vote in the electoral college of that State.

How strong a proof is this, Mr. President, of the acceptance in the gravest and most deliberate manner by the three branches of that State's government of the proposition that, but for this remedial legislative action, the State of Rhode Island would have failed to have completed her power of appointment, and three, and not four, electors would have composed her electoral college? The course taken by the executive of that State in calling together her Legislature, in appointing a qualified person to fill the office which she had failed by election on November 7 to fill, was regular, and in accordance with law, in accordance with the Constitution, and is confirmatory of the view that I believe to have been universally held prior to this session of Congress, at least, that no officer of the United States could be ap-

pointed elector for President and Vice-President, and that, Mr. Corliss never having been appointed, there was no "vacancy" to be filled *eo nomine*, but a failure to elect had occurred, which must be remedied by the laws of that State under the authority of the Constitution of the United States as regulated by the act of Congress.

What a commentary upon the decisions of the electoral commission in the cases of disqualified electors in Louisiana and Oregon does this action of the judiciary and Legislature of Rhode Island and of the Legislature of Vermont contain. Is it not evident that the lawyers and legislators of those States believed the prohibition of the Constitution excluding Government officials from the office of presidential elector was self-executing and binding upon the States and upon the two Houses of Congress?

Mr. EDMUNDS. Mr. President, I do not feel at liberty to enter into any discussion at this time of the principles of decisions made elsewhere. Some day it may be that I shall feel at liberty to express my views upon it. I only rise now to say that I do not acquiesce in the parallel that the Senator from Delaware has attempted to draw between cases lest my silence might be deemed to be an acquiescence in the views he has presented; but as for the decision to which he has referred I do not myself feel at liberty at this time to engage in any discussion of their propriety or otherwise.

Mr. BURNSIDE obtained the floor.

Mr. CHRISTIANCY. Will the Senator from Rhode Island allow me to ask one question of the Senator from Delaware? I wish to know what evidence we have before us that that matter was ever before the supreme court of Rhode Island, or that they ever gave any opinion upon it?

Mr. BAYARD. I have the best proof in the world. I have heard the case often argued during the present session of Congress, and have read it in full in the published reports. We must also take judicial knowledge of the public laws of every State, of which the Senator must also take notice, of which I have taken notice elsewhere as a member of the commission, as well as a Senator. A public law of one of the States of the Union has declared to the honorable Senator from Michigan, as well as to every other member of this body, the facts of which I speak, and Rhode Island has instructed him as well as me that she has been compelled to adopt the only lawful method to provide for her failure to elect her proper number of electors on November 7 last. Mr. President, the State of Vermont has likewise given full evidence of the opinion of her lawyers and legislators on this subject. Nay, if I mistake not, if I am correctly informed, the hand of the honorable Senator who rose last [Mr. EDMUNDS] drew the very act of Assembly to remedy the failure to elect one elector. For this I have merely newspaper authority, but it showed what was the opinion in Vermont as well as in Rhode Island, and, as I believe, everywhere in this country, that a failure to elect was a very different thing from a vacancy caused by death, resignation, or otherwise.

Mr. CHRISTIANCY. I wish to ask whether we have not just as much evidence before us that the supreme court of Rhode Island decided directly the reverse of what is here stated as that it decided as the Senator has said?

Mr. BAYARD. I know of no contrary decision in the courts of Rhode Island to the case of Corliss, which is now so well known and fully authenticated by citation and publication that I am not prepared to hear it questioned. I have no time now to read it, but it fully sustains the position that I have stated before the Senate. Governor Lippitt made, under the constitution of that State, an application to the judges of the supreme court for response to certain inquiries touching the power of the State to appoint officers under the United States—presidential electors. The full report of his interrogatories and the answers of the judges are contained in the American Law Register for January, and although I have the book in my hand I think it scarcely worth while to read them again after the full public discussion they have undergone before the electoral commission.

Mr. CHRISTIANCY. My point is that there is no judicial evidence whatever of the action of that court.

Mr. SARGENT. I rise to a point of order. This irregular discussion is out of order. Each Senator has the right to speak but once, and for ten minutes.

The PRESIDENT *pro tempore*. The Chair understood that the Senator from Michigan [Mr. CHRISTIANCY] held the floor and yielded it to the Senator from Delaware, who was occupying it with the Senator's permission.

Mr. BURNSIDE. I beg to say that I have held the floor.

The PRESIDENT *pro tempore*. Then it comes out of the time of the Senator from Rhode Island.

Mr. BURNSIDE. I have nothing to say on this subject. Inasmuch as the resolution is generally acquiesced in I am quite willing that the vote shall be taken at once, and that we shall not waste time in the discussion of subjects which do not appertain to the resolution before the Senate.

Mr. EDMUNDS. All I wish to say is that my friend from Delaware is mistaken in his imputation as to the action or opinion of the State of Vermont. The State of Vermont was somewhat anxious to avoid any possible criticism that unfriendly bias or unscrupulous partisanship might make in certain quarters, and I believe she has done it.

The PRESIDENT *pro tempore*. The question is on the resolution offered by the Senator from Rhode Island, [Mr. BURNSIDE,] on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. ALCORN, (when his name was called.) I agreed to pair with the Senator from Maryland, [Mr. DENNIS,] who is absent. I do not know how he would vote, but I deem it best that I should not vote at all, being paired with him.

Mr. COCKRELL, (when his name was called.) I am paired with the Senator from Oregon, [Mr. MITCHELL.] I do not know how he would vote. Were I permitted to vote I should vote "yea."

Mr. MCCREERY, (when Mr. STEVENSON'S name was called.) My colleague is confined to his room by indisposition and is not able to be here.

Mr. WALLACE, (when his name was called.) On the general question I am paired with the Senator from Maine, [Mr. BLAINE.] If he were here he would vote "yea." I should vote "yea" in this instance for the same reason that I voted "nay" in regard to the vote of Pennsylvania.

The Secretary concluded the call of the roll.

Mr. BAILEY, (after having voted in the negative.) At the time I cast my vote I was not cognizant of the fact which has been stated, that Mr. Corliss had resigned the office to which he had been elected by the people of the State of Rhode Island. I was of the opinion on Saturday last, when I voted in regard to the Pennsylvania elector, that a centennial commissioner was not an officer under the United States within the meaning of the Constitution and, therefore, that he was not forbidden by the Constitution to hold the office of elector. Acting upon that theory I voted "yea," with the majority of the Senate at that time. I am of the same opinion to-day. I believe Mr. Corliss was not holding an office under the United States, that he was duly elected by the people of the State of Rhode Island, and had the right to resign the office of elector, and having thus resigned, the Legislature of the State of Rhode Island had a right to elect one in his place. Therefore, I ask to change my vote, and I vote "yea."

The result was announced—yeas 57, nays 0; as follows:

YEAS—Messrs. Allison, Anthony, Bailey, Bayard, Booth, Boutwell, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Clayton, Conkling, Conover, Cooper, Cragin, Davis, Dawes, Dorsey, Edmunds, Ferry, Frelinghuysen, Goldthwaite, Gordon, Hamlin, Harvey, Hereford, Hitchcock, Howe, Ingalls, Johnston, Jones of Florida, Jones of Nevada, Kernan, Logan, McCreery, McDonald, McMillan, Maxey, Merrimon, Morrill, Morton, Norwood, Oglesby, Paddock, Patterson, Randolph, Ransom, Sargent, Sharon, Sherman, Teller, Wadleigh, West, Windom, Withers and Wright—57.

ABSENT—Messrs. Alcorn, Barnum, Blaine, Bogy, Bruce, Cockrell, Dennis, Eaton, Hamilton, Kelly, Mitchell, Robertson, Saulsbury, Spencer, Stevenson, Thurman, Wallace and Whyte—18.

So the resolution was agreed to.

Mr. ANTHONY. I move that the House be notified of the resolution of the Senate, and that the Senate is ready to meet them.

The PRESIDENT *pro tempore*. The Senator from Rhode Island moves that the House be notified of the decision of the Senate in the case of the certificate of an elector for Rhode Island, including its readiness to meet the House.

The motion was agreed to.

At five o'clock and fifty-five minutes p. m. Mr. G. M. ADAMS, Clerk of the House of Representatives, appeared below the bar and said:

Mr. President, I am directed to inform the Senate that the House has—

Resolved, That the vote of William S. Slater as an elector of the State of Rhode Island be counted, the objections thereto to the contrary notwithstanding.

And that the House of Representatives is now ready to receive the Senate in the Hall of the House of Representatives.

The PRESIDENT *pro tempore*. The Senate will now repair to the Hall of the House of Representatives.

The Senate accordingly proceeded to the Hall of the House of Representatives, and returned to its Chamber at six o'clock and thirty minutes p. m., when the President *pro tempore* resumed the chair.

ELECTORAL VOTE OF SOUTH CAROLINA.

The PRESIDENT *pro tempore*. The Senate having returned from the joint meeting upon objections submitted to the certificates from the State of South Carolina, which having been submitted to the commission, the Senate resumes its legislative session.

EULOGIES ON THE LATE SPEAKER KERR.

Mr. MCDONALD. I desire to give notice that at half past ten o'clock to-morrow I shall call up the resolution in reference to the death of the late Speaker of the House of Representatives, Mr. Kerr. I do this because it has not been usual to transact legislative business before twelve o'clock, and this will enable us to hear the addresses that may be delivered on the occasion. It will be the understanding that the resolution of adjournment will not be put until the close of the legislative business to-morrow.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of War, transmitting for the consideration of the Committee on Military Affairs, in connection with other papers in the case transmitted on the 17th instant, a copy of the proceedings of a general court-martial convened by special orders No. 217, headquarters Department of the Missouri, November 17, 1869, in the case of First

Lieutenant T. J. Spencer, Tenth Cavalry; which was referred to the Committee on Military Affairs, and ordered to be printed.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The PRESIDENT *pro tempore* laid before the Senate the action of the House of Representatives on the amendments of the Senate to the bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes.

On motion of Mr. WINDOM, it was

Resolved, That the Senate insist upon its amendments disagreed to by the House of Representatives, and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

And Mr. WINDOM, Mr. ALLISON, and Mr. DAVIS were appointed.

THE DEFICIENCY APPROPRIATION BILL.

The PRESIDENT *pro tempore* laid before the Senate the action of the House of Representatives on the amendments of the Senate to the bill (H. R. No. 4559) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1877, and for prior years, and for other purposes.

On motion of Mr. SARGENT, it was

Resolved, That the Senate insist upon its amendments disagreed to by the House of Representatives, and agree to the conference asked by the House of Representatives an the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

And Mr. SARGENT, Mr. WINDOM, and Mr. WITHERS were appointed.

POST-OFFICE APPROPRIATION BILL.

The PRESIDENT *pro tempore* laid before the Senate the action of the House of Representatives on the amendments of the Senate to the bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes.

On motion of Mr. WINDOM, it was

Resolved, That the Senate insist upon its amendments disagreed to by the House of Representatives, and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

NAVAL APPROPRIATION BILL.

The PRESIDENT *pro tempore* laid before the Senate the action of the House of Representatives on the amendments of the Senate to the bill (H. R. No. 4616) making appropriations for the naval service for the year ending June 30, 1878, and for other purposes.

On motion of Mr. SARGENT, it was

Resolved, That the Senate insist upon its amendments disagreed to by the House of Representatives, and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

And Mr. SARGENT, Mr. CRAGIN, and Mr. WALLACE were appointed.

PETITIONS AND MEMORIALS.

Mr. MAXEY presented the petition of John M. Haden, M. D., of Galveston, Texas, praying for the removal of his political disabilities, which was referred to the Committee on the Judiciary.

Mr. MCMILLAN presented a resolution of the Legislature of the State of Minnesota, instructing the Senators and requesting the Representatives in Congress from that State to use their endeavors to amend an act of Congress approved March 13, 1874, in relation to growing timber on western prairies; which was referred to the Committee on Public Lands.

REPORTS OF COMMITTEES.

Mr. MORRILL. I am directed by the Committee on Public Buildings and Grounds, by whom was referred the bill (S. No. 1239) to provide for changing and fixing the boundaries of certain property ceded to the Government of the United States by the city of Memphis, Tennessee, to report it back and asked to be discharged from its further consideration in consequence of a House bill having passed the Senate.

The report was agreed to.

Mr. MORRILL, from the same committee, to whom was referred the bill (H. R. No. 4657) to provide a building for the use of the United States district and circuit courts, the post-office, and internal-revenue officers, at Austin, Texas, reported it without amendment.

BILLS INTRODUCED.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1283) to authorize the construction of a bridge across the Missouri River at or near Glasgow, Missouri; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1284) for the relief of William L. Hickam, of Missouri; which was read twice by its title, and referred to the Committee on Claims.

ELECTION OF PRESIDENT PRO TEMPORE.

Mr. SARGENT. I offer the following resolution to lie on the table, to be called up at some future time:

Resolved, That the Senate do now proceed to the election of a President *pro tempore*.

The resolution was ordered to lie on the table.

BILLS RECOMMITTED.

Mr. ALLISON. I move that the bill (H. R. No. 3277) granting a pension to Kate Louise Roy be recommitted to the Committee on Pensions.

The motion was agreed to.

Mr. ALLISON. I also move to have recommitted to the Committee on Claims the bill (H. R. No. 3273) for the relief of Mrs. Ellen J. Brosman.

The motion was agreed to.

INDIAN APPROPRIATION BILL.

Mr. ALLISON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4452) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1878, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 4, 19, 20, 43, 47, 48, 49, 52, 58, 59, 60, 68, 71, 79, 80, 81, and 82.

That the House recede from its disagreement to the amendments numbered 1, 5, 6, 7, 8, 9, 10, 12, 13, 16, 17, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 37, 38, 39, 42, 46, 50, 53, 54, 55, 56, 57, 61, 62, 64, 65, 66, 69, 70, 83, 85, 87, 88, and 89; and agree to the same.

That the House recede from its disagreement to the amendments numbered 2, 11, 14, 15, 18, 21, 31, 34, 35, and 36, and agree to the same with amendments respectively, as follows: In No. 2 in lieu of "seventy" insert "sixty-nine;" in No. 11 in lieu of the sum proposed insert "$101,700;" in No. 14 in lieu of "four" insert "seven;" in No. 15 in lieu of "ten" insert "six;" in No. 18 in lieu of "six" insert "five;" in No. 21 strike out on page 15, line 3 of the bill, the words "flour and meat" and insert in lieu thereof the word "subsistence;" in No. 31 strike out "$14,000" and insert "$12,879.04;" in No. 34 in lieu of the sum proposed insert "$1,000;" in No. 35 in lieu of "five" insert "four;" and in No. 36 in lieu of the sum proposed insert "$7,500." And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 40, and agree to the same; with an amendment as follows: In lieu of "forty-seven" insert "twenty-five" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 41, and agree to the same; with an amendment as follows: In lieu of "two hundred and fifty" insert "one hundred and twenty-five" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 44 and 45, and agree to the same with amendments respectively as follows:

In No. 44 in lieu of "fifteen," insert "ten," and in No. 45 in lieu of "one hundred" insert "ninety;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 51, and agree to the same with an amendment as follows: In line 11, page 42 of the bill, strike out "fifty" and insert "forty;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 63, and agree to the same with an amendment as follows: In lieu of "fifteen hundred" insert "one thousand;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 67, and agree to the same with an amendment as follows: In lieu of "forty" insert "thirty;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 72, 73, 74, 75, 76, 77, and 78, and agree to the same with amendments respectively as follows: In No. 62 in lieu of "thirty" insert "twenty-five;" in No. 73 in lieu of "thirty" insert "twenty-five;" in No. 74 in lieu of "twenty" insert "fifteen;" in No. 75 in lieu of "eight" insert "six;" in No. 76 in lieu of "twenty-five" insert "twenty;" in No. 77 in lieu of "twenty" insert "fifteen;" and in No. 78 in lieu of "seventy-five" insert "forty-eight;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 84, and agree to the same with an amendment as follows: Strike out of said amendment the words "the Secretary of the Interior," and strike out of the text of the bill all after the word "affairs," in line 16, page 50 of the bill, down to and including line 23, the close of the section; and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 86, and agree to the same with an amendment as follows: In lieu of "four" insert "three;" and the Senate agree to the same.

W. B. ALLISON,
WM. WINDOM,
L. V. BOGY,
Managers on the part of the Senate.

ERASTUS WELLS,
CHARLES FOSTER,
WM. S. HOLMAN,
Managers on the part of the House.

The report was concurred in.

PACIFIC RAILROAD ACTS.

Mr. HAMLIN. I move that the Senate proceed to the consideration of executive business.

Mr. WRIGHT. I trust that the regular order will be laid before the Senate.

The PRESIDENT *pro tempore*. The Chair was about doing that. Senate bill No. 984, known as the railroad bill, is before the Senate.

Mr. WRIGHT. This is only done that it may be left as unfinished business for to-morrow.

The PRESIDENT *pro tempore*. It will be the unfinished business. The Chair would like to have an understanding with reference to the rest of the time between the hours of ten and twelve o'clock to-morrow, as to whether legislative business shall be transacted.

Mr. SARGENT. I believe the time is proposed to be occupied by eulogies.

The PRESIDENT *pro tempore*. They may not occupy the whole of the time. The Chair refers to the time between the conclusion of the eulogies and twelve o'clock.

Mr. SARGENT. I suggest, then, that there shall be no legislative business between ten and twelve. ["Agreed."]

The PRESIDENT *pro tempore*. It will then be the understanding that there will be no legislative business to-morrow until twelve o'clock. The question is on the motion of the Senator from Maine, that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at six o'clock and fifty minutes p. m.) the Senate took a recess until to-morrow, Tuesday, February 27, at ten o'clock a. m.

HOUSE OF REPRESENTATIVES.

MONDAY, *February* 26, 1877.

The SPEAKER, (at twelve o'clock and ten minutes p. m.) The Chair decides that a new legislative day begins, and the Chaplain will now offer prayer.

Prayer by Rev. I. L. TOWNSEND.

The Journal of Saturday was then approved.

ELECTORAL VOTE OF PENNSYLVANIA.

Mr. CHITTENDEN. Mr. Speaker, I desire to say a few words for our country, which I hold to be something better and more than any political party. For more than twelve months the leaders and the rank and file of both the great political parties which divide this country have been engaged in a hand to hand struggle for supremacy, in constant neglect of vital public interests. For more than eight months, since the nominations for the Presidency were made, the people at large have taken an unusual interest in this uncommonly intense contest. If we look over the record of the proceedings of this House we shall find that, including the thirty-two speeches for which leave to print was granted on Saturday last, there have been made and put into the RECORD within the last month here several hundreds of partisan speeches. I think, Mr. Speaker, that it is high time for us to stop for a single moment to inquire the cost to the people of this partisanship; and I wish especially to inquire the cost of continuing it for another year, under the Constitution and the laws and the precedents established by the commission? I want to know if any gentleman has an arithmetic competent to compute that cost. Such are the questions which come to us to-day in all our letters, over all the wires; they come to the Representatives of the American people from every whither.

I know that honorable gentlemen upon the other side of the House concede their defeat, that they have frankly and unqualifiedly stated their purpose to accept the decision of the great commission which they themselves organized. But why this delay over a trivial objection? I know that it is the business of lawyers to "make the worse appear the better cause," and the weak the stronger. I know that they are paid alike for defending the wicked and the just, but I have also observed that the final judgment of the highest courts on earth is usually in harmony with the average common sense of mankind. That is almost always true, and I venture to predict in this presence that if this question which has now delayed the House for a full day, practically, could be submitted to a jury of twelve men, or of twelve hundred men, or twelve thousand men of good common sense, they would say unanimously, in either case, that there was absolutely nothing in it.

Now, in the name of our common country, why on the verge of this prodigious crisis wait another moment before deciding it?

Sir, I am not here to apologize for the Louisiana returning board. I am not here to congratulate any man on this floor or elsewhere that through the proceedings of that board we are to have a President, but I believe sincerely that according to the Constitution and the forms of law there was nothing left for the commission to do but to count that vote. I recognize also that honors are easy between Louisiana and Oregon, and for the rest—

> Mr. Speaker! thou hast well said,
> Of our vices we may frame
> A ladder, if we will but tread
> Beneath our feet each deed of shame!

Mr. Speaker, if you did not say that somebody of equal authority has said it, and I commend the sentiment to the Representatives of the people here and to the whole country.

Mr. SCALES. Mr. Speaker, I am one of those who voted for the electoral bill in good faith. I did it with great reluctance, but I did it in order to meet a condition of public affairs which I thought demanded it at my hands. It is charged that a conspiracy had been formed to count Mr. Hayes in at all hazards. This charge is sustained by facts and circumstances which carry conviction with them. The Secretary of the Interior, a bold, unqualified partisan, in violation of all precedents, all propriety, and, I might say, of common decency, had been selected as the chairman of the national executive committee of the republican party. His tastes, habits, and force of character give him a wonderful influence over the mind of the President, and by this appliment the republican party secured to itself the use and control of the Army and all the powers of the Administration.

In the course of the campaign the exigency of the party demands troops in Louisiana, South Carolina, and Florida, and at once, without any real cause and without the shadow of authority in law, they are sent. The pretext is to protect colored voters; the fact is to prevent colored men from voting the democratic ticket. The State governments is these States had been organized and sustained for ten years by Federal bayonets. The entire machinery of the election was in the hands of the republicans; all the supervisors, clerks, registrars, and marshals, with their deputies, were their appointees. There were fourteen hundred supervisors outside of New Orleans and sixteen hundred in the city. There were in all seventy-five hundred employés and tools of the party scattered over the State, distributed to every neighborhood and around every ballot-box; but all this was not enough. They must have troops, and troops were added.

The people, white and colored, would not be intimidated. As the difficulties grew their resolution strengthened. Goaded by the outrages and wrongs under which they suffered, and with an energy and power given by despair, they rose superior to all difficulties, and on the day of election gave Mr. Tilden a majority of 10,000 votes. There was no violence, no bloodshed; peace and quiet prevailed everywhere; and now at last a glorious victory had crowned their efforts. The news was flashed over the country, and for the moment it was almost universally conceded that honesty and reform had triumphed and that Mr. Tilden was the next President. But hold! a voice is heard from the administration: there must be no surrender and the State must be counted for Hayes. It can only be done through the returning board, and only then through fraud. But even this board hesitated and trembled to enter upon their work of infamy. They required support. They needed advisers. Nothing short of the voice and power of the administration would afford indemnity against the consequences of their great crime. That voice is heard. A number of gentlemen are requested to visit New Orleans "to see that there is a fair count;" and with this request comes the further announcement "that no man worthy of the office would hold it by fraud." We recall at once the memorable words, "Let us have peace;" "Let no guilty man escape;" "The republican party must unload;" and now "There must be a fair count." Miserable deception, base subterfuge. As in the former, so these words mean just the reverse of what they express.

Who is selected to stand between the two great parties, maddened by excitement, and to see to it that justice was done and a fair count had? Common honesty, common sense, and common decency would say at once they must be men of both parties; moderate, conservative, just, and as far as possible removed from the influence of either candidate. But this did not suit the purposes of the conspiracy, and other men are selected. Among them we find the distinguished Representative from Maine, a republican of the straitest sect, taken from the bosom of the President's political family, and the son-in-law of his administration. [Laughter.] Yes, sir, I mean what I say; for the chairman of the national executive republican committee was indeed the Administration during the campaign. This, gentlemen, is a fortunate selection for Mr. Hayes; he is the vicegerent of the President and the mouth-piece of his administration. He always has a lordly and impressive air; he walks like a lord and talks like a lord, and in consequence of this there has been a suggestion that he is a lineal descendant of Lord Hale, and the inference is that his name is inherited. He arrives at New Orleans; he feels the importance of his work, and is more lordly still. The board is fully impressed; the two colored members cannot repress their satisfaction with and admiration of the man, and it finds expression in the following couplet:

> Massa Hale, O Massa Hale, a sure nuff lord is he;
> He spurns de dirt beneaf his feet because it is dirty.

[Great laughter.]

If he chooses to exercise his power the board is but wax in his hands. The president of the board is enraptured with such a respectable and lordly association, and at once he conceives the idea that he himself is a peer, and not a vassal. This leaves the distinguished Senator from Ohio and the equally distinguished member from that State, both bitter, rigid partisans, both the confidential friends and political advisers of Governor Hayes. The Senator was the first to bring forward the name of Hayes as a candidate for President, and they both will and must have much influence in shaping his administration. They will see to it that the fair count which the President is so anxious about shall be secured. These gentlemen, it is true, will have to sit as judges in Congress between the opposing candidates when the vote is counted, but then this little schooling in that business in Louisiana will qualify them all the better "for a fair count."

Then comes Mr. Stanley Matthews, not a member of Congress, but a distinguished lawyer, a citizen of the same State, a bitter republican, and, I am informed, a brother-in-law of Mr. Hayes—at any rate, a connection—and he is selected to promote the fair count. There are others, all of whom are objectionable, but I have not time to look into them now. Thus the conspiracy progresses and approaches its crowning

infamy. The returning board is to be the most important element in this work, and their individual characters and past conduct guarantee that the work will be well done, and they must stand between the crime and the highly distinguished and respectable gentlemen sent down by the President. The backing is all they ask, and they have it. Scarcely do these most respectable gentlemen reach New Orleans before a telegram is sent in substance, "Our northern friends sustain us. Have no fears." And again Wells says: "Be content; Hayes will be counted in." Wells is a most important element of fraud and wrong in this board. He is the president, and mainly relied on. Who is he and what has he been? I have no language to portray him. Let General Sheridan speak:

> There is not an honest man that he can call friend.

Can language add to this? Wells is now a man of three-score and twenty and upward. He stands on the verge of the grave, and yet, in the land of his birth, where his life had been spent, think of it, there is not in this wide world an honest man to call him friend; not an honest heart that beats in sympathy with his; not an honest voice to cheer him as he steps into the grave. Deserted alike by God and honest men, he must do the deed that will stand forth in the history of the Republic as a "deed without a name."

This board is composed of five men. There is one vacancy; the four are all republicans. The law of the State thought it wise that it should be composed of both political parties, and had so provided. The democrats urged that it should be filled, and they named their man; it is refused. Time and again it is demanded; time and again it is refused. Wherefore refused? Tell me, members of the returning board. Tell me, ye respectable gentlemen sent down by the President as a sustaining board! Ye who prate loudly and long of liberty, the rights of the people, Constitution and law, tell me, honest, candid, and fair-minded men, wherever you are and to whatever party you belong, why this refusal? Either one of the distinguished gentlemen named could have had it done upon an intimation; truth, justice, honor, and the law demanded it. Why then refuse? There is but one answer; there can be but one answer. It did not suit the purposes of the conspiracy. The work is done, the will of the people is thwarted, and a majority ranging from six to ten thousand for Tilden is thrown out. The President's "fair count" is accomplished, and the electoral vote of Louisiana is declared for Hayes, and the tools of power arrange the necessary certificates and commissions.

That returning board is now here in a lower room of this Capitol confined for contempt of this House for refusing to furnish the House with the original returns and papers upon which they acted. They still refuse and are still confined, and I am told that members of the republican party make periodical pilgrimages to the cell, as they term it, of J. Madison Wells, to draw therefrom fresh inspirations of patriotism and courage, and hail him everywhere as the savior of his country.

Mr. Speaker, I see before me the image of him who is conceded above any other name to be the father and savior of his country. Jefferson is known as the author of the Declaration of Independence; Madison as the great framer and expounder of the Constitution. They are all immortal, and have hitherto stood pre-eminent. Not so now. Henceforth J. Madison Wells is to be classed above the last two and equal to the first as the "savior of his country." Is it surprising that he aspires to the peerage and claims fellowship with the distinguished gentleman from Maine? But, sir, this man, this board, and this deed are whitewashed and indorsed by these fair-count gentlemen, who resolved themselves into a sustaining board, by the immortal eight on the high joint commission and by the republican party. I thought they had sins enough before to answer for and sufficient to damn any party; but they eagerly embrace and assume without hesitation the responsibility of this crime, and hope to wash away its stain by such indorsement from the minds of the American people. Theirs must be the fate of the river Rhine as set forth by Coleridge to the citizens of Cologne:

> The river Rhine, it is well known,
> Doth wash your city of Cologne;
> But tell me, nymphs! what power divine
> Shall henceforth wash the river Rhine?

The scene is changed. We are in Washington. Congress has met. The distinguished gentleman from Ohio has finished his part of the work. He has prepared and adjudged the case in Louisiana; he has sat as a judge upon it in the Congress of the United States. A joint high commission is established, and in the process of washing away the stain he is promoted to the high joint commission, the sole and final arbiters and judges, under the law, of this Louisiana case. Will he fail in this his last judgment upon this case? Will he defeat the alleged conspiracy and save his country or repeat his judgment, save his party, and whitewash Wells and his returning board? We shall see what we shall see. I sometimes imagine that I can see this gentleman, after he has been mauled, bruised, battered, and almost overwhelmed by the resistless logic, the indignant denunciation, and storm of invective as it is poured forth by the distinguished counsel representing the democracy in their noble plea against fraud and its perpetrators, repair with weary step and clouded brow to the cell of the savior of his country, (henceforth to be the Mecca of the republican party,) and when there I see him catch fresh inspiration by the touch of the garment of the imprisoned martyr; and as they two together reason of truth, righteousness, and judgment to come, I see the cloud leave his majestic brow, and he departs refreshed and strengthened and fully prepared to meet the lofty and arduous duties of his responsible position. With such a judge, aided by the distinguished counsel from Ohio and the no less distinguished Representative from Ohio, I will not say what was said in my State by a plain minister of the primitive Baptist church of a court similarly constituted against him—"that with such a court and such counsel against our Saviour He would have been cheated out of his kingdom"—but I will say that with such a court Mr. Hayes would hold twelve chances out of ten, and that Mr. Tilden had as well hang his harp upon the willows.

How stands the case to-day? Tilden has 184 undisputed electoral votes and a majority of the popular vote of 300,000 with a clear title to the electoral votes of Florida and Louisiana. He received unquestionably, and I believe it is not denied, a majority of the popular vote in those States. But through the instrumentality of the returning boards in those States the majority, without any just cause, is given to Mr. Hayes, and the Hayes electors receive the commission of the governors. In Oregon Hayes had the popular vote, but for reasons sustained by the law one of the Tilden electors was commissioned. This one elector would elect Mr. Tilden even without Louisiana and Florida. The contest arises here, both sides claiming the election of their candidate. The republicans in pursuance of the conspiracy formed in the beginning to count Hayes in if Tilden should be elected by the vote of these southern States, boldly proclaimed his election and boldly declared that the President of the Senate should count him in. To back this declaration they had the President, the Army, the Treasury, and the Senate, and the State Legislatures of nearly every northern State. If Mr. Hayes is counted in the Senate will confirm all his appointments, money will be furnished him from the Treasury, and the Army and the State organizations North will sustain him.

We know that Tilden is elected, and the world outside of the republican party believe it. The two Houses must count the vote; one is for Tilden and the other for Hayes. There is a dead-lock; how is the difficulty to be settled. One says, let the House declare that there is no election and elect Tilden; another says, let the President of the Senate declare Hayes in and use your power to sustain him. The Senate says there is an election and the House cannot elect, and if it does it is revolution; the House says that the President of the Senate dare not count the vote because it is unconstitutional, ridiculous, and revolutionary. It is impossible to agree; there is no issue out of it that will not be charged as revolutionary, and any successful candidate will be declared a usurper. The democrats have no army, no State organization, not a dollar of money, and no Senate to confer in her appointments. The crisis is a grave one and critical in the extreme. Force will beget force and war must result. How would my impoverished countrymen meet that question? Our northern democratic friends deeply sympathize with us in our sufferings and feel most keenly the present condition of affairs, but they could not help us, and if there is war the South must meet it; if there should be no war then there must be a dual government, a continued clangor of collision; and if not collision, then anarchy and confusion. The great question before the country and the world is: Has there been fraud in Louisiana, South Carolina, and Florida? It is asserted on the one hand, and denied on the other, and upon the truth and falsity of his issue hangs the title to the presidential chair.

The country demands an investigation of these frauds; nothing short of this will satisfy it. The truth must be ascertained and declared and all, however disappointed, will be governed by it, and he who reaches the presidential chair without this will be a usurper. The electoral bill is framed to meet this issue, to make this investigation. Congress had time and again sent out its committees to inquire into the frauds in elections in the States. At this session of Congress the House had sent out her committees to look into these frauds and gather up the evidence in the election of electors for President and Vice-President, and in the Senate a similar resolution was introduced by Senator EDMUNDS and passed by a nearly unanimous vote, authorizing the Committee on Privileges and Elections to investigate all the frauds charged in the election of electors and especially to inquire into the eligibility of electors. Senator EDMUNDS was under an oath to support the Constitution, and yet he and his republican associates on the commission and all the other republican Senators voted for it. Did they mean to do an unconstitutional thing? Did they mean to violate their oaths? Were they taken by surprise? Not at all, for the matter had been discussed time and again before the Senate and time and again acted upon. On January 6, 1873, upon a similar resolution offered in the Senate in reference to the election of electors in that State, Mr. EDMUNDS said:

> There is no denying the fact that the passage or rejection of this resolution involves a determination of a certain right in the Senate and in the House of Representatives over the subject of the election of President, a jurisdiction as the Senator from Illinois styles it. Now, what is that jurisdiction, where are you to go? * * * It has been maintained that we have no right to go behind the certificate of the elector. If that is true, then what is the use of sending down to Louisiana to ascertain what is the certificate of these gentlemen? It seems to me desirable that we should take a little more time to reflect and determine what is the scope of what this committee is to do.

After reflection and debate as late as January, 1875, on a proposition to amend the Constitution in regard to the count of the electoral vote, Mr. EDMUNDS said:

> I think there is constitutional power in the legislative branches of the Government to regulate the exercise of the powers conferred in the Constitution respecting the election of President and Vice-President.

Again, a little later, with still more reflection and thorough discussion on the same proposition, he says:

If this were a proposition to repeal the twenty-second joint rule I think I should vote for it, but it is in effect to say that any spurious or revolutionary vote which may be brought forward from people pretending to be electors of a State shall be counted unless both Houses agree that it shall not.

This doctrine he denies. Again, in the same debate, he says:

That when the electors meet on the first Wednesday of December in each of the States the Constitution entitles us to know, entitles everybody to know that the persons who thus meet are the electors. It entitles the people of the United States to know in some way under a government of law that what those who claim to be electors send to the Capitol is the vote of the State lawfully and constitutionally given.

Thus, from a state of doubt and uncertainty by means of argument and reflection through several years the distinguished Senator arrives at the conclusion that it is constitutional to go behind the returns to ascertain the true vote, and hence we find him introducing and voting for resolutions as late as this session of the Forty-fourth Congress to look into all this matter that was intrusted to the high commission. What use, as he says, if you cannot go behind the returns? So thought Mr. CONKLING, and so voted all the republican Senators time and again.

The republican party of both Houses in 1865 unanimously passed the twenty-second joint rule. This gave to either House of Congress the *power* to reject the vote of the State without inquiry, with no limitation. That remained in force and was acted upon by them in counting the electoral vote for ten years. The issue then is understood to be, are there frauds in the election? Nothing less would satisfy the country. The late precedents all favor it, and the committals of the republican party abundant and unquestioned. The electoral bill was intended to meet the case. It is true the question of power under the Constitution was left to the commission, but who had a doubt under all the circumstances as to what they would be bound to decide. But why was it not expressed in the bill that they should go behind the returns, so as to make assurance doubly sure? For the simple reason that the bill placed no limitation on their power but the limitations of the Constitution, and that would have been the same unexpressed just as much as if expressed, and then no one doubted the decisions of that tribunal as to this.

Our cause is just and fortified by evidence that is impregnable. With such a case before a court of any respectability we could not fail. The political members of the two Houses on the commission may be biased by party, but can we not trust the Supreme Court judges? This is the highest court in the world, the court of last resort in this great nation. The judges heretofore have been selected with special reference to their peculiar fitness and qualifications for the position. In the past this court has enjoyed the unqualified admiration and confidence of the American people. It has been their pride and their boast, and now in this day of trial, when fraud and conspiracy enter into our elections, threatening to smother republican government, to stifle the will of the people, when anarchy and confusion lie just ahead of us and civil war and bloody strife are imminent, where else shall we look for aid? The two great parties of the country are the contestants, and all other classes of men are more or less involved in the issues between them. The Supreme Court alone can and will meet public expectation. They will rise above party. They will grapple with fraud and conspiracy, and strike who it will, equal to every occasion, they will save the country.

If decided according to law and the Constitution, this tribunal must do it. The safety and welfare of the whole country, and especially of the South, rests upon the law and its preservation. I have said I voted with reluctance. I hesitated. I lacked confidence, I regret to say, in the judges. I knew little of them. Others knew them better, they were competent to judge; these trusted the judges and I trusted them, and gave my vote for the bill. The decision will certainly be peaceful, and surely an American citizen may be pardoned if under all the circumstances he indulged some hope that it would be honest and fair. Fate, or accident, gave them the advantage in the number of judges, but in the cases all the advantages were with the democratic claim.

But, sir, the country has been cruelly disappointed, the people grievously, and, I fear wickedly and fraudulently wronged. The judges sank into partisans; the ermine, the glory and pride of the country, has been besmeared in the dirty pool of politics, and every decision made by a strict party vote; but it is said there was as much party on one side as the other; is this so? One side voted always for investigation of frauds, the other against it. One asked, in obedience to the spirit of the bill and the demands of public sentiment, that all the evidence should be let in, that the truth might be ascertained, to the end that fraud might be crushed and justice and right made triumphant; the other side refused it. Proof was offered of the most gigantic frauds on the election returns, to show that certain men were not elected by the people and certain others were, that the returning boards had without law thrown out the legal votes; but the proof was rejected by one side and insisted upon by the other. The party majority decided that if it were all true still they would not go behind the returns. It is not true, then, that both sides were partisan.

Mr. Speaker, two justices of each political party selected a fifth man as the final arbiter. This man was bound by every consideration of honor and of patriotism to forget his party and rise to the dignity of the great occasion and do his duty. He was trusted by both. If he had prejudged the case or was in any way biased, it was his duty to have so stated and let some one else take his place; but he confessed nothing; and yet he never sat a moment on that bench except as a partisan. The same may be said of the other justices making up the immortal eight. And while there is no excuse for them, there was yet some more obligation resting upon the fifth man to act impartially. What an opportunity was lost. Had he met it as a man and a judge, his name would have been immortal and he would have commanded the respect of the world, the bad as well as the good. Had he but said fraud shall be unearthed; I will hear the truth and I will do justice; no law can be sound law which denies this, for fraud vitiates everything, then indeed would he have sustained the dignity of the bench, honored his own name, and attracted the confidence and admiration of the world. The country looked on to see what would be done; the people were breathless and in deep anxiety. On one side was truth and his country, on the other the behests of the party. He fell, and the world pities him.

The conspiracy is successful, the crime is consummated. Hayes will be counted in, but woe unto them who do it, for an indignant people will wipe such a party from existence. I have hitherto stood by the bill in good faith, and I have voted for a recess from Saturday to Monday. The crime was without a parallel in the history of the nation, and I felt the nation should hang her head in shame, put on sack-cloth and ashes, and enter on mourning, and that she might do this thing in decency and order I voted for a recess; beyond this decent requirement I have interposed no delay. I will stand by law, but I will appeal to the people; and I invite my brother democrats everywhere, on every mountain-top, in every valley throughout the land, to denounce this infamy and to condemn the usurper. Let him be known as "Hayes the First"—the first to occupy the seat of Washington by fraud and usurpation. God grant that he may be the last, and if there is virtue left in the land the people will say amen.

Mr. TUCKER. Mr. Speaker, if no gentleman on the other side desires to speak on this question, I would be glad to go on.

The SPEAKER. The Chair was so advised of two gentlemen on the other side desiring to be heard; but as neither of those gentlemen is now in the House, the Chair recognizes the gentleman from Virginia.

Mr. TUCKER. The gentleman from New York [Mr. CHITTENDEN] a few moments ago said that this was a trivial objection. It has come to pass in this era that an objection grounded upon the Constitution of the United States is to be called trivial in this House. Now, I apprehend that any objection looking to the constitutionality of an elector's appointment and the legality of his vote because he was disqualified under the Constitution is one of very grave importance.

Why is a Federal officer made ineligible or unappointable to the office of an elector? It is to prevent Federal influence from operating in the appointment. I care not how trivial the office may be; if a man holds an office under the United States Government, his influence, whether it be greater or less, is brought to bear upon his own appointment and the appointment of those who are associated with him on the ticket

The high commission the other day, among others of its wise decisions, voted 8 in the negative and 7 in the affirmative upon a resolution delaring that "J. W. Watts was then" (on the 7th of November, 1876) "by reason of holding the office of postmaster, ineligible to the office of elector within the express terms of the Constitution." Eight of the members of that commission, all of them republicans, voted down that resolution, taking the extraordinary position, as I understand, that the question of the qualification of an elector relates to the time when he exercises the duty of voting and not to the time of his appointment. That is to say, though the Constitution has provided that no man holding a Federal appointment shall be an elector because of the undue influence he might use in his own election, yet if he only resigns after he has used his influence and before he votes, that is sufficient. In other words you "lock the stable after the horse is stolen." I apprehend that such a construction of the Constitution is wholly untenable. In regard to the election of a Representative it is provided that—

No person shall be a Representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, *when elected*, be an inhabitant of that State in which he shall be chosen.

There is here a clear distinction drawn between the time when the Representative goes into office and the time of his election. There is no such distinction in reference to a presidential elector. The prohibition of the Constitution is:

No Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

It is not shall not be elected, it is not shall not vote, but *shall not be appointed*. When, according to the theory of the commission, was he appointed? He was appointed on the 6th of December. If he was appointed then, he was illegally appointed, because the law of Congress says they shall be chosen on the first Tuesday in November, that is, the 7th of November. So if the time of his eligibility looks to the date of his vote, and that is the day of his appointment, then he was unconstitutionally and illegally elected.

But, sir, look a little further. The English decisions have held, the very latest of them, that wherever a vote is given for a disqualified

person the vote is absolutely nugatory as far as the appointment of that person to office is concerned. There has been a distinction, and that has been the distinction relied on in the Oregon case, as to how far being an ineligible person would avail for the person who got a fewer number of votes; but there has been no distinction on either side of the Atlantic on this point, that the man who is disqualified for the election cannot be appointed if he gets every vote. That is the point.

Now, in this case this man Morrell was appointed, if at all, on the 7th day of November. What was he then. Why, sir, here is the document which was read this morning and which the gentlemen were so averse to have read:

Ulysses S. Grant, President of the United States of America, to all who shall see these presents, greeting:

Know ye that, reposing special trust and confidence in the integrity and ability of Daniel J. Morrell, and on his nomination by the governor of the State of Pennsylvania as delegate from said State, I do appoint the said Daniel J. Morrell a commissioner on the commission authorized to be constituted under and by virtue of the act of Congress to provide for celebrating the one hundredth anniversary of American Independence by holding an international exhibition of arts, manufactures, and products of the soil and mine in the city of Philadelphia and State of Pennsylvania in the year 1876, approved March 3, 1871.

In testimony whereof I have caused these letters to be made patent and the seal of the United States to be hereunto affixed.

Done at the city of Washington this 29th day of April, A. D. 1871, and of the Independence of the United States of America the ninety-fifth.

[SEAL.] U. S. GRANT.

By the President:
HAMILTON FISH, *Secretary of State.*

What right had he as President of the United States to commission Morrell? As President of the United States he had no right to commission anybody but an officer of the United States, for the Constitution so provides. If he were an officer of a corporation, as the gentleman from Pennsylvania [Mr. KELLEY] said this morning, what business had the President of the United States as President to appoint a member of a private corporation? He appointed him under the law of the United States authorizing the President to commission these commissioners of the Centennial. Yes, sir; the centennial job! Gentlemen said it was not unconstitutional; I said it was, but gentlemen said it was not unconstitutional. Then it was constitutional to give the President power to appoint the commissioner. He did appoint him. If he had the power to appoint him, he was made an officer by that law. You cannot get out of it. He is an officer under the law of the United States, wielding the patronage of the great centennial job over the whole of the voters of Pennsylvania in the election in which he was a candidate.

Now, Mr. Speaker, gentlemen say Morrell is not the elector—another man is. Very good. How did he come to be elector? Under the law of Pennsylvania, which is very peculiar, the governor is authorized to declare by proclamation the names of the electors *duly* elected. What does that mean? Legally elected, lawfully elected, constitutionally elected to the office. Now, what does the law further provide? "If any such elector"—"such elector" as my friend from Pennsylvania [Mr. STENGER] said, that is, one duly elected—"shall die." Did any such die? Was Morrell duly elected when the constitution forbade it? Have you and I a right to say a man shall hold the office of elector when the Constitution says "veto"—I forbid it? Can you and I, who are sworn to support that Constitution, make it nugatory by our fiat, and call it a trivial objection to a man to say he is unconstitutionally claiming to elect a President?

[Here the hammer fell.]

If, then, Morrell had no right to be appointed an elector, let me see what right the law gives to the college in such case.

If such elector shall die—

He did not die—

or from any cause fail to attend at the seat of government at the time appointed by law, the electors present shall proceed to choose *viva voce* a person to fill the vacancy occasioned thereby, and immediately after such choice the name of the person so chosen shall be transmitted by the presiding officer of the college to the governor, whose duty it shall be forthwith to cause notice in writing to be given to such person of his election, and the person so elected [and not the person in whose place he shall have been chosen] shall be an elector, and shall with the other electors perform the duties enjoined on them as aforesaid.

Now, did such elector—that is, one duly, constitutionally appointed—fail to attend? Clearly not. Then the contingency upon which the college could elect Boggs did not arise, for Morrell was never duly elected, and therefore was not "such elector" as either died or failed to attend.

This is more clear from the parenthetical phrase in the act "and the person so elected," that is, by the college, ("and not the person *in whose place* he shall have been chosen,") &c.

Now, this shows that Boggs, in order to a valid appointment under this law, must have been appointed in the place of Morrell. The statute contemplated the filling of an office of elector made vacant by a person who had filled it. But Morrell, as I have shown, never filled it; never had title to it. He never held the place. No one could be appointed in *his* place, for he had no place as elector. The statute applies to no such case. Boggs was, therefore, appointed without legal authority, without color of law. He has no title to the place of elector. His vote was, therefore, null and void.

Can this House count it? Dare we, sworn to support the Constitution, recognize the vote of Morrell as an elector, who the Constitution declares shall not be appointed an elector? And can we count the vote of Boggs, whose appointment was made in a manner not directed by the Legislature of Pennsylvania?

Mr. JONES, of Kentucky. I propose to speak not so much to the Pennsylvania case, Mr. Speaker, but to the commission itself.

Mr. JONES, of Kentucky. Mr. Speaker, we have at length arrived at that pass in this contest when words are vain and perhaps silence would better become us in view of the impending solemn result. The stupendous farce is about to close, and we are soon too sadly to realize the truth which we ought to have known before, that in a game of numbers the seven can never take the eight. Never in the history of man have such mighty issues been committed as it were to the toss of a copper or the throw of the dice-box. Indeed, for the democratic party this contrivance had not even the illusion of fortune. It should have been seen by our leaders at the beginning that a sure fatality awaited us and that the doors of this snare were but the portals of death. How it happened that the chief priests of our synagogue, so wise and tried and trusted, should have been inveigled into the acceptance of this intricate scheme—this Pandora's box of evils—now seems perhaps, indeed to themselves, past comprehension. I make no excuse for my condemnation of it now, as I opposed it from the beginning; and I do not intend to reproach the many of our brother democrats who advocated it, as I believe they did it from the purest and most patriotic motives. It was, as was claimed by its supporters, a grand effort for peace and harmony; but it was also, to say the least, a grand mistake. It was a device equally unknown to the Constitution, the laws, and to custom. And why, why was it adopted?

Pardon me, sir, while I recount a brief history. When this Congress assembled, on the 4th day of December last, although we of the democratic party, as well as hundreds and thousands of republicans, believed that Tilden and Hendricks had been elected, yet, in order to ascertain the facts more surely and place them beyond dispute, the Senate and House sent down to the States of Louisiana, South Carolina, and Florida committees to make thorough investigation, and at an expense of near two hundred thousand dollars. These committees pervaded every avenue, every nook and corner; raked those States as with a drag-net; examined thousands of witnesses, and yet, before they had an opportunity to report, this electoral commission was formed to preclude and shut out all this immense and costly testimony. All was for nought. The people's money and the onerous labors of their committeemen were thus thrown away and lost. Both parties united in the appointment of these committees, and the President himself, desirous, as it appeared, to have a fair count of the electoral vote in those States, requested a number of gentlemen to visit them and ascertain the facts. But behold, the wise men at the Capitol, for some reasons perhaps to be developed in the near or far future, took time by the forelock and instituted this most extraordinary mode of settling the greatest question ever known among men. In it they placed the balance of power in the judiciary, some of them presuming that party spirit had not invaded that last resort of justice and civil liberty.

And now, sir, what have we seen? This commission has failed to do the very thing for which it was appointed. If the electoral bill settled any question at all, it was that the President of the Senate could not count the votes of the States; it was settled that his duty was simply to open the certificates and the votes were then to be counted in such manner as the two Houses determined. It was settled also that the two Houses, as shown by their previous appointment of their committees to investigate the facts as to which were the real votes of those States, had the power to go behind the certificates and the reports of the returning boards, and by this bill the two Houses delegated their powers to the commission. It was, therefore, intended by the very act which gave it its existence, the law of its being, that it should look beyond or go behind the certificates and examine the evidence in order to ascertain what were the the true and legal votes of those States and which were the constitutional and legal electors. The spirit and letter of the bill made this duty imperative on the commission.

Why, sir, if these had not been the objects and this the intention of the bill we might as well have allowed the President of the Senate to stand at that desk and open the certificates, count the votes and declare the result. And as it has turned out it would have been far better if he had done so. It would have saved us much valuable time, much useless argumentation, and a vast amount of anticipation or apprehension. It would have saved us more, sir. It would have saved the country the mortification and humiliation of seeing the highest court of the Republic, indeed, of all Christendom, yield to the spirit of party, drag the ermine in the dust and become a scorn and a by-word on the lips of honest men. The majority of this commission have violated their oaths and ignored the very intention of those who created it, and by every law, human and Divine, ought to be broken. Will it be told me, sir, that if you or I or this House appoint an agency or commission to do certain acts under an express law, published and known to all parties concerned and to the world, that if such agency or commission should violate that law or fail to carry it out, we would be bound to sustain it or abide its unjust acts or decisions, that we could not abrogate its authority or extricate ourselves from the abuse of its powers? There is no law, legal or moral, that would compel our obedience or acquiescence.

Sir, I hold that this House would be perfectly justifiable in resort-

ing to every legal and constitutional means to annul the decisions of this odious commission and break it to atoms. Sir, have we created a monster to tear out our vitals and ourselves powerless to resist? Have we made a vise to crush us to death and shall we not stretch out a hand to defend our life? Has it come to this? Shall liberty die without a struggle? Shall the rights of the people be bartered away and the gamblers' law be bowed to and acknowledged supreme? Have men been "duped" and shall they say dupe on dupe ever and we will submit, your willing victims? Is that the manner in which the representatives of American freemen shall act now at the threshold of another century of liberty and glory? God forbid! Forbid it my countrymen! Men should not alone consider their personal honor in this great conjuncture, but remember that they have a great trust to perform for the people; they are fiduciaries of the rights of millions.

I, sir, for one, protest in the name of the brave men I represent, in the name of right, justice, and law, against the consummation of this monstrous fraud and villainy, and I will resist it to the end. I would still turn to the constitutional mode of electing the President and Vice-President. If we can arrive at no election by the people, the Constitution provides the manner of electing both officers. That points out our plain path of duty. And now, sir, even now, let this commission be broken by the resignation of our appointees, or any one of them, who would immortalize himself by the act. Their places, or his place, could not be filled by the terms of the bill, there being no provision for filling a vacancy occasioned by resignation. The commission could not proceed without a full board. Hence, they would be scotched and killed. Let this House then proclaim that there has been no election by the people and proceed at once to elect the President. Follow the law, do right, and leave the rest to God and the country.

But, sir, it may be this dread ultimatum of treachery on the one side and submission on the other may soon be made palpable and irrevocable. It may be we shall soon have inaugurated a man as President of the United States who was never elected, but repudiated by a majority of the States and by a popular vote of more than three hundred thousand men. And to whom, sir, will he be chiefly indebted for his office? Look below us, sir, now confined and guilty in the cellars of this Capitol instead of being at hard labor in some penitentiary for their crimes, and you can see the four creatures, as you have seen them at that bar, two white men and two negroes, who silenced the voice of eight thousand freemen of Louisiana, the legal majority for Tilden, and swore away in a lie that will rankle forever the State for Hayes. These men are our prisoners, but they are also our masters. "To the victors belong the spoils," and the incoming republican President, if he does come, should make these criminals the chief functionaries of his administration. The names of Wells and Anderson and Casanave and Kenner should emblazon the shield of his power.

Sir, if these things shall come to pass with our acquiescence or without our persistent and united efforts to escape the doom, let our men and women go mourning through the streets, and as this presidential *cortege* shall ascend the Avenue let the castles of freemen be draped in black; yea, sir, let the sun go back as on the dial of Ahaz. Let law and order be trampled under foot! Let the veiled goddess be no longer blind, but with open eyes hold the scales and with crafty fingers load down the one side with fraud and corruption that will kick the beam and throw truth and justice to the winds. And let Mercury, the god of thieves and pickpockets, who began to steal the day after his birth; who stole the oxen of Admetus, the quiver and arrows of Apollo, robbed Neptune of his trident, Venus of her girdle. Mars of his sword, and Jupiter of his scepter; let this lying, thieving god be enthroned in our temples of law and justice to teach senates and courts their duty.

Let the Constitution and the laws be no more held up as the guardians of republican liberty; indeed, let liberty herself step down from her capitolian height, go and draggle her robes in the dust and mud of the Avenue, and fly shamed and abashed to the forests and the mountains.

What power in what time shall retrieve the wrongs and restore the rights of an insulted and outraged people? May God save the state and the nation!

[Here the hammer fell.]

Mr. HEWITT, of New York. Mr. Speaker, on Saturday last, in trying to fix the measure of the responsibility of the great wrong which has been perpetrated upon the American people, I found it necessary to trace the declarations and the position of the honorable gentleman from Massachusetts, [Mr. HOAR,] who, I am sorry to say, I do not now see in his seat, although I informed him that I proposed to discuss this matter further. In trying to fix this responsibility I was compelled to say that his declarations upon the committee and upon the floor of this House were not in accordance with his action upon the commission. He met that charge not by argument or even denial. It was met by confession and avoidance, just as when you come upon the nest of the partridge you will find that the parent bird goes through a series of gyrations, rolling over and over, until your attention is withdrawn away from the nest of the young, and then, whirr! he is gone. So in this case. The honorable gentleman from Massachusetts reached over, one week in advance of his elevation from this Chamber to the other end of the Capitol, and, seizing the mantle of the great expounder and defender of the Constitution, he tried to eke out—reversing the usual process—he tried to eke out the fox's skin with the lion's hide. But even the mantle of Webster, which the honorable gentleman from Massachusetts seeks to appropriate before his time, is not broad enough to cover deception, misrepresentation, and hypocrisy.

My charge was that on the floor of this House he had stated that it was competent for the commission to take proof; that sitting upon the commission he had brought in a resolution and by his casting vote had the order entered that no proof of fraud should be taken. How did he meet this charge? He says:

> It was perfectly agreed that the commission should determine how far they could go in the way of taking proof.

It was so agreed. I never asserted otherwise. What I asserted was that when that question came to be passed upon we had reason to expect from him a vote in favor of taking the proof against fraud. Here is the language he used:

> How can that man be said to compromise who, having a just and righteous claim, asserts it, maintains it, enforces it by argument and *proof*, yielding no jot or tittle of it to a tribunal so constituted as to insure its decision in accordance with *justice and righteousness*.

Now, let us see what kind of justice and righteousness he believes in. I find that Mr. Commissioner ABBOTT offered the following resolution:

> *Resolved*, That testimony tending to show that the so-called returning board of Louisiana had no jurisdiction to canvass the votes for electors of President and Vice-President is admissible.

How do we find the honorable gentleman from Massachusetts recorded? In the negative. He would not take proof that the returning board had no jurisdiction to canvass the votes. Is that justice and righteousness? Again, I find Mr. Commissioner ABBOTT offering the following resolution.

> *Resolved*, That evidence is admissible that the statements and affidavits purporting to have been made and forwarded to said returning board in pursuance of the provisions of section 26 of the election law of 1872, alleging riot, tumult, intimidation, and violence at or near certain polls and in certain parishes, were falsely fabricated and forged by certain disreputable persons under the direction and with the knowledge of said returning board, and that said returning board, knowing said statements and affidavits to be false and forged, and that none of the said statements or affidavits were made in the manner or form or within the time required by law, did knowingly, willfully, and fraudulently fail and refuse to canvass or compile more than 10,000 votes lawfully cast, as is shown by the statements of votes of the commissioners of election.

How is the honorable gentleman from Massachussetts recorded on that offer to prove fraud as to the very affidavits upon which the returning board made up their returns? He stands recorded in the negative. And he comes here and talks of "justice and righteousness!" Ah! Mr. Speaker, he found a new reason for it. The commission had no "judicial powers!" That is the allegation—that they had no judicial powers. What did he say upon the floor of this House?

> I think justice and righteousness are compromised when they are submitted for their decision to force. They are compromised when they can only be maintained by doubtful, disputed exercises of power. They never can be compromised when they are permitted to stand before a tribunal *clothed with judicial powers*, surrounded by judicial safeguards, invested with legal authority by the law-making power of the country.

Ah! no judicial powers except to do—what? As they did in the Oregon case. They take judicial notice. They allow evidence to come in to prove that the seal may or may not be the authentic seal. They allow proof that a man may or may not have held a commission from the President of the United States. But when there is an allegation of fraud, where then is the decision in accordance with justice and righteousness? Then there is no judicial power in this land to prevent this fraud. [Applause.]

Now, Mr. Speaker, I would not have said so much if the position of the honorable gentleman in this matter had not been on all occasions the great champion of "justice and righteousness." In that memorable trial of W. W. Belknap he uttered at the close of his speech words that will endure while the English language lasts. I have already heard the youth of this country repeating from the platform that magnificent peroration, worthy of Junius or Tacitus for its denunciation of fraud. Shall we now tell these ingenuous youth that when the author of these words of indignant virtue was trusted as a judge, as a high commissioner, with the destiny of the American people in his hands, he voted not to receive evidence of fraud; and planting himself all the time upon hollow professions of devotion to "justice and righteousness."

Well, Mr. Speaker, what then? I ask my democratic friends—deceived and defrauded as we have been—I ask them whether we shall meet bad faith with bad faith. I answer that never ought the proud record of the democratic party to be sullied by a single act which will make any man blush. I went on the committee that framed the electoral bill, as the Speaker will bear me witness, against my will. I said I knew whatever I might do would be subjected to misconstruction. But when I took my place there I ceased to be a partisan; I tried to become a patriot; I tried to perfect a measure of justice and conciliation and peace for the suffering people of this country. We perfected it. We brought it here. It has been approved in this House. It has been approved by the country. And now shall we stop in this effort toward a solution of the greatest problem which has ever been presented to a free people because we have been met by fraud and injustice on the other side of the House? I say no! forever no! Let

us give to the people of this country and to the world an example that even under the greatest provocations to resistance we know still how to trust in the providence and justice of God, and in the disposition and determination of this people to vindicate the truth and do justice in the end. [Applause.] We have still the ballot-box, thank God. We have still a free press. We are still a free people. No justification for revolution, no justification for civil war, can ever arise among a free people until they are deprived of their remedy at the ballot-box.

Mr. O'BRIEN. How long will you be free if Hayes comes in?

Mr. HEWITT, of New York. To that remedy I propose to resort. And if that remedy shall be found in vain, though I am the humblest of democrats and most feeble of citizens, still I will be ready in the last event to resort to arms, if necessary, and follow in the crusade against injustice, oppression, and tyranny. [Applause.]

[Here the hammer fell.]

Mr. O'BRIEN. Now is the time to do it.

Mr. CATE. Will the gentleman allow me to ask him a question?

Mr. HEWITT, of New York. Certainly.

Mr. CATE. You have pronounced the action of the joint high commission infamous, a gross betrayal of the confidence reposed in it, a perversion of right and justice. Now, do you declare it the duty of democrats to assist in the speedy consummation of what you pronounce an outrage?

Mr. HEWITT, of New York. I will answer that question if the House will allow me to do so. I say that I will submit to this wrong now, because we took the chances of wrong when we passed the electoral bill. We entered into a solemn agreement, and until the bill is repealed we are bound by it. To resist it is to bring on anarchy, because the Constitution makes no provision for a failure to count, and anarchy among forty millions is a contingency which no statesman will ever contemplate as a possible solution for political wrongs.

Mr. CATE. I deny it, and assert that it is the duty of democrats to oppose it by every means in their power. It would be cowardice to do otherwise.

Mr. HEWITT, of New York. When Jefferson, the great founder of the democratic party, was asked what a gentleman should do under the provocation of a great wrong—not so great as this, it is true, for there is not a more grievous one in all history—he took down the metrical version of the Psalms and read the following good old-fashioned advice from Tate and Brady, all of which I commend to the republican party, and the last verse especially to my democratic associates:

1. Lord, who's the happy man that may
To Thy blest courts repair,
Not, stranger like, to visit them,
But to inhabit there?

2. 'Tis he who walketh uprightly
Whom righteousness directs,
Whose generous tongue disdains to speak
The thing his heart rejects.

4. Who vice in all its pomp and power
Can treat with just neglect,
And piety, though clothed in rags,
Religiously respect.

5. Who to his plighted vows and trust
Has ever firmly stood;
And though he promise to his loss
He makes his promise good.

Mr. DAVIS. Mr. Speaker, the gentleman from Virginia [Mr. TUCKER] has alluded to the fact that gentlemen on the other side of the House regard it as a trivial matter and a technical one that votes shall be opposed here upon the simple ground that they are cast by persons declared by the Constitution ineligible to be appointed as electors. I think, sir, that we have fallen upon evil times when gentlemen can declare openly that anything incorporated in the Constitution by the fathers of our country is trivial. That Constitution declared that—

No Senator or Representative or person holding an office of trust or profit under the United States, shall be *appointed* an elector.

That position clearly and by every rule of construction applies to the *time* of *appointment* and not to the time of casting the vote. That is so plain that I am astonished that any man with a legal mind can raise any question or doubt about it. But is it trivial? Is it technical? Was there not some reason for that provision? Mr. Speaker, there was nothing put in vain by the founders of the Government in this instrument called the Constitution. What was the purpose of it? Why, it was to prevent influences being exerted by Federal office-holders to control elections in the States and thus secure an election of a President by improper influence. And was it not wise? Why, sir, they thought so, and they thought so at a time when there were but few Federal office-holders. Here and there was a customs officer or postmaster. If it was wise then, how infinitely wiser now, when these officers are scattered by thousands over the land. I say that to charge that it is merely technical to exclude these votes is to charge our fathers with folly and want of wisdom. There was nothing they did that was not wise in this regard. We now have the country filled with unnecessary officers—many having no duties to perform but to receipt for their salaries and work for the republican party. Mr. Johnson, Commissioner of Customs, in his report for 1874, says:

By referring to a list of custom-houses in the United States, exhibiting the transactions and cost of each, it will be found that there are many doing little or no business, but which are maintained at considerable expense of salaries to officials and the construction and repair of buildings, with the usual incidentals of such establishments. In some instances it appears that there are no duties to be performed worth mentioning, aside from the disbursements of salaries, and that the official papers are limited almost wholly to accounts of this character. Ports of this kind have been created in times past without the warrant of necessity, while others have dwindled from places of comparative importance to this condition through changes in the currents of commerce. By the abolition of such districts and incorporating them with others, large sums may be saved to the Government, but in most instances legislation will be required for this purpose.

I have here a statement which I submit, showing the expenses of the Government in the last three presidential years. It is as follows:

STATEMENT NO. 4.

Comparison of expenditures of public money on account of miscellaneous and Indian appropriations during the years of the last three presidential elections, and the next prior and next subsequent to each election respectively, showing invariably an increase of expenditures in each year of presidential election over the year immediately prior, and decrease in year immediately subsequent thereto:

Fiscal year.	*Miscellaneous expenses.*		
1863–'64	$27,572,216		
Election, 1864–'65	42,989,383	Increase,	$15,417,167
1866–'66	40,613,114	Decrease,	2,376,269
1867–'68	53,010,000		
Election, 1868–'69	56,474,000	Increase,	3,464,000
1869–'70	53,237,000	Decrease.	3,237,000
1871–'72	60,984,757		
Election, 1872–'73	73,328,110	Increase,	12,343,358
1873–'74	69,641,593	Decrease,	3,686,517

See Finance Report of the United States Treasury, year 1875, page 16.

Fiscal year.	*Indian expenses.*		
1863–'64	$2,629,975		
Election, 1864–'65	5,059,360	Increase,	$2,429,385
1865–'66	3,295,729	Decrease,	1,763,634
1867–'68	4,100,682		
Election, 1868–'69	7,042,923	Increase,	2,942,241
1869–'70	3,407,938	Decrease,	3,634,985
1871–'72	7,061,728		
Election, 1872–'73	7,951,704	Increase,	889,976
1873–'74	6,692,462	Decrease.	1,259,242

See Finance Report of the United States Treasury, year 1875, page 16.

Increased expenses in the election year 1864–'65 over 1863–'64	$17,846,552
Increased expenses in the election year 1868–'69 over 1867–'68	6,406,241
Increased expenses in the election year 1872–'73 over 1871–'72	13,233,329
	37,486,122
Decrease in expenditure in the year 1865–'66 less than election year 1864–'65	4,139,900
Decrease in expenditures in the year 1869–'70 less than election year 1868–'69	6,871,985
Decrease in expenditures in the year 1873–'74 less than election year 1872–'73	4,945,759
	15,957,644
Receipts from internal revenue for fiscal year ending June 30, 1868	191,087,589
Receipts from internal revenue (election) for fiscal year ending June 30, 1869	158,356,460
Receipts from internal revenue for fiscal year ending June 30, 1870	184,899,756
Receipts of election year less than the year 1867–'68	32,731,129
Receipts of election year less than the year 1869–'70	26,543,296
In the last two years, during Mr. Bristow's administration of the Treasury Department, internal-revenue receipts increased	14,000,000

It will be seen by this statement that the expenditures of the Government in the last three presidential years have been increased largely over and above the expenditures of the preceding and succeeding years, the excess amounting in the aggregate to nearly $38,000,000. Why is this so? Because the revenue officers and the other agents of the Government, the marshals and all the machinery of the Government all over the land, instead of being employed in the interests of the public, were employed in the interests of the party; the example being set by the Secretary of the Interior who sits here in Washington and instead of discharging his duties as a public servant is working in the interests of a party. So much for that.

I do not, sir, propose to join in the denunciation of the action of the electoral commission. I desire to say only in regard to it that they will have to answer to the country how it was that in the Oregon case they could admit evidence and in the Louisiana case exclude it? They will be asked the question by the country how it was that in the Oregon case they could ascertain that Watts received 1,000 more votes than Cronin but could not in the Louisiana case admit similar evidence to show that eight honest democratic candidates had received more votes than eight Hayes candidates, counted in by a returning board with five clerks, three of whom had been indicted for perjury and another indicted for another crime, Littlefield, being the fifth; and if he tells the truth it was a board of corruption, and if he does not tell the truth it does not lie in mouths of the other side to say that he does not, for he is one of their own office-holders. How is it that in the Florida case they could not find that four honest democratic electors had received more votes than a convicted felon on the Hayes ticket? It will be for them to answer these questions to the country, and the country will ask them. But we have submitted the count to the electoral commission at a time when we were in danger of anarchy, of strife, and of civil commotion. The Presidency is claimed by Mr. Tilden and his friends, and by Mr. Hayes and his

friends. The commission have not decided wisely as Solomon did when two women appeared before him, each claiming to be the mother of the child produced before him. Each claimed the child, and they went to Solomon for judgment, and he said "Let the child be divided between you." But the true mother, with the maternal instinct of the mother said, "Not so; let her take the child." And so in this case, rather than that civil liberty shall perish and law and order die, we say to you that if it be so that this child must be divided or given up to you, it shall not be destroyed, it shall not be divided, take the child, but you are not the true mother, you are the false, fraudulent claimant; take the child, we commit it to your foul bosom, but we will watch you and guard it, and if any attempt is made to mutilate it, or destroy it, or dwarf its fair proportions, we will with the courage of the true mother spring to its rescue, and you shall be destroyed and not it.

[Here the hammer fell.]

Mr. TOWNSEND, of New York. I came into this House at the beginning of this Congress having very little legislative experience. When this question of counting the electoral vote came up I supposed that we were bound to follow the Constitution. But over upon the other side of the House were gentlemen of more experience than myself, who said: "No; we have have got a new device; we have got what a Yankee would call a 'machine,' that is going to work out all that the Constitution could work out, and is going to give us peace, going to give us harmony; we will enact this law against the minority of the House, and thus gain the honor of being the saviors of the country, the great constitutional party that knows how to defer to the interests of the country."

Well, we passed the law—we put it to work. And now I propose to ask the gentlemen upon the other side this question: What did you mean by this law? Was it upon the principle of dividing the game between the white man and the Indian: "I take the turkey and you take the owl, or you take the owl and I will take the turkey?" Was it that if this commission decided in fav or of Tilden we will loyally, faithfully, under our oaths, stand by the decision; but if it counts in Hayes we will howl and resist? Is that the way honorable men discharge public duties? Is that the fidelity with which this cup was offered to our lips?

Ah, there has been fraud, they say. Now, sir, I know a case exactly in point that occurred in our State. We had in that state one of the greatest jurists that ever sat upon the judicial bench; it was Martin Grover. They had a great question before the court of appeals of which he was a burning and shining light. My old legal preceptor, my new colleague from New York, [Mr. FIELD,] came up there in charge of another distinguished citizen of my State, William M. Tweed. That individual had been adjudged to twelve years' imprisonment by a court of New York, upon an indictment for several misdemeanors in one indictment. The court of appeals in the discharge of their duty decided that that judgment was illegal for the period exceeding a single year. Charles O'Conor, a distinguished name, one of those who have been engaged in the discussion before yonder tribunal, wrote letters and made speeches denouncing the court of appeals as corrupt, as perjured, as scoundrels.

Judge Grover, who used to live in Allegany, in the western part of the State, said that out in Allegany when a man was beaten in a suit it was understood that there were but two things that he could do. If it was a case where he could appeal, then he might appeal; but if it was a case where he could not appeal, then he had the right to go down to the tavern and swear at the court. [Great laughter.] Now my friend from Kentucky, who has spoken this morning, [Mr. JONES,] and my friend from New York, who has spoken this morning, [Mr. HEWITT,] have both exercised that privilege, not "down at the tavern," but in the Hall of the highest legislative body in this country.

That, sir, is not the feeling of the people in this country. They know that tribunals may decide differently from what men in the heat of party excitement, in the heat of the excitement that litigants put on upon going into court—they know that tribunals may decide differently from what political partisans or litigants believe to be right. But they have faith in their tribunals. And this country will have faith in this tribunal. Whether they have decided right or wrong, I call upon the other side of the House, in the name of the country, in the name of the Constitution, in the name of patriotism, in the name of honor and of manhood to do what you would have required us to do in case the decision had been against us.

Mr. BEEBE. Mr. Speaker, realizing as fully as any other Representative upon this floor can realize the importance of the issues presented, and the nature of the crisis before us, I feel called upon, in justice to the constituency which I represent, to raise my voice upon this floor in protest against the iniquitous fraud that is now being attempted to be perpetrated upon this nation.

When this electoral bill was presented from the joint committee for the purpose of devising means to adjust this question, I was not here, not then having returned from my duty upon a committee of investigation in the State of Louisiana. But when I saw the report of that committee, signed by and bearing the names of all the members of the joint committee, save one only; when I read in it provisions explanatory of the intent and meaning of the bill, I thought I had a right to take the statement made by the committee as to the effect of the bill they had themselves devised.

That committee say:

The substance of the bill embraces * * *

Third. Provisions for so-called double returns from a State; that such conflicting returns and papers shall be submitted to the consideration of a commission, composed of equal numbers of members of the Senate and of the House of Representatives and of the Supreme Court of the United States; that this commission shall be organized and sworn and have power to consider and decide, according to the Constitution and law, *what is the constitutional vote* of the State in question.

Not what is the *fraudulently-declared* vote of the State, but what is the *constitutional vote* of the State. This it was the duty of the commission to consider and decide. They have not done it.

Again, the committee say:

The Constitution requires that the electoral vote shall be counted on a particular occasion.

Now mark:

All will agree that the votes named in the Constitution are the constitutional votes of the States, and *not other*.

Can language be more explicit than this? Not the declared vote, not the fraudulently-ascertained vote, but "the constitutional votes of the States, and not other."

And when they have been found—

Not by Madison Wells, but by the commission—

When they have been found and identified there is nothing left to be disputed or decided; all the rest is the mere clerical work of summing up the numbers, which being done, the Constitution itself declares the consequence.

We did not need a commission to declare the consequence. When we ascertain and identify and decide what is the constitutional vote the Constitution of the United States declares the consequence.

This bill, then, is only directed to ascertaining, for the purpose and in aid of the counting, what are the constitutional votes of the respective States.

Does the Constitution spread its broad mantle over and become the ægis and protection of fraud? No; we expected this commission to strip the mantle from fraud, to ascertain the fact, and to declare the true, the lawful, the constitutional vote. They have been derelict in this duty, and history will deal with them in terms of no uncertain denunciation for this dereliction.

Again this report says:

However important it may be whether one citizen or another shall be the Chief Magistrate for a prescribed period, upon just theories of civil institutions it is of far greater moment that *the will of the people*—

Not the will of Madison Wells and his fraudulent board of returning officers sanctified by a commission raised by the laws of the country, but—

the will of the people lawfully expressed in the choice of that officer shall *be ascertained* and *carried into affect* in a lawful way.

Again the committee in reporting this bill say:

But we have still endeavored to provide such lawful agencies of decision in the present case as shall be *the most fair and impartial* possible under the circumstances.

Talk of fairness where you shut God's light of truth out of your investigation! I do not wonder that Mr. Commissioner HOAR voted to exclude evidence. He did not need the evidence.

> When vice has marked her man and stamped the gait,
> He cheats me not; I put him down to fate;
> Frankness has still some plea. But perish those
> Who act the enormities their tongues expose."

Sir, Mr. Commissioner HOAR during his service in this House in a former term gave his assent and indorsement to a report of a committee of the House in which he said:

In the State of Louisiana there is a governor in office who owes his seat to the interference of the national power, which has recognized his title to his office, not by reason of any ascertainment of the facts by legal process, but has based its action solely on the illegal order of a judge. In the same State there is a Legislature, one branch of which derives its authority from the same order, the other being organized by a majority who have been established in power by another interference of the National Government—

Now mark—

and which majority derives its title, *not from any legal ascertainment of the facts but from the certificates of a returning board which has misconceived and exceeds its authority.*

This was not then a legal ascertainment of their right. And we are told that men shall vote as electors with reference to whom there has been no legal ascertainment of their right. I say (and the point is one from which neither the gentleman from Massachusetts nor any other man can escape) that if that other branch of the Legislature which owed its existence to the unlawful action of the returning board had no legally ascertained right or authority, then, inasmuch as this electoral college derived its authority from the same source, there has been no *legal ascertainment* of its right to justify it in its claim to cast the electoral vote of Louisiana.

But, sir, I did not stop at this point in my investigation as to what would be the province and the power of this commission. I found that Congress had decided a few years ago that certain States should be excluded from participation in the election of a President. I found that this resolution had been sent to President Abraham Lincoln for his approval, and in returning it he said:

The joint resolution entitled "Joint resolution declaring certain States not entitled to representation in the electoral college" has been signed by the Executive, in deference to the view of Congress implied in its passage and presentation to him. In his own view, however, the two Houses of Congress convened under the twelfth article of the Constitution have complete power—

To do what?

to exclude from counting all electoral votes deemed by them to be illegal.

Now here we have a direct and positive assertion in a state paper emanating from a President of the United States who has always been understood to be good authority with the other side of the House, that the two Houses of Congress have power not only to ascertain what are *true* and *false* votes but to *exclude* the false and count the true. Now gentlemen tauntingly deride and laugh when we say on this side of the House that we trusted to their faith and that they have deceived us. Be theirs the lasting honor and the lofty dignity of the lie; be ours the humble humiliation of the dupe. I am willing to accept the position they assign us, and can afford to bear their taunts.

But again, Mr. CONKLING, whose voice was significantly silent in the Senate Chamber the other day when the vote was taken upon indorsing the finding of the commission in regard to Louisiana, said with reference to the Sherman resolution a few years ago:

> But I go further than to maintain the naked power of Congress to inquire. I insist that we can utilize the result of the inquiry, and employ the facts in our action upon *counting or refusing to count* electoral votes for President or Vice-President.
>
> * * * * * * *
>
> To ascertain and make record of the facts I will vote for the resolution. This alone will be wholesome; and I will vote for it also for *the use we may make of the facts in counting electoral votes* and in determining any other proceeding which may come within our province.

Now, sir, that was right directly in the line of the argument upon which the committee which went to Louisiana, with Mr. HOAR at its head, went into the inquiry a few years ago.

Another committee has been sent from each House of Congress. For what purpose? For the mere idle purpose of satisfying curiosity in Congress? By no means; nor did the country so understand it.

When the election closed in November last disputes immediately sprung up. The democratic party said "Mr. Tilden had carried Louisiana and Florida." The republican party then said: "While you may have scored a majority of the votes polled, you did it through violence, intimidation, and fraud, and the canvassing board has set aside and rendered nugatory that violence and fraud." We, on the other hand, replied that the returning board had been guilty of gross and outrageous fraud. Here was the issue made up. This issue we sent to this commission. They have told us they have no jurisdiction. Then I say we have the right to find a tribunal that has jurisdiction, and that tribunal having jurisdiction is the one to which I shall lawfully take my appeal—the great tribunal, which next to that which governs all nations is all potent in this country of ours, and to that tribunal we take in disappointment our appeal.

We remember when the Jacobins of France, in their heinous, horrible burlesque of liberty and all that is sacred, set up a naked courtesan for their worship they survived in power but a few short weeks. So we say to the other side that, having attempted to deify fraud, having attempted to vitalize with the living soul of truth the putrid carcass of a lie, the people will condemn your action, will drive you from power, and visit on you that scorn and contumely which your fraud, your outrage, your violence of justice so well merit at their hands. [Applause.]

Mr. VANCE, of Ohio. I yield to the gentleman from Illinois the time which I am allowed.

The SPEAKER. For how long?

Mr. VANCE, of Ohio. I yield my whole ten minutes.

Mr. CAULFIELD. Mr. Speaker, I do not intend to occupy the attention of the House at this time with a discussion of the question now before it, but I rise by the courtesy of the gentleman from Ohio for the purpose of asking that resolutions from my constituents at home addressed to myself and to the other members from the city of Chicago shall be read, and I send them to the Clerk's desk without now committing myself one way or the other for or against the final conclusion of those resolutions. I occupy, however, the position of protesting by all constitutional modes against the decision of the electoral commission, by which it excluded evidence of fraud, silencing the real voice of the people, in favor of an usurper who claims the presidential office without the slightest semblance of constitutional right and by the fraudulent devices of the villains comprising the returning boards of some of the southern States.

After it is read, I propose then to yield what remains of my time to to my friend from Ohio, [Mr. POPPLETON.]

The Clerk read as follows:

CHICAGO, *February* 24, 1877.

Hon. B. G. CAULFIELD, C. H. HARRISON, JOHN V. LE MOYNE,
Washington, D. C.:

At a meeting of the democratic city executive committee of Chicago, consisting of one hundred and twenty members, held this afternoon, the following resolutions were adopted and directed to be sent you:

"Whereas the electoral commission has disappointed the just expectations of the country, in having persistently refused, by a majority of one, to receive and examine evidence in regard to the frauds perpetrated in Florida and Louisiana, in the returning and certifying of the electoral votes of those States, although the commission had full power under the law and was bound by the practice and and precedents established by Congress to receive evidence as to the truthfulness and validity of the electoral votes;

"And whereas the electoral commission, having authority to hear the evidence and decide, has presumed to decide without hearing the evidence: Therefore,

"*Resolved*, That the findings of the said electoral commission, based upon mere hollow forms and technicalities, and not upon the truth and the facts, are not entitled to the approval and the moral support of the American people.

"*Resolved*, That the inauguration of any man as President whose title to the office is not clear and unquestioned, but tainted with fraud and befouled with crime, would, after the first flush of success, cover with shame and fill with remorse the party and the men who had contributed to its consummation; it would be a great national calamity, disgracing the nation in the eyes of the world and bringing derision and contempt upon our system of free popular government.

"*Resolved*, That it is the duty of Congress to take such action as will secure a new election by the people at an early day, not later than November next.

"*Resolved*, That BERNARD G. CAULFIELD, CARTER H. HARRISON, and JOHN V. LE MOYNE, the Representatives in Congress from the city of Chicago, be requested to use all honorable and lawful means to secure the object contemplated by these resolutions."

P. H. SMITH,
Acting Chairman City Executive Committee.
H. F. MERRITT,
Secretary City Executive Committee.

Mr. POPPLETON. Mr. Speaker, I do not rise for the purpose of discussing this question at any length. In the National Republican of this morning I find a telegram from the home of Governor Hayes, giving an account of a speech delivered by him on Saturday night last, and as an evidence of the fearless bravery and profound statesmanship of that would-be, returning-board President, I send it to the Clerk's desk to be read as a part of my remarks. [Laughter.]

The Clerk read as follows:

FREMONT, OHIO, *February* 25.

Governor Hayes arrived here unexpectedly last evening, and an impromptu reception was given him. He was introduced by General Buckland, who said:

"FRIENDS: I have the pleasure of introducing our President-elect, as we believe."

Governor Hayes said:

"FRIENDS AND NEIGHBORS: The manner in which I am introduced makes it rather easy for me to speak without embarrassment, but we had better stick to the old title until we are sure of something new. In these times of uncertainty we are often disappointed. The good news of to-day is often dispelled by the evil news of to-morrow.

During the few months since the 7th of November I have schooled myself so as not to be very much down nor very much up,

[Laughter.]

but to try and keep as near the even line as possible. This kindly meeting this evening I do not take so much as honoring me as a congratulation upon the manner in which the strange and peculiar question is now being settled. No other country in the world could have endured such a struggle without suffering lasting calamities. In the event of remaining among you for the next two or three years, I will attend the next pioneer meeting and bring a bundle of letters and notes, many of which I am constantly receiving, such as curiously drawn sketches of knives, daggers, and revolvers.

But I have not lost much sleep from any of them yet.

[Laughter.]

One of the most amusing was received this week. It was a knife about two feet long, one edge hacked like a saw, probably for sawing the bone, the other side for cutting the flesh. This was wrapped in several thicknesses of paper, and inside was a note, as follows:

This is the knife with which the editor of the Capital was to assassinate you with as you went from the White House to the Capitol. It was taken from his pants while he was asleep.

[Great laughter.]

Well, friends, I think I have talked long enough. As I am in the business of shaking hands, I would say that I am enjoying excellent physical health, and if any of you wish to shake hands, I will be glad to do so.

[Laughter.]

Mr. CONGER. Was the knife sent with the communication?

Mr. POPPLETON. The gentleman from Michigan cannot change the orthodox speech of his party, just read. [Laughter.]

Mr. HOAR. Mr. Speaker, I am told, while I was out of the House this morning the honorable gentleman from New York, [Mr. HEWITT,] much meditating on his latter end, uttered a posthumous speech to the preparation of which he had devoted the Sabbath. I desire to do that gentleman the justice to say that he gave me full notice he intended to renew the debate this morning, and it was an accident on my part which deprived me of the pleasure of listening to him.

I have heard read by the kindness of one of the reporters the remarks which he made, and they seem to me to require but one word in reply. He undertakes to say from a sentence uttered by me late in the debate on the electoral bill, in which I was urging my republican associates to accept it, and in which I said that a man who appeared before a tribunal with a righteous cause, and maintained it, and asserted it, and enforced it by argument and proof and submitted it could not be said to compromise it, that I had pledged myself in advance to a determination of the most important question to be submitted to the commission. He inferred an expression of opinion on my part that the proof which was offered and rejected before the electoral commission was competent and proper. Now to that charge I reply there was and is proof which in my judgment, and in the judgment of the commisssion as I understand it, the two Houses when they meet to witness a count or count an electoral vote can properly receive. But I assert that that gentleman had the fullest means of knowledge, by three days' companionship with me on a committee where that matter was constantly discussed, that the right under the power of being present at a count to go into the ascertainment of the fact who had been lawfully elected was utterly denied, and on the contrary that that power belonged to the States, and in proof of that I refer to the language of the bill; I refer to the unmistakable utterance of the Senator from Ohio in the Senate; and I refer to the knowledge of my republican associates on that committee.

If the gentleman from New York [Mr. HEWITT] be a sane man with ordinary intelligence, it is utterly incredible that he should have understood any such thing from my position and that he should

not have understood exactly the contrary. But, Mr. Speaker, take him upon his own story. See where he leaves himself. He does not deny that he knew that the republicans in the Senate went into that electoral commission on the understanding that that power was denied by the republican party, and that the question whether it existed or not was to be a great question strenuously debated before the commission.

Mr. HEWITT, of New York. Governor MORTON says directly the reverse.

Mr. HOAR. Governor MORTON was attacking the bill; and his position was denied by every friend of the bill on both sides in the Senate; denied by Mr. FRELINGHUYSEN, denied by Mr. THURMAN; and he knew that the republican party here never would have gone into it on any other understanding; and he knew that if I was giving any human being private or other assurances of a different purpose on my part I was committing an act of infamy to which that of Benedict Arnold only would have afforded a just comparison.

Now what does he say—he, the leader of a great party, intrusted with its interests, intrusted with its leadership? That in opposition to every public utterance and assurance which came from the republican party he went into it because he had got the assurance of some scoundrel that it would come out all right! A pretty gentleman to stand up and make charges of this kind in the face of the American people. Sir Henry Clinton might as well have ordered the British forces back to England in the midst of the Revolution and assigned as a reason for having done so that he had a private promise from Benedict Arnold that, if he would do it, the Revolution should be abandoned.

Now, sir, I do not want any more evidence of the utter delusion and folly that has prompted this charge than the gentleman who makes it furnishes himself to the candor and the judgment of the country.

One other thing. I do not propose, Mr. Speaker, to discuss at the present time the propriety of the judgment which has been rendered by this electoral commission. We have heard from gentlemen on the other side of the House the predictions that public disapprobation, that public condemnation, that public infamy, is to be the fate of those persons who have united in that judgment.

Mr. Speaker, prophecy is not one of the exact sciences. In my humble judgment any democrat conversant with the history of his own party will be pretty likely to assent to that proposition. [Laughter.] But I will venture a prophecy; and that is, that there will not be an event in the history of this country which in the future will be more gratifying to the American people than the constitutional assertion of the limit between State and national authority which this electoral commission has made; and that the previous declarations of Mr. BAYARD and Mr. THURMAN made in their places in the Senate when there was no presidential question in dispute will be those which they and their associates will most delight to remember. I do not not speak now of the jurists, or the legal profession of the country. I do not look for my reputation in this matter to my republican associates. I am willing to take my luck with the democratic party. This decision is in the line not only of its past precedents but of all its future interests. If they disapprove and condemn it under the excitement of to-day, I will appeal from Philip drunk to Philip sober. I will appeal from the democratic party, excited by the desire of power, maddened by an earnest contest for political supremacy, drunk, some of them, with eagerness for the spoils—I will appeal from the party maddened, excited, drunk, in the present, to its future, and to its past. [Applause.]

MESSAGE FROM THE PRESIDENT.

A message, in writing, from the President of the United States was communicated to the House by Mr. U. S. GRANT, jr., his Private Secretary, who also informed the House that the President had approved and signed bills of the following titles:

An act (H. R. No. 7) to provide for the sale or exchange of a certain piece of land in the Wallabout Bay in the State of New York to the city of Brooklyn; and

An act (H. R. No. 4251) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1878, and for other purposes.

COUNTING THE ELECTORAL VOTE.

Mr. HARDENBERGH rose.

Mr. TOWNSEND, of Pennsylvania. Mr. Speaker, how much time is left for debate?

The SPEAKER. Nineteen minutes.

Mr. HARDENBERGH. Mr. Speaker, but a few days since and every seat upon this floor and within these galleries was filled. Anxious care seemed depicted upon every countenance as they watched with intensest interest the fate of the bill then pending. It seemed as one of the great days of history, whose drama we were enacting and which should live throughout the ages as big with the fate of empire. After a long and weary contest a national election had been held. Doubt existed as to which of the contending parties had won of right the prize. How should it be adjusted? A crisis had arisen which the Constitution seemed not to have anticipated. No similar emergency had occurred. The ballot-box had been tampered with, the returns altered, and the highest privilege of an American freeman grossly, wantonly, maliciously assailed.

Paralysis had lain its withering hand upon commerce and manufactures and the various employments of successful industry. Capital refused employment and doubt and dismay and fear everywhere existing told but too truly what mighty issues were at stake. Rising above the prejudices of passion and of party, a bill was framed which to the patriot and the statesman gave assurance of relief. It met with the sanction of a large majority in the Senate and the House, and was at once approved by the President.

The country hailed its passage with delight as the harbinger of peace and an honest determination to redress the wrongs which had been committed; the drooping energies of business seemed again to revive.

Each of the great parties had chosen their foremost men with whose names the whole country were familiar, and for some of whom the laurel wreath had been often plucked to adorn their triumphs on the fields of an exalted statesmanship. Added to these were representatives from that august tribunal which, lifted above the atmosphere of passion and of party and of prejudice, in days gone by had won enduring fame, where Marshall and Jay and Story had achieved high honors as the exponents of American jurisprudence. When these retired to their hall of consultation the spirit of Webster, of Clay, of Crittenden, and of Benton seemed still to hover around the chamber which for so many years had been the great scene of their gladiatorial contests in all of which the Union and its preservation was the grandest and most inspiring thought. Again the Union was at stake. It was thought this high commission were clothed with every power that was necessary to expose the frauds which had by common acceptance been committed, and that the infamy of returning boards which had wrested from States their ballots for the Presidency would be fitly and unblushingly exposed, and that the findings and decisions of this high court would be such as would command the respect and reverence of the people; that, no matter which might win, American honor would be unstained. How these high hopes were doomed to utter disappointment has since been revealed, and how rude the shock to the great body of the American people at the announcement that the returns should find no examination and that the great facts which all so desired to be ascertained were beyond the jurisdiction of the tribunal. Ah, why was this beyond its jurisdiction when it was supposed to have been the main object for which they had been organized, to go to the very roots of corruption to know why and when and where the ballot had been rendered nugatory and to ascertain the rightful choice of the American people as to who should sit in the chair of their Washington, their Jefferson, and their Jackson. That this should have been denied to us is most unfortunate and sad, not for purposes of party aggrandizement, but the higher and nobler purposes of purity and of honor. Give us but the right and we will gladly follow; clothe it with doubt, and mistrust will reign.

Believe me, Mr. Speaker, when I say that while my people will yield all of party for their country's good they never will yield a willing sanction to such gigantic frauds. Your electoral count as given by the tribunal announces their choice for Governor Hayes. New Jersey loves this Union. A thousand tender memories are linked with its past career. Her historic fields are the witnesses of her devotion. She will still believe in the correction of an outraged public sentiment. She would have no public disturbance, no disorder, but she will demand that no new blow be aimed against the liberties of the Union.

We sorrow for the stricken States whose people find an unfair representation.

Through the corruptions in government dark clouds have gathered around our country, and the future can only be discerned by Him who holds us all in the hollow of His hands. An imperiled people will yet, I believe, correct the baneful evils which have fallen upon us, that we yet may witness the Roman firmness and the Spartan valor which gave distinction to the earlier and happier days of the Republic.

But that period can alone be reached when fraud and violence and corruption shall find their exposition as the highest duty of the citizen and legislator. That in this case it has not been done, in the name of my people and of their imperiled liberties I enter their firm and solemn protest.

Mr. BUCKNER. Mr. Speaker, I am in great doubt whether the country has more reason to deplore the unexampled villainies and unblushing crimes of the canvassing boards of the States of South Carolina, Florida, and Louisiana, the lamentable prostitution and degradation of the highest judicial tribunal in the Union, or that decadence of public virtue which makes it possible for the two great executive officers of the Government to be willing to accept of these high trusts by a title originating in fraud, falsehood, and forgery and consummated by wholesale violations of law and the Constitution. We have become so familiarized with the robberies and thefts, the peculations and corruptions of the governments of these States that the wrongs and oppression of these unfortunate people have ceased in a great measure to arouse our apprehensions or even to excite our sympathies.

The republican party has reached the climax of its criminal career in these States, and to-day it stands before the world dependent for all its hope of the future upon the anointed villains to whom it has given power and place and who for ten long and weary years have

been rioting in crime and adding chapter after chapter to the history of misgovernment without a parallel in the annals of modern civilization. Helpless and hopeless without the assistance of the dishonored wretches whose crimes it should detest, it scruples not to profit by their villainies, and in its shameless lust for power it does not hesitate to make the justices of the highest judicial tribunal of the country participants with it in its great crimes against the people and to drag its judges down to the level of its own debauchery and debasement. This is the heinous offense of the republican party, an offense which smells to heaven and which all over this broad land provokes the inexpressible indignation of decent men of all parties.

Mr. Speaker, I voted for the electoral bill in common with every representative from my State in both Houses. I voted for it with my eyes open. I was caught in no trap of other people's setting. I have no regrets for that vote. I have no excuses or apologies to make for it. I believed then and I believe now that it provided a fair, just, impartial, and constitutional means of adjusting the presidential succession; that it necessarily eliminated that most dangerous element—force—from its solution, and would throw the forms of law at least around the title of the successful candidate. I confided in the impartiality, fairness, and independence of the five judges of the Supreme Court, with the exception of the renegade Kentuckian who now hails from the State of Iowa. The bigoted and partisan demeanor of this man on the trial before the commission confirmed me in my fears that he was ready to make any decision which the bold bad men of his party required at his hands. He has but given another illustration of the truth of the maxim, that "one renegade is worth more than ten Turks." Nor did I have any expectation that the gentleman from Ohio [Mr. GARFIELD] would be anything else than partisan in the adjudication of the questions of law and fact presented for the decision of the commission. I was censured by my friends on this side of the Hall for refusing to vote for that gentleman as one of the members of this commission.

It may have been a delusion or a superstition with me that the members of the commission should not have committed themselves, in the face of the whole world, to one side or the other of every disputed question of both law and fact that as judges they were called upon to decide. I knew the fact that he had been one of the witnesses of the misdoings of Wells and Anderson at New Orleans; that he had committed himself to the absolute conclusiveness of the electoral certificates; and I knew also that he was required under the provisions of the electoral act to solemnly call down upon his head the vengeance of high heaven if he did not impartially examine and consider all questions submitted to him, and a true judgment give agreeably to the Constitution and laws. I was not willing, sir, to be an accessory before the fact to the self-stultification of the gentleman from Ohio on the one hand or to the disregard of his sworn obligations on the other.

Mr. Speaker, we have been deceived and betrayed by this high commission. We submitted certain disputed questions of law and fact to it as judges, and, instead of deciding these questions as judges, a majority has adjudicated them as degraded partisans and as a packed jury. Instead of performing the high and noble functions of just, upright, and intelligent jurists, the majority has "perverted judgment," played the rôle of party tricksters and political jugglers, and have won for themselves an immortality of infamy. No impartial man, whether lawyer or layman, can read their several judgments in the three disputed States but is forced to the conclusion that the objective point to which all the efforts of the immortal eight were directed was to count Hayes in and to count Tilden out. This was the foregone conclusion to which the Constitution and the law as well as the facts were made to yield. There was no obstacle that they did not surmount, no provision of the Constitution or principle of law, no adjudication of the courts which stood in the way of their pre-ordained purpose that they have not overturned and trampled under their feet. The brief space of ten minutes gives me no time to demonstrate the faithlessness, the trickery, and the dishonesty of the conscienceless judges whom we honored by making them a part of this commission.

I call special attention to the question of the ineligibility of the electors in Florida, Louisiana, and Oregon. In Florida where the evidence showed that Humphreys had resigned before the day of election, they let in evidence as to the facts; and say that it does "not show that he held the office of shipping commissioner on the day when the electors were appointed." That day is fixed by express law, (Revised Statutes, page 21, section 131,) which declares that the electors of President and Vice-President *shall be appointed in each State* on the Tuesday next after the first Monday in November, &c.

When the same question comes up in Louisiana, and the proof is clear, positive, and uncontradicted that Brewster and Levissee held offices of trust and profit under the United States on the day of their appointment, and are therefore ineligible, then it was that this dishonored trio discovered that they had made a mistake in admitting evidence as to Humphreys in the Florida case, and write themselves down as perverters of judgment in this wise:

> The commission, by a majority of votes, is also of opinion that it is not competent to prove that any of said persons, so appointed as electors as aforesaid, held an office of trust or profit under the United States at the time when they were appointed, or that they were ineligible under the laws of the State, or any other matter *aliunde* the said certificates and papers.

Thus we find these disgraced judges, in the interest of the most stupendous villainy of every form and grade in modern times, going back upon themselves and repudiating their own judgment in the case of Florida, and absolutely excluding evidence, when it was conclusive, after similar evidence was admitted when it was inconclusive. When they came to Oregon, that all knew was then the pivotal State of the controversy, they admit evidence to prove that Watts was ineligible at the time of his appointment, but for the first time the world, and especially the legal profession, is informed "that that fact was rendered immaterial by his resignation, both as postmaster and elector, and his subsequent appointment to fill the vacancy so made by the electoral college."

Mr. Speaker, this last judgment is not law, and no men knew it better than the immortal eight, and especially the dishonest trio who disgrace the highest judicial tribunal of America. No respectable court in America has ever decided and no statesman of any party has ever held such a doctrine. It was made for this case and for the present emergency. Not three months since the supreme court of Rhode Island unanimously decided the reverse, and the Legislature of that State was called together to provide expressly for just such a case, and so was the Legislature of Vermont. If there is anything settled by the adjudications of the highest tribunals in England and America and by the opinions of the most distinguished jurists it is that the election of a person to an office for which he is disqualified is absolutely void, and that he has nothing to resign.

Mr. Speaker, I have not time for further comment upon the conduct of these disgraced judges. Their adjudications have given the severest blow to the hopes of the people of this country that has been inflicted by all other men combined. It has effectually destroyed all confidence in the rectitude, impartiality, and integrity of one-third of the Supreme Court. With pure, upright, and independent courts there is hope that we may survive the venality of politicians, the patronage of the Executive, the power of the military, and even the corruptions of the ballot-box; but with a judiciary either awed by power, corrupted by bribery, submissive to party domination, or divested of the confidence of the people the last vestige of hope for the permanence and security of free institutions is obliterated forever. To these three men belongs the inglorious distinction of bringing disgrace upon our highest judicial tribunal and prostituting the functions of their eminent position to the basest partisan purposes. I verily believe that their judgments as members of the electoral commission will be execrated by all fair-minded and impartial men of this and future generations; and they,

> Living, shall forfeit fair renown,
> And, doubly dying, shall go down
> To the vile dust, from whence they sprung,
> Unwept, unhonored, and unsung.

And, when all in this presence shall be gathered to their fathers and the impartial and scrutinizing historian shall make up the record of the last few years of the first century of our national life and of the first year of its second, he will write no more disgusting chapter of judicial partisanship and of judicial prostitution than these three judges have written for themselves. It will be painful and deeply humiliating to portray the misdeeds of Sherman, of Delahay, of Underwood, of Busteed, and of Durrell, but truth and candor will compel him to say that Miller and Strong and Bradley have reared to themselves a still higher and more inglorious monument than they; and that, as William Pitt Kellogg had his Durrell, so Rutherford B. Hayes had his Bradley.

Mr. SPRINGER. Having been a member of the joint committee on the part of the House, that reported the bill creating the electoral commission, I feel it my duty to explain fully my understanding of the power conferred upon the electoral commission.

There has never been any difference of opinion in the country as to the regularity of the certificates of the Hayes electors in Florida and Louisiana. The face of the returns shows the election of the Hayes electors. No commission was needed for the purpose of determining this question. The President of the Senate could have determined this with unerring certainty.

Petitions numerously signed were laid before Congress and referred to the joint committee, all praying for a settlement of the presidential election so as to satisfy the conscience of the country. The arguments in favor of a commission were predicated upon the fact that it was impossible for large bodies to examine witnesses and weigh evidence in a case involving so many facts. So far as I ever heard, it was universally conceded in the deliberations of the joint committee that we were endeavoring to devise some plan by which the merits of the controversy were to be inquired into and judicially determined. To devise such a plan was the work upon which we were engaged.

In the deliberations of the House committee it is not violating any confidence to say that the gentleman from Iowa [Mr. MCCRARY] proposed and submitted a bill which created a tribunal consisting of the Chief-Justice and a portion of the associate justices, "to whom should be referred the certificates objected to, together with the objections and all papers and evidence in the possession of the Vice-President or of either of the Houses of Congress relating thereto." In addition to this evidence the tribunal was authorized to send for persons and papers and to compel the attendance of witnesses. "Also to cause testimony to be taken before one or more commissioners to

be appointed by them for that purpose." This bill, or the portion of it to which I have referred, received the approbation and support of the gentleman from Massachusetts [Mr. HOAR] and every other member of the House committee. Such sweeping powers as to the evidence to be considered were never given to enable the tribunal to pass upon the face of the certificates. All those powers are of no consequence, if the commission could not consider any evidence *aliunde* the papers laid before the two Houses by the President of the Senate. If the McCrary bill, to which all the House committee assented, so far as the provisions cited are concerned, had passed, how is it possible that the commission would have passed the following order, submitted by Mr. Commissioner HOAR, in the Louisiana case?

Ordered, That the evidence offered be not received.

The evidence offered was that in the possession of the House relating to the case.

The gentleman from Iowa, [Mr. MCCRARY,] the author of this bill, was one of the objectors on the part of the Hayes electors before the commission, and there spoke at some length. But on that occasion he had no use for the evidence in the possession of the two Houses, or for a commissioner to take depositions. He suddenly reverses his position, and declares, in his argument, that the two Houses of Congress have, in reference to the count, "the narrowest possible ministerial duty." He further said that to "count" meant "to enumerate, one by one," the votes. That was the power of Congress. That, and nothing more. If his bill had passed what would he have done with the evidence taken by the House committee on the Florida election, which would have been referred to the commission thereby? Of what use was all this evidence to enable the commission to count the votes, one by one?

The commission, under the law as it passed, was to take each case and consider it with all the powers of the two Houses. And I concede the fact that these powers were not defined, and hence the commission was the judge of its powers.

But who could doubt what these powers were in the light of the past record of the two Houses on this subject? Four years ago both Houses of Congress, by large majorities, rejected the votes of both sets of electors from the State of Louisiana, and the information upon which the Houses acted was obtained by the Senate Committee on Privileges and Elections. But the precedents on this subject were even later than those of four years ago. Both Houses of this Congress, at the very beginning of the session, appointed special investigating committees to visit the Southern States whose electoral votes were in dispute. The Senate passed, among others, the following resolution on the second day of the present session:

Resolved further, That said committee, in order to the more speedy performance of its duties, have power to provide for the taking of depositions on the subjects aforesaid before any officer authorized by the laws of the United States to take depositions, and to receive and consider the same.

The "subjects aforesaid" related to the denial of right of suffrage to the colored people in certain States of the South at the late presidential election. Upon the adoption of this resolution there was a short colloquy between two distinguished Senators, as follows:

Mr. THURMAN. It is wholly indifferent to me whether the yeas and nays are taken or not. I know very well if they are taken the resolution will be adopted. I see that the whole thing was foreordained, perhaps from the foundation of the world.

Mr. EDMUNDS. Yes, Mr. President, the Senator is right; it was foreordained before the foundation of the world; as truth, and justice, and the means of getting at it, in spite of all opposition, factious or otherwise, will always live.

The Vermont Senator was exceedingly anxious then to get at "truth and justice," and to do so would take evidence by a roving commission. But the evidence, in view of the new lights he has received, would be *aliunde*. He would have no right, acting under his oath, to read it or allow it to influence his mind in the least. But the next and last resolution of the Senate series for investigating the elections in the Southern States, adopted on the 5th of December last, was as follows:

Resolved further, That the said committee be, and is hereby, instructed to inquire into the eligibility to office under the Constitution of the United States of any persons alleged to have been ineligible on the 7th day of November last, or to be ineligible as electors of President and Vice-President of the United States, to whom certificates of election have been or shall be issued by the executive authority of any State as such electors, and whether the appointment of electors, or those claiming to be such, in any of the States has been made, declared, or returned, either by force, fraud, or other means, otherwise than in conformity with the Constitution and laws of the United States and the laws of the respective States; and whether any appointment or action of any such elector has been in any wise unconstitutionally or unlawfully interfered with; and to inquire and report whether Congress, or either House thereof, has any constitutional power, and, if so, what, and the extent thereof, in respect of the appointment of or action of electors of President and Vice-President of the United States, or over returns or certificates of votes of such electors; and that said committee have power to send for persons and papers, and to employ a stenographer, and have leave to sit during the session of the Senate.

The last was evidently intended as a saving clause. If the evidence did not suit, it could be excluded on constitutional grounds.

The yeas and nays were taken on its adoption, and resulted—yeas 49, nays 11; as follows:

YEAS—Messrs. Alcorn, Allison, Anthony, Blaine, Booth, Boutwell, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Clayton, Cockrell, Conkling, Conover, Cragin, Dawes, Dorsey, Edmunds, Ferry, Frelinghuysen, Hamilton, Hamlin, Harvey, Hitchcock, Howe, Ingalls, Jones of Nevada, Kernan, Logan, McDonald, McMillan, Mitchell, Morrill, Morton, Oglesby, Paddock, Patterson, Randolph, Ransom, Sargent, Spencer, Teller, Wadleigh, Wallace, West, Windom, and Wright—49.

NAYS—Messrs. Eaton, Goldthwaite, Johnston, Key, McCreery, Maxey, Merrimon, Norwood, Stevenson, Whyte, and Withers—11.

ABSENT—Messrs. Barnum, Bayard, Bogy, Cooper, Davis, Dennis, Gordon, Jones of Florida, Kelly, Price, Robertson, Saulsbury, Sharon, Sherman, and Thurman—15.

The House resolutions on the same subject were passed by a two-thirds vote at the commencement of the present session. Those in the Senate were passed by a vote even more emphatic—49 to 11. By these resolutions both Houses were committed early in this session to the doctrine that they had the right to go behind the face of the returns and get at "truth and justice" in spite of all opposition. Indeed, from the time of the election in November until the opening of Congress, and down to the passage of the electoral bill, both sides, democrats and republicans, were vying with each other in protesting the justice of their respective causes, and in demanding a thorough investigation of all the facts. And in order that all the facts might be brought out and duly considered a commission was created, with all the power of the two Houses, to consider, weigh, and decide the several cases.

It was not disputed in the discussions on the electoral bill when it was pending in the House, that it provided for a decision according to truth and the right, and not one based upon legal technicalities. The opponents of the bill in the Senate and the House declared that it authorized an inquiry behind the returns. And this was not denied as far as I know. The gentleman from Massachusetts, [Mr. HOAR,] who was a member of the joint committee, and also is one of the commission, said, in his speech in the House, when the electoral bill was on its passage:

Some gentlemen have spoken of this as a *compromise* bill. There is not a drop of compromise in it. I do not mean that, after it was found that the principle of securing an able and impartial tribunal conformed to the opinions and desires of all the committee, there was not some yielding of individual views as to detail. But how can that man be said to compromise who, having a just and righteous claim, asserts it, maintains it, enforces it by argument and *proof*, yields no jot or tittle of it before *a tribunal so constituted as to insure its decision in accordance with justice and righteousness so far as the lot of humanity will admit?* I think justice and right are compromised when they are submitted for their decision to force. They are compromised when they can only be maintained by doubtful disputed exercises of power. They can never be compromised when they are permitted to stand before *a tribunal clothed with judicial powers, surrounded by judicial safeguards, invested with legal authority by the law making power of the country.*

Let it not be said that this reasoning implies that truth and error stand on an equality; that it makes no difference whether matters be settled right or wrong provided only they be settled. It is precisely because truth and error differ; it is because of the *vast* difference between the righteous result and its antagonist that we propose to submit the differences between them not to force, not to heat and passion, *but to that tribunal which, among all mechanisms possible to be exerted by law is least liable to be diverted from the truth.*

These are the powers of a court of chancery; the powers of a common law court, trying an information in the nature of a *quo warranto*. The cases were to be determined by a tribunal which had such unlimited judicial powers that it was the "least liable to be diverted from the truth."

These remarks of the distinguished gentleman from Massachusetts expressed exactly my own views as to the powers and prerogatives of the commission. And when his friends presented his name as one of the commissioners under the bill I voted for him as cheerfully as I did for any of the other commissioners on the part of the House. But imagine my surprise, when the same gentleman, acting as commissioner, under the solemnity of his oath, submitted the following order in reference to the proofs offered in the Louisiana case:

Ordered, That the evidence offered be not received.

What evidence? Evidence which would have led to "a decision in accordance with justice and righteousness."

Ordered, That the evidence offered be not received.

Not received? Not receive evidence that the Hayes certificates were the product of conspiracy, of fraud, of forgery, of perjury and bribery? "A tribunal so constituted as to insure its decision in accordance with justice and righteousness, so far as the lot of humanity will admit," could not receive evidence of the sum of all villainies!

I repeat again that I concede the fact that the commission was to be the judge of what the power of the two Houses was. But in my admiration of the honorable gentleman and confidence in his ability and integrity, I felt positively certain that, however others might decide, he would go far enough behind the certificates of perjury and bribery to decide according to truth and righteousness, and not be bound by the returns of a corrupt and rotten returning board.

The counsel on behalf of the Tilden electors in Louisiana offered to prove before the commission that the certificate of the election of the Hayes electors was false, fraudulent, and corruptly procured; that it was made in pursuance of a criminal conspiracy; that the affidavits upon which the returning board acted in throwing out parish returns were false and forged, and known to be and procured as such by the returning board; that the returning board offered to count the State for Tilden if paid to do so; and that the Tilden electors received more than 6,000 majority of the legal votes of Louisiana.

Ordered, That the evidence offered be not received.

Is that "justice and righteousness," as they are understood in the old Commonwealth of Samuel Adams and Daniel Webster?

Mr. Speaker, whatever may have been the precedents heretofore, it was universally conceded at the time the joint committees were appointed to prepare a plan for counting the electoral vote, that on this occasion, and in this great emergency, nothing would satisfy the reasonable expectation of the country but a thorough inquiry into the facts of the late elections of Florida, South Carolina, and Louisiana, and a decision of each case upon its merits. And in order to enable this to be done the electoral commission was established. The whole country rejoiced at the passage of the bill. It was hailed as a measure of peace, of conciliation, of justice. There was no fault in the law, no more than there is fault in the law creating the Supreme Court itself. The difficulty is this: that the law has not been executed either in its letter or its spirit. It was established to insure justice and righteousness; it has been perverted into an engine of fraud and wickedness. It was created to find out the truth; it sought only error and falsehood. It was devised in order that the true will of the people might be carried into execution; it has stifled the voice of the people, and may place a usurper in the seat once filled by Washington. It was brought into existence in order to vindicate the purity of the ballot-box and save our country from the condition of Mexico; it has brought republican institutions into disrepute and Mexicanized the whole elective system. It was intended to quiet the public mind and allay the passions of the hour; but it has added fuel to the flame and provoked such a shower of invective and passionate discussion as was never before exhibited in the halls of legislation or in the public press. That, in short, which was launched into existence as a panacea for all the ills we bore has proven a Pandora's box, from which countless evils have issued forth to afflict the land.

[Here the hammer fell.]

Mr. McCRARY. I had no thought at all of engaging in this debate.

The SPEAKER. The Chair desires to say that the two hours allowed for debate have expired.

Mr. McCRARY. I did not know that the time had expired.

The SPEAKER. The Chair has no objection to hearing the gentleman. [Cries of "Vote!" "Vote!" on the republican side of the House.]

Mr. McCRARY. I do not wish to extend the debate beyond the two hours.

Mr. LUTTRELL. I ask unanimous consent that the gentleman from Iowa have leave to proceed. [Loud cries of "No!" "No!" and "Vote!" "Vote!"]

The Clerk read the resolution, as follows:

Resolved, That the vote of Henry A. Boggs be counted as an elector for the State of Pennsylvania, the objection thereto to the contrary notwithstanding.

The substitute was then read, as follows:

Resolved, That the vote of Henry A. Boggs, as elector for the State of Pennsylvania, should not be counted because said Boggs was not appointed an elector for said State in such manner as its Legislature directed.

The SPEAKER. The question is first upon the substitute.

Mr. STENGER. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 135, nays 119, not voting 36; as follows:

YEAS—Messrs. Ashe, Atkins, Bagby, John H. Bagley, jr., Banning, Beebe, Blackburn, Bliss, Blount, Boone, Bradford, Bright, John Young Brown, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Candler, Cate, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Davis, De Bolt, Dibrell, Douglas, Durham, Eden, Ellis, Faulkner, Felton, Field, Finley, Forney, Franklin, Fuller, Gause, Glover, Goode, Gunter, Andrew H. Hamilton, Robert Hamilton, Hardenbergh, Henry R. Harris, Harrison, Hartridge, Hartzell, Hatcher, Henkle, Abram S. Hewitt, Hill, Holman, Hooker, House, Humphreys, Hunton, Hurd, Jenks, Thomas L. Jones, Knott, Lamar, George M. Landers, Lane, Levy, Luttrell, Lynde, Mackey, Maish, McMahon, Meade, Money, Morrison, Mutchler, Neal, New, O'Brien, Odell, Phelps, John F. Philips, Piper, Popleton, Rea, Reagan, Rice, Riddle, John Robbins, William M. Robbins, Roberts, Miles Ross, Savage, Sayler, Scales, Schleicher, Sheakley, Singleton, William E. Smith, Southard, Sparks, Stanton, Stenger, Stone, Swann, Teese, Terry, Thomas, Thompson, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Charles C. B. Walker, Gilbert C. Walker, Walling, Walsh, Ward, Warner, Warren, Watterson, Erastus Wells, Whitthorne, Wigginton, Wike, Alpheus S. Williams, James Williams, Jere N. Williams, Willis, Benjamin Wilson, Fernando Wood, and Yeates—135.

NAYS—Messrs. Adams, Ainsworth, John H. Baker, William H. Baker, Ballou, Banks, Belford, Blair, Bradley, William R. Brown, Horatio C. Burchard, Buttz, Campbell, Cannon, Carr, Cason, Caswell, Caulfield, Chittenden, Conger, Crapo, Crounse, Cutler, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Eames, Egbert, Evans, Flye, Fort, Foster, Freeman, Frye, Garfield, Goodin, Hale, Haralson, Benjamin W. Harris, Hathorn, Haymond, Hays, Hendee, Henderson, Hoar, Hoge, Hopkins, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kelley, Kimball, Lapham, Lawrence, Leavenworth, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Nash, Norton, Oliver, O'Neill, Packer, Page, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, John Reilly, Robinson, Sobieski Ross, Rusk, Sampson, Seelye, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Alexander S. Wallace, John W. Wallace, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Charles G. Williams, William B. Williams, Wilshire, James Wilson, Alan Wood, jr., Woodburn, and Woodworth—119.

NOT VOTING—Messrs. Abbott, Anderson, George A. Bagley, Bass, Bell, Bland, Buckner, Burleigh, Chapin, Culberson, Durand, Gibson, Hancock, John T. Harris, Goldsmith W. Hewitt, Frank Jones, Kehr, King, Franklin Landers, Le Moyne, Lewis, Lord, McFarland, Metcalfe, Milliken, Mills, Payne, Purman, James B. Reilly, Schumaker, Slemons, Springer, Stephens, Tarbox, Wheeler, and Young—36.

So the substitute was agreed to.

During the roll-call the following announcements were made:

Mr. ELLIS. My colleague, Mr. GIBSON, is absent on account of illness.

Mr. BURLEIGH. I am paired upon this question with Mr. JONES, of New Hampshire; if he were present he would vote "ay" and I should vote "no."

Mr. MONEY. Mr. YOUNG, of Tennessee, is detained from the House by sickness; if present he would vote "ay."

The result of the vote was announced as above recorded.

The question recurred upon agreeing to the resolution as amended, and being put the resolution as amended was agreed to.

Mr. KELLEY. I move that the Senate be informed of the action of the House, and that the House is now ready to meet them.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate by Mr. GORHAM, its Secretary, informed the House that the Senate had appointed Mr. KERNAN a member of the electoral commission to fill the vacancy occasioned by the physical inability of Mr. THURMAN.

PRINTING IN THE RECORD.

Mr. LUTTRELL. I ask unanimous consent to introduce a joint resolution, and to have it printed in the RECORD.

Mr. TOWNSEND, of New York, and Mr. HURLBUT objected.

Mr. LUTTRELL. I ask that it be read.

The SPEAKER. It cannot be read because objection is made.

COUNTING THE ELECTORAL VOTES.

At three o'clock and fifteen minutes p. m. the Doorkeeper announced the Senate of the United States.

The Senate entered the Hall, preceded by its Sergeant-at-Arms and headed by its President *pro tempore* and its Secretary, the members and officers of the House rising to receive them.

The PRESIDENT *pro tempore* of the Senate took his seat as Presiding Officer of the joint meeting of the two Houses, the Speaker of the House occupying a chair upon his left.

The PRESIDING OFFICER. The joint meeting of Congress for counting the electoral vote resumes its session. The two Houses acting separately have considered and determined the objection to the certificate from the State of Pennsylvania; the Secretary of the Senate will read the resolution of the Senate.

The Secretary of the Senate read as follows:

Resolved, That the vote of Henry A. Boggs be counted with the other votes of the electors of Pennsylvania notwithstanding the objection thereto.

The PRESIDING OFFICER. The Clerk of the House of Representatives will now read the resolution adopted by the House of Representatives.

The Clerk of the House of Representatives read the resolution adopted by the House, as follows:

Resolved, That the vote of Henry A. Boggs as an elector for the State of Pennsylvania should not be counted, because said Boggs was not appointed an elector for said State in such manner as its Legislature directed.

The PRESIDING OFFICER. The two Houses not concurring in an affirmative vote to reject, the vote of the State of Pennsylvania will be counted. The tellers will announce the vote of the State of Pennsylvania.

Senator ALLISON, (one of the tellers.) The State of Pennsylvania cast 29 votes for Rutherford B. Hayes, of Ohio, for President and 29 votes for William A. Wheeler, of New York, for Vice-President.

The PRESIDING OFFICER. Having opened the certificate received by messenger from the State of Rhode Island, the Chair hands to the tellers the same to be read in the presence and hearing of the two Houses; also the corresponding certificate by mail is handed to the tellers.

Mr. STONE (one of the tellers) then read the certificate from the State of Rhode Island.

The PRESIDING OFFICER. Are there any objections to the certificate from the State of Rhode Island?

Mr. O'BRIEN. On behalf of myself and other signers, Senators and Representatives, I send up objections to one of the votes from the State of Rhode Island.

The PRESIDING OFFICER. The member from Maryland having submitted an objection to the certificate from the State of Rhode Island, the Clerk of the House will read the same.

The Clerk of the House then read the following:

The undersigned, Senators and Representatives, do hereby object to counting the vote of William S. Slater, alleged elector of the State of Rhode Island, and as reasons therefor assign the following:

First. That the said William S. Slater was not duly appointed elector by the State of Rhode Island at the election in said State on the 7th day of November, 1876.

Second. That George H. Corliss, according to the decision of the electoral commission rendered in the counting of the vote of John W. Watts, as elector of the State of Oregon, if said decision be law, was duly appointed elector from the State of Rhode Island, and the substitution for him of the said Slater was illegal and unconstitutional.

Third. If in any event it was competent to complete the electoral college of Rhode Island by adding another elector thereto, it could only have been done, under the law as announced by the said electoral commission, if said decision be law

and pursuant to the laws of said State, by act of the majority of the members of said college, and not by the Legislature of said State.

JAMES K. KELLY,
J. B. GORDON,
Senators.

WM. J. O'BRIEN,
R. Q. MILLS,
G. A. JENKS,
L. A. MACKEY,
A. V. RICE,
J. L. VANCE,
FRANK H. HURD,
JAMES J. FINLEY,
A. T. WALLING,
E. F. POPPLETON,
M. I. SOUTHARD,
E. J. HENKLE,
JOHN K. LUTTRELL,
A. M. WADDELL,
WM. P. LYNDE,
Representatives.

The PRESIDING OFFICER. Are there further objections to the certificate from the State of Rhode Island? (After a pause.) If there be none, the Senate will now withdraw to its Chamber, that the two Houses may separately consider and determine the objection.

Accordingly (at three o'clock and twenty-eight minutes p. m.) the Senate withdrew.

ORDER OF BUSINESS.

The House was called to order by the Speaker at three o'clock and thirty minutes p. m.

Mr. POPPLETON. I move that the House now take a recess until ten o'clock to-morrow morning.

Mr. WOOD, of New York. I hope not.

Mr. HENDERSON. I call for the yeas and nays on that motion.

The question was taken upon ordering the yeas and nays, and the affirmative votes having been counted,

The SPEAKER announced that the yeas and nays had been ordered.

Mr. WELLS, of Mississippi. I ask that the other side be counted.

The SPEAKER. More than fifty members having called for the yeas and nays, the Chair decides that that is a sufficient number to order them.

The question was then taken; and there were—yeas 84, nays 178, not voting 28; as follows:

YEAS—Messrs. Ashe, Atkins, John H. Bagley, jr., Banning, Blackburn, Bliss, Boone, Bradford, Bright, John H. Caldwell, William P. Caldwell, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Davis, De Bolt, Dibrell, Douglas, Ellis, Field, Finley, Forney, Franklin, Fuller, Glover, Andrew H. Hamilton, Henry R. Harris, Hatcher, Henkle, Hooker, House, Humphreys, Hurd, Jenks, Thomas L. Jones, Knott, Lane, Levy, Luttrell, Lynde, Maish, McMahon, Meade, Money, Morrison, Mutchler, O'Brien, John F. Philips, Poppleton, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Sayler, Sheakley, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Terry, Thompson, Turney, John L. Vance, Robert B. Vance, Waddell, Gilbert C. Walker, Walling, Walsh, Whitthorne, Wigginton, Wike, and Jere N. Williams—84.

NAYS—Messrs. Abbott, Adams, Ainsworth, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Beebe, Belford, Bell, Blair, Bland, Blount, Bradley, John Young Brown, William R. Brown, Buckner, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Carr, Cason, Caswell, Chapin, Chittenden, Conger, Crapo, Crounse, Cutler, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Evans, Faulkner, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Gause, Goode, Goodin, Gunter, Hale, Robert Hamilton, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hartridge, Hartzell, Hathorn, Haymond, Hays, Hendee, Henderson, Hill, Hoar, Hoge, Holman, Hoskins, Hubbell, Hunter, Hunton, Hurlbut, Hyman, Frank Jones, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, Franklin Landers, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Odell, Oliver, O'Neill, Packer, Page, Payne, Phelps, William A. Phillips, Pierce, Piper, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, Reagan, John Reilly, John Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Tarbox, Teese, Thomas, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Wait, Waldron, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Warner, Warren, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Yeates—178.

NOT VOTING—Messrs. Anderson, Bass, Cabell, Durand, Egbert, Gibson, John T. Harris, Abram S. Hewitt, Goldsmith W. Hewitt, Hopkins, King, Lewis, Mackey, McFarland, Metcalfe, Milliken, Mills, Purman, James B. Reilly, Scales, Schleicher, Schumaker, Slemons, Stephens, Swann, Ward, Wheeler, and Young—28.

So the motion of Mr. POPPLETON was not agreed to.

During the call of the roll,

Mr. A. S. WILLIAMS said: I desire to announce that my colleague, Mr. DURAND, is still absent on account of sickness.

Mr. WOOD, of New York. I move to reconsider the vote by which the House has just refused to take a recess until ten o'clock to-morrow morning, and I move to lay that motion upon the table.

Mr. LANE. On that motion I call for the yeas and nays.

Mr. GARFIELD. Then I hope the gentleman from New York will withdraw his motion.

Mr. COX. I rise to a parliamentary inquiry. What would be the effect of the adoption of this motion?

The SPEAKER. The Chair recognizes as in order the motion to reconsider the vote by which the House refused to take a recess until to-morrow morning at ten o'clock. The gentleman from New York makes that motion and then moves to lay it upon the table, the evident object being to prevent a vote being taken on the motion to reconsider. It is what is known in parliamentary practice as a clinching motion to prevent further delay.

Mr. WOOD, of New York. My object is to prevent any further delay in proceeding with this count.

Mr. O'BRIEN. I rise to a question of order. My point is that under the electoral law, which is framed I believe in obedience to the Constitution of the United States, a majority of the House can at any time take a recess until ten o'clock on the next day.

The SPEAKER. But the gentleman will observe that the majority of the House has just voted against taking such a recess.

Mr. O'BRIEN. I understand that very well. But I submit that a motion to lay on the table this motion to reconsider would not necessarily preclude the House afterward from taking a recess under the provision of the law. In other words, the motion of the gentleman from New York is in effect a nullification of that law, is out of order, and should be so ruled by the Speaker.

The SPEAKER. Any gentleman who voted with the majority has the power to move a reconsideration of a vote.

Mr. O'BRIEN. I understand that.

The SPEAKER. And then the same gentleman or any other gentleman has the right to move to lay the motion to reconsider on the table.

Mr. O'BRIEN. But suppose the motion to lay on the table the motion to reconsider should prevail; is it not practically a nullification of the law which says that we may take a recess?

The SPEAKER. The motion is not debatable. The gentleman from New York moves to reconsider the vote by which the House refused to take a recess until to-morrow at ten o'clock, and moves to lay that motion on the table. The question is on agreeing to the latter motion.

Mr. CASWELL. I rise to a question of order. I do not think that the motion to reconsider this vote is in order, because a motion for a recess is in the nature of a motion to adjourn.

The SPEAKER. The Chair, with all due respect to the gentleman, thinks that a motion to reconsider the vote by which the House refused to adjourn would be in order and would not be of a dilatory character. Rule 49 is very clear on the point:

When a motion has been made and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof.

Mr. CASWELL. Is that applicable to a motion to adjourn?

Mr. SAYLER. There is a very grave misapprehension, I think, as to the effect of the motion of the gentleman from New York. It seems to be supposed——

Mr. WOOD, of New York. Mr. Speaker, as there seems to be some misapprehension as to the effect of my motion, I desire to explain, and the Chair will correct me if I am in error.

Mr. SAYLER. I believe I have the floor.

Mr. WOOD, of New York. As I understand the effect of my motion, it will be to bring the House immediately to a discussion upon the question before us, arising under the electoral commission bill, and to dispose of that question; and then after the Senate has again convened with us and another State has been objected to we can take a recess until to-morrow morning. There is nothing in my motion to interfere with that.

The SPEAKER. Whenever that question arises the Chair will rule upon it. The Chair will now listen to the gentleman from Ohio, [Mr. SAYLER.]

Mr. SAYLER. The gentleman from New York has made substantially the explanation I intended to make.

The SPEAKER. The Chair follows the rule never to make a decision in advance of the issue.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had adopted the following resolutions:

Resolved, That the vote of William S. Slater be counted with the other votes of the electors of Rhode Island, notwithstanding the objections made thereto.

The message also announced that the Senate was ready to meet the House to proceed with counting the electoral votes for President and Vice-President.

ORDER OF BUSINESS.

The question being taken on the motion of Mr. WOOD, of New York, to lay on the table the motion to reconsider the vote by which the motion for a recess was negatived, there were—ayes 142, noes 64.

Mr. WALLING. I call for tellers.

Mr. WADDELL. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken, and there were—yeas 182, nays 67, not voting 41; as follows:

YEAS—Messrs. Abbott, Adams, Ainsworth, Bagby, George A. Bagley, William H. Baker, Ballou, Banks, Banning, Beebe, Belford, Bell, Blair, Bland, Blount, Bradley, Bright, John Young Brown, William R. Brown, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Cabell, Campbell, Candler, Cannon, Cason, Chittenden, Clymer, Cochrane, Conger, Cook, Crapo, Crounse, Culberson, Cutler, Danford, Darrall, Davis, Davy, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Evans, Faulkner, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Gause, Goodin, Gunter, Hale, Robert Hamilton, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hartridge, Hartzell, Hathorn, Haymond, Hays, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Holman, Hoskins, Hubbell, Hunter, Hunton, Hurlbut, Hyman, Jenks, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Lord, Lynch, Mackey, Ma-

goon, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Morrison, Nash, Neal, New, Norton, Odell, Oliver, O'Neill, Packer, Page, Payne, Phelps, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, Reagan, John Reilly, John Robbins, William M. Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Schleicher, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stone, Stowell, Strait, Tarbox, Thomas, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Warner, Warren, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Wike, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Yeates—182.

NAYS—Messrs. Ashe, Atkins, John H. Bagley, jr., Blackburn, Bliss, Boone, Bradford, John H. Caldwell, William P. Caldwell, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Collins, Cowan, De Bolt, Dibrell, Douglas, Ellis, Field, Finley, Forney, Franklin, Fuller, Glover, Andrew H. Hamilton, Henry R. Harris, Hatcher, Henkle, Hooker, House, Humphreys, Hurd, Thomas L. Jones, Knott, Lane, Levy, Luttrell, Lynde, Maish, McMahon, Meade, Money, Mutchler, O'Brien, John F. Philips, Poppleton, Rice, Riddle, Miles Ross, Sheakley, William E. Smith, Sparks, Springer, Stanton, Stenger, Terry, Thompson, Turney, John L. Vance, Robert B. Vance, Waddell, Gilbert C. Walker, Walling, Whitthorne, Wigginton, and Jere N. Williams—67.

NOT VOTING—Messrs. Anderson, John H. Baker, Bass, Buckner, Carr, Caswell, Chapin, Cox, Durand, Egbert, Gibson, Goode, John T. Harris, Goldsmith W. Hewitt, Hopkins, Frank Jones, King, Franklin Landers, Lewis, McFarland, Metcalfe, Milliken, Mills, Piper, Purman, James B. Reilly, Roberts, Savage, Sayler, Scales, Schumaker, Slemons, Southard, Stephens, Swann, Teese, Tucker, Walsh, Ward, Wheeler, and Young—41.

The vote was then announced as above recorded.

So the motion to reconsider was laid on the table.

During the vote,

Mr. HUNTON moved that the reading of the names be dispensed with.

Mr. ELLIS and Mr. LEVY objected.

The vote was then announced as above recorded.

Mr. EAMES rose.

Mr. O'BRIEN. Mr. Speaker, I send to the Clerk's desk the resolution which I now offer.

The SPEAKER. The Chair first recognized the gentleman from Maryland, who presented in joint meeting the objections to counting the vote in the case of Rhode Island, as he is entitled to be first recognized, but the Chair will next recognize the gentleman from Rhode Island.

Mr. O'BRIEN. I ask my resolution be read.

The Clerk read as follows:

Resolved, That the vote of William S. Slater as elector for the State of Rhode Island should not be counted because said Slater was not appointed or elected elector for said State in such manner as its Legislature had directed.

Mr. EAMES. I move the following as a substitute for the resolution of the gentleman from Maryland.

The Clerk read as follows:

Resolved, That the vote of William S. Slater as an elector for the State of Rhode Island be counted, the objections thereto to the contrary notwithstanding.

Cries on the republican side of "Vote!" "Vote!"

Mr. O'BRIEN. The gentleman from Pennsylvania will open the discussion.

The SPEAKER. Gentlemen will have a vote sooner if they omit to call for it out of order.

Mr. JENKS. Mr. Speaker, I rise not so much to impart information as to ask it.

The objection to the State of Rhode Island is the very converse of that from Pennsylvania. In the case of Rhode Island, to which objection has now been made, the supreme court of Rhole Island ruled that Mr. Corliss, having been a centennial commissioner, could not be elected, and as he could not be elected the fact that he was voted for and not elected did not constitute any vacancy in the electoral college, and, although their statute was equally as broad as that in Pennsylvania, that there could be no filling of the college by those who had been elected as members thereof. That was the Rhode Island decision. The Pennsylvania decision just now made by the Senate and minority of this House is that the fact that a man was a centennial commissioner does not disqualify him, or, if it does disqualify him, his failure to attend leaves a vacancy which can be filled by the electoral college.

They are the converse of each other, and those who voted for excluding the vote in Pennsylvania cannot with any consistency vote to exclude the vote of the person by which the place of Mr. Corliss was supplied. Those who voted in favor of receiving that vote, if they propose to be consistent, must vote to exclude the vote of Rhode Island now objected to.

That is all I desire to say with reference to this subject, but I desire to make a few inquiries, and I make these inquiries in no querulous temper. I desire to know a few facts for my own information as one of 40,000,000 of people and for the information of those who are to succeed us hereafter. Those inquiries I propose to make also in the fullest spirit of charity; "that charity which thinketh no evil, which speaketh no evil, yet in whose beauteous diadem the brightest jewel is that she rejoiceth in truth."

The first inquiry I have to make is this: I desire to know by what authority the electoral commission has made the two Houses of the American Congress mere addenda to a conspiracy between a corrupt governor and a felonious returning board. This inquiry, it seems to me, it is pertinent for some one who is cognizant of the why and wherefore to answer for the benefit of the American people. I listened with intense interest on Saturday to the honorable commissioner from Massachusetts, hoping he would give us that information. Instead of that he diverted himself from the subject under consideration and endeavored to cover himself with the cloak of the honorable Senator from Ohio, a man whose most unhallowed thought is purer than his best righteousness. He could not so cover himself. The gentleman claimed that Congress had conferred upon this commission great and extensive powers; that they were authorized to inquire and to exclude evidence or to admit it, as to them seemed just. But the fact that a great power is committed is no excuse for its betrayal. He to whom much is given is expected to account for much, and in that he was greatly trusted, he should have discharged the trust with greater good faith than if the trust had been smaller. The greater the confidence, the more base is the betrayal. So that his two answers were by no means satisfactory.

But that satisfaction becomes less apparent when we inquire a little into the past. The very same honorable commissioner in 1872, when the question of the exclusion of certain votes of the State of Georgia that had been cast for Horace Greeley came up, then interpreted the law and the Constitution just as it now exists that he had power to go outside of the certificates and to exclude those votes on the authority of what he called historical fact. But circumstances alter cases. I wholly concede and recognize this as true. In that case it was democratic votes he was throwing out, and in this case it would have been republican. But that speaks little for the impartiality with which he swore he would judge this cause.

The same thing occurred in 1872 in reference to the votes of Louisiana. The question came up whether they should be counted, and the honorable gentleman then, interpreting the law and the constitution just as it now is, said to this House and the country that they had a right to inquire into the facts. They did inquire into them, and they threw out those votes. But circumstances again alter cases. It was democratic votes they threw out then, but now it was republican votes they were asked to throw out; and in this way he shows his impartial justice under oath.

But we need not go to the far distant past to inquire concerning the integrity of this commission. Its own conduct stands before the people, not as an illustration of integrity, but as a contradictory infamy. In the case of Florida the certificate of the governor awarded that State to the republicans. The certificate of the secretary of state declared the majority of the votes cast were for the democratic party. That certificate was corroborated by the decision of the supreme court of Florida. In Oregon the certificate of the governor gave the State to the democrats, but the certificate of the secretary of state as to the vote cast gave a majority for the republicans. Just the reverse of the Florida decision literally. In the first the governor's certificate controlled; in the latter it was overruled. But circumstances alter cases. The one was a democratic vote; the other republican. It was a difference on party lines on which they acted, and not judicial truth at all.

Now, it is this alchemy, this strange unknown composition, that I desire to know of. If the philosopher's stone has been found by which the base may be made the true metal, if that has been discovered by which truth can be made falsehood, it is our right to know it. If this commission's powers extend that far, and their sapience has discovered that which was heretofore unknown, as American citizens we have a right to know of what ingredients it is composed. It must be composed of ingredients more diabolic than even those of Hecate's hell broth.

> Eye of newt, and toe of frog,
> Wool of bat, and tongue of dog,

never made so fell a potion as this which we are required to take unexplained.

This, then, is what we wish to know first, how they discovered means by which truth is made falsehood, by which the gilded brass is made sterling gold. I rise to ask this question, and have it answered for the benefit of the American people.

There is another question which seems to me to be not impertinent here now; that is, with reference to the action of this honorable commission, and it is this: In the case of Oregon, a resolution was offered by Justice Field; as follows:

Whereas J. W. Watts, designated in certificate No. 1 as an elector of Oregon for President and Vice-President, on the day of the election, namely, the 7th day of November 1876, held an office of trust and profit under the United States: Therefore,

Resolved, That the said J. W. Watts was then ineligible to the office of elector within the express terms of the Constitution.

Now, with reference to the preamble to that resolution there is not one disputed fact. The commission of that postmaster was laid before that tribunal. The postmaster himself came and swore that on that 7th day of November, and until the 13th day of November, he held that office, and discharged its functions. So that the commission could not have found against the fact. Then what is the law?

That the said J. W. Watts was *then* ineligible to the office of elector within the express terms of the Constitution.

Now, the Constitution was before the commission. Its express terms are—

That no person holding an office of trust or profit under the United States shall be appointed an elector.

The oath of that commission required that they should—

Without partiality examine and consider the questions submitted to the commission of which they were members, and a true judgment give thereon agreeably to the Constitution and the laws.

Then, having taken this oath, and the fact being undisputed that Watts was a postmaster on the 7th day of November, and the Constitution saying that no one holding such an office should be appointed, and their attention being called to that fact—what would be the crime that they would commit who, in the face of that oath, would find that that vote should be counted? That the resolution offered by Justice Field was not true! He who so voted must have rendered a false finding.

[Here the hammer fell.]

Mr. EAMES. I desire, Mr. Speaker, to make a very brief statement, and I think upon that statement there will not be a member upon this floor who will make objection to the vote of Mr. Slater as one of the electoral votes of the State of Rhode Island. Under the law of that State, on the 7th of November last, the republican electors were chosen by about five thousand majority. Upon the counting of that vote certificates of election were issued by the governor to Mr. Arnold, Mr. Corliss, Mr. Fisher, and Mr. Dixon. Very soon after the election, and when it was known generally in the country that a single vote might determine the general result of the presidential election, it was also ascertained through the papers that some question would be raised as to Mr. Corliss's eligibility to the office of elector, because he held the office of centennial commissioner. And upon that, under the constitution of the State of Rhode Island, the governor saw fit to make certain inquiries of the supreme court, so as to be sure that the vote of Rhode Island would be cast as her people had determined and that there should be no possible doubt in the case. The question submitted to the supreme court was whether a person holding the office of centennial commissioner was holding an office of trust or profit under the Constitution of the United States and was therefore ineligible to the appointment of elector. Upon that question the majority of the court, there being one dissenting justice, decided that Mr. Corliss did hold an office of trust within the meaning of the Constitution, and that consequently he was ineligible to be appointed or disqualified from holding the office of elector.

There was another question also answered by the court, and it was where in a case of this kind, if Mr. Corliss was ineligible and disqualified from being appointed, was the power under the law of the State of Rhode Island to fill the vacancy so as to secure to that State the full number of votes to which it is entitled? In answering this other question as to where the power is, the court referred to the seventh section of the act of the State in relation to the election of President and Vice-President of the United States, which is in the following words:

If any electors chosen as aforesaid, shall after their said election decline said office, or be prevented by any cause from serving therein, the other electors when assembled may fill the vacancy.

Now, Mr. Speaker, under the decision made by the supreme court of Rhode Island, inasmuch as they had decided that Mr. Corliss was ineligible, it was seen immediately and was so determined by the court that the other electors would have no power whatever to fill the vacancy. Having determined that, they referred again to another section in the law, which applies exactly to this case, and under which the Legislature exercised the power of appointing Mr. Slater in the place of Mr. Corliss. I refer now to the fifth section of the act under which the General Assembly of Rhode Island made the appointment of Mr. Slater. The language of that section is as follows:

If by reason of the votes being equally divided among any of the candidates or otherwise there shall not be an election of the number of electors to which the State may be entitled, the governor shall forthwith convene the General Assembly at Providence for choice of electors to fill such vacacies by an election in grand committee.

Now, the court having decided that Mr. Corliss was ineligible and that it was not in the power of the other electors to fill the vacancy, they found in this provision what covers this case entirely and under which the General Assembly was convened, and, as the papers read at the desk show, the election was made on the 1st of December of Mr. Slater.

Taking these sections in connection it is a matter of but very slight importance whether Mr. Corliss was eligible or ineligible. If he was eligible so that he could have been appointed and would have had a right to vote as one of the electoral college, the papers read at the desk show that Mr. Corliss declined to act. The certificate states the facts in relation to that. Having declined, if eligible to the office to which he was appointed, the papers show that the other electors having the power in a case of that kind elected Mr. Slater, so that if Mr. Corliss was eligible Mr. Slater stands in his place, inasmuch as Mr. Corliss declined to act. If Mr. Corliss was ineligible so that the other electors did not have the power to fill the vacancy, then under the other section of the act the General Assembly of Rhode Island have elected the same gentleman. In either event he is the true elector and his vote ought to be counted.

I do not desire to trouble the House further. It seems to me that there can be no doubt in the mind of any member of the House that the substitute should be adopted by the House in lieu of the resolution. It is like the resolution that has been unanimously adopted in the Senate. I cannot but feel that the distinguished gentlemen, Senators and Representatives, who have appended their names to this objection made to one of the votes of Rhode Island have acted under a misapprehension of the facts and the law of the State applicable to those facts.

Mr. O'BRIEN. It was not expected that the objection which received the signature of Senators and the Representatives upon this floor in this case would be sustained by this side of the House. There was no intention in offering the objection to raise any question in regard to the vote of Rhode Island excepting this, that as the democratic side of the House believe that the decision of the electoral commission in the case of Watts from the State of Oregon was not founded in law but was contrary to law, the propositions which grow out of the facts in the Rhode Island case would be presented to the minority of this House and to the majority of the Senate in order to see if they had the honesty and conscience and good faith to maintain the ground which they then took deliberately when they voted to sustain the decision of the commission in the Oregon case.

The case of Oregon is directly the reverse of the case of Rhode Island, save that in the one case the elector objected to was a postmaster and in the other case he was a centennial commissioner. While we on this side of the House are compelled under the law to abide by the decision, right or wrong, of the electoral commission, we had a desire to know whether our friends upon the republican side of the House would maintain their consistency, and would maintain and defend the integrity of the decision of the commission in the Oregon case. Therefore we have presented to them the proposition which properly emanates from the objections to the Rhode Island elector.

I voted for the electoral bill. I believed it to be constitutional. Further than that I believed that at that time some such measure was imperatively necessary to ward off violence and civil strife. It seemed to me that there was great and apparent danger to the Republic because of the difference of opinion which existed between the two Houses of Congress in regard to the proper authority to ascertain and count the electoral vote. I voted for the bill in good faith; I voted for it with an intention deliberately formed to carry out whatever decision might be fairly reached by the electoral commission to be organized under the bill.

I knew at that time as well as I now know what were the provisions of the bill. I was not deceived by a single line or a single word in the bill. I knew that under the provisions of the bill the commission would have the right to determine whether evidence would be admitted to settle the grave questions presented to them, but which were to be decided according to the equity and the right of the matter.

At the same time I had very reasonable assurances, founded upon well settled precedents of both Houses of Congress, adhered to and enforced by members of the republican party, by those of the republican party in the Senate and by many upon the republican side of the House, that the two Houses of Congress separately had the right to determine through their proper committees, whether in any State there was any irregularity of proceedings in the electoral college, and whether the vote of that State should be not counted because of any fraud or other cause.

And yet I must say that notwithstanding that assurance I was in a measure prepared for the decisions which have been rendered by the electoral commission. I entered upon my path of duty in sustaining that bill, because I believed that the dearest interests of the American people were at stake, and because I believed that an overwhelming majority, not only of my own party but of the republican party, all of whom were equally interested, sustained the bill and desired that it should be passed.

Now I am willing to carry out the decisions of the electoral commission to the extent, and only to the extent, that I feel myself in conscience and in honor bound to do.

Further, I believe that it is my duty to sustain these decisions only so far as I am prompted by reason, by my conscience, by justice, and by my deliberate opinion of what is the voice and the desire of the American people.

Now, I believe, in fact I know, that the great body of the people repudiates those decisions because of the denial of justice by the orders of the commission. They believe that the charges of fraud and bribery should have been inquired into, and therefore denounce as partisan and infamous the action of the commission. There is nothing in the law, there is nothing in the Constitution, there is nothing in my idea and my consciousness of duty that demands that I shall hasten the count in order to make it a finality; to render as it were a certainty decisions which I have learned to believe, from all the evidence I can gather from those who have spoken in regard to the action of that commission, are an outrage on law and subversive of truth and justice. I do not recognize any duty demanded of me by honor or consistency to lend my aid to seat in the presidential chair for the next four years a man whose only title will be that of fraud, a man whose right to sit there will never be consented to by the American people only so far as strict law binds them to submit to this executive usurpation. The path of duty and honor is in the other direction.

[Here the hammer fell.]

The SPEAKER *pro tempore*, (Mr. CALDWELL, of Tennessee.) The time of the gentleman has expired.

Mr. BURCHARD, of Illinois. The gentleman from Maryland, [Mr O'BRIEN,] although he was one of the objectors, acknowledges that

he does not expect his objection to be sustained by the House. I therefore ask unanimous consent that the debate now close and the vote be taken.

Mr. O'BRIEN. I will have to object, for the reason that there are names on the list of gentlemen who have as much right to be heard as I have.

Mr. BURCHARD, of Illinois. Then if the debate is to continue I desire to say a few words.

Mr. PAGE. I hope not.

Mr. TUCKER. I object.

Many MEMBERS. Let us have a vote.

The SPEAKER *pro tempore*. The gentleman from Illinois is entitled to the floor.

Mr. BURCHARD, of Illinois. The consistency of the minority has been arraigned in that we have voted to count the vote of the elector from Pennsylvania which was objected to. I desire to call the attention of this House to the fact that there was no competent evidence before this House to sustain the objection in that case.

No evidence of the ineligibility of Daniel J. Morrell was ever reported to this House from its committees. Whatever may have been testified to before any committee taking testimony is still under their charge and such secrecy as attends committee proceedings, and has never been put in possession of the House. The unofficial statement of unauthorized persons cannot give the House cognizance of the committee's doings, or make it evidence before the House by attaching it to objections made to counting a vote.

The evidence that accompanied the objections as read to the House did not constitute legal evidence if it had been laid before the House by a report from the committee before whom it had been taken, and would not be sustained by any court. The only competent evidence to show that Daniel J. Morrell was a commissioner would be the commission of the President of the United States. The RECORD of Saturday's proceedings simply shows, on page 35, the appointment by the governor, unaccompanied by any commission from the President. Was there any evidence before this House that Daniel J. Morrell held an office under the United States? The record of the House proceedings does not show that any such evidence to sustain that objection was ever before it.

Mr. STENGER. Will the gentleman allow me to say that among the original papers accompanying the objection he will find a copy of the President's own appointment.

Mr. BURCHARD, of Illinois. I say there has not been read, at least in my hearing, (and I am informed by the Clerk that he read the original of the papers published in the RECORD,) any evidence of his appointment which would sustain the objection, and no report of any committee authorized to take testimony has submitted to the House any evidence of Mr. Morrell's ineligibility. I say that they are not here before the House. They may be on the files in the committee-room, but they have not been made a part of the official record of the House; and if you attempt to throw out the vote of the State of Pennsylvania on a technicality, we can reply that you have not technically made out your case, if at this count the House had the right to reject electoral votes for the alleged disqualification of persons composing the electoral college of a State, which I deny.

Then in regard to Oregon the language of the statute of that State is entirely different from the statute of Rhode Island. In the one case the authority of the electors to appoint is confined to two cases; one when there is a declination, and the other when there is a refusal to serve for any cause. The language of the Oregon statute is "if there shall be a vacancy in the office;" and I ask gentlemen to show that an office created by United States law is not vacant when it has not been filled. The decision of the court would be entirely different in the two cases; and there is no inconsistency on this side of the House in voting in the Rhode Island case to count the vote of the elector appointed by the Legislature and heretofore voting to sustain the appointment made by the electors in Oregon to fill the office, which was vacant and which under the statute of Oregon the electors were authorized to fill. There is no analogy between the two cases; there is no inconsistency in our votes.

There are cases in other States where democratic electors have been in like manner ineligible; but I believe that the statutes should be interpreted liberally for the purpose of giving effect to the will of the people and not for the purpose of defeating it on technicalities.

Mr. TUCKER. Does the gentleman say that there was no evidence of a commission in the Pennsylvania case?

Mr. BURCHARD, of Illinois. I say that none has been read within my hearing; and I am told by the Clerk that the record here shows all the papers that have been presented to this House.

Mr. TUCKER. Will the gentleman allow me a moment?

Mr. BURCHARD, of Illinois. Certainly.

Mr. TUCKER. I read as part of my speech the commission; and it was attached with all the seals and ribbons to the objections made in the case of Pennsylvania.

Mr. BUCHARD, of Illinois. Well, the gentleman himself may have tried to fill out the lack of testimony.

Mr. TUCKER. No, sir, I filled out nothing that was not in the record.

Mr. STENGER. It is in the record itself.

Mr. BURCHARD, of Illinois. The record shows the seal of the Secretary of State, attesting that the papers which he sends are genuine copies of papers on file: and one of the papers on file is the appointment by the governor in a letter addressed to the President of the United States. But that record of the House proceedings does not show anywhere a commission.

Mr. TUCKER. If the gentleman will look at page 13 of the RECORD of yesterday, he will find the commission:

To all to whom these presents shall come, greeting: I certify, &c.

Mr. BURCHARD, of Illinois. I do not yield further. The gentleman is reading from papers presented to the Senate, not papers presented to the House.

Mr. TUCKER. Well, sir, I state on my own personal authority that the certificate of the Secretary of State and a copy of the commission of the President were by me attached to the objection that was presented to this House.

Several MEMBERS. Certainly.

Mr. BURCHARD, of Illinois. I only state what the RECORD shows to have been before the House and what was actually read here. Whatever may have been presented to the Senate——

Mr. TUCKER. I say that this commission was attached to the objection, and was presented here.

Mr. BURCHARD, of Illinois. But, Mr. Speaker, it is claimed that there is an inconsistency, and that the action of the commission has been improper because the members should have gone into a judicial investigation or an investigation with regard to the legality of the votes and of the action of the returning board. Reference has been made to the action of Congress in 1800, when a bill on this subject was before Congress; and John Marshall, the leader in that Federal Congress, has been referred to as favoring action by Congress to go behind the action of the duly constituted returning officers of a State—to go behind the action of State authorities. Let me say in reply, that Federalist as John Marshall was, believing in an extent of power on the part of the Federal Government far exceeding that believed in by the democratic party of that day, if not of the present day, he did not pretend to go behind the action of the returning boards or of the executive authorities of a State to revise or to question the votes that had been cast by the State in the choice of electors. And the text of that bill sustains the action of the commission. That bill, of 1800, which passed both Houses, although not in the same form, contained a provision which was indorsed by each House sustaining the action of a majority of the commission.

The bill as it passed the Senate had this provision in section 8:

Provided always, That no petition or exception shall be granted or allowed by the grand committee which shall have for its object to draw into question the number of votes on which any elector in any of the States shall have been appointed.

That bill was referred in the House to a committee of which John Marshall was chairman, and he reported back a substitute which proposed a joint committee of four members from each House to have power "to examine into all disputes relative to the election of President and Vice-President of the United States, other than such as relate to the number of votes by which the electors may have been appointed." The electoral commission law of this session was framed from these bills and incorporates many of their details. The right, then, to go behind the returns of the State authorities was expressly denied, and in the law of this session was nowhere asserted.

Mr. CARR. Mr. Speaker, as the bill under which we are proceding gives the republican Senate full and conclusive power to count this vote over the rightful objections of this House, and as the recent history of that body assures us they will count it as cast, without regard to its legal status, it is quite useless for us here to enter into an earnest examination of the subtle questions presented by the objections. Under the operation of this feature of that law this House of Representatives, once regarded as the House of Commons of America, is now reduced to nothingness, and the people's Representatives left only with the power to fret over that which they are rendered powerless to prevent.

In defiance of the assertions made in and out of Congress that the adoption of and the proceedings under the now notorious electoral bill are "the grandest spectacle of modern days," it at all times has presented itself to me as a mammoth farce, a stupendous after-piece which possesses more of the ludicrous than any ever presented from smaller stages and by a less distinguished stock company. It needs only the fertile pen of a Boucicault to bring out in full relief its incongruities, inconsistencies, and downright buffooneries, that all may recognize it as the very burlesque I have conceived it to be.

The character-drawing were safer and better done by other hands than mine, because I am necessarily restrained by parliamentary law which will preclude that bold touch essential to their "loudness;" yet I cannot restrain the temptation of "laying in the ground colors" as a foundation for the pencil of some future American artist who shall aspire to immortality.

In the "*grande entrée*" of the play two immense troupes enter from opposite sides of the arena, each intent upon one object, and that object being the capture of the ringmaster. Here follows a vast amount of fine maneuvering and cunning pantomime at the close of which each is seen to select the very same device to secure the end. The sly winks, knowing nudges, wise grimaces, and secret congratulations on each side, when it was mutually believed the other had been outwitted and "sold," are truly amusing; but this grows into an irre-

sistible laughter, doubly intensified when contrasted with the chagrin, mortification, and downright despair which settle all over the discomfited party when they discover how beautifully they were taken in by their own "sell."

The side-splitting by-play of the opening scene was that made by the "leading gentlemen" of the unsuccessful troupe, who arranged all the machinery for success upon the theory that seven of their number outnumbered eight of the other. The very development of the error was amusing, but the distorted features, the howls of utter despair, the expression of blank astonishment which flashed like a shadow over their countenances when they realized their deficient knowledge of the simple rules of arithmetic and were brought to a consciousness of their blunder, are overwhelming.

I have observed in the columns of our daily journals upon one side of a patent-medicine advertisement the picture of a long, lean, and woe-begone individual, and upon the other side the likeness of one who is hale, hearty, and with a face all aglow with happiness. Under the first of these were seen the significant words, "Before taking," and under the other the legend, "After taking." Reverse the locality of these titles and you have an admirable portraiture of the "leading gentlemen" who engaged in the farce to which I have alluded.

Mark the ludicrous contrast in these gentlemen before and after taking the alluring, but nauseating, electoral pill.

The fine-looking and cultivated gentleman from the mother of Presidents, Virginia, [Mr. WALKER,] "before taking" the pill, soared into poetry, and, aglow with sudden pleasure, quoted Shakespeare. Said he:

> Now is the winter of our discontent,
> Made glorious summer by this son of York,
> And all the clouds that lowered upon our house
> In the deep bosom of the ocean buried.

See and hear him "after taking:"

I am one of those who do not agree with the decision of this commission. I am rejoiced that these objections were presented here, because I want the democratic party in this House, by their votes, to enter their solemn protest against the consummation of this outrage under mere legal fictions.

The hopeful gentleman from Missouri [Mr. BUCKNER] swells to mighty proportions "before taking," and asserts:

I have confidence that the judges selected, as well as the members of the two Houses that may be joined with them, will honestly and faithfully do their duty, not only to their party but to their conscience, their country, and their God!

See how suddenly he comes down to common size and mother-earth "after taking," when he groans:

A more infamous judgment was never made in the history of American jurisprudence!

The patriotic gentleman from the "prostrate" State of Louisiana [Mr. LEVY] walked in the bright hues of morning "before taking," and drew us a glowing scene of the future. Said he:

I believe that the public good will be promoted, quiet and good feeling restored, civil discord avoided, and fraternal harmony established by the passage of this bill.

Presto, change. As the pill goes down and the nauseated bowels come up, between the paroxysms he moans:

As a representative of Louisiana I should be recreant to my duty and faithless to a sacred trust if I failed to raise my voice in earnest protest against the action of the majority of the electoral commission, which has violated the majority of the State, outraged right and justice, and substituted falsity and fraud for the true voice of the people.

The distinguished member from the proud old Commonwealth of Kentucky, [Mr. WATTERSON,] who so readily assumes the chameleon hues of the hour, and who on the historic 8th of January, now doubly renowned, startled the radicals and himself by announcing that on the 4th of March there would be present at the National Capitol, to insure and enforce the claims of certain gentlemen to Cabinet positions one hundred thousand stern-visaged men in buckram, and who afterward

> Threw down his target and his plaid;

and, admitting he had been engaged in a game of "brag," declared that for the purposes of a fight;

The democratic party is as one who has his right arm tied behind him. If forced into civil war it would proceed under the greatest disadvantages.

Then "before taking" and gathering his robes about him, as the Roman senator was wont to draw his toga more gracefully to his shoulders when about to assume his native dignity, he majestically said:

I shall not undertake to add to the law of the case. It seems to me that an eminent jurist in the Senate [Mr. EDMUNDS, a republican] has made it perfectly clear that this bill is constitutional. I accept and adopt his views without reservation.

Having thus trusted and confided in the song of the republican siren "before taking," hear him "after taking:"

We were duped by false pretenses into a snare.

The great Senator from the little State of Delaware, [Mr. BAYARD,] to induce us to support the measure which has resulted in making him a high commissioner, by which he is enabled to shed still greater luster over the long line of his descent, "before taking" assured us that—

They—

The commissioners—

will approach it in a spirit worthy of the functions which they are to perform.

But "after taking," amid the gripes and spasms of the colic, he moaned:

As a member of the electoral commission I have given all that I could give of earnest, patriotic, steady labor and devotion to secure the just execution of the law. My efforts and my labors have been crowned only by failure. Deep, indeed, is my sorrow and poignant my disappointment.

But the grandiloquent of the farce yet remains to be noticed. This play of "American Politics" would be all incomplete, even with the profuse display of the "spread-eagle" already alluded to, unless the Star-spangled Banner "continued to wave" prominent above all the grandeur of the occasion. To produce this indispensable scenic effect the learned gentleman from the Empire State of New York [Mr. FIELD,] is appropriately detailed by the gentleman from Ohio, [Mr. PAYNE] who, acting as the "great medicine man," is administering the pill.

Standing to the "right in front" of the grand pageant, six foot two in his boots, full of the importance of the occasion, drawing his voice down to the pathetic tone, and pointing to the ten-foot flag-staff above, while a whole nation held its breath in anxious suspense, he said:

There it floated all through the night watches, till the daylight came, and as the sun rose over the snow, lighting up the Capitol from basement to dome, the flag was furled, and I knew the day was won.

The effect was electrical, and the world waited with bated breath for him to add, who had won the day. For fourteen long, dreary days they held their gasping breath, to know who had won, and still the eloquent gentleman stood there with his finger pointing to the flag, and the words still hanging upon his lips, "the day was won." Then his lips parted, and "after taking" he added:

The decision of this commission is entitled to no respect. It is as unsound in morals as it is unfounded in law. If the Presidency is thus to be won, the spectacle will be more injurious to our good name and more corrupting to our people than all the peculations, robbery, and frauds of all our history.

This is what had "won the day."

"Before taking" the renowned gentleman from Virginia, [Mr. HUNTON,] who has since been made a member of the great national returning board, and has had the honor of having his photo hawked about the streets between those of the gentleman from Ohio [Mr. GARFIELD] and the Senator from Indiana, [Mr. MORTON,] told the anxious, toiling millions that the commisson—

Will afford a fair and honest and just solution of the vexed question. Then with Tilden in the Presidency and reform and economy in the Government, our country will start on the road to prosperity and happiness.

This gentleman has been provokingly silent "since taking," and the country is anxious for him now to announce just when Tilden will be in the Presidency and the country start on that tramp for prosperity and happiness.

Remarks from him are now in order.

In truth, "before taking" nearly all democrats said it was a "good thing," but "after taking" they do not want any of it in theirs.

While these splendid "end-men" are thus affording a mine of amusement for the "crowd," we must not by any means overlook the three grotesque figures in the center, dressed in the strange admixture of the "ermine" and the "caps and bells," and who are represented as wallowing in the mire of partisan mud, while above is thrown by a strong calcium light the dazzling eulogy: "THE JUDGES WHO WILL SOAR ABOVE PARTY." Following this in quick succession, and by a process of transfiguration by which the last blends into and submerges the first, is seen a conglomeration of abuses and condemnations; while all around are rising dense volumes of dark clouds, so typical of the regrets of all good men that our supreme judges should have been made to play the part of clowns in this stupendous farce that so disgraces American politics.

Yet the most ludicrous feature of the farce very properly comes in at the tail-end of the play and just as the curtain drops behind the footlights, amid the shouts of the victors and disgust of the vanquished.

Here we behold the party of "great moral ideas," the party possessing all the "intelligence" which even the generous Boston has genially shed abroad upon the land, and actuated by "high and noble purposes," led by that paragon of wisdom and virtue so pathetically portrayed a few days since by the gentleman from Ohio, [Mr. FOSTER,] and for which he deserves and no doubt will be rewarded with a lucrative foreign mission. I say this grand party of place-hunters, led by the "great unknown," is seen advancing to the front, trampling in triumph over the three prostrate and purloined States of South Carolina, Louisiana, and Florida, and with a grand flourish of trumpets is discovered riding into the Executive Mansion astride of Cronin's nose.

[During the delivery of the above speech, it was frequently interrupted with laughter. The ten minutes expired before the speech was finished and Mr. LANE objected to Mr. CARR'S going on. The objection was afterward withdrawn, and by unanimous consent leave was granted for the printing of the portion not delivered.]

Mr. STANTON. Mr. Speaker, I voted for the bill under which the electoral count is now proceeding and by virtue of which the electoral commission now exists. That it was designed as a trap to ensnare or a pit to take in any party I was not aware at any time before I voted for it. Of this fact I have been apprised by gentlemen of the republican party since the count has commenced under it. I voted for it, against my own judgment, out of deference to the recognized leaders of the democratic party, who said it was a measure desired by the conservative leaders of the republican party to suppress the revolutionary element in that party.

The conservative members of the republican party acknowledged after the election that Mr. Tilden was elected, but their radical brethren were determined at all hazards, at the expense of the peace of the country, to refuse to recognize Mr. Tilden's authority as President and to set up Mr. Hayes in opposition. In other words the radical republicans were determined to have a dual administration, which could only result in disorder, national disintegration, and bloodshed. With such dire prospects staring them in the face, the conservative republicans of the CONKLING stripe appealed to that gentleman to join hands with the democracy in framing legislation that would awe the revolutionary members of their party into submission. This act to provide for and regulate the counting of electoral votes for President and Vice-President is the child of that union. And faithfully carried out and observed, would not this act, this legislation, make these revolutionists submissive.

If the evidence of how the votes were cast in Florida and Louisiana in favor of Tilden and Hendricks, and how republican forgers and corruptionists manipulated these votes so as to change large majorities from Tilden and Hendricks to large majorities for Hayes and Wheeler, were admitted, the revolutionary element of the republican party, desperate and unscrupulous though they be, would not dare to dispute the authority of Mr. Tilden as President. This act designed the admission of that evidence; the republican members of the committee who participated in framing the act acquiesced in the democratic claim to admit evidence under it; and in the expectation that all evidence necessary to show for which candidate majorities were cast in Louisiana, Florida, and other disputed States would be admitted by the commission constituted by the bill, it became a law, principally by democratic votes; and in the same expectation it was opposed by a large republican vote in each House. To admit such evidence is the spirit and letter of this act, but the republican majority in the commission refused to carry out the act according to this letter and spirit. And now, in the face of frauds most glaring and a law disregarded—all committed and done to make Rutherford B. Hayes the Executive of this Government for four years—democrats arise in their places in this House and indulge in platitudes about honor and good faith. And very singular to say, some of the men most prominent on this floor and in caucus on the democratic side in advocating a speedy count and quick announcement that Hayes is elected are men whose names republican journals speak of in connection with Cabinet and other appointments under Mr. Hayes's administration, and some of them are men whose public utterances cost Tilden and Hendricks the loss of more votes on the 7th of last November than resulted to them from any other cause.

Hayes cannot sit in the chair of Washington without the aid of democrats of this House. He should not sit there by that aid if we democrats listen to the voice of those who sent us here.

We passed this law without consulting them. To press on under it when it is being perverted, when it is being used as a cloak for fraud by the republican party, is not only a betrayal of our constituents, but it is a betrayal of the principles they have so nobly battled for.

Hayes in the presidential chair through fraud, forgery, and corruption, and against the express will of the people—the only way in which he can get there—is the worst blow of all the terrible blows given to liberty by the republican party.

No man should be installed President who was not elected as the Constitution and laws prescribe; no man can be nor is President unless so elected; and, as far as Hayes is concerned, the office is vacant, and if no law now exists to provide for filling such a vacancy it is the duty of this House and the Senate to forthwith enact such a law. In opposition to the appeals made by the democratic members from New York [Mr. HEWITT] and from Kentucky, [Mr. BOONE,] and a few others, to press on with the count that Hayes may be installed President, I would say to the democrats of this House, pass immediately a law for a new election, and aid not the revolutionary element of the republican party in their perversion of law to place a usurper in the presidential chair.

Leave the installation of Hayes to that chair, if he is to be placed there, to the parties who expect to bask in the sunshine of his patronage and power, and to the manipulations of railway, bank, and corporate capitalists, who to-day are the only parties clamorous to have him declared President.

The men who made this Republic thought it no trifle to have in the presidential chair one not elected, as is manifest from the elaborate provisions they inserted in the Constitution in relation to the election of a President, and it is not the memory of the men who prevented Aaron Burr from attaining the Presidency through chicanery and against the will of the majority of the people that to-day is not respected, but, on the contrary, it is the memory of him that is not respected. I utter it in no spirit of prophecy, but because to me it is a self-evident proposition, that the democrat who by his vote and voice in Congress aids the fraudulent schemes of Hayes will before six months shall have passed by regret the act unless he shall ere that time have enrolled himself among the satellites of Hayes. We are told that Hayes will, if proclaimed President, recognize the Nicholls government in Louisiana. Yes, and we were told that the republican eight on the joint commission would admit evidence to show the frauds of the Wells returning board in canvassing the votes of that State. Hayes knows that Packard's claim to the governorship of that State is of equal validity to his own claim to the Presidency of the United States, and he will not be in a hurry to take away the propping from beneath his own pretensions. Let not democrats who cry "on with the count" lay the flattering unction to their souls that there is nothing in the future for them but to enjoy office, honor, and to bask in the sunlight of the smiles and praise of railroad, bank, and corporation capitalists and their subsidized claqueurs. If there is to be a *dies iræ*, a judgment day for their republican friends, as they affect to believe, for doing work in which they are participating, it would be only natural that a slice of that day of judgment should be allotted to them.

I cannot express in words my indignation at the unrepublican and unfair conduct of the majority of the republican party, and especially of their members on the joint commission. I shall always feel that the true name in full of R. B. Hayes is Returning Board Hayes; that the true name in full of W. A. Wheeler is Wells Anderson Wheeler, and associating these persons with these names will not beget much respect and veneration with me, and I think with very many, for them, no matter what stations they may fill.

Of one republican Senator and one republican Representative on that commission some fairness was expected. They have disappointed that expectation. The heat of partisanship has warped their judgments. Of Miller, Strong, and Bradley not only was fairness and impartiality expected, but no presumption ran against that expectation. They too have fallen beneath the Juggernaut of partisanship.

The Florida, Louisiana, and Oregon decisions will stand as another tower of Babel, reared to circumvent, not only the express will of a large majority of the American people, but also the eternal principles of justice and right.

The projectors of the first Babel and their work have disappeared from the memory of man and the face of earth, and are recalled only to be ridiculed and despised, and so it will be, and even now is, with the three I have named. Their usefulness is gone, their action is not above suspicion. In trying to cloak the rascalities of Wells, Anderson, and their associates, and to elevate Hayes to the Presidency by fraud, they have pulled themselves down to a plane on which judges cannot stand and command the respect of the people.

But of what use is it to waste indignation and words on dead men? It is to live men I would and do address myself. I ask again why will any portion of the democratic party ally themselves to men who seek to subvert our Constitution and Republic?

No member of the democratic party can certainly be intimidated by radical republican frothings about the Army. No democrat can possibly think that the republican party would attempt to count Hayes in and install him as President if this House should refuse to join in that count, and that if they should so attempt they could effect anything. The wicked flee when no man pursueth, and our radical republican brethren, not more courageous than ordinary mortals, in a righteous cause would not be too eager to invoke war and strife because the Louisiana returning board cannot dictate who shall be President after the 4th of March next. To me the path of duty is plain and clear.

Republican finesse, duplicity, and cunning have so obscured the just claims of Mr. Tilden to the Presidency as to give pretext to that party to hamper and embarrass his administration, and to deny with some plausibility his right to exercise the duties of that office. If he be not allowed to assume that office on the 4th of March next, then there will thenceforth be a vacancy, and if there be no provision to fill that vacancy we should legislate to that end, and we should also legislate to have as soon as possible another election for President and Vice-President, for this is the only manner in which peace and rest can be brought to the country. No man with a tainted claim to the Presidency, such as is Mr. Hayes's, could quiet the public pulse or restore business to its wonted channels. Conservative republicans know this, and I believe if the democrats of this House stop the farce of counting and pass the bills I have mentioned they will have the co-operation of enough republicans in the Senate to pass the bills in that body also. If the radical republicans refuse to unite in such legislation the responsibility will rest with them, and I believe the conservatives of that party, rather than have an interregnum, will say that Tilden was justly elected and should be inaugurated, and should they so say he will be inaugurated and act as President for the next four years.

Mr. BALLOU. Mr. Speaker, my colleague has made so clear a statement as to the condition of the electoral vote of Rhode island objected to that it is not necessary perhaps for me to say anything in addition.

It was a remark of Judge Story that the best law was common sense, and if there was any State in this Union which was disposed and took every possible means to be technically legal and absolutely strict in relation to her electoral vote it was the State of Rhode Island.

It is true there was some doubt concerning one of the electors; but Governor Lippitt immediately sought the opinion of the supreme court, and that court responding that there was some doubt, he, on the reception of that opinion, called the Legislature together and they elected William S. Slater as an elector. Mr. Corliss resigned, and then the electors themselves elected William S. Slater, the same man who had been previously elected by the Legislature, to fill the vacancy.

Now, after the State of Rhode Island has chosen her electors by a majority of 5,000 she stands here to-day and asks, as she has the right to demand, that her electoral vote shall be counted for Hayes and Wheeler. [Cries of "Vote!" "Vote!"]

I ask for a vote on the pending resolutions.

The SPEAKER. The gentleman from Kentucky is now entitled to the floor.

Mr. WHITE. I waive any right I may have to be heard on this question, and call for a vote.

Mr. WOOD, of New York. I move the House do now proceed to vote on the pending question.

The SPEAKER. The Clerk will read first the resolution offered by the gentleman from Maryland [Mr. O'BRIEN] and next the substitute offered by the gentleman from Rhode Island, [Mr. EAMES.]

The CLERK. Mr. O'BRIEN'S resolution is as follows:

Resolved, That the vote of William S. Slater as elector for the State of Rhode Island should not be counted, because said Slater was not appointed or elected elector for said State in such manner as its Legislature had directed.

Mr. EAMES'S substitute is as follows:

Resolved, That the vote of William S. Slater, as the elector for the State of Rhode Island be counted, the objections thereto to the contrary notwithstanding.

The substitute was agreed to; and then the resolution, as amended, was adopted.

Mr. WILSON, of Iowa. Now, Mr. Speaker, I move the Senate be notified of the action of the House in reference to the electoral vote of the State of Rhode Island, objected to, and that the House is now ready to meet the Senate in joint meeting and continue the count of the electoral vote for President and Vice-President.

Mr. KNOTT. I move as a substitute for that the following. [Cries of "Vote!" "Vote!"] I understood a motion was made that the Senate be notified of the decision, and that this House is now ready to meet that body in joint session. I offer what I send up to the Clerk's desk as a substitute for that motion.

The Clerk read as follows:

Ordered, That the Clerk of this House notify the Senate of the decision of the House in the case of the State of Rhode Island, and that the House of Representatives will meet the Senate in this Hall at ten o'clock to-morrow morning to proceed with the counting of the electoral vote for President and Vice-President of the United States.

The question on the substitute was submitted to the House.

Mr. MCCRARY. I rise to a point of order. The bill under which we are acting provides in the conclusion of the first section that when the two Houses have voted they shall *immediately again meet*, and the presiding officer shall then announce the decision of the questions submitted.

Mr. LANE. The point of order comes too late. The House has divided and the question has been taken for and against.

Mr. WALLING. The House has divided on the amendment, and it is too late to make objection now. The vote was taken before the objection was raised.

Mr. MCCRARY. I refer to the clause of the first section that when the two Houses have voted they shall immediately again meet, and the presiding officer shall then announce the decision of the questions submitted. That is all that can be done. The amendment of the gentleman from Kentucky is equivalent to a motion for another recess, which is not in order under another provision of the electoral bill.

The SPEAKER. Does the gentleman state that he rose in time?

Mr. MCCRARY. I did rise in time, and made a zealous effort to be heard by the Chair in objection to the reception of the resolution of the gentleman from Kentucky, but the confusion was so great that I could not be heard.

Mr. WALLING. I rise to a point of order, that the vote was taken on both sides before the gentleman rose.

The SPEAKER. The Chair thought so.

Mr. CLYMER. I chanced to be on this side of the House near the gentleman from Iowa, and heard his objection.

Mr. OLIVER. I rose and addressed the Chair, making the same point of order against the amendment.

Mr. RUSK. I made objection and did not withdraw it.

Mr. HANCOCK. I also rose at the same time and tried to make myself heard and think I would have been if there had not been so much confusion.

The SPEAKER. The Chair of course accepts the statement of gentlemen, that they rose in time to make objection.

Mr. CONGER. I rose and objected in my place to that resolution.

The SPEAKER. The Chair thinks the law does bear the construction which the gentleman from Iowa puts upon it, that when the two Houses have voted they shall immediately again meet. The Senate has notified the House of its action in the case of the Rhode Island elector and that it is ready to meet this House in joint meeting. The House has voted on the same question, and the only remaining duty under the law is for the two Houses to meet immediately. The amendment of the gentleman from Kentucky is therefore ruled out.

The motion of Mr. WILSON, of Iowa, was then adopted.

At six o'clock p. m. the Doorkeeper announced its Senate of the United States.

The Senate entered the Hall preceded by its Sergeant-at-Arms and headed by its President *pro tempore* and its Secretary, the members and officers of the House rising to receive them.

The PRESIDENT *pro tempore* of the Senate took his seat as Presiding Officer of the joint meeting of the two Houses, the Speaker of the House occupying a chair upon his left.

The PRESIDING OFFICER. The joint meeting of Congress for counting the electoral vote resumes its session. The two Houses having separately determined upon the objection to the certificate from the State of Rhode Island, the Secretary of the Senate will read the resolution adopted by the Senate.

The Secretary of the Senate read the resolution, as follows:

Resolved, That the vote of William S. Slater be counted with the other votes of the electors of Rhode Island, notwithstanding the objections made thereto.

The PRESIDING OFFICER. The Clerk of the House of Representatives will now read the resolution adopted by the House of Representatives.

The Clerk of the House of Representatives read the resolution adopted by the House, as follows:

Resolved, That the vote of William S. Slater, as an elector of the State of Rhode Island, be counted, the objections to the contrary thereto notwithstanding.

The PRESIDING OFFICER. The two Houses having concurred in an affirmative vote not to reject the vote of Rhode Island, that vote will be counted. The tellers will announce the vote of Rhode Island.

Mr. STONE, (one of the tellers.) The State of Rhode Island casts four votes for Rutherford B. Hayes, of the State of Ohio, for President, and four votes for William A. Wheeler, of the State of New York, for Vice-President of the United States.

The PRESIDING OFFICER. Having opened the certificate from the State of South Carolina, received by messenger, the Chair hands it to the tellers to be read in the presence and hearing of the two Houses. The Chair also hands to the tellers the corresponding certificate received by mail.

Senator ALLISON (one of the tellers) read the certificate.

The PRESIDING OFFICER. Another certificate from the State of South Carolina has been received by messenger and also by mail. The Chair hands it to the tellers to be read in the presence and hearing of the two Houses.

Mr. STONE (one of the tellers) read the certificates.

The PRESIDING OFFICER. Are there objections to the certificates from the State of South Carolina?

Mr. COCHRANE. On behalf of the Senators and Representatives whose names are thereto attached, I submit the following objections to the certificates and papers purporting to be certificates of the electoral votes of the State of South Carolina cast by C. C. Bowen and others.

The PRESIDING OFFICER. The Secretary of the Senate will read the objections.

The Secretary of the Senate read as follows:

The undersigned, Senators of the United States and Members of the House of Representatives, object to the certificates and papers purporting to be certificates of the electoral votes of the State of South Carolina cast by C. C. Bowen, D. Winsmith, T. B. Johnson, Timothy Hurley, W. B. Nash, Wilson Cook, W. B. Meyers, on the following grounds:

I.

For that no legal election was held in the State of South Carolina for presidential electors, the General Assembly of that State not having provided, as required by article 8, section 3, of the constitution thereof, for the registration of persons entitled to vote, without which registration no valid or legal election could be held.

II.

For that there was not existing in the State of South Carolina on the 1st day of January, 1876, nor at any time thereafter up to and including the 10th day of December, 1876, a republican form of government such as is guaranteed by the Constitution to every State in the Union.

III.

For that the Federal Government prior to and during the election on the 7th day of November, 1876, without authority of law, stationed in various parts of the said State of South Carolina at or near the polling-places detachments of the Army of the United States, by whose presence the full exercise of the right of suffrage was prevented and by reason whereof no legal or free election was or could be had.

IV.

For that at the several polling-places in the said State there were stationed deputy marshals of the United States, appointed under the provisions of sections 2021 and 2022 of the Revised Statutes of the United States, which provisions were unconstitutional and void. That the said deputy marshals, exceeding over one thousand in number, by their unlawful and arbitrary action in obedience to the improper and illegal instructions received by them from the Department of Justice, so interfered with the full and free exercise of the right of suffrage by the duly qualified voters of the said State of South Carolina that a fair election could not be and was not held in the said State of South Carolina on the said 7th day of November, 1876.

V.

For that there was not from the 1st day of January, 1876, up to and including the 10th day of December, 1876, at any time, a State government in the State of South Carolina, except a pretended government set up in violation of law and of the Constitution of the United States by Federal authority and sustained by Federal troops.

JOHN W. JOHNSTON, Virginia;
W. H. BARNUM, Connecticut;
Senators.
LEVI MAISH, Pennsylvania;
JAMES SHEAKLEY,
GEO. C. CABELL, Virginia;
S. S. COX, New York;
WM. M. ROBBINS, North Carolina;
JNO. M. BRIGHT, Tennessee;
JOHN B. CLARK, JR.,
G. C. WALKER,
R. A. DE BOLT,
JOHN R. EDEN,
J. R. TUCKER, Virginia;
THOMAS L. JONES, Kentucky;
J. B. CLARKE, Kentucky;
J. PROCTOR KNOTT,
WM. MUTCHLER, Pennsylvania;
ALEX. G. COCHRANE, Pennsylvania;
M. I. SOUTHARD,
FERNANDO WOOD,
J. A. MCMAHON,
W. S. STENGER,
E. F. POPPLETON,
A. T. WALLING, Ohio;
A. M. SCALES,
THOS. S. ASHE,
CHARLES B. ROBERTS
WM. A. J. SPARKS,
F. D. COLLINS,
JAC. TURNEY,
A. V. RICE, Ohio;
B. J. FRANKLIN, Missouri;
CHARLES P. THOMPSON,
JNO. F. PHILIPS, Missouri;
WM. S. HOLMAN, Indiana;
G. A. JENKS, Pennsylvania;
WILLIAM WALSH.
Representatives.

The PRESIDING OFFICER. Are there further objections to the certificates from the State of South Carolina?

Senator PATTERSON. I submit, on behalf of the Senators and Representatives whose names are attached thereto, the following objections to the certificates and papers purporting to be certificates of the electoral votes of South Carolina cast by Theodore G. Barker and others.

The PRESIDING OFFICER. The Clerk of the House will read the objections.

The Clerk read the objections as follows:

The undersigned Senators and members of the House of Representatives of the United States object to the certificates and papers purporting to be certificates of the electoral votes of the State of South Carolina, cast by Theodore G. Barker, Samuel McGowan, John W. Harrington, John I. Ingram, William Wallace, John B. Erwin, and Robert Aldrich, and by each of them, and to the list of votes by them and each of them signed and certified as given for President of the United States and for Vice-President of the United States, for the following reasons:

I.

The said Theodore G. Barker, Samuel McGowan, John W. Harrington, John I. Ingram, William Wallace, John B. Erwin, and Robert Aldrich were not, nor was either of them, appointed an elector of President and Vice-President of the United States for the State of South Carolina.

II.

The said papers have not annexed to them a certificate of the governor of South Carolina as required to be made and annexed by sections 136 and 138 of the Revised Statutes of the United States.

III.

The said papers have not annexed to them a list of the names of the said Theodore G. Barker, Samuel McGowan, John W. Harrington, John I. Ingram, William Wallace, John B. Erwin, and Robert Aldrich as electors, to which the seal of the State of South Carolina was affixed by the secretary of state, and signed by the governor and secretary as required by the general laws of South Carolina.

IV.

For that C. C. Bowen, John Winsmith, Thomas B. Johnston, Timothy Hurley, William B. Nash, Wilson Cook, and William F. Myers were duly appointed electors of President and Vice-President of the United States for the State of South Carolina, and as such electors, at the time and place prescribed by law, cast their votes for Rutherford B. Hayes for President of the United States and for William A. Wheeler for Vice-President of the United States, and the lists of votes signed, certified, and transmitted by such electors to the President of the Senate are the only true and lawful lists of votes for President and Vice-President of the United States.

V.

That the said C. C. Bowen, John Winsmith, Thomas B. Johnston, Timothy Hurley, William B. Nash, Wilson Cook, and William F. Myers received the highest number of all the votes cast for electors of President and Vice-President of the United States by the qualified voters of the State of South Carolina at the election held in said State on the 7th day of November, A. D. 1876, and the proper officers of the State of South Carolina duly canvassed said votes, and made and certified according to law and under the great seal of the State of South Carolina, and delivered to said C. C. Bowen, John Winsmith, Thomas B. Johnston, Timothy Hurley, William B. Nash, Wilson Cook, and William F. Myers lists of the electors of President and Vice-President of the United States elected by the qualified voters of said State at said election, and showing that said C. C. Bowen, John Winsmith, Thomas B. Johnston, Timothy Hurley, William B. Nash, Wilson Cook, and William F. Myers were the persons having the highest number of votes of said qualified voters at such election and were elected, which certificate is dated the 6th day of December A. D. 1876, and which has been read before the two Houses of Congress, by reason of all which said Bowen, Winsmith, Johnston, Hurley, Nash, Cook, and Myers were the lawful electors of President and Vice-President of the United States for the State of South Carolina.

VI.

That the lists of votes cast by the said C. C. Bowen, John Winsmith, Thomas B. Johnston, Timothy Hurley, William B. Nash, Wilson Cook, and William F. Myers for President of the United States and for Vice-President of the United States have annexed to them a certificate of the governor of the State of South Carolina, required to be made by sections 136 and 138 of the Revised Statutes of the United States.

VII.

That said lists of votes have annexed to them a list of the names of the said C. C. Bowen, John Winsmith, Thomas B. Johnston, Timothy Hurley, William B. Nash, Wilson Cook, and William F. Myers as electors, to which the seal of the State of South Carolina was affixed by the secretary of state, and signed by the governor and secretary as required by the general laws of South Carolina.

JNO. J. PATTERSON,
ANGUS CAMERON,
J. P. CHRISTIANCY,
Senators.

WILLIAM LAWRENCE,
E. G. LAPHAM,
N. P. BANKS,
ROBERT SMALLS,
S. L. HOGE,
J. H. RAINEY,
Representatives.

The PRESIDING OFFICER. Are there further objections to the certificates of the State of South Carolina?

There were no further objections.

The PRESIDING OFFICER. The certificates objected to, together with the objections, will be submitted to the commission for its judgment and decision. The Senate will now retire to its Chamber.

The Senate accordingly retired to its Chamber.

Mr. WALLING. I move that the House take a recess until ten o'clock to-morrow morning.

The SPEAKER. Pending that motion the Chair desires to lay certain matters before the House.

EXPENSES OF INVESTIGATING COMMITTEES.

The SPEAKER, by unanimous consent, laid before the House a statement from the Sergeant-at-Arms of expenses of investigating committees of the House, with accompanying vouchers; which was referred to the Committee of Accounts.

Mr. CONGER. I ask that the statement of the Sergeant-at-Arms be printed in the RECORD.

The SPEAKER. Does the gentleman want the vouchers to be also printed?

Mr. CONGER. No, sir.

There being no objection, the statement was ordered to be printed in the RECORD. It is as follows:

OFFICE SERGEANT-AT-ARMS, HOUSE OF REPRESENTATIVES,
Washington, D. C., February 26, 1877.

To the House of Representatives:

As required by law I herewith submit a statement of money paid out for expenditures, with accompanying vouchers of the committees of the House to investigate the recent elections for President and Vice-President of the United States in the States of South Carolina, Florida, and Louisiana, and in the cities of New York, Brooklyn, Jersey City, and Philadelphia, as follows, to wit:

South Carolina	$14,520 06
Florida	10,679 82
Louisiana	33,242 00
New York, &c	4,656 08
Total	63,097 96

JOHN G. THOMPSON,
Sergeant-at-Arms of the House of Representatives.

LEAVE OF ABSENCE.

Mr. MILLIKEN, by unanimous consent, obtained leave of absence for the remainder of the session, on account of important business.

THEODORE B. HOOK.

On motion of Mr. BAGBY, by unanimous consent, leave was given to withdraw from the files of the House the papers in the case of Theodore B. Hook, there being no adverse report thereon.

IMPROVEMENT OF MISSOURI RIVER.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting report of chief engineer on the improvement of the Missouri River opposite Nebraska City; which was referred to the Committee on Commerce.

ARMS, ETC., FURNISHED BY THE STATES.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting report on the bill (H. R. No. 449) for the relief of States for arms and ordnance stores furnished the Government; which was referred to the Committee on Military Affairs.

REMOVAL OF POST AT FORT GARLAND.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting recommendation of an appropriation of $40,000 for the removal of post of Fort Garland; which was referred to the Committee on Military Affairs.

JOHN W. DODD & CO.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting the report of the chief of ordnance on bill for the relief of John W. Dodd & Co., of Indianapolis; which was referred to the Committee on Appropriations.

GEORGE D. WISE.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting report of Quartermaster-General in case of George D. Wise, late captain and assistant quartermaster western gunboat flotilla; which was referred to the Committee of Claims.

METRIC SYSTEM OF WEIGHTS AND MEASURES.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting, in response to a resolution of January 25, 1877, information as to the feasibility of substituting the metric system of weights and measures in the assessment and collection of duties in the customs service of the United States; which was referred to the Committee on Coinage, Weights, and Measures.

MILITARY ROAD IN ARIZONA.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a report on military road between Camp Verd and Sunset crossing, in Arizona; which was referred to the Committee on Military Affairs.

CONTINGENT EXPENSES OF THE TREASURY DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a report of contingent expenses of the Treasury Department for the fiscal year ending June 30, 1876, as directed by section 193 of the Revised Statutes; which was referred to the Committee on Appropriations.

LEAVE TO PRINT.

The SPEAKER. The Chair desires to ask unanimous consent for the gentleman from Pennsylvania, [Mr. HOPKINS,] who is too unwell to be here to-day, to have printed in the RECORD as a part of the debate some remarks touching the Pennsylvania electoral question.

There was no objection and the leave was granted.

HOMESTEAD LAW.

Mr. STANTON, by unanimous consent, presented the petition of 272 citizens of Luzerne County, Pennsylvania, asking for the passage of

the bill introduced by Hon. N. P. BANKS at the last session to extend the provision of the homestead act, which was referred to the Committee on Public Lands and ordered to be printed in the RECORD.

The petition is as follows:

To the Honorable the Senate and House of Representatives of the United States:

We the undersigned laboring men, mechanics, and citizens of the United States, beg leave to call your attention to the terrible sufferings of our fellow-citizens in the mining, manufacturing, and thickly populated districts of the country, growing out of the want of employment and the means of subsistence. Year after year, since 1865, the demand and price for labor have steadily diminished, until to-day there is an army of 2,000,000 of men unemployed in the country, who, with their families, are destitute of the means of subsistence, unable to obtain work at any price, perishing of cold, wasting away of hunger and disease, and barely subsisting on a charity which the paralyzed condition of the business of the country can but illy afford. The condition of these poor men and their families may be imagined but cannot be described. The appalling pictures of destitution among the laboring classes which the daily press presents are, we assure you, not overdrawn. Thousands are actually starving to death and perishing of cold, while the thieves, murderers, and all other criminals are justly given protection from both cold and hunger, and, as a natural consequence, the people are becoming terribly demoralized. Crime is fearfully on the increase. The jails and almshouses are full to overflowing, while begging, heretofore unknown among us, is being reduced to a science. Sheriffs, constables, policemen, and police justices are the only ones among us who do a thriving business.

The condition of affairs may be briefly summed up as follows: Those men and women now vainly seeking work must be supported as honest laborers, contributing to the wealth of the Nation, or as paupers or criminals. In the former case they are honest, law-abiding citizens, ready at all times to make any sacrifice, no matter how great, to maintain the supremacy of the Government, while in either of the other conditions they become a burden and a curse to society. We believe that this deplorable state of affairs has been brought upon us by too many of our people leaving the farms and seeking employment in the mines and factories, overcrowding those industries, while the agricultural interest has not kept pace, causing an overplus of manufactured goods in proportion to the amount of agricultural products—believing, as we do, many of these now out of employment would gladly settle upon the Government lands but that we lack the means to either move on the land or to procure the food necessary to sustain life until a crop could be raised.

The bill introduced in the House of Representatives, during the last session of Congress, by Hon. N. P. BANKS, of Massachusetts, should it become a law, would provide those anxious to settle on the Government lands with the means; and, at the same time, the Government would be amply secured against loss at the hands of dishonest settlers who might avail themselves of its benefits. We feel that this is due to the people, that the welfare of the country demands it.

We therefore respectfully petition your honorable bodies to at once give the force of law to the bill referred to above, and your petitioners will ever pray, &c.

Mr. WALLING. I now insist on my motion that the House take a recesss until to-morrow at ten o'clock a. m.

Mr. RUSK. Pending that motion, I ask unanimous consent that we have a session this evening for the consideration of pension bills. [Cries of "Regular order!"] I ask unanimous consent.

The SPEAKER. The call for the regular order is equivalent to an objection.

Mr. RUSK. I hope then that the motion for a recess will be voted down, and that we shall devote this evening to pension bills.

The question was taken on Mr. WALLING'S motion, and it was agreed to.

And the House accordingly (at six o'clock and thirty-five minutes p. m.) took a recess until ten o'clock a. m. to-morrow.

AFTER THE RECESS.

The recess having expired, the House re-assembled at 10 o'clock a. m., (Tuesday, February 27.)

Mr. HOLMAN. I move that the House resolve itself into Committee of the Whole on the state of the Union to resume the consideration of the sundry civil bill.

Mr. REAGAN. The Committee on Commerce have prepared the river and harbor bill. I do not want to debate it all, but to present the bill and let the House act upon it, so that if they accept it it may be passed, and if not, it may be defeated.

Mr. HOLMAN. I must insist upon that bill being considered in Committee of the Whole on the state of the Union.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed the bill (H. R. No. 2382) granting the right of way to the Hot Springs Railroad Company over the Hot Springs reservation in the State of Arkansas, with amendments; in which he was directed to ask the concurrence of the House.

The message further announced that the Senate insisted on its amendments to the bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878.

The message further announced that the Senate insisted on its amendments disagreed to by the House to the bill (H. R. No. 4559) making appropriations to supply deficiencies in the appropriations for the year ending June 30, 1877, and for prior years, and for other purposes, agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. SARGENT, Mr. WINDOM, and Mr. WITHERS managers of the conference on the part of the Senate.

The message further announced that the Senate insisted on its amendments disagreed to by the House to the bill (H. R. No. 4616) making appropriations for the naval service for the year ending June 30, 1878, and for other purposes, agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. SARGENT, Mr. CRAGIN, and Mr. WALLACE managers of the conference on the part of the Senate.

The message further announced that the Senate had agreed to the report of the committee of conference on the bill (H. R. No. 4452) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1878, and for other purposes.

ORDER OF BUSINESS.

Mr. REAGAN. I desire to take the floor for the purpose of moving to suspend the rules, but I suppose I cannot do that pending the motion of the gentleman from Indiana.

The SPEAKER. The Chair desires to state that he understands that the gentleman from Texas [Mr. REAGAN] wishes to move to suspend the rules and pass what is known as the river and harbor appropriation bill. The Chair would ask the gentleman from Texas if that is what he desires.

Mr. REAGAN. It is.

Mr. HOLMAN. That manifestly cannot be done now.

The SPEAKER. In the present condition of the public business the Chair feels obligated by every means in his power to hasten the consideration of the appropriation bills. He thinks, however, that from the fact that the sundry civil appropriation bill has already been partially considered, it should have the preference over the proposition of the gentleman from Texas, [Mr. REAGAN.] In due time the Chair will give the gentleman from Texas an opportunity to test the sense of the House on the proposition to suspend the rules and pass the river and harbor appropriation bill.

Mr. REAGAN. Of course I acquiesce in the suggestion of the Chair as being very proper. I desire to state to members, however, that this year the river and harbor appropriation bill contains items amounting to about two and a half million of dollars, embracing the leading and most important works of improvement, and the bill has been very carefully considered and prepared.

The question was taken upon the motion of Mr. HOLMAN, and it was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. BUCKNER in the chair.

SUNDRY CIVIL APPROPRIATION BILL.

The CHAIRMAN. The House is now in Committee of the Whole and resumes the consideration of the sundry civil appropriation bill. The pending question is upon the point of order raised by the gentleman from Michigan [Mr. CONGER] on the last clause of the bill reported from the Committee on Appropriations; which clause will now be read by the Clerk.

The Clerk read as follows:

That the sum of $375,000, or so much thereof as may be necessary, be appropriated to pay the amount due to mail contractors for mail service performed in the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Texas, Tennessee, and Virginia in the years 1859, 1860, 1861, and before said States respectively engaged in war against the United States; and the provisions of section 3480 of the Revised Statutes of the United States shall not be applicable to the payments herein authorized: *Provided*, That any such claims which have been paid by the Confederate States government shall not be again paid.

Mr. ATKINS. As the House is very thin this morning, and as there are several paragraphs of the bill which were passed over by unanimous consent before this point of order was raised, I would suggest that we now go back and take up and dispose of the clauses thus passed over and leave this item to be considered, as it is the last part of the bill. I asked consent of the gentleman from Michigan the other day to do so, and he gave that consent. I see that he is now in his seat, and I trust there will be no objection to going back and taking up the clauses which have been passed over and disposing of them, by which time the attendance in the House will be larger.

Mr. WILSON, of Iowa. That is all right; go ahead.

The CHAIRMAN. If there be no objection, that course will be pursued.

Mr. CONGER. That leaves the point of order pending.

The CHAIRMAN. That leaves the point of order pending, to be afterward disposed of.

Mr. VANCE, of Ohio. I ask consent to recur to the first paragraph of the bill, that relating to public printing and binding, for the purpose of making a correction which I think will meet with no opposition. I move to amend the paragraph by changing the clause relating to the debates and the proceedings of Congress so as to read as follows:

For printing and binding for Congress, including the proceedings and debates of Congress, $694,000.

Mr. HOLMAN. I believe that is all right.

The amendment was agreed to.

Mr. VANCE, of Ohio. I also ask consent to submit an amendment to come in after the paragraph relating to public printing and binding, and which I send to the Clerk's desk.

The Clerk read as follows:

That all public documents already printed or ordered to be printed by the present Congress shall be credited to the present members of said Congress and Delegates, and subject to their orders for the period of nine months after the expiration of their terms as Members and Delegates; and that public documents already printed or ordered to be printed may pass through the mails upon the frank of Members and Delegates of the present Congress, in compliance with laws now in force regarding the transmission of public documents through the mails, during the said period of nine months after their terms as Members and Delegates.

Mr. O'NEILL. Does that apply to any other documents than those which are already free in the mails?

Mr. VANCE, of Ohio. It does not change the law at all; leaves it as it now stands.

Mr. HOLMAN. I understand that this amendment only continues the right of present Members and Delegates in relation to documents for nine months after their terms have expired.

Mr. VANCE, of Ohio. That is all.

The amendment was agreed to.

Mr. TOWNSEND, of Pennsylvania. Before we pass from this part of the bill, I desire to offer an amendment to come in after the clause appropriating $105,000 for the printing of the Post-Office Department. I send the proviso to the Clerk's desk to be read.

The Clerk read as follows:

Provided, That $2,000 of that sum may be disbursed under the direction and supervision of the Postmaster-General for compiling a history of the Post-Office Department from its origin to the present time, including a catalogue of the Postmasters-General; with a brief account of their services, the history of the reduction of postage to its present rates, ocean postage, international postage, railway-mail service, appliances for the use, security, and celerity of the mails, and such other matters as will show the progress of our national postal system.

Mr. HOLMAN. I rise to a question of order.

Mr. TOWNSEND, of Pennsylvania. I have the floor.

The CHAIRMAN. This question of order has already been disposed of.

Mr. TOWNSEND, of Pennsylvania. I ask that a telegram from the Postmaster-General be read.

The CHAIRMAN. This matter has been disposed of heretofore by the Chair on a point of order. It is ruled out of order.

Mr. TOWNSEND, of Pennsylvania. I ask to be heard one moment.

The CHAIRMAN. On the point of order?

Mr. TOWNSEND, of Pennsylvania. Yes, sir, on the point of order. We have come back to this paragraph, and now it is open to amendment. Two amendments have already been made to it, and it is open therefore to all other amendments. I ask, therefore, that the telegram from the Postmaster-General be read and that this amendment be considered.

The CHAIRMAN. The Chair does not think that because other amendments have been permitted by unanimous consent this amendment is admissible when objection is made.

Mr. TOWNSEND, of Pennsylvania. Unanimous consent was not asked for the other amendments.

Mr. MILLS. The gentleman might have the telegram read as part of his remarks.

The CHAIRMAN. The Chair supposes there is no objection to the telegram being read.

The Clerk read as follows:

POST-OFFICE DEPARTMENT,
Washington, D. C., February, 1877.

Hon. W. TOWNSEND:

I am willing that $2,000 of the $105,000 should be appropriated for the compilation of a history of the Post-Office Department, to be disbursed under the advice and authority of the Postmaster-General.

JAS. N. TYNER.

Mr. HOLMAN. In view of the telegram just read, I might very properly move to reduce this appropriation; for it is manifestly $2,000 too much. [Laughter.]

Mr. TOWNSEND, of New York. The Postmaster-General consents to this use of $2,000 of this appropriation. There is not to-day in the Post-Office Department a history of that Department.

Mr. HOLMAN. We do not want any.

The CHAIRMAN. There is no law authorizing this compilation, and therefore the Chair rules the amendment out of order.

The Clerk read as follows:

For survey of public lands and private land claims, $50,000.

Mr. HOLMAN. It is not necessary to read the remainder of this paragraph, which has already been read. I ask unanimous consent that $50,000 be struck out and $150,000 inserted. It is true that this is a very large appropriation——

The CHAIRMAN. The pending amendment is an amendment of the gentleman from California to insert $150,000.

Mr. HOLMAN. The Committee on Appropriations, in conceding this large increase, do so with the hope that in view of the very heavy increase of the appropriations in this bill the Committee of the Whole will consent that there be no further increase of the appropriations and that the bill be allowed to stand as it is.

Mr. WALLING. I move to amend the amendment by striking out "$150,000" and inserting "$250,000."

Mr. HOLMAN. I rise to a question of order. The amendment has already been disposed of.

The CHAIRMAN. The Chair does not understand that it has been disposed of.

Mr. HOLMAN. I thought it was disposed of by unanimous consent.

The CHAIRMAN. No, sir.

Mr. HOLMAN. Then I withdraw my proposition. I supposed there would be no objection to it. No person has named any higher sum until this moment.

The CHAIRMAN. The question was upon the amendment of the gentleman from California to increase this appropriation to $150,000.

Mr. HOLMAN. Yes, sir; and I stated that the Committee on Appropriations asked the House to resist any further increase of appropriations on this bill, the amount of which has been already heavily increased.

Mr. WALLING. I move to amend the amendment by striking out "$150,000" and inserting "$250,000." If there is any propriety in continuing in offices our surveyor-general and carrying on the surveys of the public lands, we must appropriate money enough to do it efficiently. The amount appropriated by this bill as originally introduced is not enough to pay the incidental expenses of these offices. We are every year losing more by millions for want of surveys of timber land in the Territories than we are gaining by this species of legislation. It is bad economy. The amendment I have offered should be adopted and also a further one which I shall offer, providing that the timber lands of the country shall be first surveyed under the provisions of this bill and then offered for sale. Otherwise we lose all that is valuable in these lands.

Mr. HOLMAN. It is strange that the gentleman from Ohio, a member of the Committee on Public Lands, has not been willing to pay a little attention to the course of legislation on this subject. It has been stated time and again, and I think with the general consent of the House, that the appropriation made for the surveyors-general was with the view of closing up these offices. I understand that the proposition will be submitted by the gentleman from Oregon to abolish the office of surveyor-general, which is manifestly an unnecessary office.

As to the public lands permit me to say a word. These lands are now being exhausted rapidly enough. If there is anything desirable, it is to save the timber lands of the country, the destruction of which is so materially affecting our climate and will interfere largely with our future industries. Instead of being eager to facilitate this system of speculation, enabling a few men to amass fortunes by buying at an insignificant sum the public lands of the country, I think gentlemen can afford to delay a little measures which will facilitate the making of imperial fortunes out of these timber lands, which ought to be saved instead of being destroyed.

I know it is answered to this that even now the timber on these public lands is being stolen; but I know also that the laws in force are ample to prevent this spoliation, which is going on to a very slight degree. The pressure upon the gentleman from Ohio and others to throw open these timber lands to speculation grows out of the fact that the gentlemen who are desiring to make fortunes out of these lands and to exhaust the timber of the country are not now able to get at the lands out of which they wish to amass fortunes.

Mr. WALLING rose.

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. WALLING. I move to strike out the last word.

Now, Mr. Chairman, I disclaim any pressure upon me from any source whatever of any other interest in this matter except the interest of the public. I state to the gentleman from Indiana that the effect of the remarks he makes and the course of policy which he pursues is simply to turn the timber land of the country over to the speculators and thieves. Already millions of acres of the public lands have been stripped of their timber by those who had no right to it.

Mr. HOLMAN. I should like to know how that could be done if we do not survey them.

Mr. WALLING. I say in no court of justice can a man give away his property without first providing for the payment of his debts, and so long as this Government is in debt it has no right to give away its property.

Now, I was traveling last summer up the Sierras, which were denuded of their timber. I stopped by the side of a flume, where twenty or thirty men were engaged in floating down wood and lumber, and I asked them where they got it from. They said they got it from the public lands. I further asked by what authority they took it from the public lands, and they replied: "We have no authority." "But have you not timber agents here?" "Yes, we have timber agents here, and they once in a while come around, but they are friends of ours." "What is the capacity of this flume of yours?" "Seven hundred cords of wood a day and ten thousand feet of timber from the public lands every day." One of the gentleman's former colleagues in Congress, Mr. Hendricks, some twenty years ago made a report to the Secretary of the Interior on this very subject. From that day to this $154,000 have come into the public Treasury from the sale of timber, while it cost us more than $700,000 to keep up these timber agents, and at the same time $20,000,000 will not cover the aggregate loss to the Government in that time. I therefore believe the true policy is to survey these lands and offer them for sale.

Mr. HOLMAN. I have noticed for several years the fearful pressure to get at these timber lands by getting them surveyed and putting them into the market. I think $150,000 of appropriation for survey of the public lands is ample and ought not to be increased.

Mr. WALLING. I withdraw my amendment to the amendment to strike out the last word.

The question recurred on Mr. WALLING'S amendment to the amendment to increase the appropriation to $250,000.

The amendment to the amendment was disagreed to.

Mr. PAGE'S amendment was then adopted increasing the appropriation to $150,000.

MESSAGE FROM THE SENATE.

The committee informally rose, and a message from the Senate by Mr. SYMPSON, one of its clerks, notified the House that that body in-

sisted on its amendments to the bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes, agreed to the conference asked on the disagreeing votes of the two Houses thereon, and had appointed Mr. WEST, Mr. HAMLIN, and Mr. BOGY as managers at said conference on its part.

SUNDRY CIVIL APPROPRIATION BILL.

The committee resumed its session.

Mr. STEELE. I move an amendment, which I believe meets with the approval of the chairman of the Committee on Appropriations, and it will come in at the end of the provision in reference to public lands.

The Clerk read as follows:

For surveying the eastern boundary of Wyoming Territory, estimated length one hundred and thirty-nine miles, being that part of the one hundred and fourth meridian of longitude west from Greenwich lying between the forty-third and forty-fifth degrees of north latitude, and being the boundary between the Territories of Wyoming and Dakota, $7,000.

Mr. HOLMAN. I think that is a necessary appropriation.

The amendment was agreed to.

Mr. RIDDLE. I move the following amendment:

The Clerk read as follows:

And this proviso shall not be so construed as to retain such an interest in said lands as shall prevent the States from selling the same for taxes; and if sold by the States for taxes, then the cost of surveying and selecting said lands shall be paid to the United States by the States, and upon such payments the title of said lands shall be perfect and complete in the States so paying said costs, it being the intention of this proviso that all taxes assessed after the passage of this act upon lands granted to any railroad company by the United States shall be valid as against any claim or title remaining in the United States in or to such lands on account of the non-payment of such costs and fees.

Mr. HOLMAN. I ask that the first clause of that amendment may be read again. I think it is a good provision.

The CHAIRMAN. Where does the gentleman want his amendment to come in?

Mr. RIDDLE. At the end of the last proviso.

My object in offering this amendment is to enable the States within whose limits land grants to railroad companies have been made to collect the taxes assessed by the States on those lands. In order to show the necessity of the amendment and the proviso I shall ask the Clerk to read a portion of the remarks made by the Senator from Kansas [Mr. HARVEY] on the 14th of February.

Mr. HOLMAN. I trust that will not be read. We all understand the question. I ask that the proposition may be read again. If it be as I understand it I think there will be no objection to it.

Mr. RIDDLE. I believe I have a right to have those remarks read.

The CHAIRMAN. They can be read in the gentleman's time.

Mr. PAGE. I would like to ask the gentleman whether the acts of Congress donating these lands to railroad companies do not provide that in case of their not being sold within a certain time they shall revert to the General Government.

Mr. RIDDLE. No, sir. It is in order to have that point understood that I wish the remarks of Senator HARVEY read.

The Clerk read as follows:

To secure railway connection with the Pacific coast Congress granted to several corporations lands greater in extent than some of the States of this Union, besides the other aid extended: and these companies proceeded to defraud the States within which their grants lie of the taxes due them, and it is done in this way: the law requires that the companies shall pay the costs of surveying, selecting, and conveying the lands granted; but to avoid the payment of taxes the companies neglect to pay the costs required, thus holding the land in such a condition that even though so held for years for purposes of speculation, they cannot be taxed, for the reason that the Supreme Court has decided upon appeal and upon the plea of the companies that while the cost of surveying, selecting, and conveying remains unpaid the Government holds such an interest in the land that it cannot permit it to be sold for taxes, because the interest of the Government in the costs yet due from the companies might be lost, and the same rule applies to such lands when the companies have sold or mortgaged them without paying those costs, thus not only wronging the States by avoiding the payment of taxes on the lands they yet hold, but enabling their vendees to further escape the payment of taxes upon the value of improvements made by them upon the lands, making such immunity an inducement to purchasers to pay a high price for the lands, thus banking, as it were, upon the benefits of a legal subterfuge and perpetrating a great outrage upon the States and local municipal organizations, as well as upon all property-holders who pay their taxes honestly and promptly.

Mr. HOLMAN. I have reserved the point of order on the amendment, and I ask that it may be again reported, so that we may ascertain whether it is a proper amendment or not. If it accomplishes the object of taxing these lands and saving the interests of the Government, I am in favor of that. Let it be reported again.

The amendment was again read.

The question being taken on the amendment, there were ayes 70.

Before the negative vote was counted,

Mr. WALLING said: There is some doubt about the effect of that amendment. I ask to have it reported again.

The CHAIRMAN. That is not in order. The committee is now dividing.

The negative vote being taken, there were noes 14.

Mr. LANE. A quorum has not voted.

Mr. HOLMAN. I hope the point of order that a quorum has not voted will not be made, but that it will be agreed that a vote may be taken on this proposition in the House.

Mr. LANE. I agree to that.

So (further count not being called for) the amendment was adopted.

Mr. HARRISON. The other day there was a discussion with regard to the ventilation of the House and I offered an amendment which was adopted. I desire now to correct the phraseology of that amendment and ask unanimous consent that that which I now offer be accepted in place of the amendment already adopted.

The Clerk read the proposed amendment, as follows:

Provided, however, That a sum not exceeding $33,000 of this appropriation may be used for the improvement of the heating and ventilating of the House of Representatives to be expended by the Architect of the Capitol in accordance with the report of the board of United States officers convened by the request of the Committee on Public Buildings and Grounds, and that said board of officers be requested to advise the Architect in the premises, and that hereafter the subject of ventilating and heating the House of Representatives be placed under the direction of the Architect of the Capitol.

Mr. HOLMAN. What is the change made upon the amendment as already adopted?

Mr. HARRISON. The words "in accordance with the report submitted by the board of United States officers," &c., are inserted.

Mr. HOLMAN. There is no objection to that.

By unanimous consent the amendment as now read was substituted for that heretofore adopted.

Mr. WIGGINTON. I offer the following amendment:

Add at the end of the paragraph—

And on and after the 30th day of June, A. D. 1878, the office of the surveyors-general for the several States and Territories shall be abolished, and the business and records of the several surveyors-general's offices shall be transferred to the office of the Commissioner of the General Land Office of the United States; and thereafter all surveys of public lands shall be made under the control and management of the said commissioner.

Mr. PAGE. I make the point of order against that amendment.

The CHAIRMAN. The gentleman will state what is his point of order.

Mr. PAGE. My point of order is, that it is new legislation; that it changes existing law.

Mr. HOLMAN. It is new legislation, and changes existing law. That is clear. But it is germane to the bill, and it retrenches expenditures by abolishing a large number of offices. I therefore submit that it comes within the meaning of the one hundred and twentieth rule of the House.

Mr. PAGE. I do not agree with the gentleman from Indiana, that this will be a saving of a dollar of money. If the amendment should be adopted it would be impossible for the people of the western States, particularly of the mining States and Territories, to transact their business under the existing laws regulating the survey and disposal of mining lands. I hope therefore the Chair will sustain the point of order.

Mr. WIGGINTON. I submit that it will not be more difficult, and that it will be much less expensive, for the people in the mining States and Territories to have their surveys made if these offices are abolished. The offices of surveyors-general, with rents, &c., have cost the Government of the United States during the past year over $136,000, and we have appropriated but $150,000 to expend in surveys. I say there is no good reason for continuing these offices after the 30th of June, 1878.

Mr. PAGE. Under the mining acts of 1866 and 1872 the surveyors-general of California, and I think of all the mining States and Territories, are required to appoint a deputy mineral surveyor for the survey of tracts of land in small quantities, ranging from a half to five or ten acres of ground.

Every survey has to be platted, four different plats, and they have to make a report to the surveyor-general of the State or Territory where the lands exist, and it would be impossible for persons in the mining States and Territories to make report to the Commissioner of the General Land Office for every one of these surveys.

The CHAIRMAN. The gentleman is discussing the merits of the amendment, and not the point of order.

Mr. PAGE. Let me say a word further. It would be far better to do away with the registers and receivers of the land offices in the States where these lands lie than to do away with the office of surveyor-general.

Mr. CONGER. I wish to say a word upon the point of order. There is no question but that this amendment is subject to the point of order, unless it is in the line of retrenchment and economy. It does not appear on the face of the proposition or from any direct conclusion that can be drawn from the proposition, that this would be in the line of economy. Now it is evident to my mind that it would lead to further expense, and I might almost say that it would be a very shiftless and extravagant way of squandering money, not only the money of the Government but the money of the people. It would require them to visit Washington every time there was a dispute about pre-emption or homstead, or anything of that kind. It would unquestionably be far more expensive than the present system, and would lead to extravagance and expense on the part of the Government. But if such considerations could by any possibility be allowed to enter the minds of members here regarding the interests of citizens—I do not know that it would be in order to allude to that—you would do a wrong to the citizens by abolishing those offices and compelling the business to be done, which generally has to be done in person, at the Land Office in Washington.

Now I am somewhat familiar with this question of surveys, and it seems to me that with the little salaries given to the surveyors-gene-

eral—$1,500 as the highest and $1,000 as the lowest for each in that region of the United States where the wild lands exist—that this office, both on the ground of economy and for the interests of the citizen, should not be attacked in this way on an appropriation bill. If the Chair pleases, there should be something on the face of the amendment that would indicate—without going abroad to inquire—direct, positive, and sufficient economy and retrenchment to warrant the violation of our rule, and I desire to say in addition that, at a former session, I think the last session, the Chair held distinctly that this same proposition was liable to the point of order.

Mr. LANE. I do not think that this proposition was ever submitted to the Chair at all.

Mr. PAGE. The Speaker of this House has universally ruled that where it did not appear on the face of the amendment that it did reduce expenditures, the amendment was not in order.

The CHAIRMAN. The Chair will so decide; he has no doubt in sustaining the point of order, and ruling the amendment out or order.

Mr. BELFORD. I offer the following amendment to come in at the end of the first paragraph:

For survey of the boundary line between Colorado and Utah, being so much of the 32d meridian of longitude west from Washington Observatory as lies between the 37th and 41st degrees of north latitude, at a rate not exceeding $70 per linear mile, estimated distance 280 miles, $19,600. This appropriation to be available at once.

Mr. HOLMAN. That was considered by the Committee on Appropriations and we did not deem it necessary to make the appropriation at this time.

Mr. BELFORD. I believe I have the floor and I desire to be heard. Some other gentleman has a right to get in a word now and then, besides the gentleman from Indiana.

The CHAIRMAN. The Chair sustains the point of order, and the amendment is not in order.

Mr. BELFORD. I understood the gentleman from Indiana [Mr. HOLMAN] to say that the Committee on Appropriations did not deem this appropriation advisable at this time.

Mr. HOLMAN. I have made the point of order that this appropriation is not provided for by law.

The CHAIRMAN. And the Chair has sustained the point of order.

Mr. BELFORD. I understand that the Chair admitted a similar amendment offered by the gentleman from Wyoming.

Mr. FENN. I offer the following amendment:

Strike out all after the word "second" before the word "irrigable" in the seventh line to the close of the sixteenth line, and insert the following:

"Timber lands required for agricultural, mining, and mechanical purposes; third, such other lands as the Commissioner of the General Land Office, with the approval of the Secretary of the Interior, may approve. The price of such surveys except timber lands shall not exceed $10 per mile for standard lines, $7 for township lines, and $6 for section lines; and that for timbered lands the price shall not exceed $10 per mile for township lines, $8 for section lines, and $13 for standard lines, and the starting point for such surveys may be established by triangulation from points established by the geographical survey of the Territories.

Mr. HOLMAN. I shall have to make the point of order on that amendment, as it changes the present law, unless the Committee on Public Lands have considered this proposition. The point of order is that the law now in force prescribes a different mode in regard to the survey of public lands that may be irrigated. This proposition changes that law in this, that it provides secondly for survey of timber lands. That is a change of the law as it now stands, but I do not desire to press the point of order if the amendment has been considered by the Committee on Public Lands; otherwise I shall have to do so.

Mr. FENN. I will state in answer to the gentleman from Indiana [Mr. HOLMAN] that this amendment has not had the consideration of the Committee on Public Lands as a body, but it has been submitted to the chairman of the Committee on Public Lands and several other members of the committee, and I will give my reason why the amendment should be adopted.

The CHAIRMAN. Does the gentleman admit that it will be a change of existing law?

Mr. FENN. I admit that it will be a change of existing law.

The CHAIRMAN. Then the Chair must rule it out. [Laughter.]

Mr. FENN. Well, I will not prevaricate on the question. I ask unanimous consent to offer the amendment.

Mr. HOLMAN. As the gentleman has not asked much of this House and is one of the representatives from the Territories, I would suggest to him that he will accomplish his object, which is to secure the survey of timber lands, by including the words "and timber lands" in the first class of lands to be surveyed; that is, to make the proviso read:

Provided, That no lands shall be surveyed under this appropriation except, first, those adapted to agriculture without artificial irrigation and timber lands, &c.

Mr. FENN. That will be perfectly satisfactory to me if the gentleman will consent to increase the price to be paid for surveying these lands.

Mr. HOLMAN. Ah, I suspected that there was a purpose to increase the price of surveying. I will consent to the amendment I have indicated, but not to increasing the cost of surveying.

Mr. FENN. Very well, I will accept the amendment, believing that some time in the future Congress will conclude that there is a little difference between what it costs to survey timber lands and to survey open prairie lands.

Mr. DUNNELL. I hope the change suggested by the gentleman from Indiana [Mr. HOLMAN] will not be made. I think the timber lands should by no means be the first to be surveyed. As I understand, the gentleman from Indiana [Mr. HOLMAN] proposes to include timber lands first in the enumeration.

Mr. SAYLER. The Committee on Public Lands have had this whole subject of timber lands under consideration, and if they get an opportunity they will report a well-matured bill upon the subject. I think it is very doubtful legislation to place matters of this importance upon an appropriation bill.

Mr. HOLMAN. Then I will withdraw my amendment.

Mr. THROCKMORTON. I offered an amendment the other day in relation to a military telegraph in Texas. I am satisfied, from information recently received, that there is no necessity for that amendment. I have an assurance from the Department that full justice will be done that portion of the country without the amendment, and I therefore desire to withdraw it.

There was no objection, and the amendment was accordingly withdrawn.

Mr. FINLEY. I desire to move an amendment, to come in at the end of the paragraph relating to survey of public lands.

The Clerk read as follows:

For surveying public lands in Florida, amount due to Marcellus A. Williams, deputy surveyor, for surveys executed by him under contract of the 13th day of December, A. D. 1873, $795.59, which sum is hereby appropriated out of any moneys in the public Treasury not otherwise appropriated.

Mr. HOLMAN. I regret that I have to make a point of order upon that amendment; but my friend must see that if this claim is allowed to come in all the claims of this class must be admitted.

The CHAIRMAN. The Chair sustains the point of order.

Mr. JACOBS. I move to amend by striking out the last sentence of the paragraph and inserting that which I send to the Clerk's desk.

The sentence proposed to be stricken out was the following:

The cost of such surveys shall not exceed $10 per mile for standard lines, (and the starting point for said survey may be established by triangulation,) $7 for township, and $6 for section lines, except that the Commissioner of the General Land Office may allow for the survey of standard lines in heavily timbered land a sum not exceeding $13 per mile.

The amendment proposed to be inserted in lieu thereof was as follows:

The cost of such surveys shall not exceed $13 per mile for standard lines in heavily timbered lands, (and the starting point of such surveys may be established by triangulation,) $10 for township lines, and $9 for section lines in heavy timbered lands, $7 for township and $6 for section lines in prairie or open lands, and $10 per mile for standard lines in prairie or open lands.

Mr. HOLMAN. That amendment proposes to change existing law, and therefore I must make a point of order upon it.

Mr. PAGE. I would like to ask the gentleman if the law as it now stands upon this subject was not inserted in an appropriation bill?

Mr. BELFORD. Of course it was.

Mr. HOLMAN. The last sundry civil appropriation bill by independent legislation fixed the compensation for the survey of public lands with reference to the system of triangulation and the fixing of geodetic points. The point of order that I make on the proposed amendment is that while it changes existing law it is not in the interest of economy, whereas the provision as it now stands on the statute-book, although a change of the then existing law, was in the interest of economy.

Mr. PAGE. Prior to the first session of this Congress the law provided for either $14 or $16 per linear mile for the survey of timber lands.

Mr. BELFORD. It was $15 per mile.

Mr. PAGE. The Committee on Appropriations recommended the change which was made in the appropriation bill passed at the last session. If that committee then had the power to regulate the price of the survey of the public lands or the amount to be paid per mile by a clause in an appropriation bill, it has now equally the right to increase that price.

The CHAIRMAN. It would be proper to change the law if in the interest of economy and retrenchment; not otherwise.

Mr. PAGE. It is in the interest of justice and right. I do not think the point of order will hold good. The appropriation bill of last year changed the existing law and this amendment proposes to change that law.

The CHAIRMAN. As the Chair understands, an amendment changing an existing law is not in order unless it is in the interest of economy or retrenchment. It is conceded that this amendment is not in that interest, and therefore it is out of order.

The Clerk read as follows:

Geological and geographical surveys:

For the continuation of the geological and geographical survey of the Territories of the United States, under the direction of the Secretary of the Interior, by Professor F. V. Hayden, $50,000, to be immediately available.

Mr. TOWNSEND, of Pennsylvania. I move to amend the paragraph just read by striking out "$50,000" and inserting "$75,000." This is the oldest geological and geographical survey that has been authorized by the Government. It has received the fostering care of the nation for eight or ten years past, receiving from time to time appropriations of $75,000 to $85,000. As was very well stated the other day by one of my colleagues from Pennsylvania, this matter

came before the Committee on Public Lands of the last Congress, when it was thoroughly examined; and it was unanimously the opinion of the committee that this enterprise should continue to receive the care and support of the Government.

In the limited time during which this survey has been carried on, it has done a great work in the exploration of our western territory. Professor Hayden has in that time surveyed partially Nebraska, Wyoming, Colorado, New Mexico, Montana, Idaho, and Utah. He has brought to public notice vast tracts of land hitherto unknown, some of them valuable for their deposits of gold, silver, iron, quicksilver, and copper; and he has pointed out to people who wish to emigrate from the thickly settled, densely populated portions of the country suitable tracts of the public land on which they may settle.

This survey has received the commendation of all the scientific societies of the country and has also become well known to the learned societies of Europe. So well established is its character, so highly is it thought of by those learned societies that they have given it universal commendation; and Professor Hayden is now the recipient of the honor of more than twenty-five memberships of learned societies of Europe and America.

This survey is valuable in every direction. It has not of late years received that adequate support which it deserves; and there are now on hand, waiting an appropriation, several volumes ready for publication. Already some forty-one publications connected with this survey have been issued, publications of the greatest value which are eagerly sought for not only in this country but throughout the world.

[Here the hammer fell.]

Mr. HOLMAN. I now ask that by unanimous consent all debate on this paragraph cease.

Several MEMBERS. O, no.

Mr. BANKS. I hope the gentleman from Indiana will let us have a little more time.

Mr. HOLMAN. I move that the committee rise in order that the House may close debate. Gentlemen must see that if this bill is not put through within the next hour or two it cannot get through at this session.

Mr. TOWNSEND, of Pennsylvania. I hope we shall have opportunity to be heard.

Mr. BANKS. Let us have fifteen or twenty minutes.

The question being taken on the motion that the committee rise, there were—ayes 91, noes 42. No quorum voting.

Mr. TOWNSEND, of Pennsylvania. I call for tellers.

Mr. HOLMAN. Does the gentleman want to force an extra session of Congress?

Mr. BANKS. We only ask fifteen minutes; a vote by tellers and the rising of the committee will take almost that much time.

Tellers were ordered; and Mr. BANKS and Mr. HOLMAN were appointed.

The committee divided; and the tellers reported—ayes 92, noes 42.

So the motion was agreed to.

The committee accordingly rose; and Mr. CLYMER having taken the chair as Speaker *pro tempore*, Mr. BUCKNER reported that the Committee of the Whole on the state of the Union, having, according to order, had under consideration the Union generally, and particularly the sundry civil appropriation bill, had come to no resolution thereon.

Mr. HOLMAN. I ask unanimous consent that all debate in Committee of the Whole on the paragraphs in regard to explorations or surveys be limited to ten minutes.

Mr. BANKS. Say fifteen minutes.

Mr. HOLMAN. Well, I modify my motion, so as to close debate on these paragraphs in fifteen minutes.

Mr. STEVENSON. I desire to offer an amendment to the paragraph in relation to Major Powell.

Mr. HOLMAN. This motion will not cut off amendments.

The motion of Mr. HOLMAN was agreed to.

On motion of Mr. HOLMAN, the House again resolved itself into Committee of the Whole (Mr. BUCKNER in the chair) and resumed the consideration of the sundry civil appropriation bill.

Mr. BANKS. I hope that the committee will agree to the amendment offered by the gentleman from Pennsylvania, [Mr. TOWNSEND.] It is substantially for the publication of the results of surveys completed within the last two years, and not yet published, embracing seven Territories—Idaho, Montana, Wyoming, Colorado, Utah, New Mexico, and Dakota. These surveys are important, and the report of them includes information of great value in relation to all these Territories, their geology, topography, mineralogy, irrigable lands, the mountain structures (so far as they concern drainage, &c.) and the climatic conditions of that large section of the continent. The Government has expended liberal and large sums of money for the purpose of obtaining by careful and exact scientific surveys this information that is indispensable to a knowledge and settlement of the country. How unwise it is to get it at such cost unless we publish it? All that is required to print the surveys that have been completed in the last two years in relation to these seven Territories and embracing all these important features that I have enumerated is the small amount proposed by the gentleman from Pennsylvania. Twenty-five thousand dollars can well be appropriated, even in this period of industrial and financial depression, which aids so directly the development of the material wealth of the Republic.

I will not take up the time of the committee further, Mr. Chairman, but express the hope that the committee will vote for this amendment.

Mr. SEELYE. Mr. Chairman, the discussion this morning only illustrates the propriety of the remark I made the other day, that we ought to have a bureau of surveys. The increased appropriation for the general survey of the Territories seems to me to have been wise, but that survey is far less desirable than these particular surveys which are now before the House. It is well known that we have not an acre of arable land west of the one hundredth parallel, except a little in the Northwest, which can be brought under cultivation except by engineering appliances, for the reason that there is less than twenty-four inches rain-fall in all this region. Hence one thing we need to know is what part of this vast territory can be brought under cultivation by irrigation.

Besides that, there is a large portion of valuable mineral lands, as we know, besides valuable coal-fields, valuable timber lands, and also vast regions of pasturage.

Now, in order to know where these lands lie, what these lands are, and how valuable they are, we need these particular surveys which Professor Hayden and Major Powell are conducting. I hope the increased appropriations offered by the gentleman from Pennsylvania [Mr. TOWNSEND] for Professor Hayden, and to be offered as I understand by unanimous vote of the Committee on Public Lands for Major Powell, will be voted by this committee. It is indispensable we should have this in order that we may know exactly what the territory is and in order we may bring it into use.

Mr. BELFORD. I hope the amendment offered by the gentleman from Pennsylvania will prevail, and that nothing will be done to embarrass the carrying forward of these surveys in the West. With the exception of last year, the usual appropriation made has been $75,000. The survey now has an organization of learned scientists, and any legislation impairing its efficiency would be especially detrimental to the State I have the honor to represent. I am familiar with the work of this survey, as much of its labors have been performed in Colorado, and I am justified in declaring that the results of these surveys have added infinitely more to the revenues of the Government by stimulating immigration and settlement in that region than three times the amount appropriated.

Every country of Europe that enjoys a permanent and stable government has its geological surveys, continues them for years, and prizes the work done. In France the first survey was organized in 1811, in Great Britain in 1835, and both countries have continued them to the present day. In Germany prior to the formation of the present empire every one of the small states which now constitute the empire had its own geological survey, which even now, in spite of the consolidation, is carried on by a separate bureau.

The practical results obtained by surveys of this kind are dependent somewhat upon the character of the country explored and upon the standard of the work.

One of the greatest and most inexhaustible sources of revenue for a country is its mineral wealth. This has been duly recognized in foreign countries, and the control over mineral and kindred deposits has been exercised and retained by the Government. In order to prevent the useless waste of money and time in "prospecting," especial attention is given by the members of surveys to the mineral resources and very valuable results have been obtained. It has been estimated by the late Professor Jukes, formerly in charge of the English geological survey, that no less than £150,000 have been uselessly expended there in the search for coal. Had good and reliable geological maps, accompanied by the necessary sections, been on hand, much of this would have been saved. With the aid of these, even a man ignorant of geological laws could have determined with a considerable degree of accuracy the existence or absence of valuable minerals at any one given locality. While on the one hand a saving is thus effected, on the other absolute gains to the State and community may result from discoveries made.

Taking the case of the United States, where thousands of square miles are as yet unexplored and are owned by the Government, it seems absolutely necessary that we should follow the example of older countries, and in justice to the Government and to the people have these examinations made. The unknown wealth of our western country in precious metals, coal, salt, &c., can much sooner be brought to light by the aid of a well-organized survey than otherwise; and again, regions of doubtful value can be examined and their merits or demerits be made known to those who otherwise would waste time and money on them. This is but one of the practical features of a geological survey. Another is that touching agricultural interests. It is well known how much depends upon a knowledge of the character of the soil which we propose to cultivate. A geological map, accompanied by a faithful report, will invariably afford valuable suggestions as to the information desired. Professor Lesley, one of the veteran geologists of the United States, says a geological survey "is designed to teach all, every farmer, every citizen, what and where are his stuffs for livelihood."

In a thickly settled country geological investigations can be made more readily and at a smaller expense than in an unsettled one. Wherever mineral deposits in large or small quantities exist in the former, they will be comparatively well known, and it then devolves

upon the survey to determine their horizontal and vertical extent. In an entirely unknown district the responsibility is much greater. By his own exertions the geologist must find these deposits and by publishing their existence confer a benefit upon his government and people.

A question of importance is, how shall such surveys be carried on, and by whom?

Here again we may perhaps best inquire into what has been done in countries of much older civilization than the United States. In all of them the control of surveys is vested in the central government. Competent men are appointed to take charge of the work and submit their reports and all other results to those authorized to receive them. One advantage the geologists of those countries have that have mainly been under military rule for so long a time is that they are supplied with maps prepared for military purposes reduced from the large scale maps belonging to the land offices. Professors of universities and others of recognized ability in some instances are intrusted with carrying out the work.

These surveys are the *avant-coureurs* or pioneers of our western civilization. They push forward into our vast public domain; explore the valleys, parks, cañons, and mountains, and by their examinations, as presented in their annual reports, geological and mineralogical maps, we are informed of our mineral deposits; and our agricultural, grazing, and irrigable lands are described, altitudes made known, botany reported upon, and incidental to this our whole natural history is given, all of which aggregate to us a knowledge incalculable in its importance.

Mr. MONROE. I move to strike out the last two words of the amendment proposed by the gentleman from Pennsylvania [Mr. TOWNSEND] for the sake of calling the attention of the committee to one or two points in favor of these explorations which have not yet been presented.

I wish to make mention of one fact which has lately been presented to the American public as illustrating the great importance of perfectly accurate and thorough surveys of all our Territories at an early period.

It is well known to many members of the House that the great State of New York lately, through its Legislature, organized a company to resurvey that whole State. It was found that all the old surveys were inaccurate, and a gentleman of great intelligence from the State of New York with whom I had the pleasure of conversing the other day told me that there was great doubt whether there was a single county line or a single township line in the whole State which was strictly correct, and hence the act for a new survey of the State for the sake of accuracy. The surveyors have recently been fixing the corners of some counties. They found the old surveys very inaccurate. Many ludicrous blunders have occurred and some oppression has been suffered in taxation in that State in consequence of those errors. Railroads, for instance, I am told in some cases have submitted to the injustice of paying taxes twice over in different townships because the boundary between the townships was not clearly ascertained. Other wrong and confusion have occurred in consequence of these inaccuracies.

Now, what we need in order to prevent evils like this is to have our new Territories surveyed in the manner in which the Hayden party are surveying, by triangulation and by astronomical observation. A party like this of Hayden's begin by establishing a few prominent points, such as mountain peaks. Their exact locality is fixed by astronomical observation. Then with base lines determined in this way, they proceed to survey the territory by triangulation, fixing the locality of all prominent points. All subsequent surveys of the public lands then can be made from these points so established.

I was told by this gentleman from New York that it would perhaps cost the State of New York $5,000,000 at this late day to have an exactly thorough survey of that State—one which could be trusted.

Just one word more. I want to call the attention of this committee, and think it but a simple act of justice to do so, to the excellent reputation of Professor Hayden, the head of this survey, in regard to economy in the expenditure of the public moneys. I want to call the attention of my friend from Indiana, [Mr. HOLMAN,] the chairman of the Committee on Appropriations, to that fact. He is probably aware of the fact that Professor Hayden is regarded by the Department as being exceedingly particular in regard to the manner in which every dollar is spent. He is a strict constructionist of the law, and makes it a matter of conscience that not one cent of the money appropriated to his party shall be expended otherwise than according to the spirit and the letter of the law.

[Here the hammer fell.]

Mr. HOLMAN rose.

Mr. TOWNSEND, of Pennsylvania. I ask the gentleman from Indiana to allow me a minute to explain.

Mr. HOLMAN. The gentleman has explained well and fully already. I wish to say that these surveys commenced a few years ago with an appropriation of $5,000. A gentleman by the name of J. Ross Browne commenced this system with an appropriation of $5,000, and as the natural result of entering upon this species of expenditure, we have now appropriated by this bill the sum of $108,000 for surveys which may be performed this year, or postponed to next year, or the year after, without any injury to the public interests whatever; and yet gentlemen are seeking to increase the amount of this appropriation.

Mr. LUTTRELL. Is not a portion of this appropriation used for the publication of the works in regard to the results of the expedition?

Mr. HOLMAN. I am willing that they shall use as much of the $50,000 as they wish. But I assert, in the the present condition of our affairs—in the present condition of the taxation of our country, the oppressions resting on the shoulders of labor, the arduousness of the struggle to pass through this crisis in the financial affairs of the country—the appropriation of large sums of money for purposes which may be postponed as well as not is actually cruel and oppressive and entirely unjustifiable. I think the appropriations recommended by the Committee on Appropriations—$50,000 for Professor Hayden, $20,000 for Lieutenant Wheeler, $20,000 for Major Powell, and $18,000 for Major Elliott—are very ample. And yet, although these appropriations have now swelled to the enormous proportions I have stated, an additional $25,000 is asked for.

It should be remembered also, that many of these are duplicate surveys, going over the same ground. I ask gentlemen to be satisfied with a moderate appropriation, at least until these surveys shall be placed under some common head so that these expenditures may be intelligently applied, instead of being applied in going over the same ground. I now ask that the amendment offered may be read, as I desire to make a modification of it.

Mr. BANKS. Will the gentleman from Indiana allow me to ask him one question? I ask him, is it possible to revive the financial affairs of this country by strangling the efforts of its people to increase the development of its material resources?

Mr. HOLMAN. This is not for the benefit of the people at all, as the gentleman knows. It is for the benefit of the shrewd adventurers who avail themselves of the information afforded by these surveys. The real pioneers and frontiersmen are left behind while speculators get ahead. I ask that the amendment may be read.

The Clerk read as follows:

Strike out "$50,000" and insert "$75,000" in the first paragraph under the head "geological and geographical surveys."

Mr. WALLING. I ask the Clerk to report the paragraph as it will be read if thus amended.

The Clerk read as follows:

For the continuation of the geological and geographical survey of the Territories of the United States, under the direction of the Secretary of the Interior, by Professor F. V. Hayden, $75,000, to be immediately available.

Mr. TOWNSEND, of Pennsylvania, rose.

The CHAIRMAN. The time allowed by the House for debate on this paragraph has expired.

The question being taken on the amendment of Mr. TOWNSEND, of Pennsylvania; there were—ayes 86, noes 55.

Mr. HOLMAN. A quorum has not voted. I call for tellers.

Tellers were ordered; and Mr. HOLMAN, and Mr. TOWNSEND, of Pennsylvania, were appointed.

The committee again divided; and the tellers reported ayes 97, noes 53.

So the amendment was agreed to.

Mr. HOLMAN. I give notice that I will ask for a vote on this amendment in the House.

The Clerk read the following amendment:

For the completion of the geographical and geological survey of the Rocky Mountain region, including the preparation and publication of maps, charts, and other illustrations necessary for the reports of said survey, by J. W. Powell, under the direction of the Secretary of the Interior, $20,000, to be immediately available.

Mr. STEVENSON. I offer the following amendment:

Strike out "$20,000" and insert "$50,000."

I think sufficient has already been said on this subject to render unnecessary any further argument.

The question being taken on Mr. STEVENSON'S amendment, there were—ayes, 72, noes 49.

Mr. HOLMAN. A quorum has not voted. I shall not make that point, but shall ask for a vote in the House.

So (further count not being called for) the amendment was agreed to.

The CHAIRMAN. The reading of the bill is now completed; but there is still pending the point of order made by the gentleman from Michigan [Mr. CONGER] on the last paragraph of the bill. The Clerk will read that paragraph.

The Clerk read as follows:

That the sum of $375,000, or so much thereof as may be necessary, be appropriated to pay the amount due to mail contractors for mail service performed in the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Texas, Tennessee, and Virginia, in the years 1859, 1860, 1861, and before said States respectively engaged in war against the United States; and the provisions of section 3480 of the Revised Statutes of the United States shall not be applicable to the payments herein authorized: *Provided*, That any such claims which have been paid by the Confederate States government shall not be again paid.

Mr. VANCE, of North Carolina. I wish to offer an amendment to the last paragraph.

Mr. BLOUNT. I understand that the point of order is pending.

The CHAIRMAN. The point of order raised by the gentleman from Michigan is pending.

Mr. CONGER. If gentlemen wish to offer a substitute for this paragraph which may not be liable to the same objections, I am willing to withdraw the point of order for the present until the substitute is read. I do not, however, withdraw it entirely.

Mr. VANCE, of North Carolina. I offer the following amendment:

That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to Principal Chief Syrd R. Welch and C. H. Tayler, as authorized and requested by act of the council of the eastern band of the Cherokee Indians, passed October 4, 1876, their actual and necessary expenses and $4 per diem each, for services as representatives from said band, the same to be paid from any funds under the control of said Secretary belonging to said band of Cherokee Indians: *Provided further*, That this appropriation be made available at once.

Mr. HOLMAN. That amendment is not germane to the paragraph upon which the question of order was raised.

The CHAIRMAN. The Chair decides that it is not germane to the paragraph.

Mr. VANCE, of North Carolina. I understood that the gentleman from Michigan had withdrawn the point of order, and this is simply an amendment to the paragraph.

The CHAIRMAN. The point of order was withdrawn by the gentleman from Michigan on the supposition that there would be a substitute offered for the paragraph.

Mr. VANCE, of North Carolina. Does the Chair rule that I cannot at any time offer the amendment?

The CHAIRMAN. The Chair rules no such thing. The Chair rules that the amendment is not germane to this paragraph.

Mr. COX. I desire to offer an amendment to the last paragraph, to come in at the end of it.

The CHAIRMAN. It is not in order unless it is intended to perfect the paragraph.

Mr. COX. I think it will perfect a very imperfect bill.

The CHAIRMAN. The committee is now considering the last paragraph in the bill, and is waiting for an amendment to be offered to perfect that paragraph.

Mr. CONGER. I understood that some gentleman intended to offer a substitute for this paragraph which perhaps would relieve it of the objection which exists to it. I heard that intimated by some gentleman. If it is not the case, I presume the Chair will allow the point of order to be renewed.

The CHAIRMAN. The clause is now before the committee; the gentleman withdrew the point of order.

Mr. HOLMAN. Did the gentleman from Michigan withdraw the point of order finally?

Mr. CONGER. I withdrew the point of order in order that the substitute might be offered which would remove the objections to the clause.

Mr. HOLMAN. But no substitute is offered.

Mr. PIPER. I raise the point of order.

The CHAIRMAN. The gentleman will state it.

Mr. PIPER. The point of order is, that this clause changes existing law.

The CHAIRMAN. The point of order made by the gentleman from Michigan [Mr. CONGER] was that there is no existing law authorizing this appropriation.

Mr. BLOUNT. I desire to be heard upon that question. I regret, sir, that after ten years since our civil strife has closed an objection of this character should have come from any section or party of this Union, and especially is it a matter of regret that it should come from a member of my own party.

Sir, there is no page of English history which its historians have written with more pain, which its moralists have contemplated with more disapprobation, which its statesmen have regretted more keenly, than that sort of legislation known as bills of attainder, bills of pains and penalties.

Mr. PIPER. I would inquire if the gentleman from Georgia is speaking to the merits of this question or to the point of order?

The CHAIRMAN. The gentleman from Georgia [Mr. BLOUNT] must confine himself to the point of order.

Mr. BLOUNT. I hope I may be allowed to proceed.

Mr. PIPER. I object to the gentleman proceeding to argue the merits of the case.

Mr. BLOUNT. I think I shall be able to show that what I am now saying is applicable to the point of order.

Mr. PIPER. The point of order is a very clear one and needs no argument.

The CHAIRMAN. The gentleman must confine himself to the point of order.

Mr. BLOUNT. I will do it.

Mr. PIPER. I object to the gentleman proceeding to argue the merits of the case.

Mr. BLOUNT. The gentleman from California has objected frequently, and I hope he will be satisfied now; and I think I shall be able to show that what I am saying is pertinent to the point of order.

During our revolutionary struggle there was scarcely a single one of the States but which had passed bills of attainder. Property had been confiscated and rights destroyed under sweeping legislation, by which the parties involved were denied the right of trial by jury, denied the right of trial at all; and ere five years had elapsed after the close of the struggle which gave birth to all these animosities and hates, our fathers were enabled to rise up in a spirit of patriotism and a spirit of liberality and throw off these prejudices and return to healthy and wholesome legislation.

The CHAIRMAN. The Chair would state to the gentleman from Georgia [Mr. BLOUNT] that he would prefer to hear him upon the question of order rather than upon the merits of the case.

Mr. BLOUNT. If the Chair will permit me, I think I shall make what I am saying pertinent to the point of order before I get through. I am willing to stop if the Chairman will not take my statement to that effect.

Sir, when our fathers came to adopt the Constitution they expressly enacted this provision:

That no bill of attainder or *ex post facto* law shall be passed.

They put an inhibition against Congress enacting any legislation which was in the nature of bills of attainder or *ex post facto* laws. Now, sir, what is the clause of the existing law? The language is as follows:

SEC. 3480. It shall be unlawful for any officer to pay any account, claim, or demand against the United States which accrued or existed prior to the 13th day of April, 1861, in favor of any person who promoted, encouraged, or in any manner sustained the late rebellion, or in favor of any person who during such rebellion was not known to be opposed thereto, and distinctly in favor of its suppression.

The claim here is a claim for services rendered by persons in carrying the mails of the United States. It is conceded on all hands that the services were rendered and that the right of the parties to payment has accrued.

Mr. BANNING. Will the gentleman allow me to ask him a question?

Mr. BLOUNT. I will.

Mr. BANNING. Is this claim for carrying the mails in Confederate States after secession?

Mr. BLOUNT. Not at all; these claims originated before there was any thought of secession.

Mr. HOLMAN. Will the gentleman allow me to ask him a question that bears on the merits of the proposition and not on the point of order?

Mr. BLOUNT. Certainly I will.

Mr. HOLMAN. My question is this: These mail contractors were paid and are paid still by drafts on the several postmasters on their route. Is the gentleman able to state what loss the Government sustained by reason of the failure to pay these drafts by the postmasters on the respective routes? In other words, how much of the money in the hands of the postmasters and which was subject to be applied to the payment of these contractors was lost in consequence of the contractors not receiving their drafts and not presenting them for payment?

Mr. BLOUNT. If there was any fault on the part of the postmasters, certainly the contractors should not be punished for that. I did not intend, however, to turn aside from the point of order and discuss the merits of the proposition itself.

Mr. VANCE, of North Carolina. Will the gentleman allow me to ask him a question in the line just suggested by the question of the gentleman from Indiana, [Mr. HOLMAN?]

Mr. BLOUNT. I would have no objection myself, but my friend must see the disposition of the Chair to get rid of this point of order, and if I allow these interruptions I will be stopped.

The CHAIRMAN. The Chair holds that the merits of the question are not now in controversy at all; the question before the committee is whether there is any law of Congress now in force which would authorize this appropriation.

Mr. BLOUNT. So I understand, and I was addressing myself to that question.

Mr. HOLMAN. Produce the law.

Mr. BLOUNT. I will do so in my own way, if you please. I was first stating what were the facts.

Mr. WALLING. Will the gentleman allow me a question?

Mr. BLOUNT. I hope the gentleman will not interrupt me now. I will be willing to answer any question when we reach the discussion upon the merits of this proposition. The gentleman must see that the Chairman as well as members of the committee are impatient of delay.

I say that as a matter of fact it is admitted that this is a debt due from the Government of the United States. The very clause in the Revised Statutes which has been cited for the purpose of showing that this provision is out of order recognizes that very fact. It cannot escape or avoid the force and effect of the Constitution, but it simply says to the officers of the United States, you shall not pay these debts. Had it not been for that provision of the Revised Statutes, these debts might have been paid out of some fund. This provision restrains the officers of the Government from paying to citizens what are their just dues. The law, therefore, is in the nature of a bill of attainder or of pains and penalties. Chief-Justice Story says:

Bills of attainder, as they are technically called, are such special acts of the Legislature as inflict capital punishment upon persons supposed to be guilty of high offenses, such as treason and felony, without any conviction in the ordinary course of judicial proceedings. If an act inflicts a milder degree of punishment

than death, it is called a bill of pains and penalties. But in the sense of the Constitution it seems that bills of attainder include bills of pains and penalties; for the Supreme Court have said: "A bill of attainder may affect the life of an individual, or may confiscate his property, or both."

Then he goes on to discuss this matter at large; but I will not take up the time of the Committee of the Whole by reading what he says upon it. He concludes by saying:

The injustice and iniquity of such acts, in general, constitute an irresistible argument against the existence of the power. In a free government it would be intolerable; and in the hands of a reigning faction it might be, and probably would be, abused to the ruin and death of the most virtuous citizens. Bills of this sort have been most usually passed in England in times of rebellion, or of gross subserviency to the Crown, or of violent political excitements; periods in which all nations are most liable (as well the free as the enslaved) to forget their duties and to trample upon the rights and liberties of others.

I will not take up the time of the committee by referring to the decision in Wallace, in relation to attorneys who were prohibited by law from practicing in the Federal courts. The decision is quite familiar to you, and it is simply necessary for me to state that it is there held that such a law is in the nature of a bill of pains and penalties, and as such obnoxious to the Constitution of the United States which provides that no such legislation should be had.

The Chair will also remember that in the State of Missouri there were provisions requiring that clergymen and priests should subscribe an oath that they had not taken up arms against the Government of the United States. In 4 Wallace that question comes up, and it is held that those provisions are inimical to the Constitution of the United States and therefore void.

In this case it is admitted that these sums of money are due to these persons. There is nothing in the way of their payment except the statute of the United States requiring that the officers of the Government shall not pay them. That statute, therefore, is inimical to the provision of the Constitution to which I have referred. The Constitution itself declares that it shall not be in the power of Congress to pass any bill of pains and penalties. If that be true, and if the Constitution and the laws passed in pursuance thereof are the laws referred to by our rules, then I insist that this point of order does not apply against this provision, that the Constitution cannot be defeated in that way. It is an axiomatic proposition that this very law itself is in opposition to the Constitution. Therefore it is the bounden duty of the Chair to so rule.

I had hoped that ten years after our civil strife had closed we would have reached a period when no man would invoke anything to embarrass legislation which springs out of a period of strife and of heat, and is always discarded when passions subside and the better feelings of the human heart rule.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. HANCOCK. I wish to submit a few observations upon the point of order, which, as I understand, is that there is no pre-existing law authorizing this appropriation. I respectfully submit that this is a mistake. There are pre-existing laws authorizing the payment of all these different sums of money. The laws in force at the time the contracts were entered into under which these services were performed were ample to meet the requirements of the rule. They authorized the appropriation of money sufficient to pay the indebtedness of the Government arising under the contracts.

The law which has been referred to by some members as constituting a bar to an appropriation by Congress is not, as I conceive, of that character. That law, which I have not now at hand, but the substance of which I recollect very well, (it is section 3480 of the Revised Statutes,) is no inhibition upon the action of Congress with reference to these claims or any of like character. The full scope and object of that law was simply to prescribe a rule for the government of the accounting officers in disbursements of money that might possibly have been appropriated for the liquidation of claims of this character. The act provides that no claims originating prior to the war——

Mr. HOLMAN. Mr. Chairman, this subject is certainly very well understood. It has been discussed in the House half a dozen times. As the hour of twelve o'clock is at hand I will, if the gentleman gives way, move that the committee rise.

The motion that the committee rise was agreed to.

The committee accordingly rose; and the Speaker having resumed the Chair, Mr. BUCKNER reported that the Committee of the Whole on the state of the Union, having had under consideration the sundry civil appropriation bill, had come to no resolution thereon.

The SPEAKER. The hour of twelve o'clock having arrived, the Chair decides that a new legislative day begins.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By the SPEAKER: Protest of citizens of Philadelphia against submitting to the decision of the electoral commission, because of its injustice and unfairness, to the committee on the privileges, powers, and duties of the House of Representatives in counting the vote for President and Vice-President of the United States.

Also, the petition of citizens of Pennsylvania for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. BLAND: A paper relating to the establishment of a post-route from Saint James to Swiss, Missouri, to the same committee.

By Mr. CABELL: The petition of citizens of Pittsylvania County, Virginia, for cheap telegraphy, to the same committee.

By Mr. CRAPO: The petition of Alexander H. Corey and others, of Westford, Massachusetts, for cheap telegraphy, to the same committee.

By Mr. CROUNSE: The petition of J. H. Eddy and others, of Nebraska, that settlers on the public lands may have the time of their residence on claims as pre-emptors credited, when converting their occupation into one under the homestead law, to the Committee on Public Lands.

By Mr. DUNNELL: Memorial of the Legislature of Minnesota, asking for the amendment of the tree-culture act, to the same committee.

Also, memorial of the Legislature of Minnesota, that the time in which applications for pensions may be made be extended two years, to the Committee on Invalid Pensions.

By Mr. EGBERT: The petition of citizens of Youngsville, Pennsylvania, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. FELTON: The petition of citizens of Georgia, for a post-route from Villa Rica, to Draketown, Georgia, to the same committee.

Also, the petition of citizens of Georgia, for a post-route from Rome, Georgia, via Mellville, Foster's Store, and Alpine, to Valley Head, Alabama, to the same committee.

By Mr. FULLER: Joint resolution of the Legislature of Indiana, asking that the names of John H. Killgore, George W. Johnson, and Owen Johnson, late members of Company A, Fortieth Regiment Indiana Veteran Volunteer Infantry, be restored to their original places upon the rolls of the Army, to the Committee on Military Affairs.

By Mr. HUBBELL: The petition of M. O. Williams, E. P. Wightman, and 26 other residents of Evart, Michigan, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. HUMPHREYS: A joint resolution of the Legislature of Indiana, that the names of John H. Killgore, George W. Johnson, and Owen Johnson, late of Company A, Fortieth Regiment Indiana Veteran Volunteer Infantry, be restored to their original places upon the rolls of the Army, to the Committee on Military Affairs.

By Mr. LORD: The petition of Charles M. Kinney, J. M. Butler, and other citizens of New York, for the repeal of the check-stamp tax, to the Committee of Ways and Means.

Also, the petition of H. D. Talcott, J. M. Butler, and other citizens of Oneida County, New York, for the repeal of the bank-tax laws, to the same committee.

By Mr. LUTTRELL: The petition of Emma Jean Clark, for a pension, to the Committee on Invalid Pensions.

Also, the petition of citizens of Marion County, California, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. O'NEIL: Resolutions of the Board of Trade of Philadelphia, favoring the opening of negotiations looking to the abolition of the payment of light-dues in the ports of the Kingdom of Great Britain, to the Committee on Commerce.

Also, resolutions of the Board of Trade of Philadelphia, asking for the organization of a national department to be called the department of commerce, to the same committee.

Also, resolutions of the select and common councils of Philadelphia, requesting such action as may be necessary to have the original chart of the Declaration of Independence preserved in Independence Hall, to the Committee on the Centennial Celebration.

Also, the petition of John D. Yerkes, for an increase of his pension, to the Committee on Invalid Pensions.

By Mr. ROBBINS, of North Carolina: Resolutions of the Legislature of North Carolina, asking for such legislation as will secure an honest and just adjustment of the affairs of the Freedman's Savings Bank, to the Committee on the Judiciary.

By Mr. RUSK: Two petitions, one from citizens of La Crosse and and Jackson Counties, Minnesota, for a post-route from West Salem to Melrose; the other from citizens of Monroe and Jackson Counties, Minnesota, for a post-route from Melrose to Sparta, Minnesota, to the Committee on the Post-Office and Post-Roads.

Also, the petition of citizens of Bergen, Wisconsin, for cheap telegraphy, to the same committee.

By Mr. SAYLER: The petition of Henry Birch and other creditors of the District of Columbia, for a final settlement of their claims, to the Committee for the District of Columbia.

By Mr. SPRINGER: The petition of citizens of Illinois, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. STRAIT: A joint resolution of the Legislature of Minnesota, for an amendment to the act of Congress approved March 13, 1874, in relation to growing timber on western prairies, to the Committee on Public Lands.

By Mr. WALSH: The petition of B. Brenner and other citizens of Washington County, Maryland, who feel aggrieved at the action of the electoral commission in refusing to take testimony concerning the frauds of the Louisiana and Florida returning boards, urging that the House exert every legal and constitutional means to defeat the consummation of the contemplated fraud, to the committee on the privileges, powers, and duties of the House of Representatives in counting the electoral vote for President and Vice-President.

IN SENATE.

TUESDAY, *February* 27, 1877—10 a. m.

The recess having expired, the Senate resumed its session.

DRAINAGE OF TIBER CREEK VALLEY.

The PRESIDENT *pro tempore* laid before the Senate a letter from the commissioners of the District of Columbia, transmitting a report of the engineer in charge of public works, made in obedience to the resolution of the Senate of June 8, 1876, relative to the drainage of Tiber Creek Valley, in the city of Washington; which was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

POST-OFFICE APPROPRIATION BILL.

The PRESIDENT *pro tempore* appointed Mr. WEST, Mr. HAMLIN, and Mr. BOGY the conferees on the part of the Senate on the disagreeing votes of the two Houses on the bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes.

PETITIONS AND MEMORIALS.

Mr. MERRIMON (at ten o'clock and fifteen minutes a. m.) presented the petition of Henry Birch and others, citizens of the District of Columbia, praying the passage of a law in order to give them relief as creditors; which was referred to the Committee on the District of Columbia.

Mr. MERRIMON, (at ten o'clock and forty-five minutes a. m.) I beg leave to present a concurrent resolution passed by the Legislature of North Carolina, urging Congress to pass some measure providing for the efficient and faithful administration of the affairs of the Freedman's Savings Bank, and to the end that whatever may be due the creditors of that bank shall be paid at as early a day as possible. The resolution is in the interest of the colored people of my State. I ask that it lie on the table.

Mr. WRIGHT. I suggest whether it is competent for the Senate to do anything of that kind now.

The PRESIDING OFFICER, (Mr. WEST in the chair.) It is competent now, while the commission is in session.

Mr. WRIGHT. Was it not the understanding that there should be no legislative business transacted this morning?

The PRESIDING OFFICER. This is merely the presentation of a petition.

Mr. MERRIMON. I understood a while ago that such business is in order. I presented a memorial half an hour ago.

Mr. DAVIS. My understanding is, as the Senator from Iowa has suggested, that there should be no legislative business transacted before twelve o'clock. The Senator from Indiana [Mr. MCDONALD] gave notice that he would call up at a certain hour the resolutions of the House in regard to the death of his former colleague, the late Speaker of the House, but it was distinctly announced by the Chair that there would be legislative business transacted. Of course, there is no objection to the presentation of a petition except this: If a petition may be offered to which there can be no objection, a bill could be called up and passed with the same propriety.

Mr. MERRIMON. The regular occupant of the chair a half hour ago admitted it to be in order to present petitions and memorials. I presented a petition then and there was no objection made to its reception. I can see no harm coming to the Senate or the public from the course of action pursued by the Chair.

Mr. DAVIS. I beg the Senator from North Carolina to remember that if he has a right to present a petition to which no one has any objection, he would also have a right to call up a bill and pass it to which many might have an objection who are now absent from the Senate. That is the only question I see in the reception of the resolution. Of conrse no one has any objection to it in any other view.

The PRESIDING OFFICER. Does the Senator from West Virginia object to the reception of the memorial?

Mr. DAVIS. I do not specially object to this paper, but I give notice now that I shall object to all legislative business before twelve o'clock unless it is understood that we are to have legislative business.

The PRESIDING OFFICER. The memorial will lie on the table.

ORDER OF BUSINESS.

Mr. DAWES, (at ten o'clock and fifty-five minutes a. m.) I ask leave to present an amendment to an appropriation bill for the purpose of having it printed and referred to the Committee on Appropriations.

The PRESIDING OFFICER. The Chair would prefer the Senator from Massachusetts to defer his request. It was the understanding that there should be no legislative business between the hours of ten and twelve. The Senator can present his amendment at any time after twelve o'clock.

Mr. DAWES. If it will not interfere with what has been assigned for this morning I should like to have the amendment printed, unless the understanding of the Senate is such that it would not be proper to have it done. I do not know what that understanding was.

Mr. WITHERS. I will call the attention of the Senator from Massachusetts to the RECORD, in which the following proceedings occur:

Mr SARGENT. I suggest, then, that there shall be no legislative business between ten and twelve o'clock. ["Agreed."]

The PRESIDENT *pro tempore*. It will then be the understanding that there will be no legislative business to-morrow until twelve o'clock.

Mr. DAWES. As this amendment would be considered legislative business I shall withhold it for the present.

EULOGIES ON THE LATE SPEAKER KERR.

Mr. MCDONALD, (at eleven o'clock and four minutes a. m.) I desire to call up the resolutions of the House of Representatives in honor of the late Speaker, MICHAEL C. KERR, for present consideration. I ask that the resolutions be read.

The Chief Clerk read the resolutions of the House of Representatives, as follows:

Resolved, That the sad announcement of the death of MICHAEL C. KERR, late member from the State of Indiana and Speaker of this House, is received by us in the deepest sorrow and profoundest regret; and that in his untimely decease the House of Representatives of the United States has lost an impartial, competent, and noble presiding officer, a faithful and patriotic member.

Resolved, That in testimony of our respect for the memory of the deceased Speaker, his chair be draped in mourning during the unfinished term of the Forty-fourth Congress, and as a further evidence of our continuing esteem for the dead, the officers and members of this House will wear the usual badge of mourning for the space of thirty days.

Resolved, That the Senate be informed of the death of the late Speaker by forwarding to that body a copy of these resolutions, and that the Clerk transmit a copy of the same to the afflicted family of the illustrious dead.

Mr. MCDONALD. Mr. President, it has not occurred before in our history that upon the records of the same Congress have been placed resolutions of respect to the memories of the presiding officers of the two Houses. Just before the opening of the first session of the present Congress, and while many of its members were on their way to attend its sittings, the country was startled by the news of the death of the Vice-President of the United States and President of the Senate, and before they had all reached their homes at the close of the session, another national loss had been sustained in the death of the Speaker of the House of Representatives.

In uniting with the House in doing honor to the memory of its late chief officer, those of us who had the good fortune to know him well can bear witness to the great loss our country sustained, taken as he was in the meridian of life and in the midst of his labors, and also of that great bereavement suffered by his family and his friends; for while by his laborious and faithful discharge of the public duties intrusted to him and his unbending devotion to principle he had made for himself a position in the front rank of the public men of his country, his kind and gentle nature had enshrined him the idol of the social and domestic circle in which he moved, and when death removed him from it a void was left that can never be filled.

MICHAEL C. KERR was a native of the State of Pennsylvania, and was born at Titusville, in that State, March 15, 1827, but about the time he had attained his majority he left his native State and cast his fortunes in the then great West, and after completing his legal studies, by graduating in the law department of the Louisville University, began the practice of his profession in the city of New Albany, in the State of Indiana, in 1852, and from that time until his death he was a beloved and honored citizen of that State and city. He was soon called into public life, first in the line of his profession, and gave promise of attaining to its highest honors, but in a short time was elected to represent the county of Floyd in the Legislature of the State, and made his first appearance in political life in January, 1857, when he took his seat in that body. My acquaintance was formed with him during that session and it grew into a friendship that increased in warmth and strength to the day of his death. His studious habits and close attention to the duties of his position marked him at that early day as one of the rising young men of the State.

In the fall of 1864 he was elected a member of the Thirty-ninth Congress from his district and continued to serve in that body, with the exception of the Forty-third Congress, until the close of his life, having been elected its Speaker at the beginning of the present Congress. It was in this service that he became known to the people of the whole country and established for himself a national reputation, and it was in the laborious discharge of the duties which devolved upon him as one of the active and leading members of that body that a constitution not naturally strong was impaired and the seeds of disease planted which brought him to an untimely grave.

Mr. KERR was naturally a student, and his mind was well stored with solid and substantial facts, especially relating to the science of government and political economy; but after he had turned his attention to politics he studied with great care the political history of his country that he might better understand the frame-work and structure of the Government, and especially those elementary principles which underlie that structure. In his public life as an actor he always, and under all circumstances, asserted his convictions; few men possessed a moral courage equal to him and none superior, and no apprehensions of the loss of popular favor could induce him to stifle his conviction or compromise his principles. Indeed it may well be said that his expressed political principles were at all times but the reflex of his convictions. Not naturally a fluent speaker, yet by study and practice he became a ready and strong debater, and at times his earnestness, almost unconsciously to himself, grew into eloquence; but his constant aim was to convince the judgment of his hearers and never to influence their action by appeals to their passions or their prejudices.

But his highest qualities were exhibited in that sublime courage with which he combated the steady approach of death, and the calm-

ness with which he looked forward to the fatal hour. Anxious to live, and yet with a painful consciousness that his days were numbered and that no mortal hand could pluck out the fatal arrow that Death had planted in his system, he seemed to rise above all fear and to move forward on the path of duty with a courage and fortitude that never for one moment faltered. He seemed to be constantly saying to himself, "I should not fear, nor yet should I wish for my last day to come; and until it does come I must not be idle nor waste my time in vain regrets." And so, Mr. President, he lived and so he died—died working on to the close of his life.

His was the true courage, "not the brutal force of vulgar heroes but the firm resolve of virtue and of reason." He filled every station to which he was called, public and private, with honor. He honored the city in which he lived, and his name is there cherished as a household word. He honored the district which had conferred upon him its highest favors, and his memory will be long held in reverence by his people. He honored the State of his adoption, and it will preserve his name upon the roll of its most illustrious citizens. He honored the high place to which he was called by the representatives of the whole people, and for that we this day place his name "*in memoriam*" upon the records of the Congress of the nation, there to remain for all time; but we cannot restore to his family and friends the light and life that went out from them when he was called from their midst.

Mr. President, I send to the desk resolutions for adoption by the Senate. I will state that the resolution in regard to adjournment is not now to be put.

Mr. WALLACE. Mr. President, it is fitting that we of Pennsylvania should second these resolutions and bring our tribute to the worth and the character of one of the sons of her soil. MICHAEL C. KERR was a type of the race from which he sprang. The physical form and mental characteristics of the man both proclaimed that he was one of those who trace their lineage and their ancestry to the hills of Scotland. The valleys and hills of Central, Southern, and Western Pennsylvania were largely peopled by them. The habits of life and the modes of thought of that race have become deeply graven upon whole masses of our people, and have in turn impressed themselves upon every section of the Republic. Wherever this people have planted themselves within our borders there are found prosperous settlements, happy homes, and peaceful communities. Indomitable energy, an iron will, economical habits, purity of character, a hatred of shams and devotion to truth, invariably marked the best specimens of the race, and nature was only true to herself when she stamped these qualities indelibly upon the late Speaker of the House of Representatives. A blameless life, intelligent and honest performance of high public duties, the respect of all who knew him, and the warm attachments of his party to his fortunes as a safe and prudent leader, marked his public career. As I learned to know him no trait in his character was so clearly defined as his hatred to all hypocrisy, his earnest devotion to truth. He seemed to recognize this as the chief part of every virtue. The political maxim "that those who know not how to dissemble know not how to rule" found no believer in him. The saying of the ancient Greek, "it was for slaves to lie and for freemen to speak truth," was much nearer his political creed and practice. Vigorous in speech, logical in argument, industrious in research, and courteous in debate, it is not strange that he should come to be recognized as a leader in the Forty-first, Forty-second, and Forty-fourth Congresses, nor is it surprising that with his purity of character and party record he should be chosen to the high place in which death found him.

Standing at his open grave we acquire a profound sense of the fleeting character of earthly honors and of the brittleness of the thread that suspends us over the dread unknown. To-day it is life, with its glittering trifles, its busy cares, its choicest gifts; to-morrow, death, the grave, eternity.

To us who stand where he stood—dedicated to the public service—the record of this man's life and death is an example, clear, well defined, and luminous.

It is the proud record of an honest public servant.

Mr. WRIGHT. Mr. President, in this country the highest type of American manhood and in the very forefront of the nobility of mankind may be found, not infrequently, those who in early professional life leave their homes in New England and other States and identify themselves with the ever alive, adventurous, and stirring people of the great and growing West. The young lawyer in this grand new arena, with prairies boundless, landscapes unsurpassed, all the experiences of an extensive practice, the friction, conflict, and yet *esprit de corps* found in court terms and court-room, circuit-court life, circuit-court travel, circuit-court acquaintance, and by his early participation in political and all the contests of a frontier and new life, such a person, I say, finds in all education and instruction, and soon becomes the highest type of the western and American statesman, lawyer, and citizen. For in all these things there are inspiring and elevating influences. The experiences may in many instances be hard and unusually severe, but the young disciple of the law thereby passes "through the rough brake," and thus he is the more likely to "come out tried and true." He may be poor, but his poverty is his stimulant; he may have trials, but these are for his purification; he meets with reverses, but such buffetings make him even more a power in his new home; he meets with strong opposition, and this but makes his will-power still more a power; and thus each day he gives renewed evidence of that true worth, that genuine virtue which tells upon the destinies of senates, the commons, the people, and the nation, and which oft is

> Sooner found in lowly sheds,
> With smoky rafters,
> Than in tapestried halls and
> Court of princes.

To this class belonged MICHAEL C. KERR, the true lawyer, the earnest prosecutor of the pleas of the State, the careful legislator, the painstaking reporter of the decisions of the highest tribunal of his adopted State, the modest and dignified Representative in the Congress of the nation, the impartial and able presiding officer of that body where he was for years among its leaders; the man of iron will, uncorruptible integrity, a noble specimen of the true American statesman. He represented, and well, the State which I am but too proud to acknowledge as that of my birth, the land of my early struggles with poverty, the State which by its kindly legislation afforded to myself as well as others the means for an education which might otherwise have been unattainable, the State to which I shall ever refer with the gratitude of a child, and to his memory, as the chosen of the people, I would assist at this time in paying some humble tribute.

It was said of the deceased that he seemed to have little special fitness for public life; and yet that he not only never attempted the arts of the demagogue, but loathed them in his inmost soul; that he loved his profession, the law, and sought its honors; that his opinions in committee and elsewhere were those of the jurist, and not of the politician, and that so strong was his will and so absolute were his convictions that it was impossible for him to trim or play the time-server. Now, Mr. President, if such a man had not special fitness, entitling him to the highest places in public life, then my ideas of the true statesman are sadly at fault. The arts of the demagogue are not those of the statesman, nor do they ever fit a man for that work which leads to the upbuilding of humanity and the highest interest of our common country. In proportion as the man in public life loathes such arts, he becomes safe and wise in legislation and entitled to confidence in places of the highest trust. And so firmly impressed am I with the great conservative influence of the true lawyer, so often have I been led to bear witness to the worth and value of the able and thoughtful jurist in matters of public concern, and so highly do I prize the man who stands by his convictions, not to be turned aside by the motives influencing the trimmer and time-server, that I accept such men as having admirable fitness for public life, a fitness which leads almost necessarily to true greatness, a fitness which places its possessor in the front rank of the profession and the highest statesmanship.

The life and character of MICHAEL C. KERR bear witness that he had this fitness and belonged to this class. In proportion as we shall have such men we shall have judicious legislation and added security to our country and its institutions. We need to cast out all demagogues, all trimmers and time-servers, all acting for policy, all merely expediency legislators, all letting out or taking in sail to catch the popular breeze, all trembling, uneasy hands with fingers upon the public pulse, all whose courage shall be measured by the stock market or the persistence of a lobby, and install in their places those who know their duty and do it, who, defying all opposition, move unflinchingly to the fulfillment of every trust, and who, when the end is reached, the result attained, feel that they have stood by the cause of their country, their God, and truth.

When the true man dies the world should indeed mourn. For such the Senate, the nation, and the friends of good government mourn to-day. He succeeded in life because those who knew him had confidence in his integrity and uprightness. He won distinction because he industriously studied our institutions and fearlessly and courageously maintained his views upon all questions demanding his attention. He took the highest rank because he marched in a straight line to his conclusions, ever exhibiting judicial fairness and the most unquestioned candor. He made friends because he had great goodness of heart, because to those who knew him best he was warm-hearted, kindly, and affectionate. He was the peer of the noblest of those around him because with good natural ability he had energy indomitable, perseverance unflinching, convictions the most abiding, and ever sought to make honest inquiry for truth.

One so panoplied and so endowed could not but succeed. The world owes such men victory, and whether the debt is paid grudgingly or otherwise it will be extorted, and it were idle to attempt to withhold it. Wife, children, friends, parties, the nation, should ever be proud of one so gifted and rejoice in his triumphs. That we may be led to cherish his virtues, give encouragement to all to emulate his example, and enrich our own hearts by the memory of his many and varied attainments and excellences, it is meet that we should pause in our pressing duties and look, as we now do, upon his new-made grave, cast thereon our garlands of good-will, esteem, affection, love, and renew our assurance of profound sympathy and condolence for the members of the stricken household who this day most deeply mourn his loss.

Mr. BAYARD. Mr. President, I never knew a man to whom indiscriminate eulogy would have been more distasteful and repulsive than the straightforward, single-minded gentleman whose death I now rise to deplore. Power will ever have its parasites, who cling to it, not to aid it but to suck from it their discreditable sustenance. What the courtier is to the monarchy the demagogue is to popular government.

MICHAEL C. KERR could never have been either.

> He would not have flattered Neptune for his trident,
> Or Jove for his power to thunder.

He would have told the truth as he knew it, despite the frowns of a king, and with equal fidelity would he tell it to the people even when threatening and excited by misapprehension and urged to harm by "false prophets." Mr. KERR was one of the quiet workers of Congress, who, remote from public view in those places where the real labors of legislation are performed, did his duty in steady, painstaking conscientiousness.

The incense of popular applause was not needed to urge him to his work. But whether in the full gaze of the public or in the seclusion of the committee-room, he was faithfully occupied in the performance of his duty,

> As ever in the great Taskmaster's eye.

Thus his fame burned with a steady luster; and as his reputation rose its base broadened upon the substantial qualities of honesty, fidelity, and sterling intellectual capacities. Although a vigorous and impressive debater, his gifts were not showy but solid, and he forced his delicate *physique* unsparingly to make these gifts most useful to his fellow-men—

> Sure the eternal Master found
> His single talent well employed.

I served here in Congress with Mr. KERR during years of anxious and critical interest. We were members of a weak minority, and during our association never entered upon a contest in these halls of legislation without plainly discerning at the end of the struggle defeat awaiting us. This habitual defeat, while it did not diminish the ardor of Mr. KERR in pursuit of duty, yet wore upon his physical health, and it may be said without exaggeration that his labors in behalf of the public caused his premature death.

One feature of the pulmonary disease under which Mr. KERR sank is a hopefulness on the part of the sufferer deluding him into a belief in his recovery, even to the last faint effort of expiring nature. In such a condition of health he went into the high place of Speaker of the House of Representatives of the United States with the hand of death resting upon him, unknown to him, but unhappily visible to those who surrounded him. His fine mental powers shone undiminished, and the *man* within was high-toned and true-hearted as ever.

I well remember calling upon him at his lodgings in this city, as he lay faint and gasping for breath upon his couch, and when that fell spirit of slander, "which loves a shining mark," had aimed its relentless and poisoned arrows at his reputation, I took his wasted hand in mine and uttered a few words in reference to the shameless and futile assault, dictated by the unscrupulousness of partisan malignity. His answer was a sad smile as his honest eyes looked into mine, and a pressure of the hand responded to the unquestioning confidence I felt and had expressed that these dishonest missiles of political assault would shiver themselves against the granite base of integrity upon which his life was built. He lived to see his slanderers promptly rebuked by the unanimous report of the committee appointed by the House to investigate the charges, condemning his accusers and exonerating him from even the suspicion of misconduct. This report was sustained by the unanimous vote of the House, and the voice of honest men of all parties in every part of the Republic. The closer the scrutiny the more the moral worth of the man became apparent. His death was a loss to his country; his example should be cherished, and the memory of his life and character be embalmed in the affection and respect of the American people.

Mr. BOOTH. Mr. President, the conditions of American life change so rapidly that representative types of American character are not likely to be reproduced. Franklin, Samuel Adams, Washington, Jackson, Clay, Lincoln, will have no historical parallels. The race of western pioneers will soon be as extinct as the Puritans, and will have no successor.

Modern life, so abounding in the use of tools, machinery, and intellectual aids, is not favorable to the formation of individuality of character, and native individuality must be strong to survive the repressive influence of custom and conventionalism. The character of MICHAEL C. KERR was so strongly marked that a stranger meeting him on the street would have received a distinct impression of the man.

His public career needs little reference from me. It was not my fortune to know him personally until the last year of his life—when the shadow of the dark valley was already upon him. How he struggled with pain and disease; how his iron will supplied the place of physical strength, and forced his tired body to bear the burdens of his great office until his breath grew too short for utterance and his feet too weary to bear their load, is known to us all.

The fortitude, endurance, courage, patience which he evinced in this struggle were typical of his character. He knew that death would conquer, but he fought for every inch of time. He had never counted the odds in any contest and he would not even when the grim monster was his antagonist. Life with him was so earnest that even sickness brought no respite from labor and responsibility.

Almost the whole of his manhood was spent in public office, and he died poor in worldly goods—as most men do who devote themselves to the public service. He was careful in all the details of his duties. He never spared himself, and nothing was so minute as to escape his conscientious attention; nothing which pertained to duty was insignificant in his eyes.

His purposes were so intense that I think his life was serious even to sadness. Pursuing his own line of thought, amusements and society had little attraction for him. He was fond of general literature, but disciplined his taste even in that to make it tributary to the main purpose of his life. He was slow in forming his opinions, but once formed they were a part of his life. No one can penetrate the inner life of another and realize the long preparation, the conflict of doubt, the struggle of intellect, the throes of thought which precede the opinion so positive in utterance, or the decision that seems instant as lightning when occasion comes.

In the discharge of his public duties Mr. KERR was never moved by the pleadings of immediate special interests, however powerful or plausible, to neglect or betray the interests of the people from whose loins he sprang, whose burdens he respected. He would not yield to the solicitings of friendship, the blandishments of flattery or the temptations of interest. He was almost destitute of imagination, and had little enthusiasm, but his intense earnestness gave to his utterances a fervor that had the semblance of both. He never sought the easy way of doing, but instinctively took hold of the heavy end. Life with him meant work, not dalliance; duty, not pleasure.

With his opinions on the great questions that culminated in and grew out of our civil war, I differed, *toto cœlo*. They are differences I gladly forget at his grave. Cannot we all now allow these differences to be buried in the grave of the past? Can we not regard the conflict through which we have passed as an inevitable event of history which no statesmanship could avert, and respect its awful loss of life as a common sorrow, a sacrifice which fate had decreed to liberty and union?

If we cannot, if strife must perpetuate itself and passion harden into hatred, the sun of our national existence which rose upon so fair a morn will be hidden by clouds and go down in tempests.

In times of great political excitement like these, the man who dies in public station falls like the soldier in the heat of battle, when the lines close, comrades press forward, and the fight goes on. In the distant home something passes from the life of love which was most dear to it, and which nothing that is or shall be can ever replace. We miss the voice that was strong in debate; others the tones that were tender with love. A manly presence has gone from our midst; the footsteps that gladdened a home have gone down to the grave.

The tribute of respect which we pay seems formal from oft repetition; there is a sorrow which is speechless, a grief which is tearless.

Thus through life every heart must bear its own sorrow, its own grief, its own precious memory, sanctuaried from the eye of curiosity, where the voice of sympathy cannot reach, and the touch of healing cannot come.

Mr. MORTON. Mr. President, I have known Mr. KERR since 1861. Our personal relations were never intimate. We were never thrown together in any way. I met him from time to time and have been familiar with his political history and reputation.

We lived in a State somewhat distinguished of late years for the bitterness of its political contests. While he and I were on different sides yet our personal relations were always good, and I now take pleasure in bearing testimony to his memory.

The character of Mr. KERR for integrity has never been impeached. Some charges that were recently made against him since he was Speaker of the House of Representatives were not believed at all by his political antagonists. I can say that the republicans of Indiana did not believe these charges. I did not, and it may be said that Mr. KERR's character for integrity has never been impeached or suspected. I take pleasure in bearing testimony to his high character as an honest man. Mr. KERR has always been regarded as occupying a higher plane of politics than most politicians. He has been regarded as a man who was devoted to principle and who pursued principles to their logical results. Intellectually he was very able; a man of fine ability. He was a student. He has always been regarded as laborious. Especially was he a student of political economy. He was much better acquainted with the principles of political economy than most men in public life. He has made them his study for years. He was always regarded as a student, with a fine knowledge of general literature and of history, but especially a student in all those branches of knowledge relating to politics and the Constitution of his country. His name will be remembered with pride and with affection in Indiana. He was one of her most highly favored and gifted sons and it gives me satisfaction to bear testimony to his patriotism. I believe he was a devout lover of his country and went for that which he believed was for the best. I have always given him credit for his integrity, for his patriotism, and for love of his country, and the strongest testimony which I can bear to the character of Mr. KERR is to say that he was regarded by men of all parties in Indiana as an honest man, an

able man, a patriotic man, and that his death was mourned by all his neighbors and by all who knew him without distinction of party.

In some respects he was a remarkable man. His ability was not of the common order and as was said by the Senator from Delaware, [Mr. BAYARD,] it was more solid than it was showy, with a great power of analysis and with great capacity for labor. But few public men have died who have left behind them a clearer or a better record than MICHAEL C. KERR, and he died possessing the esteem of good men without distinction of party.

The PRESIDING OFFICER. The Clerk will now report the resolutions offered by the Senator from Indiana, [Mr. MCDONALD.]

The Chief Clerk read as follows:

Resolved, That the Senate has received with profound sensibility the sad announcement of the death of Hon. MICHAEL C. KERR, late a member of the House of Representatives from the State of Indiana, and Speaker of that House.

Resolved, That as a mark of the respect entertained by the members of the Senate for the high character, pure patriotism, and eminent public services of the late Speaker of the House of Representatives they will wear the usual badge of mourning for thirty days.

The resolutions were agreed to unanimously.

PRAYER.

At twelve o'clock m. prayer was offered by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

JOURNAL.

The PRESIDENT *pro tempore*. The Senate continues in session. The Secretary will read the Journal of yesterday.

The Journal of yesterday's proceedings was read and approved.

RATES OF PENSIONS.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States, which was read:

To the Senate of the United States:

I have the honor to return herewith Senate bill No. 234, entitled, "An act to allow a pension of $37 per month to soldiers who have lost both an arm and leg." Under existing law, soldiers who have lost both an arm and a leg are entitled to draw a monthly pension of $18. The object of the bill is to allow them $18 per month for each of these disabilities, or $36 in all. It is returned simply for an amendment of the title which usually agrees with its provisions. When this shall have been done I will very gladly give it my approval.

U. S. GRANT.

Mr. INGALLS. I ask that by unanimous consent the title of this bill, which, by inadvertence, was sent to the House for concurrence as at the rate of $37 a month, be changed to $36, which is the rate established in the body of the bill.

The PRESIDENT *pro tempore*. Is there objection to this correction? The Chair hears none.

Mr. SARGENT. The bill is passed now, I suppose, and ready for the signature of the President without further action?

The PRESIDENT *pro tempore*. The bill is passed, and will now go to the President as corrected.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting a letter from the Chief of Engineers, accompanied by a copy of the preliminary report of Major John M. Wilson, Corps of Engineers, upon the construction of the canal around the Cascades of the Columbia River, Oregon, with an approximate estimate of the cost of the work; which was referred to the Committee on Commerce, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. WHYTE presented the petition of Morris B. Slosson, of Baltimore, Maryland, formerly of Battery H, First Pennsylvania Reserve Light Artillery, praying for a pension; which was referred to the Committee on Pensions.

Mr. DAVIS presented the petition of T. M. Harris, of Wheeling, West Virginia, and 34 others, praying an amendment of the pension laws so as to allow arrears of pensions; which was ordered to lie on the table.

He also presented the petition of George W. Atkinson and others, of Charlestown, West Virginia, praying an amendment of the pension laws so as to allow arrears of pensions; which was ordered to lie on the table.

He also presented papers in relation to the claim of John W. Athey, of Mineral County, West Virginia, for compensation for transportation of the mails in Virginia in the years 1861 and 1862; which were referred to the Committee on Claims.

Mr. SHARON presented the petition of D. B. Immel & Co., and others, bankers in the State of Nevada, praying the repeal of all taxes by the General Government on deposits, circulation, and capital of banks; which was referred to the Committee on Finance.

He also presented a resolution of the Legislature of the State of Nevada, requesting her Representatives and directing her Senators to use their influence to secure the annexation of the southern portion of the Territory of Utah to the State of Nevada; which was referred to the Committee on Territories.

Mr. CONKLING presented resolutions of the Board of Trade of Buffalo, New York, favoring the erection of a light-house and fog-signal on Stannard's Rock, Lake Michigan; which were referred to the Committee on Commerce.

Mr. CONOVER presented a petition of a large number of prominent citizens of the District of Columbia, praying to be allowed the use of the Rotunda of the Capitol for the purpose of holding the usual inauguration ball therein in March, 1877; which was referred to the Committee on Public Buildings and Grounds.

Mr. WALLACE presented a memorial of the Board of Trade of Philadelphia, in favor of the establishment of a new executive department of the Government, to be called the department of commerce; which was referred to the Committee on Commerce.

He also presented a memorial of the Board of Trade of Philadelphia, in favor of Congress taking steps to secure American commerce immunity from the payment of light-dues to ports of Great Britain; which was referred to the Committee on Commerce.

He also presented a petition of 130 citizens of Potter County, Pennsylvania, praying for a repeal of the limitation upon filing pension claims and an amendment of the pension laws so as to allow arrears of pensions; which was ordered to lie on the table.

He also presented the petition of Bridget Muldoon, of the city of Philadelphia, Pennsylvania, legatee of Samuel Higgins, late fireman in the United States Navy, praying for payment of prize-money awarded for the capture of the ram Albemarle; which was referred to the Committee on Naval Affairs.

Mr. BOGY presented a petition of letter-carriers of Saint Louis, Missouri, praying the passage of the bill of the House providing for the restoration of the salaries of letter-carriers to their former grades; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of citizens of Texas County, Missouri, praying for cheap telegraphic communication, and for the transfer of the telegraph business to the superintendence of the Post-Office Department; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. WINDOM presented a joint resolution of the Legislature of Minnesota, directing her Senators and requesting her Representatives in Congress to oppose the passage of House bill No. 394, relating to pensioners; which was ordered to lie on the table.

He also presented a joint resolution of the Legislature of Minnesota, in favor of the establishment of a post-route from Lake Park to Crookston, in the State of Minnesota; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. MCDONALD. I present the petition of Fisk Mills, sculptor, &c., praying the correction of Report No. 515, made August 2, 1876, on the bill (S. No. 511) to compensate Fisk Mills for the plaster model of General Rawlins. I move that it be filed with the report made August 15, 1876.

The motion was agreed to.

SETTLERS ON LANDS DEVASTATED BY GRASSHOPPERS.

Mr. WINDOM. I am instructed by the Committee on Public Lands to report back the bill (S. No. 1063) for the relief of certain settlers on the public lands. I am very certain that no Senator will be opposed to it and I should like very much to put it on its passage as I shall be compelled to be out of the Senate during the morning hour nearly all the rest of the time. It is simply for the relief of settlers on lands devastated by grasshoppers, giving them one year longer during which they may be absent from their lands if again devastated by that scourge.

By unanimous consent, the bill (S. No. 1063) for the relief of certain settlers on the public lands was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with amendments: In lines 6 and 7, to strike out "1876" and insert "1877;" in line 8, to strike out "July, 1877" and insert "October, 1878;" in line 12, to strike out "1877" and insert "1878;" in line 14, to strike out "1878" and insert "1879;" so as to read:

That it shall be lawful for homestead and pre-emption settlers on the public lands or pre-emption settlers on Indian reservations, where crops were destroyed or seriously injured by grasshoppers in the year 1877, to leave and be absent from said lands until the 1st day of October, 1878, under such rules and regulations as to proof of the same as the Commissioner of the General Land Office shall prescribe; and where such grasshoppers shall re-appear in 1879, to the like destruction or injury of crops, the right to leave and be absent as aforesaid shall continue to July 1, 1879; and during such absence no adverse rights shall attach to said lands, such settlers being allowed to resume and perfect their settlement as though no such absence had occurred.

SEC. 2. That the time for making final proof and payment by pre-emptors whose crops have been destroyed or injured as aforesaid is hereby extended for one year arfter the expiration of the term of absence provided for in the first section of this act; and all the rights and privileges extended by this act to homestead and pre-emption settlers shall apply to and include the settlers under an act entitled "An act to encourage the growth of timber on western prairies," approved March 3, 1873, and the acts amendatory thereof.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ARMY REGISTER FOR 1877.

Mr. ANTHONY, from the Committee on Printing, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That 500 copies of the Army Register for 1877 be printed for the use of the Senate.

NAVY REGISTER FOR 1877.

Mr. ANTHONY, from the Committee on Printing, reported the fol-

lowing resolution; which was considered by unanimous consent, and agreed to:

Resolved, That 500 copies of the Navy Register for 1877 be printed for the use of the Senate.

AGRICULTURAL REPORT FOR 1876.

Mr. ANTHONY. The same committee, to whom was referred a resolution of the House of Representatives to print 300,000 copies of the Report of the Commissioner of Agriculture for 1876, have instructed me to report back the same without recommendation.

Mr. PADDOCK. I ask for the present consideration of the resolution. It is a House concurrent resolution.

Mr. INGALLS. I think we had better go through with the morning business.

Mr. PADDOCK. I think there will be no objection to this resolution. It provides for printing the usual number of agricultural reports heretofore authorized for publication.

Mr. INGALLS. It would undoubtedly occasion debate. We had better go through the morning business.

The PRESIDENT *pro tempore*. Objection being made, the resolution cannot be considered at this time.

ELI TEEGARDEN.

Mr. OGLESBY. I am instructed by the Committee on Public Lands, to whom was referred the bill (S. No. 1197) for the relief of Eli Teegarden, to report it without amendment, and as it only involves the sum of $50 and it would cost the party infinitely more trouble to get it if the bill does not pass now, and as it is perfectly just and recommended by the Secretary of the Treasury, being a balance due which cannot be paid unless appropriated by Congress, I ask that the bill be put on its passage now. I have here a letter from the Secretary of the Treasury recommending it. The Senator from California [Mr. SARGENT] remembers the case very well. I think the Senate ought to act upon it now and dispose of the bill at once. The matter is too small to put the man to any trouble again, and it is perfectly just and ought to pass.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to pay to Eli Teegarden, of California, $50.34, being the amount of a balance due him March 31, 1875, on his account as receiver of public moneys at the land office at Marysville, California.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

REPORTS OF COMMITTEES.

Mr. OGLESBY, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 2601) authorizing the Commissioner of Pensions to issue a land warrant to Thomas Hunter, a soldier of the war of 1812, in lieu of one lost, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 2114) to give parties contestant time to file on or enter lands under the pre-emption, homestead, or timber-culture acts after the contest shall have been finally decided, reported it without amendment.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the bill (S. No. 1055) to provide for the free distribution of public documents already printed or ordered to be printed, asked to be discharged from its further consideration and that it be referred to the Committee on Post-Offices and Post-Roads; which was agreed to.

Mr. WADLEIGH, from the Committee on Patents, to whom was referred the bill (H. R. No. 3370) to amend the statutes in relation to damages for infringement of patents, and for other purposes, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 1255) for the relief of Henry Voelter, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. WADLEIGH. I am instructed by the Committee on Patents, to whom was referred the bill (S. No. 1262) to cure defects in certain letters-patent for inventions and designs, to report it with an amendment, and I ask for its present consideration.

The PRESIDENT *pro tempore*. The bill will be read for information, subject to objection.

The Chief Clerk read the bill and the amendment of the committee, which was to insert at the end of the bill the following:

That the assistant commissioner shall, when directed by the Commissioner, hear and determine all matters heretofore appealable to the Commissioner in person, and that in case of the death, resignation, absence, or sickness of the Commissioner his duties shall devolve upon the assistant commissioner until a successor be appointed or such absence or sickness shall cease.

Mr. WITHERS. Is the bill just reported from committee?

The PRESIDENT *pro tempore*. It is.

Mr. WADLEIGH. The bill, in the first place, simply legalizes the acts of the Acting Commissioner of Patents, and the amendment confers upon him the authority to act in the absence of the Commissioner, or when there is none, a provision which the Revised Statutes does not now provide for.

Mr. CONKLING. Was it ever provided before the Revised Statutes were published?

Mr. WADLEIGH. I do not know whether it was or not. It certainly is not provided now.

Mr. CONKLING. I do not like to object to this bill. I should be glad however to understand it better than I do before it is acted upon. If in order, I make one observation to the Senator from New Hampshire to account for my remarks. There are I believe few officers in this Government whose functions are more important than those of the Commissioner of Patents. I do not believe there is a patent lawyer in this country too good, or a man whose time is too valuable to be devoted to the duties of that office. Indeed, I think that if an increase of salary or anything else could insure always the presence there of a man thoroughly instructed as a lawyer and a mechanic, it would be an excellent investment. The bill, if I understand it, proposes to commit to whoever may be Acting Commissioner for the time being, during the temporary absence of the Commissioner——

Mr. WADLEIGH. To the asistsant commissioner.

Mr. CONKLING. The assistant commissioner, whoever may be an assistant commissioner for the time being. The bill proposes to commit to him the right to hear all questions, some of them very large questions, large in principle and large in effect, which may be heard by the Commissioner of Patents. I am not prepared to say at this moment that this is not wise; but the bill being reported, and on the moment action being asked, I suggest to the Senator that it would be well to let it lie until we can look at it.

The PRESIDENT *pro tempore*. That is in the nature of an objection.

Mr. WADLEIGH. I have no objection to let the bill lie over until to-morrow morning, and then I shall call it up.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

Mr. CAMERON, of Pennsylvania, from the Committee on Foreign Relations, to whom was referred the bill (H. R. No. 4418) to pay William L. Scruggs, late minister at Bogota, from October 10 to November 21, 1876, reported it without amendment.

Mr. MORRILL, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 1149) to authorize the purchase of a site for a public building at Denver, Colorado, reported it without amendment.

Mr. CLAYTON, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 969) for the relief of Charles H. Johnson, late first lieutenant of the Fifteenth Michigan Infantry, reported it with an amendment and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of James O. Thompson praying to be relieved of disability to prosecute a claim for pension in consequence of being dismissed the service of the Army of the United States, submitted a report thereon, accompanied by a bill (S. No. 1286) to remove the disabilities of James O. Thompson, late captain Company I, Seventeenth Maine Infantry Volunteers.

The bill was read twice by its title, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 174) authorizing the issue of clothing to Private Patrick Noonan, Company G, Fifth United States Infantry, reported it without amendment.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 176) authorizing the issue of clothing to Private Francis Hegner, Company F, Seventh Cavalry, and Private John C. Collins, Company G, Seventh Cavalry, reported it without amendment.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 177) authorizing the issue of clothing to Sergeant Herman Theune, Company I, Twenty-third United States Infantry, reported it without amendment.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 175) authorizing the issue of clothing to Company A, Second Regiment United States Cavalry, reported it without amendment.

Mr. HITCHCOCK, from the Committee on Territories, to whom was referred the bill (S. No. 1048) to establish the Territory of the Black Hills and to provide a temporary government therefor, reported it with an amendment.

Mr. BOOTH, from the Committee on Public Lands, to whom was referred the bill (S. No. 1249) granting the right of way through the public lands to the Golden, Georgetown and Central Railroad Company, reported it with amendments.

Mr. DAVIS. I ask unanimous consent that the report from the Committee on Printing for additional numbers of the Agricultural report be considered now. It is very short, and no one can object to the printing of the Agricultural report, I reckon.

The PRESIDENT *pro tempore*. Is there objection?

Mr. SHERMAN. I think the majority of the committee are opposed to it.

Mr. DAVIS. The resolution has just been reported from the Committee on Printing.

The PRESIDENT *pro tempore*. Is there objection to its present consideration?

Mr. SHERMAN. I object to it.

The PRESIDENT *pro tempore*. Objection is made, and the resolution cannot be considered at this time.

Mr. BRUCE, from the Committee on Pensions, to whom was re-

ferred the bill (S. No. 298) granting a pension to William C. Edmondson, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 3319) granting a pension to Lemuel L. Lawrence, late second lieutenant of Company B, in the Sixth Illinois Cavalry Volunteers, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. LOGAN, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 4117) for the relief of Colonel Frank L. Woolford, late of the First Kentucky Cavalry Volunteers, of certain disabilities, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 470) for the relief of John S. Wood, late a first lieutenant in the Seventh Pennsylvania Cavalry, reported it without amendment.

Mr. CLAYTON, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1003) to restore Benjamin P. Runkle to the retired list of the Army, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 2019) for the relief of Edwin Morgan, late captain of Company G, Seventy-seventh Regiment Pennsylvania Volunteer Infantry, reported it without amendment.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the bill (S. No. 1216) to provide for the preparation and publication of a new edition of the Revised Statutes of the United States, with an amendment in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (H. R. No. 4692) establishing post-roads; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 1231) for the relief of the board of trustees of the Antietam national cemetery;

A bill (H. R. No. 1947) granting to the city of Stevens Point, Wisconsin, a certain piece of land;

A bill (H. R. No. 2197) for the relief of Henry B. Kelly, of Louisiana, from political disabilities imposed by the fourteenth amendment;

A bill (H. R. No. 3093) for the relief of the legal representatives of Zachariah B. Washburn, deceased; and

A bill (H. R. No. 3566) to authorize the board of trustees of the city of Cheyenne, Wyoming Territory, to enter and purchase for the use of said city certain public lands.

STATUE OF LIBERTY IN NEW YORK HARBOR.

Mr. CAMERON, of Pennsylvania. I am instructed by the Committee on Foreign Relations, to whom was referred the joint resolution (H. R. No. 196) authorizing the President to designate and set apart a site for the colossal statue of "Liberty enlightening the world," and to provide for the permanent maintenance and preservation thereof, to report it without amendment. As this is a matter entirely of courtesy to a number of patriotic Frenchmen and citizens of this country, I ask the Senate to act upon it at once. It costs no money.

By unanimous consent, the Senate, as in the Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FREDERICK HINKEL.

Mr. EATON. I am directed by the Committee on Foreign Relations, to whom was referred the petition of Frederick Hinkel, of New York, praying to be absolved from his allegiance as a citizen of the United States, to report a joint resolution to that effect. We report favorably as far as the petition is concerned, but ask that the bill (S. No. 1196) to absolve Frederick Hinkel from his allegiance as a citizen of the United States of America be indefinitely postponed and a resolution submitted in its place shall pass. I hope there will be no objection to it, as it obtained the unanimous consent of the committee, and that it shall be acted upon at once.

The PRESIDENT *pro tempore.* The bill will be postponed indefinitely and the joint resolution considered at the present time, if there be no objection.

By unanimous consent, the joint resolution (S. R. No. 32) providing for the renunciation of the naturalization of Frederick Hinkel, was read twice by its title, and considered as in Committee of the Whole. It provides that an official notification from the government of the North German Empire of the employment of Mr. Frederick Hinkel in the consular or diplomatic service of that government, accompanied by a renunciation in writing by Hinkel of his naturalization in the United States, may be accepted by the President as evidence of a renunciation of such naturalization equivalent in effect to the residence of two years in his former country without intent to return to the United States, provided for in the fourth article of the treaty of February 22, 1868, between the United States and the North German Confederation.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1287) to establish a post-route in the State of Missouri; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. CHRISTIANCY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 33) authorizing the official publication of the decisions of the Interior Department relating to the public lands; which was read twice by its title, and referred the Committee on Public Lands.

J. L. M. CURRY.

Mr. JOHNSTON. I ask leave to introduce a bill to remove the political disabilities of J. L. M. Curry, of Virginia. The case was presented to the Committee on the Judiciary and reported against for want of a petition. The petition has now been furnished, and I have it here. I had an interview with the chairman of the Committee on the Judiciary, who told me that I could call up the bill, and I have his consent in regard to action upon it at this time. I ask the present consideration of the bill. A petition from the party accompanies it.

By unanimous consent, leave was granted to introduce a bill (S. No. 1285) to remove the political disabilities of J. L. M. Curry, of Virginia; which was read twice by its title.

Mr. WRIGHT. I do not wish to antagonize my friend from Virginia, but it is certainly most unusual to introduce a bill and ask for its present consideration.

The PRESIDENT *pro tempore.* If the Senator from Iowa objects, the bill will be referred to the Committee on the Judiciary.

Mr. JOHNSTON. I do not think the Senator will object if he listens to an explanation which I will make. Some time ago I received a letter from Mr. Curry asking me to have his political disabilities removed. I supposed that was sufficient, and I presented that letter as a petition for reference to the Committee on the Judiciary. When the matter came before the committee, they did not consider it to be a sufficient petition, and the committee asked to be discharged from the further consideration of it. I wrote to Mr. Curry and received his petition, which I present with the bill. I then went to the chairman of the committee [Mr. EDMUNDS] and showed him the petition, and obtained his consent to introduce this bill and to say that Mr. Curry's case had been before the committee, and the only objection was the want of a petition, and he would have no objection to its passage. I trust the Senator from Iowa will make no objection.

Mr. WRIGHT. Do I understand that the chairman of the committee has examined this case and has no objection to it and consents that the bill be passed?

Mr. JOHNSTON. I do, sir.

Mr. WRIGHT. Of course the Senator will understand that when we reported back upon the letter we were not required to examine anything beyond what was before us, and any question that may be outside of that of course has never come before the committee.

Mr. JOHNSTON. The chairman of the committee gave me permission to ask for the present consideration of the bill.

Mr. WRIGHT. If the chairman of the committee has examined this matter and it is satisfactory to him, I shall not object.

Mr. JOHNSTON. I showed the petition to him and obtained his consent to the bill.

Mr. WRIGHT. He has no objection to the passage of the bill?

Mr. JOHNSTON. No, sir.

Mr. WITHERS. I will state in addition that a petition from Mr. Curry was sent to the Forty-third Congress, and the bill passed both Houses of Congress, but failed for want of time in being transmitted to the President.

Mr. WRIGHT. I only wish to enter my protest against passing the bill; but if the chairman of the committee has given his consent, knowing how careful he is and how particular on this subject, I shall make no objection.

Mr. WITHERS. That is the case.

By unanimous consent the Senate as in Committee of the Whole proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed, two-thirds of the Senators present voting in favor thereof.

PAPERS WITHDRAWN.

On motion of Mr. BURNSIDE it was

Ordered, That Hannah L. Lloyd have leave to withdraw from the files of the Senate the papers accompanying Senate bill 824.

On motion of Mr. HITCHCOCK it was

Ordered, That Jesse L. Fort be allowed to withdraw papers in relation to his claim for depredations by Indians, on file in the office of the Secretary of the Senate.

MONEYS DUE THE DOMINICAN GOVERNMENT.

Mr. CAMERON, of Pennsylvania, submitted the following resolution; which was considered by unanimous consent and agreed to.

Resolved, That the Secretary of State be, and is hereby, directed to transmit to the Senate any communication received by him demanding the payment of moneys claimed to be now due the Dominican government from the Government of the United States.

AMENDMENTS TO AN APPROPRIATION BILL.

Mr. COOPER, Mr. DAWES, Mr. HITCHCOCK, Mr. INGALLS, Mr. McDONALD, Mr. MITCHELL, and Mr. WEST submitted amendments intended to be proposed by them respectively to the bill making appropriations for the sundry civil expenses of the Government; which were referred to the Committee on Appropriations, and ordered to be printed.

CREDENTIALS.

Mr. GORDON presented the credentials of John T. Morgan, elected by the Legislature of the State of Alabama a Senator from that State for the term beginning March 4, 1877; which were read and ordered to be filed.

Mr. OGLESBY presented the credentials of David Davis, elected by the Legislature of the State of Illinois a Senator from that State for the term beginning March 4, 1877; which were read and ordered to be filed.

BILL RECOMMITTED.

On motion of Mr. HOWE, it was

Ordered, That the bill (H. R. No. 1539) to authorize the construction of a bridge across the Mississippi River from some feasible point in Buffalo County, in the State of Wisconsin, to some feasible point in Winona County, in the State of Minnesota, be recommitted to the Committee on Commerce.

BUILDING FOR THE LIBRARY OF CONGRESS.

Mr. HOWE. I ask the Senate to take up for consideration Senate bill No. 1231. I want to get the views of the Senate upon the bill.

Mr. INGALLS. What is it about?

Mr. HOWE. It is to provide for additional accommodations for the Library of Congress.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. SARGENT. I wish to make a report from a committee.

Mr. HOWE. The Senator will have opportunity to do that after the bill is taken up.

Mr. BLAINE. May I ask the Senator from Wisconsin if the idea is to put the bill on its passage?

Mr. HOWE. Yes, sir.

Mr. MORRILL. Let it be reported for information.

The PRESIDENT *pro tempore*. The bill will be read for information, subject to objection.

The Chief Clerk read the bill.

The PRESIDENT *pro tempore*. Is there objection to its present consideration?

Mr. MORRILL. I must say that I object to this proposition; not that I object to any proposition for a public library, but I would object most strenuously against a proposition of absolute ruin to the architectural beauty of this building, and merely providing, as it would, for a temporary accommodation of the library, going to the extent only of a few years, when it will become as necessary for us to have a public library building as it is to-day.

Mr. HOWE. I had not a doubt but what the Senator from Vermont would object to the passage of this bill. I suppose he does not object to the consideration of it. Other Senators will object to the passage of the bill, but every Senator here, I think, will agree that some provision should be made for the accommodation of the Library of Congress; and no provision can possibly be made until you lay some plan before the Senate. If the Senate does not like the plan that is first proposed, some one will propose a better one. After several years of industrious effort the committee has come to the conclusion that it is impossible for them to invent, and probably impossible for the Almighty himself to design a plan that would be satisfactory to everybody in the Senate. I am not sure but it would be impossible for Him to design a plan that would be satisfactory to the majority, but that is the question we want to solve. The committee has submitted several plans heretofore differing from this. Now, they propose to try this, to hear what the Senate shall say about it, and will be extremely glad to hear all other and all better suggestions than this.

I simply ask, now, that the bill shall be taken up and that the Senate shall say what they please about this bill, and make such better suggestions as they can. That is all I want.

The PRESIDENT *pro tempore*. The Chair will remind the Senator that there is unfinished business which will follow at the conclusion of the morning hour.

Mr. HOWE. Then that would cut us off at one o'clock.

Mr. SARGENT. It will be impossible to have this bill considered at this time.

The PRESIDENT *pro tempore*. The bill will be temporarily laid aside.

REPORT ON CHINESE IMMIGRATION.

Mr. SARGENT. I submit the report of the joint committee of the two Houses of Congress on Chinese immigration, which I ask to have printed with the testimony.

The PRESIDENT *pro tempore*. The report will be printed under the rule. Is there objection to having it printed with the testimony? The Chair hears no objection.

Mr. MORTON. Mr. President, while I agree in great part with what is contained in the very able report of the Senator from California, yet I do not altogether concur in the views which have been taken in regard to the evidence, and I desire to present my views upon the subject. During the last two months I have absolutely been unable to find time to review the evidence and to prepare anything in the form of a report. I ask leave to file my views, as soon as I can prepare them, which will be perhaps two or three days after the end of the session. I am not able to do it now.

The PRESIDENT *pro tempore*. Is there objection to the Senator from Indiana filing his views in regard to this matter? The Chair hears none.

SUSAN P. VANCE.

Mr. MORTON. There is a small bill here which I desire to have passed, if possible, to which I think there is no objection. I ask the indulgence of the Senate to take up the bill (H. R. No. 2833) for the relief of Susan P. Vance, as I am compelled to leave here in a few minutes, and perhaps cannot get back very soon.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

It appropriates $2,640, to pay Susan P. Vance for property of her late husband, Morgan Vance, of Kentucky, taken and used by the United States troops during the war of the rebellion, including the use and occupation of a lot of land at Lexington, Kentucky, and the timber and fencing taken therefrom.

The bill was reported to the Senate without amendment, and ordered to a third reading.

Mr. CONKLING. Is there a report from the Committee on Claims?

Mr. WRIGHT. There is a report in the case.

Mr. CONKLING. I merely ask if the bill is reported from the Committee on Claims.

Mr. WRIGHT. It is.

The bill was read the third time, and passed.

JOHN S. WOOD.

Mr. HITCHCOCK. I ask unanimous consent to take up the bill (S. No. 470) for the relief of John S. Wood, late a first lieutenant in the Seventh Pennsylvania Cavalry. It is of special merit. I think there will be no objection to it.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of War to cause to be furnished to John S. Wood, late a first lieutenant in the Seventh Pennsylvania Cavalry Volunteers, an honorable discharge from the service, on account of wounds received in action, of the same date as the date of the discharge of his company, and the Paymaster-General to pay him a sum equal to the emoluments of a first lieutenant of cavalry, from the date of his muster-in to the service as such until the muster-out of Company I of the Seventh Pennsylvania Cavalry, deducting therefrom such sum or sums as he may have received on account of such services for the same period.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SALE OF DESERT LANDS.

Mr. SARGENT. I move that the Senate proceed to the consideration of the bill (H. R. No. 4261) to provide for the sale of desert lands in certain States and Territories.

The PRESIDENT *pro tempore*. The bill will be read for information, subject to objections.

The Chief Clerk read the bill.

Mr. INGALLS. Is there a report in that case?

Mr. SARGENT. There is a report in the case, which I ask to have read.

Mr. CONKLING. Before the report reaches the desk, I ask the Secretary to read again that part of the bill which prescribes the time where three years appear. It is about third way from the end of the bill I think.

The Chief Clerk read as follows:

That it shall be lawful for any citizen of the United States, or any person of requisite age "who may be entitled to become a citizen, and who has filed his declaration to become such," to file a declaration with the register and the receiver of the land district in which any desert land is situated, that he intends to reclaim a tract of desert land not exceeding one section, by conducting water upon the same within the period of three years thereafter.

Mr. CONKLING. Just read on from there.

The Chief Clerk continued to read the bill, as follows:

Said declaration shall describe particularly said section of land if surveyed, and, if unsurveyed, shall describe the same as nearly as possible without a survey. At any time within the period of three years after filing said declaration, upon making satisfactory proof of the reclamation of said tract of land in the manner aforesaid, and upon the payment to the receiver of the sum of $1.25 per acre for a tract of land not exceeding six hundred and forty acres to any one person, a patent for the same shall be issued to him.

Mr. CHAFFEE. I object to the bill.

The PRESIDENT *pro tempore*. If the Senator from Colorado objects to the present consideration of the bill the question will be submitted to the Senate. Does the Senator object to the motion to proceed to its consideration?

Mr. CHAFFEE. I object to the motion.

The PRESIDENT *pro tempore*. The Senator from Colorado objects to the motion, and the bill cannot be considered at this time.

Mr. SARGENT. I give notice that I shall call the bill up again soon.

A. W. PLYMALE.

Mr. HEREFORD. I move that the Senate proceed to the consid-

eration of the bill (H. R. No. 4301) for the relief of A. W. Plymale, of West Virginia.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Interior to direct the pension agent at Wheeling, West Virginia, to issue duplicate check No. 18776, for $1,052, in favor of A. W. Plymale, for one lost in the mail on or about July 1, 1876, if the Secretary of the Interior be satisfied that the same has not been paid; but A. W. Plymale shall first execute a bond, with good and sufficient sureties, to be approved by the Secretary of the Interior, to hold the United States harmless against the double payment of such check.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. C. C. SNIFFEN, one of his secretaries, announced that the President had on this day approved and signed the act (S. No. 993) for the relief of the late Admiral Charles Wilkes.

ORDER OF BUSINESS.

Mr. CRAGIN. I move that the Senate proceed to the consideration of the bill (S. No. 667) for the relief of William Wheeler Hubbell, and to make just compensation for the past making, or use, or vending of his patent explosive shell, fuses, and percussion-exploders by the United States. I am aware that it would be hard to dispose of this bill in the morning hour, but I ask unanimous consent of the Senate that it may be considered at this time. I think it will not go beyond the morning hour more than ten minutes.

The PRESIDENT *pro tempore*. The morning hour has expired and the Chair will lay before the Senate the unfinished business. The Secretary will report the railroad bill by its title, after which the Chair can entertain a motion to postpone.

The Chief Clerk read the title of the bill (S. No. 984) to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act.

LLOYD J. BEALL.

Mr. JOHNSTON. I desire to move to reconsider the vote by which the bill (H. R. No. 4149) to remove the political disabilities of Lloyd J. Beall, of Virginia, was postponed indefinitely, and I wish to make a brief explanation. The committee reported against the bill upon the ground that Mr. Beall was a defaulter to the Government. Mr. Beall was very much distressed when he saw that report, and came here to the city and went to the Treasury Department. The result was that the Secretary of War and the Third Auditor of the Treasury, upon re-examining the accounts, found that there had been a mistake, and that, so far from being a defaulter, Mr. Beall was in fact a creditor of the United States. I move to reconsider the vote by which the bill was postponed indefinitely.

The motion to reconsider was agreed to.

Mr. JOHNSTON. I now desire to have the bill passed at this time.

Mr. WEST. Let it be taken up subject to a call for the regular order.

Mr. JOHNSTON. Of course.

The PRESIDENT *pro tempore*. The Chair understands that the unfinished business is pending, and that the Senate will consider other motions subject to a call for the regular order. The Senator from Virginia moves the present consideration of the bill which he has named.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4149) to remove the political disabilities of Lloyd J. Beall, of Virginia.

Mr. SHERMAN. All I wish to remark is that this and many other cases have arisen out of the unfortunate exposure of these Treasury accounts. This is not the only case where great injustice has been done to honest men throughout the United States by the statement unforeseen to them and the exposal of their accounts. I do not know but that this is one of those cases.

Mr. JOHNSTON. No, sir; this case happened in this way: The Judiciary Committee addressed a letter to the Department to know whether this man's accounts were square, and they found that he was a defaulter; but the Department upon examining the matter found out their mistake. I send to the desk a letter from the Department, which I desire to have read.

Mr. SHERMAN. I have no objection to the letter being read. It ought to be read if there is any misapprehension about the case.

Mr. JOHNSTON. I ask the Secretary to read the letter of the Secretary of War first.

The Chief Clerk read as follows:

WAR DEPARTMENT,
Washington City, February 24, 1877.

SIR: Referring to my letter to you of the 17th instant, transmitting a list of ten officers of the Army, with dates of the resignation of their commissions, and other data, comprised in the list given in your letter of the 9th instant asking for the information, I have the honor to inclose a copy of a letter from the Third Auditor of the Treasury, from which it will be seen that L'oyd J. Beall, late paymaster United States Army, is *not* indebted to the Government.

The Auditor's letter explains how the error occurred.

Very respectfully, your obedient servant,

J. D. CAMERON,
Secretary of War.

Hon. G. F. EDMUNDS,
Chairman Committee on the Judiciary, United States Senate.

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
Washington, D. C., February 23, 1877.

SIR: In the matter of the letter of the Judiciary Committee of the Senate referred by you to this office on the 13th instant for a report as to the condition of the official accounts of certain parties therein mentioned, who were formerly officers in the United States Army, a report was made that Lloyd J. Beall, paymaster, was indebted to the United States in the sum of $100.89, I have now to inform you that on a re-examination it is found that by a clerical error the indebtedness of Lloyd Beall was reported as being that of Lloyd J. Beall, whose accounts are balanced on the books of this office. Be good enough to inform the Judiciary Committee of the foregoing facts, in order that the error may be rectified.

Very respectfully, &c.,

HORACE AUSTIN, *Auditor*,
Per A. M. GANGEWER,
Deputy Auditor.

The ADJUTANT-GENERAL,
United States Army.

True copy.

E. D. TOWNSEND,
Adjutant-General.

Mr. WRIGHT. I understand from the Senator from Virginia that the chairman of the Committee on the Judiciary has had this matter brought to his attention and that he concurs that this injustice, apparently, done by a former report, should be corrected, and that he has no objection to the passage of the bill.

Mr. JOHNSTON. The letters which have been read were delivered to me by the chairman himself. He brought them to me.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed, two-thirds of the Senators present voting in favor thereof.

GOVERNMENT BUILDING AT AUSTIN, TEXAS.

Mr. MAXEY. I ask the courtesy of the Senator in charge of the bill before the Senate, the Senator from Louisiana, to be allowed to call up House bill No. 4657 for present consideration.

Mr. WEST. I will yield subject to a call for the regular order.

Mr. MAXEY. I move that the Senate proceed to the consideration of the bill (H. R. No. 4657) to provide a building for the use of the United States district and circuit courts, the post-office, and internal-revenue officers, at Austin, Texas.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to cause to be constructed a suitable building, with fire-proof vaults, at Austin, Texas, for the accommodation of the circuit and district courts of the United States, the post-office, and internal-revenue officers, at a cost not exceeding $100,000, including cost of site.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PACIFIC RAILROAD ACTS.

Mr. WEST. I ask for the regular order.

Mr. SARGENT. I move that the Senate proceed to the consideration of House bill No. 4261. I will suggest to my friend from Louisiana that this be done subject to a call for the regular order.

Mr. WEST. I should like to consult with my friend from Iowa [Mr. WRIGHT] on the subject.

Mr. WRIGHT. The railroad bill is the pending order. It is very manifest that it is being antagonized by other bills, and I feel like insisting upon either pressing that bill or having it disposed of. I think the Senate had better determine whether it proposes to proceed with the consideration of this bill until it concludes it, or whether it proposes to lay it aside, and I think as good a way as any is to insist that the bill be proceeded with.

Mr. SARGENT. Then I move that it be laid aside in order to take up House bill No. 4261.

Mr. MORRILL. I would amend the motion. It is obvious that if we were to have all the time remaining of the present session, we could hardly properly dispatch the business that is pending before the Senate in the way of general appropriation bills. This bill has been before the Senate long enough to convince all parties that no bill can be passed here that will be likely to be satisfactory to the majority of the Senate without further and long consideration. I therefore move to lay the railroad bill upon the table.

The PRESIDENT *pro tempore*. The Senator from California [Mr. SARGENT] moves to postpone the present and all prior orders for the purpose of proceeding to the consideration of the bill which he has named. The Senator from Vermont [Mr. MORRILL] moves to lay the railroad bill on the table, which has priority.

The question being put, there were on a division—ayes 22, noes 18.

Mr. WEST. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. If my friend from Vermont will allow me, I suggest that he substitute for his motion a motion to postpone the bill until the first Monday of December.

Mr. MORRILL. I accept that suggestion.

Mr. SHERMAN. I think the better motion would be to postpone the

bill until the first Monday of December next or the second Monday of December next.

Mr. WEST. Is that motion debatable?

The PRESIDENT *pro tempore*. It is debatable.

Mr. MORRILL. O, well, do not debate it.

The PRESIDENT *pro tempore*. The Senator from Vermont modifies his motion so as to postpone the consideration of the railroad bill until the first Monday of December.

Mr. SHERMAN. As a matter of course this is a debatable motion.

Mr. MORRILL. I do not think there is any disposition to debate it. My only purpose is to give an opportunity to the Senate to transact business that is of primary importance.

Mr. SHERMAN. I shall vote for either motion.

Mr. CONKLING. This subject has been urged upon the attention of the Senate as not only important but important now, as a measure the value of which consisted considerably at least in the diligence with which it was perfected. It has been discussed very generally until I think it is better understood than the subject ever was before or is likely to be again, without a tedious repetition of a discussion fully traversed already. I ask then why it is that now, in place of a vote upon the bill or a disposition of it in some way or other, it is proposed to postpone it until the next session, when several Senators now here will have disappeared, and several Senators will have come in their places by whom afresh and anew all this subject is to be studied.

I said some time ago when it was proposed to introduce this subject to the Senate, that I could not see the pressing urgency which attached to it in respect of time. I suggested then that it might stand until the next session; that it might be taken up then and disposed of in the long session; but those who had it in charge said, "No, it is all-important that it shall be done at once;" and I heard a bewildering statement some time ago made by one of the Senators from Ohio of the amount of money that would be saved by acting upon the measure now.

Having debated it, I think almost as much as it is susceptible of debate—and it seems to me that the indefinite expansibility of matter has received fresh illustration from the debate that has happened already—it is now proposed to drop it, to the end that at a future time it may be taken up afresh and all the topics connected with it traversed anew. Unless there is some special reason for this, I feel bound to vote no, to the end that we may come to a vote upon the merits of the bill.

Mr. SHERMAN. I have no doubt the Senator from New York, who is a member of the Judiciary Committee which reported this bill, had a better opportunity to examine it than many other Senators or than I have had. I did not examine the railroad bill until within the last two or three weeks, when I became strongly impressed that it was a subject of too great importance to pass at the present session of Congress, when the minds of many Senators are occupied with the excitement of the presidential election. Besides, there are three or four members of the commission, two of them distinguished members of the Judiciary Committee, one of whom reported this bill and the other the chairman of the committee, who are more familiar with this subject than probably any other Senators, because it has been their duty to study it, and they are opposed to the bill directly before the Senate as a substitute for the bill from the Committee on the Judiciary. The amount involved is $75,000,000. The amount issued to these two railroads and the amount of interest already accrued are $75,000,000. There has been some diversity of opinion as to the facts and as to the ability of these companies to pay the amount stipulated for. One proposition requires them to pay one sum and another proposition requires them to pay a much larger sum. Since I discussed this matter the other day I have obtained new information. I have found that I underrated instead of overrated these estimates, as shown by a report of a later date than I had in my possession at that time. No injury can result to these two great railroads by this postponement, that I can conceive. This subject is too large and too great in magnitude to be discussed at the present session. It has not been mastered by any means, and it seems to me that it ought to be postponed until the next session of Congress. That a settlement ought to be made with these railroad companies and that they ought to be required to make provision for the ultimate payment of their debt to the Government is agreed on all hands. As to the amount that they ought to pay and as to their ability to pay, there is great uncertainty and all the facts have not yet been presented. Indeed the last report of these two railroad companies has not yet been laid on our tables.

Under these circumstances, it seems to me, in dealing with a grave matter involving larger sums than probably any other proposition pending before Congress, that it is right to take a little time. The remarks made by the Senator from New York are perfectly correct that neither party would be injured by the delay, nor is there any pressing necessity for action upon the bill at this time. The advantage of the motion now made, instead of the motion to lay the bill on the table, is that it will keep the bill in its place on the record and it can be called up under the charge of the very gentleman who reported the bill.

Mr. WEST. The Senator forgets that this Congress expires before the time named.

Mr. SHERMAN. That makes no difference; the Senate is a perpetual body, and the motion is allowable here, although it would not be in the other House. As the Senate is a perpetual body we can continue the debate on this bill in its exact condition at the next session, by a motion to postpone now.

Mr. CONKLING. One or two suggestions made by the Senator from Ohio surprised me. He says in conclusion that he concurs with me. I do not know that I quite made the suggestion that nobody suffers from delay. The two members of the Judiciary Committee to whom the Senator refers as absent, insisted strenuously that the interests of the Government suffered seriously, continuedly, repeatedly, from delay; that not a day should be lost in making sure the rights of the Government. The colleague of the Senator from Ohio, one of those to whom he refers, with an animation which the Senate has not forgotten, urged upon us the duty of an early disposition of this question. The other Senator to whom he refers has done the same thing. Now the Senator from Ohio says that there is and was no urgency about this matter; that the two, and if I mistake not the three weeks which have virtually been devoted to this bill might just as well as not have been given to some of the other bills which, although less important, are urgent, and which will go down and be lost by the expiration of the session. We were told that all those bills should yield to the dominance of this, because of its exceptional urgency; and when it has been considered so fully, and the session has been virtually worn out by its consideration, we are told that there never was any particular use for considering the bill at this time; that all the while it might just as well have gone over to a future session.

The Senator says also that since the debate began, or since it ceased the last time, he has looked at some data which before he had not seen, and he has learned more about the measure. My honorable friend has not undergone all the experience of his distinguished years of service without knowing that his remark might be applied to every bill of any moment considered by the Senate. There is no time when it is true in respect of any subject, that there is nothing more which it is possible to learn. It was Mrs. Siddons, I believe, who said that she had played the tragedy of Macbeth oftener than any other, and that she never played it without reading it afresh, and that she never read it without learning something new in regard to it.

I repeat, there is no bill or subject in respect of which theoretically every member of the Senate by perseverance might not for an indefinite length of time continue to add to his sum of information in regard to it; but it is a part of the infirmity of legislative proceedings, as of judicial proceedings, that there must some time or other be an end of controversy. I insist, after what has occurred, it is wise that the rights of the Government should be fixed and fixed as far and as fully as we have the right and the power to fix them, and that the persons concerned on the other side should be dismissed from these Halls and should go and attend to the care and preservation, and should have use, of the property involved.

Therefore, after hearing what has been said so well by the Senator from Ohio I must still believe that the economical thing in respect of time and duty of the Senate is, if possible, to get a vote upon this subject and to see whether we cannot agree upon something which will protect the interests of the Government and will put an end to this controversy, which in one form or another has been going on here so long.

Mr. WRIGHT. The Senator from Ohio [Mr. THURMAN] who brought in this bill from the Committee on the Judiciary, and who had it in charge, was placed upon the commission as will be remembered, and he is now confined to his chamber by sickness. When appointed to the commission he left the bill in my charge. I think the Senate will bear me witness that I have omitted no opportunity to press this bill upon the attention of the Senate. We have been interrupted time and time again by the action of the two Houses in counting the vote. We have been here sometimes for hours and sometimes for days almost, unable to do anything. It has been some ten days or two weeks since this bill was last before the Senate, its consideration being interrupted as the Senate knows and for causes that I need not state. The bill is now before the Senate again. My friend from Louisiana [Mr. WEST] and myself have been constant in seeing that it should never at any time lose its place. Every day before the Senate would adjourn we would see that this bill was laid before the Senate; every morning we would call it up again. Every time that we have had a legislative day we have had this bill before the Senate.

I am as anxious to pass this bill as any member of the Senate. It must be remembered that we have now four days and a little more of this session left. We have but two of the appropriation bills passed. These appropriation bills have to be considered. There is an immense Calendar. If the Senate think that they can go on and consider this bill and pass it at this session and get action in the House, then I insist that they shall proceed with it. I propose to stand by the bill; but I cannot shut my eyes to the actual facts around me and fail to see where we are as compared with where we were when we were pressing this bill before. I believed then, as I believe yet, that it is important that the bill should pass, but I do not propose to contend against the fates nor against the actual condition of things before us. If the Senate thinks it is possible to proceed to the consideration of this bill and get it passed at this session and have action in the House, then let us proceed with it. If not, then I confess that I cannot see the necessity of taking up any time in its consideration when we have an immense Calendar here with many measures which ought

to be considered. The appropriation bills are crowding us every moment, and they at least will take precedence of the railroad bill whenever they are reached.

Again, we know we are not through with the count yet. How long that will take we cannot tell. If we are to go on and consider this bill with the hope of getting it through, then I am in favor of standing by it. I propose to stand by it anyhow; but I do not wish any person to suggest here that there has been a failure to consider this bill or a lack of diligence in bringing it to the attention of the Senate. We have brought it to the attention of the Senate every moment that we possibly could. We have believed that it was important, and believe it is important yet. Whether we can succeed in getting the action of the Senate and of the House is a question the Senate must decide.

Mr. WEST. With respect to the allusions which have been made by the Senator from Iowa to the appropriation bills, the Senate will bear in mind, and the Senator knows, that this bill has always been allowed to be displaced to enable us to consider appropriation bills. There being no appropriation bill now before the Senate, surely the Senate can proceed, without prejudice to the public business, with the measure in question, as I hope it will.

Mr. MORRILL. Mr. President, I confess my astonishment at any argument brought in here for the purpose of continuing this bill before the Senate. As the Senator from Iowa has observed, there are but four days left of this session. Now unless there are parties here who desire to have an extra session of Congress, it seems to me we ought to clear the decks of every regular appropriation bill and also of many other bills which various Senators deem important to their constituents that are now pending and which have been placed upon the Calendar. It is quite obvious from the discussion that has taken place that no bills and no amendments proposed as a substitute for any of these railroad bills can be passed upon without many and radical amendments. The votes in the Senate already show that any bill brought up here for final passage will be radically amended and will consume not only to-day but to-morrow. This bill could not possibly be gotten through with in less than two or three days, if we had the time. I therefore hope, while it may be regarded as important that some action should be had, and I so regard it, that there will be a universal consent to postpone this bill until the next session.

Mr. WRIGHT. I desire to say one thing more, and I ask the attention of the Senate to what I now state. I have information since I last addressed the Senate that the Senator from Ohio, [Mr. THURMAN,] who is confined to his house by illness and who had this bill in charge, is himself of the opinion that it would be better for the bill to go over and that he gives his consent that it shall be done. Representing him as I do on this floor, taking his place in charge of the bill, and he having expressed that wish, I concur in that course and agree to the proposition made by the Senator from Vermont, as I understand him, to postpone the bill until the 1st day of December following. Understanding that to be the wish of the Senator who had the bill in charge I make no objection to the proposition.

Mr. WEST. The Senate will bear in mind that the question before the Senate is not exactly upon the bill that has been reported by the Senator from Ohio, but it is upon the substitute offered by the Senator from Georgia, [Mr. GORDON,] with various amendments. There is no appropriation bill or public legislation of half the consequence that now presses upon the attention of the Senate. These appeals to the Senate to avoid an extra session upon the ground that this bill will interfere with appropriation bills are not timely. There are no appropriation bills ready, and this bill has always been waived in their favor, and it will be again, so far as I am concerned. Let us proceed to the consideration of this bill at once and settle it one way or the other without any more talk about it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont [Mr. MORRILL] to postpone the bill until the first Monday in December.

Mr. HARVEY. I shall vote against the postponement of this bill, not because I entertain any admiration for the bill reported by the Senator from Ohio, [Mr. THURMAN,] or the substitute reported by the Senator from Louisiana, [Mr. WEST,] but because I have an amendment pending to that substitute that I want to have acted upon. If the bill is postponed until next session, I am quite sure I shall not be here and I am not sure that there will be any one here who will care particularly for the amendment. I desire therefore to have a vote on it; and I shall vote against a postponement for that reason.

The PRESIDENT *pro tempore*. The question is on postponing this bill until the first Monday in December.

The question being put, there were on a division—ayes 22, noes 26.

Mr. MORRILL. Let us have the yeas and nays. We may as well have them.

The yeas and nays were ordered.

Mr. HOWE. Mr. President, I shall vote to postpone this bill for what appears to me to be two reasons which seem to me good. One is that it seems to me our experience already with this bill has demonstrated beyond all possibility of doubt that you cannot get the bill through the Senate during the present session. Another fact seems equally clear, and that is that it would not do anybody in the world the slightest good to get it through the Senate, because it would stop between the Houses and fall with the end of this Congress.

Now, in the few hours which between this and the 4th of March we can devote to legislation, some good things might be done that would help somebody, and I do not think the friends of this project ought to keep it right here stopping everything. I think I know just enough about this proposition to know that it does not benefit the railroad companies nor the United States at all to have it passed this session, even if it could be passed this session; that every public and every private interest would just as well be conserved by passing it next session as by passing it this. That is a third reason why it seems to me this bill should be postponed for the present. Let us take hold of some chores which we can accomplish in hours rather than lift at this which we cannot move by any possibility during the remaining hours of the session.

The question being taken by yeas and nays, resulted—yeas 29, nays 28; as follows:

YEAS—Messrs. Alcorn, Anthony, Bailey, Bogy, Booth, Burnside, Cameron of Wisconsin, Christiancy, Cockrell, Cooper, Davis, Hereford, Howe, Johnston, McCreery, McDonald, McMillan, Maxey, Merrimon, Morrill, Randolph, Robertson, Sargent, Saulsbury, Sherman, Wadleigh, Whyte, Withers, and Wright—29.

NAYS—Messrs. Allison, Barnum, Blaine, Boutwell, Bruce, Cameron of Pennsylvania, Chaffee, Claytor., Conkling, Conover, Cragin, Dawes, Dorsey, Eaton, Ferry, Gordon, Hamlin, Harvey, Hitchcock, Ingalls, Kelly, Mitchell, Norwood, Paddock, Patterson, Teller, West, and Windom—28.

ABSENT—Messrs. Bayard, Dennis, Edmunds, Frelinghuysen, Goldthwaite, Hamilton, Jones of Florida, Jones of Nevada, Kernan, Logan, Morton, Oglesby, Ransom, Sharon, Spencer, Stevenson, Thurman, and Wallace—18.

So the motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 4693) to amend the Revised Statutes of the United States in respect to vacancies in the office of President and Vice-President; in which it requested the concurrence of the Senate.

SALE OF DESERT LANDS.

Mr. SARGENT. I move to proceed to the consideration of the bill (H. R. No. 4261) to provide for the sale of desert lands in certain States and Territories.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that it shall be lawful for any citizen of the United States, or any person of requisite age who may be entitled to become a citizen, and who has filed his declaration to become such, to file a declaration with the register and the receiver of the land district in which any desert land is situated that he intends to reclaim a tract of desert land not exceeding one section, by conducting water upon it, within the period of three years thereafter, which declaration shall describe particularly the section of land if surveyed, and if unsurveyed shall describe it as nearly as possible without a survey. At any time within the period of three years after filing the declaration, upon making satisfactory proof of the reclamation of the tract of land, and upon the payment to the receiver of the sum of $1.25 per acre for a tract of land not exceeding six hundred and forty acres to any one person, a patent for it is to be issued to him.

Section 2 provides that all lands, exclusive of timber lands and mineral lands, which will not, without irrigation, produce some agricultural crop, shall be deemed desert lands within the meaning of the act.

Section 3 provides that the act shall only apply to and take effect in the States of California, Oregon, and Nevada, and the Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and Dakota.

The PRESIDENT *pro tempore*. If there be no amendment, the bill will be reported to the Senate.

Mr. INGALLS. This bill certainly ought not to pass by default.

Mr. SARGENT. I do not wish that. I ask that the report of the Committee on Public Lands be read.

The Secretary read the following report, submitted by Mr. BOOTH from the Committee on Public Lands on the 8th instant:

The Committee on Public Lands, to whom was referred House bill No. 4261, submit the following report:

There are extensive regions of country in the States and Territories named in the bill where there is not sufficient rain-fall to render the cultivation of the soil possible without irrigation. In other words, large portions of the country from the Rocky Mountains west are deserts, but it has been ascertained that by irrigation these desert lands can be made exceedingly productive. The subject of irrigating these lands has attracted the attention of the Interior Department and Congress for many years, and various schemes have been proposed to Congress and to the States interested to secure aid for that purpose, but Congress has hitherto wisely, as we believe, refused to aid any of these projects further than to provide for examinations and reports upon the subject. In 1873 a joint resolution was passed providing for the appointment of a commission to make a report upon irrigation in California. That commission consisted of General Alexander, Professor Davidson, and Major Mendell. The report, which the commission submitted in 1874, (Executive Document No. 290, Forty-third Congress, first session,) contains much valuable information on the subject. The Agricultural Department has also collected much information, showing the value and importance of irrigation. But it is unnecessary to multiply arguments in favor of irrigation. The fact that worthless deserts can be made useful and productive by this means is sufficient to establish its desirability. Legislation on this subject has not been delayed because it was not necessary, but because of the great diversity of opinion as to what the legislation ought to be and to what extent the general and local governments should aid and control the same.

Your committee believe that the whole subject should be left, as far as practicable, to private enterprise, and that the Government should interfere as little as possible with the subject. It is certainly best to give the people an opportunity in the first instance, and when they have failed to utilize both the water and the land it is time enough to call for Government aid or legislative control, but it is necessary that the people have an opportunity to acquire title to the lands before private enterprise will undertake a reclamation of these deserts.

Experience has shown that the homestead and pre-emption laws afford no means of acquiring title to desert lands. Those laws require settlement and occupation as a prerequisite. Neither settlement nor occupation is possible without water. Irrigation must precede the settlement. But this is expensive, and settlers upon the public lands are unwilling to construct the necessary ditches and canals to irrigate lands to which they have no title and no certainty of obtaining title.

It has been suggested that these lands be sold in large quantities in order to induce private capital to undertake the work of their reclamation. Your committee fear that any system of sale whereby the title would pass before irrigation would encourage speculation without inducing settlement. The bill provides for the sale of a section of land to any person who will first irrigate the same, at the usual price of $1.25 an acre. A more liberal policy has been suggested of granting lands, after irrigation, without any money consideration. But the committee believe that when these lands are irrigated they will be of sufficient value to enable the purchaser to pay the Government price paid for other public lands. Besides, the quantity allowed will be an additional inducement to settlers to undertake the work of irrigation. At all events, it will be time enough to make donations of these lands when it is ascertained that settlers are unwilling to purchase them. It is believed that by far the larger portion of the lands bordering on the streams, where sufficient moisture exists for cultivation and where irrigation is cheap and easy, have been appropriated; but the provisions of this bill will enable settlers by combined effort to construct more extensive works and reclaim a class of lands that are now absolutely worthless. The committee recommend the bill with more confidence than they would be willing to express if its principles were entirely new.

In 1875 an act was passed substantially the same in its provisions, but confined in its operations to a single county in California east of the Sierra Nevada Mountains, and commonly known as the Lassen County bill. We are informed by the Commissioner of the General Land Office that no complaints have been made of the operation of this law. On the contrary, it is represented that settlers are availing themselves of its provisions, and that a large amount of otherwise worthless land is being fitted for cultivation.

Your committee believe that no further legislation is necessary to regulate the use of water for purposes of irrigation than already exists. A system has already grown up in the States and Territories included in the bill created by custom and legislation and sanctioned by the courts, which recognizes priority of appropriation as the rule governing the right to the use of water, and limits such appropriation to the water actually used, leaving the surplus free to other appropriators, and thus avoiding waste and preventing monopoly. Congress, after full consideration of this subject in 1866, sanctioned the local laws in the following language:

"Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage."—*United States Revised Statutes*, section 2339.

The committee recommend the passage of the bill.

Mr. SARGENT. I think the argument of the committee is ample and complete, and I do not wish to take up the time of the Senate by useless discussion.

The PRESIDENT *pro tempore*. The bill is open to amendment.

Mr. INGALLS. Under the provisions of this bill, which is constructed with remarkable ingenuity, it is possible for a single individual to acquire an exclusive possessory title to all the lands that come within the description that is mentioned in the bill, within any one or all of the States and Territories mentioned therein, to which there is not already an existing title, either possessory or actual. It declares that "any citizen of the United States, or any person of requisite age who may be entitled to become a citizen and who has filed his declarations to become such," may "file a declaration with the register and the receiver of the land district in which any desert land is situated, that he intends to reclaim a tract of desert land not exceeding one section, by conducting water upon the same, within the period of three years thereafter."

The Senate will observe that there is no limitation whatever upon the number of times the same individual may file this declaration, provided he declares that his purpose is to reclaim the land within the period of three years thereafter. That is to say, if to-day, in the State of California, or Nevada, or Oregon, or in any of the Territories named in the last section of the bill, a man goes to the local land office and declares that he intends to reclaim a section of land within the period of three years thereafter, that land then becomes reserved and is not open to any settlement or claim by a subsequent claimant. On the following day, he can repeat the same experiment. On the day succeeding that, he can again repeat it; and there is absolutely, under this bill, no limitation whatever to the quantity of land that a single individual may reserve in the public domain simply by declaring his intention to reclaim it within the period of three years. There is no limitation whatever requiring him to perform any labor upon it; there is no punishment imposed upon him if he refuses to perform labor upon it. Therefore it seems to me that, if this bill is to pass, it certainly ought to be protected in some way, so that one individual may not obtain a possessory and exclusive title to all the unoccupied portion of the public domain in any one of these States or Territories.

Mr. SARGENT. I do not know but that the ingenuity of my friend may have discovered something valuable in the eyes of the Senate. Certainly it is not the intention of the bill that any person shall enter more than one section. I do not think a fair and proper construction of it would allow any person to enter more than one section under its provision. It provides that a single person, who is by law entitled to enter lands, may enter a tract of desert land not exceeding one section. That is all the power that is given by it, and it is certainly intended to be confined to that. I doubt if there would be any construction given to it by the Land Office that would entitle a person to enter exceeding one section.

I will add that this bill, as the committee say in their able report, is simply a copy of one with a wider application to certain States and Territories, which has been in operation for several years past in the State of California, in the county of Lassen, and no such question as that suggested by my friend from Kansas arose there at all. No one ever supposed he was entitled to enter more than a single section of land, and no one ever has applied for or entered more than a single section of land.

Mr. CONKLING. Is that act named in the bill?

Mr. SARGENT. It is named in the report. It is the act of 1875.

Mr. CONKLING. An act of Congress?

Mr. SARGENT. An act of Congress. In fact it is *in hæc verbæ* the same law.

Mr. CONKLING. Is the page given upon which the act referred to may be found?

Mr. SARGENT. It is section 2339 of the Revised Statutes. In 1875 that bill was passed as an experiment, and we were pretty careful in examining its provisions and had some doubt as to its propriety. I remember it led to discussion in both Houses. The result of the bill, however, was entirely satisfactory, both to the Land Office and to the people of the country. There never has been an attempt made to evade its provisions; there never has been a claim by any one that he was entitled to enter more than the statute in good faith allowed him to have, that is to say, a section of land. It is impossible to induce a person to go upon absolutely desert land for a mere quarter of a section; no one would do it. A man could not live upon it, to begin with; and there would not be enough of it left, after he had put his expensive works of irrigation upon it, to compensate him for the outlay. That is very well understood, and therefore we have made it "a section" of land.

Mr. CHAFFEE. Mr. President, I am opposed to the passage of this bill, first, because it introduces an innovation into the land system of the United States which, in my judgment, is already sufficiently complicated without this bill. As has been said by the Senator from Kansas, [Mr. INGALLS,] all the land situated in any of the States and Territories named under this act becomes desert land. The mere declaration being filed, without any other proof, without oath by any person, be he responsible or irresponsible, that no agricultural crops can be raised upon a certain tract of land without water, has the effect of making that land, under the second section of this bill, desert land. It seems to me that any such power as that, delegated to a single individual, would be dangerous to introduce into our land system.

It will be noticed that all that is required is the simple declaration, not under oath; and no proof is required that the land is non-mineral. The land may be coal land; it may be placer land, it may be quartz-mining land; it may be timber land, and no proof is required except the simple declaration of a single individual. It seems to me, if the Senate is going to pass a bill of this kind, that certain amendments should be made to it; but I am of the opinion that the bill should not be passed at all. Five or six individuals can locate as many miles square of land as they may select in any valley of any State or Territory named in the third section of this bill, and hold that land for three years without doing any work at all. There is nothing in the bill to prevent them from filing another declaration, at the end of another three years, and in that way they can exclude this land from location for all time, thus preventing *bona fide* settlers from occupying and purchasing it under our present system. I think the bill should be carefully considered by every Senator before it is passed.

I move to amend in the sixth line of the first section by inserting after the word "declaration" the words "under oath;" so that it shall read, "shall file a declaration under oath," &c.

The amendment was agreed to.

Mr. KELLY. Mr. President, the Commissioner of the General Land Office has, for two or three years past and in the last report he made, recommended some action to be taken by Congress to dispose of these desert lands. They are now mere worthless waste lands; they produce nothing; and it seems to me that any reclamation of them, even though it should be in very large bodies, would be a benefit to the country. It is impossible to reclaim them in small tracts. It is necessary to introduce water for them at a very great expense, and when that is done they become exceedingly fertile. For this reason, that they may add to the value of the public domain, it strikes me that something should be done to reclaim them from their desert condition. It not only adds to the common wealth, but this bill provides that, even after they shall be reclaimed, they shall be paid for at the rate of one dollar and a quarter per acre. That is the amount that is now paid for public lands even of the best character.

So far as regards the defects that have been suggested to exist in the bill, I think they are more imaginary than real. It is said that one person may reclaim more than one section of land. I should be willing, so far as I am concerned, that he should reclaim a dozen or fifty sections rather than that they should remain as they now are. But I do not think any one is entitled under the provisions of this bill to reclaim more than he is authorized to enter by the language of the bill itself; that is, one section. There is no authority given to him, after having once received the benefit of the law, to make a second application; and without some authority of that kind he cannot do it. If this bill should pass or some bill of this kind become a law, instead of having a great desert extending from the Sierra Nevadas

almost to the western boundaries of Nebraska, we shall have some places reclaimed from their desert condition and we shall have productive lands instead of a barren waste.

For the reasons suggested in the report, which is substantially the recommendations of the Commissioner of the General Land Office, I think the bill is one that ought to commend itself to every Senator.

Reference has been made to the operation of a similar law in Lassen County, California. It worked well there, as I have been told. Lands that were absolutely worthless have become valuable. And so it may be with many thousands of acres that may become of great value but which now no one cares about settling on and no one can make a living on. This only proposes to reclaim land that will not now produce a crop of any kind without irrigation. Certainly there can be no objection to that, to making the desert "blossom as the rose," where it produces nothing at all now. It is reclaiming from absolute desolation lands that never will be reclaimed unless it is done under some measure of this kind.

Mr. SARGENT. I offer the following amendment to come in at the end of section 1:

Provided, That no person shall be permitted to acquire title to more than one section under this act.

Mr. WRIGHT. I do not know that I am hostile at all to the general spirit and purpose of this bill; but there are some things about it that I should like to make inquiries in regard to of the Senator from California, who has it in charge.

We have in many respects the most perfect land system, I think, of any country in the world. We certainly have a most admirable land system. Our system of surveys is so simple in itself that each and every person knows without any lengthy description what is his land and where it is located. While it does occur very frequently that persons pass upon unsurveyed land and acquire a possessory title before the lands are surveyed, yet when the lands come to be surveyed they accommodate themselves to the surveyed lines, and thus having possession they get the advantage and are the better able to obtain title to the land.

But under this bill, as I understand it, a person is authorized to go upon unsurveyed, as well as surveyed lands, and as a consequence though the lands may not be surveyed for years, if the three years expire he can succeed in getting a title to his land without reference to the lines as they shall be subsequently settled by survey. I do not think we ought to introduce any system the effect of which shall be to give irregular lines with reference to our public lands. If the privilege is to be given to persons to go upon unsurveyed lands, at least the title ought not to pass until the lands are surveyed, and then the lines should accommodate themselves to the actual surveys made. If we introduce any other rule than that, we shall disturb largely the harmony of our public land system.

It is true that this bill provides for an entry where the lands are surveyed, and then, of course, the party is to accommodate himself to the survey; but if they are not, it is impossible that he should do so. He cannot do it because he cannot tell where the lines may be. When you come to run the lines, it seems to me, you will be found in inextricable and interminable difficulty with reference to our land system. I suggest, therefore, that while I have not any antagonism to the general purpose of this bill, it seems to me there would be great difficulty if you allow persons to go on these lands before they are surveyed, and especially where, as under this bill, they may obtain title and obtain their patents from the United States before the lands are surveyed at all. I understand this bill to provide that they may obtain a patent even before the lands are surveyed. I do not see how under our land system you can very well do that. How can you provide for a grant by patent unless you have the lines surveyed? You must have the lines surveyed, or must have some metes and bounds or some monuments. In some way or other there must be something to which the patent can refer when you come to the description of the land. If I am mistaken in this, of course the objection I make falls to the ground; but as I understand the bill, it contemplates that the patent can be issued before the land shall be surveyed at all. I suggest this difficulty as it occurs to me to the Senator from California.

Mr. SARGENT. The Senator from Iowa is unquestionably aware that the condition of the States and Territories west of the Rocky Mountains is very different from that of those east of the Rocky Mountains. A great many circumstances are exceptional, and we have had exceptional legislation to provide for those cases. You cannot deal with desert lands in the same manner that you would deal with ordinary agricultural lands where a man wants but a small quantity and can take them under the general pre-emption laws. You cannot deal with mining claims the way you do with agricultural lands. You cannot deal in that way with a country that is dotted over with Spanish grants which were laid out from fifty to twenty-five years ago, and which have no regard whatever to any system of subsequent surveys. Your surveying system is necessarily broken up by all these circumstances.

Now, with reference to mining claims, we allow a man to enter a body of placer mining claims and get his title before any survey, in advance of any survey; and sometimes under those laws a man takes one hundred and fifty acres, sometimes twenty-five acres, varying in size according to the amount of land which the company that originally owned the land were allowed to take up under the mining laws. The survey is made running around courses and distances and described as such a survey would be described when the patent was issued, and if ever afterward the land in the neighborhood is surveyed it stops at the boundary of that mining claim in the same manner that it would at a lake or land that was not to be surveyed. It is the same thing with regard to the Spanish grant, which may extend for nine leagues or down to a league and a half or half a league laid right upon the face of the country. When your surveys come you stop at the boundary of that Spanish grant which has already been patented, already been surveyed, and is here on the books of the Land Office, an interruption of surveys.

In the State of California these Spanish grants are very numerous indeed, especially down through the southern valley counties, and our system of public land surveys is exceedingly fragmentary. Now, this exception with regard to Spanish grants, with regard to Indian reservations, with regard to mining claims, arose from the necessity of the case. Pretty much the same necessity exists with reference to desert lands. These desert lands are in the great, broad valley followed by the Central and Union Pacific Railroads, and stretching out like fingers among the interrupting hills, following sometimes a thread, sometimes broadening out into a space of miles. It would be a very expensive system for the Government to carry on its surveys over the mountains, sometimes arising to be absolutely impassable, and to follow the little threads out through the valleys. It is very much better that the surveys be made by detached portions and for detached communities.

Now, we hope as the result of this bill (and we have some reason to hope it from what we have observed in Lassen County where these peculiarities have existed) that communities will grow up in places where there is now absolutely a desert and where a sheep cannot be supported upon five acres of land, where the country simply lies bleaching and burning in the sun. We know by experiment that water produces fine crops upon these lands, that all the elements of soil are there except moisture. They need moisture in order to make them fertile.

Mr. MORRILL. Will the Senator allow me to ask a question?

Mr. SARGENT. With pleasure.

Mr. MORRILL. I see in the first section of the bill it provides that any party who may be entitled to become a citizen and has filed a declaration to become such, may register with the officers of the land district "in which any desert land is situated" a declaration that he intends to reclaim a tract of desert land not exceeding one section, by conducting water upon the same, within the period of three years. Now I desire to ask the Senator from California if this will not allow any such party to locate upon a stream, and not have more than forty feet wide and a thousand feet long, if six hundred and forty acres, or a section, shall be no more than that? Will it not allow a party thereafter to go on and monopolize the water privileges so as to sell out to others who might buy land adjacent if they could only have the privilege of water to irrigate it?

Mr. SARGENT. I think it would have exactly the opposite effect.

Mr. MORRILL. Is any power, so far as this bill goes, given to any party to locate the land in any such shape as he may please?

Mr. SARGENT. Under the mining law it could be said that possibly a man might take a strip one inch wide and forty miles long across the country; but it is absurd and contrary to his interest to do anything of the kind; and it cannot be for the interest of these persons to do anything of the kind here suggested. If it were their interest the object of the bill is to prevent that consequence. For instance, we have found the great difficulty in reference to our watercourses has been—I suppose it is hardly fair to call it a vacant interest, but a roaming interest—the cattle-men go under a fictitious compliance with the terms of the pre-emption law and take their land along the margin of the streams, and then there is no possibility of getting water to the back country at all. I want to provide so that persons in the back country may go above such a person, for instance, on Humboldt River, and take the water out and conduct it on to the back lands. These persons by having the front can control the back country. Under the operation of this bill we make it an object for persons to go into the back country and reclaim that and take the water from the stream and carry it back on to regions which now are desolate and must remain desolate as long as we require that persons shall settle upon lands as a pre-requisite for a title.

Mr. MORRILL. Then if the object is to prevent the very thing which I have suggested, would it not be well to provide that this land shall be taken in squares?

Mr. SARGENT. How will you do then in case a valley narrows to a certain point? Will you require a man to take rugged rocks and pay for them at the rate of one dollar and a quarter an acre, which you get for land that he cannot possibly utilize for any purpose whatever?

Mr. MORRILL. It would not be a very large sum.

Mr. SARGENT. It might be. We might provide that it should be entered in a compact body.

Mr. MORRILL. This bill does not limit the minimum amount which may be taken. A party may take ten acres and have it all a narrrow margin on a stream.

Mr. SARGENT. But a man is required to bring water on this land, and the idea would be perfectly ridiculous of a man running on the side of a stream a narrow piece of land scarcely wide enough to contain his ditch. I suppose the words " shall be taken in a compact body" might cover it; but the Senator says it shall be square. That

might make the operation of the bill absolutely impossible except on the broad plains I first alluded to.

Mr. MORRILL. I only make the suggestion to perfect the bill.

Mr. SARGENT. I am extremely anxious that the bill shall work well, I am anxious it shall answer the purpose I have in view, and I am very grateful for any suggestion that will tend toward perfecting the bill; but I would not like in following such suggestion to put it in such a shape as to destroy the object of the bill; and it seems to me to require it to be square would be impossible in many parts of the country where it ought to apply. I will look at that matter and see if some language can be used which will come near the point.

Mr. ALLISON. If I understand this bill, Mr. President, I am in favor of it; at least in favor of the general features of the bill. It proposes to authorize persons to enter upon and occupy desert lands and reclaim them by irrigation. If that is the purpose of the bill, I think it is a wise bill and should pass.

With all respect to my colleague, [Mr. WRIGHT,] who speaks of our perfect system of land surveys, I must say that a little observation some years ago in the Territory of Wyoming and a portion of the State of Nebraska convinced me that our present system of surveys is absolutely out of place there. You may travel one hundred, two hundred, or three hundred miles across that region of country and you will find only what are called within the terms of this bill waste lands, and they are not only waste lands, as provided in this bill, but they always will be waste lands. There can never be irrigation because there are no streams there to irrigate with. We have squandered hundreds of thousands of dollars in surveying by metes and bounds in small subdivisions this character of our public lands, and we have done so in the main for the purpose of enabling settlers here and there to secure a title to lands they have occupied for many years.

My belief is that if the general principle of this bill is maintained scattering settlers here and there can occupy lands that can be used for grazing purposes and for cattle-raising, &c., and secure a title; but if they are to wait until those lands are surveyed by the ordinary subdivisions now known under our public-land system, they ought to wait forever, because no Government ought ever to undertake to survey that class of lands in the ordinary methods now used for surveying public lands.

Therefore, if the object of this bill is to enable people to reclaim waste lands, I am in favor of it; but I do not quite understand the first section of the bill, and I call the attention of the Senators from California, either the one who reported this bill [Mr. BOOTH] or the Senator from California last up, [Mr. SARGENT,] to the ninth line. The party is to declare that he intends "to reclaim a tract of desert land not exceeding one section, by conducting water upon the same." That is a very general term, "conducting water upon the same." How and from whence? There are little streams all over the country. Is it proposed that water shall be conducted from these streams, or is a man here and there to pick out a spring and conduct small quantities of water from it upon these waste lands? I see my friend from Nebraska [Mr. PADDOCK] laughs at that; but I think there ought to be some clearer definition with reference to this question of the method of irrigation. There is no proposition here even that this land shall be so irrigated as to produce agricultural crops.

Mr. SARGENT. What is it good for to anybody but for that?

Mr. ALLISON. I do not know what, I only want to know of my friend if it is sufficiently guarded in this respect. It may be very valuable for grazing purposes. There are very valuable tracts of land in Wyoming, as the Senator from Wisconsin [Mr. HOWE] knows, who passed through with me.

Mr. CHAFFEE. I suggest to the Senator from Iowa that it might be coal land.

Mr. ALLISON. It might be coal land or it might be valuable grazing land.

Mr. SARGENT. Mineral lands are excluded under the act.

Mr. ALLISON. But it might be grazing land, and it might be absolutely worthless for agricultural purposes. I know, as I think others here do, that as you pass along for two or three hundred miles, going north from Cheyenne, at distances of from fifteen to twenty miles, passing over hills, you come to beautiful little streams and springs. Under this bill, of course these springs and small streams can be located and patents can and will be issued under it, because parties can secure just a sufficient amount of irrigation to enable them to take up these valuable tracts of land, and they will buy them, of course, at a dollar and a quarter an acre. These lands are immensely valuable, because they are in the vast grazing regions that are without water and are only valuable for grazing purposes. I think there ought to be some clearer definition.

Perhaps my friend from California can explain to me so that I shall be satisfied. My idea is simply that there is not a sufficiently clear definition here as to what shall constitute irrigation under this bill.

Mr. INGALLS. Mr. President, there is practically very little desert land in this country. The term "desert land," as defined by this bill, is very delusive and does very great injustice to the section of country to which it is applied. Experience has shown that the region in the interior of this country, exclusive of timbered lands and mineral lands, which will not without irrigation produce some agricultural crop, will soon become, if it is not already, the most valuable portion of the unoccupied public domain. Land that contains all the chemical constituents necessary to produce vegetation, that by the application of water will produce vast crops, cannot properly be called desert land; and I believe it is the experience of the inhabitants of the new States of the West, Colorado, California, Nevada, and Oregon, that these tracts of country which have heretofore been regarded as desert lands simply by the application of water have become the most valuable portions of the public domain.

I am somewhat familiar with this species of agriculture in the State of Colorado. I know that there are vast regions of that country which up to a period within a very few years have been considered practically valueless for the purposes of cultivation, and that by the introduction of water through artificial means from the water-courses that penetrate that country they have been productive during the last few years of a very large percentage of the entire grain and vegetable products of that region.

Now, sir, it is certainly a very gross misnomer to call that land desert land. The increasing population of that country, drawn thither by the development of its mining resources, stimulates enterprise, and it draws there farmers who employ irrigation for the very purpose of rendering these lands productive; and this bill by simply allowing the withdrawal of these lands, soon to become the most valuable portions of the public domain, in indefinite quantities, is certainly, as the Senator from Iowa [Mr. WRIGHT] says, introducing an innovation in our land system, and one, as it seems to me, that is pregnant with the most dangerous possibilities.

Those who have traversed the interior region of this country know that land which is not at the present time susceptible of what is called cultivation has for countless generations supported innumerable herds of wild grazing animals, the bison, the elk, the moose, the antelope, to say nothing of the jack-rabbit and the prairie-dog, which are rapidly disappearing, and that it is no less to-day than before capable of sustaining a vast proportion of the animals that are necessary to supply the food for this country hereafter.

As was suggested by the Senator from Iowa, [Mr. ALLISON,] I think the system of land surveys in this country has been a very great mistake. I do not think for a space extending at least two hundred and fifty miles east of the Rocky Mountains there ought ever to have been a surveyor's instrument set. There never should have been a stake driven or a line run through that whole section of country extending from the British possessions down through that pastoral region to the Gulf of Mexico. It ought to have been reserved as public domain, to be used hereafter as the great pastoral region of this continent. It cannot, as the Senator from Iowa [Mr. ALLISON] well observed, be used in small quantities for what may be called farm cultivation, but there are certain portions of it along the water-courses that can be by artificial irrigation made enormously productive, and it is these portions of this territory that are subjected to very serious inconvenience by the operations, as I believe, of this bill.

The Senator from Vermont [Mr. MORRILL] well suggests that there is nothing in the terms of the bill that prevents the absorption of an entire river valley. All the fertile lands along a water-course can be practically reserved from the operations of the land laws of this country, even after they have been surveyed, by some claimant who may see fit to locate his claim along the borders of that stream.

Again, as the Senator from Iowa [Mr. ALLISON] suggested when he was upon the floor, the definition of what shall constitute irrigation under this bill is certainly exceedingly defective. The only terms that are employed here are "by conducting water upon the same." It does not say whether that water shall be conducted from a neighboring river-course or whether it shall be hauled on by a water-wagon, or whether any means shall be employed to "conduct water upon the same." There is nothing whatever to prevent fraud and collusion, which, in my judgment, would be certain to ensue if this bill were to become a law.

The Senator from California [Mr. SARGENT] has submitted an amendment to the first section of the bill intended to obviate the objection that I first suggested in regard to the quantity of land that might be acquired by one claimant under this act. His amendment provides in general terms that a party shall be authorized only to acquire a single section under the operations of this act. That amendment should be further amended by providing that no person shall be permitted either to reserve or to acquire, so that the operations of the bill may be confined exclusively to a single section by one individual.

Mr. SARGENT. I assent to that. That is the object of it. I ask that the Clerk make that modification.

Mr. INGALLS. Let the amendment of the Senator from California be so amended.

Mr. OGLESBY. I propose to offer an amendment in a moment that perhaps will cover it.

Mr. INGALLS. I am very much obliged to the Senator from Illinois; but I prefer, as I am on the floor, to offer my own amendment.

Mr. OGLESBY. I hope it will be a good one.

Mr. INGALLS. I suggest to insert before the word "acquire" the words "either to reserve or." I now yield to the Senator from Illinois to submit his amendment.

Mr. OGLESBY. I am very much obliged to the Senator from Kansas.

Mr. MORRILL. Will the Senator allow me to offer an amendment?

The PRESIDENT *pro tempore*. The Senator from California modifies his amendment.

Mr. OGLESBY. Mr. President, the Committee on Public Lands have hitherto felt that the subject of our desert lands must attract the attention of Congress. It is already beginning to attract the attention of the public. I for one have felt for some time that it was a difficult question to deal with. Therefore the Committee on Public Lands since I have had the honor to be a part of it has brought forward no system on this subject. It has often been canvassed; there has been a good deal of reflection upon it; but we have not felt as a committee that the time had arrived yet, so far as knowledge on the subject was concerned and so far as any public demand went, to require of us to bring into this body a policy with reference to our desert lands. This bill, which the Senator from California introduced, I believe, early in the session, came before our committee, and I was, for one, willing that it might be tried as an experiment in the States of Oregon and California. The last section makes it apply to nearly all the Territories, and the committee agreed to let the bill remain as it is on that subject.

I do not suppose this bill is perfect, even in its application to California and Oregon. It is quite difficult to make a bill that would be, that would fit the subject. I apprehend the Senator from Kansas and other Senators upon this floor will not be astonished when the statement shall be made, and I think it can be verified by examination made in the Territories and States where the desert lands lie, that there are not exceeding 3 per cent. of what are called desert lands that can ever be redeemed by irrigation.

Mr. ALLISON. Will the Senator from Illinois yield to me for a moment? I wish him to explain what method of irrigation and what extent of irrigation are required by this bill in order to enable a man to secure his title?

Mr. OGLESBY. The only answer that I can make to that is that a person desiring to locate six hundred and forty acres of desert land would make out his application in the usual manner, describing the land where it was surveyed, and where it was not surveyed approximating as near an exact description as possible, and then proceed to some stream or river, and conduct the water by such aqueducts as he could invent and construct to lead the water to his ground for the purposes of irrigation alone.

While I was not particularly anxious to pass upon this subject at this session, I did consent to this bill being reported that it might come up here, because I supposed it would lead to discussion and reflection. I say again that of the portions of our mountain lands and our plain lands and mesa lands that are desert lands, not over 2 or 3 per cent. can ever be irrigated. The water is not there to irrigate them. They are non-irrigable lands, and must be treated in that sense, whether we regard them as pastoral lands or mineral lands or agricultural lands. My apprehension is (and I think it is founded upon just observation and figures) that not over 3 per cent. of them can ever be irrigated. I have studied the question somewhat, but I have not the figures before me to-day.

Now I propose to amend this bill so that it shall read:

That any person of requisite age who may be entitled to become a citizen and who has filed his declaration to become such may file a declaration with the register of the land district in which any desert land is situated—

Mark the expression, "in which any desert land is situated"—

that he intends to reclaim a tract of desert land, not exceeding one section, by conducting water upon the same, within the period of three years thereafter.

Then in line 10, after the word "thereafter," I propose this as an amendment, or something like it:

Provided, however, That the person so conducting water on or to any tract of desert land of 640 acres, shall not acquire any exclusive right to the use of the water conducted to said tract of desert land for the purpose of irrigating the same beyond what shall be actually necessary for redeeming and cultivating the same; but the same, and the water in all lakes, rivers, and other sources of water-supply, shall remain and be held for the use of the public for purposes of irrigation.

So that the person attempting to irrigate six hundred and forty acres would not get any exclusive right to the water which he may conduct to his tract of land for purposes of irrigation, and should not have the right to cut others off from tapping the lakes or tapping the streams or the rivers from which the water-supply might come; so as to leave it open not only to conduct the supply of water to his own tract, but that others may carry forward the same water that is carried to that tract, if there is to be more than sufficient, more than is necessary for the purpose of redeeming and cultivating that tract. I suggest that in the interest of all persons who may go into the business of irrigating desert land.

I have this notion on the subject, however, that whether these lands in the future are to be treated as pastoral lands or whether they are to be in some sense redeemed for agricultural purposes, any law on the subject ought to provide, not that a man may have six hundred and forty acres, but I would not object to his having a very large amount in excess of that. Six hundred and forty acres are of no account for pastoral purposes. In a desert country where the grass is exceedingly sparse, where it is scattered in bunches at great distances apart, I would not object to his having a much larger territory than six hundred and forty acres of land, provided he should not have a water front along any stream or around any lake which would cut off other persons desiring to occupy or redeem the land from the privileges of that stream; and any bill that may hereafter be brought in upon this subject, in my opinion, ought to provide for a frontage along the irrigable stream or streams sufficiently large to afford water for irrigation; not that one person may take a section or a number of sections and cover the front of a stream, but that others may approach to the stream and then extend indefinitely into the desert for pastoral purposes occupying large tracts of land.

What few desert lands there are in California are, I am led to believe, somewhat different from the general character of desert lands in the Territories. In the great interior basin, as we used to call it of California, and in all the Territories we know there are desert lands. The truth is that after we cross the one hundredth meridian, and I think after we cross the ninety-sixth or ninety-seventh, there is no land beyond that which can be called practically agricultural land, that is, land as farmers understand agricultural land, where the crops are produced by rain-fall. We leave the humid region and strike the arid region not far from the ninety-seventh meridian, and as to all beyond that, I am almost willing to say I could agree with the Senator from Kansas, or any other Senator, that much, very much more than the larger portion of all that land might have safely been left unsurveyed. What is the use of dividing a section of desert land into quarter sections and subdividing them into forty-acre tracts? Why go on to the desert anywhere where it cannot be irrigated and survey it into anything less than sections or even townships? It has been an expense that, I think, the Government will never reap any just return from. But that is a broad question. We are going to go into a policy about how we shall utilize the desert land; how we shall treat the desert land. I have thought and still feel that it is a subject which ought to receive very lengthy study, and that we ought to have the benefit of the experience, not only of travelers and occupants in the Territories, but of the scientific corps of the Government that have for years and years explored those regions.

I do not object to the bill before us and with the amendments proposed, but I should still be more heartily in favor of it if the Territories were all left off and it was proposed to try the experiment on Oregon and California. I offer the amendment which I have indicated, to come in after the word "thereafter," on line 10.

The PRESIDENT *pro tempore*. The Senator from Illinois submits an amendment, which will be read.

The CHIEF CLERK. After the word "thereafter," in line 10, section 1, it is proposed to insert:

Provided, however, That the person so conducting water on or to any one tract of desert land of six hundred and forty acres shall not acquire any exclusive right to the use of the water conducted to said tract of desert land for the purpose of irrigating the same beyond what shall be actually necessary for the purpose of redeeming and cultivating the same; but the same and the water in all lakes, rivers, and other sources of water-supply shall remain and be held for the use of the public for purposes of irrigation.

Mr. WRIGHT. Mr. President, the Senator from California [Mr. SARGENT] answered somewhat the suggestions I made in reference to this bill. He and also my colleague [Mr. ALLISON] suggested, in response to what I said in reference to our system of land surveys, that the system is not perhaps so perfect as I seemed to suppose. I submit that their answer to my suggestion was, after all, no answer. They suggest that it is not advisable that we extend our system of surveys at present; but that our system of surveys in itself is the most perfect of any that we have ever had or can have, I think all will admit: a system of straight lines and looking to taking the land in compact form. That is all that I claimed or insisted upon with reference to our system of surveys.

I agree with the Senator from Kansas [Mr. INGALLS] that it will be found in time that there is much misunderstanding and misconception in reference to our public lands in the so-called desert district. I can remember very well the time in my own State, as I doubt not you, sir, can in Michigan, when there were large portions of these States that are now so very fertile which were regarded as entirely unsusceptible to settlement or cultivation, and persons who traveled through them, accustomed as they had been to a timbered country and to a country where there was plenty of timber for fencing and for fuel and plenty of water, esteemed it impossible and reported that centuries would pass before portions of our State would be settled. I can remember very well hearing twenty years ago, with reference to the State of Kansas, that no portion of that State could be settled beyond fifty miles west of the Missouri River; that it was utterly impossible that you could ever cultivate those lands, because it would be impossible to obtain water or timber; and now we know that we have almost an empire in that State, and it is doubtful whether there is any portion of it that cannot be utimately settled. I remember I have heard the same thing of Colorado, and each year is but giving renewed evidence that lands which were regarded as entirely unsusceptible of settlement can be settled and improved and pay well and a large profit to those who settle upon them.

Now, with reference to the mineral lands and other lands to which the Senator from California referred, the point I insist upon is that the Government should never be called upon to make a patent for its lands until there has been a survey under the authority of the Government; that the Government should never be called upon or required to take surveys made by individuals who own the land or persons employed by them, but that the survey should be made under the direction and authority of the Government before the patent

shall issue; and though it may be all right to allow settlers on these lands prior to their being surveyed, yet there should be a system by which the Government should have the lands surveyed before it gives title to them.

Again, in reference to this bill the suggestion made, that there is nothing here pointing out or establishing any rule under which there shall be the irrigation that is contemplated, I think is a most patent and very just one. Under the language of this bill if you once conduct water upon this land, then, though you may not touch it afterward and though you may not keep the water upon the land, if you conduct the water upon the land once, that is all-sufficient and you are entitled to a patent.

If the object of the bill is to promote settlement on these lands and their improvement, then the bill ought to be so amended as to provide that this water, once brought on the land, shall be continued there, and that the person in the occupation of it shall so conduct his enterprise as that there shall be reclamation in fact, and that it shall not be left to persons to go there for purposes of speculation or any other purpose than the honest purpose of securing this land and reclaiming it, so that they can bring water upon it and then desert it and say that they have brought the water on there and are entitled to their patents. I fear that, under the bill as it now stands, the construction of it will be that if a man once conducts the water upon it that is all that is required. I am sure the Senator from California does not intend that it shall have that construction, and I am very certain he will be quite willing to so amend the bill that it shall be carried out in its spirit and what he intends; that this land shall be reclaimed in fact and that the party shall not be allowed to merely bring the water upon the land and then for that act and for that alone be entitled to a patent for the land. If that is all that is required, merely to bring the water upon land, then I can see no necessity for having any such law as this. I do not see why a man cannot take the land at once, especially where it has been surveyed and brought into market, by paying the dollar and a quarter an acre or by pre-empting it, unless it is intended that he shall go in advance of survey and in advance of the land being brought into market, and that the person by reason of his diligence, and his enterprise, and his energy in bringing the water there and keeping it there and reclaiming the land in fact is then entitled to his patent. If this can be done and preserve the system at the same time, I shall have no objection to the bill.

I think the suggestion of the Senator from Vermont [Mr. MORRILL] is a very proper one, however, that the location ought to be made in as compact form as practicable. I understand the Senator from California does not object to that, and perhaps he has an amendment prepared to meet that view. I think it ought to be done. I think it ought also to have a provision so that there shall be no question as to what he shall do, that he shall do more than merely bring the water on the land in order to reclaim it.

Mr. SARGENT. If the Senator from Iowa would prepare and submit his amendment, it is very likely I should have no objection to it. I suppose he does not mean to provide that after the title shall have passed to the person he shall do certain things to the land, because that would not be operative at all. If he means that he shall in good faith act up to the time he gets his patent, I have no objection to it; but you cannot follow the title by anything running with the land, so to speak.

Mr. WRIGHT. Certainly not. I do not propose anything of that kind after he gets his title.

Mr. SARGENT. Then if the Senator will prepare his amendment, if it embraces the idea as I understand it, I think there will be no objection to it.

I should like to say that the necessity of this bill is that a person cannot go on the land until the water is put there; he cannot live there. The pre-emption and homestead laws require settlement of the individual with his family. He must live there *bona fide* in order to get any title at all. That on desert land is an actual impossibility. There was a case in the State of California where it was attempted by pre-emption to take up desert lands, and they fixed it in this way: the families actually lived upon the land while the fathers of the families and those doing the work went miles off, some twenty miles, if I am not mistaken, down to the border of a lake and there raised corn and some other articles in order to feed their families that staid on the desert land. Working so at a distance from their homes, upon the border of the lake, and raising nearly enough for the subsistence of their families, they managed to keep their families on the land, and so give a colorable appearance to a settlement until they could get their title under the pre-emption laws. But there was a good deal of suffering in the families; and they ought not to be required to go through such tedious, indirect methods in order to acquire a title to desert lands. The region now has been irrigated until it blossoms like the rose. I refer to Muscle Slough, near the Tulare Valley. It is one of the finest parts of our State; and the only way they could get a title under the laws was by putting their families in the midst of the desert and carrying them the food that they raised elsewhere, and so keeping them until such time as their possession could ripen under the United States laws into title; and then, having obtained the land, they went to work and brought the irrigation upon it, led the water upon it, which has made it a delightful home for themselves and their families. But that is a very indirect, expensive, and cruel process.

Now we propose by this bill that the parties shall have a right to have an exclusive right to buy the land for three years, provided they in good faith start to bring water to the land, and do bring the water to the land; and when they have satisfied the United States Land Office that they have brought the water there——

Mr. WEST. How much water?

Mr. SARGENT. The Senator asks how much water. Of course enough to make it an object for people to occupy the land. That is all. There is no object in taking desert lands unless a person can cultivate them. These desert lands yield richly, provided they can get the water. To live on them without sufficient water, if it is to be had from the heavens or from the streams, is entirely useless and idle; it cannot be done. A person cannot live there unless he has irrigation; and where is the use of insufficiently irrigating? It would be like a man insufficiently cultivating his land. You might as well provide in selling a piece of agricultural land to a farmer that he shall sufficiently cultivate it thereafter. His interest runs in that direction.

Mr. INGALLS. If the Senator from California will permit me—and I think I have his permission—I understood him to say that these lands when treated by artificial irrigation became enormously productive. If that is the case, what is the reason for giving the person who takes them 640 acres when a man who takes ordinary land gets but 160 acres?

Mr. SARGENT. Simply because it is very expensive and difficult to conduct the water to the land, and the more sections intervene between a person who conducts the water and the fountain-head, the more difficult it is for him to do it and get water enough. If his canal runs over the land of a neighbor, he will probably have to join with that neighbor in enlarging that canal in order that he may get water to his own land. Simply because the ordinary land that a person takes is fit for cultivation, rich, ready, prepared by nature to his hand; but if he goes on the desert lands he has to create the estate, so to speak, and I was trying to show that his interest was to make that estate profitable. After his land is irrigated, after he has gone to all this large expense, it may cost him a great many dollars more per acre than the land is worth, a great many more than ordinary agricultural lands, yet the soil is deep, and as I said before has all the elements to make it productive except the water. Of course there are different degrees of excellence in desert land. Some are so alkaline that they will produce much less than others which have less alkali, and so on, but as a rule they will pay for irrigation, provided the person can keep the possessory right, so to speak, during the time that it is necessary to perfect the system of irrigation.

Mr. BOUTWELL. I do not know about the condition of the bill as to amendments, but I have some amendments that I find on consultation with the Senator from Iowa [Mr. WRIGHT] are in the line of his remarks, and I should like to offer them.

Mr. SARGENT. I will give the Senator an opportunity in a moment. I was going to say one word in reference to the amendment offered by the Senator from Illinois, [Mr. OGLESBY.] I am not entirely sure, from the little glance I have been able to give to that amendment, but that it may produce mischief in unsettling the rights recognized by our courts as mining customs and recognized by statute so far as mining claims are concerned and things of that kind. Mines and deserts are mixed up together. All about Eureka, in the State of Nevada, there are deserts, and yet there are valuable water-rights there for mining purposes. If you legislate hastily or without sufficient care upon this subject you may do great damage to water-works and canals that have cost immense amounts of money. The United States statute upon that matter is cited in the report:

> Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

If I understand the amendment of the Senator from Illinois, it provides that the water shall be used exclusively for irrigation purposes.

Mr. OGLESBY. "And mining" can be added.

Mr. SARGENT. Suppose it is used to run a mill, for mechanical purposes. I will say, however, about this that I do not care to minutely criticise the amendment of the Senator. I am willing that it should be adopted. I suppose the bill has already been so much changed that the House will hardly take it off-hand, and it will have to go to a committee of conference, and then this amendment can be carefully considered, and therefore I will withdraw my objection.

Mr. OGLESBY. I have no particular care about the amendment. My object was what I understand the Senator's to be, that the water used for the purposes of irrigating a tract of desert land should not be appropriated for any other purpose than for redeeming and cultivating it, that is all, and that the water should be left free to all other persons for any purpose.

Mr. SARGENT. Taking it with the view of the Senator, in the way he suggests, I have no objection.

Mr. BOUTWELL. Mr. President——

Mr. SARGENT. Let us have the amendment of the Senator from Illinois reported and acted on.

Mr. BOUTWELL. I will hear it.

The CHIEF CLERK. After the word "thereafter" in line 10 of section 1, it is proposed to insert the following proviso:

Provided, however, That the person so conducting water on or to any one tract of desert land of six hundred and forty acres shall not acquire any exclusive right to the use of the water conducted to said tract of desert land for the purpose of irrigating the same beyond what shall be actually necessary for redeeming and cultivating the same; but the same, and the water in all lakes, rivers, and other sources of water supply, shall remain and be held for the use of the public for purposes of irrigation and mining.

Mr. BOUTWELL. I do not object to that.

Mr. WEST. Mr. President, though sympathizing very earnestly with the Senator from California in his efforts to relieve these desert lands from their present condition of uselessness, and understanding thoroughly what a very great benefit such a measure might be to a certain portion of the State which he has the honor to represent, I think from the character of the bill and from the nature of the amendments that are being offered here, that it might more justly be styled a measure to irritate a community than to irrigate it.

Taking the amendment that is offered now by the Senator from Illinois, and taking his experience and mine, and that of the Senators from California on the question of water rights in that State, the proposition would immediately bring anybody connected with the conducting of water to one tract of land in contact and conflict with all his neighbors. The provision is that the water introduced upon any one section shall not be the exclusive property of the conductor. That is the idea, is it not? Then how much water is that man to conduct upon that section? More than he wants or for all his neighbors? I believe such a provision as that would require five hundred and sixty-one by-laws to carry it into effective use and adoption by a community. This is legislation in a very commendable direction, but it is hasty, improvident legislation. Most assuredly, if any such amendment as that is adopted here without proper consideration, it will be more than defeated by the parties who will be connected with it.

Mr. BOUTWELL. If there is a disposition to vote on this amendment, I will withhold what I have to say; but I have some amendments to offer. I will delay my proposition until this vote is taken.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from California.

Several SENATORS. The Senator from Illinois.

The PRESIDENT *pro tempore*. That is not an amendment to it. The amendment of the Senator from California has priority.

Mr. WEST. Let it be reported.

The PRESIDENT *pro tempore*. That amendment will be reported.

The CHIEF CLERK. At the end of the first section it is proposed to insert:

Provided, That no person shall be permitted either to reserve or acquire title to more than one section under this act.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment proposed by the Senator from Illinois, [Mr. OGLESBY.]

Mr. WITHERS. Let it be read.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. After the word "thereafter," in the tenth line of the first section, it is proposed to insert:

Provided, however, That the persons so conducting water on or to any one tract of desert land of six hundred and forty acres shall not acquire any exclusive right to the use of the water conducted to such tract of desert land for the purpose of irrigating the same beyond what shall be actually necessary for redeeming and cultivating the same; but the same, and the water in all lakes, rivers, and other sources of water-supply shall remain and be held for the use of the public for purposes of irrigation and mining.

The question being put, the noes appeared to prevail.

Mr. OGLESBY. I shall have to call for a division on that question, for I am decidedly of opinion that the amendment is clearly needed. Perhaps the remark of the Senator from Louisiana has left the impression that it is not commendable. The truth of it is——

Mr. SARGENT. I hope the amendment will be allowed to go with the bill, and the committee of conference will act on it.

Mr. OGLESBY. It is a wise and necessary precaution, I absolutely think.

Mr. SARGENT. Let it go, then.

Mr. WEST. If the object of the Senator is to get such an amendment on to the bill as will receive the deliberate consideration of a committee of conference, I shall have no objection.

The PRESIDENT *pro tempore*. The Chair will put the question again.

The amendment was agreed to.

Mr. BOUTWELL. Mr. President, I think the discussion has shown one thing, and if not, my own reflection has satisfied me as to my duty in one particular. It is that we should not pass a bill which authorizes persons to go upon the public lands and take possession of them under a color of authority until those lands are surveyed. To say nothing of the difficulties which would afterward arise to the Government, the controversies between claimants, I think, would be numerous and serious. At any rate, the Government has a right to know exactly where its lines of property are between the Government and individual citizens, and it never can know under such a bill as this. Therefore, I think the first essential requisite in the passage of an act of this sort is a survey of the lands to which these titles are to be applied. I move, then, that there be a new section to the bill, and I think it ought to be the first section of the bill, in these words:

That the Secretary of the Interior is authorized to cause such public lands as are not adapted to agricultural purposes without irrigation, to be surveyed from time to time, and divided into tracts best adapted to the settlement and improvement of the country, and not exceeding six hundred and forty acres each, and to offer the same for entry and sale as is hereinafter provided.

If that could be the first section, I should then offer certain amendments to what would be the second section. It seems to me that the Government has a right to some security from parties making application that the conditions on which the application is made and granted shall be complied with. This bill is out of the line of the precedent established by the homestead act. It evidently contemplates the occupation and ownership of these lands by persons who already have some property, and, therefore, it is reasonable to assume that they are at the start capable of giving the Government some security that the undertaking on which they enter will be performed. Now, then, I should say that we ought to insert after the word "such" in line 6 the words "twenty-five cents," leaving the ultimate payment to be $1. And then, to make the section conform to the two ideas that the land is to be first surveyed, and that the settlers shall have paid twenty-five cents per acre, I send to the Clerk's desk various amendments designed to make the section conform to that view. There are several of them.

The PRESIDENT *pro tempore*. The amendments will be reported.

The CHIEF CLERK. After the word "such," in line 6, it is proposed to insert:

And upon payment of twenty-five cents per acre.

After the word "such," in line 7, to insert "that has been surveyed."

In line 8, to strike out the words "of desert land" and insert:

Thereof to be by him described according to the survey, &c.

Strike out, beginning in line 10 and ending in line 13, inclusive, the words:

Said declaration shall describe particularly said section of land if surveyed; and, if unsurveyed, shall describe the same as nearly as possible without a survey.

Strike out the words "and twenty-five cents" in line 17.

So that, if amended, the section will read:

That it shall be lawful for any citizen of the United States, or any person of requisite age "who may be entitled to become a citizen, and who has filed his declaration to become such," and upon payment of twenty-five cents per acre, to file a declaration under oath with the register and the receiver of the land district in which any desert land is situated that has been surveyed, that he intends to reclaim a tract thereof, to be by him described according to the survey, and not exceeding one section, by conducting water upon the same, within the period of three years thereafter: *Provided, however*, That the persons so conducting water on or to any one tract of desert land of six hundred and forty acres shall not acquire any exclusive right to the use of the water conducted to said tract of desert land for the purpose of irrigating the same beyond what shall be actually necessary for redeeming and cultivating the same; but the same, and the water in all lakes, rivers, and other sources of water supply, shall remain and be held for the use of the public for purposes of irrigation and mining. At any time within the period of three years after filing said declaration, upon making satisfactory proof of the reclamation of said tract of land in the manner aforesaid, and upon the payment to the receiver of the sum of $1 per acre for a tract of land not exceeding six hundred and forty acres to any one person, a patent for the same shall be issued to him: *Provided*, That no person shall be permitted either to reserve or acquire title to more than one section under this act.

Mr. CHAFFEE. Mr. President, it must have become evident to Senators by this time that this bill cannot be perfected in open Senate. I think the bill ought to be reconsidered in the committee. Therefore I make the motion, if it be in order, that this bill be postponed until the first Monday in next December. I think it had better follow the railroad bill.

The PRESIDENT *pro tempore*. The Senator from Colorado moves that the bill be postponed until the first Monday in December.

Mr. KELLY. I hope that will not be done. The bill, I think, can be perfected by adopting the amendments which have been suggested; and those that are proposed which ought not to be adopted can be voted down.

Now, a word with respect to the amendments proposed by the honorable Senator from Massachusetts, [Mr. BOUTWELL.] With all due deference to him, I do think that the result would be to defeat the object of the bill, and for this reason: It is well known that all of the States to which this bill will apply have from year to year been importuning Congress to make appropriations for surveying the public lands, with very poor result. Very small amounts of money are annually appropriated to survey small portions of the public domain there. The people have become restive and impatient because the surveys have not been extended over the public lands as they ought to be. Not only that, but in cases where appropriations have been made, the surveyors-general in the different States and Territories are always instructed to survey those lands which are best adapted for settlement and which may be most readily brought into the market. As a matter of course, we do not expect for a generation yet to come that any of these desert lands will be surveyed. There is not the remotest probability that any Congress will make an appropriation for that purpose; but we all know that Government surveys made in these desert lands must be connected with the surveys that are made in the different States of the barren lands. They must be connected with the system of surveys and they must be surveyed, as well those that will be subject to irrigation as those lying contiguous to such lands. We cannot survey one portion of the public lands that will be settled up, without surveying another portion. The lands

must be surveyed all together; and I say here now, that if this amendment be adopted, I do not think any settlements will be made upon these lands for the simple reason that no Congress will appropriate money for the survey of the lands that are wholly worthless at the present time. That is my own opinion, with all due deference to the Senator from Massachusetts. I would far rather that his amendment should be adopted, if it could be brought into practical use. There is no question that it would be better that all the public lands should be surveyed if we could get an appropriation for the purpose, but we cannot do it; and for that reason I shall oppose the amendment.

Mr. SARGENT. I think the Senator from Massachusetts might withdraw his amendment. I do not know that there is any particular object in objecting to the twenty-five cents per acre as a prerequisite to entry of the land, because any person who undertakes to reclaim a section of desert land must have some means to do it, and consequently he will be able enough probably to pay this twenty-five cents an acre, and it would be a guarantee of good faith. I agree with the Senator from Oregon entirely upon the survey question. Getting these surveys made to connect with the surveys in the East or the far West would be very expensive.

Mr. ALLISON. It never ought to be done in that way.

Mr. SARGENT. The Senator from Iowa suggests that it never ought to be that these lands ought to be surveyed by themselves.

Mr. BOUTWELL. That is exactly what this bill will do if amended as I propose.

Mr. SARGENT. No, this requires a survey, which means a survey connected with the ordinary United States survey. I suppose the Senator is aware that elsewhere than in this Chamber there has been a very strong fight to get the amount of $150,000 appropriated upon surveys all over the country. A committee of another body reported only $50,000 and after two or three days' fight, I understand that other body has managed to vote $150,000, just about one-twentieth of the amount that ought to be expended in order to accommodate the swelling tide that come West, who want improvements and who want to pay for their improvements. There are counties in my State containing fifteen or twenty thousand people where farms are unsurveyed down to this day, and they have been there for twenty years. I have tried my best for years, when Congress was much more liberal than during this year or the last year, to get an adequate appropriation to survey those lands, but I could not get such appropriations. What is the result? Men die, or they want to move to some other neighborhood and sell their possessory right, their inchoate pre-emption. Many of them do so. The purchaser is ignorant of the fact that he cannot deraign his title through the first possessor; and in ten or fifteen years, when the survey is finally made, the person who has purchased finds that some railroad company has a grant that spreads out twenty miles on each side of its road and that it has a prior right. The railroad company can wait ten or fifteen years and then come in and cut him off entirely.

These things are so in all the States and Territories when the public lands are unsurveyed, and it gets worse and worse every year. Men die, or men sell out, or their property is sold under execution or by some other means, and the entanglement is getting to be "confusion worse confounded." We cannot get an appropriation adequate to survey the lands, and to wait until the surveys are made is simply to postpone the operation of the bill until the Senator and myself, I fear, will both be dead. It will certainly be a long time in the future, perhaps some time during the next centennial. I am simply predicting the necessary result, because in my own State and in my own county, in Nevada County, hundreds of thousands of acres of land are unsurveyed where people have improvements and farms and they urge to have surveys made, but cannot get them.

Mr. INGALLS. Does not this bill cover it?

Mr. SARGENT. No, sir, this bill does not pretend to cover it, and no bill will cover it until appropriations are made to survey all these lands. I have no doubt a bill will reach this Chamber appropriating $150,000 for surveying the whole lands of the country, and how is this to go into operation in regard to lands where a bird cannot live, where there is no population at all, desert lands where men will not go unless they can have the advantage of going upon the land before it is surveyed? You simply cannot put the bill into operation; but in order that there may be good faith under this bill, that men may not hold the land for three years only for purposes of speculation, let them pay the twenty-five cents per acre into the Treasury. I do not know but that that is a pretty good provision. I think it would work well; but if you want the bill to operate at all, do not make it wait until you can get surveys through the medium of congressional appropriations.

Mr. BOUTWELL. If anything were needed to show the impolicy of this bill, the remarks of the Senator from California would furnish that needful view of the effect. I was not before aware that the Government of the United States had been so unwise as not to make surveys not only in line with civilization, but I had indeed supposed that our surveys were in advance of the occupation of the land. I can only say that that course would be very unwise for the Government and very unjust to the settlers. I cannot consent, because such a condition of things exists, growing out of the impolicy of the Government, to a measure, a distinct and definite measure, which means nothing more than the expansion and the multiplication of these conditions. If it be a hardship, as I can understand that it is a hardship, to the citizens who have gone upon the public lands, that they can neither find the limits to their possessions nor enjoy the evidence of title, there is a sufficient reason why we should not extend that policy. This bill as it comes from the committee does propose that citizens of the United States shall go upon a certain class of the public lands which have value in their prospective capacity for production, and occupy those lands without having in their possession any evidence of title and without any provision being made for a record showing the extent of the possessions. Can anything be more unwise as a matter of public policy? Look at what is likely to happen. The Government will some time or other grant a right of way over these lands for a railroad perhaps, in addition to those railways with titles to lands adjacent to the line of the road. Of course controversies arise at once between the railways and the occupants of this Territory.

I do believe that if this measure should be prefaced by anything it should be a provision that the land shall be surveyed, and it is a reflection upon the Government and I think ought to be fatal to any party or persons advocating a public policy that would not permit the Government to survey lands as fast and as far as they are needed for settlement. I cannot but believe that the time is near when Congress will make provision for surveying public lands as fast as they are wanted, and I see no reason in connecting the survey of these valleys with the great system of surveying which has been going on for years this side of the Rocky Mountains. Of course these Territories, limited in extent, irregular in form, must be surveyed according to the circumstances. It is for that reason that in the amendment which I propose it is left to the surveyors on the ground to divide these lands into such parcels as they think best adapted to the object in view, to wit, the settlement and improvement of the country.

I have nothing more to say in regard to this measure. I certainly cannot vote for a bill which authorizes citizens to go upon public lands and take possession of them without the limits being defined and the evidence of title made a matter of record.

Mr. OGLESBY. Mr. President, if I understand the Senator from Massachusetts, he proposes by some amendment to the bill to provide for extending the surveys all over those desert lands on the plan that we now have and have had for nearly a hundred years, by dividing the lands into townships, sections, quarter-sections, and other subdivisions. If I understand the amendment, it is of that character. I am not inclined to encourage by any vote of mine any further survey of these desert lands on the plan heretofore followed by the Government. What is the use of the Government spending hundreds of thousands of dollars annually to survey desert lands that never can be reclaimed? They are not all of them irrigable. Very limited portions of them are irrigable. Very large portions of the desert lands are non-irrigable and never can be reclaimed for the uses of agriculture. The best we can ever hope to make out of any part of them is to appropriate them for pastoral purposes. No man will ever want less than a section of them. No man will ever take less than a section of them. They never can be used or appropriated for pastoral purposes in any quantities under a section. They will more likely be required in quantities of townships, rather than sections, for pastoral purposes. Why then does the Senator desire to extend these surveys over these desert regions? I wish the surveys were stopped now, and not another dollar spent on them except in the valleys where there are productive lands in very limited quantities, and then there ought to be cardinal points established by triangulation or otherwise from which the surveys could be extended to agricultural portions of the desert lands, or that portion of the country where water moves. You could run from cardinal points lines along the rivers and in the valleys that may be appropriated for pastoral or agricultural purposes, and survey them into sections and subdivisions of sections to meet that point; but it is absolutely a waste of the public money to extend these surveys over those barren and arid and irreclaimable desert lands. There ought not to be another dollar expended on them. It would be better to divide them into townships and let them stand at that, if they are to be surveyed at all, rather than have the present system, by any amendment put on this bill, carried out as applicable to the non-arable lands of the desert. In that respect I think the Senator's amendment is a mistake, and I shall oppose it.

The PRESIDENT *pro tempore*. The question is on the first amendment of the Senator from Massachusetts. The Secretary will report it.

The CHIEF CLERK. It is proposed to insert as the first section of the bill the following:

That the Secretary of the Interior is authorized to cause such public lands as are not adapted to agricultural purposes without irrigation to be surveyed from time to time and divided into tracts best adapted to the settlement and improvement of the country, and not exceeding six hundred and forty acres each; and to offer the same for entry and sale as is hereinafter provided.

Mr. CHAFFEE. I had moved to postpone the bill.

The PRESIDENT *pro tempore*. Pending which the Senator from Colorado moves to postpone the bill until the first Monday in December next. The question is on the motion of the Senator from Colorado.

The question being put, there were on a division—ayes 12, noes 24; no quorum voting.

Mr. CHAFFEE. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 33; as follows:

YEAS—Messrs. Bailey, Boutwell, Chaffee, Davis, Eaton, Goldthwaite, Ingalls, Logan, Merrimon, Randolph, Robertson, and Wright—12.

NAYS—Messrs. Alcorn, Allison, Anthony, Blaine, Booth, Burnside, Cameron of Wisconsin, Clayton, Cockrell, Conover, Cragin, Dorsey, Ferry, Harvey, Hereford, Howe, Johnston, Jones of Florida, Kelly, McDonald, McMillan, Maxey, Mitchell, Morrill, Oglesby, Paddock, Sar-gent, Sharon, Sherman, Teller, Wadleigh, Windom, and Withers—33.

ABSENT—Messrs. Barnum, Bayard, Bogy, Bruce, Cameron of Pennsylvania, Christiancy, Conkling, Cooper, Dawes, Dennis, Edmunds, Frelinghuysen, Gordon, Hamilton, Hamlin, Hitchcock, Jones of Nevada, Kernan, McCreery, Morton, Norwood, Patterson, Ransom, Saulsbury, Spencer, Stevenson, Thurman, Wallace, West, and Whyte—30.

So the motion to postpone was not agreed to.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the Senator from Massachusetts, [Mr. BOUTWELL,] which has been read.

Mr. HOWE. It seems to me that that amendment, or something very much like that, ought to be put on this bill for two reasons. It seems to me if every claimant can define his own claim, the titles must be inevitably and hopelessly involved; that one claim will overlap another. I do not see how you can avoid that.

Then it seems to me for another purpose you ought to agree to this survey. If you allow the claimants to mark out their own tracts, they will make them naturally as long on the streams as possible and as thin on the streams as possible. A section of land eighty rods wide is four miles long, and the man who gets the tract eighty rods wide on the stream commands the land for miles back, because the land back of it, no matter how many miles it extends, is not worth a cent to anybody except to him who can have access to the stream. Now, unless you allow the Government to shape these sections of six hundred and forty acres, and parcel out the stream, so as to make it available and useful to as large a portion of the adjacent country as possible, it seems to me you will squander all the water there is on a very few claimants, and thus for a very small sum of money give them a monopoly of all the adjacent country. Of course that is not the design of the bill, and it seems to me that some amendment should be put on the bill to guard against that operation.

Mr. SARGENT. Does the Senator think this amendment does that?

Mr. HOWE. I supposed it did. I heard it read only once, and casually. I suppose it guarded against that, does it not?

Mr. SARGENT. If it would have that operation I certainly should have no objection to it; but the only point I was making against the amendment is that the bill would be very limited in its operation, because we could not get the money to survey the lands. That was the objection; but I would very much prefer if we could have the money to survey the lands, that the bill should only apply to surveyed lands. I think it would be better if we were only sure of getting the lands surveyed, and I am not entirely sure that it would not be better any way.

Mr. HOWE. It would be better for the claimant, unquestionably, because it prevents all disputes, having a definite, fixed boundary by public survey, and better for the Treasury inasmuch as it parcels out the water.

Mr. SARGENT. Some of the friends of the bill have suggested to me that it only should apply to surveyed lands. I am not strenuous about it myself, and am willing that the amendments should be adopted.

The PRESIDENT *pro tempore*. To what amendment does the Senator refer?

Mr. SARGENT. To all the amendments offered by the Senator from Massachusetts.

Several SENATORS. That is right.

The PRESIDENT *pro tempore*. The amendments of the Senator from Massachusetts [Mr BOUTWELL] will be agreed to if there be no objection.

Mr. MORRILL. I offer the following amendment, and I understand the Senator from California to accept it, to come in after the word "Dakota," after line 4 in section 3:

And the determination of what may be considered desert land shall be subject to the decision and regulation of the Commissioner of the General Land Office.

Mr. SARGENT. That, I think, would be the law in any event. There is no objection to it.

The amendment was agreed to.

Mr. INGALLS. What is the object of confining the provisions of this bill to the States and Territories named in section 3? If the principle contended for is valuable, why should it not be of universal application all over the public domain?

Mr. SARGENT. Because the conditions which this bill provides for do not exist all over the public domain. It is only in those States and Territories which are mentioned in the bill that I think the peculiar conditions of desert lands as distinguished, for instance, from grazing lands exist. I do not consider that grazing lands are desert lands by any means. Grazing lands will produce a hay crop, but desert lands ought not to produce a hay crop; if they do, they ought not to be subject to the provisions of the bill.

Mr. INGALLS. Then I move to amend section 2 by inserting after the words "timber lands" the words "grazing lands," so as to read:

That all lands, exclusive of timber lands, grazing lands, and mineral lands, which will not, without irrigation, produce some agricultural crop, shall be deemed desert lands within the meaning of this act.

Mr. SARGENT. I have not the slightest objection to that amendment.

Mr. INGALLS. I offer the amendment so that the bill may come within the intention named by the Senator from California.

Mr. SARGENT. I have not the slightest objection to it.

The amendment was agreed to.

Mr. CHAFFEE. I offer an amendment that I guess the Senator from California will agree to. After the word "act" in the fourth line of section 2 I move to add:

Which fact shall be ascertained by proof of at least three credible witnesses under oath, whose affidavits shall be filed in the land office in which such tract of land may be situated.

Mr. SARGENT. I think that it is a very unusual provision. Why do you not say "four" or why not say "two?" Why do you require three witnesses?

Mr. CHAFFEE. I would as soon have it four.

Mr. SARGENT. That is not required at all. I have no doubt the Senator would just as lief have it a hundred. Two witnesses are all ever required by biblical authority or statutes anywhere. Two witnesses may convict a man of treason.

Mr. CHAFFEE. I will accept two.

Mr. SARGENT. If I understand the Senator, he says he is willing to reduce the number to two.

Mr. CHAFFEE. Section 2 provides—

That all lands, exclusive of timber lands, grazing lands, and mineral lands which, will not without irrigation produce some agricultural crop, shall be deemed desert lands within the meaning of this act.

All that is required in this bill to construe these lands as desert lands is a simple declaration. What I seek for is to require some proof that the lands are desert lands. I am willing to accept the suggestion of the Senator from California and say "two witnesses" instead of "three witnesses."

Mr. SARGENT. Say "two or more." Why confine it to two? If they want more, let them bring them.

The PRESIDENT *pro tempore*. Is there objection to the amendment?

Mr. SARGENT. Not as modified to say "two or more."

Mr. CHAFFEE. Very well.

The PRESIDENT *pro tempore*. As modified, the amendment will be regarded as agreed to.

Mr. MORRILL. I will ask the Senator from California if he made an amendment in relation to the form in which the land should be taken, whether in a compact form?

Mr. SARGENT. I will offer the amendment. It had escaped my mind. After the word "thereafter," in line 10 of section 1, I move to add the words:

And said tract of land shall be in compact form.

Mr. MORRILL. I suggest to the Senator to insert—

Not exceeding in length twice the width.

Mr. SARGENT. I think that would be refining down very much. That would be "gilding refined gold," as the Senator from Kansas [Mr. INGALLS] suggests. My amendment is to insert after "thereafter," in line 10, the words:

And said tract of land shall be in compact form.

The amendment was agreed to.

Mr. INGALLS. I move to insert in line 9, after the word "section," the words "in legal subdivisions."

The amendment was agreed to.

Mr. INGALLS. In lines 11, 12, and 13 I move to strike out the words:

If surveyed, and, if unsurveyed, shall describe the same as nearly as possible without a survey.

Mr. SARGENT. That has already been done by the amendment of the Senator from Massachusetts.

Mr. INGALLS. I did not hear it reported, and did not know it.

The PRESIDENT *pro tempore*. Those words the Chair understands have been stricken out.

Mr. INGALLS. That amendment was not reported.

Mr. MORRILL. I am informed by the Senator from Massachusetts that an amendment was passed which no longer requires the amendment which I suggested to the Senator from California, and therefore I ask to withdraw the amendment just agreed to in regard to the land being in compact form.

Mr. SARGENT. Very well. By unanimous consent I shall ask to withdraw the words just added:

And said tract of land shall be in compact form.

Mr. BOUTWELL. The surveyors will settle that matter.

Mr. SARGENT. Is there any objection?

The PRESIDENT *pro tempore*. The Chair hears no objection and that amendment is withdrawn.

Mr. HOWE. Now I ask the Senator from Kansas to withdraw the amendment he last moved.

Mr. INGALLS. That I decline to do.

Mr. HOWE. That is the most singular conduct I ever heard of, for a Senator to decline to withdraw an amendment when he is asked to do so.

Mr. INGALLS. It is unnecessary for the Senator from Wisconsin to importune me or to expostulate with me; I shall not withdraw it.

Mr. HOWE. That suprises me still more. Then I will move to reconsider the vote by which the amendment was agreed to.

Mr. INGALLS. I hope the Senator will not do that. It meets the approbation of the Senator from California and certainly is germane and necessary to the object of the bill.

Mr. HOWE. It will have just this effect: it will be an excuse for the surveyors to run the subdivision lines instead of running section lines in making the survey.

Mr. INGALLS. It may be necessary.

Mr. SARGENT. Is not a section a legal subdivision?

Mr. HOWE. But it is not the only legal subdivision, and that will be made the pretext for cutting it up into eighty-acre tracts, and it will make the survey at least four times as costly as it otherwise would be. That is all that I care for.

Mr. INGALLS. I think the amendment is very essential.

Mr. HOWE. It is very essential for the surveyor; there is no doubt about that; but it is not so indispensable to the Treasury.

Mr. ALLISON. Has the amendment been voted on?

Mr. INGALLS. It has been voted on.

The PRESIDENT *pro tempore*. Does the Senator from Wisconsin move to reconsider the vote?

Mr. SARGENT. I hope the Senator will make no point on that question.

Mr. HOWE. No, sir; I will not move to reconsider if the Senator from California thinks it will embarrass the bill to do so.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

Mr. CHAFFEE. I should like to hear the bill read.

The PRESIDENT *pro tempore*. The bill will be read as amended.

The Chief Clerk read as follows:

Be it enacted, &c., That the Secretary of the Interior is authorized to cause such public lands as are not adapted to agricultural purposes without irrigation, to be surveyed from time to time, and divided into tracts best adapted to the settlement and improvement of the country, and not exceeding six hundred and forty acres each, and to offer the same for entry and sale as is hereinafter provided.

SEC. 2. That it shall be lawful for any citizen of the United States, or any person of requisite age, who may be entitled to become a citizen and who has filed his declaration to become such, on the payment of twenty-five cents per acre, to file a declaration under oath with the register and the receiver of the land district in which any desert land is situated that has been surveyed, that he intends to reclaim a tract thereof to be by him described according to the survey, and not exceeding one section, in legal subdivisions, by conducting water upon the same within the period of three years thereafter: *Provided, however*, That the person so conducting water on or to any one tract of desert land of six hundred and forty acres shall not acquire any exclusive right to the use of the water conducted to said tract of desert land for the purpose of irrigating the same beyond what shall be actually necessary for redeeming and cultivating the same; but the same and the water in all lakes, rivers, and other sources of water-supply shall remain and be held for the use of the public for purposes of irrigation and mining. At any time within the period of three years after filing said declaration, upon making satisfactory proof of the reclamation of said tract of land in the manner aforesaid, and upon the payment to the receiver of the sum of $1 per acre for a tract of land not exceeding six hundred and forty acres to any one person, a patent for the same shall be issued to him: *Provided*, That no person shall be permitted either to reserve or acquire title to more than one section under this act.

SEC. 3. That all lands, exclusive of timber lands, grazing lands, and mineral lands, which will not, without irrigation, produce some agricultural crop, shall be deemed desert lands within the meaning of this act, which fact shall be ascertained by the proof of two or more credible witnesses under oath, whose affidavits shall be filed in the land office of the district in which said tract of land may be situated.

SEC. 4. That this act shall only apply to and take effect in the States of California, Oregon, and Nevada, and the Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and Dakota; and the determination of what may be considered desert land shall be subject to the decision and regulation of the Commissioner of the General Land Office.

Mr. OGLESBY. I do not understand the expression used in regard to "six hundred and forty acres in subdivisions."

Mr. INGALLS. In legal subdivisions.

Mr. OGLESBY. Six hundred and forty acres to be subdivided.

Mr. INGALLS. I do not know what the action of the surveyors would be in regard to any particular tract of land.

Mr. HOWE. I want to tell my friend from Illinois that it is no use to raise that inquiry, because the Senator from Kansas has peremptorily declined to relinquish that provision.

Mr. ALLISON. I understand that "legal subdivisions" mean the ordinary legal subdivion, so many rods long and so many wide, six hundred and forty acres, or a legal subdivision of the same, representing eighty acres, one hundred and sixty acres, or three hundred and twenty acres. That is the way the land must be surveyed, as I understand it, under the bill.

Mr. OGLESBY. I understand the amendment of the Senator from Massachusetts to read, "tracts of six hundred and forty acres."

Mr. BOUTWELL. "Not exceeding six hundred and forty acres."

Mr. OGLESBY. Where it is to be reclaimed as desert lands for the purposes of agriculture by irrigation, I cannot see, and the Senator from Kansas cannot see, the utility in any event of subdividing the section.

Mr. ALLISON. That is the point.

Mr. OGLESBY. It adds very materially to the expenses of the survey. I should like the bill very much better if the Senator would withdraw that portion of it.

Mr. INGALLS. Is the Senator appealing to me personally?

Mr. OGLESBY. Yes; I say if the Senator would consent to a modification of the bill so that the land which they survey shall be only a section of six hundred and forty acres, I should like the bill very much better.

Mr. INGALLS. I must decline to withdraw it.

Mr. OGLESBY. I am very sorry the Senator cannot see it.

Mr. ALLISON. Have the amendments all been concurred in?

The PRESIDENT *pro tempore*. All have been concurred in. Does the Senator from Iowa object?

Mr. ALLISON. I desire a separate vote on the amendment of the Senator from Kansas.

The PRESIDENT *pro tempore*. The Senator from Iowa states that he would like a separate vote on the amendment of the Senator from Kansas. The question will be put separately on that amendment if there be no objection.

Mr. CHAFFEE. I desire to offer an amendment.

The PRESIDENT *pro tempore*. The question first will be upon the reserved amendment.

Mr. OGLESBY. I ask if I can have a separate vote on the amendment proposed subdividing by subdivisions the section of six hundred and forty acres?

The PRESIDENT *pro tempore*. That is the amendment now pending. The question is on concurring in the amendment in line 9 to insert after the word "section" the words "in legal subdivisions."

The amendment was not concurred in.

Mr. CHAFFEE. In the fourteenth line of the first section, after the word "proof," I move to insert the words "to the register and receiver," so as to read:

At any time within the period of three years after filing said declaration, upon making satisfactory proof to the register and receiver of the reclamation of said tract of land in manner aforesaid, &c.

Mr. SARGENT. That is right.

The amendment was agreed to.

Mr. OGLESBY. In the third section, now section 4, I believe, as the Chief Clerk has read the bill, I move to strike out after the word "Oregon" the following words:

And Nevada, and the Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and Dakota.

Mr. SARGENT. If there is a State in the Union to which the bill ought to apply, it is the State of Nevada. I should like to say that every Senator and every member from the three Pacific States to which the bill applies agreed to it, and every Territorial Delegate is also in favor of this bill. I do not know whether they will like it since it has been so much amended, (of course they have to be consulted in reference to that,) but they were in favor of the principle of the bill. I think it would be a great hardship upon the Territorial Delegates who have worked very earnestly to get some relief in this matter, they having no vote on this floor, to cut them off now.

Mr. PADDOCK. The bill is certainly as desirable for the Territories of New Mexico and Arizona as for any of the States.

Mr. SARGENT. It is especially desirable for them. The Delegates from Arizona and New Mexico are very anxious indeed that the bill should extend to them. Of course they cannot speak here, but I make this statement in justice to them and I hope the amendment will be withdrawn or that it will not be adopted.

Mr. PADDOCK. I hope the Senator from Illinois will withdraw it.

Mr. OGLESBY. My purpose is not to thwart the wishes of the Delegates of those Territories and it is not to retard the passage of the bill. I gave my assent to this bill as a member of the Committee on Public Lands, chiefly because I desired to see some experiment of this sort tried with the desert lands. I supposed that in the States of Oregon and California there were opportunities to make an effort to reclaim these desert lands, by conducting water from navigable streams or from lakes out into them, and to try experiments. It is very expensive to the people to reclaim those lands. They cannot reclaim them by quarter sections or half sections; it is too expensive to do it in that way. Therefore in order to give some test to this plan, to see whether it might not afterward be applied to the Territories and see what effect this new policy would have as applied to desert land, I thought it wise enough to apply it to the States of Oregon and California, which are largely populated States, where there is a great deal of wealth and where there are great tracts of lands such as are described in this bill. I think the experiment might be tried there and the Territories would not suffer a great deal by waiting a year or two to see the effect it would have in those two States. It would enable the public to see what should be the final policy in regard to these desert lands. As it now stands the bill includes all the Territories, and it is a policy as applicable to the disposition of all the desert lands for the whole Government. I do not think it would be any hardship to these Territories to wait two or three years, or such sufficient length of time as to practically test this experiment in the two largely populated States of Oregon and California, in both of which States there are desert lands as defined in this bill.

That is the only object I have in moving the amendment, for if the bill should pass in its present shape it becomes the policy of the Government as applicable to all these Territories, to all the vast plains. I think the Delegates from those Territories would take it as no great hardship to try the effect of this experimental policy in two States for a while. That is my only object in offering the amendment. I do not know whether, upon reflection, in the course of time I should be satisfied that this is the best policy to be applied to the desert lands. It may not be best, and it is well enough to try it first. I for one am willing to try it; but if the bill is passed as it is now it becomes the fixed policy for all thinly populated Territories of the country,

and it might be difficult afterward to modify it. The only purpose I had in my amendment was that, and I think it is a good one.

Mr. INGALLS. I am very much surprised to learn that Oregon is considered an arid, or sterile, or desert State. It certainly lies immediately upon the seaboard, is penetrated by some of the largest watercourses on this continent, and is very heavily timbered. It was my impression that the humidity of the atmosphere in that State amounted at certain seasons of the year almost to saturation. I have been informed, upon what I supposed to be reliable authority, that the actual precipitation of moisture there is such that the population at some seasons of the year are practically amphibious and that they exhibit a decided tendency to become web-footed. I should like to be informed by the Senators from Oregon whether there is in the limits of that State anything known as desert land in the sense used in this bill?

Mr. MITCHELL. I have not taken any part in the discussion of this measure, and it has not been because I am not heartily in favor of the bill, for the bill as reported from the committee had my hearty approval. It has my approval yet, although I cannot support it in its present condition as heartily as I could have supported the bill as reported from the committee.

With reference to the desert lands in Oregon, I will state that Oregon is a very large State. There are 95,000 square miles in the State of Oregon. It is a very large territory, embracing a great variety of soil and of climate as well. There are a great many of the high valleys of Oregon lying between the Blue Mountains and the Cascade Mountains that are what might be termed and are in fact desert lands; hundreds of thousand of acres.

My friend from Kansas says that he had understood that Oregon was very heavily timbered. That is true with reference to a very large proportion of the territory of Oregon, but it is not true with reference to other large portions of that territory. If my friend from Kansas were to make a trip to Oregon, leaving the great overland road at Kelton, on the Union Pacific, he would be compelled to take the stage, because we are not favored with railroads in that country, and travel some seven hundred and forty miles by stage from that point to Portland, Oregon. He would, in making that trip, travel two hundred and fifty or three hundred miles through a region of country that may, I presume, be termed, a great portion of it, desert land.

Mr. INGALLS. Is that owing to the want of rain-fall?

Mr. MITCHELL. In part, and in part it is owing to the formation of the country and the character of the soil. So far as that portion of the State is concerned, this bill is applicable. As a matter of course the bill can have no kind of application to the great fertile valleys of Oregon, the Willamette Valley, the Umpqua Valley, the Rogue River Valley, the Columbia Valley, and other valleys, which contain hundreds of thousands of acres of the most fertile land that the sun ever shone upon—land that will produce more wheat to the acre than my friend from Kansas ever saw in his own State, or in any other State, or that he ever will see in Kansas or in any other State except Oregon!

Mr. INGALLS. How many bushels does it produce to the acre?

Mr. MITCHELL. As much as seventy-five bushels to the acre, and even more.

Mr. INGALLS. One hundred bushels to the acre is a small crop in Kansas.

Mr. MITCHELL. That may be a very small crop, or that may be a very large story, I do not know exactly which. [Laughter.] As far as that portion of the State is concerned, of course this bill has no application to it, and it was not the intention that it should have. But then as my friend has inquired whether there are any desert lands in Oregon, I have simply answered the question by saying that there are, that our State is so great, so large, embracing so much variety of soil and climate that while we have a great deal that is good we have some that is bad; and this bill is of very great importance to the people settled in that portion of our country.

I have not taken part in this debate at all from the fact that I have not felt able physically to do so.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Illinois, [Mr. OGLESBY.]

Mr. MITCHELL. I desire to make one further remark, and that is that our Legislature has memorialized year after year in reference to some measure of the character of the one reported now by the Committee on Public Lands.

The PRESIDENT *pro tempore*. The amendment will be read

The CHIEF CLERK. It is proposed to strike out all after the word "Oregon" in the third section, so that the section if amended will read:

That this act shall only apply to and take effect in the States of California and Oregon.

The amendment was rejected.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

NEW EDITION OF REVISED STATUTES.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 1216) to provide for the preparation and publication of a new edition of the Revised Statutes of the United States.

The amendment was to strike out all of section 4 and insert in lieu thereof the following:

That said new edition shall be completed in manuscript by said commissioner by the 1st day of January, A. D. 1878, and by him presented to the Secretary of State for his examination and approval, who is hereby required to examine and compare the same, as amended, with all the amendatory acts, and within two months after having been submitted to him, and when the same shall be completed, the said Secretary shall duly certify the same under the seal of the Secretary of the State, and when printed and promulgated as herein provided the printed volumes shall be legal and conclusive evidence of the laws and treaties therein contained in all the courts of the United States and of the several States and Territories; and said Secretary shall cause 15,000 copies of the same to be printed and bound at the Government Printing Office and under the supervision of said commissioner, at the expense of the United States and without unnecessary delay.

Mr. CHRISTIANCY. Mr. President, I hope that amendment will be adopted. I will simply explain what it consists in. It gives (and this was done at the suggestion of the Secretary of State) two months to examine the manuscript after it is completed and ready for publication. Then it adds a provision for a certificate under seal, making the laws conclusive evidence according to the former acts of Congress. I hope, therefore, the amendment will be at once adopted and the bill passed.

The amendment was concurred in.

HOUSE BILL REFERRED.

The bill (H. R. No. 4693) to amend the Revised Statutes of the United States in respect to vacancies in the office of President and Vice-President was read twice by its title, and referred to the Committee on Privileges and Elections.

BARTHOLDI'S FOUNTAIN.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Buildings and Grounds be instructed to inquire into the expediency of purchasing the fountain of M. Auguste Bartholdi, now at Philadelphia, and placing the same in one of the public reservations in Washington City.

PUBLIC BUILDING AT ALBANY.

Mr. CONKLING submitted the following resolution; which was considered by unanimous consent, and agreed to.

Resolved, That the Committee on Public Buildings and Grounds be instructed to inquire what legislation, if any, is needed in regard to the site for a public building at Albany, New York.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4452) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1878, and for other purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (S. No. 1270) to authorize the printing and distribution of the memorial addresses on the life and character of the late Michael C. Kerr, Speaker of the House of Representatives;

A bill (S. No. 286) for the relief of W. S. McComb, of the State of Georgia; and

A bill (S. No. 1271) to authorize the printing and distribution of the eulogies delivered in Congress on announcement of the death of the late Allen T. Caperton, a Senator from the State of West Virginia.

HATTIE D. M'KAIN.

Mr. INGALLS. I ask consent to have considered at the present time a few private pension bills on the Calendar. I move the present consideration of House bill No. 1347.

The motion was agreed to; and the bill (H. R. No. 1347) granting a pension to Hattie D. McKain was considered as in Committee of the Whole.

It authorizes the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Hattie D. McKain, widow of William A. McKain, late a coal-passer in the naval service on board the United States steamer Nyack.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JULIA A. SCHUTT.

Mr. INGALLS. I move to take up House bill No. 197.

The motion was agreed to; and the bill (H. R. No. 197) granting a pension to Julia A. Schutt, widow of Martin Schutt, a deceased soldier, was considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to place upon the pension-roll the name of Julia A. Schutt, widow of Martin Schutt, a private in Company I in the Fourth Regiment of Heavy Artillery, New York Volunteers.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HARRIET MOSS.

Mr. INGALLS. I move to take up Senate bill No. 1183.

The motion was agreed to; and the bill (S. No. 1183) granting a

pension to Harriet Moss was considered as in Committee of the Whole. It provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Harriet Moss, widow of Samuel I. Moss, late private in Company E, Eighteenth Missouri Infantry Volunteers.

Mr. DAVIS. I take it these bills are from the committee.

Mr. INGALLS. All from the committee; all reported favorably, and each is accompanied by a written report which has been printed.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JAMES JOHNSTON.

Mr. INGALLS. I move to take up House bill No. 3280.

The motion was agreed to; and the bill (H. R. No. 3280) granting a pension to James Johnston was considered as in Committee of the Whole. It proposes to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of James Johnston, late sergeant in Company C, Fifteenth Regiment of Maine Volunteers, if found disabled by reason of disease of the eyes and chills and fever.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

SARAH A. CHAMBERLAIN.

Mr. INGALLS. I move to take up Senate bill No. 1116.

The motion was agreed to; and the bill (S. No. 1116) granting a pension to Sarah A. Chamberlain, guardian of the minor heirs of James Eagle, Company F, Second Regiment Kansas State Militia; was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

DANIEL HOULIHAN.

Mr. INGALLS. I move to take up Senate bill No. 1259.

The motion was agreed to; and the bill (S. No. 1259) granting a pension to Daniel Houlihan was considered as in Committee of the Whole. It proposes to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Daniel Houlihan, late sergeant Company I, Eighty-second Regiment New York Volunteers.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

EDMUND H. COBB.

Mr. INGALLS. I move to take up Senate bill No. 1260.

The motion was agreed to; and the bill (S. No. 1260) granting a pension to Edmund H. Cobb was considered as in Committee of the Whole. It proposes to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Edmund H. Cobb, private Company B, New Hampshire Heavy Artillery.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MARGARET HUNTER HARDIE.

Mr. INGALLS. I move to take up Senate bill No. 1200.

The motion was agreed to; and the bill (S. No. 1200) to grant a pension to Margaret Hunter Hardie, widow of James A. Hardie, inspector-general in the United States Army, was considered as in Committee of the Whole.

The Committee on Pensions reported the bill with an amendment, which was to strike out "fifty" and insert "thirty;" so as to read "$30 per month."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ESTHER P. FOX.

Mr. INGALLS. I move to take up House bill No. 1238.

The motion was agreed to; and the bill (H. R. No. 1238) granting a pension to Esther P. Fox was considered as in Committee of the Whole. It proposes to place the name of Esther P. Fox, of the city of Buffalo, New York, widow of Augustus C. Fox, late a second lieutenant in Lieutenant-Colonel Chapin's Regiment New York Militia, in the war of 1812, on the pension-roll, and to pay her a pension of $8 per month from the 14th of February, 1871, during her natural life.

The Committee on Pensions reported the bill with an amendment, which was to strike out at the end of the bill the words:

The 14th day of February, anno Domini 1871, during her natural life.

And in lieu thereof to insert:

And after the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

MRS. ANN ANNIS.

Mr. INGALLS. I move to take up House bill No. 3011.

The motion was agreed to; and the bill (H. R. No. 3011) granting a pension to Mrs. Ann Annis was considered as in Committee of the Whole.

The Committee on Pensions reported the bill with amendments.

The amendments were in line 6, to strike out "Henry" and insert "Harvey;" and at the end of the bill, to insert the words "to take effect from and after the passage of this act;" so as to read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Ann Annis, widow of Harvey Annis, late a second lieutenant of Company G, in the Fifty-first Regiment United States Colored Infantry, to take effect from and after the passage of this act.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

LUCINDA STARNES.

Mr. INGALLS. I move to take up House bill No. 2847.

The motion was agreed to; and the bill (H. R. No. 2847) granting a pension to Lucinda Starnes was considered as in Committee of the Whole. It proposes to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lucinda Starnes, mother of Jefferson Starnes, late private of company F, Fortieth Regiment of United States Colored Troops Volunteers.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

REPORTERS FOR UNITED STATES COURTS.

Mr. WRIGHT. I move that the Senate proceed to the consideration of House bill No. 4476.

The motion was agreeed to; and the bill (H. R. No. 4476) to provide for the appointment of an official short-hand reporter for the United States courts in and for the district of California was considered as in Committee of the Whole.

The Committee on the Judiciary reported the bill with an amendment, which was to strike out all after the enacting clause and insert:

That it shall be competent, and it is hereby made the duty of any circuit or district court, justice, or judge, in any of the courts of the United States, upon being moved thereto, in any case where both parties request the same in writing, to appoint for the trial of said case a short-hand reporter, whose duty it shall be, under the direction of said court, to take in short-hand full notes of the oral testimony and other oral proceedings upon the trial of issues of fact, not, however, including the arguments of counsel; which said notes shall be filed with the clerk of the court in which said cause is tried. Such notes, when written out in long-hand and authenticated by the certificate of such reporter, shall be deemed to be, *prima facie*, a correct record of such testimony and proceedings.

SEC. 2. That the reporter so appointed shall, while engagaged in the discharge of his duties, be an officer of the court so appointing him, and shall be entitled to five cents per folio of one hundred words so taken down in short-hand, and five cents per folio of one hundred words when the same shall be written out in long-hand; such sums to be chargeable and paid by the parties in like manner as other costs in the case. The court shall have power to make such rules and regulations as may be necessary to secure the said reporter his fees for the work so required at his hands.

Mr. WRIGHT. This bill as originally drawn was intended to apply to California alone. The Judiciary Committee deemed it advisable to extend its provisions to other courts as well. I have consulted with some of the members of the Supreme Court and those who hold court in the circuits, and they have suggested certain amendments to the bill as reported from the committee which do not at all interfere with the general spirit of the substitute as reported, and I will now propose amendments to the substitute as reported from the committee. In the first line of the substitute I propose to strike out the words "and is hereby made the duty of" and insert the word "for," so as to read:

That it shall be competent for any circuit or district court—

And not make it the duty of the circuit court to appoint such reporter. I propose that amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. WRIGHT. Now I propose in lines 5 and 6 of section 1 to strike out "upon being moved thereto in any case where both parties request the same in writing;" and to strike out the words beginning in line 7, "for the trial of said case;" and after "reporter" in line 7 to insert "of their respective courts;" and after "shall be" in line 8 to insert "on the request of the parties in any case."

The amendment to the amendment was agreed to.

Mr. WRIGHT. The amendment as reported by the committee in the second section fixed a certain sum as compensation. I move to strike out in section 2 the words "five cents per folio of one hundred words so taken down in short-hand and five cents per folio of one hundred words when the same shall be witten out in long-hand; such sums," and to insert "the same fees allowed by the law of the State in which said court is held to short-hand reporters in such State courts, or where there is no such State law, to the fees which may be established by general rule of the court making the appointment, such fees;" so as to make the section read:

That the reporter so appointed shall while engaged in the discharge of his duties be an officer of the court so appointing him, and shall be entitled to the same fees allowed by the law of the State in which said court is held to short-hand reporters in such State courts, or where there is no such State law, to the fees which may be

established by general rule of the court making the appointment, such fees to be chargeable and paid by the parties in like manner as other costs in the case.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. WRIGHT. I move to amend the title of the bill just passed so as to read: "A bill to provide the appointment of official short-hand reporters for the courts of the United States."

The motion was agreed to.

EXECUTIVE BUSINESS.

Mr. CONKLING. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to.

THOMAS J. SPENCER.

Mr. LOGAN. While the doors are being closed I ask for the consideration of the bill (H. R. No. 4198) to authorize the President to restore Thomas J. Spencer to his former rank in the Army.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The Committee on Military Affairs proposed to amend the bill by inserting at the end thereof:

And the law of promotion in the line is hereby suspended in this case for the purpose.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

Mr. INGALLS. I see by the Calendar that this bill has been vetoed by the President. The question must be put in accordance with that.

Mr. LOGAN. No, sir; that is another bill.

Mr. COCKRELL. There are two cases.

The bill was read the third time, and passed.

JULIUS S. BOHRER.

Mr. NORWOOD. I ask for the consideration of the bill (S. No. 1010) for the relief of Julius S. Bohrer, master in the United States Navy, simply to pay him a small sum. I am sure there will be no objection to it.

Mr. CONKLING. I suggest to the Senator from Georgia, whose proposition I have not heard, that it might be well for us to dispose of executive business, and then when the doors are opened again we can take up his bill.

Mr. NORWOOD. Very well.

Mr. CONKLING. Let us go on and finish executive business.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business. After eighteen minutes spent in executive session the doors were reopened.

JULIUS S. BOHRER.

On motion of Mr. NORWOOD, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1010) for the relief of Julius S. Bohrer, master in the United States Navy.

The Committee on Naval Affairs reported to strike out all after the enacting clause of the bill and in lieu thereof to insert the following:

That the Secretary of the Treasury be, and hereby is, authorized and directed to pay to Julius S. Bohrer, retired master, United States Navy, or his legal representatives, the pay and allowances of a retired master from the 30th day of December, 1865, the date of his wrongful dismissal from the naval service, to the 5th day of June, 1876, the date of his restoration to the retired list, out of any moneys in the Treasury not otherwise appropriated.

Mr. PATTERSON. Is there any report in that case? I think that bill was objected to the other day.

Mr. NORWOOD. There is a report.

Mr. CRAGIN. If the Senate was in a condition to hear the report read and understand the case, there would not be one solitary vote against the bill. I hope we shall have patience and allow the bill to be considered.

Mr. PATTERSON. This is a bill that the chairman of the Committee on Military Affairs objected to two or three days ago.

Mr. CRAGIN. It happens to be a bill that he introduced himself.

Mr. PATTERSON. I do not know about that; but he said it was to pay an officer who was dismissed from the service—to pay him twelve years when he was out of the service entirely, pay him $12,000 when he was out of the Navy after being dismissed.

Mr. NORWOOD. This is the case of a meritorious officer, who was put on the retired list in 1855. When the war broke out he volunteered his services to his country. In 1865, upon the arbitrary order of Mr. Welles, he was dismissed the service. He immediately applied for a court-martial and it was refused to him until 1876, and when that court-martial sat the charges preferred against him amounted to nothing. He was acquitted upon every one of them. During that time his pay was suspended; he did not receive it; and he now comes and asks simple justice at the hands of the Government, that he shall have his pay for the time that he was wrongfully suspended or dismissed. That is the whole of the story, and I do not see how any member of the Senate can find it in his heart to vote against this bill.

Mr. PATTERSON. As near as I understand the facts in this case, this gentleman was dismissed by the Secretary of the Navy in 1865. The charges were very serious charges.

Mr. NORWOOD. The charges were tried and he was acquitted on every one of them.

Mr. PATTERSON. I know; but when he was tried in 1876 all the witnesses whose testimony was presented to the Secretary of the Navy were dead and the Government was unable to procure any evidence. I have nothing to say about this officer being restored to the service; but to pay him for twelve years' service when he was not in the service, when he was dismissed on charges, it seems to me to be establishing a very bad precedent. The chairman of the Military Committee is more familiar with this case than I am and I think the bill had better go over until he is present.

Mr. NORWOOD. Do you mean the Senator from Illinois? [Mr. LOGAN.]

Mr. PATTERSON. I mean the Senator from Illinois, [Mr. LOGAN.]

Mr. NORWOOD. He introduced the bill.

Mr. PATTERSON. The Senator from Illinois introduced the bill; but he said he did it by request, and when he came to examine the merits of the case he was against it.

Mr. NORWOOD. I beg pardon.

Mr. CRAGIN. I desire to state that the Senator from Illinois objected to this bill when it came up before, because he wanted to get up a bill of his own. The moment he understood what this bill was, and that he had introduced it, he told me he had no objection to it; and I understand him to be in favor of the passage of the bill.

Mr. PATTERSON. My recollection is that the Senator from Illinois stated that the objection he made to this bill was that it was paying an officer for service when he was not in the service, and after he had been dismissed dishonorably from the Navy. That was his objection to the bill. I should like to hear the report of the committee in regard to this bill read. If the friends of the bill will let it lie over until the Senator from Illinois is present, very well.

Mr. NORWOOD. There is a report from the committee of the House of Representatives which I send to the desk to be read.

The Chief Clerk read the following report, made by Mr. TARBOX, from the House Committee of Claims, January 12, 1877.

The Committee of Claims, to whom was referred the bill (H. R. No. 4035) for the relief of Julius S. Bohrer, United States Navy, having had the same under consideration, submit the following report:

Bohrer entered the naval service in 1839, and was retired as a master in 1855. In 1861, while on the retired list, at the commencement of the civil war, he volunteered into active service and served through the war with the rank and pay of a retired master. On December 30, 1865, he was dismissed the service by order of Secretary Welles, in consequence of the findings of a naval court of inquiry. He immediately demanded a trial by court-martial, and renewed his demand often and persistently, but was unsuccessful in his application until May, 1876, when his trial by court-martial was had, and the findings of the court fully exonerated him from all charges and specifications and declared his dismissal null and void. He seems to have presented his demand for a trial with as much vigor and diligence as was possible under the conditions of his health, it appearing that for a great part of the time he was in a most critical state of bodily and mental health, such as disabled him for business affairs, due chiefly, if not wholly, to injuries sustained by him while in the service. This bill proposes payment to him, or his legal representatives, of his pay as retired master from the date of his dismissal to the date of his restoration. The order restoring Bohrer to the retired list is as follows:

[General Orders No. 210.]

NAVY DEPARTMENT,
Washington, June 5, 1876.

The order of December 30, 1865, dismissing Julius S. Bohrer, master in the United States Navy, from the naval service is hereby declared void, and Mr. Boher, under and by virtue of the Revised Statutes of the United States, title 15, chapter 10, article 37, restored to the retired-list as master.

GEO. M. ROBESON,
Secretary of the Navy.

By the act of March, 3, 1865, it is provided:

"That in case any officer of the military or naval service who may hereafter be dismissed by authority of the President shall make an application in writing for a trial, setting forth under oath that he has been wrongfully and unjustly dismissed, the President shall, as soon as the necessities of the public service may permit, convene a court-martial to try such officer on the charges on which he was dismissed. And if such court-martial shall not award dismissal or death as the punishment of said officer, the order of dismissal shall be void; and if the court-martial aforesaid shall not be convened for the trial of such officer within six months from the presentation of his application for trial, the sentence of dismissal shall be void."

Master Bohrer did in fact promptly make his application for a trial by court-martial, but no court was convened within six months, and so, it seems, by the operative force of the statute the order of dismissal was rendered void.

But the act of July 22, 1874, prohibits the accounting officers of the Treasury from making any allowance to any officer of the Navy dismissed from the service and restored under the provisions of the act of March 3, 1865, section 12, except to the extent of six months' leave pay, unless it shall appear that such officer has demanded and continued to demand in writing, as often as once in six months, a trial by court-martial. The officers of the Treasury decline to allow Bohrer his pay from December 30, 1865, to June 5, 1876, because of the prohibition of the last-named statute and the absence of any appropriation available for the purpose.

Without attempting to define the just legal effect of the statute of 1874, as touching vested rights and imposing conditions which the officer in the pursuit of his rights could not anticipate, the committee have no doubt that Mr. Bohrer is entitled to the relief the bill provides. He performed long and honorable service. He voluntarily left a retirement in which he might honorably have remained in safety, to serve the country in a season of public peril. He was wrongfully subjected to the painful indignity of dismissal in disgrace, and the consequent loss of emoluments, fairly the meed of his public service, in his age and infirmity. The Government,

having admitted the injustice done him and restored him to his rank, cannot justly refuse him the pecuniary benefits of which he has been unjustly deprived.

The committee recommend that the bill pass with amendments as follows, namely:

First. Strike out the preamble.

Second. Strike out all after the enacting clause and insert:

"That the Secretary of the Treasury be, and hereby is, authorized and directed to pay to Julius S. Bohrer, retired master, United States Navy, or his legal representatives, the pay and allowances of a retired master from the 30th day of December, 1865, the date of his wrongful dismissal from the naval service, to the 5th day of June, 1876, the date of his restoration to the retired list, out of any moneys in the Treasury not otherwise appropriated."

Mr. INGALLS. The preamble has been stricken out and the substance of it re-inserted in the body of the bill as amended, and an effort is thereby made to commit Congress, and the Senate particularly, to an expression of opinion as to the propriety of Bohrer's dismission from the service. I move to amend by striking out the words "the date of his wrongful dismissal from the naval service," and also the words "the date of his restoration to the retired list;" so that, if passed, the bill will merely give him the pay between the dates specified in the amendment.

Mr. CONOVER. Do I understand the Senator to move to strike out from the preamble?

Mr. INGALLS. The preamble has been stricken out and been re-inserted in the body of the bill.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas.

Mr. NORWOOD. I do not see any particular objection to the amendment.

Mr. McMILLAN. I think it would be better to permit this bill to lie over until the Senator from Illinois can be present. When in the Senate, my recollection is, he stated distinctly his objection to this bill, and it seems to me that there are some grounds upon which objection would rest to passing a bill of this kind. The person named in this bill——

Mr. NORWOOD. If the Senator will allow me, in order to avoid all difficulty, I would suggest that the bill be passed over as the unfinished business of to-morrow. Will that be satisfactory?

The PRESIDENT *pro tempore*. The Senator from Georgia suggests that this be considered the unfinished business. Is there objection to that?

Mr. INGALLS. Does the Senator accept the amendment I propose?

Mr. NORWOOD. Yes, sir.

The PRESIDENT *pro tempore*. That amendment to the amendment will be regarded as agreed to.

BUSINESS FOR TO-MORROW.

Mr. CONKLING. Learning that the House of Representatives has taken a recess until to-morrow, and learning that no appropriation bill is pending here, I move that the Senate take a recess until ten o'clock to-morrow.

Mr. SARGENT. In view of that motion, which I think is proper, I would suggest that Senators ought to be here to-morrow morning at ten o'clock, make an effort to be here; as I suppose very soon after our assembling we shall receive a report from the electoral commission and ought to be ready to proceed to the House.

Mr. NORWOOD. I understand that the motion will not displace this bill.

The PRESIDENT *pro tempore*. The motion will not displace this bill. It is moved that the Senate now take a recess until to-morrow at ten o'clock.

Mr. HITCHCOCK. What is to be done between ten and twelve o'clock to-morrow. No business?

The PRESIDENT *pro tempore*. The Senator from California has made a suggestion that Senators should be here at ten o'clock.

Mr. CONKLING. That is a mere notice to the Senate.

Mr. SARGENT. My suggestion is that there be no legislative business between ten and twelve o'clock. If the commission reports, of course we proceed with the count.

Mr. HITCHCOCK. Is that the understanding, that there is to be no business between ten and twelve o'clock?

Mr. DAVIS. Suppose the commission reports?

The PRESIDENT *pro tempore*. That stops all legislative business. But we have no report from the commission.

Mr. ALLISON. We may have at ten o'clock to-morrow.

Mr. SARGENT. That would stop all business except proceeding with the count.

The PRESIDENT *pro tempore*. If we receive a report at that time, there can be no legislative business; but if we do not, shall there be legislative business between ten and twelve o'clock? ["No!" "No!" and "Yes!" "Yes!"]

Mr. CONKLING. I submit that all this is out of order. The Senator from California, as he had a right to do, expressed the opinion that we ought to be here at ten o'clock, and the understanding, as far as it can exist, does exist; and a motion has been put and carried that we take a recess.

The PRESIDENT *pro tempore*. But pending the motion the Senator from Nebraska asked if there was to be any business done between ten and twelve o'clock to-morrow. Several of the Senators said "yes" and several said "no."

Mr. CONKLING. That is a pretty good answer. It has been answered both ways. Now I insist that the question shall be put upon the motion to take a recess till to-morrow.

The PRESIDENT *pro tempore*. Then to the question of the Senator from Nebraska the Chair cannot answer that there will be no business between ten and twelve o'clock to-morrow. The question is upon the motion of the Senator from New York that the Senate take a recess till to-morrow morning at ten o'clock.

The motion was agreed to; and (at five o'clock and twenty-five minutes p. m.) the Senate took a recess until to-morrow, Wednesday, February 28, at ten o'clock a. m.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 27, 1877.

The House re-assembled at twelve o'clock m. Prayer by the Chaplain, Rev. I. L. TOWNSEND.

The Journal of yesterday was read and approved.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. HOLMAN. I move that the House again resolve itself into Committee of the Whole to resume the consideration of the sundry civil appropriation bill.

Mr. ATKINS. Pending that motion, I offer the following resolution:

Resolved, That when the sundry civil appropriation bill is considered in the Committee of the Whole on the state of the Union it shall be in order to amend it by providing for the payment of the mail contractors who performed mail service in the years 1859, 1860, and 1861, in the States of Alabama, Arkansas, Florida, Kentucky, Georgia, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, Texas, Virginia, and West Virginia: *Provided*, That such contractors have not been paid by the Confederate States government.

Mr. HOLMAN. Is that in order?

Mr. ATKINS. I move to suspend the rules and adopt this resolution.

The SPEAKER. The Chair thinks the motion is in order.

Mr. HOLMAN. Is it in order to suspend the rules while a motion to go into Committee of the Whole is pending?

The SPEAKER. This motion is pertinent to the very bill to which the motion of the gentleman from Indiana relates.

Mr. ATKINS. The proposition is in the bill already and in there with the consent of the chairman of the Committee on Appropriations.

The question having been put,

The SPEAKER. In the opinion of the Chair, two-thirds have not voted in the affirmative.

Mr. ATKINS called for tellers.

Tellers were ordered; and Mr. ATKINS and Mr. HOLMAN were appointed.

The House divided; and the tellers reported—ayes 128, noes 30.

Mr. HOLMAN. I call for the yeas and nays.

The yeas and nays were not ordered.

So (two-thirds voting in favor thereof) the resolution of Mr. ATKINS was adopted.

Mr. HOLMAN. I move that when the House again resolves itself into Committee of the Whole on the the sundry civil appropriation bill all debate on the pending paragraph, which is the last paragraph in the bill, terminate in five minutes.

The SPEAKER. Does the gentlemen move to terminate debate on the whole bill?

Mr. HOLMAN. Yes, sir; because the pending paragraph is the last in the bill.

Mr. CONGER. Some amendments may be offered on which we may want some debate.

Mr. VANCE, of North Carolina. Five minutes will not be long enough. I ask that twenty minutes be allowed.

Mr. HOLMAN. I insist on my motion.

The motion of Mr. HOLMAN was agreed to.

The House then, on motion of Mr. HOLMAN, resolved itself into Committee of the Whole on the sundry civil appropriation bill, Mr. BUCKNER in the chair.

The CHAIRMAN. In view of the action of the House making this paragraph in order, the Chair understands that the point of order is necessarily waived.

Mr. HOLMAN. I suppose that is correct.

Mr. ATKINS. I move to amend the paragraph so as to conform to the order of the House by inserting after the word "Virginia" the words "West Virginia."

The amendment was adopted.

Mr. COX. I move to amend by inserting after the last pargraph the following:

To enable the Clerk of the House of Representatives, who is hereby directed, to pay Isaac Strohm for making out warrants for bringing by order of the House persons before its bar and other papers requiring the seal of the Clerk of the House of Representatives, from the 4th day of March, 1875, to the 14th day of August, 1876, inclusive, at the rate per annum heretofore paid to him for such service, $217.39, which sum hereby appropriated is made immediately available.

Mr. HOLMAN. I wish to inquire whether this increases the compensation?

Mr. COX. No, sir; it does not. It is in accordance with the law as passed for several years. There is no extra appropriation.

The amendment was adopted.

Mr. LANE. I move to insert at the end of the bill the following:

That there is hereby re-appropriated for the payment of volunteers of Washington and Oregon Territories who were engaged in the suppression of Indian hostilities therein in the years 1855 and 1856, and for the payment of claims for services, supplies, and transportations in the maintenance of said volunteers, and for horses and other property destroyed in said service, as provided for by the act of Congress approved March 2, 1861, entitled "An act to provide for the payment of expenses incurred by the Territories of Oregon and Washington in the suppression of Indian hostilities therein in 1855 and 1856," the sum of $25,000.

Mr. HOLMAN. I make the point of order that there is no law authorizing such an expenditure of public money.

Mr. LANE. I will state to the gentleman that the Congress of the United States did make appropriation for the payment of those volunteers, and I do not know but what my friend from Indiana was a member of this House at that time and voted for it.

Mr. HOLMAN. Then it has been paid already.

Mr. LANE. No; permit me to say that the money was appropriated, and a large amount, it is true, was distributed, but the claims not having all been presented, a portion was covered back into the Treasury. In explanation, I desire the letter which I send to the Clerk's desk may be read.

The Clerk read as follows:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
Washington, D. C., February 26, 1877.

SIR: In reply to verbal inquiry relative to the condition of the appropriation for "pay, transportation, services, and supplies of Oregon and Washington Volunteers in 1855-'56," I have the honor to state as follows:

In consequence of the opinion of the First Comptroller, that the appropriation made by the act of March 2, 1861, was not a permanent specific appropriation within the meaning of the act of June 20, 1874, which provided for the covering in of balances which had stood for two fiscal years on the books, &c., the sum of $321,394.88 was carried to the surplus fund, that sum being the balance then remaining of the amount appropriated by the act of March 2, 1861.

In March and July of 1865 re-appropriations were made amounting in the aggregate to $33,976.74; but these were exhausted some time since.

On the 19th of December, 1876, I reported to the Secretary of the Treasury that up to that date settlements had been made, for which there remained no appropriation, to the amount of $425.94, and I recommended to the Secretary to ask re-appropriation of that sum and of an additional sum of $50,000, the additional sum being intended to provide for the residue of the present fiscal year and for the next fiscal year. (*Vide* H. R. Ex. Doc. No. 18, Forty-fourth Congress, second session.) In the bill reported by the Committee on Appropriations, House of Representatives, I observe that the item of $50,000 has been stricken out.

Since the 19th of December, 1876, additional settlements have been made by this office, making the aggregate now settled and for which there is no appropriation, $4,911.68.

Very respectfully, your obedient servant,

HORACE AUSTIN, *Auditor.*

Hon. J. H. MITCHELL,
United States Senate.

Mr. HOLMAN. I rise to a point of order. The original appropriation was made by act of 1861. There was a re-appropriation of part of this money by act of 1865. That was the last legislation. At the last session of Congress there was a recommendation that we appropriate $50,000, which this House declined to do. My point of order is this: that this is simply proposing to pay back claims like the great body of claims already referred to the Claims Committee of this House; that is to say, that the re-appropriation of this money originally appropriated in 1861 stands upon the same footing as a direct appropriation at this time, and requires an act of Congress to give effect to any such re-appropriation. It is quite clear that the class of claims referred by vote of the House at the last session, as well as at this, to the Committee of Claims, is the same with the case now presented. They all originated many years ago, in this instance some seventeen years ago, for which now no appropriation exists. Therefore this is not only not an act for this committee, or for the Committee on Appropriations, but belongs to the Committee of Claims of the House, to which it ought to be referred.

The CHAIRMAN. Debate is out of order.

Mr. LANE. How is it when we are addressing ourselves to the point of order.

The CHAIRMAN. What does the gentleman say?

Mr. LANE. The gentleman from Indiana has been addressing himself to the point of order.

The CHAIRMAN. The Chair will hear the gentleman on the point of order.

Mr. LANE. I desire to say, as to this amendment, it simply contemplates we shall pay a debt which has been adjusted and adjudicated under existing law. It is not in the nature or character of any claim whatever. Suppose, Mr. Chairman, that an appropriation for the expenses of this House had been inadequate, would it not be pertinent at this time to present an amendment to cover that which we honestly and justly owed under the law? I insist there can be no more pertinent and proper amendment than this is.

The CHAIRMAN. The Chair thinks the point of order is not well taken, and will submit the proposition to the House.

Mr. HURLBUT. Has the five-minute debate expired allowed in committee?

The CHAIRMAN. It has, and the Chair will hear no further debate on this question.

Mr. LANE. I call for a division on the amendment, as I apprehend it is not understood.

The committee divided; and there were—ayes 25, noes 60; no quorum voting.

Mr. LANE. I insist on the presence of a quorum.

Mr. HOLMAN. I hope the gentleman will not insist on breaking up the committee.

Mr. LANE. I insist there shall be a quorum, as this money ought to be paid.

The Chairman appointed as tellers Mr. LANE and Mr. HOLMAN.

The committee again divided, and the tellers reported—ayes 54, noes 91.

So the amendment was disagreed to.

Mr. LANE. I suggest we take a vote on this in the House.

Mr. HOLMAN. I cannot agree to that.

Mr. HOOKER. I offer the following amendment.

The Clerk read as follows:

To enable the Clerk of the House to pay the following additional force under the Doorkeeper, to wit: Six messengers, six pages, and three laborers, the usual compensation for services rendered during the present session, $3,718.08, subject to the approval of the Committee of Accounts.

Mr. HOLMAN. I desire to reserve the point of order on this proposition until I can make an inquiry of the chairman of the Committee of Accounts, for it is unusual for these matters to come from any other committee than the Committee of Accounts——

The CHAIRMAN. There can be no debate.

Mr. HOLMAN. I rise to make a point of order, and ask that order may be preserved in committee, so the subject can be understood by the House.

The CHAIRMAN. The Chair will hear the gentleman from Indiana, and the committee will preserve order.

Mr. HOLMAN. I wish to ascertain from the gentleman from Maryland, [Mr. ROBERTS,] the chairman of the Committee of Accounts, whether this has met the approval of his committee or not.

Mr. ROBERTS. I answer the question of the gentleman from Indiana very emphatically in the affirmative. This has been before the Committee of Accounts, which has given it a careful consideration, and is unanimously of opinion that it should pass.

Mr. HOLMAN. I merely wished to ascertain that fact.

The amendment was adopted.

Mr. WILSON, of West Virginia. I offer the following amendment, to come in at the end of the bill:

To pay Nathaniel S. Clark the sum of $300 for services rendered as messenger from the first Monday of December, 1876, to March 4, 1877.

I ask the Clerk to read the indorsement accompanying the amendment.

The Clerk read as follows:

We recommend the payment of the above.

CHARLES B. ROBERTS,
JOSEPH POWELL,
A. HUMPHREYS,
G. L. FORT,
Committee of Accounts.

Mr. HOLMAN. Have there not been several employed in that way?

Mr. ROBERTS. The cases of the others were before the Commitee of Accounts some time ago. This was submitted to the committee this morning and was approved.

Mr. CONGER. I object to debate.

The amendment was agreed to.

Mr. LANDERS, of Indiana. I offer the following amendment:

Add to the bill the following paragraph:

To enable the Secretary of War to pay John W. Dodd & Co., of Indianapolis, Indiana, for grading, paving, and curbing the sidewalk and bowldering the gutter on the north side of Michigan street, in the city of Indianapolis, Indiana, from the west line of the United States arsenal grounds to the east line of the same, $6,004.48.

I desire to have read a report from the Secretary of War in favor of this appropriation.

Mr. CLYMER. I reserve the point of order till the paper is read.

Mr. LANDERS, of Indiana. What is the point of order?

Mr. PAGE. That it is not authorized by any existing law. I make that point of order.

Mr. LANDERS, of Indiana. It is recommended by the Secretary of War.

Mr. PAGE. It is not in the interest of economy.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SEELYE. I offer the amendment which I send to the desk.

The Clerk read as follows:

The accounting officers of the Treasury are hereby authorized to settle the accounts arising out of the appointments on June 24 and July 14, 1875, by the Secretary of the Interior, of commissioners to investigate affairs at the Red Cloud agency; such accounts to be paid out of moneys appropriated for the Sioux Indians for the fiscal year ending June 30, 1876.

Mr. SEELYE. This is no new appropriation. It only allows the appropriation already made to be expended for this purpose.

Mr. HOLMAN. It is the same thing as an appropriation. But the services were performed and I see no reason why they should not be paid for.

Mr. REAGAN. But the commission was appointed in direct violation of law.

The CHAIRMAN. Debate is not in order.

The amendment was adopted.

Mr. BALLOU. I am directed by the Committee on Printing to offer the amendment which I send to the desk.

The Clerk read as follows:

Add to the bill the following paragraph:

That the Secretary of the Interior is authorized and directed to purchase of the present owners and proprietors of the Congressional Globe all the stereotype plates, consisting of eighty-four complete volumes, and all the bound volumes, not less than twenty-five thousand, and all the unbound volumes, not less than forty thousand, and the copyright of the same, together with the fire-proof building, with the land on which it stands, and the right of way thereto in the rear of the Globe office, where the stereotype plates are now stored, for the sum of $100,000, with a proportionate reduction in price for any number of the volumes either of plates or bound or unbound volumes which may fall short of this statement on delivery.

Mr. BALLOU. May I make this statement in explanation of the amendment.

The CHAIRMAN. Debate is not in order.

Mr. HOLMAN. I must make the point of order on this amendment. It has already been ruled out.

The CHAIRMAN. The Chair sustains the point of order.

Mr. ROBERTS. I offer the following amendment:

To pay Mark A. Duffy the sum of $430 as compensation in full for services as subpœna clerk to the Sergeant-at-Arms, and as general messenger to investigating committees, from December 8, 1876 to March 3, 1877, inclusive.

The amendment was adopted.

Mr. HOLMAN. I have five small amendments to offer, and I hope after they are disposed of the committee will rise and report the bill.

Mr. HOOKER. Several gentlemen have other amendments to offer. I do not think the gentleman from Indiana should desire in this way to cut out all other amendments.

Mr. HOLMAN. Very well. Let them be submitted. All I have to say is that we are going back rapidly on the economy of last session.

Mr. GOODIN. I offer the following amendment:

Add at the end of the bill the following:

To pay C. W. C. Dunnington, J. L. Knight, B. E. Hambleton, J. W. Wiggins, Allen Wood, J. M. Johns, D. L. Payne, G. P. Jordan, S. M. Freeman, N. Dawson, C. L. Freeman, C. T. Lewis, W. F. Weeks, J. L. Walters, H. T. Murray, W. H. Minnix, W. W. Lester, J. M. Buchanan $100 each for extra work and labor in the folding-room of the House during the months of September, October, November, and December, $1,800; to be available immediately upon the passage of this act.

Mr. HOLMAN. I make the point of order on that amendment on two grounds: First, there is no authority of law for this appropriation; secondly, this is a violation of law—first, in that the compensation is fixed by law; secondly, in that the law expressly prohibits the payment on an appropriation bill out of a contingent fund at least of extra compensation. The Chair will see that the regular compensation fixed by law has been paid. Under this amendment, in violation of law, an increased amount is proposed to be paid. It seems to me the point of order is very clear. If the law is wrong it ought to be changed.

Mr. GOODIN. Mr. Chairman, I am very much surprised at the position taken by the gentleman from Indiana, [Mr. HOLMAN,] and considering the merit that there is in this amendment I trust that the point of order will be withdrawn and that it will be adopted.

Mr. EDEN. Are the merits of the case debatable?

The CHAIRMAN. The gentleman from Kansas is discussing the point of order, and he will confine himself to the point of order.

Mr. GOODIN. I propose to do so, Mr. Chairman. I proceed briefly to state the purpose of the amendment.

Mr. EDEN. No. I object to that.

Mr. GOODIN. Certainly I have a right to do that. Formerly the folders of RECORDS and documents in the folding-room were paid by the day, $3.60 being the allowance. During the last session of Congress it was provided in the appropriation bill that this labor should be paid for by the piece. It was stipulated that one cent per volume should be paid for quartos, one-half a cent per volume for octavos, and one-fifth of a cent for the daily RECORD. Under the old regulation the cutting of paper wrappers and the stamping of them was performed by laborers employed for that purpose. And the eighteen gentlemen who are named in my amendment, when they were appointed to perform this work of folding, they believed that the cutting of the wrappers and the stamping of them would be performed by laborers paid as they had been formerly. But when they commenced work they found that in addition to the folding of these documents they were compelled to cut the paper wrappers and to do the stamping themselves. This was extra labor, for which they received no compensation under the appropriation bill of last session.

I desire to state that these gentlemen for some days' labor did not receive over eight cents per day, and the average compensation under the existing regulation is only about $15 per month. This amendment simply provides that these employés who have been laboring in the folding-room shall not be starved to death, but shall be permitted to receive $100 each as additional compensation for four months' extra work.

The CHAIRMAN. The Chair decides that this is a very hard case, but the amendment is subject to the point of order.

Mr. GOODIN. I understand that the gentleman from Indiana [Mr. HOLMAN] is melting a little and showing some softness of heart.

Mr. PAGE. I hope he will do so for once.

Mr. GOODIN. I will make it $75 each, if the gentleman will accept that.

Mr. HOLMAN. This proposition has not been considered by any committee, and for the present I make the point of order on it. We shall have to fix it in some satisfactory way hereafter if we can.

Mr. GOODIN. I understand that the Committee of Accounts have considered the proposition and think favorably of it.

Mr. HOLMAN. The chairman of the Committee of Accounts is here and can state if that be so or not.

Mr. GOODIN. Will the gentleman from Indiana consent that the amendment shall be adopted *pro forma* now, so that we may have a vote on it in the House?

Mr. HOLMAN. O, no.

Mr. GOODIN. I shall then endeavor in some way to reach the matter in the House.

Mr. FOSTER offered the following amendment:

For the payment of Charles F. Benjamin and Henry H. Smith for services rendered the Treasury Department in the investigation of the fraudulent claim of Sugg Fort, $250 each, $500.

Mr. HOLMAN. I must make the same point of order on that amendment. These gentlemen were both in the public employment when these services were rendered, and there is not only no law authorizing extra payment, but there is a law against it.

Mr. FOSTER. This amendment is not liable to the point of order, because these gentlemen were employed under the law providing for the detection of frauds. There was a law providing for their employment.

Mr. CONGER. There was an appropriation also to pay them.

Mr. SAYLER. It is also true that the payment of this sum is recommended by the Secretary of the Treasury. There is no law that the amendment contravenes in any sense, and it certainly is not subject to the point of order.

Mr. HOLMAN. The gentleman is mistaken. These gentlemen, one of them a clerk of the House, and the other a clerk in the Treasury Department, were sent into the Southern States to inquire into certain frauds on the Revenue Department. They rendered certain services and they ask as extra compensation, beyond their expenses, the payment of $250 a piece. The law is express and positive that extra compensation shall not be allowed in such cases. I am compelled to make this point of order on account of the unexampled magnitude of the small items which have been forced upon this bill; I believe more than were ever put upon it before.

Mr. SAYLER. I desire to ask the gentleman if I understood him to say that this same account had been ruled out at the last session.

Mr. HOLMAN. It was ruled out last year.

Mr. SAYLER. The gentleman is entirely mistaken. These two items were put into the appropriation bill in the House and passed the House, but failed to pass the Senate from the fact that the papers at the time were mislaid. Perhaps my colleague [Mr. FOSTER] can state the facts.

Mr. HOLMAN. Perhaps the gentleman is correct.

Mr. FOSTER. My colleague is correct. This appropriation passed the House last year, and but for the mislaying of the papers would have been passed in the Senate. It is a case of double salary, because Mr. Smith was a clerk of this House and the other gentleman was a clerk in the Treasury Department. But Mr. Smith was not obliged to do this service. These gentlemen were employed because of their peculiar ability for this work. They went to Tennessee and did the work, and the Secretary of the Treasury would have paid them but for the law prohibiting the payment of double salaries. He recommends this bill. It is but simple justice that it should be paid. It is not an ordinary case of paying double salary.

Mr. HOLMAN. I desire to say a word upon the point of order. The statement of the gentleman from Ohio is correct as I remember the facts. I was a member of the committee of conference on the bill in which that appropriation was placed last session.

The reason why this money was not paid was because there was an express law against the payment of these parties by the Treasury Department, and the same law forbids an appropriation for their benefit being put in an appropriation bill, inasmuch as all appropriations must be in conformity with law. Therefore I am compelled to make the point of order against this amendment.

The CHAIRMAN. The Chair sustains the point of order.

Mr. THROCKMORTON. I offer the amendment which I send to the Clerk's desk.

The clerk read as follows:

To pay J. W. Jennings, late assistant doorkeeper, for services under the Doorkeeper, his salary from September 15th up to and including the 4th day of December, 1876, to be paid out of the contingent fund of the House, $438.32.

Mr. HOLMAN. I make the same point of order on this amendment, that there is no law authorizing this appropriation.

The CHAIRMAN. The Chair must sustain the point of order and rule out the amendment.

Mr. THROCKMORTON. Will the Chair hear me a moment upon the point of order?

The CHAIRMAN. The Chair will hear the gentleman if he desires to be heard.

Mr. THROCKMORTON. I desire to say that Mr. Jennings was an officer of this House, and was improperly removed from the office. I would refer the Chair to Rule 10, on page 163 of the Digest, where it is provided that—

The appointees of the Doorkeeper and the Postmaster shall be subject to the approval of the Speaker.

The point that I make is this: Mr. Jennings was regularly an officer of this House up to the meeting of this session of Congress, and the Doorkeeper had no right to remove him in September last, and the Speaker alone had the right to remove him.

The CHAIRMAN. What office did he hold?

Mr. THROCKMORTON. He was assistant doorkeeper.

The CHAIRMAN. The Chair is disposed to reconsider his ruling, and to submit the question to the Committee of the Whole.

Mr. HOLMAN. I would inquire of the gentleman from Texas [Mr. THROCKMORTON] if this gentleman was actually performing duty during this time?

Mr. THROCKMORTON. He was improperly removed by the Doorkeeper, but remained here for the performance of his duties.

Mr. HOLMAN. Was there not another person appointed in his place?

Mr. THROCKMORTON. Not that I know of.

Mr. HOLMAN. I trust that the Committee of Accounts will explain how this is.

Mr. FORT. I would suggest to the gentleman from Texas [Mr. THROCKMORTON] that if his amendment is in order it certainly ought to be modified. As he has drawn the amendment it provides for the payment of Mr. Jennings out of the contingent fund of the House. This bill makes appropriations of money direct from the Treasury, not to go into the contingent fund of the House, and therefore the gentleman should strike out that clause of his amendment.

Mr. THROCKMORTON. There is an appropriation for the contingent fund of the House.

Mr. FORT. Not in this bill, the gentleman will observe. The amendment is in the proper form if it was offered in the shape of a resolution to be adopted by the House and referred to the Committee of Accounts; but it is not in proper form as an amendment to this bill.

Mr. THROCKMORTON. I will modify the amendment as suggested, and ask the Clerk to read it as modified.

The Clerk read the amendment as modified, as follows:

To pay J. W. Jennings, late assistant doorkeeper, for services under the Doorkeeper, his salary from September 15th up to and including the 4th of December, 1876, $438,32.

Mr. WHITE. I would like to ask a question.

Mr. HOLMAN. I understand that another person was employed all this time.

Mr. WHITE. I want to ask whether Mr. Jennings has rendered any services during the time for which it is proposed to pay him?

Mr. THROCKMORTON. I have already stated to the chairman of the Committee on Appropriations that he was here all the time.

Mr. WHITE. I have seen him here on the floor of the House.

The CHAIRMAN. Debate is not in order.

Mr. HOLMAN. I understand that another person was employed during this time as assistant doorkeeper.

Mr. THROCKMORTON. How do you understand it?

Mr. HOLMAN. From one of the members of the Committee of Accounts.

Mr. THROCKMORTON. I would like to make a statement in regard to this amendment.

The CHAIRMAN. Debate is not in order.

Mr. HANCOCK. Let the amendment be again reported; I do not think it is understood by members.

The amendment, as modified, was again read.

The question was taken upon agreeing to the amendment, and upon a division there were—ayes 41, noes 22.

Mr. HOLMAN. I think there should be a full vote on this question.

Mr. WHITE. I call for a further count.

Many MEMBERS. O, let it go.

Mr. HOLMAN. Very well; I will let it go, and call for a separate vote on it in the House.

Mr. WHITE. I ask for tellers; no quorum voted.

Many MEMBERS. It is too late.

Mr. WHITE. I called for tellers as soon as the Chairman announced the result of the vote.

Mr. CASON. I desire to offer the amendment which I send to the Clerk's desk.

Mr. HOLMAN. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. HOLMAN. My point is that the gentleman from Kentucky [Mr. WHITE] states that he called for a further count as soon as the announcement of the result of the vote was made by the Chair.

The CHAIRMAN. The Chair understood that a separate vote was to be had on the amendment in the House.

Mr. HOLMAN. I made that announcement; but the gentleman from Kentucky [Mr. WHITE] says he called for a further count.

The CHAIRMAN. No quorum having voted, tellers will be ordered; and the Chair appoints the gentleman from Texas, Mr. THROCKMORTON, and the gentleman from Kentucky, Mr. WHITE, to act as tellers.

The committee again divided; and the tellers reported that there were—ayes 95, noes 17.

Mr. HOLMAN. Let it go; we will have a vote in the House on it.

Mr. WHITE, (one of the tellers.) Very well; I am willing.

The CHAIRMAN. Any gentleman has a right to call for a separate vote in the House.

Mr. THROCKMORTON, (one of the tellers.) I think there is a quorum present.

The CHAIRMAN. The tellers will retain their places and continue the count.

After a further count, the tellers announced that there were—ayes 119, noes 27.

So the amendment was agreed to.

Mr. HOLMAN. I give notice that I shall call for a separate vote on this amendment in the House. I now move that the committee rise and report the bill to the House.

Mr. CASON. I have an amendment which I desire to offer.

The CHAIRMAN. The question is on the motion of the gentleman from Indiana that the committee rise and report the bill to the House.

Mr. CASON. I rise to a question of order, whether the committee can rise and report the bill to the House while amendments are pending.

The CHAIRMAN. The gentleman from Indiana has the right to make the motion. There is no amendment pending.

The motion of Mr. HOLMAN was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BUCKNER reported that the Committee of the Whole on the state of the Union, having had under consideration the sundry civil appropriation bill, had directed him to report back the same with sundry amendments, in which the committee recommended concurrence by the House.

VACANCY IN THE OFFICE OF PRESIDENT OF THE UNITED STATES.

Mr. FIELD. I am directed by the select committee on the powers, privileges, and duties of the House of Representatives in the counting of electoral votes to report a bill on which I demand the previous question.

Mr. BURCHARD, of Illinois. I rise to a question of order.

The SPEAKER. The Chair will listen to the point of order after the bill has been read.

Mr. BURCHARD, of Illinois. I understand that the bill is read for information.

The SPEAKER. The point of order will be reserved.

The Clerk read as follows:

A bill to amend section 146 of the Revised Statutes.

Be it enacted, &c., That section 146 of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

SEC. 146. In case of removal, death, resignation, or inability of both the President and Vice-President of the United States, or in case of a vacancy in these offices arising from the failure of the two Houses of Congress to ascertain and declare an election before the commencement of the term of office in respect to which the electoral votes were cast, or in case of a vacancy arising from any other cause, the President of the Senate, or if there be none, then the Speaker of the House of Representatives for the time being, and if there be no such Speaker, then the Secretary of State in office when the vacancy happens, shall act as President until the disability is removed or a President elected.

Mr. FIELD. I call for the previous question.

The SPEAKER. The gentleman from Illinois [Mr. BURCHARD] rises to a question of order.

Mr. BURCHARD, of Illinois. I rise to object to the reporting of this bill, and submit as a point of order that the committee from which the gentleman from New York undertakes to report the bill has no authority under any rule or resolution of the House to report by bill; and further, that the subject-matter of the bill has never been referred to the committee. In support of this point I desire to call the attention of the Chair to the orders constituting the committee.

In the first place this is not one of the standing committees of the House. Under Rule 71, only the standing committees of the House are authorized to report by bill. Originally no bill could be brought in except upon leave or by special order of the House. But Rule 115 now provides—

That every bill shall be introduced on the report of a committee or by motion for leave.

Under this rule on page 191 of the Manual the Chair will find the following:

In the early stages of the Government, before the institution of standing committees, it was the common practice to introduce bills, on motion for leave, by individual members; the bills were then referred to a select committee, to examine, and report upon. * * * Previous to the 13th March, 1822, so strict was the House upon the introduction of bills, that standing committees had to obtain leave, in every case, to report by bill.

In consequence of this, Rule 71 was adopted, which provides that "the several standing committees of the House shall have leave to report by bill or otherwise." Rule 74 establishes the standing committees which shall be appointed at the commencement of each Congress. According to the invariable practice, when it is desired that a select committee shall be authorized to report by bill, the order constituting the committee gives special authority "to report by bill or otherwise." Neither in the resolution raising this committee nor in any resolution giving them additional powers is any such authority conferred on this committee.

The Select Committee on the Louisiana Election, appointed on the first day of the session, was empowered expressly to report by bill or otherwise. The committee that was authorized to report a method of counting the electoral votes, and which reported the electoral commission bill, had authority to "report a measure legislative or consti-

tutional." But the resolution creating the committee from which the gentleman from New York undertakes to make this report authorized the committee—

To ascertain and report what are the privileges, powers, and duties of the House of Representatives in counting the votes for President and Vice-President of the United States; and that said committee have leave to report at any time.

But nowhere in that resolution or any other is this committee authorized to report by bill; and under the rules as a select committee it has no such power. On the 8th of January additional instructions were given to this committee by resolutions of the gentleman from Iowa and the gentleman from New York. Those additional instructions required the committee to ascertain the facts relating to the ineligibility of electors, and "whether any votes were given at the recent election contrary to the prohibition contained in the first section of the second article of the Constitution"—whether any such votes had been given and what ought to be done with them. The committee was authorized on the 17th of January to send for persons and papers and sit during the sessions of the House. But there is not in any resolution conferring power on this committee any authority to report by bill.

I understand that the majority of the committee have considered this proposition, although I have not seen it and do not know that the minority members of the committee have seen it. But I do not propose to raise that question, because I presume the gentleman from New York would not attempt in contravention of the rules to report a bill that had not been considered. But I do raise the point of order that there is no power vested in this select committee to report by bill; that the bill must be brought before the House by its introduction on a motion for leave and then referred to the committee, in which case the committee would have power to examine it and report it.

The other point I make is that the subject-matter of the bill has never been referred to the committee. It is nowhere in any resolution authorizing the committee to consider this question in relation to a new election——

Mr. WALLING. I rise to a question of order that the gentleman from Illinois [Mr. BURCHARD] has no right to discuss the merits of the proposition on a point of order, and this he has been doing.

The SPEAKER. The Chair thinks there will be no dispute about one point, and that is this: that this committee possesses the power to report at any time.

In the next place the Chair is unable to conceive of a higher constitutional and parliamentary privilege than the introduction of a bill of this character. He will even go so far as to say that a member might rise in his place and introduce a bill of this character, involving, as it does, the highest constitutional privilege he can conceive of, and ask for its consideration. This House has the right to determine when the contingency arises in reference to the election of President and Vice-President of the United States requiring further legislation in reference thereto. [Cries of "Vote!" "Vote!"]

Mr. WILSON, of Iowa. When that bill comes in the Chair, of course, must rule it is to be controlled by the rules of the House. Now, we have a rule which says a bill shall not be read twice in the same day. [Cries of "Question!"] Gentlemen must wait; we do things orderly here.

The SPEAKER. The Chair recognized the gentleman from New York [Mr. FIELD] to make the motion to demand the previous question, but he desires to hear the gentleman from Iowa.

Mr. WILSON, of Iowa. The bill has been read for information. That is its first reading. Now Rule 116 provides that every bill shall receive three several readings in the House previous to its passage and bills shall be dispatched in order as they are introduced unless where the House shall direct otherwise; but no bills shall be twice read on the same day without special order of the House. Then our rules say in reference to special orders that they shall not be made except by consent of two-thirds of the House. I raise the point of order because I want to have time to consider this bill.

Mr. BURCHARD, of Illinois. Before that point is raised——

The SPEAKER. That point is not in order at the present time.

Mr. BURCHARD, of Illinois. The bill has not been ordered to its first reading, objection having been made.

The SPEAKER. The gentleman from New York has demanded the previous question.

Mr. BURCHARD, of Illinois. On what?

The SPEAKER. On the second reading of the bill.

Mr. BURCHARD, of Illinois. But the bill has not been read the first time.

The SPEAKER. The bill has been read a first time.

Mr. BURCHARD, of Illinois. For information the Chair reserved the point of order until the House could hear what the bill was. I now object to the reception of the bill, and therefore the question would recur, Shall the bill be rejected?

Mr. KASSON. I ask the gentleman from New York whether he is disposed to allow a brief debate on the bill either before or after?

Mr. FIELD. What time does the gentleman want?

Mr. KASSON. I cannot speak for others. A short time is all I want, to call attention to one of its clauses.

Several MEMBERS. Debate is out of order.

The SPEAKER. The right to report gives the right to consider.

Mr. BURCHARD, of Illinois. The bill has to be read by successive stages.

The SPEAKER. The bill has been read, and if the point of order had been sustained by the Chair, then the reading would of course have been for information only.

Mr. WILSON, of Iowa. What does the Chair say is now the condition of the bill?

The SPEAKER. The gentleman from New York demands the previous question.

Mr. WILSON, of Iowa. On what.

The SPEAKER. On the further consideration of the bill.

Mr. BURCHARD, of Illinois. In what stage?

The SPEAKER. The Chair is unable to answer, unless he knows what disposition is proposed by the gentleman from New York, who has not yet been heard because points of order have been raised.

Mr. WILSON, of Iowa. There are only three things on which he can call it, first, second, or third reading of the bill. If it is on the second reading of the bill, then I raise the question of order.

The SPEAKER. Barclay's Digest, in a foot-note to Rule 116, already quoted, states as follows:

In the rapid and hurried manner in which bills are now reported and acted upon, the motion is seldom or never made, nor is the question put, "Shall the bill be *now* read a second time?" The Speaker takes it for granted that the motion has been made and allowed, and announces the second reading as soon as the first reading is completed.

Mr. FIELD. In response to gentlemen on the other side, I say that I am willing to allow half an hour of debate on the bill, to be divided equally between the two sides of the House.

Mr. BURCHARD, of Illinois. To whom do you yield?

Mr. FIELD. To any one on that side you want.

Mr. BURCHARD, of Illinois. On what?

Mr. FIELD. On the second reading of the bill.

Mr. WILSON, of Iowa. Does the gentleman rule on my point?

The SPEAKER. Not until it arises.

Mr. WILSON, of Iowa. I have raised it, that the bill cannot be read twice in one day.

The SPEAKER. The Chair recognizes the gentleman from New York to demand the previous question on the second reading of the bill.

The previous question was seconded.

Mr. FIELD. The gentleman from Iowa asks for fifteen minutes.

The SPEAKER. The bill (H. R. No. 4693) will be read a first and second time, after which the gentleman from Illinois will be recognized.

Mr. WILSON, of Iowa. I raise the point of order on the second reading.

The Clerk commenced to read the bill (H. R. No. 4693) a second time.

Mr. BURCHARD, of Illinois, (interrupting.) The Chair will not rule that the bill has been ordered to a second reading. I call the attention of the Chair to Rule 116.

The SPEAKER. Rule 116 is as follows:

116. Every bill shall receive three several reading in the House previous to its passage; and bills shall be dispatched in order as they were introduced, unless where the House shall direct otherwise; but no bill shall be twice read on the same day, without special order of the House.

Rule 117 reads as follows:

111. The first reading of a bill shall be for information, and, if opposition be made to it, the question shall be, "Shall this bill be rejected?" If no opposition be made, or if the question to reject be negatived, the bill shall go to its second reading without a question.

The Chair will, therefore, under Rule 117 submit the question to the House, "Shall this bill be rejected?"

Mr. FIELD. On that I move the previous question.

Mr. BANKS. That is not the precise question that is now before the House. The question before the House which has not been decided is whether the committee has the right to report this bill. Objection being made, the bill was not received, but was read for information only, and not under the authority given in the rule.

The SPEAKER. The Chair overrules that point of order.

Mr. BANKS. The bill has not yet been read a first time or a second time.

The SPEAKER. If the gentleman from Massachusetts desires the bill to be read another time, it will be read.

Mr. BANKS. It must be read the first time, if it is to be acted upon by the House, and read *in extenso*.

Mr. WILSON, of Iowa. The Chair has held that the bill has been read the first time.

The SPEAKER. If the gentleman from Massachusetts thinks the bill has not been read a first time, the Chair is quite willing that it shall now have another reading, to be considered its first reading.

The Clerk again read the bill *in extenso*.

The SPEAKER. The gentleman from New York [Mr. FIELD] demands the previous question.

The previous question was seconded.

Mr. KASSON. Does the gentleman from New York desire that the debate shall proceed now or later?

Mr. FIELD. Later.

The main question was ordered.

The SPEAKER. The main question having been ordered and opposition having been made to the bill, the question is, "Shall this bill be rejected?"

Mr. WILSON, of Iowa. That refers to the first reading of the bill. That has been done.

The SPEAKER. If the gentleman will look at Rule 117 he will observe that the Chair has submitted the question in the proper form.

The question being taken, it was decided in the negative.

So the bill was not rejected.

The SPEAKER. The bill will now be read a second time.

Mr. BURCHARD, of Illinois. I object to the bill being now read the second time. Rule 116 provides that no bill shall be read twice on the same day without special order of the House. Bills must be read in the order in which they are introduced, and unless by special order, which, as stated at page 220 of the Digest, can only be made by a two-thirds vote, a bill cannot be read twice on the same day.

The SPEAKER. The Chair has not only complied with the exact terms of the rule, but he has conformed to the uniform practice of this House.

Mr. SPRINGER. If the gentleman will look at Rule 117, he will see that, if the question to reject be negatived, the bill shall go to its second reading without a question.

Mr. BURCHARD, of Illinois. There is no question as to the right to have the bill read a second time. But the point is that it cannot be done now without a suspension of the rules.

Cries of "Read!" "Read!"

The SPEAKER. The bill will now be read the second time.

The bill was read the second time *in extenso*.

Mr. FIELD. I move the previous question on the engrossment and third reading of the bill.

Mr. KASSON. Will the gentleman from New York now allow debate at this stage, he holding the floor?

The SPEAKER. The Chair thinks that that would be the proper course.

Mr. FIELD. I propose to take that course. I shall occupy ten minutes in explaining the provisions of the bill? I shall then allow fifteen minutes to the other side, reserving five minutes for reply.

The SPEAKER. The gentleman from New York [Mr. FIELD] is entitled to the floor.

Mr. FIELD. The proposition in this bill is to amend section 146 of the Revised Statutes. In order to determine whether this is expedient we must first see what is the existing law and then how this proposes to alter it. The present section of the Revised Statutes provides only for the removal, death, resignation, or inability of incumbents of the offices. There may be occasions when there are no incumbents, and this amendment is for the purpose of supplying that defect. It ought to have been made long ago; and if it had been in the law at the beginning of this session, a good deal of the uncertainty, the disquiet, and the alarm of the community would have been avoided; for the difficulty, Mr. Speaker, has been from the beginning that the people of this country thought that, if the two Houses disagreed in the count, anarchy would follow; whereas, if you had provided by law, as I ask you now to provide, the office of President, with its great powers, would have passed easily and harmlessly into the hands of an administrator for the time being. It is not merely this present exigency for which this bill is offered, but I beg gentlemen to remember that it is put to them not as a partisan measure but as a measure of policy, commended to them if they desire, as I know they do, the best good of their country. Suppose an invasion or a civil war, which prevented a count of the electoral vote at the time required by law, what then would happen? As the law now stands there is no officer to exercise the presidential office *ad interim*. If, after the declaration of an election of President and Vice-President, both should die—it should happen—a remote contingency I admit—but if, after the declaration this afternoon or to-morrow of the President and Vice-President elect, they should both be traveling in the same railway train and lose their lives, as the law now stands there is no provision for the vacancy. Are you willing to leave the law in this condition? Then, if it be expedient, is there power in the law-making department of the Government to supply this defect? I insist that there is, for the reason that wherever the Constitution itself does not carry into effect its general provisions it is the duty of the legislative power to carry them out by legislation, and to that end was provided that clause of the Constitution which gives power expressly to Congress to—

> Make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

The power is granted by the Constitution to the Government of the United States to elect a President. It matters not where that power is lodged. It is lodged somewhere. It is in fact partitioned among different departments, a part in the electors and a part in the two Houses when they count the votes. But the power exists somewhere, and I submit that it is not only our right, but our duty as guardians of the public tranquillity and the rights of all citizens and all authorities, to provide for this emergency. In that spirit I offer this bill. I repeat that it is not offered as a partisan measure. I am sure that there is no desire to do anything but faithfully abide by the law of the land as it now stands upon the statute-book, and by the law that we made a few days ago; but that does not prevent us from taking advantage of this occasion which suggests the need of an amendment, and for that reason I propose this amendment of the statute.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed, without amendments, bills and joint resolutions of the House of the following titles:

A bill (H. R. No. 4657) to provide a building for the use of the United States district and circuit courts, post-office, and internal-revenue offices at Austin, Texas;

A bill (H. R. No. 4149) to remove the political disabilities of Lloyd J. Beall, of Virginia;

A bill (H. R. No. 4301) for the relief of A. W. Plymate, of West Virginia;

A bill (H. R. No. 2833) for the relief of Susan P. Vance; and

A joint resolution (H. R. No. 196) authorizing the President to designate and set apart a site for the colossal statue of "Liberty enlightening the world," and to provide for the permanent maintenance and preservation thereof.

The message further announced that the Senate had passed bills and joint resolutions of the following titles; in which he was directed to ask the concurrence of the House:

A bill (S. No. 1063) for the relief of certain settlers on the public lands;

A bill (S. No. 1285) to remove the political disabilities of J. L. M. Curry, of Virginia;

A bill (S. No. 1197) for the relief of Eli Teegarden; and

A joint resolution (S. R. No. 32) providing for the renunciation of the naturalization of Fredrick Hinkel.

VACANCY IN THE OFFICE OF THE PRESIDENT OF THE UNITED STATES.

Mr. KASSON. Mr. Speaker, I listened to the gentleman from New York [Mr. FIELD] with the hope that his attention would be directed voluntarily to the clause in the bill which constitutes the chief if not the only difficulty which I apprehend may exist among members of the House in reference to its adoption. The considerations presented by that gentleman touching the necessity of an amendment of the present law, if we have the power to make it, to meet such a contingency as that contemplated, have not only been well presented by him, but will be accepted without dissent. But in the examination of the bill itself there arise two considerations. The first is constitutional, whether under the Constitution Congress has the power to provide for a vacancy in consequence of non-election, or rather, as the bill phrases it, a non-declaration of the election of the President of the United States. On that point the gentleman made an allusion to the Constitution and gathered the right from what he considered a floating necessity of the Constitution rather than by adverting to any specific provision of that instrument. The Constitution only allows Congress to provide by law for four cases, namely, removal, death, resignation, or inability of both the President and Vice-President to act. If, therefore, the case provided for is not death, is not resignation, is not removal, and is not inability to act, I submit to the consideration of the gentlemen of the House that it is, to say the least, extremely doubtful if we have the power to pass such a law as that now proposed. I apprehend that this silence of the Constitution is the precise reason why the law of 1792 made no provision for the case which the gentleman from New York [Mr. FIELD] now seeks to provide for. The framers of the Constitution themselves discovered no clause in that instrument under which a provision could be made for the case of a non-election, a contingency which they did not seem to hold in contemplation, either at the time of the adoption of the Constitution or at the time of the passage of the act of 1792.

This is the first and a very important question on which I should be extremely glad to hear the opinion of the constitutional lawyers of the House more thoroughly than can be heard in this short debate. Can you under the Constitution, where it expressly names four cases in which you may provide by law for a vacancy in the office of President, add a fifth case and make provision for it without a violation, or at least without going outside the terms, of the Constitution? That is the question, as I understand it, and all gentlemen will feel the importance of it not only under their oaths to support the Constitution, but as touching the validity of the law.

If the question were raised upon an executive act performed by a President created under such a law as this, and the point was made in court that he was not President by virtue of a constitutional law, gentlemen can see at once that it might disturb the whole operations of the Government.

The second point to which I desire to call attention—I have sent for the bill, but I am sorry to learn that it is not at the Clerk's desk. I desire to give the exact words of the bill. I am informed that the bill has been sent to the room of the engrossing clerk, and he declines to let it be brought back.

The SPEAKER. The Chair has sent for the bill. This delay will not be taken out of the gentleman's time.

Mr. KASSON. I wanted the bill in order that I might give the exact words.

The SPEAKER. That is the gentleman's right.

Mr. KASSON. In the mean time I will say that I refer to that phrase of the bill which is brought into the context in a way which perhaps will lead gentlemen to overlook it. It is that portion of the bill which provides, not that *the failure to elect* by the people shall give these officers the succession to the Presidency, but that a failure of the two Houses of Congress *to declare the election*, shall have that effect. The statement of the distinction will indicate to gentlemen its importance. A proper construction of that clause of that bill, if it shall become law, would enable either House of Congress, by refusing to unite in the declaration of the result of an election of Pres-

ident, to defeat the popular will and to provide for the members of a former administration holding over, in spite of the clearest declaration by electoral colleges.

It will be borne in mind that this bill is not intended to meet merely the present emergency, but it is to provide for all future emergencies. Thus, if the Senate now or hereafter should refuse to concur in the declaration as to who had been elected President, or if the House should choose not to unite in the declaration as to who had been elected President, then by this bill we would be remitted to the President of the Senate, or to a member of the old administration, which the people of the country may have overthrown by their election, and thus continue in power an old administration in defiance of the will of the people and of the several States of the Union.

When we are making provisions by a bill for all the future I submit that, whatever gentlemen may think of our constitutional authority to pass such a measure, they should hesitate long before adopting a provision that practically puts it in the power not merely of the two Houses of Congress acting together, but in the power of one House of Congress alone, to defeat a popular election and to continue in power an old and perhaps rejected administration.

The clause to which I refer is this, (I now have the bill before me:) After providing for the four cases which by the Constitution we have the express right to provide for, the bill then says:

Or in case of a vacancy in this office, arising from a failure of the two Houses of Congress to ascertain and declare an election before the commencement of the term of office in respect to which the electoral votes were cast.

Thus we come right back to the disputed question that both Houses of Congress by a simple failure to pass on or declare an election—more than that, by the refusal of a single House of Congress to concur in the simple declaration of the result of an election—you may defeat any presidential election that may be held in the United States in the future and rob the States of their constitutional right. I wish gentlemen would carefully observe the clause to which I have referred. Gentlemen who are familiar with the Constitution and the law should take the trouble to examine the two points I have indicated. I regard these provisions as without the Constitution; and second, I regard the clause quoted as very dangerous to the rights of the people of this country and of the States in choosing a President.

I now yield to the gentleman from Illinois, [Mr. BURCHARD,] a member of the committee, the remainder of the time.

Mr. BURCHARD, of Illinois. I will yield for three minutes to the gentleman from Ohio, [Mr. LAWRENCE,] my colleague on the committee.

Mr. LAWRENCE. It is extremely important that whatever bill may be passed upon this subject shall embody provisions that will meet all the necessities of the case. It seems to me that the whole subject of the presidential succession requires the careful revision of Congress at an early day. That revision ought to be had at a time and under circumstances when it can be done in a way that will secure beyond all doubt the object desired. I do not believe there is any immediate necessity for the passage of this bill, and therefore I submit to the House that it will be better to postpone the consideration of it until more time and attention can be given to the subject.

There is, however, one very serious objection, it seems to me, to this bill; an objection which I regard as insurmountable, an objection which ought to defeat it, and which I think would be found in practice exceedingly vicious. Let me invite the attention of the House to that particular feature of the bill.

It is proposed by this bill that if there shall be a failure to conclude the count of the electoral vote by the 4th of March, the President of the Senate shall become President of the United States. What may be the effect of such a provision? It will be the interest of the President of the Senate to delay the count, to postpone it, in order that he himself may become President of the United States. It will be practically an invitation to him to delay the count in order that he may occupy the highest office within the gift of the people. Sir, it must be perfectly manifest that this bill would invite the exercise of a dangerous power in the hands of the President of the Senate; a power which he could wield for evil and evil only. I think we ought not to pass a bill fraught with so much danger, so much evil as this bill embodies in the one particular I have stated.

I am not troubled with any particular doubt or difficulty as to the constitutional power of Congress to pass a bill upon this subject. It is not to be supposed that the framers of the Constitution created an instrument under which there shall be no possibility of making provisions for filling the Presidential office at all times and under all circumstances. To suppose that they had done this would be to call in question their wisdom, and to say that the Constitution is inadequate to accomplish its great purposes. It is not to be supposed that the framers of the Constitution gave us an instrument under which it is possible that there may be an interregnum for which no provision can be made by law. I do not rest my opposition to this bill therefore upon any ground of want of constitutional power, but solely upon the very objectionable feature of the bill to which I have referred. There may be other objections, but I have not seen the bill in print and had no time to ascertain if there be other reasons for opposing it. But the one objection I have named may lead to difficulties and dangers from which the country may not be extricated; difficulties and dangers which may defeat the real purpose of the Constitution.

[Here the hammer fell.]

Mr. BURCHARD, of Illinois. I now yield three minutes to the gentleman from Ohio, [Mr. NEAL.]

Mr. NEAL. Mr. Speaker, when asked by one of my colleagues the other day whether I would be willing to vote for a bill providing for a new presidential election, I answered without any hesitation whatever that I would. I am still willing to vote for such a bill to meet the contingency which in my judgment is about to arise. But, at the same time I cannot give my support to this measure. It only shows in my judgment the point to which my democratic associates on this floor have been driven in their madness under the leadership of the distinguished republican from the State of New York [Mr. FIELD] who has lately come into this House.

My first objection to this bill is that it does not meet the case at hand. A bill providing for this contingency ought in my judgment to declare that this new election shall be held, if held at all, not more than sixty days from the 4th of March next, and that in the meanwhile the duties of the executive office of this Government shall be discharged by the Secretary of State. I would not vote for this or any other bill for the sole purpose of keeping out of the presidential office the present governor of the State of Ohio, and to install into that office some other republican in the Senate of the United States. And I warn my colleagues upon this floor—these gentlemen who have been declaiming so loudly against the frauds of the majority of the electoral commission, and who have claimed that they were entrapped into the support of that bill—I warn them here and now that they will be deceived in giving their support to this measure and that the result of it (notwithstanding any tacit or implied understanding they may have with republican Senators to the contrary) will be to put into the presidential office OLIVER P. MORTON, of the State of Indiana; and I for one would rather see Rutherford B. Hayes in that office for four years than OLIVER P. MORTON there for four months or for four days; and yet if he should be put in under the provisions of this bill, he will hold the office for one year, until the 4th day of March, 1878.

And it will be the most sorrowful year in the history of the Republic.

[Here the hammer fell.]

Several members rose.

Mr. BURCHARD, of Illinois. I now yield——

The SPEAKER. The gentleman from Illinois has no time to yield.

Mr. FIELD resumed the floor.

Mr. HANCOCK. I ask the gentleman from New York [Mr. FIELD] to allow me three minutes, because on this occasion I find myself obliged to vote in opposition to those with whom I usually act.

Mr. SEELYE. I would like to occupy three minutes.

Mr. FIELD. Very well; I yield three minutes to the gentleman from Massachusetts, [Mr. SEELYE.]

Mr. SEELYE. Mr. Speaker, much greater evils come from hasty legislation than from no legislation, and I esteem it very hazardous to legislate on so important a theme as this in so hasty a way. But I take it that the House would unanimously assent to the proposition which the gentleman from New York has argued, if the clause upon which the gentleman from Iowa [Mr. KASSON] has objected and upon which the gentleman from New York [Mr. FIELD] I observed was very careful not to say a word, could be omitted.

My objections to that clause are two. In the first place it offers a premium to Congress for not doing its duty. In the second place it presents to the Senate the possibility of securing as President of the United States its own President, contrary to the will of the people. These two objections, it seems to me, are fatal to the measure proposed. If the gentleman would consent to an amendment obviating these objections, I think the bill would receive the unanimous assent of the House.

Mr. BANKS. Will the gentleman from New York [Mr. FIELD] yield to me for three minutes?

Mr. FIELD. Very well; I consent.

Mr. BANKS. Mr. Speaker, this bill comes before us in a most extraordinary manner. It was never referred to the committee by the House. Members of the House, except the gentlemen of the committee, have never seen it. As soon as it was read, I sent to the Clerk for a copy and was told that it was not in the possession of the House. The reason assigned by the honorable gentleman from New York [Mr. FIELD] as to the necessity for legislation of this kind, and what he assumes to be a fact that in case of invasion by a foreign enemy there can be no counting of the electoral vote, is without foundation in fact. Sir, there is no condition of things in which the presidential vote cannot be counted. Whenever there is a possibility of the two Houses being in existence, whenever there is a Government, either during invasion as well as during peace, the President of the Senate, in presence of such members of the Senate and House as choose to meet him for that purpose, has the constitutional power to count the electoral vote. The founders of the Government provided for that. It is impossible that it shall fail. Therefore there is no necessity for the bill on that ground.

A fundamental objection to this bill is that it recognizes, as if it were a constitutional proceeding, the refusal or failure of either House of Congress to count the electoral vote or declare the election of President by the people and to supply a President of its own choice in such a case in place of the President that is elected by the people. And this is done in direct opposition to the declaration of the framers of the Constitution which has been repeated for nearly a hundred years, that neither Congress itself nor members of Con-

gress, nor members of the Government should have anything whatever to do with the election of a President of the United States except when the people failed to elect, and then a choice should be made from the five highest candidates by the House of Representatives. This bill recognizes the failure of the two Houses to declare an election, an act which they have no power to perform as a natural and constitutional procedure; and in the case of failure a man never voted for by the people, never thought of by them in connection with the office of President, is to be installed in the office of Presidency.

Again the bill is objectionable because it treats as a constitutional procedure the neglect or failure to count the vote cast in the last presidential election, and authorizes either the Senate or the House to defeat a successful candidate by their neglect or failure to declare an election and to put in that high office a man not chosen by the people, in place of Mr. Hayes, whom I and others believe to have been elected, or in place of Mr. Tilden, whom other gentlemen believe to have been elected.

Mr. CLYMER. Is that worse than to put in a man not elected at all?

Mr. BANKS. The bill makes of this irregular proceeding a constitutional procedure on the part of either House which may choose to avoid the duty imposed upon it and to that extent Mexicanizes the Government. For these reasons the bill ought not to pass.

Mr. FIELD. There is not time in five minutes to reply to all these arguments, and I will select therefore some which are most prominent.

To my friend from Massachusetts, [Mr. BANKS,] the friend of many years, let me say that he entirely mistakes the object and effect of this bill. He tells me that it is the duty of the two Houses to count the votes. So it is their duty; but what did we see on the first Monday in December? We saw the gentlemen at this end of the Capitol declaring that no vote should be counted unless both Houses concurred and at the other end the reverse; and if it had not been for the electoral law passed for the purpose, no announcement could have been made of the vote of the two Houses. That was a contingency then upon us, not provided for by law, an omission for which my friend is in part responsible, as he has held an honored seat in this House for many years, and has never offered any bill for that purpose or in any way provided or attempted to provide for it.

Mr. BANKS. There was no necessity for it.

Mr. FIELD. Now we have an emergency, let us act like statesmen and provide for it.

My friend from Ohio thinks that the bill is constitutional, my friend from Iowa thinks it is not. I have submitted the grounds upon which I think it is constitutional. They are these: Congress has the power to make all laws necessary or proper for carrying into effect any power vested by the Constitution in the Government of the United States. Of all the powers granted, except the legislative, that of making a President is the highest. That power can be entirely defeated as the law now stands by a number of contingencies easily imagined. To provide for them I ask that we pass this bill, and I appeal to my friends on the other side of the House to come forward, not in the spirit of partisans, but in the spirit of statesmen, and help us pass it.

Gentlemen tell us that it applies to the present election. It does apply to this and to all elections, as it should apply. That is the reason why I ask its passage. I now call for a vote.

The SPEAKER. The question recurs on ordering the bill to be engrossed and read a third time.

The House divided; and there were—ayes 124, noes 95.

The motion was agreed to.

Mr. FIELD moved to reconsider the vote by which the bill was ordered to be engrossed and read a third time; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. KASSON. Allow me to make the point of order, so we may have further time to consider this, that it is not in order to read this bill a third time to-day. I make that point of order.

The SPEAKER. The gentleman from New York is on the floor to demand the previous question on the passage of the bill.

Mr. FIELD. Yes, sir; I demand the previous question on the passage of the bill.

The SPEAKER. The Chair overrules the point of order.

Mr. WILSON, of Iowa. Does the Speaker hold that one previous question operates to the passage of the bill?

The SPEAKER. The gentleman from New York has demanded the previous question on the final passage of the bill.

Mr. WILSON, of Iowa. But the main question has not been ordered.

The SPEAKER. The Chair was putting the motion to the House.

The previous question was seconded and the main question ordered.

Mr. BURCHARD, of Illinois. I call attention to the fact that the engrossed bill has not yet been read a third time.

The SPEAKER. The bill was ordered to be engrossed and read a third time, and that order of the House was being executed when the gentleman from Iowa raised the point of order.

Mr. OLIVER. I desire to be heard on the point that it is not in order to take the question on the passage of the bill until the bill has been read a third time.

The SPEAKER. The bill will be read a third time.

The engrossed bill was then read.

Mr. OLIVER. I make the point that it is not in order to demand the previous question until the bill has been read a third time.

The SPEAKER. In order to accommodate the gentleman, the Chair will again put the question on seconding the demand for the previous question on the passage of the bill.

Mr. KASSON. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 140, nays 109, not voting 41; as follows:

YEAS—Messrs. Ainsworth, Ashe, Atkins, Bagby, John H. Bagley, jr., Banning, Beebe, Blackburn, Bland, Bliss, Boone, Bradford, Bright, John Young Brown, Cabell, John H. Caldwell, William P. Caldwell, Campbell, Candler, Carr, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Cutler, Davis, De Bolt, Dibrell, Douglas, Egbert, Ellis, Faulkner, Field, Finley, Forney, Franklin, Fuller, Glover, Goode, Gunter, Andrew H. Hamilton, Robert Hamilton, Hardenbergh, Henry R. Harris, John T. Harris, Harrison, Hartzell, Hatcher, Henkle, Abram S. Hewitt, Holman, Hooker, Hopkins, House, Humphreys, Jenks, Thomas L. Jones, Kehr, Lamar, Franklin Landers, George M. Landers, Lane, Levy, Lord, Luttrell, Mackey, Maish, McMahon, Meade, Mills, Money, Morgan, Morrison, Mutchler, New, O'Brien, Odell, Phelps, John F. Philips, Piper, Poppleton, Powell, Purman, Reagan, John Reilly, Rice, Riddle, John Robbins, William M. Robbins, Roberts, Miles Ross, Sayler, Scales, Schleicher, Schumaker, Sheakley, Singleton, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Swann, Teese, Terry, Thompson, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Charles C. B. Walker, Gilbert C. Walker, Walling, Walsh, Ward, Warner, Watterson, Erastus Wells, Whitthorne, Wigginton, Wike, Alpheus S. Williams, Jere N. Williams, Willis, Wilshire, Benjamin Wilson, Fernando Wood, and Yeates—140.

NAYS—Messrs. Adams, William H. Baker, Ballou, Banks, Blair, Bradley, William R. Brown, Buckner, Horatio C. Burchard, Burleigh, Buttz, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Eames, Evans, Five, Fort, Foster, Freeman, Frye, Goodin, Hale, Hancock, Haralson, Benjamin W. Harris, Hathorn, Hays, Hendee, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kelley, Kimball, Knott, Lapham, Lawrence, Leavenworth, Lynch, MacDougall, McCrary, McDill, Miller, Monroe, Neal, Norton, Oliver, O'Neill, Packer, Page, William A. Phillips, Pierce, Plaisted, Platt, Potter, Pratt, Rainey, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Seelye, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Tarbox, Thomas, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Alexander S. Wallace, John W. Wallace, Warren, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Charles G. Williams, James Williams, William B. Williams, James Wilson, Alan Wood, jr., Woodburn, and Woodworth—109.

NOT VOTING—Messrs. Abbott, Anderson, George A. Bagley, John H. Baker, Bass, Belford, Bell, Blount, Samuel D. Burchard, Chapin, Durand, Durham, Eden, Felton, Garfield, Gause, Gibson, Hartridge, Haymond, Henderson, Goldsmith W. Hewitt, Hill, Hoar, Hunton, Hurd, Frank Jones, King, Le Moyne, Lewis, Lynde, Magoon, McFarland, Metcalfe, Milliken, Nash, Payne, Rea, James B. Reilly, Stephens, Wheeler, and Young—41.

So the bill was passed.

During the roll-call the following announcements were made:

Mr. MONEY. Mr. YOUNG, of Tennessee, is absent on account of sickness.

Mr. ELLIS. My colleague from Louisiana, Mr. GIBSON, is absent on account of sickness.

Mr. STONE. Mr. DURHAM, of Kentucky, is detained from the House by sickness.

Mr. BUCKNER, (having voted "ay.") I desire to vote "no." I voted "ay" with the expectation that I would be recognized to move to reconsider. I learn that the gentleman from New York [Mr. FIELD] will be recognized for a motion to reconsider and to lay that motion on the table. I desired to make the motion to reconsider that I might give some reasons for my vote, as I regard the bill as being grossly unconstitutional.

The SPEAKER. Debate is not in order.

Mr. BUCKNER. Therefore I vote "no."

The result of the vote was then announced as above recorded.

Mr. FIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GOVERNMENTS OF SOUTH CAROLINA AND LOUISIANA.

Mr. SCHLEICHER. I move that the rules be suspended and that the following resolution be adopted:

Whereas the principle that "all free governments derive their just powers from the consent of the governed," cannot be disregarded much less violated by the Congress of these United States; and,

Whereas it is evident that the governments known as the Hampton government in South Carolina, and the Nicholls government in Louisiana, are the only governments in those States that command the support of the people and do not depend for their preservation on the military and forcible interference of the National Government,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, First, that the State government of South Carolina represented by Governor Wade Hampton is recognized by Congress as the lawful government of South Carolina.

Second, That the State government of Louisiana represented by Governor Francis T. Nicholls is recognized by Congress as the lawful government of Louisiana.

Mr. BANNING. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 156, nays 93, not voting 41; as follows:

YEAS—Messrs. Ainsworth, Ashe, Atkins, Bagby, John H. Bagley, jr., Banning, Beebe, Blackburn, Bland, Bliss, Blount, Boone, Bradford, Bright, John Young Brown, Buckner, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Candler, Cate, Caulfield, Chapin, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Cutler, Davis, De Bolt, Dibrell, Ellis, Faulkner, Felton, Field, Finley, Forney, Franklin,

Fuller, Gause, Glover, Goode, Goodin, Gunter, Andrew H. Hamilton, Robert Hamilton, Hancock, Hardenbergh, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hartzell, Hatcher, Haymond, Henkle, Abram S. Hewitt, Holman, Hooker, Hopkins, House, Humphreys, Hurd, Jenks, Thomas L. Jones, Kehr, Knott, Lamar, Franklin Landers, George M. Landers, Lane, Le Moyne, Levy, Lord, Lynde, Mackey, Maish, McMahon, Meade, Mills, Money, Morgan, Morrison, Mutchler, Neal, New, O'Brien, Odell, Phelps, John F. Philips, Piper, Poppleton, Powell, Rea, Reagan, John Reilly, Rice, Riddle, John Robbins, William M. Robbins, Roberts, Miles Ross, Savage, Sayler, Scales, Schleicher, Schumaker, Sheakley, Singleton, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stevenson, Stone, Swann, Tarbox, Teese, Terry, Thomas, Thompson, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Charles C. B. Walker, Gilbert C. Walker, Walling, Walsh, Ward, Warner, Warren, Watterson, Erastus Wells, Whitthorne, Wigginton, Wike, Alpheus S. Williams, James Williams, Jere N. Williams, Willis, Wilshire, Benjamin Wilson, Fernando Wood, and Yeates—156.

NAYS—Messrs. Adams, William H. Baker, Ballou, Banks, Belford, Blair, Bradley, William R. Brown, Horatio C. Burchard, Buttz, Cannon, Cason, Caswell, Conger, Crounse, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Eames, Evans, Flye, Fort, Foster, Freeman, Frye, Hale, Haralson, Benjamin W. Harris, Hathorn, Hendee, Henderson, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kelley, Kimball, Lapham, Lawrence, Leavenworth, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Nash, Norton, Oliver, O'Neill, Packer, Page, William A. Phillips, Plaisted, Platt, Pratt, Rainey, Robinson, Sobieski Ross, Rusk, Sampson, Seelye, Sinnickson, Smalls, A. Herr Smith, Strait, Stowell, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Alexander S. Wallace, John W. Wallace, G. Wiley Wells, White, Whiting, Andrew Williams, Charles G. Williams, William B. Williams, James Wilson, Alan Wood, jr., Woodburn, and Woodworth—93.

NOT VOTING—Messrs. Abbott, Anderson, George A. Bagley, John H. Baker, Bass, Bell, Burleigh, Campbell, Carr, Chittenden, Crapo, Douglas, Durand, Durham, Eden, Egbert, Garfield, Gibson, Hays, Goldsmith W. Hewitt, Hill, Hoar, Hunton, Frank Jones, King, Lewis, Luttrell, McFarland, Metcalfe, Milliken, Payne, Pierce, Potter, Purman, James B. Reilly, Stephens, Waldron, Wheeler, Whitehouse, Willard, and Young—41.

So (two-thirds not having voted in favor thereof) the rules were not suspended.

During the roll-call,

Mr. MONEY said: I desire to State that Mr. YOUNG, of Tennessee, is absent on account of sickness. If he were present he would vote "ay."

The result of the vote was then announced as above recorded.

LEAVE TO PRINT.

Mr. THOMAS. I ask unanimous consent that I may be permitted to have printed in the RECORD, as part of the debates, some remarks in explanation of my vote upon the bill providing for presidential vacancies.

There was no objection, and leave was granted.

GOVERNOR OF LOUISIANA.

Mr. WATTERSON. I move that the rules be suspended and that the resolution which I send to the desk be passed.

Mr. HOLMAN. After that I will ask the House to finish the sundry civil appropriation bill.

The Clerk read as follows:

Whereas the following telegram was sent yesterday afternoon by authority of the President of the United States to Governor Francis T. Nicholls, of Louisiana:

"I have just had a satisfactory interview with the President, who says that he is satisfied that the Nicholls government is the government which should stand in Louisiana, and that he believes it will stand, because it is sustained by the best elements of the State, and that the Packard government cannot exist without the support of troops; that the sentiment of the country is clearly opposed to the further use of troops in upholding a State government; that in his opinion there would be no interference with the Nicholls government unless, carried away by the possession of power, violent excesses were committed. The President said he desired his views to be known.

"E. A. BURKE."

Therefore,

Be it resolved by the Senate and House of Representatives of the United States in Congress assembled, That the opinions expressed by the President are eminently sound and patriotic; that they express the sense of a large majority of the American people, and that, if carried into effect, they will insure good government in Louisiana and South Carolina.

Mr. HURLBUT. How do we know that?

The question being taken, the Speaker stated that, in the opinion of the Chair, two-thirds had voted in the affirmative.

Mr. RUSK called for the yeas and nays.

The yeas and nays were ordered.

Mr. CONGER. I ask unanimous consent for the gentleman to add a clause to that resolution.

The SPEAKER. It is not in order to ask unanimous consent.

Mr. CONGER. Why is it not in order?

The SPEAKER. Because the House has ordered the yeas and nays, and after that it is not in order to ask unanimous consent.

Mr. CONGER. There is no inconsistency in the rulings——

The SPEAKER. Because the Chair happens to be right and the gentleman from Michigan happens to be wrong.

Mr. CONGER. It is a mere chance.

The Clerk commenced to call the roll.

Mr. MILLS. Would it be in order to move that the House take a recess till ten o'clock to-morrow?

The SPEAKER. That motion is not now in order. This is a motion to suspend the rules, and the roll-call has commenced.

Mr. MILLS. The roll-call had not commenced when I arose to get the attention of the Chair.

The SPEAKER. The Clerk had commenced to call the roll.

Mr. MILLS. Not at the time when I arose. I claim I have the right to be recognized. I rose before the Clerk had called any names.

The SPEAKER. The Chair will recognize the gentleman after the roll-call.

Mr. MILLS. I want to be recognized now, before the roll-call is proceeded with.

The SPEAKER. The Chair considers the gentleman is too late.

Mr. MILLS. I appeal from the decision of the Chair.

Mr. HALE. There is no appeal on a question of this kind.

Mr. COX. I hope the gentleman from Texas will not insist on his appeal.

Mr. HOLMAN. The Chair certainly will not entertain an appeal after the roll-call has actually commenced.

The calling of the roll was then continued.

The question being taken, there were—yeas 127, nays 85, not voting 78; as follows:

YEAS—Messrs. Ainsworth, Ashe, Bagby, John H. Bagley, jr., Banning, Blackburn, Bland, Bliss, Boone, Bradford, Bright, John Young Brown, Buckner, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Candler, Carr, Caulfield, Chapin, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Cochrane, Cook, Cowan, Culberson, Davis, De Bolt, Dibrell, Douglas, Egbert, Ellis, Faulkner, Felton, Field, Finley, Forney, Fuller, Gause, Goodin, Gunter, Andrew H. Hamilton, Robert Hamilton, Hancock, Hardenbergh, Henry R. Harris, John T. Harris, Hartzell, Hatcher, Henkle, Hill, Holman, Hooker, Hopkins, Humphreys, Hurd, Jenks, Thomas L. Jones, Lamar, Franklin Landers, George M. Landers, Le Moyne, Levy, Mackey, Maish, McMahon, Money, Morgan, Morrison, Neal, New, O'Brien, Odell, Phelps, John F. Philips, Piper, Poppleton, Powell, Rea, Reagan, John Reilly, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Savage, Sayler, Scales, Schleicher, Schumaker, Singleton, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stevenson, Stone, Tarbox, Teese, Terry, Thomas, Thompson, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Walling, Walsh, Warner, Warren, Watterson, Erastus Wells, Whitehouse, Whitthorne, Wike, Alpheus S. Williams, James Williams, Jere N. Williams, Willis, Benjamin Wilson, and Yeates—127.

NAYS—Messrs. Adams, William H. Baker, Ballou, Banks, Belford, Blair, Bradley, William R. Brown, Horatio C. Burchard, Buttz, Cannon, Cason, Caswell, Conger, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Eames, Evans, Flye, Fort, Freeman, Frye, Hale, Haralson, Benjamin W. Harris, Hathorn, Hays, Hendee, Henderson, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Lapham, Lawrence, Leavenworth, Lynch, Magoon, MacDougall, McCrary, Miller, Monroe, Nash, Norton, O'Neill, Packer, Page, William A. Phillips, Plaisted, Platt, Pratt, Rainey, Robinson, Sobieski Ross, Rusk, Seelye, Sinnickson, Smalls, A. Herr Smith, Stowell, Strait, Thornburgh, Martin I. Townsend, Washington Townsend, Van Vorhes, Wait, Alexander S. Wallace, John W. Wallace, G. Wiley Wells, White, Whiting, Andrew Williams, Charles G. Williams, James Wilson, Alan Wood, jr., Woodburn, and Woodworth—85.

NOT VOTING—Messrs. Abbott, Anderson, Atkins, George A. Bagley, John H. Baker, Bass, Beebe, Bell, Blount, Burleigh, Campbell, Cate, Chittenden, Clymer, Collins, Cox, Crapo, Crounse, Cutler, Durand, Durham, Eden, Foster, Franklin, Garfield, Gibson, Glover, Goode, Harrison, Hartridge, Haymond, Abram S. Hewitt, Goldsmith W. Hewitt, Hoar, House, Hunton, Frank Jones, Kehr, Kelley, Kimball, King, Knott, Lane, Lewis, Lord, Luttrell, Lynde, McDill, McFarland, Meade, Metcalfe, Milliken, Mills, Mutchler, Oliver, Payne, Pierce, Potter, Purman, James B. Reilly, John Robbins, Sampson, Sheakley, Stenger, Stephens, Swann, Tufts, Waldron, Charles C. B. Walker, Gilbert C. Walker, Ward, Wheeler, Wigginton, Willard, William B. Williams, Wilshire, Fernando Wood, and Young—78.

So (two-thirds not voting in favor thereof) the rules were not suspended.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed a bill of the following title; in which he was directed to ask the concurrence of the House:

A bill (S. No. 470) for the relief of John S. Wood, late a first lieutenant in the Seventh Pennsylvania Cavalry.

ORDER OF BUSINESS.

Mr. GAUSE obtained the floor.

Mr. HOLMAN. I trust I shall be permitted to bring up and finish the sundry civil appropriation bill, which has been reported to the House. I think we can dispose of it in a few minutes.

HOT SPRINGS RESERVATION, ARKANSAS.

Mr. GAUSE. I ask unanimous consent that the bill (H. R. No. 2382) granting the right of way to the Hot Springs Railroad Company over the Hot Springs reservation in the State of Arkansas, returned from the Senate with an amendment, be taken from the Speaker's table, and, with the amendment of the Senate, be concurred in.

No objection being made, the bill was taken from the Speaker's table, and the amendment of the Senate was concurred in.

Mr. GAUSE moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 286) for the relief of W. S. McComb, of the State of Georgia;

An act (S. No. 1270) to authorize the printing and distribution of the memorial addresses on the life and character of the late Michael C. Kerr, Speaker of the House of Representatives; and

An act (S. No. 1271) to authorize the printing and distribution of the eulogies delivered in Congress on the announcement of the death of the late Allen T. Caperton, a Senator from the State of West Virginia.

LEAVE TO PRINT.

The SPEAKER. The Chair desires to ask unanimous consent that the gentleman from New York [Mr. MILLER] may have the privilege of printing in the RECORD, as part of the debate, some remarks upon

House bill No. 748, to apply the proceeds of sales of public lands to the education of the people.

There was no objection, and the leave was granted.

WITHDRAWAL OF PAPERS.

On motion of Mr. DE BOLT, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of Louis Benicke, no adverse report having been made in the case.

On motion of Mr. LYNCH, leave was granted for the withdrawal from the files of the House of the papers in the case of Matilda Shields, no adverse report having been made in the casa.

On motion of Mr. FRANKLIN, leave was granted to withdraw from the files of the House the papers in the case of James Brice, no adverse report having been made in the case.

LEAVE OF ABSENCE.

Leave of absence was granted to Mr. METCALFE, for the remainder of the session on account of a death in his family.

Leave of absence was granted to Mr. JAMES B. REILLY, for two days on account of important business.

Mr. COX. I move that the House take a recess until ten o'clock to-morrow morning.

Mr. HOLMAN. I trust that will not be done.

INDIAN APPROPRIATION BILL.

Mr. WELLS, of Missouri. I desire, before that motion is put, to make a report from the committee of conference upon the disagreeing votes of the two Houses upon the Indian appropriation bill.

Mr. COX. I withdraw the motion for a recess.

Mr. WELLS. I submit the report and ask that it be read.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4452) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30 1878, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 4, 19, 20, 43, 47, 48, 49, 52, 58, 59, 60, 68, 71, 79, 80, 81, and 82.

That the House recede from its disagreement to the amendments numbered 1, 5, 6, 7, 8, 9, 10, 12, 13, 16, 17, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 37, 38, 39, 42, 46, 50, 53, 54, 55, 56, 57, 61, 62, 64, 65, 66, 69, 70, 83, 85, 87, 88, and 89; and agree to the same.

That the House recede from its disagreement to the amendments numbered 2, 11, 14, 15, 18, 21, 31, 34, 35, and 36, and agree to the same with amendments respectively, as follows: In No. 2 in lieu of "seventy" insert "sixty-nine;" in No. 11 in lieu of the sum proposed insert "$101,700;" in No. 14 in lieu of "four" insert "seven;" in No. 15 in lieu of "ten" insert "six;" in No. 18 in lieu of "six" insert "five;" in No. 21 strike out on page 15, line 3 of the bill, the words "flour and meat" and insert in lieu thereof the word "subsistence;" in No. 31 strike out "$14,000" and insert "$12,879.04;" in No. 34 in lieu of the sum proposed insert "$1,000;" in No. 35 in lieu of "five" insert "four;" and in No. 36 in lieu of the sum proposed insert "$7,500." And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 40, and agree to the same; with an amendment as follows: In lieu of "forty-seven" insert "twenty-five" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 41, and agree to the same with an amendment as follows: In lieu of "two hundred and fifty" insert "one hundred and twenty-five;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 44 and 45, and agree to the same with amendments respectively as follows:

In No. 44 in lieu of "fifteen" insert "ten," and in No. 45 in lieu of "one hundred" insert "ninety;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 51, and agree to the same with an amendment as follows: In line 11, page 42 of the bill strike out "fifty" and insert "forty;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 63, and agree to the same with an amendment as follows: In lieu of "fifteen hundred" insert "one thousand;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 67, and agree to the same with an amendment as follows: In lieu of "forty" insert "thirty;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 72, 73, 74, 75, 76, 77, and 78, and agree to the same with amendments respectively as follows: In No. 72 in lieu of "thirty" insert "twenty-five;" in No. 73, in lieu of "thirty" insert "twenty-five;" in No. 74 in lieu of "twenty" insert "fifteen;" in No. 75 in lieu of "eight" insert "six;" in No. 76 in lieu of "twenty-five" insert "twenty;" in No. 77 in lieu of "twenty" insert "fifteen;" and in No. 78 in lieu of "seventy-five" insert "forty-eight;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 84, and agree to the same with an amendment as follows: Strike out of said amendment the words "the Secretary of the Interior," and strike out of the text of the bill all after the word "affairs," in line 16, page 50 of the bill, down to and including line 24, the close of the section; and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 86, and agree to the same with an amendment as follows: In lieu of "four" insert "three;" and the Senate agree to the same.

ERASTUS WELLS,
CHARLES FOSTER,
WM. S. HOLMAN,
Managers on the part of the House.

W. B. ALLISON,
WM. WINDOM,
L. V. BOGY,
Managers on the part of the Senate.

Mr. WELLS, of Missouri. I move that the report of the committee of conference be adopted.

The motion was agreed to.

Mr. WELLS, of Missouri, moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. HOLMAN. I now call up the sundry civil appropriation bill, reported with amendments from the Committee of the Whole. Before calling the previous question on the bill and amendments I desire to submit four or five small amendments necessary to perfect the original text of the bill. The first is in regard to the appropriation for the public building at Boston. I move to add to the clause the words "and the whole amount shall be immediately available."

The motion was agreed to.

Mr. HOLMAN. I move to amend the clause in relation to the contingent fund of the Freedmen's Hospital by increasing the amount from $1,000 to $2,500, and making the total of the paragraph correspond.

Mr. RUSK. There is no objection to that.

Mr. HOLMAN. I wish simply to state that on further examination the Committee on Appropriations considered it proper to slightly increase the contingent fund of the Freedmen's Hospital. The amount fixed in the bill is $1,000 for that purpose, and I propose to increase it to $2,500.

The amendment was agreed to.

Mr. HOLMAN. I desire to move an amendment to the clause appropriating $40,000 for the propagation of food fishes, by adding to it the words, "which shall be immediately available."

The amendment was agreed to.

Mr. HOLMAN. I move to amend the bill by adding to it that which I send to the Clerk's desk.

The Clerk read as follows:

That $6,000 or so much thereof as may be necessary of the sum appropriated by the act of March 3, 1875, making appropriations for sundry civil expenses for the year ending June 30, 1876, to pay the expenses of the commissioner appointed by the President under a joint resolution approved February 16, 1875, to attend the International Prison Congress, is hereby re-appropriated and made immediately available for the payment of the preliminary expenses of said commissioner.

Mr. HOLMAN. I wish to explain the object of this amendment. In 1875 we appropriated the sum of $8,000 to enable a commissioner appointed by the President of the United States to attend an international convention to consider the subject of the prisons and penitentiaries of the world, a humane movement in which many able, intelligent, and christian men and women were interested. This money has not been expended. An international convention upon the subject is to be held during the present year in some city of Europe, and the Committee on Appropriations recommend that $6,000 of this former appropriation be re-appropriated for that purpose. I trust there will be no objection.

The amendment was agreed to.

Mr. HOLMAN. I now have four amendments which I desire to move to amendments which have been adopted in Committee of the Whole, and then I propose to call the previous question on the bill and the amendments.

Mr. GOODIN. I hope the gentleman will allow me to offer an amendment; he knows what it is.

Mr. HOLMAN. I will hear it read. It is not strictly in order, but if no one objects to it I will not.

The Clerk read the amendment, as follows:

To pay C. W. C. Dunnington, J. L. Knight, B. E. Hambleton, J. W. Wiggins, Allen Wood, J. M. Johns, D. L. Payne, G. P. Jordan, S. M. Freeman, C. J. Lewis, W. F. Weeks, J. L. Walters, H. T. Murray, W. H. Minnix, W. W. Lester, and J. M. Buchanan, $30 each for extra work and labor in the folding-room of the House during the months of September, October, November, and December last, to be immediately available, in all $900.

The amendment was agreed to.

Mr. HOLMAN. I now desire to move the four amendments I have indicated, and to ask that I may have an opportunity to be heard by the House upon them.

Mr. DUNNELL. Will the gentleman allow me to offer an amendment?

Mr. HOLMAN. I must decline. By the law now in force for the present year we have appropriated for the Hayden survey $65,000, for the Powell survey $30,000, and for the Wheeler survey $30,000. I desire to move amendments making the same appropriations for these purposes for the next fiscal year that were made for the present fiscal year, and I ask consent to offer the amendments together. The amendments are, to substitute for the Hayden survey $65,000, for the $75,000 made in Committee of the Whole; for the Powell survey, $30,000 for the $50,000 made in Committee of the Whole; and for the Wheeler survey, $30,000 instead of the $50,000 made in Committee of the Whole.

The SPEAKER. Is there objection?

Mr. HOOKER and others objected.

Mr. HOLMAN. Then I will have to reach my purpose in a more elaborate way. I move to amend the appropriation for the Hayden survey so as to make it $65,000. And I desire to say to the House that this bill has been very largely increased beyond the appropriations made last year in the corresponding bill. I now call the previous question on the amendment to the amendment.

Mr. HOOKER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. HOOKER. My point of order is that amendments are not now in order; that the House must now consider the amendments made in Committee of the Whole.

Mr. WILSON, of Iowa. The bill is open to amendments in every respect.

The SPEAKER. The Chair thinks that the amendments made in Committee of the Whole must be first considered.

Mr. HOLMAN. But the amendment to which I move an amendment has already been considered in Committee of the Whole. It is very clear that the point of order cannot be raised on that proposition, for the House certainly has power to reduce the appropriations made by the Committee of the Whole.

The SPEAKER. The Chair must say that there is so much confusion in the Hall, he is not able to distinctly understand the amendment of the gentleman. He would inquire if it is a new amendment?

Mr. HOLMAN. By the text of the bill, as reported from the Committee on Appropriations, there was appropriated $50,000 for the Hayden survey. The Committee of the Whole increased the amount to $75,000. My motion is to amend the amendment of the Committee of the Whole, so as to appropriate for that purpose $65,000, the same amount appropriated for the present fiscal year.

Mr. HALE. Let me ask the gentleman whether he intends to go on with amendment after amendment in this way after we have brought the bill into the House, so as to change the whole bill from what the Committee of the Whole has made it? If he does, he will never get the bill through.

Mr. HOLMAN. I said that I had only these three amendments.

The SPEAKER. This a very unusual proceeding——

Mr. HALE. Highly unusual.

Mr. HOLMAN. It is not unusual.

The SPEAKER. Well, it is not common within the recollection of the Chair. If this amendment embraced new matter, the Chair would rule that it could not be offered in the House.

Mr. HOLMAN. I admit that the amount reported by the Committee of the Whole cannot be increased without the question being again considered in Committee of the Whole. But this is simply a proposition to reduce the amount of an amendment.

Mr. HOOKER. Allow me to ask the gentlemen from Indiana this question: Suppose a proposition should now be made to amend this bill by reducing the aggregate of all the appropriations one-quarter or one-half; would that be in order?

Mr. HOLMAN. It could undoubtedly be done.

The SPEAKER. The Chair would suggest to the gentleman that the usual mode of reaching the sense of the House upon an amendment adopted in Committee of the Whole is to have a vote upon it directly in the House.

Mr. HALE. After calling the previous question.

The SPEAKER. And if the amendment as made in Committee of the Whole is not adopted by the House, then the amount as originally reported in the bill stands.

Mr. HOLMAN. Under that rule there would be in this case but two propositions before the House—$50,000 and $75,000. Now $65,000 is certainly a reasonable sum; and this is what my amendment proposes.

Mr. HOOKER. I ask the gentleman whether he might not make a similar motion in the House to reduce every single item of appropriation in the bill, and thus virtually in the House go over the whole bill?

Mr. HOLMAN. O, no, sir; such a motion is applicable only to amendments made in Committee of the Whole. I am exceedingly anxious that the amount of this bill shall not be swelled beyond all proper limits. That is my only object in the amendment.

Mr. HOOKER. The effect of this proceeding would be to cut off all amendments but those the gentleman proposes himself.

The SPEAKER. The Chair is of opinion that the vote should be taken upon the amendments of the Committee of the Whole in their order.

Mr. HOLMAN. Does the Chair hold that an amendment reported from the Committee of the Whole cannot be amended in the House?

Mr. WILSON, of Iowa. The Digest on page 75 reads thus:

After report the bill shall again be subject to be debated and amended by clauses before a question to engross it be taken.

The only way in which this has been prevented heretofore has been because the gentleman in charge of the bill has usually asked the previous question; but if the gentleman from Indiana sees fit now to open this bill to amendment, of course it is open.

The SPEAKER. Although this is a very unusual proceeding, the Chair, upon examination, sees no rule by which the gentleman from Indiana is prevented from making this motion. The gentleman moves to amend the amendment of the Committee of the Whole in the manner indicated, by striking out "$75,000" and inserting "$65,000."

Mr. HOOKER. I rise to a point of order. I submit that when a bill has been reported to the House from the Committee of the Whole, the proper method of procedure is to consider the amendments reported from the committee.

The SPEAKER. In their order.

Mr. HOOKER. I submit that this is the manner in which the House ought now to proceed to consider this bill with the amendments added in the Committee of the Whole.

The SPEAKER. The Chair thinks that is correct.

Mr. SAYLER. Allow me in answer to the point of order of the gentleman from Mississippi [Mr. HOOKER] to make this proposition: that until the previous question is called, and has been sustained by the House, the bill so far as these amendments are concerned is as fully open to amendment in the House as it was in Committee of the Whole, except that any amendment increasing the amount of an appropriation must first be considered in Committee of the Whole.

The SPEAKER. The Chair has already stated that he saw nothing in the rules to prevent the gentleman from Indiana from offering this amendment. At the same time he stated that the proceeding is unusual. He states now that the amendments of the Committee of the Whole ought to be acted upon in order.

Mr. HOLMAN. Instead of this being an unusual proceeding, I know that the practice has been indulged in at least fifty times within my experience in this House.

Mr. HALE. Did the gentleman ever know it to be done except by unanimous consent?

Mr. HOLMAN. I have known it to be done at least fifty times in my experience here.

Mr. HALE. In my experience upon appropriation bills, I have never known a case in which after the Committee of the Whole have adopted amendments and reported the bill to the House, the gentleman in charge of the bill, except by unanimous consent, undertook to interfere with the action of the Committee of the Whole.

The question recurred on Mr. HOLMAN'S amendment to the amendment of the Committee of the Whole.

The House divided; and there were—ayes 85, noes 101.

Mr. HOLMAN demanded tellers.

Mr. RUSK. We might as well have the yeas and nays now, as you will have them in the end.

Mr. HOLMAN. No, I demand the tellers.

Tellers were ordered; and Mr. HOLMAN and Mr. HOOKER were appointed.

The House again divided; and the tellers reported—ayes 77, noes 101.

So the amendment to the amendment was rejected.

The question next recurred on the amendment of the Committee of the Whole.

Mr. HOLMAN demanded a division.

The House divided; and there were—ayes 92, noes 62.

So the amendment was agreed to.

Mr. HOLMAN. I move now that in the amendment of the committee in reference to the Major Powell survey the appropriation be reduced to $30,000. That is the sum fixed for the present year.

Mr. STEVENSON. The amount was fixed by the Committee of the Whole at $50,000.

Mr. HOLMAN. Yes, the Committee of the Whole made it $50,000. I propose to amend that by making it $30,000, and I call the previous question on that amendment.

The previous question was seconded; and the main question ordered.

The House divided; and there were—ayes 67, noes 101.

Mr. HOLMAN. I call for tellers.

Mr. COX. I now renew my motion that the House take a recess until ten o'clock to-morrow morning.

Mr. WHITE. I move to take a recess until half past seven o'clock this evening for the purpose of considering the Private Calendar. Is not my motion to be received by the Chair?

The SPEAKER. That motion requires unanimous consent, and besides the Chair has to put the question first on the longest time.

The House divided; and there were—ayes 103, noes 104.

Mr. VANCE, of Ohio, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 121, nays 120, not voting 49; as follows:

YEAS—Messrs. Ainsworth, Ashe, Atkins, John H. Bagley, jr., Banning, Beebe, Blackburn, Bland, Bradford, Bright, Buckner, Cabell, John H. Caldwell, William P. Caldwell, Candler, Cate, Caulfield, Chapin, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Davis, De Bolt, Dibrell, Eden, Ellis, Felton, Field, Finley, Forney, Franklin, Gause, Glover, Goode, Gunter, Andrew H. Hamilton, Robert Hamilton, Henry R. Harris, John T. Harris, Harrison, Hartzell, Hatcher, Henkle, Abram S. Hewitt, Hill, Hooker, Hopkins, House, Humphreys, Hurd, Jenks, Thomas L. Jones, Knott, Lamar, Franklin Landers, George M. Landers, Lane, Levy, Lord, Lynde, Mackey, Maish, McMahon, Meade, Mills, Money, Morrison, Mutchler, O'Brien, Odell, John F. Philips, Piper, Poppleton, Purman, Rea, John Reilly, Rice, Riddle, John Robbins, William M. Robbins, Roberts, Miles Ross, Sayler, Schleicher, Schumaker, Singleton, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Swann, Teese, Terry, Thompson, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Charles C. B. Walker, Gilbert C. Walker, Walling Walsh, Warner, Warren, Whitthorne, Wigginton, Wike, Jere. N. Williams, Benjamin Wilson, and Fernando Wood—121.

NAYS—Messrs. Adams, John H. Baker, Ballou, Banks, Belford, Bell, Blair, Blount, Bradley, John Young Brown, William R. Brown, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Cannon, Cason Caswell, Conger, Crapo, Crounse, Cutler, Darrall, Davy, Denison, Dobbins, Douglas, Dunnell, Eames, Evans, Faulkner, Flye, Fort, Foster, Freeman, Frye, Goodin, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Hathorn, Haymond, Hays, Hendee, Henderson, Hoge, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kehr, Kelley, Kimball, Lapham, Lawrence, Leavenworth, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Packer, Page, William A. Phillips, Pierce, Plaisted, Potter, Platt, Pratt, Rainey, Robinson, Sobieski Ross, Rusk, Sampson, Seelye, Sinnickson, Smalls, A. Herr Smith, Strait, Stevenson, Stowell, Tarbox, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Alexander S. Wallace, John W. Wallace, Watterson, G. Wiley Wells, White, Whitehouse, Willard, Andrew Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, James Wilson, Alan Wood, jr., Woodburn, Woodworth, and Yeates—120.

NOT VOTING—Messrs. Abbott, Anderson, Bagby, George A. Bagley, William

H. Baker, Bass, Bliss, Boone, Campbell, Carr, Chittenden, Danford, Durand, Durham, Egbert, Fuller, Garfield, Gibson, Hale, Hartridge, Goldsmith W. Hewitt, Hoar, Holman, Hoskins, Hunton, Frank Jones, King, Le Moyne, Lewis, Luttrell, McFarland, Metcalfe, Milliken, Payne, Phelps, Powell, Reagan, James B. Reilly, Savage, Scales, Sheakley, Stephens, Thomas, Ward, Erastus Wells, Wheeler, Whiting, Alpheus S. Williams, and Young—49.

So the motion was agreed to; and accordingly (at five o'clock p. m.) the House took a recess until to-morrow at ten o'clock a. m.

AFTER THE RECESS.

The recess having expired, the House resumed its session at ten o'clock a. m. Wednesday, February 28.

ELECTORAL COUNT.

The SPEAKER laid before the House the following communication: The Clerk read as follows:

WASHINGTON, D. C., *February* 27, 1877.

SIR: I am directed by the electoral commission to inform the House of Representatives that it has considered and decided upon the matters submitted to it under the act of Congress concerning the same, touching the electoral vote from the State of South Carolina, and has transmitted its decision to the President of the Senate, to be read at the meeting of the two Houses, according to said act.

NATHAN CLIFFORD,
President of the Commission.

Hon. SAMUEL J. RANDALL,
Speaker of the House of Representatives.

Mr. HOLMAN. I move the Clerk be directed to notify the Senate that the House is ready to proceed with the electoral count at half past eleven o'clock. I hope there will be no objection to that.

Mr. BURCHARD, of Illinois. I move to amend by saying "forthwith."

Mr. ATKINS. I shall object to any business being transacted without the presence of a quorum.

Mr. BURCHARD, of Illinois. I move to insert "forthwith."

Mr. HOLMAN. I will agree to fix eleven o'clock.

Mr. ATKINS. I make the point of order that no quorum is present, and I object to going on with any business without a quorum.

The SPEAKER. The Chair will submit the motion of the gentleman from Indiana to the House, and a division will develop the presence or absence of a quorum.

Mr. WALLING. I move to amend by saying half-past one.

Mr. ATKINS. I move that there be a call of the House.

The SPEAKER. The question of a quorum having been raised, the Chair will, under the rules, count the House.

Mr. CONGER. Whenever a motion is put to the House that will show whether a quorum is present or not.

The SPEAKER. The attention of the Chair has been called to the fact that no quorum is present, and the Chair is now counting the House, and finds one hundred and ten members present. If there be no objection, the Chair will submit the motion of the gentleman from Indiana.

Mr. ATKINS. I wish to know whether the Chair intends to put the question without a quorum?

The SPEAKER. The Chair desires to put the motion of the gentleman from Indiana to the House, and a division on that motion will show whether a quorum is present or not, with certainty.

Mr. ATKINS. Is it in order to move that there be a call of the House?

The SPEAKER. It is competent for the gentleman to make that motion.

Mr. HALE. Will the Chair listen to a statement from me in the way of getting along with our business.

Mr. ATKINS. I rise to a question of order. Is it in order to move now that there be a call of the House?

The SPEAKER. It is.

Mr. HALE. I ask the gentleman from Tennessee to listen to me for a moment while I make a proposition. If he objects it can be disposed of by his objection. My proposition is that by unanimous consent, which changes no rule, the Senate be notified that the House will be ready to meet them at eleven o'clock or half-past eleven o'clock to proceed with the electoral count; and that in the mean time we go on and finish the appropriation bill. I ask that this be done not by a motion overriding what any gentleman may consider to be the rule applicable to the case or the law, but by unanimous consent, no member objecting, which changes no rule and sets no precedent. I make this proposition in the interest of the business of the House, and at the same time of expediting the count.

Mr. SPRINGER. Say half past twelve o'clock and I think there will be no objection.

Mr. HOLMAN. It was the object of my motion to accomplish what the gentleman from Maine has suggested. I believe the pending appropriation bill can be disposed of in half an hour.

Mr. ATKINS. I insist on my motion.

The SPEAKER. The gentleman from Tennessee [Mr. ATKINS] insists on his motion for a call of the House.

Mr. HALE. Will not the gentleman withhold that motion that unanimous consent may be asked for my proposition?

Mr. SPRINGER. I have suggested that if the gentleman from Maine will say half past twelve o'clock I think there will be no objection.

Mr. HALE. I have said half past eleven, that being the hour which the chairman of the Committee on Appropriations himself proposed.

Mr. GARFIELD. The chairman of the Committee on Appropriations says he thinks we can get through the appropriation bill in half an hour.

Mr. HOLMAN. I ask that by unanimous consent, in order to avoid the delay occasioned by a call of the House and to facilitate business, the proposition of the gentleman from Maine be accepted, except that the hour for meeting the Senate shall be fixed for half past twelve.

Mr. GARFIELD. Say half past eleven.

Mr. TOWNSEND, of Pennsylvania. Half past eleven was the first proposition of the gentleman from Indiana; let him stand by it.

Mr. HOLMAN. I will modify the proposition and say twelve o'clock.

Mr. CARR. I object.

The SPEAKER. To what does the gentleman object?

Mr. CARR. To fixing the time for meeting the Senate by unanimous consent.

The SPEAKER. That is a matter for the House to determine by a vote. The gentleman has not the right to interpose his single objection.

Mr. ATKINS. I submit that the proposition made by the gentleman from Maine cannot be acceded to. As I understand it, we can do no legislation under present circumstances.

Mr. EDEN. We can by unanimous consent.

Mr. ATKINS. Not under the law under which we are acting.

Mr. HALE. We can by unanimous consent.

Mr. ATKINS. We cannot by unanimous consent suspend a statute and the Constitution itself.

Mr. HOLMAN. I call for a vote on my motion fixing the time for meeting the Senate at twelve o'clock.

The SPEAKER. The Chair would like some gentleman to direct his attention to that part of the law which it is supposed prevents the transaction of business until the receipt of the decision of the commission. The mere notification that the commission has arrived at a decision does not, so far as the Chair is aware, compel the interruption of legislative business.

Mr. WILSON, of Iowa. It logically follows; for if one House can delay the meeting of the two Houses——

The SPEAKER. If there was a purpose to delay, the Chair would then take notice of that.

Mr. WILSON, of Iowa. But if we can fix the meeting at twelve o'clock noon, we can fix it at twelve o'clock midnight.

The SPEAKER. We have uniformly fixed the time, the only restriction being that we cannot fix the time beyond ten o'clock on the next day.

Mr. WILSON, of Iowa. We have had one recess until ten o'clock to-day.

The SPEAKER. The Chair is of the opinion, in the absence of his attention being directed to any part of the law——

Mr. SAMPSON. If the Speaker will allow me, I desire to call his attention to the last sentence of section 5:

And while any question is being considered by said commission either House may proceed with its legislative business.

Mr. HOOKER. I rise to a point of order. The gentleman from Tennessee [Mr. ATKINS] having moved a call of the House, is anything else in order until the sense of the House is taken on that question?

The SPEAKER. The Chair was listening to gentlemen to see if some understanding might be reached that legislative business might be proceeded with. Does the gentleman from Tennessee insist upon his motion for a call of the House?

Mr. ATKINS. I do.

Mr. GARFIELD. I think the Speaker of the House is entitled to say whether in his judgment there is a quorum present or not. The call of the House cannot be made unless in the judgment of the Chair a quorum is not present.

Mr. LAWRENCE. I hope we will not have the delay of a call of the House.

The SPEAKER. The Chair cousiders that under the rule he has a right to determine for himself whether there is a quorum.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the president of the electoral commission had notified the Senate that the commission had arrived at a decision of the question submitted to it in relation to the electoral votes of South Carolina, and that the Senate was now ready to meet the House for the purpose of laying before the two Houses the report of said decision and to proceed with the counting of the electoral votes for President and Vice-President.

COUNTING THE ELECTORAL VOTE.

Mr. WILSON, of Iowa. I move that the Clerk be directed to inform the Senate that the House is ready to meet the Senate to receive the decision of the electoral commission and to proceed with the counting of the electoral votes. There can be nothing else in order now.

Mr. HOLMAN. I still adhere to my motion.

Mr. WILSON, of Iowa. Under your decision, previously made, Mr. Speaker, the House has no right to postpone the meeting with the Senate.

The SPEAKER. The Chair thinks the House has a right to judge of its convenience as to a reasonable time for meeting the Senate.

Mr. WILSON, of Iowa. I think we should take into consideration at the same time the convenience of the Senate; they are waiting at our doors.

Mr. HOLMAN. I concede that if this were a motion for delay it might be against the spirit of the law.

The SPEAKER. The Chair did not recognize it as a motion for delay.

Mr. HOLMAN. It is a *bona fide* motion, as every gentleman can see.

The SPEAKER. The Chair recognizes it as a motion in the interest of necessary legislation.

Mr. SPRINGER. Was the motion of the gentleman from Iowa entertained?

The SPEAKER. There is a motion pending for a call of the House.

Mr. WILSON, of Iowa. In the interest of legislation the Chair must see that if we keep the Senate waiting at our doors legislation must stop.

The SPEAKER. The gentleman must see also that the House is not a House unless it has a quorum present. The gentleman from Tennessee [Mr. ATKINS] has moved a call of the House for the purpose of finding out whether or no there be a quorum here.

Mr. WILSON, of Iowa. The Chair has a right to determine that for himself.

Mr. DANFORD. Let us have the regular order.

The SPEAKER. The Chair counted the members present, and there were one hundred and ten members present, and the Chair therefore recognized the gentleman from Tennessee to move that there be a call of the House in the absence of a quorum.

Mr. GARFIELD. On that question I demand a division.

The question was taken on Mr. ATKINS's motion; and on a division there were—ayes 32, noes 114.

Mr. FRANKLIN. I call for the yeas and nays.

The SPEAKER. One hundred and forty-six members have voted, which is a quorum.

Mr. SPRINGER. Will the gentlemen agree now that we shall meet the Senate at twelve o'clock and go on with the count?

Mr. WILSON, of Iowa. The Chair will permit me to call his attention to the law; I have it before me. It reads as follows:

Which decision shall be made in writing, stating briefly the ground thereof, and signed by the members of said commission agreeing therein; whereupon the two Houses shall again meet.

Mr. SPRINGER. We propose to meet the Senate.

Mr. HOLMAN. I hope we shall agree to a motion to fix the time for the joint meeting at twelve o'clock.

Mr. SAMPSON. I understood the Chair to make the inquiry what part of the law gentlemen relied upon for the opinion that no legislative business could be transacted unless there was something pending before the commission. I call the attention of the Chair to the last sentence in section 5 of that law, which is as follows:

And while any question is being considered by said commission, either House may proceed with its legislative or other business.

I understand that to be the only authority under which the House can, until there is a final dissolution of this joint meeting, transact any legislative business whatever. The decision in the South Carolina case having now been rendered by the commission, and we being officially notified of the fact that nothing is pending before the commission, I hold that no legislation is in order.

The SPEAKER. The Chair decided and still thinks that a mere notification of the decision of the commission to one House has not the effect of preventing the other from legislating. But when the notification has been received from the other branch of Congress, that branch which by law has possession of the decision of the commission, where the notification comes from that body to this, then the Chair rules that legislative business is cut off.

Mr. BURCHARD, of Illinois. What is the pending motion?

The SPEAKER. The motion of the gentleman from Tennessee [Mr. ATKINS] that there be a call of the House. The House divided on the motion and there were—ayes 32, noes 114; so the noes have it, and there is a quorum present.

Mr. SPRINGER. And there is a call for the yeas and nays. [Cries of "Too late!"]

Mr. FRANKLIN. It is not too late; I called for the yeas and nays immediately after the vote was taken.

Mr. BURCHARD, of Illinois. The result had been previously announced by the Chair.

The SPEAKER. The gentleman from Illinois [Mr. BURCHARD] is mistaken; the Chair announced the aggregate vote and the fact that there appeared to be a quorum present.

Mr. BURCHARD, of Illinois. He announced that there were 32 in the affirmative and 114 in the negative.

Mr. FRANKLIN. Then I demanded the yeas and nays.

The SPEAKER. The yeas and nays are demanded on the formal announcement of the vote. The Chair finds that Mr. BURCHARD is correct, and that he announced the vote separately.

Mr. BROWN, of Kentucky. By unanimous consent of the House cannot we go ahead on the sundry civil appropriation bill, which was left unfinished yesterday, until twelve o'clock?

Mr. TOWNSEND, of New York. We have tried that, and cannot do it.

Mr. HOLMAN. I hope that it will be agreed by unanimous consent that we shall go on with the sundry civil appropriation bill until twelve o'clock.

Mr. PAGE. I suggest to the gentleman that he say eleven o'clock.

Mr. BROWN, of Kentucky. Probably the bill can be finished by that time.

Mr. HOLMAN. I hope gentlemen will consent to fix the time at twelve o'clock. I ask that the proposition be submitted to the House for unanimous consent.

Mr. FORT. The Speaker has decided that legislative business is not in order.

Mr. BROWN, of Kentucky. Would it be in order if unanimous consent were given to do what I have proposed? I ask it.

The SPEAKER. The gentleman from Kentucky [Mr. BROWN] asks unanimous consent that legislative business be proceeded with and that notification be sent to the Senate that this body will be ready to receive them at twelve o'clock.

Mr. GARFIELD. I hope there will be no objection to that arrangement.

Mr. SAMPSON. I object.

Mr. HOOKER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. HOOKER. My point of order is that under the law creating the electoral commisson the proposition of the gentleman from Kentucky [Mr. BROWN] to proceed with the consideration of legislative business is not in order at this time. That law provides that pending the consideration of any question by the commission either House may transact legislative business or other business. The commission having disposed of the question which was before it, and the Speaker having ruled directly that under the law we cannot now in either House transact legislative business, it is not in order by unanimous consent for one House to change the law as it stands.

Mr. SAYLER. I understand that the Chair ruled on a former occasion that by unanimous consent the House might transact legislative business.

Mr. SAMPSON. I withdraw my objection to the proposition of the gentleman from Kentucky.

Mr. CARR. I renew it.

Mr. FRANKLIN. Objection being made to the proposition that the House proceed with the transaction of legislative business until twelve o'clock, the question recurs upon my demand for the yeas and nays on the motion of the gentleman from Tennessee [Mr. ATKINS] that there be a call of the House.

The SPEAKER. That is the question before the House. As many as are in favor of taking the vote by yeas and nays will rise and stand until they are counted. [Having counted the affirmative vote.] A sufficient number have risen to order the yeas and nays, and they are ordered.

Mr. PAGE. Is it proper to have a call of the House when the last vote disclosed the presence of a quorum?

The SPEAKER. The Chair submitted to the House the question upon ordering a call of the House, and the House divided upon that question. It is the right of the gentleman from Missouri [Mr. FRANKLIN] to call for the yeas and nays on that question, and the yeas and nays have been ordered.

Mr. BAKER, of Indiana. Will the Chair state again, so that we may all understand, what is the question upon which the yeas and nays have been ordered?

The SPEAKER. The question is upon the motion of the gentleman from Tennessee [Mr. ATKINS] that there now be a call of the House.

The question was taken; and there were—yeas 76, nays 156, not voting 58; as follows:

YEAS—Messrs. Ashe, Atkins, John H. Bagley, jr., Banning, Blackburn, Boone, Bradford, Bright, Cabell, John H. Caldwell, William P. Caldwell, Carr, Cate, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cowan, Cox, Culberson, Davis, De Bolt, Dibrell, Douglas, Faulkner, Finley, Forney, Franklin, Fuller, Glover, Andrew H. Hamilton, Henry R. Harris, John T. Harris, Hartridge, Henkle, Hooker, Humphreys, Hunton, Hurd, Knott, Lane, Luttrell, Mackey, Maish, McMahon, Mills, Morrison, Mutchler, O'Brien, John F. Philips, Poppleton, Rice, Riddle, Roberts, Miles Ross, Scales, Sheakley, William E. Smith, Southard, Springer, Stanton, Stenger, Stone, Terry, Thompson, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Walling, Walsh, Whitthorne, Wigginton, Jere N. Williams, and Benjamin Wilson—76.

NAYS—Messrs. Adams, Ainsworth, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Bell, Blair, Bland, Bradley, John Young Brown, William R. Brown, Buckner, Horatio C. Burchard, Samuel D. Burchard, Buttz, Candler, Cannon, Cason, Chapin, Chittenden, Conger, Cook, Crapo, Crounse, Cutler, Danford, Davy, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Evans, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Goode, Goodin, Gunter, Hale, Haralson, Hardenbergh, Benjamin W. Harris Hartzell, Hatcher, Hathorn, Haymond, Hendee, Henderson, Hoar, Holman, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Jenks, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, Franklin Landers, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Nash, New, Neal, Norton, Oliver, O'Neill, Packer, Page, Phelps, Pierce, Piper, Plaisted, Potter, Powell, Pratt, Rainey, Rea, John Reilly, John Robbins, William M. Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Sayler, Schleicher, Seelye, Singleton, Sinnickson, Slemons, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Tarbox, Teese, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Charles C. B. Walker, Gilbert C. Walker, Alexander S. Wallace, John W. Wallace, Warner, Warren, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Wike, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Wilshire, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Yeates—156.

NOT VOTING—Messrs. Abbott, Anderson, Bass, Beebe, Bliss, Blount, Burleigh,

Campbell, Caswell, Caulfield, John B. Clarke of Kentucky, Darrall, Durand, Egbert, Ellis, Field, Gause, Gibson, Robert Hamilton, Hancock, Harrison, Hays, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Hoge, Hopkins, House, Frank Jones, Thomas L. Jones, King, Levy, Lewis, Lord, Lynde, McFarland, Meade, Metcalfe, Milliken, Money, Odell, Payne, William A. Phillips, Platt, Purman, Reagan, James B. Reilly, Schumaker, Sparks, Stephens, Swann, Thomas, Ward, Watterson, Wheeler, Willard, Willis, and Young—58.

So the motion was not agreed to.

At the conclusion of the roll-call,

Mr. HOLMAN said: I ask unanimous consent that the reading of the names be dispensed with, and that the time of twelve o'clock be fixed for the joint meeting of the two Houses, to continue the electoral count, and that in the mean time the House proceed to the consideration of legislative business.

Mr. McCRARY. We will agree to that.

Mr. PAGE. I hope there will be no objection.

The SPEAKER. The Chair would suggest that ten minutes after twelve o'clock be named as the time, for the reason that that will give time for the opening of a new legislative day by prayer.

Mr. HOLMAN. Very well; I will say ten minutes after twelve o'clock.

Mr. CARR. I object to the transaction of any legislative business.

Mr. SAYLER. Then I move that the House inform the Senate that they will be in session and ready to meet them at ten minutes past twelve o'clock for the purpose of proceeding with the electoral count.

Mr. WALLING. The names upon the roll-call have not yet been read by the Clerk; I called for the reading of the names.

The SPEAKER. The gentleman from Indiana [Mr. HOLMAN] asked that the reading of the names be dispensed with, to which the gentleman from Ohio [Mr. WALLING] objected. The Clerk will read the names.

The Clerk began the reading of the names, but before concluding,

Mr. WALLING said: I withdraw my demand for the reading of the names. I do so with the understanding that the motion of my colleague [Mr. SAYLER] will be immediately submitted to the House.

No further objection being made, the reading of the names was dispensed with, and the vote was announced as above recorded.

Mr. SAYLER. I now move that the Clerk of the House be instructed to inform the Senate that the House will be in session at ten minutes past twelve o'clock to-day and ready to receive them.

Mr. HOLMAN. Before that motion is put, I ask that the Chair will again submit my request that by unanimous consent the House in the mean time proceed with the consideration of legislative business.

The SPEAKER. Pending the motion of the gentleman from Ohio, [Mr. SAYLER,] the gentleman from Indiana [Mr. HOLMAN] asks unanimous consent that in the mean time the sundry civil appropriation bill may be considered by the House.

Many MEMBERS. That is right.

The SPEAKER. There being no objection——

Mr. HOOKER. I rise to a point of order. I make the same point I made before, that under the law after a report has been received from the commission, no legislative business is in order until that report has been acted on.

The SPEAKER. The Chair thinks that by unanimous consent that point may be waived.

Mr. HOOKER. I insist on the point of order that under the law it is not possible to proceed with any legislative business after a report from the commission has been made and is still undisposed of.

The SPEAKER. If the gentleman insists, the Chair must sustain the point, because the very fact of the gentleman insisting is in the nature of an objection.

Mr. SAYLER. I submit, however, to the judgment of the Chair that the objection of the gentleman from Mississippi comes too late.

The SPEAKER. The gentleman from Mississippi has twice before notified the Chair of that objection. The Chair therefore is compelled to take notice of it, even though he may have been too late in renewing the point the last time. The question is on the motion of the gentleman from Ohio, [Mr. SAYLER,] that the Clerk of the House notify the Senate that the House will be ready to receive the Senate at ten minutes after twelve o'clock to proceed with the electoral count.

Mr. HOLMAN. I rise to a parliamentary inquiry. Will not the effect of that motion be simply to suspend all proceedings in the House until that hour?

The SPEAKER. The Chair cannot help that. The House has brought itself into this condition.

The motion of Mr. SAYLER was agreed to.

ORDER OF BUSINESS.

Mr. HOLMAN. I now ask that by unanimous consent the sundry civil appropriation bill may be taken up and considered in the interim.

The SPEAKER. The Chair understands that the gentleman from Mississippi raises the point of order, which forces the Chair again to rule, as he has already ruled this morning, that legislative business is not in order.

Mr. HOLMAN. Perhaps the gentleman from Mississippi may not renew that point. I think the point will be waived if the request is again made.

The SPEAKER. The Chair will submit the proposition again. The gentleman from Indiana asks unanimous consent that between now and the time for the meeting of the joint convention the sundry civil appropriation bill may be considered in the House. Is there objection?

Mr. WOOD, of New York. I object.

Mr. SPRINGER. I move, then, that the House now proceed to the consideration of the sundry civil appropriation bill.

The SPEAKER. The Chair overrules the motion of the gentleman from Illinois [Mr. SPRINGER] for the reason already stated, that a notification having come from the electoral commission that a decision has been reached and from the Senate that it is in possession of that decision, it is not competent under the law to proceed at this time with legislative business.

Mr. CASWELL. I move, then, to reconsider the vote by which the House directed the Senate to be notified that the House would be ready to meet the Senate at ten minutes after twelve o'clock.

Several MEMBERS. O, no!

Mr. COX. I move that the House take a recess until five minutes before twelve o'clock.

Mr. GARFIELD. I rise to make a privileged motion. I would be glad if we might be permitted to go on with the appropriation bill now; but if that is not in order I move that the Senate be notified that the House is now ready to proceed with the electoral count; and on that motion I demand the previous question.

Mr. COX. My motion is privileged.

Mr. SPRINGER. I rise to a point of order. On motion of the gentleman from Ohio, [Mr. SAYLER,] the House has already passed an order notifying the Senate that the House will be ready to meet that body at ten minutes after twelve o'clock.

Mr. WOOD, of New York. The object of my objection was that no legislative business should prevent the execution of the business of which we have notified the Senate. The gentleman from Indiana assures me that this bill can be passed before the time fixed for resuming the electoral count. I therefore withdraw my objection.

Mr. GARFIELD. Then I withdraw my motion.

The SPEAKER. The gentleman from New York moves——

Mr. COX. I withdraw my motion also. [Laughter.]

SUNDRY CIVIL APPROPRIATION BILL.

By unanimous consent, the House resumed the consideration of the bill (H. R. No. 4682) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes.

Mr. HOLMAN. I demand the previous question upon the bill and pending amendments.

The previous question was seconded and the main question ordered.

Mr. HOLMAN. I ask unanimous consent that all amendments be concurred in except those upon which a separate vote may be called for.

The SPEAKER. The first question is upon the amendment of the gentleman from Indiana [Mr. HOLMAN] to strike out "$50,000" and insert "$30,000" as the appropriation for what is known as the "Powell survey." On this amendment the question had been taken and the result declared in the negative, whereupon the gentleman from Indiana [Mr. HOLMAN] called for tellers.

Mr. HOLMAN. I will not insist upon the call.

The SPEAKER. Then the amendment is not agreed to. The question is on the motion of the gentleman from Indiana that the House concur in all the amendments of the Committee of the Whole, except those upon which a separate vote may be called for.

MESSAGE FROM THE SENATE.

A message from the Senate by Mr. GORHAM, its Secretary, announced the passage of an act (H. R. No. 4261) to provide for the sale of desert lands in certain States and Territories, with amendments in which concurrence was requested.

SUNDRY CIVIL APPROPRIATION BILL.

The SPEAKER. The question now recurs on concurring in the amendments of the Committee of the Whole in gross, with the exception of those upon which a separate vote has been demanded.

The motion was agreed to.

Mr. HOLMAN. I move to reconsider the vote just taken; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. HOLMAN. As a test vote I shall call for a separate vote on the allowance to Mr. Farwell for the expenses of his contested case in the present Congress, from Chicago. I ask the amendment be read.

The Clerk read as follows:

Charles B. Farwell, of the third district of Illinois, $3,000.

Mr. HARRIS, of Virginia. Mr. Speaker, when in Committee of the Whole the chairman of the Committee on Appropriations agreed to allow me five minutes in reference to these amendments when they came up in the House for consideration. By the pending amendment it is proposed to pay a sitting member, Mr. Farwell, who was afterward turned out after having received some $5,000 of pay as a member, to which by the action of the House it was declared he was not entitled, the expenses of his contest. It is in direct violation of the

law and of all the precedents. It is the same in the case of Frost, and the same in the case of Morey, and as I am not permitted to explain in reference to these amendments I shall content myself with asking they be rejected.

Mr. FORT. I wish to be heard on this amendment.

The SPEAKER. No debate is in order.

Mr. STEVENSON. I shall ask for a separate vote on the item in the contested-election case of Spencer *vs.* Morey.

The SPEAKER. The Chair understands that in the Committee of the Whole each of these items was considered and voted upon as a separate amendment; and, therefore, it is in order to demand a separate vote in the case of Spencer *vs.* Morey.

Mr. FORT. I demand a separate vote in each case. If we are to have a separate vote in one case let us have a separate vote in all.

The SPEAKER. A separate vote being demanded in each case the Clerk will read them in order.

The Clerk read as follows:

To pay J. V. LE MOYNE, contestant, expenses in contested-election case of Le Moyne *vs.* Farwell, third district of Illinois, $1,200.

The House divided; and there were ayes 96, noes not counted.

Mr. HOLMAN. We are too much pressed for time, and therefore I will not insist on any further division.

So the amendment was concurred in.

The Clerk read as follows:

J. G. ABBOTT, contestant, expenses in the contested-election case of Abbott *vs.* Frost, fourth district of Massachusetts, $2,000.

William B. Spencer, contestant, expenses in contested-election case of Spencer *vs.* Morey, fifth district of Louisiana, $734.05.

The amendments were separately concurred in without a division.

The Clerk read as follows:

James H. Platt, jr., contestant, expenses in contested-election case of Platt *vs.* Goode, second district of Virginia, $3,000.

The House divided; and there were—ayes 94, noes 42.

So the amendment was concurred in.

The Clerk read as follows:

JOHN GOODE, jr., contestee, expenses in contested-election case of Platt *vs.* Goode, second district of Virginia, $500.

JOSEPH H. RAINEY, contestee, expenses in contested-election case of Lee *vs.* Rainey, first district of South Carolina, $1,200.

The amendments were concurred in separately without a division.

The Clerk read as follows:

Samuel Lee, contestant, expenses in contested-election case of Lee *vs.* Rainey, first district of South Carolina, $1,200.

The House divided; and there were—ayes 88, noes 35.

So the amendment was concurred in.

The Clerk read as follows:

CHARLES W. BUTTZ, contestant, expenses in contested-election case of Buttz *vs.* Mackey, second district of South Carolina, $1,200.

Mr. SMALLS. I wish to move an amendment, and to be heard in its explanation.

The SPEAKER. Amendment is not in order and debate is not in order, as the previous question has been seconded and the main question ordered.

The amendment was concurred in.

The Clerk read as follows:

JERE HARALSON, contestee, expenses in contested-election case of Bromberg *vs.* Haralson, first district of Alabama, $1,150.

S. S. FENN, contestant, expenses in contested-election case of Fenn *vs.* Bennett, Idaho Territory, $1,000.

H. B. STRAIT, contestee, expenses in contested-election case of Cox *vs.* Strait, second district of Minnesota, $1,500.

E. St. Julian Cox, contestant, expenses in the case of Cox *vs.* Strait, second district of Minnesota, $1,500.

The amendments were separately concurred in without a division.

The Clerk read as follows:

R. S. Frost, contestee, expenses in contested-election case of Abbott *vs.* Frost, fourth district of Massachusetts, $2,000.

Mr. HARRIS, of Virginia. That is one of the cases I spoke of, and on which I demanded a separate vote.

The House divided; and there were—ayes 87, noes 75.

Mr. HOLMAN. I demand tellers.

Mr. CONGER. Is objection made in this case specially because this man happens to be a republican?

Mr. HOLMAN. I have voted against every one of those amendments, whether for a democrat or for a republican.

Mr. SAVAGE. A great many have already passed in favor of republicans.

Tellers were ordered; and Mr. HOLMAN and Mr. CONGER were appointed.

The House again divided; and the tellers reported ayes 94, noes not counted.

Mr. HOLMAN. I shall not insist on a further division.

So the amendment was concurred in.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the passage of the following bills without amendment:

An act (H. R. No. 197) granting a pension to Julia A. Schutt, widow of Martin Schutt, a deceased soldier;

An act (H. R. No. 3280) granting a pension to James Johnston;

An act (H. R. No. 2847) granting a pension to Lucinda Stearns; and

An act (H. R. No. 1347) granting a pension to Hattie D. McKain.

It further announced the passage of the following bills, with amendments in which concurrence was requested:

An act (H. R. No. 1238) granting a pension to Esther P. Fox;

An act (H. R. No. 3011) granting a pension to Mrs. Ann Annis;

An act (H. R. No. 4198) to authorize the President to restore Thomas J. Spencer to his former rank in the Army; and

An act (H. R. No. 4476) to provide for the appointment of an official short-hand reporter for United States courts in and for the district of California.

It further announced the passage of the following bills; in which concurrence was requested:

An act (S. No. 1260) granting a pension to Edmund H. Cobb;

An act (S. No. 1259) granting a pension to Daniel Houlihan;

An act (S. No. 1200) granting a pension to Margaret Hunter Hardie, widow of James A. Hardie, Inspector-General of the United States Army;

An act (S. No. 1183) granting a pension to Harriet Moss; and

An act (S. No. 1116) granting a pension to Sarah A. Chamberlain, guardian of minor heirs of James Eagle, Company F, Second Regiment Kansas State Militia.

It further announced the concurrence of the Senate in the amendment of the House to the bill (S. No. 1216) to provide for the preparation and publication of a new edition of the Revised Statutes of the United States.

SUNDRY CIVIL APPROPRIATION BILL.

The next item was read, as follows:

Frank Morey, contestee, expenses in contested-election case of Spencer *vs.* Morey, fifth district of Louisiana, $734.05.

Mr. STEVENSON. I ask for a division.

The House divided; and there were—ayes 77, noes 63.

Mr. STEVENSON. I call for tellers.

Tellers were ordered; and Mr. STEVENSON and Mr. HALE were appointed.

The House again divided; and the tellers reported—ayes 91, noes 70.

So the item was agreed to.

The Clerk read the next item, as follows:

Charles B. Farwell, contestee, expenses in contested-election case of Le Moyne *vs.* Farwell, third district of Illinois, $3,000.

Mr. HOLMAN. I call for a division.

The House divided; and there were—ayes 73, noes 93.

Mr. FORT. I call for tellers.

Tellers were ordered; and Mr. FORT and Mr. HOLMAN were appointed.

The House again divided; and the tellers reported—ayes 68, noes 96.

So the item was not agreed to.

The Clerk read the next item, as follows:

Frederick G. Bromberg, contestant, expenses in contested-election case of Bromberg *vs.* Haralson, first district of Alabama, $1,500.

The item was agreed to.

Mr. WHITE. I call for a separate vote on the amendment to pay J. W. Jennings for services as assistant doorkeeper. I do so for the reason that the present assistant doorkeeper has received pay for the very same work. There is no necessity for paying for services which have already been paid for.

The SPEAKER. Debate is not in order.

The Clerk read the amendment, as follows:

To pay J. W. Jennings, late assistant doorkeeper, for services under the Doorkeeper, his salary from September 15th up to and including the 4th day of December, 1876, $438.32.

The question being taken, there were—ayes 98, noes 32.

Mr. WHITE. There is no necessity for paying for services which have already been paid for. A quorum has not voted, and I call for tellers.

Tellers were ordered; and Mr. WHITE and Mr. THROCKMORTON were appointed.

The House again divided; and the tellers reported—ayes 137, noes 39.

So the amendment was agreed to.

Mr. HOLMAN. In view of the votes already taken, I will not ask for any further separate votes. The House seems disposed to stand by the action of the Committee of the Whole.

The SPEAKER. There are other amendments on which separate votes are asked.

The Clerk read the following amendment, on which a separate vote was asked:

Under the clause relative to the survey of the public lands add the following to the second paragraph:

But this proviso shall not be so constructed as to retain such an interest in said lands as shall prevent the States from selling the same for taxes; and if sold by the States for taxes, then the cost of surveying and selecting said lands shall be paid to the United States by the States, and upon such payments the title of said lands shall be perfect and complete in the States so paying said costs, it being the intention of this proviso that all taxes assessed after the passage of this act upon lands granted to any railroad company by the United States shall be valid as against any claim or title remaining in the United States in or to such lands on account of the non-payment of such costs and fees.

Mr. HOLMAN. I hope that will not be adopted.

The question being taken, the amendment was not agreed to.

Mr. HOLMAN. I hope the rest of the amendments will be considered as agreed to, unless some gentleman calls for a separate vote.

The SPEAKER. The Clerk will read the next amendment on which a separate vote is asked.

The Clerk read as follows:

Add to the bill the following paragraph:

That the sum of $375,000, or so much thereof as may be necessary, be appropriated to pay the amount due to mail contractors for mail service performed in the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Texas, Tennessee, and Virginia, in the years 1859, 1860, 1861, and before said States respectively engaged in war against the United States; and the provisions of section 3480 of the Revised Statutes of the United States shall not be applicable to the payments herein authorized: *Provided*, That any such claims which have been paid by the Confederate States government shall not be again paid.

Mr. HOLMAN. I call for a division.

The question being taken, there were—ayes 151, noes 30.

Mr. HOLMAN. As the negative vote is not enough to order the yeas and nays, I will not ask for them.

So the amendment was agreed to.

The remaining amendments, on which no separate vote was asked, were concurred in.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOLMAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. LUTTRELL. I ask unanimous consent that the bill (H. R. No. 4261) be taken from the Speaker's table, and that the House non-concur in the Senate amendments and ask for a committee of conference.

Objection was made.

The SPEAKER. It being now five minutes to twelve o'clock, the House, pursuant to order, takes a recess until twelve o'clock m.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By Mr. BLISS: The petition of Mary King, widow of Joseph King, late of Company B, Seventh New York Volunteers, for a pension, to the Committee on Invalid Pensions.

By Mr. COX: The petition of Charles W. Hinson, and other citizens of Buffalo, New York, against acquiescing in the decision of the electoral commission by preventing a further count of the electoral votes, to the committee on the privileges, powers, and duties of the House in counting the electoral vote.

By Mr. HOPKINS: The petition of citizens of Pittsburgh, Pennsylvania, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

By Mr. HUBBELL: The petition of Captain William Barnland, Captain Thomas Williams, and 75 other citizens of Marquette County, Michigan, for a survey for a harbor of refuge at Portage Lake on Lake Michigan, to the Committee on Commerce.

By Mr. HUMPHREYS: The petition of citizens of Greene County, Indiana, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. KELLEY: Resolution of the Academy of Natural Sciences of Philadelphia, expressing its sense of the importance of the proposed scientific exploration of the border States of Mexico and the United States, to the Committee on Foreign Affairs.

By Mr. PRATT: Two petitions, one from E. W. Jeffries and others, the other from Robert Patton and others, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. ROSS: The petition of citizens of Centre County, Pennsylvania, of similar import, to the same committee.

Also, Resolutions of the common council of Philadelphia, asking that the original chart of the Declaration of Independence be allowed to remain permanently in Independence Hall, to the Committee on Public Buildings and Grounds.

By Mr. STRAIT: The petition of Thomas Humphreys and others, for the equalization of pensions to disabled soldiers, to the Committee on Invalid Pensions.

Also, Concurrent resolutions of the Legislature of Minnesota, asking for a preliminary survey of the Saint Croix and Saint Louis Rivers to prove the feasibility of the connecting of these rivers by canal, to the Committee on Commerce.

By Mr. WOODBURN: The petition of Edward Todd and 49 others, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. WOODWORTH: The petition of citizens of Mahoning Valley, Ohio, for an appropriation for the improvement of the harbor at Ashtabula, Ohio, to the Committee on Commerce.

IN SENATE.

WEDNESDAY, *February* 28, 1877—10 a. m.

The recess having expired, the Senate resumed its session.

ELECTORAL VOTE OF SOUTH CAROLINA.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate a communication from the president of the commission, which will be read.

The Chief Clerk read as follows:

WASHINGTON, D. C., *February* 27, *A. D.* 1877.

SIR: I am directed by the electoral commission to inform the Senate that it has considered and decided upon the matters submitted to it under the act of Congress concerning the same, touching the electoral votes from the State of South Carolina, and herewith, by direction of said commission, I transmit to you the said decision, in writing, signed by the members agreeing therein, to be read at the meeting of the two Houses, according to said act. All the certificates and papers sent to the commission by the President of the Senate are herewith returned.

NATHAN CLIFFORD,
President of the Commission.

Hon. THOMAS W. FERRY,
President of the Senate.

Mr. CRAGIN. I move that the House of Representatives be notified that the Senate is ready to meet them and proceed with the count.

Mr. EDMUNDS. Be notified of this fact: that it has been communicated to us and that the Senate is now ready to proceed.

The PRESIDENT *pro tempore*. The order will take the usual form; it has been already prepared. The Secretary will read the order.

The Chief Clerk read as follows:

Ordered, That the Secretary be directed to inform the House of Representatives that the president of the electoral commission has notified the Senate that the commission has arrived at a decision of the questions submitted to it in relation to the electoral votes of South Carolina, and that the Senate is now ready to meet the House for the purpose of laying before the two Houses the report of the said decision, and to proceed with the count of the electoral votes for President and Vice-President.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

The resolution was agreed to.

The PRESIDENT *pro tempore*. The Secretary will execute the resolution of the Senate.

At eleven o'clock and five minutes a. m., Mr. G. M. ADAMS, Clerk of the House of Representatives, appeared below the bar and said:

Mr. President, I am directed to inform the Senate that the House will be in session and ready to receive the Senate at ten minutes past twelve o'clock for the purpose of proceeding with the count of the electoral votes.

The PRESIDENT *pro tempore*, (at twelve o'clock and nine minutes p. m.) The House having signified its readiness to receive the Senate at ten minutes past twelve, as it is now nearly that time, the Senate will repair to the Hall of the House of Representatives.

The Senate accordingly proceeded to the Hall of the House of Representatives, and returned to its Chamber at twelve o'clock and thirty-five minutes p. m.; when the President *pro tempore* resumed the chair.

The PRESIDENT *pro tempore*. The Senate having returned from the joint meeting with the House of Representatives, upon objections to the decision of the electoral commission having been submitted, the Chair will now lay before the Senate, to be read by the Secretary, those objections.

The Secretary read as follows:

The undersigned, Senators and Representatives, do hereby object to counting the votes cast by C. C. Bowen, J. Winsmith, Thomas B. Johnston, Timothy Hurley, W. B. Nash, Wilson Cook, and W. F. Myers, alleged electors of the State of South Carolina, in conformity to the decision of the electoral commission, and as reasons therefor assigned the following:

I.

Because no legal election was held in the State of South Carolina on the 7th day of November last past for presidential electors in compliance with section 3, article 8 of the constitution thereof requiring a registration of the electors of the State as a qualification to vote.

II.

Because in consequence of frauds practiced in said election, and the interference with and intimidation of the electors in said State by the Federal Government prior to and during said election, stationing in various parts of said State near the polling-places detachments of the Army of the United States, a full and free exercise of the right of suffrage was prevented, in consequence of which there was no lawful election had.

III.

Because in violation of the Constitution of the United States the Federal authorities, at the several polling-places in said State on the day of election, stationed over one thousand deputy marshals of the United States, who by their unlawful and arbitrary action in obedience to the unauthorized instructions from the Department of Justice, so interfered with the full and free exercise of the right of suffrage by the voters of said State that a fair election could not be and was not held in said State on the 7th day of November, 1876.

IV.

Because the certification of the election held by said electors on the 6th day of December, 1876, was not made by the lawfully constituted governor of said State.

V.

Because the said electoral commission, contrary to its duty and the authority vested in it by law, neglected and refused to inquire into the facts and allegations aforesaid, and that said decision is contrary to the law and the truth.

VI.

Because at the time of the pretended appointment of the said electors in the State

of South Carolina, it was under duress from the power of the United States unlawfully exerted upon it, and said pretended appointments were made under such duress.

VII.

Because the certificate numbered 1 was and is void.

First. For irregularity in that the electors were not sworn, as by the constitution of the State of South Carolina they were required to be.

Second. The certificate does not state that said electors voted by ballot, as required by the Constitution of the United States.

Third. The certificate upon the envelope in which the said certificate and accompanying papers were inclosed was not the certificate required by the laws of the United States.

T. M. NORWOOD,
JAMES K. KELLY,
HENRY COOPER,
S. B. MAXEY,
WM. A. WALLACE,
Senators.
J. F. PHILIPS,
HIESTER CLYMER,
ERASTUS WELLS,
A. T. WALLING,
A. M WADDELL,
JOHN R. EDEN,
THOS. L. JONES,
J. R. TUCKER,
Representatives.

The undersigned, Senators and Members of the House of Representatives, object to the counting of the electoral vote purporting to come from South Carolina, in conformity with the decision of the majority of the electoral commission, for the reason that the said electoral votes, as well as the votes of the people of said State at the presidential election on the 7th day of November last, were given under duress caused by the unlawful exercise of Federal power.

A. S. MERRIMON,
GEO R. DENNIS,
J. E. McDONALD,
WM. A. WALLACE,
C. W. JONES,
Senators.
DAVID DUDLEY FIELD,
M. I. SOUTHARD,
WM. MUTCHLER,
JOHN GOODE, JR.,
JESSE J. YEATES,
JOHN H. CALDWELL,
S. S. COX,
R. A. DE BOLT,
JOHN B. CLARK, JR.,
Representatives.

Mr. ROBERTSON. I offer the following resolution:

Resolved, That the decision of the commission upon the electoral vote of the State of South Carolina stand as the judgment of the Senate, the objections made thereto to the contrary notwithstanding.

The PRESIDENT *pro tempore*. The question is on the resolution.

Mr. BAYARD and Mr. EDMUNDS called for the yeas and nays, and they were ordered.

Mr. MERRIMON. I offer the following resolution:

Resolved, That it is competent to receive testimony to sustain the several exceptions above specified.

Mr. EDMUNDS. I make the point of order that that resolution is not in order. We must vote directly one way or the other, to affirm or reverse the decision of the commission.

Mr. MERRIMON. I submit that it is in order, before we take a vote upon the resolution offered by the Senator from South Carolina, to determine whether or not the Senate will receive testimony to sustain the exceptions. I insist that it is in order.

The PRESIDENT *pro tempore*. The Chair will submit the question of order to the Senate.

Mr. MERRIMON. Upon that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. I should like to have read that clause of the law relating to objections made to the decision of the commission.

Mr. MERRIMON. My idea, Mr. President, is this——

Mr. SHERMAN. Let us have the law read in regard to objections to the decision.

Mr. EDMUNDS. It is the last part of section 2.

The PRESIDENT *pro tempore*. The Secretary will read it.

The Secretary read as follows:

Whereupon the two Houses shall again meet, and such decision shall be read and entered in the Journal of each House, and the counting of the votes shall proceed in conformity therewith, unless, upon objection made thereto in writing by at least five Senators and five members of the House of Representatives, the two Houses shall separately concur in ordering otherwise, in which case such concurrent order shall govern.

Mr. MERRIMON. It seems to me very plain that, although the electoral commission would not receive testimony to show that the election in South Carolina was rendered void by the illegal use of the Army, nevertheless it is competent for the House of Representatives and the Senate to receive testimony to sustain exceptions to the ruling of the commission, as they would not receive testimony.

Mr. EDMUNDS. I suppose the time is running, and so debate may be in order upon the question as submitted. I wish to submit to my friend from North Carolina, who, I have no doubt, offers his resolution in entire good faith, that the statute says in explicit terms that the decision of the commission shall govern unless—

The two Houses shall separately concur in ordering otherwise, in which case such concurrent order shall govern.

The decision is that a particular set of votes ought to be counted. They must be counted unless the Houses order otherwise; that is, unless they order that they shall not, or that some other shall be counted. That is the plain language and intent of the law. If the Houses are of opinion that the commission has proceeded upon wrong principles, then they must reject the report of the commission; and it has proceeded upon wrong principles if it was wrong to decline to receive the testimony offered, and, therefore, it must be reversed. The adoption of this abstract principle, that it is lawful to receive testimony, does not appear to me to be open to discussion; it is not in order upon the reversing or affirming of the judgment of the commission.

Mr. MERRIMON. I still insist that my view of the matter is right. It is impossible under the act that the action of the electoral commission can be referred to it again or that that commission can take further action. If any action is to be had to reverse their decision or to ignore it or to reject it on the part of the Senate or the House of Representatives, that must be done by that branch of Congress so rejecting it. How is the question raised as to whether their decision is right or wrong? How is either branch of Congress to pass upon the propriety or impropriety of that decision? By means of exceptions. Then how are the exceptions to be treated? Is the Senate to vote blindly, is the House to vote blindly, am I to vote blindly? I want to know whether these exceptions are founded in fact, and if they are founded in fact then I am prepared to sustain the exceptions; otherwise I shall vote against them. It is important that the Senate shall be informed upon these questions of fact, and it is therefore absolutely essential that the testimony shall be received. I ask for the yeas and nays upon the resolution.

Mr. EDMUNDS. I second the demand for the yeas and nays on the question of order.

Mr. LOGAN. I ask for the decision of the Chair upon the point of order.

Mr. EDMUNDS. The Chair submits it to the Senate.

Mr. BAYARD. Mr. President, I submit upon the return of the decision of the electoral commission to either House of Congress the order to be taken is a concurrence or a non-concurrence with the decision, and upon that question two hours are given for debate, ten minutes being allotted to each speaker, who shall not speak more than once; and at the end of two hours the main question shall be put. I have urged in the debate before the commission that all evidence which was before the Senate or the House was necessarily open to the consideration of the commission and entitled to due weight in the mind of each Senator or each Representative, and that they could not, by being transferred to another chamber or by being placed upon the electoral commission, divest themselves of their duties and their powers as Senators or Representatives to open their minds to all the testimony which had been taken in the regular and usual manner by either branch of Congress. But the commission has, as the Senate knows, decided by a majority of one vote otherwise.

Therefore, in the present case I cannot vote to sustain the order asked for by the honorable Senator from North Carolina, because I believe that all that he wishes to bring before the Senate is already before it. In my judgment, it was all before the electoral commission, and accompanied the written objections and certificates which were placed before them. Everything in the shape of petition, deposition, or any paper known to parliamentary law connected with this case, and with all other cases of electoral vote, is now before the Senate, and cannot be justly excluded from the consideration of the Senate, or, in my judgment, from the consciences and minds of the members of the Senate or of the House, whether they sat upon the electoral commission or not.

The measure of duty in this regard is the same in the Senate, in the House, and in the electoral commission. A man did not lose his identity as a Senator or as a Representative nor diminish his official duties by taking his seat upon the electoral commission. But I do not hold that it is necessary that the proposed order should now be made in the Senate, because it is plainly impracticable to read all the testimony which is contained in the several volumes already in our possession in relation to the South Carolina election. The evidence known to parliamentary law in the shape of numerous depositions and reports (thanks to the action of the Senate, taken by committees raised by the order of the majority, and thanks to the action of the committees of the House raised by the action of that body) has been, and at this moment is, before the Senate if they choose to consider it and avail themselves of that means of knowledge.

Therefore, the honorable Senator from North Carolina has before him, as we all have, all the information relating to the election in South Carolina that was gathered by him either from his personal knowledge as a visitor in that State on one of the committees of the Senate or from any other source developed by parliamentary action of either House of Congress in regard to South Carolina.

I do not believe, however, sir, that this motion is in order according to the provisions of the law under which we are acting. I believe the only motion in order upon the separation of the Houses after the electoral commission has sent in their decision, is whether the decision of the commission shall stand, and the concurrent vote of the two Houses is necessary to overthrow it.

The PRESIDENT *pro tempore*. The question is, shall the resolution submitted by the Senator from North Carolina be admitted? on which the yeas and nays are ordered.

Mr. EDMUNDS. The question is whether it is in order.

Mr. McCREERY. I wish to make remarks on the main question; and I rise to ascertain whether this discussion on the point of order is to be deducted from the two hours allowed for discussion on the main question?

Mr. EDMUNDS. Certainly it is. The resolution has been submitted.

The PRESIDENT *pro tempore*. Debate has not commenced on the main question.

Mr. SHERMAN. I insist that there shall be no debate until the main question is put; it makes no difference how this question is decided. I ask that the main question be stated and put.

The PRESIDENT *pro tempore*. The Chair will now submit the question.

Mr. MERRIMON. I want to make one other remark.

Mr. BOUTWELL. Mr. President——

The PRESIDENT *pro tempore*. Is there objection? It is by common consent that Senators are making explanations in regard to this order.

Mr. BOUTWELL. I only wish to say that for one I do not concur in the opinion stated by the Chair that the debate has not already commenced. When the resolution was read from the desk I think the two hours allowed for debate commenced; otherwise the law is of no value in the way of controlling the time that may be consumed. I think when the resolution was read from the Chair the two hours commenced.

Mr. MERRIMON. I beg to make one remark——

The PRESIDENT *pro tempore*. Is there objection?

Mr. SHERMAN. I prefer that the main question be stated, which it is the right of every member to demand at any stage.

Mr. EDMUNDS. It was stated, and the resolution was read.

Mr. SHERMAN. Still the Chair is of opinion that debate has not commenced.

The PRESIDENT *pro tempore*. The Chair reminds Senators that on a previous occasion there was some considerable time taken up in arranging the form of proceeding before the final debate commenced. The Chair has followed the same practice on the present occasion, holding that this is a matter of form; and the debate on the main question, as the Chair supposes, has not yet commenced.

Mr. SHERMAN. Then I call for the reading of the pending resolution offered by the Senator from South Carolina, which is the main question.

Mr. EDMUNDS. The pending question is the question of order.

Mr. MERRIMON. I wish to make an additional remark——

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none.

Mr. MERRIMON. I do not concur in the view just expressed by the Senator from Delaware. The objection to the resolution goes on the notion that Congress is now sitting in its legislative capacity, and that we take notice of the evidence that comes to Congress from the several committees. According to my judgment Congress is not now sitting in its legislative capacity. It is exercising a special jurisdiction that devolves upon it by necessary implication of the Constitution. We are sitting here to exercise ministerial and judicial powers, to count the electoral vote for President and Vice-President, and whatever we consider in this capacity, or whatever the electoral commission, acting under the act creating that commission, shall take into consideration comes to it by special provision and direction; and therefore it is, if we consider the testimony taken by the Committee on Privileges and Elections of the Senate in South Carolina, there must be some special order directing that the Senate shall so consider it. If we consider the testimony taken by the House committee touching the election in South Carolina, it must come before us by some special order for that purpose; and it is in that view that I think the resolution that I have offered is proper. If the exceptions to the ruling of the commission are to be sustained, I maintain that we must have the evidence before us; and we must not only have it before us in a general sense, but we must have it before us in an official sense; we must have it before us under the special jurisdiction that we are exercising to count the electoral vote for President and Vice-President. Therefore I say the resolution is proper.

The PRESIDENT *pro tempore*. The question is, is the resolution submitted by the Senator from North Carolina in order?

Mr. BOGY. Mr. President, it seems to me——

Mr. HAMLIN. I object to further debate.

Mr. LOGAN. So do I. I object to further debate on the point of order.

The PRESIDENT *pro tempore*. Senators object to further debate on the question of order.

Mr. SAULSBURY. Is not the point of order debatable?

The PRESIDENT *pro tempore*. It is not debatable on objection. This has been indulged by common consent.

Mr. BOGY. I do not rise to——

Mr. LOGAN. I object.

Mr. BOGY. I do not rise to a point of order, and I do not understand the President as putting it as a point of order.

The PRESIDENT *pro tempore*. Debate is not admissible except by common consent; two objections have been offered.

Mr. SAULSBURY. I desire to ask another question, whether the rules that govern this body in the discharge of its ordinary duties are applicable to this session of the Senate, it being here for one special purpose under the act creating the commission? Are the general rules of the Senate applicable now?

The PRESIDENT *pro tempore*. Not where they conflict with the statute under which we are acting. The question is, is the resolution of the Senator from North Carolina in order? upon which the yeas and nays have been ordered.

Mr. BOGY. It is not the point of order that we are called upon to vote on this resolution. I do not wish to debate the question, although it seems to me we have a right to do so, because it seems to me we have not arrived at the two hours yet. It is like any other question before the Senate.

Mr. LOGAN. I object to any debate whatever on this resolution. I should have objected when the Senator from North Carolina rose the second time.

Mr. BOGY. Upon what ground can objection be made? It is like any other resolution before the Senate.

Mr. LOGAN. I object to it on the ground that this is a question of order now submitted to the Senate, and under the rules of the Senate it is not debatable. That is the ground on which I put it.

The PRESIDENT *pro tempore*. The Chair rules in this case that there are two hours allowed for debate. The Chair has decided that debate on the main question has not commenced, and therefore he cannot allow any debate to take place upon any other question unless by common consent. The Chair submitted that in the other case, and no objection was made. Since the Senator from Missouri has risen two objections have been offered; therefore there can be no debate.

Mr. BOGY. We have not got to the main question yet, and all these questions certainly are debatable.

Mr. BLAINE. Do I understand the President to say that unanimous consent can waive the obligations of statute?

The PRESIDENT *pro tempore*. The Chair understands that by common consent such has been the practice in the other cases, and the Chair is acting under the same practice.

Mr. BLAINE. It can a rule undoubtedly that the Senate itself makes; but this is a statute passed by both branches and signed by the President. Is there a dispensing power by unanimous consent of the Senate?

The PRESIDENT *pro tempore*. Such has been the practice, and the Chair is ruling in the same way.

Mr. BLAINE. I think that practice should be

More honored in the breach than the observance.

Mr. BOGY. I cannot see why——

The PRESIDENT *pro tempore*. Objection is made, and therefore debate on this resolution is not in order. The question is, is the resolution offered by the Senator from North Carolina in order? upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 18, nays 43; as follows:

YEAS—Messrs. Bogy, Cooper, Davis, Eaton, Goldthwaite, Hereford, Johnston, Jones of Florida, Kelly, Kernan, McCreery, Maxey, Merrimon, Norwood, Ransom, Saulsbury, Wallace, and Withers—18.

NAYS—Messrs. Allison, Anthony, Bailey, Blaine, Booth, Boutwell, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Clayton, Conover, Cragin, Dawes, Dorsey, Edmunds, Ferry, Frelinghuysen, Hamlin, Harvey, Hitchcock, Howe, Ingalls, Jones of Nevada, Logan, McMillan, Mitchell, Morrill, Morton, Oglesby, Paddock, Patterson, Robertson, Sargent, Sharon, Sherman, Spencer, Teller, Wadleigh, West, Windom, and Wright—43.

ABSENT—Messrs. Alcorn, Barnum, Bayard, Bruce, Cockrell, Conkling, Dennis, Gordon, Hamilton, McDonald, Randolph, Stevenson, Thurman, and Whyte—14.

The PRESIDENT *pro tempore*. The Senate decides the resolution to be out of order.

Mr. BOGY. I now move that the testimony taken in this case, which is in possession of the Senate, be read. I am not prepared to vote upon the decision of the commission until I hear the testimony so that I may see whether the decision is right or wrong before being called upon to give a vote. I wish to base my vote upon the testimony. I move that the testimony be read.

The PRESIDENT *pro tempore*. The Senator from Missouri moves that the testimony be read.

Mr. BOGY. On that motion I call for the yeas and nays.

Mr. CAMERON, of Wisconsin. Mr. President, certain testimony has been taken in this case by a subcommittee.

The PRESIDENT *pro tempore*. Debate is not in order unless by common consent.

Mr. INGALLS. I object.

The PRESIDENT *pro tempore*. Objection is made.

Mr. CAMERON, of Wisconsin. I simply desire to say that there is no testimony yet in the possession of the Senate, for the reason that the committee has not made its report to the Senate.

The PRESIDENT *pro tempore*. The Chair rules that there is no debate allowable in making up the form of the main question.

Mr. BOGY. I call for the yeas and nays on my motion.

Mr. LOGAN. I rise to ask a question. Is not this motion the same motion that we have just voted down?

The PRESIDENT *pro tempore*. It is not.

Mr. LOGAN. I do not see any difference. One was a resolution that the Senate receive testimony; and the other is a motion that the testimony be read. What is the difference? I cannot see any.

The PRESIDENT *pro tempore*. It is different in form.

Mr. BOGY. I ask for the yeas and nays on my motion.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. McCREERY, (when Mr. STEVENSON'S name was called.) I rise to state that my colleague is confined to his room by indisposition.

The roll-call having been concluded, the result was announced—yeas 21, nays 41; as follows:

YEAS—Messrs. Bailey, Barnum, Bogy, Cooper, Davis, Dennis, Goldthwaite, Hereford, Johnston, Jones of Florida, Kelly, McCreery, Maxey, Merrimon, Norwood, Randolph, Ransom, Saulsbury, Wallace, Whyte, and Withers—21.

NAYS—Messrs. Allison, Anthony, Bayard, Blaine, Booth, Boutwell, Burnside, Cameron of Wisconsin, Christiancy, Clayton, Conover, Cragin, Dawes, Dorsey, Edmunds, Ferry, Frelinghuysen, Gordon, Hamlin, Harvey, Hitchcock, Howe, Ingalls, Logan, McMillan, Mitchell, Morrill, Morton, Oglesby, Paddock, Patterson, Robertson, Sargent, Sharon, Sherman, Spencer, Teller, Wadleigh, West, Windom, and Wright—41.

ABSENT—Messrs. Alcorn, Bruce, Cameron of Pennsylvania, Chaffee, Cockrell, Conkling, Eaton, Hamilton, Jones of Nevada, Kernan, McDonald, Stevenson, and Thurman—13.

So the motion was not agreed to.

The PRESIDENT *pro tempore*. The resolution will now be reported.

The Secretary read as follows:

Resolved, That the decision of the commission on the electoral vote of the State of South Carolina stand as the judgment of the Senate, the objections made thereto to the contrary notwithstanding.

The PRESIDENT *pro tempore*. This is the main question. Debate now commences. If there be no debate, the question is on agreeing to the resolution, upon which the yeas and nays have been ordered.

Mr. McCREERY. Mr. President, the average American politician, under ordinary circumstances, can scarcely resist the tempation of a favorable opportunity to make a ten minute speech, and the impetuosity of its delivery reaches its greatest elevation when it is perfectly manifest that his effort will be fruitless of any result.

The learned gentlemen who framed the electoral bill were impressed with the necessity of imposing restraint upon excess, and this innocent indulgence has been limited by operation of law to two hours' duration in the aggregate, to be divided out among the twelve Senators whose enterprise or good fortune shall enable them to obtain the floor. And in this brief allotment we are required to express all the disgust and all the indignation we feel in contemplating the deep injustice which has marked the proceedings of the electoral tribunal. Vituperation and invective, however scathing and incisive in their character, fail to rise to the height of the great wrong, and it is a question at last whether or not a solemn silence would not have been the most appropriate greeting to the partisan judgments of the court, or rather of the electoral tribunal.

But, speculate as we may, the argument is closed, the question is settled, and perhaps it may have been settled before the argument was opened. At the outset our pathway was lighted up by hope, and faith, and trust in the justice of our cause and in the incorruptible integrity of our judges; but the dark shadows of disaster and defeat now rest upon it. Seven was considered a most fortunate number among many of the nations of antiquity; but they had never witnessed the operations of a returning board of eight radicals, with the Senator from Indiana [Mr. MORTON] at its head. [Laughter.] If they had ever seen that, that favorite numeral would have lost its charm. [Laughter.]

The last presidential election was probably as free from fraud, violence, intimidation, or corruption as any other which has been held in twenty years. It is positively certain that a large majority of the American people voted for Samuel J. Tilden, of New York, for President, and for Thomas A. Hendricks, of Indiana, for Vice-President, and it is morally certain that if the electors chosen by the people had been protected in their rights or had been allowed to exercise their rights they would have been triumphantly elected. The people believed that, having carried the requisite number of votes, they were elected, and that no man would have the hardihood to oppose or to thwart the expression of the will of the sovereign people. But while they were engaged in exchanging congratulations upon the restoration of republican liberty and in returning thanks to God for their great deliverance, a dispatch was published from a Cabinet officer saying that Hayes had been elected. Shortly afterward, strange rumors were in circulation that President Grant had avowed his determination to see that Hayes was inaugurated; and in fearful corroboration of this statement, troops began to assemble around the capital, and military array and martial music greeted the eyes and the ears of the office-holders of Washington. How many of that brotherhood would see the country drenched in blood before they would jeopardize their places, it is impossible to determine.

A crisis had arrived in our affairs which called for the calm deliberation of our wisest, and clearest, and coolest heads to devise some measure, just and equitable in its provisions, to avert the threatening dangers that surrounded us. A special committee was appointed by the Senate, and after weeks of patient and constant labor the electoral bill was reported. I voted for that bill, and I do not intend here or elsewhere to attempt to evade or to escape from the responsibility of that vote. I shall be condemned by that large and respectable class of gentlemen who knew precisely what would take place before it happened; but in my humiliation I shall have the sympathy of all poor mortals, who, like myself, could not "see into the middle of next week," if their lives depended upon it. Those who could clearly foresee the end must have had a desperate struggle with their feelings; or compassion, or kindness, or love of country, or some other consideration would have prompted them to interpose some surer and safer plan of averting the peril. The able, the upright, and the patriotic gentlemen who represented us on that committee hold high rank in the legal profession and enjoy the confidence of the country as politicians; but they were neither prophets nor the sons of prophets. It was their misfortune and not their fault that they had never been endowed with "that mystical lore" which enables men to forecast the events of the future.

The PRESIDENT *pro tempore*. The Senator's time has expired.

Mr. WHYTE. I claim the floor and ask the privilege of yielding my time to the Senator from Kentucky.

The PRESIDENT *pro tempore*. Is there objection to this?

Mr. HOWE. What?

The PRESIDENT *pro tempore*. Yielding the time of one Senator to another.

Mr. WHYTE. I give him my ten minutes.

The PRESIDENT *pro tempore*. The Chair hears no objection.

Mr. McCREERY. If I understand the purpose of the creation of the electoral bill, it was to investigate the issues where two or more returns were made from the same State. Those issues were substantially fraud or no fraud in Louisiana, fraud or no fraud in Florida, and fraud or no fraud in South Carolina. But the republican members of the tribunal were suddenly seized with such marvelous love of State rights that no fraud, however palpable, no outrage, however gross, could induce them to disturb the solemn sanctity of the great seal of a State. Had they forgotten that they themselves had gone behind, or before, or walked straight over the great seal on other occasions, whenever the exigencies of party demanded it? I am for State rights, but I would not take the votes cast for one candidate and transfer them fraudulently to another candidate, deceitfully pretending that in so doing I was protecting the rights of the States, nor would I sanction such a transaction on the part of a returning board or any other agency. General Grant has said and done little in the last eight years that meets my approbation; but in the sentiment that no man worthy of the position can afford to take it with a taint of fraud, I heartily concur. Fraud vitiates everything. A judgment rendered by the highest tribunal in this land would be set aside if it were clearly established by competent proof that it had been obtained by fraud.

But the issues involved in this controversy are as well understood by the people at large as by ourselves. To their calm and deliberate judgment we make our appeal.

Mr. McDONALD. Mr. President, the electoral commission has completed its labors, has performed its perfect work; and under its rulings, made by a strict party vote, the States of Florida, Louisiana, Oregon, and South Carolina are all to be counted for Hayes, and the votes of those States are to be taken as the "votes provided for by the Constitution of the United States." The result of these rulings will be to place a man at the head of the executive branch of the Government over the protest of more than 260,000 of a majority of the people of the United States. When the election closed on the 7th of November Samuel J. Tilden and Thomas A. Hendricks had received 267,000 majority of the votes actually cast by the people, and on the meeting of the electoral colleges in the several States on the 6th of December, 184 unquestioned electoral votes were cast for them, lacking but 1 of a majority of all the electors that could be appointed under the Constitution of the United States. There were four States in which controversies existed as to their electoral votes, making an aggregate of 20 votes. These controversies were in good faith submitted to this electoral commission with authority to find the true votes, "the votes provided for by the Constitution of the United States."

In Florida the canvassing officers having power only to canvass and compile the votes returned to them by the primary officers of election, disregarded the plain provisions of the law, and by a fraudulent and illegal rejection of a part of the returns gave certificates of election to the Hayes electors, who had not been appointed by the people, and refused certificates to those whom the people had chosen. The supreme court of the State had pronounced the acts of the officers illegal and by mandate had compelled them to make a recanvass, by which the true result was declared as respects these State officers. A court of competent jurisdiction had by mandate forbidden the count of the electoral vote made in pursuance of the fraudulent canvass. But by a strange perversity of judicial vision, this electoral commission by a party vote held that it could not look into these plain and palpable facts.

In Louisiana, of the votes actually cast, the democratic electors had received majorities over the republican candidates ranging from 5,300 to 8,990; the majority of the highest democratic elector over the lowest republican candidate was 8,990.

An illegal board of returning officers, in disregard of the law under which they pretended to act, and by the commission of the most stupendous frauds, reversed the popular will and certified to the election of the minority candidates.

Proof of these facts was tendered to the electoral commission and by them rejected, and for the first time in the history of any civilized people a tribunal clothed with power to investigate the facts upon

which rested the validity of an act to which their sanction was to be given refused to consider as an element affecting its validity a direct charge of fraud; and that a person fraudulently certified as elected is to be deemed the duly appointed elector, and the vote of such person is to be taken as the vote provided for in the Constitution.

Oregon had voted for one whom the Constitution of the United States says shall not be appointed an elector. The governor of the State had refused to give a certificate of election to this disqualified person, but under the law of the State, as he understood it, he certified to the candidate next highest on the list. The loss of this one vote would be fatal to the success of the party to which a majority of the commission *belonged*, and therefore they made haste to overrule the authorities of the State of Oregon in the construction they had given to the laws of their State, and counted the whole for Hayes.

South Carolina had been throttled during the canvass for the appointment of her electors by the military power of the Federal Government, and her electoral vote controlled at the point of the bayonet; but in the interest of State rights this vote also must be counted for Hayes and Wheeler, and thus we reach the end.

A minority President placed in power by fraud and force, nothing is now left for us but to take an appeal to the people. If it shall be found that in the forum of the people fraud does not vitiate then indeed are the days of our Republic numbered.

Mr. MORTON. Mr. President, I do not rise to vindicate the decisions made by the electoral commission. So far as that commission has decided any question of law, I believe it will be fully vindicated by the legal mind of the United States, and I believe it has affirmed no proposition that six months ago was not accepted as the law by men of all parties; but we hear this continual talk about fraud, fraud, and an attempt is being made to strike out the electoral vote of South Carolina, and because that is not permitted the electoral commission and the republican party are charged with fraud! If that vote was stricken out, fraud would be committed. By the committee which was sent down there by the House of Representatives, it was reported, as I am informed, that the Hayes electors had a majority of some 800. The committee sent down by the Senate reported it at a larger figure; and with a fair election in South Carolina the republican majority would be from 25,000 to 30,000. And yet with a conceded republican majority by the report of a democratic committee, we are charged with fraud because the vote of South Carolina is not stricken out.

And now, in regard to Louisiana. I believe Louisiana is a republican State; that with a free and fair election there would be a republican majority of from fifteen to twenty thousand. The returning board there threw out votes from several parishes, and upon what ground? Upon the ground that the majorities had been obtained by violence, by murders, and crimes of every hue; that there had been no free and fair election; and if there had been, that the result would have been entirely different.

Sir, in a State like Louisiana, where the elections were carried by violence, there is no relief, and can be none, except through a tribunal that is authorized to hear the evidence of violence and decide upon it, and throw out majorities obtained by violence. Take a parish where there are known to be thousands of republicans, and yet by violence but a half a dozen republican votes are polled. We know that that result is fraud, and it is bloody fraud; it is worse fraud than merely stuffing a ballot-box; it is worse fraud than simply making a false count; it is a fraud stained with blood, the deepest and most damning kind of fraud.

Mr. President, take the State of Mississippi, giving a democratic majority of sixty thousand, or thereabouts. Does not every well informed man know that Mississippi is a republican State? Does not every well informed man know that that result was obtained by violence, by intimidation, by murder, whipping, torture, exile, and every species of violence and wrong; but because a majority of sixty thousand has thus been piled up we are told that the popular majority is largely in favor of Mr. Tilden. Sir, there never was a greater wrong perpetrated in the form of an election than that in Mississippi.

But, Mr. President, how stands this question of popular majorities? In what may be called the northern States, leaving out the fifteen States which we commonly call southern States, Mr. Hayes has a popular majority, if I remember correctly, of about 225,000; but when you go South, into Georgia, Mississippi, Arkansas, and other States, they pile up large majorities on the other other side: a majority of 80,000 in Georgia. Mr. President, there is no democratic majority like that in Georgia. I do not believe there is 5,000 democratic majority in Georgia. But, as an evidence of the way in which a majority of 80,000 is obtained, I may refer to the fact that in eight counties, in that State, in which there are known to be thousands of republican voters, Hayes did not receive one vote, or a mere handful of three or four votes. That is the way these large majorities are obtained, by intimidation and by driving thousands and tens of thousands of people from the polls. No, Mr. President, upon a fair and free election in those southern States, and comparing their votes with the northern States, Hayes would have a large majority of the popular votes of the United States.

I did not rise to argue the objections that have been made, but to refer to this talk about fraud, fraud. This attempt to strike out the electoral votes of a State in which both committees have reported that the Hayes electors had a majority seems to me the very acme of audacity. There is no pretense that Tilden carried South Carolina. Notwithstanding the Hamburgh massacre, notwithstanding the Ellenton massacre, notwithstanding the dropping murders all over the State; in defiance of and over all this, Hayes had a clear majority on the face of the returns, and yet we are charged with fraud.

No, Mr. President, on a fair and free election in South Carolina, Hayes would have carried the State by a large majority and would have carried Mississippi by a large majority, Florida by a fair majority for so small a State, Louisiana by a large majority, and Alabama by a handsome majority. No, Mr. President, what is called fraud means simply this: that votes and majorities obtained by murder, violence, intimidation in every form, are stricken out. To strike out the fruits of murder and violence is called fraud.

Mr. SAULSBURY. Mr. President, when I came into the Chamber this morning, I did not intend to have anything to say upon this subject; but we are approaching the consummation of the greatest wrong which, in my judgment, has been perpetrated during the age. We are approaching the time when you, sir, will be called upon to declare, contrary to the facts of the case, that Rutherford B. Hayes has been duly elected the President of these United States. I cannot let this occasion pass without at least expressing my condemnation, unhesitatingly and unqualifiedly, of the action of the electoral commission, not only in reference to South Carolina, but in reference to every State which has been passed in review before that commission.

It is well known to the people of this country that soon after the election, on the 7th day of November, a conspiracy, deep and foul—ay, a conspiracy which sought to overthrow the will of the American people and subvert, for the time, the free elective system of the Government in which we live—was entered into by men high in official position and high in the estimation of the republican party. Sir, we are approaching the consummation of that conspiracy by and through the judgment of this electoral commission. I do not design, nor will I speak disrespectfully of the *personnel* of that commission. I know who they are; they are men high in official position; but with their judgment I have a right to deal. I will not smooth my words nor silence my tongue in uttering condemnation of their act in refusing to investigate the frauds that have been practiced, whereby the conspiracy referred to is to be consummated and the will of the American people overthrown.

How was it in South Carolina? The Senator from Indiana [Mr. MORTON] speaks of the majority which was given in South Carolina. How was it accomplished? The Army of the United States was sent there for the purpose of coercing and controlling the vote of that State. I will take that back; I will not say for the purpose of doing that, but I will say with that effect, and millions of the treasure of the country were spent in supporting the Army in the Southern States with the view of aiding the republican party. Yet the people of the country in their majesty rose and rebuked by their votes at the ballot-box that attempt to influence by military invasion of the States their free right to vote for whom they pleased. Had it not been for the military interference there the State of South Carolina, in the judgment of the people of this country, would have given a very large and decided majority for the Tilden electors.

How was it in Louisiana? The Senator from Indiana talks about the murders, the bloodshed, the intimidation in Louisiana. As I have said before, after having made a visit to that State, in my opinion the democratic party in no State in this Union sought in its organized capacity more earnestly to have a peaceable, and fair, and quiet election than in Louisiana. The murders and the violence to which the Senator refers are not the effect of the action of the democratic party, but the natural and necessary consequence of that inefficient government by which the people have been oppressed through the agency of the republican party. If the laws are not enforced there it is attributable not to the action of the democratic party, but it is attributable to the republican party, which has kept that people from the exercise of their free right of government. That has been the cause of the trouble there.

Now, let me say to the Senator from Indiana that I believe today that most of this proof of violence, this proof of intimidation by the democratic party, is flagrant perjury. The book that was brought into the Senate, sent here by the President of the United States, containing the affidavits gathered up by the committee that was sent down by the President, is a book of perjuries, bought and paid for, let me say, out of the Treasury of the United States; for when the facts appear I believe it will be found that the men who came to make those affidavits were summoned by the marshal of the United States, and paid out of the public Treasury from the funds that were in its hands.

I say there is no people on the face of this earth who have been more outraged than the people of Louisiana. For eight years they have been denied free government. They have been told for the last four years to wait patiently, that the people would rectify their wrong at the next election; and now, when they come up, and by a majority of from eight to ten thousand express their condemnation of the republican party, a returning board, the offspring and instrument of fraud, acting no doubt upon advice from higher quarters, throws out the electoral vote of that State, and this commission refuses to investigate the wrong. I speak not of the *personnel* of that commission, but I speak of its judgments as among those that will go down to posterity branded, I had like to have said, with infamy.

Mr. President, we know the result. Mr. Hayes is to be inaugurated. I have never in my life uttered a word disparaging to the character of Governor Hayes. I will not become a slanderer of private character. I will say nothing of him now; but I say that when he enters the White House he will go there without title; he will take possession of an office that by virtue of the votes of the people belongs to Samuel J. Tilden; and during the four years that he will preside at the White House, he will feel that he is occupying the place that belongs to another. Samuel J. Tilden—a gentleman with whom I have no personal acquaintance—with the consciousness that he has been chosen by his countrymen, will feel far more content than any man who may occupy an office to which he has not been elevated by the wish of the people. Nay, sir, he will feel that he has had all the honor which the votes of his countrymen could confer. Though he may be denied the emoluments of the office, he can live honored and respected in that retirement to which the judgment of this commission assigned him, not the voice of the people of the country. For the democratic party, let me say, Mr. President, that it can still survive the wrong and live to vindicate its principles and its rights. It is true that it will be displaced for four years from power, but its members will have the consciousness that they have elected the President of the United States and have been robbed of him by force and by fraud. The American people will vindicate their wrongs, and four years to come will bid farewell to the power of the party that now holds it, and which will hold it four years more, not by virtue of right, but by virtue of the grossest and most outrageous frauds, into which the majority of the commission would not, dared not look.

Mr. LOGAN. Mr. President, whom the gods would destroy they first make mad, and it does seem to me that the madness on the part of the democracy is evidence of their approaching destruction as a party. It is a very uncommon thing to see the parent assault the child. Here is a commission organized under the forms of law, made up of high-minded and honorable gentlemen, and we may say that it is the child of the democratic party; at least the democracy in the Congress of the United States voted for and advocated the creation of this commission. It was announced in all the democratic papers throughout the country as the consummation of the greatest statesmanship of the age; a peaceful solution of a great difficulty growing up in the land, and now, because the commission have not decided these questions just in accordance with the theories and ideas of the democracy of this country, their decisions are denounced as decisions of a fraudulent kind; decisions based not upon law and fact, but decisions growing out of partisan spirit.

I have not indulged in the discussion in reference to the question of fraud, since the commission has had these questions before it, but I hear day after day in both branches of Congress a denunciation of a majority of this commission because they have decided in a certain way; and therefore they are arraigned for giving political decisions. Sir, they have decided these questions in accordance with the precedents of almost a century. They have decided these questions in accordance with the decisions heretofore of the highest tribunals of this land where political questions have been decided. If there has been partisanship shown in this tribunal, I ask the Senator from Indiana [Mr. McDONALD] and the Senator from the great State of Delaware [Mr. SAULSBURY] why it is the seven have not exhibited as much party spirit as the eight? Is it because their number is a little short that they exhibit no party spirit? Is that the logic? I believe these men have decided as they honestly believed the law required them to decide, as they honestly believed the precedents required them to decide, and the interest of the country in future, as these questions were presented to them in legal form.

But frauds have been committed they say. Doubtless there have been frauds committed. I do not believe there has been a general election in this country for fifty years in which there has not been fraud committed. But the frauds seem to be all on one side, according to the declarations of the democracy in this Chamber. Now, sir, there has never been in the annals of the history of this country so open, palpable, unblushing, and damnable a fraud attempted as was attempted in the State of Oregon by men who ought to blush at the mention of it. You talk about frauds in this Chamber and I find the name of a Senator appended to nearly every objection that is made. I would desire, if I could, to pass by mentioning this fact, but when you bring us up to the point where we must meet you, I then decline further to be prevented from calling forth the iniquities upon your part, although it is in the person of a Senator whose connection with it was very close indeed. You talk about frauds when telegrams were sent approved by a Senator of the United States for the purchase of an electoral vote to elect Samuel J. Tilden President of the United States. Who ever attempted such a thing before? When did the republican party, or any party in this country, ever attempt to purchase electoral votes to elect a President of the United States until the democratic party did it in this contest? And yet you talk about frauds. Why, sir, the attempt of the democracy in the State of Oregon would be almost enough to make an escaped convict from the penitentiary blush. Telegrams were sent from New York, telegrams were sent from Oregon to No. 15 Gramercy Park, stating that parties could be had for so much, that so much money must be put to the credit of so and so at such a time, and that this must be done in order to procure the vote, and it was done, and the proofs show it. A telegram in cipher sent by a man by the name of Patrick, demanding $8,000 to purchase a republican elector, was approved by a Senator of the United States, and yet you talk about fraud. It is about time that these denunciations on the part of the democrats should cease or else republicans will maintain their manhood.

I say this and I say it because provocation has been given so as to force it to be said, and I do not wish to cast any reflection upon Senators or upon any persons. I would rather not have said what I have said and what I am going to say now, if it had not been necessary on account of the provocation given here every day. Senators on this side of the Chamber, republicans in principle, have been censured in this Chamber, for less offenses than Senators have been excused for on the democratic side in this fraudulent transaction in Oregon. Who in this Chamber can deny that fact? We are ready on this side of the Chamber to excuse; we have been willing to do so; we have been willing to allow this commission to go on in an orderly way and perform their duty and to abide by that decision, whether it be for Mr. Tilden or for Mr. Hayes. We were willing to do it and agree that their conclusions were honest, that their conclusions were the legitimate deductions of their examinations from the facts and the law, no matter where that decision should fall; but because it does not fall in favor of Mr. Tilden, by the purchase of an elector in Oregon—if I may use such an expression, at least evidence almost warrants me to say that, it being the performance of a certain perfidious act in order that Tilden might be elected—and because this commission will not count a vote of that character to elect Mr. Tilden, it is all fraudulent, it is all wrong, it is all hypocritical, it is all a cheat, it is all a sham.

No, sir, you mistake yourselves when you think that the country is going to swallow all this stuff that is put forth about frauds, and about tricks, and everything of that kind. The sensible people of this country want this question decided; they want it decided honestly; they want it decided without filibustering; they want it decided in a cool, calm, and dispassionate manner; and they are willing to abide by it. The telegrams that are coming to Congressmen asking them to filibuster and prevent the count come from the lower class of politicians; a class of people who love nothing; but their hates are always foremost. They do not love their country; they are devoid of patriotism; they would rather see the star of this magnificent Republic sink into the deep, dark sea of blood and gloom, than be disappointed in that which they desire, the forthcoming inauguration of their candidate for President.

The PRESIDENT *pro tempore*. The Senator's time has expired.

Mr. EATON. Mr. President, I do not rise to discuss this question, but to express my deep gratitude to one member of the electoral tribunal for the very calm and dispassionate judgment which he has given us to-day. I allude to the commissioner from Indiana [Mr. MORTON.] It was a judicial opinion delivered with great calmness, based doubtless upon testimony, for he volunteered to say to the Senate of the United States that there had been frauds, bloodshed, and murders committed in Louisiana and in South Carolina. Yet if I understand the facts, the commissioner from Indiana, the honorable Senator, refused to hear any of that evidence before the tribunal.

He spoke of the number of votes. I want to say a word about the number of votes. Samuel J. Tilden has received in round numbers three hundred thousand majority of the popular vote of this country, and Samuel J. Tilden has received a million majority of the white vote of this country, the thinking, reflecting vote of the country. This million majority of voters, quietly, acting under the advice of leading gentlemen, submitted this case to a tribunal, which it was supposed would be governed by law, by equity. Has that tribunal been so governed? Will that be the expression of the people of this country?

Mr. President, the Senator from Illinois [Mr. LOGAN] has just said that nobody but the lower classes of the community say one word in objection to the decisions of this tribunal. The honorable Senator from Illinois is mistaken. I wish to read a telegram to show that distinguished Senator under what a mistake he labors. I hold in my hand a telegram containing a resolution written by one of the most eminent men in the United States, sent to me by twenty-one men representing 65,000 democrats in the State of Connecticut, be they of the lower or of the higher classes:

HARTFORD, CONNECTICUT, *February* 27, 1877.

Hon. WILLIAM W. EATON, *United States Senate:*

Please communicate the following to our delegation in Congress:

At a meeting of the democratic State committee, held in Hartford on the 27th of February, 1877, the following preamble and resolution were unanimously adopted:

Mark the language following, which I say is written by one of the most eminent men in this broad land:

Whereas the electoral commission designed and instituted to ascertain who by the votes of the people cast on the 7th day of November last was duly and justly elected to the Presidency for the four years ensuing from the 4th of March next, has by a partisan majority vote of its members—

In doing what?

in excluding evidence and by utter disregard of law, justice, equity, truth, honor, and fidelity to official oath and consistency in its decisions, defeated the purpose for which it was formed, disappointed the just expectation of the country, condoned fraud, and set a premium upon crime against the dearest rights of every freeman:

Resolved, That it is the duty of the Senators and Representatives in Congress from this State to exercise every constitutional power in them vested to prevent the consummation of a fraud which, by condonation, will become prosperous and habitual, to the early and certain destruction of our free institutions.

Resolved, That the chairman of this committee be, and he hereby is, instructed to forward immediately the foregoing to our Senators and Representatives in Congress.

I beg leave to say to the Senate, and I beg leave to say to my distinguished friend from Illinois, that no better men breathe than the men who sent these resolutions to the Representatives and Senators in Congress from my State.

I want to say another thing to the Senator, that, so far as we have the power, we will exert it to prevent this condonation of fraud and this making and paying a premium upon crime, which in the end must prove the destruction of the institutions of the country.

Mr. LOGAN. Will the Senator allow me to ask him a question right there?

Mr. EATON. Certainly.

Mr. LOGAN. When I made allusion to these telegrams that were coming to Members and Senators I spoke of telegrams encouraging them to filibuster. Now, I ask the Senator when he says he proposes to use all means, if he intends to include filibustering among the means?

Mr. EATON. I mean all constitutional means. That is my answer, and the honorable Senator from Illinois knows the full breadth of the constitutional means that I speak of.

Mr. LOGAN. I do not know whether I do or not. Will the Senator give the name of that great man in Connecticut who sent this telegram?

Mr. EATON. No, sir; I will not.

Mr. LOGAN. Ah, then I cannot judge of him.

Mr. EATON. I did not say that any great man had sent me the telegram. I said it was drawn by one of the most eminent men in the United States.

Mr. LOGAN. Will the Senator give the name of the gentleman who drew it?

Mr. EATON. I do not feel inclined to be questioned on that subject.

Mr. LOGAN. Then I should like to ask the Senator how I am to judge whether he belongs to the higher or lower classes?

Mr. EATON. If the Senator is a judge, as I believe him to be, of good writing and good language, let him read the paper as it will be printed, and then he will know that the telegram came from the hand of a master. [Manifestations of applause in the galleries.]

The PRESIDENT *pro tempore*. The Chair will remind the occupants of the galleries at this time that if there is any applause or any demonstration one way or the other he will order the galleries to be cleared.

Mr. SHERMAN. Mr. President, I trust we have now come to the close of a long-contested presidential election. It will be memorable as long as the history of the United States endures. It is an election that turns upon one vote in an aggregate vote of three hundred and sixty-nine. If such an election had occurred in any other nation in the world it would have been followed by turmoil, and violence, and perhaps civil war. I know of no historical parallel in the records of ancient or of modern times where millions of people have been so evenly divided in the choice of their chief ruler, or even in the civil policy of opposing parties in monarchical governments.

If we can close this memorable contest by an act of hearty acquiescence in the judgment of tribunals created by law, we will present the most magnificent spectacle that has ever been known in the governments of men; and I, for one, this day, shall say nothing to disturb my sincere hope that such will be the result of this presidential election. It must be remembered that the tribunal which has been selected is composed of men, every one of whom we know, who are Senators and members and judges; and no man has a right, without accusing himself, to accuse that tribunal. No man dreams that they have been influenced by corruption, fraud, or a desire to promote fraud. They are honorable men, no doubt all of them governed more or less by party zeal and party feeling; but who is not, and who is so free from party convictions as to give him a right to accuse them? What Pharisee can cast the first stone? I did not favor the organization of that tribunal, because I thought the Constitution provided for a plain and simple method of counting, and that the law and the courts already provided could determine afterward whether the count was made according to the Constitution.

Look at the case as it stands. There are four disputed States that have been acted upon by the commission, and by the Senate and the House acting separately. In the case of Florida, committees of the two Houses, after full examination, differed as to which set of electors had the majority vote. The election was so close in that State, that the democratic committee claimed that the democratic electors had a majority of only 40 votes, while our committee of the Senate decided that the republican electors on the face of the returns had about 100 majority. And further, our committee, headed by its chairman, the Senator from California, [Mr. SARGENT,] declared that upon the actual proof of the right of the thing, the majority was much larger—so close was the election in Florida. What right have we, not so familiar as the members of these committees, in whose word and judgment we so often confide, to charge either side, or the commission who decided the controversy to arraign either for promoting fraud.

In regard to Louisiana I have already expressed all that I desire to say. I do believe that if the election in Louisiana had been conducted fairly, as a free election, the vote for the republican candidates would have been larger than has been certified to by the returning board. But that debate has passed away. I have had my say upon it. No man has a right to say that there was not such proof of fraud, violence, and collusion in Louisiana as to convince an honest man that a fair election was prevented by intimidation, and to justify under the law, the decision of the returning board. It was a dispute in which honest men, with the strongest conviction of right on either side, might differ without reproach.

Every Senator knows that in Oregon the people intended to elect, and did elect, three republican electors, and that vote ought to be recorded in favor of Governor Hayes. In the forum of honor and right there ought to be no question about it. I will not go beyond this mere fact to discuss the incidents of that contest, for no one impugns the conduct of any republican in that election.

In the case of South Carolina both parties admit that the Hayes electors had a majority; and why should not that settle it?

Here are the four cases upon which this contest hangs. I believe they have been decided rightly before God and man, according to the will of the people and the laws of these States; and that the election thus announced rests upon the voice of the majority. At any rate, the election was so close and doubtful in each of these different States that honest men may differ as to the result.

Party passions and party feelings sway Senators and Members and judges, and all men in every country. This fact ought, at least, prevent men who, like us, are moved by such passion and feeling, from accusing this tribunal from making a wrong or a corrupt decision. Who among you is purer or better than they or either of them?

As to the questions made of ineligible electors, I have thought that all these objections were frivolous, and I will not debate them. The judgment of the people and the will of the people ought to prevail, and when they have elected a man whom they supposed to be eligible and that man has cast his vote, that ought to be the end of argument. No question ought to be made in such cases. No such question was ever before made in our history; and there never was an election for President when there were not more than one or more or even ten or twelve ineligible electors. Never before except in one historical case was the matter questioned, and then it was dismissed without excluding a single vote.

As to the popular majority, I am amazed to hear those Senators who talk about the rights of States talk about the popular majority. There have been other elections in this country where the popular majority differed from the electoral majority. I will not be led into a discussion of the character of this popular majority, the nature of it, and how it was created in certain States. That is out of the question, but not out of mind. We are to be governed by the Constitution and the laws. Twenty-one States have voted for Governor Hayes; the rest have voted for Mr. Tilden, and the majority of the electoral vote is 1, the count standing 185 to 184. The question though close is now settled by law, by the decision of the tribunal that you yourselves have created, and that should be the end of it.

I appeal to Senators, therefore, actors as we are in a great historical scene, to allow us to go on and finish the business of this session, pass the appropriation bills; and let the judgment of the court stand, under the law, as the judgment of the two Houses. Let Governor Hayes be peacefully inaugurated. Make your party opposition, if you please, to his policy when it is developed; see that he does not win you to his support; fight him, if you please, in every manly and patriotic way; but let the judgment of the court and the judgment of the people, as proclaimed in the electoral college, stand. Let our acquiescence in the result of legal processes demonstrate the strength of republican institutions and stand forever as a monument of our obedience to law.

Forty millions of people over this broad country of ours look down with anxious care upon your deliberations. When your decision is announced they will spring at once with joy and hope to their ordinary occupations, and peace and order and prosperity will again crown our favored land. A dread suspense has hung over them, which you can lift in a moment. I saw a telegram a few moments since from Europe, asking the probable result of our action this day. It will affect the public credit and great operations now going on in the public service. The whole world will be pleased with the spectacle of the American people deciding this question now in quiet, in harmony, in dignity, and in peace. It will add greatly to the honors we have won. Let our party contests come up hereafter, but now since we agreed upon a tribunal to decide this contest, it has seemed to me, and I beg pardon of my democratic friends for so saying, a question of honor as well as a question of law. I for one say now that if the judgment of this tribunal had been in favor of Mr. Tilden, I would have resisted to the uttermost every effort made by any man, whether he be republican or democrat, who sought by any motion whatever to delay or defeat the prompt declaration of that result.

Mr. PATTERSON. Mr. President, it was not my intention to say anything on this resolution. I thought the decision of the electoral commission was a better speech than I could make; but I cannot sit still and hear Senators give utterance to such sentiments as were uttered by the Senator from Indiana, [Mr. MCDONALD.] The objection made to South Carolina by the Senator from Indiana is that the United States troops were sent to South Carolina, and that they throttled the will and the wish of the people of that State. Now, I say before the Senate and the country that the facts and the figures

of the election go to prove that that is not true; and before a Senator, in his high place, presumes upon the ignorance of this country to make such an utterance he should hesitate. The republican party of South Carolina has nothing to conceal. The Republican party of South Carolina want the election in that State investigated; we want the action of every soldier and every officer who was sent to South Carolina investigated; we want the action of every republican officer of the election in South Carolina investigated; but we want the action of the democratic party in South Carolina also investigated.

Mr. President, I invite the attention of the Senate and of the country to the figures; figures will not lie. It is said that the soldiers were sent to South Carolina to throttle the people of that State and defeat their will. Is there any sane man in this Chamber, is there any sane man in the United States who supposes for one moment that the troops were sent to South Carolina to throttle the negroes? I reckon not. Our democratic friends do not say so; but, if I understand my friend from Indiana, he says that the troops in South Carolina prevented the white people from voting for Mr. Tilden; for he did not add the colored people.

Let us look at the figures. By the constitution of South Carolina we are required to take the census every five years. A census was taken in 1875, and that census shows that there had been an increase of population in the State of 223,000 in five years. Our democratic friends claim that the census was an error, that it was too high, but in order to give them the best case I possibly can, I propose to give them the benefit of that census. By the census of 1875 there are 74,199 white voters in South Carolina, and by the same census there are 110,744 colored voters over the age of twenty-one, making 184,943 voters in the whole State. Let us see how many white votes the democratic ticket got. This is an official statement. Our democratic friends got into trouble down there. They went before the supreme court and asked for a mandamus upon the returning board to make them recanvass the returns. They said if they would go and foot up the returns of the precinct managers there would be a majority for Tilden as well as a majority for the democratic State ticket. The supreme court appointed a referee. The referee went into that question. He examined the precinct returns, and he reported that the aggregate of the precinct returns would elect not only the Hayes electors, but Mr. Chamberlain and the whole republican State ticket, by 300 or 400 majority; and they immediately said to the court, that they did not care anything more about that mandamus. Now, I propose to stand right on the figures as approved of by the supreme court. In South Carolina we are required to keep separate lists of the white and colored voters. We find that at the election of 1876 the excess of white voters, white men who actually voted, over the white vote of the State according to the census, is 6,531. I wish the Senator from Indiana [Mr. McDONALD] were here, because he is an honest man, and he wants to do what is right, if he only knew how, and I should like to ask him how he can say that the United States troops throttled the white people of South Carolina when our democratic white friends down there can poll 6,531 more white votes than there have ever been in any State! That may do very well to tell the people of Indiana, but I do not believe that anybody in Indiana would believe it.

I should like to ask another question. I will ask every Senator and every man in this broad country if he does not know as a rule that every white man in the South, particularly if he has been a rebel, is a democrat. I do not use the term rebel in any offensive sense. This is a practical question and I ask it because I am down to figures and must hasten, as I have only a few minutes. Does not every man know that the white men are all democrats? Does not every man in this country know that it is just as natural for an ex-slave to be a republican as for an ex-rebel to be a democrat? Will any one dispute that proposition? That is very certain; there is no question about it. There are exceptions and the exceptions are necessary to prove the rule. I know some of the exceptions. I know some gentlemen who have been in the confederate army and who are first-rate republicans. I know some colored men, but they are mighty few, who were slaves and are democrats.

The election in South Carolina shows that the democrats managed to get 6,531 more white votes than there were white voters in the State. Now, look at the colored vote. By the census we have 110,744 colored votes. Mr. Chamberlain and the republican ticket got about 92,000 colored votes. There is no going back on these figures. The Senator from Indiana may declaim until he is blind and my friend from Delaware may declaim until he is blind but it will not change these figures. There are just 99,000 colored men who voted in South Carolina. Now, if you take it for granted that all the white vote according to the census in South Carolina was cast for Tilden—and I am sure I am a white man and that I was there on the day of the election, and I know that I did not vote for Tilden; but suppose I did and suppose that every white man in South Carolina voted for Tilden—and I give Tilden the benefit of all the colored men who voted in excess of the republican State ticket and the Hayes ticket—we find that putting these together, including an excess of 6,531 white votes over the census, makes about 3,000 less than the vote claimed by the democrats. Giving them 6,500 obtained by fraud, it makes about 3,000 less than the vote that is claimed for Hampton and Tilden. Now, I ask my Christian, and honest, and conscientious democratic friends, because I love them all, particularly since they have got so badly beaten, where, in the name of God, the 3,000 other votes came from, in addition to the 6,531 white votes cast in excess of the 74,199 white votes in the State, as appears by the census of 1875.

These are the facts, these are the figures; and I ask any man upon this floor, as I will ask any man in South Carolina, to tell me where they got that vote for the democratic ticket, except by fraud. I will show where they got some of it. In the county of Edgefield, we find, by the census of 1875, there were 2,722 white votes and 4,400 colored votes. How many votes did Tilden get in that county, do you think? Recollect that the 2,722 white votes are supposed to be democratic, and there are 4,400 colored votes. I want to tell you how many votes Tilden got in that county. Tilden got 6,297 votes and Hayes got 3,107. How about the white vote?

The PRESIDENT *pro tempore*. The Senator's time has expired.

Mr. BLAINE. I will take the floor and yield my time to the Senator from South Carolina.

Mr. PATTERSON. I am much obliged to the Senator from Maine.

The election shows that twenty-two hundred and fifty-two more white men voted in Edgefield County than ever lived there or ever existed there; and that is the way Mr. Tilden got his 6,200 votes. Twenty-two hundred and fifty-two more white men voted in Edgefield County than every lived there, and they do not live there to-day. Where did they come from? Our friends across the river in Georgia sent them over to see us and while they were there they thought they might as well make good use of their time, and they voted, and they voted right, they all voted for Tilden, just as you would expect them to do.

That is where part of this fraud came from, and yet the Senator from Delaware and the Senator from Indiana and other Senators on this floor charge upon the republican party of South Carolina the design of fraud. But I say to these gentlemen the less they say about fraud the better. Let them come before the people of this country and apologize for their murders. The republicans of South Carolina never asked for troops to come to South Carolina to protect the people in their right to vote. We asked troops to come there to protect human life. They were murdering our people; they murdered them at Hamburgh; they murdered ninety-eight in Aiken and Barnwell; and we asked the President of the United States to send troops to South Carolina to protect our people in their lives. He did it, and because the democrats in South Carolina did not carry the State by 40,000 majority, because they did not dare to commit murder in the presence of the troops, they cry "fraud." They tried the Mississippi plan. They carried Mississippi in 1875, because the troops were not there, by 40,000 majority, by murder and violence. Every man in this country knows this to be true and the widows and orphans and the new-made graves in Mississippi will prove the fact. Because they could not accomplish that in South Carolina they cry fraud. We, the republicans of South Carolina, will apologize for fraud if we have done any when you, the democrats of South Carolina, will apologize for your murders. The republicans of South Carolina are ready to-day to answer to the Senate and to the American people for their conduct in this election and we challenge the democrats to go before the people of this country and answer for theirs.

I am sorry that time would not permit for this electoral commission to go into the conduct of the election in South Carolina. Cheerfully would I have voted for the resolution of the Senator from North Carolina if we had had time, but I say right here to-day, representing Governor Chamberlain and the republicans of South Carolina, that we are ready to submit the election in South Carolina to any fair tribunal and if they say Wade Hampton is elected we will say amen. We will submit this election, all the returns and all the facts, to any fair tribunal and we will be just as confident as that we live that Governor Chamberlain will be declared elected by 20,000 majority as well as the Hayes electors.

Talk about fraud! The Senator from Illinois has spoken of the Oregon frauds. Did not your democratic party come into South Carolina and attempt to bribe the poor negro? Did they not come there and attempt to bribe a man of this race that they had tried to beat down, upon whose neck they set their heel until the loyal men of this country made them take it off? They went into South Carolina and tried to bribe a black man. O, democracy and reform, what crimes are committed in thy name! In Oregon by a white man; in South Carolina by a negro! Democracy and reform will resort to every crime, fraud, murder, intimidation, violence, and bribery. Let it be said to the honor of that colored man that when he was offered your $10,000 of dirty gold and your $40,000 of bonds in addition, he said, "No, no, I am the representative of the republican party of South Carolina; my vote will say whether my race shall be put back into slavery, or whether they shall be for all time to come free; and you should be ashamed to try to buy the rights of my people by my vote." And yet democracy with all the sanctimonious airs of the hypocrite talks about perjury! Great God! O, but there could be a book written on this election, a story that would shame and shock the nation. I wish I had time; I have very much more to say about this election. I propose to take the time hereafter. I am not going to talk about the election in Louisiana, but I do know what I am talking about when I am talking about the election in South Carolina.

Gentlemen talk about the election in the city of Charleston. I was

there on the day of the election in the city of Charleston. No man who was not there knows more about it than I do. I went around the city of Charleston visiting, different polls, and I never saw a more quiet, peaceable, and orderly election than the one held there on the 7th of November last. How much time have I got, Mr. President?

The PRESIDENT *pro tempore*. Two minutes.

Mr. PATTERSON. By the election returns in South Carolina we find that in every county in South Carolina, with the exception of two, the white vote was largely increased over the census. Is there a State in this Union—has an election ever been held where the whole vote was polled? Yet in South Carolina they pretend to have voted every man in the county and 6,531 more, and in every county except two the white vote has been increased. In Charleston County, where the allegation is that there was so much fraud and violence, there are 17,687 colored voters, according to the census, and there are 7,398 white voters. The republicans cast 15,032 votes and the democrats 8,809 votes, so that every white man in that county must have voted with the democrats and some 1,100 or 1,200 colored men. Now when you have an array of figures that shows that the white democratic vote has been increased about 18 per cent. over the census and the republican vote reduced about 12 per cent., do you not think that this cry of fraud comes with pretty bad grace? I do not believe that any person who thinks right and means right will believe any story of that kind. The election in Charleston City was fair, and every democrat there knows it.

I will say that the commissioners of election of the county of Charleston did notify the richest man in that county, who had given it out that he would take his negro laborers to the election on the day of election and would march them up, that he should not do it, and I am here as their representative to say that I believe it was right and I advised it, for I say that no man in America, be he employer or what not, has any right to lead his employés up to the polls.

The PRESIDENT *pro tempore*. The Senator's time has expired.

Mr. WADLEIGH. Mr. President, the question before the Senate is one which concerns the State of South Carolina. Upon that I have little to say. I did suppose, however, when the political committees of both parties reported to the public that the republicans had a majority in South Carolina, that that would be an end of the contest in respect to that State, and I deem that that at least is sufficient *prima facie* evidence to justify any member of the Senate in voting for the resolution now before us.

In respect to the State of Florida the majority claimed by the democrats was, as has been before stated here to-day, only forty. The majority claimed by the republicans was much larger. I believed that in that State the decision of the lawful returning board should be binding; and upon that I based my vote.

In respect to the State of Louisiana I desire to say a word or two in answer to what has been said by other Senators on this floor. I was one of the committee that went down to that State and spent some five weeks in investigating political affairs there, hearing witnesses upon both sides and trying the case as a court would try it as near as we could. There are certain figures, there are certain indubitable facts which prove beyond all question that in that State there was the intimidation of which the republicans complained and which the returning board made the basis of their action, which is now complained of by the democrats in this and the other House.

In forty parishes or counties of that State all parties admitted there was comparatively a free election. No complaint was made of any violence in those parishes. It might be claimed that in those parishes public opinion was influenced and the republican vote decreased by the outrages committed elsewhere; but there was no claim but that in those forty parishes the election was free, fair, and peaceable. In those forty parishes the colored people had a registered majority of 15,965. It is a fact—a fact not denied in Louisiana, by either democrat or republican—that as a general rule heretofore the colored people voted the republican ticket. In those forty parishes the republican majority upon the day of election is admitted to have been 6,355 votes; that is, upon a registered majority of 15,965 they obtained on the day of the election an actual majority of 6,355. But there were fourteen other parishes in that State in which intimidation was charged to have been practiced by the democratic party or its agents. The registered colored vote in those fourteen parishes was 21,368; the registered white vote was 14,579. In those fourteen parishes the colored people had a registered majority of 7,059 votes. Upon the day of election in those fourteen parishes there were cast 16,367 democratic votes and 9,123 republican votes, giving the democrats a majority of 7,244, against a registered colored majority of 7,059.

We investigated a certain number of those fourteen parishes, all that we could, and I say here that the testimony showed a condition or affairs disgraceful to humanity, disgraceful to the American people. Murder was committed, all crimes were committed in those parishes to prevent the colored people from voting the republican ticket. That appeared as plainly as the sun at noon-day, and yet there were certain excuses given for this great change in the parishes in which these proceedings were going on, and those excuses the committee investigated. The main excuse for that remarkable change in the vote, which did not occur where no intimidation was practiced, was that the colored people were sick of republican rule; that they therefore joined the democratic clubs and voted the democratic ticket freely and fairly. It was claimed also that in this election a different mode of electioneering was adopted by the democrats from what they had previously practiced; that is, they put themselves upon an equality with the colored people and endeavored to gain them by persuasion; and they account for this change in that way. But the same method of electioneering, that of persuasion, was adopted by them in the forty parishes, and no such change of majorities occurred there, and therefore there is nothing in that argument.

Now, Mr. President, I have this to say: It is true that many colored men joined the democratic clubs; it is true that many of them were compelled to vote the democratic ticket. The argument that was used with them, the mode of persuasion that was adopted, was for the most part not committed to writing, and therefore could not be proved; but it so happens that before our committee there came the printed resolutions of the democratic-conservative club of Laurel Hill, in the parish of West Feliciana, which show exactly the mode of argument adopted to induce the colored republican to join the democratic club. Upon the 12th day of February, in the year 1876, at a meeting of that club, at which there were present men from various wards in that parish, these resolutions were adopted:

Whereas the peace of the parish has been disturbed by the presence of armed men visiting plantations at night and firing pistols or guns at or in the direction of certain persons, thereby greatly disturbing the peace and quiet of families, both white and colored;

And whereas such incursions are not only violative of all law, but seriously injurious to the interests of the best members of society, and most annoying and vexatious to our respective citizens, and have been made and are a matter of scandal to our parish throughout the whole State and the United States;

And whereas our Senators in Congress have advised the citizens to take measures to put a stop to this state of affairs:

Resolved, That we, the Union Conservative club of Laurel Hill, issue the most earnest appeal to all citizens of this parish to abstain in future from all lawless and violent measures, and, among others, especially the armed visitation to plantations at night.

Resolved, That we call upon all citizens to respect the certificates of membership issued by this club, and sacredly to observe the rights of life and property of every member of this club, and to extend to each and every member a cordial approval and protection.

That conclusively shows the mode of electioneering that was adopted by the democrats in these bull-dozed parishes to get the colored people into the democratic clubs. Outrages were committed at night by armed democratic ruffians; the colored people were alarmed. They were poor; they feared that they were in the midst of their enemies; they found no protection. In one single parish there were hundreds of armed white men riding about at night with Winchester rifles, shooting, murdering, committing numerous crimes upon the poor colored people of that parish.

The PRESIDENT *pro tempore*. The Senator's time has expired.

Mr. MERRIMON. Mr. President, it seems that an appeal to reason and truth here is fruitless. Perhaps the American people will hear it; and therefore this debate is not out of place or without profit. I do not hope to change by anything I may say a predetermined result. "Ephraim is joined to his idols; let him alone." He is deaf to the voice of reason, truth, justice, and patriotism. He seems to be following after strange and fraudulent gods, and I apprehend in the end he will reach the goal of his ambition.

I do not contend that the electoral vote of South Carolina ought to be counted for the candidates of the democratic party in this struggle. What I do contend, however, is this, that the vote ought to be rejected, because there was no election there in contemplation of the Constitution and laws of the United States and of the State of South Carolina. Now, let us see exactly what is the issue before the Senate, apart from declamation, misrepresentation, and pointless facts.

I do not contend that the electoral commission should have gone behind the State authorities and ascertained how many votes were cast in South Carolina; I do not contend that it was the business of that commission to inquire about whether any voters there were intimidated or any way inveigled into voting for one ticket or another, I do not believe that was the office of the commission or is the office of Congress in counting the electoral votes; but what I do contend for is this, that it was the duty, the essential duty of the commission to ascertain whether there was a State of South Carolina in harmonious relations with the Union, whether it had a lawful governor and a lawful Legislature, and whether it had lawful State officers to conduct an election and ascertain the result, and whether in fact according to the Constitution and laws an election was held there and the result duly ascertained.

This commission were charged by the statute by which they were created and under which they were acting, and the Congress is charged by the Constitution of the country, to make that solemn inquiry when a question is properly raised that presents any issue on that subject. Ordinarily, Congress sitting to count the electoral vote would take official notice of most of these things; but when an issue is raised in a proper way, then evidence must be received to establish every important allegation necessary to make count of an electoral vote. The commission have failed to do that. They have stolidly, and by a strict party vote, refused to receive evidence to show whether there was such a vote, whether there was such a Legislature, whether there were such State authorities, and whether an election was held in South Carolina according to the Constitution and laws. They have refused it in the face of an allegation properly and legitimately made alleging that such was not the fact.

It was solemnly alleged before the commission that there was a conspiracy in South Carolina, by a prostitution of the Army of the

United States, to prevent a fair election and compel the voters of that State to vote for the electoral candidates in the republican party. That was the allegation; and further that the Army of the United States was prostituted—that by improper, false, fraudulent, and corrupt means large detachments of the Army were taken into the State of South Carolina and used for the express and the mere purpose of preventing a free and fair election in that State—for the purpose of producing such a state of things as that, if the majority should turn out in favor of the democratic electoral ticket, then the vote should be rejected and not counted; or to induce, or by the presence of the Army compel, a sufficient number of the voters of the State to vote for the republican ticket, carry it, and then insist that it be counted. That was the plain allegation, the material allegation; and it was plainly competent, I insist, not only competent, but it was the solemn, high, and patriotic duty of that commission to receive any testimony tending to support that allegation; and they refused to do it, I repeat, by a strict party vote.

I insist that now it is competent for the Senate to hear that testimony, but the Senate has here by a solemn vote refused to hear testimony to support these allegations. What must all just men, the American people think, of such a manifestly false ruling?

I was on the subcommittee of the Committee on Privileges and Elections that went to South Carolina to examine into the question whether there had been intimidation in that State. I am familiar with many of the facts connected with the election, and I stand here to tell the Senate and to tell the American people that in my judgment there was a conspiracy to prostitute the Army of the Union for the purpose of controlling that election in the interest of the republican party, and that the Army was prostituted to such an extent as to vitiate and corrupt the election in South Carolina so as that what purports to be the electoral vote of that State ought to be rejected and counted for no one.

Why, sir, the testimony taken before the committee of which I was a member shows beyond any sort of reasonable question that the governor of that State, before the late political contest there had hardly opened, with the view to use the Army to control the election, made a false proclamation of insurrection in that State. He made a proclamation of insurrection then when all the judges in the State, except one or two, declared and stated in effect under their hands that his proclamation was false. The sheriff in the county where it was alleged there was insurrection particularly stated that what he had said was false and that he, without the aid of a posse or any one, could execute in his county anywhere any civil process that might come into his hands. The governor issued that proclamation, made his application to the President of the United States for troops to go there and suppress insurrection. He manifestly, by design, did not pursue the course prescribed by the Constitution and convene the Legislature, to the end that the Legislature might consider the facts and see whether the occasion had arisen for making a requisition on the President of the United States, for Federal aid to suppress insurrection, but, in the exercise of his own judgment, in pursuance of a false proclamation, he himself made the application to the President, and the President sent the troops there by thousands, and then troops were stationed in almost every county in the State prior to the election and on the day of the election. The natural effect of sending troops there was to intimidate the people. The law contemplates that the presence of troops under such circumstances is intimidation. The very result proved that it had the effect to intimidate them, and the facts go to show that the people of that State, and particularly the colored people, were influenced by the presence of the troops. One distinguished witness, a man whose veracity cannot be questioned, of large opportunity to observe and of large observation, swears that the negroes were given to understand by the republican leaders all through the State where he went that the Army was sent down there for the express purpose of compelling them to vote the republican ticket.

The PRESIDENT *pro tempore*. The Senators' time has expired.

Mr. CAMERON, of Wisconsin. Mr. President, by the favor of the Senate, I was a member of the subcommittee of the Committee on Privileges and Elections sent to South Carolina for the purpose of investigating affairs in that State. I did not intend to take any part in this discussion; but after hearing what the Senator from North Carolina, who was one of my colleagues upon that subcommittee, has said, I cannot refrain from saying a single word.

The Senator says that he stands up here to tell the Senate and to tell the country that a conspiracy was entered into for the purpose of preventing a free expression of the political opinion of the people of that State, and that in furtherance of that conspiracy the Army was brought into the State of South Carolina. I heard all the testimony that was given before that subcommittee. The Senator heard all the testimony that was given before that subcommittee. I do not question that he has honestly come to the conclusion which he has expressed here to-day; but I must say for myself, and I can say for my other colleague upon that committee, that we did not think we were justified in coming to any such conclusion.

A great deal of testimony was given before the committee in reference to the action of the Federal troops in the State prior to the election and on the day of the election. Testimony was given by democratic witnesses and by republican witnesses; and without a single exception—and in this statement I know that I am correct—every witness, republican and democratic, who testified in regard to the action of the Army, the officers or the soldiers, testified that no officer, no soldier at any time or at any place attempted in any way to influence the action of a single voter. It was the uniform testimony of democratic witnesses as well as republican witnesses that the officers of the Army and the soldiers of the Army acted with the greatest prudence and the greatest circumspection, and not in a single instance attempted to influence the action of a single voter or attempted to prevent a single voter from going up to the polls and voting exactly as he pleased. I understand that the Senator from North Carolina agrees with me in this.

Mr. MERRIMON. I did not say that any officer or soldier had attempted to influence a single vote. I said that the presence of the Army there itself, of itself, had the effect, and I can produce the testimony to show it, that my colleague on the committee will not deny.

Mr. BLAINE. What was the influence that did it?

Mr. MERRIMON. A moral influence. As I said in my place a moment ago, it was in proof that the negroes were told that the Army had been brought there for the purpose of compelling them to vote the republican ticket, and they were largely influenced. A man swore to that fact whose testimony and veracity will not be questioned.

Mr. BLAINE. Did the negroes swear to that?

Mr. MERRIMON. No, but a man of very high character did so. If you want to know his name, I will give it.

Mr. BLAINE. It is a very extraordinary statement.

The PRESIDENT *pro tempore*. The Senator from Wisconsin has the floor.

Mr. CAMERON, of Wisconsin. My time is running on. The Senator concedes that the Army did not, by direct action, influence the vote of a single person in that State, but he says that the moral influence of the Army did have such an effect as to prevent democrats from voting.

Mr. BLAINE. Will the Senator from Wisconsin allow me to interrupt him? I want to get what the position of the Senator from North Carolina is. I understand him that the negroes in large numbers were eager and anxious to vote the democratic ticket, but were prevented for fear the Army was going to outrage them if they did.

Mr. MERRIMON. When the Army first went there they were told—and it is in evidence, and I will produce it before the Senate at the proper time—that the Army was brought there for the purpose of compelling them to vote the republican ticket; and this same person, General McGowan, swore that the presence of the Army cost the democratic party ten thousand votes.

Mr. BLAINE. I want it to go on record that the negroes in South Carolina were so eager to vote the democratic ticket, after the Hamburgh massacre, that it took the entire Army of the United States to restrain them! [Laughter.]

Mr. CAMERON, of Wisconsin. Mr. President, the presence of the Army in some localities did have some influence on the result of the election in those localities. Scores and scores of republican witnesses testified before the committee that they attended at such a box; that they voted the republican ticket; and when asked if there were any troops there they answered yes. Then we asked them, "If there were no troops there could you have gone to the poll and voted?" Scores and scores of them said that they would not; that they would not have dared to come out of the swamps, where they had been skulking for fear of their lives for months, if there were not troops at those polls. I am free to admit that the result of the election in South Carolina might have been different if there were no troops in the State; but the difference would have been produced by the fear that the negroes of the State had. They would not have gone to the polls and voted if they did not know that there were troops there to protect them. But I deny, and I do not think the Senator will claim, that the vote of a single white man was influenced by the presence of the Army in South Carolina.

Mr. CHRISTIANCY. Mr. President, I was also of the committee with the Senator from Wisconsin and the Senator from North Carolina. We took testimony there over one month, and I concur fully in every word that my colleague, the Senator from Wisconsin, has stated in reference to the evidence before the committee. There was not one iota of testimony, not a shadow of testimony by any party, by any witness, that any single individual voter of any color whatever had been influenced in his vote by the Army of the United States; and many, many democrats, intelligent men there, representative men, declared that from the action of those troops they could not have ascertained their politics and did not know what their politics were. This was the uniform testimony of all parties.

How was the Army used there? Simply to repress violence and protect the lives of the colored people, who were fleeing to the swamps, as stated by my colleague; and I have no doubt the Army there did influence the vote in that State, and that but for the Army the election in that State would have been an egregious farce; it would have been no election. Witness after witness when he came upon the stand testified how he had been driven from his home, how his life had been threatened, how he had been threatened with the destruction of his property and everything of the kind unless he would join a democratic club. When asked by our colleague from North Carolina, "did you not vote?" he would answer "yes." "Did you vote the republican ticket?" "Yes." And our colleague from North Carolina seemed to

exult that he had proved a very important point. But ask him one more question, "had the Army not been there would you have dared to go to the polls?" and he said "no." So much for the use of the Army in the State of South Carolina.

Now, I do not wish to have it understood because I testify in this way as to the action of the Army of the United States that I am in favor of permanently governing these States by the Army. I believe it to be a policy that must be abandoned; and on some other occasion I shall take the opportunity of saying a few words upon that point.

Mr. President, if my time has not yet expired, I have a few words more to say. It has been said here that it was expected this commission would go behind the returns and inquire into the question of fraud. If we should go behind them at all for this purpose, we must go through; otherwise there would be no fairness in the inquiry; and if all the frauds pertaining to this or any other presidential election were to be determined, and the result of the presidential election were to depend upon determining those facts, a single presidential term would not be long enough to determine them. And now I tell those who say so much about our refusal to go behind these returns and inquire into the question of fraud, that no Senator here should have expected that we were to make that inquiry, when that bill was passed, because we well knew that we could scarcely have entered upon it at all before the 4th of March, when the commission will expire. No man had so absurd an expectation. No man could have had.

Now, one word more as to what has been said about the popular vote. A great deal of reliance has been placed upon the fact that Mr. Tilden has the majority of the popular vote. Mr. President, our system of Government is not one in which the aggregate popular vote of the United States can of itself determine a presidential election. There is nothing under our Constitution or form of government which will allow 80,000 majority in the State of Georgia given for Mr. Tilden to be used to overcome a majority in the State of Michigan the other way; and so on of other States. We all know that. We all know that the popular vote of the United States taken as a mass is not what, under our Constitution, is to determine the election of President. We all know another thing, that very many democratic Presidents of the United States whose title to office was never questioned were minority Presidents, elected by a minority of the popular vote. What then is meant by appealing to this fact, that a majority of the popular vote has been in favor of Mr. Tilden? If that were to govern, what would become of State rights? But I shall not occupy further time.

Mr. KERNAN. How much time is there?

The PRESIDENT *pro tempore*. There are but two minutes left before the vote is to be taken.

Mr. KERNAN. I will occupy the time to state that I give my vote against counting the votes sent here in certificate No. 1 from South Carolina because evidence was offered to be given before the commission which, if received, would have shown, as was alleged, that there was not a free election in the State of South Carolina. I do not know that the evidence would have come up to proving a state of facts which would have induced me to reject the vote, but I vote as I do because the offer was made to prove to the commission in substance that the Executive of the United States sent to that State troops which did overawe and interfere so as to prevent a free and fair election, and changed the result from what it would have been except for such interference. That was rejected, and the answer given was, "if he did that, impeach him." But I insist that if he procured electoral votes by an act which was impeachable, I for one would not consent to count them.

Now, I do not know that the evidence would have been sufficient to establish the alleged facts, but I mean to say that the commission decided that it could not hear evidence to show that troops were sent there for the purpose, and that through their instrumentality the purpose was effected, of giving the electoral votes which were offered to be counted; and inasmuch as the evidence was rejected we could not decide upon it, and a rule was settled which I believe to be wrong, and with such an offer of proof shut out I would not consent to count the votes. The rejection of the offer was equivalent to saying "If the Executive for any reason sent to a State that was weak or that could not resist, troops enough to coerce the people to give electoral votes one way rather than the other, there is no power in the commission or in this Government to hear evidence that that was so and to reject the vote thus coerced." This is the reason I cannot vote for this resolution approving the decision of the commission.

The PRESIDENT *pro tempore*. The debate has lasted two hours. The time allowed for debate has now expired. The question is on the resolution of the Senator from South Carolina, [Mr. ROBERTSON,] upon which the yeas and nays have been ordered. The resolution will be read.

The Chief Clerk read as follows:

Resolved, That the decision of the commission upon the electoral vote of the State of South Carolina stand as the judgment of the Senate, the objections made thereto to the contrary notwithstanding.

Mr. CONKLING. The Senator from Georgia [Mr. GORDON] being ill left the Chamber sometime ago asking me to pair with him on this vote. I did so. Were he here he would vote against the resolution and I should vote in favor of counting the electoral votes of South Carolina—counting the votes of those electors referred to in the resolution.

Mr. MITCHELL. I am requested to state in this connection that the Senator from Louisiana [Mr. WEST] and the Senator from Maine [Mr. HAMLIN] and the Senator from Missouri [Mr. BOGY] are necessarily absent from the Chamber on a conference committee at this time.

Mr. DAVIS. The Senator from Ohio [Mr. THURMAN] is confined to his room by sickness.

Mr. BLAINE. I desire to announce that my colleague [Mr. HAMLIN] is absent from the Senate Chamber on an important committee of conference. If present he would vote "yea."

Mr. MCMILLAN. My colleague [Mr. WINDOM] is also absent from the Chamber on an important committee, and if he does not return to vote before the vote is announced it will be understood that he is prevented for that reason. He would vote "yea" if he were present.

Mr. WITHERS. I desire to state that the Senator from Missouri [Mr. BOGY] is absent from the Chamber on an important committee of conference. If he were here he would vote "nay."

Mr. DAVIS. I am paired on this question with the Senator from Minnesota, [Mr. WINDOM.] I should vote in the negative if I were at liberty to do so.

The question being taken by yeas and nays, resulted—yeas 39, nays 22; as follows:

YEAS—Messrs. Alcorn, Allison, Anthony, Blaine, Booth, Boutwell, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Clayton, Conover, Cragin, Dorsey, Edmunds, Ferry, Frelinghuysen, Harvey, Hitchcock, Howe, Ingalls, Logan, McMillan, Mitchell, Morrill, Morton, Oglesby, Paddock, Patterson, Robertson, Sargent, Sharon, Sherman, Spencer, Teller, Wadleigh, and Wright—39.

NAYS—Messrs. Bailey, Barnum, Bayard, Cooper, Dennis, Eaton, Hereford, Johnston, Jones of Florida, Kernan, McCreery, McDonald, Maxey, Merrimon, Norwood, Randolph, Ransom, Saulsbury, Stevenson, Wallace, Whyte, and Withers—22.

ABSENT—Messrs. Bogy, Cockrell, Conkling, Davis, Dawes, Goldthwaite, Gordon, Hamilton, Hamlin, Jones of Nevada, Kelly, Thurman, West, and Windom—14.

So the resolution was agreed to.

Mr. EDMUNDS. I move that the House of Representatives be informed of the action of the Senate, and that we are now ready to meet them and continue the count.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Secretary will notify the House accordingly.

At six o'clock and thirteen minutes p. m. Mr. G. M. ADAMS, Clerk of the House of Representatives, appeared below the bar and said:

Mr. President, I am directed by the House of Representatives to inform the Senate that the House have—

Resolved, That the objections to the decision of the electoral commission upon the electoral votes of South Carolina be sustained by the House, and that said votes be not counted in conformity with the decision of said commission.

And that the House is now ready to receive the Senate in the Hall of the House.

The PRESIDENT *pro tempore*. The Senate will now repair to the Hall of the House of Representatives.

The Senate accordingly proceeded to the Hall of the House of Representatives, and returned to its Chamber at seven o'clock and fifteen minutes p. m.; when the President *pro tempore* resumed the chair.

ELECTORAL VOTE OF VERMONT.

The PRESIDENT *pro tempore*. The Senate having withdrawn from the joint meeting on objections submitted to the certificate from the State of Vermont, the Secretary will now read the objections.

The Secretary read as follows:

OBJECTION No. 1.

The undersigned, Senator and Members of the House of Representatives, object to the counting of the vote of the State of Vermont, for the reason that two returns or papers purporting to be returns of the electoral vote of said State were forwarded to the President of the Senate, and that only one of said returns has been laid before the two Houses, the President of the Senate having stated that but one return has been received by him from said State, and a duplicate copy of one of said returns is herewith submitted for the consideration of the Senate and House of Representatives.

A. S. MERRIMON, *Senate.*
WILLIAM M. SPRINGER,
A. H. HAMILTON.
Members of the House of Representatives.

BURLINGTON, VERMONT, *February* 28, 1877.
[Received at 2.26 p. m.]

To S. J. RANDALL,
Speaker of the House of Representatives:

Certificate of Amos Aldrich as elector was deposited in this office December 13.

B. B. SMALLEY,
Clerk United States District Court for Vermont.

OBJECTION No. 2.

The undersigned, Senator and Representatives, object to the return from the State of Vermont on the grounds following, namely:

1. That Henry N. Sollace, who is certified to have been elected on the 7th of November, 1876, was at that day, and for a long time before had been, a postmaster of the United States, and therefore held an office of trust and profit under the United States, and could not be constitutionally appointed an elector of said State under the Constitution of the United States.

2 That the law of Vermont did not authorize the election of said Sollace to fill the vacancy alleged to have been the result of the absence of said Sollace from the college of electors.

3. It does not appear that said Sollace had resigned his office of postmaster at the date of his appointment by the college of electors.

4. That Amos Aldrich, who received the highest vote at the election on the 7th day of November, 1876, next to that cast for said Sollace, should have been allowed to cast one of the electoral votes of the State of Vermont.

W. H. BARNUM, Connecticut.
E. F. POPPLETON.
J. A. McMAHON, Pennsylvania.
JAC. TURNEY, Pennsylvania.
JOHN L. VANCE, Ohio.
G. G. DIBRELL, Tennessee.
FRANK H. HURD.
A. T. WALLING, Ohio.
WILLIAM TERRY.

OBJECTION No. 3.

The undersigned, Senator and Representatives, object to the return No. 1 from the State of Vermont on the grounds following, namely:

1. That Henry N. Sollace, who is certified to have been elected on the 7th of November, 1876, was at that day and for a long time before had been a postmaster of the United States, and therefore held an office of trust and profit under the United States, and could not be constitutionally appointed an elector of said State under the Constitution of the United States.

2. That the law of Vermont did not authorize the election of said Sollace to fill the vacancy alleged to have been the result of the absence of said Sollace from the college of electors.

3. It does not appear that said Sollace had resigned his office of postmaster at the date of his appointment by the college of electors, which fact is proper to be inquired of by the commission established by law.

4. It is proper for the said commission to inquire and report whether Amos Aldrich, who received the highest vote at the election on the 7th day of November, 1876, next to that cast for said Sollace, and who is certified as an elector by certificate No. 2, is not the duly appointed elector for the State of Vermont.

W. H. BARNUM, Connecticut.
E. F. POPPLETON,
J. A. McMAHON,
JAC. TURNEY, Pennsylvania.
JOHN L. VANCE, Ohio.
G. G. DIBRELL, Tennessee.
FRANK H. HURD,
A. T. WALLING, Ohio.
WM. TERRY.

Mr. EDMUNDS. Mr. President, I venture to offer the following resolution:

Resolved, That the vote of Henry N. Sollace as an elector for the State of Vermont be counted together with the other four electoral votes of that State, the objections to the contrary notwithstanding.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

Mr. MERRIMON. Mr. President, I wish to say, touching the first exception read at the Clerk's desk, that I learned from sources which I regarded as reliable that in a regular and orderly way a return was forwarded to the President of the Senate of an electoral vote cast in the State of Vermont. The Chair stated that the return had not come to him. Believing what I learned, and regarding the matter as of sufficient importance to have it brought before the Senate and the House of Representatives in the proper way, I consented to sign the objection.

This case, then, is presented. There are, as is alleged, dual returns from the State of Vermont. One set of returns have reached the President of the Senate in a regular and orderly way. The other set of returns, which ought to have come to him in that same regular and orderly way, have not come. Now, the question is, and it is the question that I am willing to see decided in some proper way, how is this difficulty to be solved? If there was another body of persons in the State of Vermont different from that which sent the regular returns to the President of the Senate, which purported to be an electoral college and acted in that capacity, and if they forwarded a return to the President of the Senate, it surely seems to me that there must be some means to get at that return.

From the State of Florida there came dual returns. They came in a regular and orderly way, according to the Constitution and laws. About these returns there was no question, but I put this inquiry: suppose that one of those returns had not reached the President of the Senate, and we had been in as full possession of the facts as we are to-day, except that we had not received one of the returns, is there no means by which the House of Representatives and the Senate could come in possession of that return? Is it absolutely cut off? If so, then there is nothing in this point. If, however, there is any remedy, then it is worth while to inquire whether there was such return as that suggested, as I understood and understand now, in good faith.

Mr. COCKRELL. Mr. President, I think a little attention to the Constitution and the laws would have made this case exceedingly plain. The Constitution provides that the electors shall meet in their respective States, that they shall cast their votes, and that they shall make out lists of the persons voted for as President and Vice-President, and transmit them to the President of the Senate. The law of 1792, which has been on the statute-book for a few years, and ought to have been understood, provides that the electors shall meet and give their votes on the first Wednesday in December, and—

That the executive authority of each State shall cause three lists of the names of the electors of such States to be made and certified, to be delivered to the electors on or before the said first Wednesday in December, and the said electors shall annex one of the said lists to each of the lists of their votes.

They are required by this law of 1792 to deliver one of these lists to the judge of the district in which the electors shall assemble, and they are required to send another to the President of the Senate by a special messenger appointed by them before the first Wednesday in January next ensuing, and they are required then to forward another by post-office to the Pesident of the Senate at the seat of Government. If there is an electoral college in a State and that college acts, it makes three lists of its votes; it sends one by mail to the President of the Senate, one by a special messenger appointed by its own body; and the other is deposited with the judge of the district court in which the electors meet.

Section 4 of the same act provides—

That if a list of votes from any State shall not have been received at the seat of Government on the said first Wednesday in January, then the Secretary of State shall send a special messenger to the district judge in whose custody such list shall have been lodged, who shall forthwith transmit the same to the seat of Government.

It does seem to me, Mr. President, that these provisions are ample, and manifest and unmistakable in their meaning, and that there can be no controversy about it. Further, section 7 of the act of 1792 provides—

That the persons appointed by the electors to deliver the lists of votes to the President of the Senate shall be allowed, on the delivery of the said lists—

A certain amount of mileage; and section 8 provides—

That if any person appointed to deliver the votes of the electors to the President of the Senate shall, after accepting of his appointment, neglect to perform the services required of him by this act, he shall forfeit the sum of $1,000.

If these electors were representing the State of Vermont, and have failed to perform their duties, the State of Vermont has ample means of protecting herself and the people, and the other electors could appoint a messenger, or if there should be but one elector, he could appoint himself to come here to deliver the vote just as well as to cast the vote of the electoral college. Therefore, whether there be one or ten electors makes no difference, and if action is taken refusing to receive an electoral vote offered at this time I think it will be perfectly right, not only in accordance with the Constitution and the law of 1792 but in strict accordance with the law which was passed at this session.

Mr. MERRIMON. Mr. President——

The PRESIDENT *pro tempore*. The Senator from North Carolina has spoken once.

Mr. MERRIMON. I did not understand that we were running on time.

The PRESIDENT *pro tempore*. The debate has commenced. It commenced at seven o'clock and twenty-two minutes.

Mr. MERRIMON. I only want to make one remark.

Mr. EDMUNDS. I hope the Senator will be permitted by unanimous consent to make his remarks.

Mr. SARGENT. Will not the Senator from Vermont yield it out of his time?

Mr. EDMUNDS. Certainly I will yield part of my time.

Mr. MERRIMON. I simply want to say that there is no question about the law which the Senator from Missouri read, but it does not meet this case.

Mr. LOGAN. No law meets this case, nor does anything else.

Mr. MERRIMON. It is very easy for Senators to laugh. It is sometimes more difficult than it is to laugh, to reason about a thing. Sometimes people laugh because they cannot reason about a thing.

The PRESIDENT *pro tempore*. The Senator will address the Chair.

Mr. MERRIMON. The remark I wish to make, Mr. President, is that the case before the Senate is one where it is alleged an electoral college, or a body purporting to be an electoral college, in the State of Vermont, assembled and cast what purported to be the electoral vote of that State. Triplicates were duly issued as the law requires, one sent by messenger, another by mail, and another to the judge of the court. The triplicate sent by mail to the President of the Senate never reached him. The messenger did not deliver the triplicate intrusted to him. Whether the judge has one we cannot now know, because so far as we see the secretary of state or the proper officer of the State government has not sent to the judge that triplicate. Now, that is this case; it is a possible case. Therefore, I do not controvert anything about the law, I understand that; but what I do not understand so well is how an actual case such as this, and we take it that this is an actual case, is to be solved. It may be that it is to be rejected.

Mr. EDMUNDS. Mr. President, I will occupy the time to which I am entitled by asking for the yeas and nays on the adoption of this resolution. I do not wish to dignify this performance by a single remark.

The yeas and nays were ordered.

Mr. BAYARD. Let the resolution be read.

The Secretary read the resolution, as follows:

Resolved, That the vote of Henry N. Sollace as an elector for the State of Vermont be counted, together with the other four electoral votes of that State, the objections to the contrary notwithstanding.

The Secretary proceeded to call the roll.

Mr. DENNIS, (when his name was called.) I am paired with the Senator from Pennsylvania [Mr. CAMERON] on questions connected with the count. I presume he would vote "yea" on this resolution, as I should vote "yea" myself. [Laughter.]

The roll-call having been concluded, the result was announced—yeas 47, nay 0; as follows:

YEAS—Messrs. Allison, Anthony, Bailey, Bayard, Booth, Boutwell, Bruce, Burnside, Cameron of Wisconsin, Chaffee, Christiancy, Clayton, Cockrell, Conover, Cragin, Davis, Dawes, Dorsey, Edmunds, Ferry, Frelinghuysen, Hamlin, Harvey, Howe, Ingalls, Jones of Florida, Kernan, Logan, McCreery, McDonald, McMillan, Mitchell, Morrill, Morton, Oglesby, Paddock, Patterson, Ransom, Robertson, Sargent, Sherman, Spencer, Teller, Wadleigh, West, Windom, and Wright—47.

NAY—0.

ABSENT—Messrs. Alcorn, Barnum, Blaine, Bogy, Cameron of Pennsylvania, Conkling, Cooper, Dennis, Eaton, Goldthwaite, Gordon, Hamilton, Hereford, Hitchcock, Johnston, Jones of Nevada, Kelly, Maxey, Merrimon, Norwood, Randolph, Saulsbury, Sharon, Stevenson, Thurman, Wallace, Whyte, and Withers—28.

So the resolution was agreed to.

Mr. EDMUNDS. I move that the Secretary inform the House of Representatives of the action of the Senate, and that the Senate is ready to meet the House to proceed with the duties required under the act.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Secretary will excute the order of the Senate.

Mr. CLAYTON. I move that the Senate take a recess until to-morrow at ten o'clock.

Mr. ALLISON. May I ask the Senator to withdraw that till I put a question.

Mr. CLAYTON. Certainly.

Mr. ALLISON. Has the House taken a recess?

Mr. CLAYTON. The Speaker of the House was just here, and I heard him say it had.

The PRESIDENT *pro tempore*. The Chair has been informed that the House of Representatives has taken a recess. The Chair saw the Speaker in the Chamber.

Mr. SARGENT. The Speaker informed me that the House had taken a recess.

The PRESIDENT *pro tempore*. The Senator from Arkansas [Mr. CLAYTON] moves that the Senate take a recess until to-morrow at ten o'clock.

The motion was agreed to; and (at seven o'clock and forty minutes p. m.) the Senate took a recess until to-morrow, Thursday, March 1, 1877, at ten o'clock a. m.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 28, 1877.

The House re-assembled at twelve o'clock m.

Prayer by the Chaplain, Rev. I. L. TOWNSEND.

ORDER OF BUSINESS.

The SPEAKER. The Chair is informed by the Clerk that the Journal of yesterday is not completed and therefore cannot be read.

Mr. FIELD. I am directed by the committee on the powers and privileges of the House of Representatives to report the bill which I send to the Clerk's desk.

Mr. BURCHARD, of Illinois. I object, and call for the reading of the Journal.

The SPEAKER. The Chair has already stated that the Journal is not ready and therefore cannot be read.

Mr. BURCHARD, of Illinois. Then I object to any other business.

Mr. VANCE, of Ohio. I ask unanimous consent to make a report from the Committee on Printing.

Mr. BURCHARD, of Illinois. I object to any business being done.

Mr. SCALES. I ask unanimous consent to take from the Speaker's table and pass at this time the Senate bill to remove the disabilities of General D. H. Hill, of North Carolina.

Mr. WELLS, of Mississippi. I object.

Mr. LAMAR. I ask unanimous consent to offer the following resolution:

Resolved, That the rules of the House be suspended so as to discharge the Committee on the state of the Union from the further consideration of Senate bill No. 14, and to immediately consider the same.

Mr. FORT and Mr. HOLMAN objected.

Mr. LUTTRELL. I ask unanimous consent to take up from the Speaker's table the bill (H. R. No. 4261) to provide for the sale of desert lands in certain States and Territories, which has been returned from the Senate with amendments, that the amendments of the Senate be non-concurred in, and a conference asked on the disagreeing votes of the two Houses thereon.

Mr. EDEN. I object.

The SPEAKER. The Chair would suggest to gentlemen that it is hardly worth while for them to make efforts to be recognized for the purpose of taking up public business, because there are gentlemen here who do not desire that any legislation shall be done.

CHINESE IMMIGRATION.

Mr. PIPER. I ask unanimous consent to present the report of the joint select committee on the Chinese question, and also the report of the expenses of the House part of the committee.

There was no objection, and the reports were received.

Mr. PIPER. I ask unanimous consent that the reports be printed in the RECORD.

There was no objection, and it was so ordered.

The reports are as follows:

REPORT OF THE JOINT SPECIAL COMMITTEE TO INVESTIGATE CHINESE IMMIGRATION.

The joint special committee of the Senate and House of Representatives appointed to investigate the character, extent, and effect of Chinese immigration report as follows:

On the 6th day of July, 1876, the Senate passed the following resolution:

"*Resolved*, That a committee of three Senators be appointed to investigate the character, extent, and effect of Chinese immigration to this country, with power to visit the Pacific coast for that purpose, and to send for persons and papers, and to report at the next session of Congress."

On the 17th day of July, 1876, the House of Representatives passed the following resolution:

"Whereas the Senate has passed a resolution authorizing the appointment of a committee of three Senators to visit the Pacific coast and report to Congress at its next session upon the character, extent, and effect of Chinese immigration to this country:

"*Resolved*, That the Speaker is hereby authorized to appoint three members of this House to proceed to the Pacific coast, after the adjournment of Congress, to investigate conjointly with said Senate committee, or otherwise, the extent and effect of Chinese immigration to this country, with power to send for persons and papers, to administer oaths, to employ a stenographer, and to take evidence; said committee to report to Congress at its next session."

Subsequently, at the same session, by concurrent resolution, the said special committee of the two Houses were authorized to act as a joint special committee for the purposes aforesaid, and with the powers conferred by the resolutions appointing them.

In conducting the investigation required by the resolutions the joint committee visited the Pacific coast and examined one hundred and thirty witnesses. The testimony so taken covers over twelve hundred pages of printed matter and embraces the views of all classes of the community and every variety of interest. The committee found a great diversity of opinion, resulting from different standpoints of the witnesses who were examined.

In conducting this examination the committee divided their work so as to first hear persons opposed to the unlimited introduction of Chinese, and to this branch of the subject a limited time was given. They then heard the testimony of persons favorable to such introduction, and concluded by affording time for witnesses in rebuttal. Although the subject by this means was pretty fully covered and the inquiry perhaps exhausted, the conclusions to be drawn from the mass of testimony may be different to different minds. In the opinion of the committee it may be said that the resources of California and the Pacific coast have been more rapidly developed with the cheap and docile labor of Chinese than they would have been without this element. So far as material prosperity is concerned, it cannot be doubted that the Pacific coast has been a great gainer.

This is true, at any rate, of the capitalist classes. If the inquiry should stop there; if it should be satisfied by the certainty that money is made out of the present condition of things, and not look to the present or future moral or political welfare of our Pacific States, it must be conceded, at least, that many enterprising men find their profit in Chinese immigration, and the general resources of the Pacific are being rapidly developed by means of Chinese labor. Among others who testified were those who largely employ Chinese or are interested in their transportation, and who find a profit therein. These testified that the results of Chinese immigration had been invariably beneficial in enhancing the material prosperity of the coast, but some were not entirely clear that there were not social and moral evils springing from this immigration which in the future would counterbalance the advantages gained by the present rapid production of wealth.

Opposition to any move restricting the immigration of Chinese was also developed among religious teachers, who testified before the committee that the presence of Chinese among us imposes a duty and gives an opportunity of Christianizing them. On the other hand, the committee found that laboring-men and artisans, perhaps without exception, were opposed to the influx of Chinese, on the ground that hard experience had shown that they are thereby thrown out of employment and the means of decent livelihood are more difficult of acquisition. But the opposition to Chinese immigration was not confined to laboring-men and mechanics. In the testimony will be found that of lawyers, doctors, merchants, divines, judges, and others, in large numbers, speaking of their own observation and belief, that the apparent prosperity derived from the presence of Chinese is deceptive and unwholesome, ruinous to our laboring classes, promotive of caste, and dangerous to free institutions.

In the progress of their investigation the committee called before them the municipal authorities of San Francisco, including the executive, legislative, health, and police departments, to ascertain the numbers, habits, and modes of life of the Chinese in San Francisco. The number of adult Chinese residents in that city averages at present during a year about thirty-five thousand. The testimony shows that the Chinese live in filthy dwellings, upon poor food, crowded together in narrow quarters, disregarding health and fire ordinances, and that their vices are corrupting to the morals of the city, especially of the young.

Among the testimony will be found that of some twenty operatives, numbering nearly as many trades, in which details are given in relation to different industrial pursuits which are either monopolized by the Chinese or are fast becoming so. This evidence shows that the Chinese have reduced wages to what would be starvation prices for white men and women, and engrossed so much of the labor in the various callings that there is a lack of employment for whites; and young men are growing up in idleness, while young women, willing to work, are compelled to resort to doubtful means of support. The hardships resulting from these causes bear with especial weight upon women.

It is also shown that this distinctive competition in some branches of labor operates as a continual menace, and inspires fears that the establishment of these ruinously low rates will extend to all employments and degrade all white working-people to the abject condition of a servile class. From this cause, among others, has sprung up a bitterly hostile feeling toward the Chinese, which has exhibited itself sometimes in laws and ordinances of very doubtful propriety and in the abuse of individual Chinamen and sporadic cases of mob violence. The influence of the better class of society is thrown against all violence toward the Chinese, although those exercising that influence may be convinced that the presence of the Chinese in California is undesirable. As long as there is a reasonable hope that Congress will apply a remedy for what is considered a great and growing evil, violent measures against the Chinese can be restrained.

As the safety of republican institutions requires that the exercise of the franchise shall be only by those who have a love and appreciation for our institutions, and this rule excludes the great mass of the Chinese from the ballot as a necessary means to public safety, yet the application of the rule deprives them of the only adequate protection which can exist in a republic for the security of any distinctive large class of persons. An indigestible mass in the community, distinct in language, pagan in religion, inferior in mental and moral qualities, and all peculiarities, is an undesirable element in a republic, but becomes especially so if political power is placed in its hands.

The safety of the State demands that such power shall not be so placed. The safety of the class, however, seems to depend in a measure upon that power.

There are, therefore, springing from this subject antagonistic considerations, the only way to reconcile which would seem to be that the laws should discourage the large influx of any class of population to whom the ballot cannot be safely confided.

To any one reading the testimony which we lay before the two Houses it will become painfully evident that the Pacific coast must in time become either American or Mongolian. There is a vast hive from which Chinese immigrants may swarm, and circumstances may send them in enormous numbers to this country. These two forces, Mongolian and American, are already in active opposition. They do not amalgamate, and all conditions are opposed to any assimilation. The American race is progressive and in favor of a responsible representative government. The Mongolian race seems to have no desire for progress and to have no conception of representative and free institutions. While conditions should be favorable to the growth and occupancy of our Pacific possessions by our own people, the Chinese have advantages which will put them far in advance in this race for possession. They can subsist where the American would starve. They can work for wages which will not furnish the barest necessities of life to an American. They make their way in California as they have in the islands of the sea, not by superior force or virtue, or even industry, although they are, as a rule, industrious, but by revolting characteristics and by dispensing with what have become necessities in modern civilization. To compete with them and expel them the American must come down to their level or below them; must work so cheaply that the Chinese cannot compete with him, for in the contest for subsistence he that can subsist upon the least will last the longest.

It must not be understood that these views are unchallenged by a considerable and respectable class in California. Many persons of intelligence consider that this very cheapness of labor of the Chinese and the extreme docility of his habits are a strong consideration in his favor. More money can be made by employing him than can be by the employment of white men and women with the payment of adequate wages. Admitting this, yet it would seem that an unlimited influx of Chinese might be a great future evil; that the population of the Pacific coast by a people of cognate language, religion, habits, and traditions would be better than its population by Asiatics; that its people should be like those of Iowa or Illinois rather than like those of Peking and Canton. When considerations relating to the future health of the body-politic were called to the attention of witnesses, scarcely any dissented from the idea that great numbers of a people of the average mental capacity of the Chinese, having no inclination to adopt this country as their permanent home, who come and return as pagans, having a total disregard for our Government and laws and the servile disposition inherited from ages of benumbing despotism, were undesirable.

By the judges of the criminal courts of San Francisco it was shown that there is a great want of veracity among Chinese witnesses, who have little regard for the sanctity of an oath, and hence convictions are very difficult for offenses committed against each other or against the public at large. The testimony seemed to be concurrent that the Chinese are non-assimilative with the whites; that they have made no progress, during the quarter of a century in which they have been resident on the Pacific coast, in assimilation with our people; that they still retain their peculiar costume and follow their original national habits in food and mode of life; that they have no social intercourse with the white population; that they work for wages which will not support white men, and especially white families; that they have no families of their own in this country, or very few of them; and that by the small amount and poor quality of food which they consume, and their crowding together in close quarters, reducing individual expenses of rent, their having no families to support or educate, they are able to compete with white labor in all departments and exclude it from employment.

Testimony was further taken upon the question of any radical differences existing between the Asiastic and Caucasian races, and in the evidence will be found much valuable information upon this point peculiarly interesting to the ethnologist. The deduction from the testimony taken by the committee on this point would seem to be that there is not sufficient brain capacity in the Chinese race to furnish motive power for self-government. Upon the point of morals, there is no Aryan or European race which is not far superior to the Chinese as a class. Full and interesting details of Chinese morals and habits in their own country will be found in the testimony, fully warranting this assertion. That testimony comes from intelligent travelers, ship-captains, merchants, and others, and some of it is too revolting for miscellaneous reading. But it was proved satisfactorily that the Chinese merchants in San Francisco are honorable in their dealings with other merchants. The only testimony affecting the integrity of this comparatively small class was that they evade to a considerable extent the United States revenue laws.

There is no intermarriage between the Asiatics and the Caucasian race.

The presence of the Chinese discourages and retards white immigration to the Pacific States. This clearly appeared in evidence, and probably arises from their monopoly of farm and mechanical work through the low price of their labor, making subsistence difficult to procure by the poorer class of emigrants.

There was some conflict of testimony upon the question as to what is public opinion on the Pacific coast as to the desirability of the influx of Chinese; but it is fairly inferable from the evidence that, without very considerable exceptions, public opinion there is that Chinese immigration is exceedingly pernicious; that the presence of that element, perpetually alien in feeling and ideas, is a great disadvantage to the community.

This opinion is shared by some of the religious teachers in California, and very interesting testimony of the deleterious effects of Chinese immigration upon the morals of the Pacific coast will be found given by some of these persons. It is very clearly in evidence that the number of the Chinese on the Pacific coast is rapidly increasing, not by births, for there are few of these, but by importations, so that the same uneducated class is supplied perpetually.

The Chinese do not come to make their home in this country; their only purpose is to acquire what would be a competence in China and return there to enjoy it. While there is a constant and increasing incoming tide there is a constant outflow also, less in volume, of persons who have worked out specified years of servitude and made money enough to live upon in China, and who sever their connection with this country.

It further appears from the evidence that the Chinese do not desire to become citizens of this country, and have no knowledge of or appreciation for our institutions. Very few of them learn to speak our language. They do not desire the ballot, and there is danger that if they had it their "head-men" would control the sale of it in quantities large enough to determine any election. That it would be destructive to the Pacific States to put the ballot in their hands was very generally believed by the witnesses. Their want of knowledge of our language and institutions would prevent an intelligent exercise of suffrage; while their number in California at the present time is so great that they could control any election if the ballot was put into their hands. The number of adult Chinese is, at the present time, as great as that of all the voters in the State, or nearly reaching that number, and they increase more rapidly than the other adult population of the State. To admit these vast numbers of aliens to citizenship and the ballot would practically destroy republican institutions upon the Pacific coast, for the Chinese have no comprehension of any form of government but despotism, and have not the words in their own language to describe intelligibly the principles of our representative system.

It was proved before the committee that Chinese women in California are bought and sold for prostitution, and are treated worse than dogs; that they are held in a most revolting condition of slavery. It was further shown that the Chinese have a quasi-government among themselves, independent of our laws, authorizing the punishment of offenders against Chinese customs, even to the taking of life. It was further shown that violent hostilities exist between Chinamen from different parts of China, who, coming together in California by accident or otherwise, engage in deadly feuds and riots, to the disturbance of the public peace. Large numbers of them, notwithstanding the difficulty of conviction, owing to the looseness of the Chinese oath, occupy the State's prison and jails.

They are cruel and indifferent to their sick, sometimes turning them out to die, and the corpses of dead Chinamen and women are sometimes found in the streets by the policemen, where they have been left by their associates at night. The climatic conditions of San Francisco are unfavorable to the prevalence of pestilence, but it was in testimony that the conditions existing in the Chinese quarter of this city transferred to New York, Saint Louis, Cincinnati, New Orleans, or other large cities east of the Rocky Mountains, would make those cities uninhabitable. The Chinese quarter already extends over a considerable area in the heart of San Francisco, and is growing year by year. The progress is steady and constant, and the business portion of the city is already cut off by the Chinese quarter from a portion where are many of the most elegant residences.

Such Chinese quarters exist in all the cities and towns of the Pacific coast. The tide of Chinese immigration is gradually tending eastward, and before a quarter of a century the difficult question that now arises upon the Pacific coast will probably have to be met upon the banks of the Mississippi, and perhaps on the Ohio and Hudson. Many people of the Pacific coast believe that this influx of Chinese is a standing menace to republican institutions upon the Pacific and the existence there of Christian civilization.

From all the facts that they have gathered bearing upon the matter, considering fairly the testimony for and against the Chinese, the committee believe that this opinion is well founded. They believe that free institutions founded upon free schools and intelligence can only be maintained where based on intelligent and adequately paid labor. Adequate wages are needed to give self-respect to the laborer and the means of education to his children. Family-life is a great safeguard to our political institutions. Chinese immigration involves sordid wages, no public schools, and the absence of the family. We speak of the Chinese as they have exhibited themselves on the Pacific coast for twenty-five years past, and as they are there at the present time. They show few of the characteristics of a desirable population and many to be deprecated by any patriot.

This problem is too important to be treated with indifference. Congress should solve it, having due regard to any rights already accrued under existing treaties and to humanity. But it must be solved, in the judgment of the committee, unless our Pacific possessions are to be ultimately given over to a race alien in all its tendencies, which will make of it practically provinces of China rather than States of the Union.

The committee recommend that measures be taken by the Executive looking toward a modification of the existing treaty with China, confining it to strictly commercial purposes; and that Congress legislate to restrain the great influx of Asiatics to this country. It is not believed that either of these measures would be looked upon with disfavor by the Chinese government. Whether this is so or not, a duty is owing to the Pacific States and Territories which are suffering under a terrible scourge, but are patiently waiting for relief from Congress.

In pursuance of a resolution of the House of Representatives, passed August 15, 1876, directing the Clerk of the House of Representatives to pay from the contingent fund the sum of $3,500 to the chairman, on the part of the House, of the joint select committee to investigate Chinese immigration, I herewith submit an account of the disbursements made in virtue of the same.

Voucher No. 1, stenographic work	$2,012 85
Voucher No. 2, traveling expenses	140 50
Voucher No. 3, board stenographers	224 00
Voucher No. 4, expenses Hon. E. R. MEADE	753 00
Voucher No. 5, clerk's services	180 00
Voucher No. 6, balance deposited in the United States Treasury	189 65
	3,500 00

WM. A. PIPER,
Chairman House Committee.

I have examined the aforegoing statement of account, and find the same correct.

CHARLES B. ROBERTS,
Chairman Committee Accounts.

Mr. MEADE. I ask unanimous consent to print in the CONGRESSIONAL RECORD, as a part of the debate, some remarks in relation to the report made in regard to Chinese immigration.

There was no objection, and the leave was granted.

ELECTION IN SOUTH CAROLINA.

Mr. LAPHAM. I ask unanimous consent to print in the CONGRESSIONAL RECORD, as a part of the debates, some remarks touching the South Carolina election report.

There was no objection, and the leave was granted.

ORDER OF BUSINESS.

Mr. SPRINGER. I ask unanimous consent that the bill (H. R. No. 1223) which is a pension bill, be taken from the Speaker's table and the amendment of the Senate be concurred in.

The SPEAKER. The Chair desires to say that the Senate is at our doors.

Mr. SPRINGER. Then I withdraw the request.

COUNTING THE ELECTORAL VOTES.

At twelve o'clock and thirteen minutes p. m., the Doorkeeper announced the Senate of the United States, who then, headed by their President *pro tempore* and accompanied by their Sergeant-at-Arms and Secretary, entered the Hall, the members and officers of the House rising to receive them.

The PRESIDENT *pro tempore* of the Senate took his seat as Presiding Officer of the joint meeting of the two Houses, the Speaker of the House occupying a chair upon his left.

Senators INGALLS and ALLISON, the tellers appointed on the part of the Senate, and Mr. COOK and Mr. STONE, the tellers appointed on the part of the House, took their seats at the Clerk's desk, at which the Secretary of the Senate and the Clerk of the House also occupied seats.

The PRESIDING OFFICER. The joint meeting of Congress for counting the electoral vote resumes its session. The two Houses having separated upon the submission to the commission of the objections to the certificate from the State of South Carolina, have reconvened to consider and determine the decision of that tribunal.

The decision, which is in writing, by a majority of the commission, and signed by the members agreeing therein, will now be read by the Secretary of the Senate and be entered in the Journal of each House.

The Secretary of the Senate read as follows:

ELECTORAL COMMISSION,
Washington, D. C., February 27, A. D. 1876.

To the President of the Senate of the United States presiding in the meeting of the two Houses of Congress under the act of Congress entitled "An act to provide for and regulate the counting of the votes for President and Vice-president, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," approved January 29, A. D. 1877:

The electoral commission mentioned in said act, having received certain certificates and papers purporting to be certificates, and papers accompanying the same, of the electoral votes for the State of South Carolina, and the objections thereto submitted to it under said act, now report that it has duly considered the same pursuant to said act and has by a majority of votes decided and does hereby decide that the votes of C. C. Bowen, J. Winsmith, Thomas B. Johnston, Timothy Hurley, W. B. Nash, Wilson Cook, and W. F. Myers, named in the certificate of D. H. Chamberlain, governor of said State, which votes are certified by said persons, as appears by the certificate submitted to the commission as aforesaid, and marked number one (1) N. C. by said commission, and herewith returned, are the votes provided for by the Constitution of the United States, and that the same are lawfully to be counted as therein certified, namely:

Seven (7) votes for Rutherford B. Hayes, of the State of Ohio, for President; and

Seven (7) votes for William A. Wheeler, of the State of New York, for Vice-President.

The commission has by a majority of votes also decided and does hereby decide and report that the seven persons first above named were duly appointed electors in and by the State of South Carolina.

The brief ground of this decision is that it appears, upon such evidence as by the Constitution and the law named in said act of Congress is competent and pertinent to the consideration of the subject, that the before-mentioned electors appear to have been lawfully appointed such electors of President and Vice-President of the United States for the term beginning March 4, A. D. 1877, of the State of South Carolina, and that they voted as such at the time and in the manner provided for by the Constitution of the United States and the law.

And the commission, as further ground for their decision, are of the opinion that the failure of the Legislature to provide a system for the registration of persons entitled to vote does not render nugatory all elections held under laws otherwise sufficient, though it may be the duty of the Legislature to enact such a law. If it were otherwise all government in that State is a usurpation, its officers without authority, and the social compact in that State is at an end.

That this commission must take notice that there is a government in South Carolina, republican in form, since its constitution provides for such a government, and it is and was on the day of appointing electors so recognized by the executive and by both branches of the legislative department of the Government of the United States.

That so far as this commission can take notice of the presence of the soldiers of the United States in the State of South Carolina during the election, it appears that they were placed there by the President of the United States to suppress insurrection, at the request of the proper authorities of the State.

And we are also of opinion that from the papers before us, it appears that the governor and secretary of state have certified under the seal of the State that the electors whose vote we have decided to be the lawful electoral vote of the State were duly appointed electors, which certificate, both by presumption by law and by the certificate of the rival claimants of the electoral office, was based upon the action of the State canvassers. There exists no power in this commission, and there exists none in the two Houses of Congress in counting the electoral vote, to inquire into the circumstances under which the primary vote for electors was given. The power of the Congress of the United States in its legislative capacity to inquire into the matters alleged, and to act upon the information so obtained, is a very different one from its power in the matter of counting the electoral vote. The votes to be counted are those presented by the State, and when ascertained and presented by the proper authorities of the State they must be counted.

The commission has also decided and does hereby decide by a majority of votes and reports that as a consequence of the foregoing and upon the grounds before stated the paper purporting to be a certificate of the electoral vote of said State of South Carolina signed by Theodore G. Barker, S. McGowan, John W. Harrington, John Isaac Ingram, William Wallace, John B. Erwin, and Robert Aldrich, marked No. 2 N. C. by the commission and herewith returned, is not the certificate of the votes provided for by the Constitution of the United States, and that they ought not to be counted as such.

Done at Washington, District of Columbia, the day and year first above written.

SAMUEL F. MILLER.
W. STRONG.
JOSEPH F. BRADLEY.
GEO. F. EDMUNDS.
O. P. MORTON.
FRED'K T. FRELINGHUYSEN.
JAMES A. GARFIELD.
GEORGE F. HOAR.

The PRESIDING OFFICER. Are there any objections to the decision of the commission?

Mr. PHILIPS, of Missouri. I send up an objection signed by Senators and Representatives, and along with it I present the evidence upon which the objection is founded.

The PRESIDING OFFICER. The member from Missouri [Mr. PHILIPS] having presented an objection, it will be read by the Clerk of the House.

The Clerk of the House read as follows:

The undersigned, Senators and Representatives, do hereby object to counting the votes cast by C. C. Bowen, J. Winsmith, Thomas B. Johnston, Timothy Hurley, W. B. Nash, Wilson Cook, and W. F. Myers, alleged electors of the State of South Carolina, in conformity to the decision of the electoral commission, and as reasons therefor assigned the following:

I.

Because no legal election was held in the State of South Carolina on the 7th day of November last past for presidential electors in compliance with section 3, article 8 of the constitution thereof requiring a registration of the electors of the State as a qualification to vote.

II.

Because in consequence of frauds practiced in said election, and the interference with and intimidation of the electors in said State by the Federal Government prior to and during said election, stationing in various parts of said State near the polling-places detachments of the Army of the United States, a full and free exercise of the right of suffrage was prevented, in consequence of which there was no lawful election had.

III.

Because in violation of the Constitution of the United States the Federal authorities, at the several polling-places in said State on the day of election, stationed over one thousand deputy marshals of the United States, who by their unlawful and arbitrary action in obedience to the unauthorized instructions from the Department of Justice, so interfered with the full and free exercise of the right of suffrage by the voters of said State that a fair election could not be and was not held in said State on the 7th day of November, 1876.

IV.

Because the certification of the election held by said electors on the 6th day of December, 1876, was not made by the lawfully constituted governor of said State.

V.

Because the said electoral commission, contrary to its duty and the authority vested in it by law, neglected and refused to inquire into the facts and allegations aforesaid, and their said decision is contrary to the law and the truth.

VI.

Because at the time of the pretended appointment of the said electors in the State of South Carolina, it was under duress from the power of the United States unlawfully exerted upon it, and said pretended appointments were made under such duress.

VII.

Because the certificate numbered 1 was and is void.

First. For irregularity in that the electors were not sworn, as by the constitution of the State of South Carolina they were required to be.

Second. The certificate does not state that said electors voted by ballot, as required by the Constitution of the United States.

Third. The certificate upon the envelope in which the said certificate and accompanying papers were inclosed was not the certificate required by the laws of the United States.

T. M. NORWOOD,
JAMES K. KELLY,
HENRY COOPER,
S. B. MAXEY,
WM. A. WALLACE,
Senators.
J. F. PHILIPS,
HIESTER CLYMER,
ERASTUS WELLS,
A. T. WALLING,
A. M. WADDELL,
JOHN R. EDEN,
THOS. L. JONES,
J. R. TUCKER,
Representatives.

The PRESIDING OFFICER. Are there further objections to the decision of the commission?

Mr. SOUTHARD. I send up in duplicate an objection, signed by Senators and Representatives.

The PRESIDING OFFICER. The member from Ohio [Mr. SOUTHARD] submits an objection, which will be read by the Secretary of the Senate.

The Secretary of the Senate read as follows:

The undersigned, Senators and members of the House of Representatives, object to the counting of the electoral vote purporting to come from South Carolina, in conformity with the decision of the majority of the electoral commission, for the reason that the said electoral votes, as well as the votes of the people of said State at the presidential election on the 7th day of November last, were given under duress caused by the unlawful exercise of Federal power.

A. S. MERRIMON,
GEO. R. DENNIS,
J. E. McDONALD,
WM. A. WALLACE,
C. W. JONES,
Senators.
DAVID DUDLEY FIELD,
M. I. SOUTHARD,
WM. MUTCHLER,
JOHN GOODE, JR.,
JESSE J. YEATES,
JOHN H. CALDWELL,
S. S. COX,
R. A. DE BOLT,
JOHN B. CLARK, JR.,
Representatives.

The PRESIDING OFFICER. Are there further objections to the decision? [After a pause.] If there be none, the Senate will now withdraw to its Chamber, that the two Houses separately may consider and determine the objections.

Accordingly (at twelve o'clock and thirty minutes p. m.) the Senate withdrew.

The Senate having withdrawn, the House was again called to order.

ORDER OF BUSINESS.

Mr. SPRINGER. I move that the House now take a recess until to-morrow morning at ten o'clock.

Mr. WOOD of New York. I hope not. Let us proceed with the count.

Mr. SPRINGER. If discussion is to be indulged in, I would like to say something on the subject myself.

The SPEAKER. Debate is not in order.

Mr. WILSON, of Iowa. I call for the yeas and nays on the motion.

The yeas and nays were ordered.

The question was taken; and there were—yeas 92, nays 170, not voting 28; as follows:

YEAS—Messrs. Abbott, Ashe, John H. Bagley, jr., Banning, Blackburn, Bliss, Boone, Bradford, Buckner, Cabell, John H. Caldwell, William P. Caldwell, Carr, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Davis, De Bolt, Dibrell, Douglas, Faulkner, Field, Finley, Forney, Franklin, Fuller, Glover, Gunter, Andrew H. Hamilton, Henry R. Harris, John T. Harris, Hartridge, Hartzell, Hatcher, Henkle, Hooker, Humphreys, Hunton, Hurd, Thomas L. Jones, Knott, Lane, Lynde,

Mackey, Maish, McMahon, Meade, Mills, Morrison, Mutchler, O'Brien, Payne, John F. Philips, Poppleton, Rea, Rice, Riddle, William M. Robbins, Miles Ross, Scales, Schumaker, Sheakley, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Terry, Thompson, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Gilbert C. Walker, Walling, Walsh, Warner, Whitthorne, Wigginton, and Wike—92.

NAYS—Messrs. Adams, Ainsworth, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Bell, Blair, Blount, Bradley, John Young Brown, William R. Brown, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Cason, Caswell, Chapin, Chittenden, Conger, Crapo, Crounse, Cutler, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Egbert, Evans, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Gause, Goode, Goodin, Hale, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hathorn, Haymond, Hays, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Holman, Hoskins, House, Hubbell, Hunter, Hurlbut, Hyman, Jenks, Frank Jones, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, Franklin Landers, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Levy, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Odell, Oliver, O'Neill, Packer, Page, Phelps, William A. Phillips, Pierce, Piper, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Reagan, John Reilly, John Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Sayler, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Swann, Tarbox, Teese, Thomas, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Warren, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, Yeates, and Young—170.

NOT VOTING—Messrs. Anderson, Atkins, Bass, Beebe, Bland, Bright, Durand, Ellis, Gibson, Robert Hamilton, Goldsmith W. Hewitt, Hopkins, King, Lewis, Luttrell, McFarland, Metcalfe, Milliken, Money, Purman, James B. Reilly, Roberts, Schleicher, Stephens, Waldron, Ward, Wheeler, and Jere N. Williams—28.

So the motion for a recess was not agreed to.

Before the vote was announced,

Mr. WHITTHORNE stated that his colleague, Mr. ATKINS, who was absent on a conference committee, would if present vote in favor of taking a recess.

Mr. O'BRIEN and Mr. SHEAKLEY, (simultaneously.) I move that the House take a recess until half past seven o'clock this evening.

Mr. HOSKINS. I rise to a point of order.

Mr. WOOD, of New York. I make a point of order on the proposition of the gentleman from Maryland, [Mr. O'BRIEN.]

The SPEAKER. The Chair rules that the motion is not in order.

Mr. SHEAKLEY. I wish to take an appeal from the decision of the Chair.

Mr. HOSKINS. I move to lay the appeal on the table.

Mr. SHEAKLEY. On that motion I call for the yeas and nays.

Mr. WOOD, of New York. I ask the Speaker whether he entertains the appeal?

The SPEAKER. The Chair entertains the appeal, of course.

Mr. WOOD, of New York. I submit that it should not be entertained because it is a dilatory motion, made evidently for the purpose of delay.

The SPEAKER. The Chair is aware that he might in his discretion decline to entertain this apppeal; but the House may as well say promptly whether the Speaker is right or wrong.

Several MEMBERS. That is right.

Mr. SPRINGER. Is not the question whether the appeal shall be sustained debatable? [Cries of "No! No!" "Vote! Vote!"]

Mr. WOOD, of New York. I move to lay the appeal on the table.

Mr. SPRINGER. The gentleman who took the appeal is still on the floor.

Mr. WOOD, of New York. I call for the yeas and nays on laying the appeal on the table.

Mr. SPRINGER. If the gentleman from Pennsylvania [Mr. SHEAKLEY] will yield to me——

The SPEAKER. For what purpose.

Mr. SPRINGER. I desire to give my reasons for voting to sustain the appeal taken by the gentleman from Pennsylvania, [Mr. SHEAKLEY.]

The SPEAKER. It is not debatable.

Mr. EDEN. Is this debate in order pending the motion to lay on the table?

The SPEAKER. Debate is not in order on an appeal where the original proposition upon which the decision appealed from is based was not debatable.

Mr. O'BRIEN. I would like to raise a point of order.

The SPEAKER. The gentleman will state his point.

Mr. O'BRIEN. I shall have to ask the indulgence of the Chair for a moment.

The SPEAKER. The Chair will indulge the gentleman any reasonable time.

Mr. O'BRIEN. The point is this: that the motion I made for a recess till half past seven o'clock this evening should have been entertained by the Chair; but as I understand the Chair has overruled it.

The SPEAKER. The Chair the other day decided that point and sees no reason now to change it.

Mr. O'BRIEN. At the same time I should be indulged by the Chair in stating briefly my reason.

The SPEAKER. The Chair is willing to indulge the gentleman to any reasonable extent.

Mr. BROWN, of Kentucky. I object to anything out of order.

Mr. O'BRIEN. It is not in the nature of debate, and I shall use no argument to convince members the motion is in order, but shall merely refer to the facts.

The SPEAKER. The Chair will ask that the gentleman from Maryland may be allowed reasonable time to state his point of order.

Mr. WOOD, of New York. He must speak to the question.

Mr. O'BRIEN. The point of order I raise is this——

Mr. BROWN, of Kentucky. Mr. Speaker, I have objected and now again object to anything out of order.

Mr. O'BRIEN. In the electoral bill, beyond all question, we have the power to take a recess until ten o'clock to-morrow morning. There is no doubt or dispute about that. Now, the greater always includes the less, and if we have the right to take a recess until ten o'clock to-morrow we must have the right to take a recess until seven o'clock.

Mr. WOOD, of New York. I call the gentleman to order.

Mr. O'BRIEN. It may be that the House has no desire to take a recess for a longer time than ten o'clock to-morrow, and it may also be, as it is in this case, that a large majority of the House interested in the discussion of the question in relation to the objection to counting the vote of South Carolina——

Mr. BROWN, of Kentucky. Is this discussion in order?

Mr. O'BRIEN. Those so interested desire time for reflection and consideration.

The SPEAKER. The gentleman from Kentucky objects, and the gentleman from Maryland is not in order.

Mr. BROWN, of Kentucky. For the fourth time I object to anything out of order.

The SPEAKER. The Chair hopes the gentleman from Kentucky will not suppose the Chair did not hear him, but because of the appeal taken from the decision of the Chair it has been his desire to hear upon what possible grounds it could be based.

Mr. BROWN, of Kentucky. The Chair twice announced his decision, and further stated that he would not change it, and afterward that debate was not in order, and I have repeatedly objected to any debate and to anything not in order.

The SPEAKER. The gentleman from Kentucky objects, and the gentleman from Maryland will resume his seat.

Mr. O'BRIEN. I rise to a point of order, and to object to hearing the ground of the point of order is indelicate and improper, because the Speaker desires to be heard through the members of the House.

The SPEAKER. The Chair does not desire to be heard except in his rulings.

Mr. SPRINGER. I hope refusal will not be persisted in to giving gentlemen the opportunity to state briefly the reasons of the appeal from the decision of the Chair.

The SPEAKER. The question is on the motion of the gentleman from New York to lay the appeal upon the table.

Mr. SPRINGER. I appeal to the gentleman from Kentucky to allow debate for ten minutes——

Mr. EDEN. I object.

Mr. KEHR. I object.

Mr. SPRINGER, (continuing.) On a question which is to determine whether this House has power enough left——

Mr. WOOD, of New York. Everybody objects.

Mr. SPRINGER, (continuing.) Whether we have power enough left to prevent the consummation of this great wrong——

The SPEAKER. The gentleman from Illinois is violating the rules of the House in insisting on debate when objection is made.

Mr. SPRINGER. I ask gentlemen to hear me on a subject of so great importance.

The SPEAKER. Objection is made to the gentleman.

Mr. O'BRIEN. Then let us have the yeas and nays on the motion to lay the appeal upon the table.

The yeas and nays were ordered.

The Clerk proceeded to call the roll.

Mr. PHILIPS, of Missouri. There is so much confusion in the Hall we cannot hear the names of the members as they are called.

The SPEAKER. Until the House comes to order the public business will be suspended.

Mr. WALLING. I ask whether the roll-call has been commenced?

The SPEAKER. It has.

Mr. WALLING. Is it competent to offer an amendment to the motion of the gentleman from Illinois at this time?

The SPEAKER. Nothing is in order but the roll-call.

The question was taken; and it was decided in the affirmative—yeas 184, nays 61, not voting 45; as follows:

YEAS—Messrs. Abbott, Adams, Ainsworth, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Banning, Belford, Bell, Blair, Bland, Bliss, Blount, Bradley, John Young Brown, William R. Brown, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Cabell, Candler, Cannon, Cason, Caswell, Chapin, Chittenden, Clymer, Conger, Cook, Crapo, Crounse, Cutler, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Egbert, Evans, Faulkner, Felton, Flye, Forney, Fort, Foster, Freeman, Frye, Garfield, Gause, Goode, Goodin, Hale, Haralson, Hardenbergh, Benjamin W. Harris, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hatcher, Hathorn, Haymond, Hays, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Holman, Hopkins, Hoskins, House, Hubbell, Hunter, Hunton, Hurlbut, Hyman, Jenks, Frank Jones, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, Franklin Landers, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Lord, Lynch, Mackey, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Mutchler, Nash, Neal, New, Norton, Odell, Oliver, O'Neill, Packer, Page, Payne, Phelps, Pierce, Piper, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, Reagan, John Reilly, John Robbins, William M. Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Schleicher, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Swann, Strait, Teese, Thomas, Thornburgh, Throckmorton, Martin I.

Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Wait, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Watterson, Erastus Wells, G. Wiley Wells, Whitehouse, Whiting, Wike, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, Yeates, and Young—184.

NAYS—Messrs. Ashe, John H. Bagley, jr., Beebe, Blackburn, Boone, Bradford, John H. Caldwell, William P. Caldwell, Carr, Cate, Caulfield, John B. Clarke of Kentucky, Collins, Cowan, Davis, De Bolt, Dibrell, Finley, Franklin, Fuller, Glover, Andrew H. Hamilton, Henkle, Hooker, Humphreys, Hurd, Thomas L. Jones, Knott, Lane, Levy, Luttrell, Lynde, McFarland, Meade, Mills, O'Brien, John F. Philips, Poppleton, Rice, Riddle, Miles Ross, Scales, Schumaker, Sheakley, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stone, Terry, Turney, John L. Vance, Robert B. Vance, Waddell, Walling, Walsh, Warner, Whitthorne, and Wigginton—61.

NOT VOTING—Messrs. Anderson, Atkins, Bass, Bright, Buckner, Campbell, John B. Clark, jr., of Missouri, Cochrane, Cox, Culberson, Douglas, Durand, Ellis, Field, Gibson, Gunter, Robert Hamilton, Hancock, Hartzell, Goldsmith W. Hewitt, King, Lewis, Maish, McMahon, Metcalfe, Milliken, Money, Morrison, William A. Phillips, Purman, James B. Reilly, Roberts, Sayler, Stenger, Stephens, Tarbox, Thompson, Waldron, Gilbert C. Walker, Ward, Warren, Wheeler, White, Jere N. Williams, and Wilshire—45.

So the appeal was laid upon the table.

The Clerk proceeded to read the list of names.

Mr. WOOD, of New York. I ask that by unanimous consent the reading of the names be dispensed with.

Mr. WALLING and others objected.

The reading of the list was completed, and the result of the vote was then announced as above recorded.

Mr. WOOD, of New York. I now move to proceed to a consideration of the report of the electoral commission in the South Carolina case.

The SPEAKER. That is the regular order.

Mr. SHEAKLEY. I move that the House now take a recess till ten o'clock to-morrow.

The SPEAKER. The Chair cannot entertain that motion.

Mr. SHEAKLEY. Business having intervened——

The SPEAKER. The Chair cannot entertain the motion.

Mr. O'BRIEN. I would like to know the reason. We are entitled under the law to make this motion.

Mr. LAWRENCE. I rise to a question which I suppose is in order.

Mr. SPRINGER. Do I understand the Chair to decide that the motion of the gentleman from Pennsylvania [Mr. SHEAKLEY] is not in order?

The SPEAKER. The Chair declines to entertain the motion.

Mr. WADDELL. I rise to a question of privilege.

The SPEAKER. Some one has taken away from the desk or borrowed for the moment the decision of the electoral commission. The Chair requests that it be returned to the desk.

Mr. SPRINGER. I hope it has been taken to some remote part of the earth, whence it will not be brought back again.

Mr. WALLING. And that the commission have leave to go with it. [Laughter.]

The SPEAKER. The Clerk will read the decision of the electoral commission.

The Clerk commenced to read the decision.

Mr. SPRINGER. I rise to a question of order. I understand the gentleman from Pennsylvania [Mr. SHEAKLEY] made a motion that the House take a recess until ten o'clock to-morrow morning.

The SPEAKER. The gentleman understands also that the Chair declined to entertain the motion.

Mr. SPRINGER. I was about to state that—that the Chair declined to entertain the motion. It seems to me it is unusual for the Chair to refuse to entertain any motion which is provided for by the parliamentary rules of the House.

The SPEAKER. The Chair desires——

Mr. SPRINGER. If the Chair will pardon me, I wish to say it is the duty of the Chair to entertain any motion that may be made in a parliamentary form. It is the privilege of the Chair to decide it out of order, and upon that decision the House may take an appeal.

The SPEAKER. The Chair has allowed great latitude in reference to this matter. The Chair, in fact, was not bound to entertain the appeal as made by the gentleman from Pennsylvania, [Mr. SHEAKLEY,] and could have cited former decisions to sustain him in that position; notably, the decision made by the then Speaker in 1869, when the occupant of the chair at that time stated that he declined to entertain the appeal on the well-known ground that when a point of order is once decided it cannot again be renewed, although additional reasons may be assigned for it.

Mr. SPRINGER. There has been no point of order on this question for a recess.

The SPEAKER. The Chair has decided, he thinks twice, the same point of order. But the Chair was desirous that the House might have an opportunity of expressing its opinion upon the position which he took in reference to that question. The House has now decided in accordance with the decision of the Chair, and the Chair for that reason declines to entertain the motion of the gentleman from Pennsylvania.

Mr. O'BRIEN. I rise to a parliamentary question.

The SPEAKER. The gentleman will state it.

Mr. O'BRIEN. It is this: I state the question with full deference to the decision of the Chair——

The SPEAKER. The Chair is aware of that.

Mr. O'BRIEN. If the motion to take a recess until ten o'clock to-morrow is not in order—and I presume that is the reason why the Chair refuses to entertain it—when will it be in order?

The SPEAKER. The Chair desires to say to the House that he does not, of course, know what the intention of these motions is. He has only to look at the effect of them. The effect of these motions is dilatory, is delay. That is all that the Chair looks at—the effect of the motions. He criticises in no manner whatever either the intention or the motive of anyone.

Mr. O'BRIEN. I desire to say, as nobody on this side of the House desires delay, [laughter,] we do not object to the decision of the Chair. [Great laughter.]

The SPEAKER. The Clerk will proceed with the reading of the decision of the commission.

Mr. SPRINGER. The point of order to which I rose has not yet been decided. It is this: that it is the duty of the Chair to entertain any parliamentary motion that is submitted; that it is the privilege of the Chair to decide the motion out of order, and that it is the privilege of the House to sustain or overrule that decision. I desire the Chair to give a decision on the point of order, that the House may exercise its prerogative of determining whether the motion of the gentleman from Pennsylvania is in order or not.

The SPEAKER. The Chair has declined to entertain the motion of the gentleman from Pennsylvania.

Mr. HARRIS, of Virginia. And everybody understood the Chair but the gentleman from Illinois.

Mr. SPRINGER. I understand the decision of the Chair, and that it is such a decision as may be appealed from, as I understand it. Therefore, not desiring to offend the Chair——

Mr. BROWN, of Kentucky. I object to further debate.

Mr. SPRINGER. But standing on my rights as a representative of the people I respectfully appeal from that decision of the Chair.

The SPEAKER. And the Chair declines to entertain the appeal.

Mr. SPRINGER. Then I will appeal from the decision of the Chair to the people, who have elected a President of the United States who is now about to be counted out under this ruling.

The SPEAKER. In that particular the fullest sympathy of the Speaker is with the gentleman from Illinois, [Mr. SPRINGER.]

Mr. SPRINGER. I know that very well.

The SPEAKER. The Clerk will resume the reading of the decision.

The Clerk resumed and completed the reading of the decision.

The Clerk then read the objections.

Mr. PHILIPS, of Missouri. I now ask that the testimony accompanying the objections be read.

Mr. WOOD, of New York. I hold in my hand the report of the testimony of the South Carolina case.

The SPEAKER. Debate is not in order.

Mr. WOOD, of New York. I object to the reading on the ground that there are twelve hundred and sixty-six pages of the report and testimony, which, at ten pages an hour, will take over five days to read. The object of calling for the reading of it is therefore intended to defeat the count altogether.

The SPEAKER. Debate is not in order. The Chair will submit the question to the House. The rule is that—

When the reading of a paper is called for and the same is objected to by any member, it shall be determined by a vote of the House.

The Chair will submit the question to the House whether this testimony shall be read or not.

Mr. WOOD, of New York. I repeat that it would take five days to read it.

[Loud cries of "No debate!"]

The SPEAKER. The Chair will listen to no debate, but now submits the question to the House whether this testimony shall be read.

The question was put; and there were—ayes 90, noes 138.

Mr. WOOD, of New York, and Mr. WALLING called for the yeas and nays.

The yeas and nays were ordered.

The question was put; and there were—yeas 87, nays 175, not voting 28; as follows:

YEAS—Messrs. Ashe, Atkins, John H. Bagley, jr., Banning, Beebe, Blackburn, Bliss, Boone, Bradford, Bright, John H. Caldwell, William P. Caldwell, Campbell, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Davis, De Bolt, Dibrell, Douglas, Finley, Forney, Franklin, Fuller, Glover, Andrew H. Hamilton, Henry R. Harris, John T. Harris, Hartzell, Henkle, Hooker, Humphreys, Hurd, Thomas L. Jones, Knott, Franklin Landers, Lane, Levy, Luttrell, Lynde, Mackey, Maish, McMahon, Mills, Money, Morrison, Mutchler, O'Brien, Odell, John F. Philips, Poppleton, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Scales, Schumaker, Sheakley, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Terry, Thompson, Turney, John L. Vance, Robert B. Vance, Waddell, Walsh, Warner, Whitthorne, Wigginton, Wike, and Jere N. Williams—87.

NAYS—Messrs. Abbott, Adams, Ainsworth, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Bell, Blair, Bland, Blount, Bradley, John Young Brown, William R. Brown, Buckner, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Cabell, Candler, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Cutler, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Egbert, Evans, Faulkner, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Gause, Goode, Goodin, Gunter, Hale, Robert Hamilton, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Hartridge, Hatcher, Hathorn, Haymond, Hays, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Holman, Hoskins, House, Hubbell, Hunter, Hunton, Hurlbut, Hyman, Jenks, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, McFarland, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Packer, Page, Payne, Phelps, Pierce, Piper, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, Reagan, John Reilly, John Robbins, Robinson,

Sobieski Ross, Rusk, Sampson, Savage, Seelye, Sinnickson, Smalls, A. Herr Smith, Strait, Stevenson, Stowell, Swann, Tarbox, Teese, Thomas, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Wait, Waldron, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Walling, Warren, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Yeates—175.

NOT VOTING—Messrs. Anderson, Bass, Carr, Chapin, Durand, Ellis, Field, Gibson, Harrison, Goldsmith W. Hewitt, Hopkins, Frank Jones, King, Lewis, Meade, Metcalfe, Milliken, William A. Phillips, Purman, James B. Reilly, Sayler, Schleicher, Singleton, Stephens, Gilbert C. Walker, Ward, Wheeler, and Young—28.

Mr. DUNNELL. I ask unanimous consent that the reading of the names be dispensed with.

Mr. O'BRIEN. I object.

The Clerk completed the reading of the roll-call; and the result was announced as above recorded.

So the House refused to permit the testimony to be read.

Mr. WALLING. I move to reconsider the vote by which the House refused to allow the testimony to be read.

Mr. WOOD, of New York. I move to lay that motion upon the table.

Mr. STANTON. I rise to make a parliamentary inquiry.

The SPEAKER. The motion to lay on the table is not debatable.

Mr. HUNTON. I want a division of the question so that we may vote first on the motion to reconsider and then on the motion to lay upon the table.

The SPEAKER. The gentleman from Ohio [Mr. WALLING] moves to reconsider the vote by which the House refused to hear the testimony read, and the gentleman from New York [Mr. WOOD] moves to lay that motion on the table, and the question is first upon the motion to lay on the table. The question is not divisible in any way the Chair knows of.

Mr. WOOD, of New York. How did the gentleman from Ohio [Mr. WALLING] vote upon this question?

The SPEAKER. The gentleman from Ohio voted with the majority.

The question was put on the motion of Mr. WOOD, of New York; and on a division there were ayes 150, noes not counted.

Mr. SPRINGER. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 177, nays 73, not voting 40; as follows:

YEAS—Messrs. Adams, Ainsworth, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Bell, Blair, Bland, Bradley, John Young Brown, William R. Brown, Buckner, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Cabell, Campbell, Candler, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Cutler, Danford, Darrall, De Bolt, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Egbert, Evans, Faulkner, Felton, Fort, Foster, Freeman, Frye, Garfield, Ganse, Goode, Goodin, Gunter, Hale, Robert Hamilton, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Hartridge, Hatcher, Hathorn, Haymond, Hays, Hendee, Henderson, Abram S. Hewitt, Hoar, Hoge, Holman, Hopkins, Hoskins, House, Hubbell, Hunter, Hunton, Hurlbut, Hyman, Jenks, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, Franklin Landers, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Levy, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, McFarland, Miller, Mills, Monroe, Morgan, Mutchler, Nash, Neal, New, Norton, Odell, O'Neill, Packer, Page, Phelps, Pierce, Piper, Platt, Potter, Powell, Pratt, Rainey, Rea, Reagan, John Reilly, John Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Sayler, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Tarbox, Teese, Thomas, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Wait, Waldron, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Ward, Warren, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Wike, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Yeates—177.

NAYS—Messrs. Ashe, Atkins, John H. Bagley, jr., Banning, Beebe, Blackburn, Bliss, Boone, Bradford, Bright, John H. Caldwell, William P. Caldwell, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Cochrane, Collins, Cook, Cowan, Culberson, Davis, Dibrell, Douglas, Finley, Forney, Franklin, Fuller, Glover, Andrew H. Hamilton, Henry R. Harris, Hartzell, Henkle, Hooker, Humphreys, Hurd, Thomas L. Jones, Knott, Lane, Luttrell, Lynde, Mackey, Maish, McMahon, Money, O'Brien, John F. Philips, Poppleton, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Scales, Schumaker, Sheakley, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Terry, Thompson, Turney, John L. Vance, Robert B. Vance, Waddell, Walling, Warner, Whitthorne, Wigginton, and Jere N. Williams—73.

NOT VOTING—Messrs. Abbott, Anderson, Bass, Blount, Carr, Cate, Chapin, Clymer, Cox, Davy, Durand, Ellis, Field, Flye, Gibson, John T. Harris, Harrison, Goldsmith W. Hewitt, Hill, Frank Jones, King, Lewis, Meade, Metcalfe, Milliken, Morrison, Oliver, Payne, William A. Phillips, Plaisted, Purman, James B. Reilly, Schleicher, Siemons, Stephens, Swann, Gilbert C. Walker, Walsh, Wheeler, and Young—40.

So the motion to reconsider was laid on the table.

At the conclusion of the roll-call,

Mr. MACDOUGALL said: I ask unanimous consent that the reading of the names be dispensed with.

Mr. WALLING and Mr. RICE objected.

The Clerk read the list of names, and the vote was then announced as above recorded.

Mr. VANCE, of Ohio. I move that parts one and two of the testimony be read.

The SPEAKER. The House has already refused to have the testimony read. The greater includes the less, and therefore the Chair rules that the motion of the gentleman is not in order.

Mr. FRANKLIN. I move that the report of the committee be read.

The SPEAKER. What committee?

Mr. FRANKLIN. The report of the committee on the election in South Carolina.

The SPEAKER. That report is not before the House, and can be read only by unanimous consent.

Mr. SPRINGER. It is a part of the papers sent up with the objection filed by the gentleman from Missouri, [Mr. PHILIPS.]

The SPEAKER. And the House has refused to have those papers read.

Mr. SPRINGER. *Non constat*, that the House may not desire to have a portion of the papers read.

The SPEAKER. The House having refused to have the testimony and the papers sent up to the desk read at this time, the gentleman from Illinois [Mr. SPRINGER] surely will not say that it is competent now for the Chair to entertain a motion to read a portion of those papers.

Mr. SPRINGER. It is the report of a committee of this House, the reading of which I suppose will not be objected to.

The SPEAKER. The real difficulty in this matter, the Chair desires to suggest to the gentleman from Illinois, [Mr. SPRINGER,] is the law. The law is binding upon the Chair. The Chair had nothing to do with the reporting of the law, but the Chair is bound to abide by the terms of the law.

Mr. SPRINGER. To that I have not objected.

The SPEAKER. The Chair hopes not, for the gentleman himself reported the law in part.

Mr. WOOD, of New York. I call for the regular order.

Mr. LAWRENCE. I desire to offer a resolution.

Mr. O'BRIEN. I desire to make——

The SPEAKER. The regular order being called for, the Chair recognizes the gentleman from Mississippi [Mr. HOOKER] to open the debate.

Mr. COCHRANE. I desire to offer a resolution. Is there anything before the House?

The SPEAKER. There is. The gentleman from Pennsylvania [Mr. COCHRANE] himself notified the Chair that the gentleman from Mississippi [Mr. HOOKER] would open the debate, and the Chair has recognized the gentleman from Mississippi as now entitled to the floor.

Mr. COCHRANE. I desire to submit a resolution, in order to bring the matter properly before the House.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Resolved, That the objections to the decision of the electoral commission upon the electoral votes of South Carolina be sustained by the House, and that said votes be not counted.

The SPEAKER. Does the gentleman from Ohio [Mr. LAWRENCE] desire to submit a resolution?

Mr. LAWRENCE. I think it will save time to take the vote on the resolution which has just been read.

Mr. O'BRIEN. Pending that resolution I desire to make a parliamentary inquiry.

The SPEAKER. The Chair will listen to it.

Mr. O'BRIEN. I respect the sentiment just now announced by the Chair, that the Speaker was acting under the law. Therefore, under the law, I desire to inquire whether it is not now in order for the House to take a recess until to-morrow morning at ten o'clock?

The SPEAKER. The Chair has answered that question many times to-day personally and at least once publicly.

Mr. O'BRIEN. We have had intervening business since the motion was made to take a recess. The law gives us the right to take a recess until to-morrow morning at ten o'clock. I do not make the motion for delay, but merely in order that the House may have time for reflection and consideration.

The SPEAKER. The entire spirit of this law, and in fact the letter of it, which binds the Chair, is that dilatory motions cannot be entertained by the Chair.

Mr. O'BRIEN. I do not make the motion for any such purpose.

The SPEAKER. The motion is of a dilatory character in effect.

Mr. O'BRIEN. I appeal to the Speaker to state whether he is willing from his high place to say that there are members of this House [cries of "Regular order!"] in favor of dilatory motions? I inquire at this time, as I inquired an hour ago, whether the motion I have indicated is in order. If it is, I desire to submit it.

The SPEAKER. It is not; the Chair cannot entertain the motion.

Mr. O'BRIEN. Very well; I submit to the decision of the Chair.

Mr. HOOKER. Mr. Speaker, the objection presented to the consideration of the House against the finding of the commission in the case of the electoral vote of South Carolina is predicated primarily upon the objection which has been presented generally to the action of the commission in refusing to go into the merits of these cases. By the action of the House, acting separately for itself, the commission was invested with authority to act as computers of the electoral vote and judges of what constituted "the true and legal electoral vote of a State." Failing to take jurisdiction of the subject-matter referred to them to the extent intended by the spirit and language of the law creating the commission, they have, in my judgment, failed to discharge the duty which devolved upon them, and, in the language of the gentleman from New York who addressed the House the other day upon a similar finding, the parties who have given them this authority are bound neither in law nor in morals to abide by the finding of the commission.

They were constituted under the terms of an act so plain and sim-

ple in its language, so obvious in its import and purpose, that it required the skill of lawyers to detect anything else in it than this plain and simple meaning. The second section of the act, which clothed the commission with power to decide in the case of dual returns from a State, declares that "all such returns and papers shall thereupon be submitted to the judgment and decision of the commission as to which is the true and lawful electoral vote of such State." That was the question and the sole question, under that clause of the act, which was submitted to the consideration of the commission—"to ascertain what constituted the true and lawful electoral vote of a State."

Again, in the same section it was provided that they "shall constitute a commission for the decision of all questions upon or in respect of such double returns named in this section." I call attention further to the oath of office prescribed in this section, by which each member of the commission swears, "I will impartially examine and consider all questions submitted to the commission of which I am a member."

The law further provides that "when there shall be more than one such certificate or paper, as the certificates and papers from such State shall so be opened, (excepting duplicates of the same return,) they shall be read by the tellers, and thereupon the President of the Senate shall call for objections." And when all such objections have been received "the papers, with the objections, proofs, and depositions, shall be sent to the commission." For what purpose? In order, in the language of the law, that they may decide—

Whether any and what votes from such State are the votes provided for by the Constitution of the United States, and how many and what persons were duly appointed electors in such State, and may therein take into view such petitions, depositions, and other papers, if any, as shall, by the Constitution and now existing law, be competent and pertinent in such consideration.

Suppose, Mr. Speaker, it should be alleged that the great seal of the State affixed to the certificate is a forgery, or that the signature of the governor is a forgery. Does the commission mean to say that the two Houses could not inquire into that, or that the commission, under the law of its existence, could not inquire into such frauds? or if the great seal of State be genuine, and the signature of the governor be genuine, but the return of the canvassers be false and fraudulent, that the certificate of the governor can sanctify the fraud and thus cheat the people out of the "true and legal electors voted for?"

I say, sir, that if it had not been distinctly and fairly understood by the terms of this act that the commission should be clothed with power to investigate what constituted "the true and legal electoral votes of a State" where there were dual returns and a dispute of what constituted a real electoral vote, the commission would never have been created. It could not have received a dozen votes on this side of the House. That commission stands with reference to the two Houses precisely in the attitude of a commissioner in chancery to whom an account had been referred to be settled between contesting parties, one of them alleging that there was fraud in the account and the other denying it. If such a commissioner should undertake to refer the matter back to the tribunal which clothed him with authority without settling the very question for the decision of which he was constituted a commissioner, he would be in a similar position to this commission to-day.

More than that, Mr. Speaker; in this very case of South Carolina which we are now to vote upon the question was whether or not South Carolina had been overrun with troops by the order of the Federal Government and of the Department of Justice, so as to suppress the actual vote of her people. Yet, when you come to the finding of the commission, upon which we are now passing, you find a most extraordinary statement embraced in that finding. After passing upon the question of the failure of registration; after passing upon the question whether there was in South Carolina a republican form of government such as the Constitution guarantees to all the States, the republican party having said with reference to Louisiana in 1873 that her electoral vote should not be counted as she had no republican government;) after passing upon all these questions and coming to the consideration of the main objection, so ably and eloquently presented to the commission by the gentleman from Ohio [Mr. HURD] and Mr. COCHRANE, of Pennsylvania, and by the counsel in the case, what do the commission say? They use these words, and I invite the attention of the House to the terms of the finding: That—

So far as the commission can take notice of the presence of the soldiers of the United States in the State of South Carolina during the election, it appears that they were placed there by the President of the United States to suppress insurrection, at the request of the proper authorities of the State.

How did it "appear" to the commission? How could it "appear" except upon evidence, taken on the one side and the other?

Yet, sir, when the objectors on the part of the House undertook to show by competent and satisfactory proof that these troops were not there according to the terms of the Constitution and the law, were not there upon the call of the Legislature of the State, were not there under the forms of law—when that proposition was made before the commission, they declined to entertain it. I say therefore that it is palpable that the commission have refused to take jurisdiction of the subject-matter which was submitted to them in this case.

I am not here to deal in epithets with regard to that commission. I am not here to characterize it as my distinguished friend from New York did, as having made a finding which is binding neither in law nor in morals. I am not here to refer to this commission, as did the caustic and eloquent gentleman from Missouri, as infamous in its partisan findings. I do not propose so to speak of it; but I do propose to say that in the case of South Carolina, as in the case of Florida and the case of Louisiana and the case of Oregon, they have refused to perform the function with which the House by its separate vote invested them. They have refused to take evidence upon the subject-matter submitted to them; and therefore the House is not bound by the action of a tribunal which has refused to consider the very question submitted to it, and to take evidence upon the very subject which the House intrusted and confided to it.

This is patent, not only from the language of the law, but it is manifest that was the opinion of the joint committee of the Senate and the House, composed of seven of the House and seven of the Senate, in a report which they made with reference to this bill; for they said—and I do not presume they undertook to deceive this House or to deceive the Senate when they made that report—they said in that report:

All will agree that the votes named in the Constitution are the constitutional votes of the States, and not other; and when they have been found and identified, there is nothing left to be disputed or decided—all the rest is the mere clerical work of summing up the numbers, which, being done, the Constitution itself declares the consequence. This bill, then, is only directed to ascertaining for the purpose, and in aid of the counting, what are the constitutional votes of the respective States; and whatever jurisdiction exists for such purpose, the bill only regulates the method of exercising it.

Further they said in that report:

However important it may be whether one citizen or another shall be the Chief Magistrate for a prescribed period, upon just theories of civil institutions it is of far greater moment that *the will of the people, lawfully expressed in the choice of that officer, shall be ascertained and carried into effect in a lawful way.*

That was what this committee of conference of the two Houses reported to this House was the purpose and the object of this bill. At one time we find the commission receiving evidence as to the ineligibility of an elector, and at another time we find them refusing it; and promulgating the strange, startling doctrine that a person holding an office of "trust and profit" under the Government of the United States may be appointed or elected (for they are convertible terms) an elector though the Constitution expressly says that he "shall not."

The third ground of objection to the finding of the commission is in these words:

III.

For that the Federal Government prior to and during the election on the 7th day of November, 1876, without authority of law, stationed in various parts of the said State of South Carolina at or near the polling-places detachments of the Army of the United States, by whose presence the full exercise of the right of suffrage was prevented, and by reason whereof no legal or free election was or could be had.

The commission refused to receive evidence as to this objection, and yet decide "that it appears to them" that the call for troops, and the use, or rather the abuse of them, in the late election in South Carolina was constitutional and rightful, and in accordance with the laws, and that too in face of the provisions of existing law making it a penal offense to station troops at or near a voting-polls on the day of election.

In support of this view I read the following section of the Revised Statutes of the United States:

No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, or to keep the peace at the polls.

Section 5528 of the Revised Statutes of the United States provides:

Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control, any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States or to keep the peace at the polls, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years.

Section 5532 of the Revised Statutes of the United States provides as follows:

Every person convicted of any of the offenses specified in the five preceding sections, shall, in addition to the punishments therein severally prescribed, be disqualified from holding any office of honor, profit, or trust under the United States.

Who pretends there were enemies to the United States to be overcome in South Carolina, or that troops were necessary to preserve the peace at the polls? No, sirs; these troops were sent to South Carolina in the interest of party, and not of the country. The gallant officers and men of the Army were prostituted to a mere police force, to carry the State for the republican party, and to support and abet the vast army of United States deputy marshals, who were scattered all over the State by the illegal order of the Department of Justice in the interest of the same unscrupulous party. And to-day the gallant Wade Hampton and W. D. Simpson, the legally elected governor and lieutenant-governor, are deprived of the power and authority to restore peace, quiet, and prosperity to the grand old State by the presence of these troops sustaining a usurper defeated by the clearly ascertained will of the people of South Carolina.

Now, sir, if this commission, acting within the powers and duties conferred and imposed upon it, where there were dual returns from a State, had proceeded to take proof to ascertain who were "the true and legal electors of the State," I am free to admit that I should have been prepared to stand by their findings, however unjust it may have been. But when they refuse to receive any evidence of

such fraud alleged or of illegality and disqualification of the electors decided by them to be chosen, I hold that the House is not bound by their action, and that they have failed, refused, and neglected to perform the very duty they were created to discharge, and that in effect they have done nothing more than the opponents of the bill claimed was within the powers and duties of the Presiding Officer of the Senate, namely, to open and count the electoral vote.

This commission was created and grew out of the difference of opinion existing as to the powers and duties of the Presiding Officer of the Senate in reference to counting the electoral vote, and never would have had existence but upon the idea that it was, in equity and good conscience, bound under the law to take proof wherever there was an allegation of fraud, and to find who were "the true and legal electors" chosen by the people at the ballot-box in the late election.

Mr. LAPHAM. Mr. Speaker, I was one of those who entertained the opinion that there was no power under the Constitution to create this electoral commission. I also opposed the passage of the bill creating it as not a measure of practical legislation. I am now called upon to defend the action of the commission against the assaults of a portion of those who clamored for its creation.

What has this electoral commission done to bring upon it this great reproach? It has decided the principal question which was submitted to it for its determination: the question whether the two Houses of Congress, acting separately or acting conjointly, have any power under the Constitution and the laws to go behind the electoral certificate coming from the State in the mode provided by such constitution and laws. But for the difference between the two Houses upon this question, there would have been no occasion for creating this commission. It was the first and paramount question for its determination, upon which there was a radical and irreconcilable difference between the two parties.

How has it determined it? It has decided it in accordance with the uniform practice of the Government from the adoption of the Constitution to this time. It has decided it according to the unanimous judgment of both Houses of Congress in the proposed legislation in the year 1800.

They inserted this proviso:

Provided always, That no petition or exception shall be granted, allowed, or considered by the grand committee which has for its object to dispute, draw into question the number of votes given for an elector in any of the States, or the fact whether an elector was chosen by a majority of votes in his State or district.

I think the members of the commission, whether they belong to this House or to the Senate, or whether they come from the Supreme Court, can well afford, when they are charged with being perjurers and corrupt men, to repose for their defense upon the action of the statesmen of the year 1800, precisely in accordance with the decision the commission has now made.

Mr. Speaker, when this decision was announced, there was an end, practically, to the electoral controversy of the year 1876, and gentlemen on the other side, if they had acted fairly, as a portion of them do seem inclined to, upon the pledges made to secure the adoption of this electoral commission, would have withheld any further opposition to the electoral count except, perhaps, in the case of the State of Louisiana.

And yet what is the history of the action of these objectors down to the present time? We have had objections not only to the vote of the State of Louisiana, which were perhaps justified by the constitutional question there raised, but to the State of Michigan; so frivolous they were unworthy of notice. We have had objections to Nevada equally frivolous. We have had objections to Pennsylvania equally frivolous. We have had objections to the count of the electoral vote of the State of Oregon, so weak that the entire fifteen members of the commission decided that the pretense upon which that objection was made was utterly without foundation.

And now we are brought to the question arising in the State of South Carolina, and what are the facts surrounding this case? On the first day of the session a committee was appointed to go to that State for the purpose of investigating the question of its electoral vote. I had the honor to be one of the members of that committee. I have before me the report of the majority, and I know what is the report of the minority, and the committee are unanimous in deciding that upon the face of the returns the electoral vote of the State of South Carolina was given to Hayes and Wheeler.

Upon that committee was one of the honorable gentlemen [Mr. ABBOTT] now composing the electoral commission. He has himself sent to this House over his own signature a report that the Hayes electors, upon the face of the returns, have 851 majority in the State of South Carolina, and yet he voted in the commission yesterday to reject the vote of that State for Hayes, after the fifteen commissioners had decided the vote of the Tilden electors should not be counted, thus voting to disfranchise the State, and his friends here now clamor and talk about *partisanship* in the action of the commission. Another member of that committee was the honorable gentleman from Missouri, [Mr. PHILIPS,] who this morning rose in this House and asked that all the evidence which has been taken in that case should be read at this time, which would have occupied from three to four days, and yet he complains when we say his object is to delay the electoral count!

Mr. Speaker, the conduct of those who are struggling by these technical objections and efforts at delay to defeat the consummation of this count will admit of but one interpretation. The motives which prompt it are fairly indicated in what was said in the meeting at Tallmadge Hall in this city last evening:

Hon. R. M. T. Hunter, of Virginia, believed it was their duty to *stop the count;* ANYTHING TO BEAT HAYES!

This appeal, sir, comes from the men who four years ago abandoned the high position theretofore occupied by the democratic party of the nation and went about in disregard of its cherished principles, clamoring for the support of a man who had done more than any other man then living to traduce the party and vilify its record, under the rallying cry, "ANYTHING TO BEAT GRANT!" Now the shout is, "*Anything to beat Hayes!*" It was so announced, as I have quoted, in the democratic indignation meeting in Tallmadge Hall.

Those who make these complaints talk about fraud in the face of the fact that $50,000 was offered to purchase an electoral vote for Tilden in South Carolina; that $100,000 was offered to purchase another vote for Tilden in Louisiana; and that $17,000 was expended for the manufacture of one out of Cronin's nose in the State of Oregon. The "Gobble" dispatches have all come to light. The cipher dispatches have all been proved and interpreted. They point to a private office at No. 15 Gramercy Park, New York, as naturally as the needle points to the pole. And yet Mr. Tilden says he did not do it. Pelton says he did not do it. The Senator from Oregon [Mr. KELLY] says he did not do it. Patrick, if he were here, would I have no doubt swear he did not do it. It is a queer freak of the lightning. It did it itself. [Laughter.]

And thus, Mr. Speaker, the electoral count, over which so much ado is being made, has come down at last to this complexion. It reminds me of a colloquy between two editors in the city of New York on Saturday last. One of them said to his companion, "What do you think of this electoral commission, and what is going to be the result?" "I do not know," replied the other, "and I do not care much. It has come to be only a strife and controversy between eighty thousand office-holders on the one hand and five hundred thousand office-seekers on the other." The gentlemen on this floor who imagine or presume that the people are going to take notice of their factious opposition to this proceeding in any other way than to condemn it, mistake the obvious result of the course of action which they have adopted.

[Here the hammer fell.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had adopted a resolution that the decision of the commission upon the electoral vote of the State of South Carolina stand as the judgment of the Senate, the objections made thereto to the contrary notwithstanding.

The message further announced that the Senate was now ready to meet the House to proceed with the counting of the electoral votes for President and Vice-President.

COUNTING THE ELECTORAL VOTE.

Mr. GOODE. No gentleman upon this floor supported the bill creating the electoral commission more cordially and earnestly than I did. No gentleman here is more willing to accept his full share of the responsibility attaching to the creation of that commission. No gentleman here or elsewhere was more grievously disappointed when it became apparent that a majority of that commission were unwilling to hear and determine the matters submitted to them according to the truth and the very right of the case. I supported the bill in the interest of peace, of law, and of order. I believed, whatever might be said of Senators and Representatives, that five judges of the Supreme Court might be found who would be willing and able to rise superior to considerations of party and of section and to decide the question in the fear of God and in the spirit of the oath which they were required to take.

But, sir, the question now arises, what shall be done by the representatives of the people in this great public emergency? I answer unhesitatingly that we must do unto others as we would have them do unto us under like circumstances; that we must accord to the republican party what as a party we would unanimously have demanded if the decision had been favorable to us and adverse to them. If the pound of flesh must be paid, and Shylock will have it, let him have it, because it is so nominated in the bond; but let him see to it that in taking the forfeit he shall not spill one drop of Christian blood. This bill was passed by democratic votes. It was hailed by the country as not only a peace measure, but a democratic measure. And, sir, my deliberate judgment is that it would be not only unwise, but unmanly, to attempt to reverse the decision by any indirect method or by any clamorous complaints. In my judgment, it is the dictate of wisdom, of policy, of manhood, and of honor to stand by the compact into which we have deliberately entered, and to execute in good faith the law which we have made. So much on that point.

Now, sir, as to the matter under consideration. The time was, in the golden age of the Republic, when the voice of South Carolina was potential in these legislative halls. The names of her Lowndes, her Pinckney, her Rutledge, her Hayne, her MacDuffie, her Calhoun, her Legare, and other illustrious sons will be cherished as household words in the land so long as liberty has a votary or the nobler at-

tributes of humanity find a location in the breasts of our people. To-day South Carolina is voiceless here, so far as the intellect, the intelligence, the real worth of that once proud State are concerned.

The harp that once through Tara's halls
The soul of music shed,
Now hangs as mute on Tara's walls
As if that soul were dead.

Louisiana and Florida, through their noble Representatives on this floor, have been heard in eloquent and indignant protest against the grievous wrong which has been inflicted upon them, and

Against the deep damnation of their taking off.

So far as those young Commonwealths are concerned, the deed has been done, the books have been closed, the fiat of the electoral commission has gone forth, and now the lifting of the curtain in the closing act of the drama discloses to the gaze of forty millions of freemen South Carolina, one of the original thirteen States, sitting, like Niobe, all tears, mute and voiceless in her woe, with manacles on her limbs and the hand of the despot upon her throat.

Sir, I announce it as a fundamental proposition, upon which I wish to invoke the deliberate judgment of the American people, that on this roll-call of States in the selection of Chief Magistrate the vote of no State should be counted which has been carried at the point of the bayonet; and if the enunciation of that proposition does not touch a responsive chord in the breasts of the American people, then is their glory departed and the blood of the Saxon no longer courses in their veins.

If military interference on the part of the Executive with the freedom of elections in the States of this Union shall be permitted to go unchallenged by the representatives of the people and to pass into history as a precedent, then it is useless to deny the fact that the public liberties are seriously imperiled. Edmund Burke said:

It is by lying dormant a long time or being at first very rarely exercised that arbitrary power steals upon a people.

No greater danger could possibly threaten us than the interposition of the military arm of the Government in the conduct of elections. The voices of the past, the traditions of the mother country, and the warnings of the fathers of the Republic, all furnish beacon-lights to guide us upon this subject.

In the reign of George II, the British Parliament enacted a law that no troops should come within two miles of any place except the capital or a garrisoned town during an election. And when the military had been called out to quell an alleged riot at Westminster election in 1741 in was resolved "that the presence of a regular body of armed soldiers at an election of members to serve in Parliament is a high infringement of the liberties of the subjects, a manifest violation of the freedom of election and an open defiance of the laws and constitution of this kingdom;" and the House of Commons ordered the persons concerned to attend the house where they were compelled to submit to a severe reprimand from the speaker. And so cautious was George Washington in the exercise of the military power while he was President that he would not even call out the militia to put down the whisky insurgents in the State of Pennsylvania, who had been hardy enough to perpetrate acts which amounted to treason, being overt acts of levying war against the United States, without first sending commissioners to represent to them "how painful an idea it is to exercise such a power, and that it is the earnest wish of the President to render it unnecessary by those endeavors which humanity or love of peace and tranquility and the happiness of his fellow-citizens dictate."

What are the facts in regard to South Carolina? We have seen her State government overthrown, her Legislative Assembly dissolved, and an alien adventurer installed as her governor by the power of the Federal bayonet. We have seen her patrimonial estate confiscated by the hungry vultures who have flocked there to feed and fatten on her vitals. We have seen the mandate of her supreme court nullified by the simple edict of a Federal judge, who has exhibited all the subservience and servility of a Jeffries without any of his talent or ability. We have seen her proud-spirited, but helpless and unarmed people disfranchised and subjected to the arbitrary rule of military masters. We have heard the wail of agony and of woe as they reel and stagger under the grievous load of a burdensome taxation and cry out in bitter agony of soul, "How long, O Lord, how long!"

The testimony of our committee shows that in the recent campaign and on the day of election there were United States troops posted all over that State; that they were sent there, without legal excuse, to control the election, to overawe the people, and intimidate them in the exercise of the elective franchise. It shows that even while this Congress has been in session the American people have seen the State-house at Columbia filled by soldiers of the Regular Army, with fixed bayonets, guarding the entrance to its halls, while the corporal of the guard inspected and decided upon the credentials of the members. They have seen an armed soldiery employed for the illegal and unconstitutional purpose of sustaining a bogus governor and a usurping Legislature, against the solemn judgment of the supreme court, composed of republican judges. And, as if to cap the climax of the iniquity and to fatigue the indignation of the American people, we have had issued by the President of the United States within the last few days an imperial edict forbidding the citizen soldiers of South Carolina to assemble peaceably for the purpose of celebrating the birthday and commemorating the virtues of the Father of his Country.

And all this was done that order might reign in Warsaw, and upon the ridiculous assumption that it was necessary to preserve the public peace. Mr. Speaker, under a full sense of the responsibility resting upon me, I declare in the presence of this House and the country that the real disturbers of the public peace in South Carolina have been General Grant and his coadjutors, while the only promoters of the public peace, have been that Chevalier Bayard, that king of men, Wade Hampton and his devoted followers. [Applause.]

I have, I believe, but a minute and a a half left and I will yield that time to the gentleman from Missouri, [Mr. PHILIPS,] who had the courtesy to yield his place in the debate to myself.

Mr. PHILIPS, of Missouri. Having lost my place in the discussion, I do not wish to interject my speech at this point.

The SPEAKER. The Chair desires to say that any time which is not consumed by the members speaking will be reserved so as to give an opportunity to other gentlemen to be heard, and the Chair reserves the minute and a half not occupied by the gentleman from Virginia for that purpose.

Mr. LAWRENCE. If I could shorten this debate and induce the House to vote upon the resolution before us, I would willingly consent to be silent. But I know very well that two hours will be consumed in debate whether I speak or not, and hence I will occupy ten minutes of the time. We are confronted with a great question, and it becomes us here and now to meet it in a spirit of patriotism and, if we can, with a purpose which shall fill the measure of statesmanship. Shall a State of this Union be disfranchised and denied any share in determining who shall be President and Vice-President of the United States? This is the question which meets us now. I implore gentlemen upon the other side of the House to pause before they set a precedent which will invite the action of Congress to go into a State of this Union to investigate the matter of its election and then say to that State that it has not been conducted according to our liking and that therefore it shall have no share in the election of President and Vice-President of the United States. I ask the attention of the gentleman from Mississippi [Mr. HOOKER] who first spoke upon this question to the result which may follow the decision of the House. If this House can make inquiry now whether an election has been interfered with by the soldiers of the United States in South Carolina, can it not in years to come equally make inquiry whether the votes of the "bull-dozed" districts of his own State may fail to represent the wishes of the people and should therefore be rejected from the count when the Houses of Congress may come to ascertain how the vote of the State has been given for President and Vice-President?

Let me ask the gentleman from New York [Mr. COX] whether he is willing that we shall set a precedent now by which at the next presidential election we may go into that State and by proof ascertain whether the vote given in the city of New York was fairly obtained, was a fair representation of the wishes of the people, or whether there was repeating and ballot-box-stuffing and other election frauds, and if this should be ascertained by the action of Congress that the vote of the State should then be thrown out for that reason? Sir, if such a doctrine as this is once established, the election of President forever hereafter may not depend upon the returns which shall be sent up from the States, but it may be controlled by the action of Congress; and a party majority in the two Houses of Congress may really and practically elect the President of *their* choice, whatever may have been the returns of the election sent up from the States.

I know some of the objections that are made to the vote of South Carolina. It is said that troops of the United States were there on the day of election. How many soldiers were there? The State has thirty-two counties, with four hundred and ninety-one voting precincts and polling-places. By the census of 1875 it had a total population of 925,145, including 110,744 colored, and 74,199 white voters. On the 30th September, 1876, there were in the State only five hundred and eighty-nine officers and soldiers of the United States, or one soldier for every sixteen hundred and seventy of the population. On the 7th of November, the day of the election, the number of officers and soldiers was fifteen hundred and twenty-six, or one for every six hundred and six of the population. These were distributed in small squads at sixty-seven different places, at thirty-six of which the number did not exceed thirteen. Not one in seven of the voting-precincts had any soldiers therein. There were four hundred and twenty-four of the four hundred and ninety-one precincts without a soldier.

Now, why were the soldiers there? The act of Congress provides that—

No * * * officer or person * * * in the military * * * service * * * shall have * * * any troops * * * at the place where any * * * election is held in any State, unless it be necessary to repel the armed enemies of the United States or to keep the peace at the polls. (Revised Statutes, section 2002)

Here then is an express statute which authorizes troops to be used for the purpose of keeping the peace at the polls.

Will any gentleman on this floor say that when there is intimidation and violence, when armed men are hovering around the polls for the purpose of keeping citizens away, for the purpose of depriving them of the right which is given to them by the Constitution of the

United States to vote for electors of President and Vice-President of the United States, that there shall be no protection afforded to them? Sir, Congress by this law has determined otherwise, and I now say here that an American soldier can never be better employed than when he is giving protection to an American citizen in his attempt to exercise the right of suffrage. South Carolina, and probably every State in the Union, has provided by law for such protection under State authority by civil officers and with power to call on the *posse comitatus* and even the State military forces.

It is not necessary that I should remind gentlemen upon this floor that South Carolina has been afflicted during the past year with the massacres of Hamburgh and Ellenton, with the riots of Charleston and Cainhoy and other similar disturbances; in all of which the unfortunate colored men, the republicans of the State of South Carolina, suffered at the hands of the democrats who were armed for the occasion and who repeatedly committed acts of violence and followed them by murders in large numbers, to the eternal disgrace of that State. It was because of these facts that troops were sent to the State of South Carolina.

It is abundantly shown by the testimony taken by the committee which investigated the election in South Carolina that no voter of the State, not one, was ever interfered with by any soldier of the United States; that not one solitary voter of the State was ever denied the right to freely exercise the privilege of voting, either by any soldier or any deputy marshal of the United States. These are the facts.

I have not time to go into this testimony in relation to South Carolina, nor is it material that I should do so. I have heard a great deal said against the electoral commission in the debates on the presidential question. I did not vote for the bill to create that commission. But after some examination of the authorities upon the several questions submitted to that tribunal, I undertake to say that they decided them in accordance with law and principle. There is not one respectable decision by any respectable court in this country that contravenes any one conclusion arrived at by the electoral commission.

If I were to make any criticism at all, I would say the commission had no power to inquire into the eligibility of an elector, but I do not understand the commission maintained that it had any such authoity; and with this understanding I now say that the decisions of this august tribunal will be approved by the legal mind of the country, and will be followed by all political parties hereafter. It has given to an important branch of law a vast fund of useful information, and established great principles which may avert confusion and controversy if not civil war hereafter. How any member of this great tribunal could, without evidence to impeach the electoral vote of the State of South Carolina, solemnly record his opinion against receiving it is one of the marvels which no man can satisfactorily explain. Such opinion finds no sanction in law; none in precedent; none consistent with safety to the States; none consistent with popular liberty, with the peace of the country, or the preservation of the Republic.

My friend from Mississippi [Mr. HOOKER] has read from the report which was submitted to the House when the electoral bill was first reported. Sir, the foundation of this and all laws is in the Constitution of the United States, which provides that—

> The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates [of the votes by electors] and the votes shall then be counted.

Here is the whole authority with which the two Houses of Congress are clothed; and all the authority which could be given to the electoral commission is simply the authority to count *the* votes.

Now will it be said that this authorizes the commission to "go back of the returns" to hear proof, to go into the State and make inquiry? If you were to adopt that construction of these words of the Constitution, a similar construction would enable every returning board in every State of this Union to refuse to receive the returns sent up by the county canvassing officers, and to proceed to hear proof and to determine whether the election in each county was fairly conducted, and to decide it, not according to the ideas of the local officers intrusted by law with the power to make the decision, but according to the ideas of the returning boards themselves.

That is the very matter of which gentlemen on the other side of this House have complained in the case of Louisiana. In that State the returning board was authorized by law to hear proof and make the inquiry. That law grew out of a very peculiar condition of things in Louisiana, which I hope will not continue to exist, and which does not exist in other States, or at least in but few of the States. But there is no such law here and no such authority, and these words of the Constitution cannot by any known rule of interpretation or construction be read as conferring any such authority.

[Here the hammer fell.]

The SPEAKER *pro tempore*, (Mr. VANCE, of North Carolina.) The time of the gentleman has expired.

Mr. FRANKLIN. Mr. Speaker, it is impossible to enter into an extended discussion in the short time I am allowed under the rule. The end of this thrilling drama is rapidly approaching. The beginning of the second century of the Republic will be marked by a great political crime against the liberties of the American people. Unless this House interposes in behalf of their constitutional rights; unless the unjust, illegal, partisan, and infamous action of the majority of the electoral commission be reversed and this House prevent its consummation, a usurper, close upon the heels of the dying hours of this Congress, will be installed as the Chief Executive of the nation.

When the electoral bill became a law its passage was met with acclamations of joy by the whole country. A vast majority of the people approved it, indorsed it, and hailed it as the harbinger of peace and good government. This House presumed, the country presumed, and the presumption was justifiable, because all thought that in a body composed as this tribunal was, of five distinguished members of each House of Congress, and five of the justices of the Supreme Court, the highest tribunal in the world, that a full, free, careful, and searching investigation and analysis would be made into the alleged frauds and corruptions in connection with the elections of November last for President and Vice-President. The greatest question that was ever submitted to any tribunal on earth was submitted to this.

I, in common with the entire delegation from my State in both branches of Congress, gave this measure my hearty support, and with the same lights before me I should do so again. I did not think then, nor do I now think, that we exceeded our constitutional powers in doing so.

Why, Mr. Speaker, the country knew full well that the republican candidates had a *prima facie* case so far as Louisiana and Florida were concerned. But, sir, the country expected, and had a right to expect, that this commission would inquire and ascertain who were the true, lawful, and constitutional electors chosen by the people. Men of high distinction in both branches of Congress asserted that that was the prime object sought. Yet, sir, instead of making a careful inquiry as to who were the truly and lawfully elected electors in the disputed States, they have, from the time of their first sitting, persistently refused to receive any evidence necessary to ascertain such fact. In doing so they have totally disregarded the law under which they are acting, and in the language of the gentleman from New York, [Mr. FIELD,] used some days ago, their opinion is entitled to no respect; and such, in my opinion, will be the judgment of the country.

Suppose that this foul wrong be done? What a mockery of justice it will be! When your President stands on the eastern portico of the Capitol to deliver his inaugural, he cannot, as his predecessors have done, stand there in the full blaze of the light of heaven and say he has been called to the highest position on earth by the voice of his countrymen. He cannot say that he is the chosen ruler of the people. He can only say, "I stand here by the grace and favor of returning boards, whose fraudulent action has shocked the sense of justice throughout the whole land." He cannot congratulate himself that a majority of the people of this country have reposed in him the high trust of Chief Executive of the nation. As he journeys from the Capitol to the White House it would not be inappropriate for him to read what President Grant has said in reference to this matter. It is this:

> No man worthy of the office of President of the United States should be willing to hold it if counted in or placed therein by fraud. Either party can afford to be disappointed in the result, but the country cannot afford to have the result tainted by the suspicion of illegal or false returns.

This should not escape his memory. He should hang these words in the East Room of the Executive Mansion and daily reflect upon them.

Ah! how uneasily he will rest beneath the robes of ill-gotten power. How unshapely they will fit about him, and how unseemly they will appear. He will enjoy the unenviable distinction of knowing that he is a President by fraud, by perjury, and by the manipulations of illegal and unconstitutional returning boards. The proof to sustain this has been offered, and it was the duty of the commission to receive it. But forgetting that they were to decide this question according to the grand principles of law and justice, they have acted as though they were delegated as mere partisans to devise a mode under which the election of the republican candidate could be declared. Look at your party. Scarcely a decade of years ago it walked like a giant through the land. It was invincible in numbers in almost every State in the Union; its decrees were uttered only to be obeyed. It ruled with kingly power. It held States as provinces, and with its military heel upon the necks of prostrate peoples, it through its National Legislature made the organic law for once sovereign and independent Commonwealths, and with regal arrogance and insolence said, "This shall be your constitution or the sword shall rule in your land." It went with the bayonet and the law and compelled obedience.

Behold how changed the scene! Now more than half the States have enlisted under the banner of democracy, and this once invincible republican party has been defeated for the Presidency by a majority of more than a quarter of a million of votes, and is sustaining the illegal and fraudulent action of returning boards that have been denounced as infamous by every patriot in the land. All this is now necessary to prolong your power. This is no victory for you. The better men of your party so regard it. It is fruit that will turn to ashes upon your lips. This is the crowning outrage that will sweep you from power forever.

The gentleman from Ohio [Mr. LAWRENCE] seems to fear that the State of South Carolina will be disfranchised. He is afraid that some of her rights will be invaded or denied by the action of this House. Whence this sudden zeal in behalf of this oppressed State? Many

glorious memories cluster around the honored name of South Carolina. She was one of the thirteen colonies that assisted by her valor and heroic patriotism in the establishment of American independence. She was one of the first colonies that rallied under the banner of freedom in the war of the Revolution. Her name is historic. The deeds of her sons in behalf of liberty are a part and parcel of the glory of this country.

Your party, taking advantage of her prostrate condition, filled her borders with Federal bayonets, and reduced her from the high position of a sovereign and independent State to that of a province. We desired and offered to show to this commission that no free and fair election for President and Vice-President had been held there; that the people were under duress; were overawed by your military power, and yet all this was denied by the majority of the commission.

Sir, recollecting the high-handed tyranny of the republican party; remembering its acts, disfranchising whole commonwealths; remembering how, with the aid of Federal bayonets, it has hushed to silence the voice of the American people, it seems strange to me to hear one of its representatives talking of disfranchising a State. It seems absurd, and should cause the blush of shame to redden the cheek of him who utters it.

You talk of the rights of States! You cannot invade their false certificates, you cannot go behind them; forsooth it would invade the doctrine of State rights. Ah, what a mockery! Why, sir, your party has trampled upon State sovereignty from the day of its accession to power until the present hour. Unconstitutionally and illegally it laid its mailed hand upon Virginia, and without the warrant of law rent the grand old Commonwealth in twain—a State the mention of whose name recalls the glorious record of our revolutionary fathers. She gave an empire to the Union. She did more to constitute and frame this Republic than any of the colonies; and the labors of her sons, both in the councils of the nation and in the field, will be revered among all men who love liberty as long as an English-speaking people inhabit the earth.

You say you cannot go behind the action of the returning boards. You dare not go behind them, for if you do the truth will be asserted, and when that is done your defeat will follow.

The gentleman from Virginia [Mr. GOODE] says that South Carolina will cry in her anguish "How long, O Lord, how long shall these things be!" I tell him they will continue just so long as we, the Representatives of the American people, stand here and allow them to be continued. Just so long as we support the Army to invade and tear down the sovereignty of these States, these things will exist. We on this side of the House have denounced the action of this commission as an infamy; almost every member of the democratic party who has raised his voice has so denominated it. We tell the country that this commission has not obeyed the law; that it has refused to exercise the powers delegated to it. We say it has trampled under foot the law we gave to it, and in so doing has committed a grievous wrong upon the people of the country. Yet, sir, I undertake to say that if we stand here and acquiesce in it, and do not exercise the powers given us by the Constitution and the act itself to prevent this wrong being done, we become a party to it. This is a plain question. I ask you how can we go before the American people and say that the action of this commission is infamous, say that it is illegal, say that it disregarded the law under which it acted, say that it has violated the rights of forty millions of people, and justify ourselves, unless we use all the constitutional means in our power to prevent the consummation of this fraud. I for one, sir, do not intend to rush with unseeming haste to its consummation. This House should, in the exercise of its constitutional power in the interests of the country, prevent the completion of this wrong. I shall never consent to ratify the action of the electoral commission, because in doing so I would esteem that I had proven recreant to the rights of the people.

[Here the hammer fell.]

Mr. BANKS. Mr. Speaker, a few words upon the objections to the count of the electoral vote of South Carolina will be all that I desire to say at this time. By misrepresentation and vituperation the country was led to believe that the condition of that State was such that it would be impossible to give any honest or just representation of the opinions of the people, and that at each election heretofore and now fraud, corruption, and violence had invalidated any expression of the will of the people. When I went there as a member of a committee of the House I had something of that feeling myself. But when, with my associates on that committee, I went to that State to investigate the condition of political affairs and the proceeding as to the electoral vote, we were astonished when we ascertained the facts. Taking every vote that had been given by everybody on all sides, making no question of violence or intimidation, or the interference of armed men, or the failure of incapable or unscrupulous officers to make the returns; taking twenty-five or thirty precincts that were absolutely without any sufficient claim in law to be counted as the votes of the people—taking all these, the vote of South Carolina for the republican electors was as indisputable as the vote of Massachusetts or any other State in the Union; and there was not one member of the committee that could raise a question upon the proceedings in that election or the result as it was ascertained and declared by the returning officers of that State; so far as the returns upon their face indicated the action of the people as to any action of the canvassing officers of the State thereupon.

But, sir, objection is made upon another ground; and the nature of this objection not only justifies the people of that State and their proceedings in the late election, but it vindicates absolutely and perfectly the integrity of the electoral commission and their adherence in every decision that they have made to the principles of law, constitutional and statutory, as the rule of their judgment.

I do not share the objections which have been made to the proceedings of the electoral commission on the ground of their yielding to partisanship or sectional influence. I see in these proceedings nothing but the strictest and the clearest adherence to law and to justice. Since the beginning of the Government there have been two methods of interpretation of the law and of the Constitution. One was what was granted to the Government to keep it in existence; to continue its authority; to execute its laws, and to perpetuate its power. In the opinion of one class of people and one class of judicial officers, that which was necessary for this purpose was legal and constitutional; while in the opinion of another class of judicial officers and another class of citizens, anything which enabled the Government to perpetuate its existence was illegal and unconstitutional. That is the method and basis of interpretation of this statute and the proceedings of this electoral commission. What was necessary to execute the law for counting the vote was in their opinion illegal and unconstitutional; and, on the other side, that which was necessary to ascertain and declare the vote and prepare for the inauguration of officers who were elected by the people was legal and constitutional.

Now, see how this principle applies to the first objection that is made. It is said the constitution of South Carolina requires a registration law to qualify its citizens for voting, and because the Legislature has not passed a registration law, therefore the electoral vote of that State is invalid and ought not to be counted. It is certainly a new principle and an unjust principle in the interpretation of a law which deprives any man of the exercise of his rights because of the default of another. There is not a voter in the State of South Carolina who had it in his power to pass a registration law, and there is not a voter under any sort of just interpretation who is deprived of his right because there was not a registration law. If the constitution requires it, and the Legislature fails to execute that provision, the people who had the right to vote under the laws which existed ever since the creation of a State cannot be deprived of their long-time privileges and franchises, which they have the right to claim and have been accustomed to exercise, because of that failure on the part of the Legislature.

But supposing we admit because there is no registration there can be no electoral vote, what follows? That there is no State government; because its officers are elected by the very same men who voted for the electors. There can be no courts of justice; there can be no constitutional assessments or collections of taxes; no schools for the children; no means of defense against domestic violence and the invasion by foreign enemies, and none of those privileges and powers which attach to the very existence of a State, and which cannot be taken from it without destroying the State itself.

These gentlemen say unless you deny all these rights to the State, unless you deny to the State the right to defend itself against domestic violence and foreign invasion, the electoral vote is not to be considered valid. To make this interpretation in regard to South Carolina, so to judge the action of that people, would be to make that State the brainless and soulless offspring of a brainless and soulless people. Gentlemen say because soldiers have been sent there the electoral vote must not be counted. Sir, the soldiers have been sent to the State of South Carolina because, under the Constitution, the executive officer of that State required them for the purpose of suppressing domestic violence. The whole State swarmed with armed men. Every man capable of duty in the city of Charleston is to this day and this hour armed to the teeth and organized into military companies and attached to regular associations, not to sustain the laws of the State or the constitution of the State, but as enemies of the State and the government, and it is so in every part of the State of South Carolina.

Mr. HOAR. You do not mean to say blacks as well as whites?

Mr. BANKS. I mean every white man. The same is true of every other part of the State. The committee saw these men at Columbia when they went there. They were hurried away by the orders of their leaders, but there were enough to give us an idea of their purpose. Every white man, every democrat capable of bearing arms, is organized in those military associations, and opposed to the State government, and, if they dared, to the United States Government as well.

That which the gentleman from Virginia calls citizen soldiery, and for which he mourns because these men were not allowed, with their arms and in their military organizations, against the proclamation of the governor and the President of the United States, to celebrate the birthday of Washington; these men whom he calls citizen soldiers are men armed against the law for the destruction of the State government as it exists, and without doubt hostile to the Government of the United States as it exists.

Are we to say, then, these objections are to be admitted which destroy not only the character of the State, but deny the power and right of the people to preserve the integrity of their government and to defend themselves against domestic violence? If we so declare, then all that which admits of the right of defense on the part

of the Government of the United States and the capacity to defend its rights, is illegal and unconstitutional and despotic, while that which destroys the State and the Union is legal, constitutional, patriotic, and just. So the honorable gentleman from Mississippi declares the commission is unworthy of respect because it assumes to decide what powers have been conferred upon it and what not by the law which created it. Sir, the honorable gentleman——

[Here the hammer fell.]

Mr. PHILIPS, of Missouri. Mr. Speaker, the discussion of the but little-varying issues arising on the electoral count is growing monotonous. Invective has about exhausted itself, reason is deaf, and conscience has taken refuge in a casemate no missile of truth can penetrate. In the closing scene of this great drama it only remains for me to utter my lament.

Contemning all lawful authority and the voice of the people, the eight commissioners—who have achieved for themselves an immortality of infamy—have done their work as basely as Joab when he smote Amasa in the fifth rib while holding him by the beard to kiss him. The member of the commission from Massachusetts may in his self-complacency regard himself a martyr to democratic abuse. We complain of him not without cause. We had that trust in his integrity that begat the conviction that when confronted with the choice of a party triumph or the vindication of the truth he would face the responsibility and espouse the latter. I know not what transpired in the secret deliberations of the committee that framed the bill, but I know that he invited our confidence when he stood on this floor and with eloquent pathos appealed to us to embrace it. He had heretofore denounced the Louisiana returning board as a monstrous iniquity.

He knew that the dread of the democracy was the assumption that the President of the Senate was authorized do the counting, looking no further than the face of the certificates. Did he then invite us to accept the commission with the covert purpose of dwarfing this great umpirage to the narrow practice of a common-pleas court? Did he believe that we and the country contemplated the solecism, the sublime farce of erecting a solemn tribunal of five commoners, five reverend Senators, and five grave judges to go through the highly intellectual process of opening the certificates, sorting out those for Hayes, and casting up the figures? That was what the President of the Senate, with less parade and greater facility, could do.

If such were his construction of the duties and powers of the commission when he stood on this floor and delivered his apostrophe to the triumphs of peace, "justice, and righteousness;" if it were not in fact a false pretense, hollow and hypocritical, it was on all-fours with the morality of the injunction of Peggy Lob to her boy Paul:

> Mind thy kittychism child, and reverence old age. Never steal, specially when any one be in the way. Read your Bible, and talk like a pius un. Peoples goes by your words more than your actions. If you wants what is not your own try and do without it, and if you cannot do without it, take it by insinivation, not bluster. They as swindles does more and risks less than they as robs.

The gentleman attempted to parry the force of the criticism of the gentleman from New York [Mr. HEWITT] by likening himself to one of Massachusetts' great Senators. It suggested to my mind a contrast. When, in the far-off time, the archæologist shall wander amid the tombs and monuments of the Senators of the Old Bay State, as he pauses before that of her Webster he may read in letters of living light the words, "Liberty and union, one and inseparable, now and forever." On her Choate's he may read, "A thing that's most uncommon: an honest, learned, modest, reasonable man." But when he pauses before that which shall mark the resting-place of her first Senator chosen in the second century of the nation, he will exclaim, "How the mighty have fallen," as he calls to mind the words, "*Ordered*, That evidence (of fraud) be not received." What an epitaph for the successor of Webster, Choate, and Sumner. His monumental column should be surmounted with the representation of the stealthy fox devouring the Louisiana pelican.

Akin to his immodest comparison is the impudent assumption that he, as a member of the commission, vindicated the docrine of State rights. What are State rights? This, essence and soul, is the right of the people of a State to erect and control their own local governments. Has this right been permitted to Louisiana and South Carolina since the war? The governments there were bold, bald usurpations, propped up and sustained by Federal bayonets against the will and right of the people. When it was proposed to show what was the State government he said, "*Ordered*, That no evidence be received;" and with his iron heel planted on the corpse of murdered States, stricken down with the mailed hand of Federal power, he rises to the sublimity of impudence in claiming to be the defender of State rights.

So monstrous and iniquitous are the governments in Louisiana and South Carolina, whose electoral votes the commission have counted, that the President, before the outcry of an indignant nation, has in effect just disowned them. The dreaded Italian hand showed itself from out the ermine of the judiciary in deciding the Florida case. They say:

> That it is not competent, under the Constitution and the law, as it existed at the date of the passage of said act, to go into evidence *aliunde* on the papers opened by the President of the Senate in the presence of the two Houses to prove that other persons than those regularly certified to by the governor of the State of Florida, in and according to the determination and declaration of their appointment by the board of State canvassers of said State prior to the time required for the performance of their duties, had been appointed electors.

What follows the word "governor" was not necessary to a judgment. But it was necessary to cover the Oregon case. Here then were these sworn judges putting an *addendum* to the case in hand to meet the exigencies of a case not yet submitted. And from that day to this we have witnessed the shameless spectacle of the judge on the bench and the counsel pleading before him, juggling, counseling together in order—

> To veer and tack and steer a cause
> Against the weather-gauge of laws.

Take your victory, gentlemen, because I cannot get enough democrats to wrest it from you. Blurred with fraud and cursed with perjury, exult over it if you can. Your exultation is the "*io triumphe*" of treachery. Our exclamation to your *honorable* commissioners is "*et tu Brute.*"

We will at least have learned from you the philosophy of Pistol's injunction to his wife on leaving for war:

> The word is, Pitch and pay;
> Trust none;
> For oaths are straws, men's faiths are wafer cakes,
> And hold-fast, is the only dog, my duck.

The SPEAKER *pro tempore*, (Mr. VANCE, of North Carolina.) The gentleman from South Carolina [Mr. WALLACE] is entitled to the floor for five minutes.

Mr. WALLACE, of South Carolina. I have not often troubled the House since I have been a member of Congress; nor would I do it now had I not heard my State assailed by gentlemen on the other side of the House; had I not heard them either willfully or ignorantly maligning us. Sir, this howl raised over the vote of South Carolina would not have been heard in this House if on the 7th day of November last we had been permitted as freemen to cast the vote of that State.

What was the condition of things there at that time and previously? It was declared by the democratic party of South Carolina that they intended to carry this election. "How can you do it?" was the inquiry; "you have not got the numbers." "We do not care for that; we intend to do it anyhow." And they thought they had done enough to do it, but they failed by a little.

Mr. Speaker, my time is very short. I must content myself with stating a few points as directly as I can. We have never voted since reconstruction more than 148,000 votes. The republican party are 90,000 strong. The democratic party there are not more than 60,000 strong. This year we have voted nearly 183,000 votes, while the republican vote has fallen off nothing. Now, where did it come from? A howl is made over prostrate South Carolina by gentlemen who do not know much about us and perhaps care less. They ought to know that there are at least 20,000 fraudulent votes in the returning box of South Carolina to-day, cast for Tilden and Hampton and against all the delegates from South Carolina as it came to their turn.

Now, why, Mr. Speaker, were soldiers there? Because the citizens were armed. Because we were not permitted as citizens to speak and address our constituents, but a force of armed men and armed mobocracy attended us everywhere, hunted us down by night and day, and prevented a free discussion before the people.

I regret that the gentleman from Eastern Virginia should have made some of the remarks in which he indulged. I remember some charges that have been made against him. Although the honorable gentleman occupies a seat in this House to-day, yet there is great doubt entertained by at least this side of the House, and by many on the other side, whether or not he might not have something to look up at home that might trouble his conscience both by night and by day. I hope, Mr. Speaker, that his charges against South Carolina at least will not blot out the State. Give us a fair chance, a fair expression of opinion, and we will not come here to complain of anything. We are more than able to take care of ourselves. But we cannot take care of ourselves when a portion of our people are encouraged by mobocracy from New York; we cannot take care of ourselves when firebrands are thrown from the other side of the House among our people, and when they are driven to madness and fury in their efforts to suppress a free expression of the opinion of the people of South Carolina.

[Here the hammer fell.]

Mr. RAINEY. Mr. Speaker, the brevity of the time allotted to me through the courtesy of the gentleman from Iowa [Mr. KASSON] to discuss this question will preclude the possibility of my entering into it as elaborately as I should have desired. This is a question in which I naturally feel a deep interest, not only on account of my State being the subject under discussion, but because I represent the constituency that has been unwarrantably assailed on this floor, and which in all the discussions appertaining to the southern question has been entirely ignored by the gentlemen on the other side of the House.

It is a matter of great surprise to me that in discussing this question the gentlemen on the other side of the House should not bear in mind or call to their recollection the fact that the Southern States are not composed now of the same voting element as they were composed of previous to the rebellion; that there has been an accession to the voting population of those States, and that that accession must necessarily have a tendency to wield an influence different from that which was wielded in the Southern States previous to the war. Sir, it is for that reason that I am here to-day; it is for that reason that

I stand here to speak, not in defense of any one man, not in defense of any set of men, but to speak in defense of an enfranchised people, one and all, white and colored, in South Carolina, made to enjoy the immunities and privileges of citizens subsequent to the war.

It has been charged that on account of the military power being in South Carolina it was impossible to have a fair and honest election. That is the argument of the gentlemen on the other side of the House. That was the argument before the commission yesterday. Now, if the whole of the argument as to that submitted here and submitted before the commission be taken for granted, why, sir, South Carolina was the very State in which military power should have been exercised. It has been declared that it had no government at all no government whatever. Why, sir, if it had no government, I ask you then must it not have been in a state of anarchy? And if it was in a state of anarchy, what was more essential than that that anarchy should be subdued by the strong arm of the Government? But I say that while it was not precisely in a state of anarchy, nevertheless it was so near to it in some respects that it was a godsend to my people, who were being assailed and murdered, that the Army did come down and by their presence exercise a moral influence that has saved the lives of many men in South Carolina.

I want now to say a word to the gentleman from Virginia, [Mr. GOODE.] He said that South Carolina had no voice on this floor. I say to the eloquent gentleman that I agree with him to a certain extent that she has no voice here. She has not the voice of the former slaveholder and oppressor, but she has the voice of one of the oppressed race who stands here to vindicate the rights of his people whenever an opportunity is accorded him on this floor. Sir, I am here to speak for South Carolina, and although the face of the gentleman from Virginia [Mr. GOODE] is white and his mind cultivated and he is possessed of all the advantages belonging to his race, yet I stand here to-day and will endeavor to do my duty as one of the Representatives of South Carolina as well as I can, without comparing my record with his, or with that of Calhoun or any of the distinguished citizens of that State whose names he has mentioned here.

Sir, I love South Carolina. I am a native of the State, and, to add force to the emphasis of the argument I am trying to educe, I will take no background upon any question designed for the weal of South Carolina. I would not do anything that I believe to be wrong. I would not countenance fraud or intimidation on the part of my own people to deprive any one of their rights who was opposed to them.

But when I know we are assailed and oppressed and that attempts are made every day to drive them again under the heel of the oppressor, I can only raise my voice, and I would do it if it were the last time I ever did it, in defense of my rights and in the interests of my oppressed people.

I want to say to the democracy: Gentlemen, the colored people of the South do not hate you; they do not hate the democratic party, but I tell you that we always find our principal oppressors in that party. Therefore, we tremble with fear and apprehension when we are informed that a democrat is about to regain power, and it is for that reason that we want the State of South Carolina to-day to have a republican as governor, and rejoice that now, under the just decision rendered by the commission, we shall have a republican for President of the United States. [Applause.]

Mr. SOUTHARD. Mr. Speaker, an eminent political writer of England has said:

As conquest may be called a foreign usurpation, so usurpation is a kind of domestic conquest, with this difference: that an usurper can never have right on his side, it being no *usurpation* but where one has got into the *possession of what another has a right to.*

The man whom the people have designated as their choice through the methods of the Constitution and laws has rightful claim to the presidential office. If the reckless, partisan judgment of the majority of the electoral commission shall override that choice and place another in the office, whatever may be the practical effect, it is none the less a *real usurpation*, though it be surrounded with the barren forms of law. Its solemnities cannot conceal the fraud or right the wrong. A *de facto* President he may become who is thus installed, but the President *de jure* he can never be.

This "domestic conquest" was begun in South Carolina, to end, I fear, in the conquest of the whole nation. The President of the United States ordered the military there pending the election—this on pretense of insurrection or domestic violence beyond the control of the State. If that be true, the people were not free to exercise the right of voting, and ought not to decide the presidential succession. But if such were not the condition of the State, the very presence of national troops was without warrant of law and in flagrant violation of the essential principles of our elective system. The very essence of republican government is the freedom of the ballot. If the Executive of this nation may wield the Army and Navy at his will for the purpose of controlling elections, he may perpetuate the succession of his party, and republicanism becomes a mockery. It is a notorious fact that there was no such domestic violence in South Carolina as authorized the use of Federal troops, and their presence must be accounted for on some other hypothesis.

The conditions upon which a call might rightfully be made upon the President for aid did not exist. The Legislature of the State made no demand for troops. The governor did not even attempt to convene the Legislature or give reasons why it could not be done. There was not the slightest obstacle however to its peaceful assemblage. The courts of the State, too, were all open and their process was unobstructed. The local authorities were amply able to deal with all violations of the law and to maintain the peace and good order of society.

Yet in the face of all this the President issued his proclamation declaring the State in insurrection.

All available forces were immediately ordered to proceed to the State, and it was made one common camping-ground for Federal troops till after the election.

Who will say the people were free to exercise the elective franchise under these circumstances, or that the vote of the State ought to decide the presidential issue?

The supreme executive—

Says Locke—

who has a double trust put in him, both to have a part in the legislative and supreme execution of the law, acts against both when he goes about to set up his own arbitrary will as the law of society. He *acts* also *contrary to his trust* when he either employs the force, treasure, and officers of the society to corrupt the *representatives*, and gain them to his purposes, or openly pre-engages the *electors*, and prescribes to their choice such whom he has by solicitations, threats, promises, or otherwise won to his designs, and employs them to bring in such who have promised beforehand what to vote and what to enact. Thus to regulate candidates and electors, and new-model the ways of election, what is it but to cut up the government by the roots, and poison the very fountain of public security?

The fitting type of all these baleful influences is found in the instrumentalities employed in the late elections in South Carolina and other Southern States—culminating as they have in rascally returning boards and false certifications of presidential electors, which, strange to say, have received the approval of the majority of the electoral commission which was created by Congress to determine the right. They have shut their eyes to the truth and lent their high functions to the consummation of a great wrong against popular government. This is the conviction of the hour, as it will be the verdict of impartial history. Fraud vitiates everything, in the language of the law, and these decisions will prove no exception in the judgment of all right-thinking men. That they should not be permitted to become of binding effect all should agree, if it can be avoided by any lawful means. Faith to them is faith to fraud and usurpation, but it is faithless to the rights and liberties of the people. To the Constitution and laws we owe allegiance, and they should be employed to overthrow what is clearly ruinous to free government. But we are told that we must accept these decisions as final, for just beyond lies anarchy. No one should court anarchy, but it does not follow that we should be swift to sanction palpable usurpation, which is little better. I can see little difference between usurpation before the 4th of March and usurpation after that date. I would avoid both, and would exhaust the last moment and the last expedient for this purpose.

It has been said in the progress of these discussions by the gentleman from Kentucky [Mr. BROWN] that we should

Rather bear those ills we have
Than fly to others that we know not of!

I answer, this breathes not the spirit of heroic deeds or patriotic achievements. Listen to the continuance of the soliloquy:

Thus conscience does make cowards of us all;
And thus the native hue of resolution
Is sicklied o'er with the pale cast of thought;
And enterprises of great pith and moment,
With this regard, their currents turn awry,
And lose the name of action.

"Enterprises of great pith and moment" may extricate from the difficulty far short of the dire results of either anarchy or usurpation. Seek the remedy; this is our duty. The bill which has just passed this House providing for a new election, in the event the count shall not be completed in the allotted time, would avoid discord and anarchy if it should become a law. It means peace and justice. It carries the question back in that event to the people, and provides, in the mean time, for a rightful succession of the Presidency. I can imagine scarcely anything worse than the lesson of legalized fraud. It is most demoralizing on the popular mind, and will sap the foundations of faith in the future of the Government. What! Shall the American people be taught that there is no power in their Government to resist open and unmistakable fraud in the choice of the Chief Executive? Can they reasonably entertain hope for the preservation of their liberties or the continuance of peace if this outrage is to receive final sanction? Sooner or later, sir, it must lead to revolution or despotism. Like him who has been despoiled of his property, the people should "appeal to the law for justice," but if there be no law, no court to appeal to, wherin justice may be had, they will ultimately be compelled to appeal to a higher arbitrament and to struggle on "till they have recovered the native right of their ancestors," which is to install into office the President whom they have chosen by their ballots.

Mr. GOODIN. Mr. Speaker, the end of the electoral count draws nigh, and it is not difficult to predict the character of the farce with which the performances will be closed. This is no time for idle whimperings or repinings. What *ought* to have been done is one thing; what is *best* now to be done is quite another. I voted for the bill creating the commission because I believed it to be equitable,

fair, just; because in it I saw, as I thought, the only hope of averting great national commotion if not bloodshed. With that vote I am content; under similar circumstances to those surrounding us at the time of the passage of the bill my vote would be recorded the same to-day. I can discover no trick, no snare in the enactment of that law, as others claim now to see them.

That the commission disappointed the democracy in the determination of the grave questions submitted is apparant; that the decisions thus far made will meet the approval of fair-minded republicans throughout the country I do not believe. We will soon be called upon to witness the humiliating spectacle of seeing counted in as President and Vice-President men who as candidates for those positions were overwhelmingly defeated at the polls. The high commission has so decreed, and so it will be. Let the final result be reached as early as possible. Honor and enlightened statesmanship alike demand that no unnecessary obstruction be thrown in the way of a further count. If the tribunal acted unwisely, if it acted contrary to justice, contrary to the reasonable expectations of the country, it unquestionably had the power to do so. We invested it with large discretion, with the fullest judicial power. Like every other body quasi-judicial, or wholly so, the determination of the extent of its jurisdiction rested with it, and its adjudications can be overturned, according to the act creating it, only by a "concurrence of the two Houses."

We may censure, we may remonstrate, we may be buried in regrets, but we cannot undo the work of the commission, except it should be by means savoring strongly of revolution. This we cannot afford. The people of all parties demanded a peaceful adjustment of the vexed question; the entire business interests of the country were almost boisterous in appeals for some pacific settlement. The electoral bill was hailed with shouts of rejoicing everywhere. Many hearts are bowed in disappointment at the partisan decisions; many feel that our country is disgraced in her most eminent public servants; that the ermine of the highest court of judicature in the land is henceforth polluted beyond the hope of cleansing; that the method of making Presidents by returning boards will hereafter supplant the old-fashioned way of sclection; that fraud and perjury will rise in market and ever command a premium over honesty and truth; that revolution, anarchy, forcible resistance to treachery and usurpation, if applied now, might serve to mitigate, if not to relieve us, from some of our anticipated evils in the future.

The picture drawn is a sad one; but, however unsightly, the remedy to be applied, if it could serve to divert our attention, would bring us to gaze upon another more horrible in its make-up.

Mr. Speaker, in this hour of conflict of opinion, of frenzy, I welcome reason and struggle to quench the rising sparks of passion. Anger and judgment bear little affinity to each other. He who counsels with rage in this trying hour will, when the quiet of reflection comes upon him, regret the ill-timed counselor which led him astray. My friends, be not too ready to despair. Many of you, I know, according to the laws of human longevity are close upon retirement from the theater of life. A few years—even four of them—may seem a long time. But in the life of a republic it is inconsiderable. The hopes and aspirations of the American people are not to be quenched by a single act of fraud upon their rights, nor by a succession of them. The people are forbearing and long-suffering. A submission to the forms of law is a trait which has been long fostered and is strong in them. Peaceful methods are far more congenial than desperate expedients, and I have an abiding conviction that however earnest their protestations against the means by which their expressed will has been thwarted, against the palpable frauds committed, against the blind partyism which has brought the blush of shame to the honest cheek, and well-nigh banished respect for the Federal judiciary, they will not countenance violence or factious delay in preventing a declaration of the result of this most unhappy question.

Then, sir, let us nourish our patriotism; let us preserve untarnished our honor; let us not be tempted to sacrifice statesmanship upon the altar of passion, and from defeat before a partisan tribunal, which to serve the ends of party announces itself absolutely powerless to hear evidence of fraud and perjury, appeal once more to that innate sense of right and fair-dealing so strongly intrenched in the popular heart, for the reversal of this most unrighteous decision.

Thomas Benton once said:

> The troubles of the country come from uneasy politicians; its safety from the tranquil masses.

After the first flush of indignation at the outrage committed, the people will listen to the oft-told history of perfidious returning boards, and the solemn decrees of this remarkable commission, which sought to affirm their unjust doings, thus transferring the well-merited odium of the former to the latter, and listening, a rebuke will come to the perpetrators of these wrongs, so significant, so overwhelming, that even their impious heads will hang, if not in shame, in sorrow and in anguish at their condemnation.

Mr. Speaker, I envy not him who through subversion of law and a disregard of the will of the people succeeds to power. While the masses will make no resistance to his performance of the functions of the presidential office, he will ever be looked upon with distrust, and no wisdom of administration can atone for the manner in which the position was obtained. Power wrongfully secured will torment its possessor to the end.

Mr. Speaker, in the latter stages of ancient Rome, Cæsar relied for support upon an armed force devoted to his interests. Pompey sought popular favor through popular laws, while the opulent Crassus endeavored to secure it by making dinners, and feeding the rabble at his own expense, expending in nine months' time ten millions of dollars. The dazzling splendor of Cæsar for a time failed as against the wholesome laws made and promised by Pompey, while the sumptuous dinners of Crassus, though devoured with a relish, would not bind the populace to him. So, sir, will it be with Rutherford B. Hayes, ushered into official life out of the womb of fraudulent returning boards. Whether he may adopt the expedients of a Cæsar, Pompey, or Crassus, he will fail to command that confidence, that respect, that esteem due from the people toward him who by their suffrages is chosen to the most exalted station within their gift.

Courage and patience then! Courage to do right and patience to bide the good time when the verdict upon legalized wrong shall be given; for I believe as sure as I believe in the existence of God that the victory which my republican friends now foresee so clearly will be turned into a defeat so stunning, so bewildering, that they themselves will feel like cursing the day and the forces which gave it to them.

Mr. COCHRANE. I yield one minute of my time to the gentleman from New York, [Mr. COX.]

Mr. COX. I am allowed one minute to reply to the honorable gentleman from Ohio, [Mr. LAWRENCE,] who impugned the election in New York City and desired to go below it for some purpose. A committee of this House has been in session in New York City and that committee examined into that election. No man can say that that election was not a fair one, and upon the authority of the testimony of Federal officers taken by that committee, which I have here, I can verify my statement anywhere inside or outside of the House.

The gentleman from Ohio says that we have no right to go behind the returns, but he charged some kind of fraud in the city of New York. Sir, I undertake to say that out of 183,000 votes cast there there were not thirty bad votes, and the city of New York is in no hurry to inaugurate anybody elected in a different way.

Mr. COCHRANE. Mr. Speaker, we have again heard from the majority of the commission, and it becomes the duty of the House to determine whether the decision of that majority shall be the decision of this House or whether this House shall repudiate it.

Gentlemen upon the other side of the House have seen fit to make statements about what they know as to the condition of affairs in South Carolina. Several members of the committee who went to South Carolina, of which committee I had the honor to be a member, have stood in their places on this floor and have declared that the facts alleged by the gentleman from Virginia [Mr. GOODE] and others who have addressed the House are not founded on fact and are totally and wholly untrue. Now, sir, that is the very matter that we proposed to inquire into before the joint commission. If these gentlemen were prepared to show by competent and satisfactory evidence that a state of violence and lawlessness was not engendered by the introduction of Federal bayonets into South Carolina, why did they not go before the commission and say, "Let us have an inquiry into this matter; let us hear the truth; let the commission pass upon the evidence?"

O, no, the gentleman from Massachusetts [Mr. BANKS] and the gentleman from Ohio [Mr. LAWRENCE] who was one of the objectors were both silent when the objectors on the part of the House proposed to show—what? We proposed to show that before the date of the election the State of South Carolina was peopled with Federal troops; we proposed to prove that Federal soldiers, with fixed bayonets, surrounded the polls at the various voting-precincts throughout that State; we proposed to show that those Federal soldiers, aided and abetted by the State militia, by an army of United States marshals, and by another army of deputy sheriffs, the creatures and appointees of C. C. Bowen, one of the republican electors, stood at the polls and in defiance of the rights of the people of South Carolina did prevent white and colored men from voting the democratic ticket; that it was by such means as these that in the county of Charleston, instead of a majority of 2,000 votes, they rolled up a majority of 7,000 votes; that, if the 5,000 votes to which they were not entitled were excluded, there would not have been upon the democratic ticket a single candidate for elector with less than a majority of 4,000 votes.

That was the proposition before this commission. It will not do for the gentleman from Ohio, [Mr. LAWRENCE,] and the gentleman from Massachusetts, [Mr. BANKS,] and the gentleman from New York [Mr. LAPHAM] to stand up in this House, as they have done to-day, and say to their fellow-members and to the American people that the facts we allege are not true. You dare not allow us to prove them; that is the why we complain. Your eight partisan commissioners knew full well that if we had the opportunity we would have shown a state of facts to exist there which would have necessitated the throwing out of the electoral vote of South Carolina. Yet they come into this House and in the report which they submit they say:

> So far as this commission can take notice of the presence of soldiers of the United States in the State of South Carolina during the election, it appears that they were placed there by the President of the United States to suppress insurrection, at the request of the proper authorities of the State.

"So far as this commission can take notice." Why, sir, the commission would not allow the production of any testimony. What knowledge, therefore, could it have had as to the facts? Mark you, we offered to prove that the President of the United States, in sending

these Federal troops into the State of South Carolina, violated both the Constitution and the law. We offered to prove, we have the proof in our hands to-day and can furnish it upon an hour's notice, that General Ruger, the officer in command of the troops in South Carolina, on the 16th day of October, 1876, telegraphed to the President of the United States that all was quiet, that he did not need any more troops. "If I need more troops, I will send you a dispatch telling you I need them."

Yet upon the 17th of October, the very next day, in the face of that official dispatch from General Ruger, the President of the United States issued his proclamation, declaring the people of that State in insurrection and sending down there all the soldiers he could gather from Maine to Fortress Monroe.

"In accordance with law," says the commission; "so far as we can notice." Sir, we offered to prove that the Legislature of the State of South Carolina was never convened by the governor, that the matter of the intervention of Federal troops on the ground of the existence of an insurrection never was submitted to the Legislature, although it could have readily been convened at the time. "So far as the commission can know anything about it." Why, sir, it was a violation of law, a violation of the Constitution of the United States from beginning to end. It was a deliberate and vile conspiracy between Government officials at Washington and Chamberlain and his hirelings in the State of South Carolina to wrest from that people the power which they would otherwise have exercised at the ballot-box. We offered to prove all these facts; here are the offers of record.

[Here the hammer fell.]

The SPEAKER *pro tempore*, (Mr. VANCE, of North Carolina.) The time of the gentleman has expired.

Mr. HOGE. The short time that I have to address the House upon this subject I propose to devote mostly to showing the necessity for the use of United States troops in the State of South Carolina during the recent election. The better to show to this House the necessity for troops I will describe one of our political meetings, which was a fair sample of all that I attended while addressing the people of South Carolina on behalf of the nominees of the republican party.

I attended a public meeting called by the republican party at Abbeville Court House. I attended it in company with Governor Chamberlain and the superintendent of education, Mr. Jillson. We were waited on by a committee of democrats on our arrival at Abbeville Court House and told that they desired to divide the time with us. Their request amounted to a demand, and upon consultation we felt that we were obliged to consent to a division of the time with the democracy.

The next morning the meeting assembled at ten o'clock, and when we went to take possession of the stand which had been erected by the republican party and to address the people of that county, we found in front of the stand some three thousand white people, members of the democratic party, every man of whom was armed with from one to three revolvers. After we had taken our place upon the stand I heard, what was very familiar to my ears, the old rebel yell; I looked up, and saw approaching the stand the head of a column of cavalry. They came up and formed around the stand, to the number of sixteen hundred, inclosing the entire audience, consisting of about three thousand white men, on foot, who were democrats, about twelve hundred or fifteen hundred colored men, and perhaps a hundred white men belonging to the republican party.

After encircling us in a hollow square, which I have no doubt many of my old friends here who have been soldiers have formed more than once to protect themselves upon the battle-field, but that was the first time that I found I had been placed in a hollow square formed by the enemy—after surrounding us, they detailed twelve men and placed them on the stand immediately behind the speakers. I noticed that the man who stood behind me was armed with four revolvers, and it seemed to me that they were about as long as my arm. [Laughter.] These men were all pretty well filled with whisky, and they made use of a good deal of plain talk about killing radicals, republicans, carpet-baggers, and so on.

Governor Chamberlain first addressed the meeting. He was followed by a gentleman from Abbeville County, who, having all this protection behind his back, pointed his finger in Governor Chamberlain's face and called him a thief and a liar. During that meeting men came upon the stand from the democratic party in the audience and called upon General McGowan and other leading democrats to protect Governor Chamberlain's life, because the democrats intended to kill him.

The democrats started out with the doctrine that they intended to carry South Carolina; peaceably if they could, but that they intended to carry it; and in every meeting that I attended, every place that I went the people who surrounded me were from five to ten democrats to one republican, and every man of them armed to the teeth. That was the bull-dozing process adopted by the democratic party in South Carolina to carry the State for Tilden.

Nobody dreamed that South Carolina could ever be carried for the democratic party on an honest vote; everybody knew it could not be done; hence they resorted to that plan. They sent to Mississippi for an ex-major-general of the confederate army; they had him there at the democratic State convention; and he held a private meeting in the secret halls of the State-house for the purpose of instructing the democrats of South Carolina how the democrats had carried Mississippi, telling them that if they in South Carolina would adopt the same plan they could carry that State. They did adopt it; and it was only in consequence of a miscalculation of 1,200 or 1,500 votes—a mere accident—that they did not do it.

The democratic investigating committee, of which the distinguished gentleman from Pennsylvania [Mr. COCHRANE] who has just addressed the House was a member, came there to investigate the facts; and I would to God that we had time for the House and the country to hear all of that testimony. In that case my democratic friends would have heard some testimony that would have brought the blush of shame to their faces to think that they belonged to a party that would tolerate any such system of outrage and violence as was practiced upon the republicans in my State.

The gentleman says there is no representation here from South Carolina. Well, it is true that we have not Calhoun; but I represent the old district that was once represented by him. [Laughter on the democratic side.] I do not know how much he weighed; but I know that I come here with nearly 4,000 republican majority behind me, after running against the ablest man in the State of South Carolina to-day—General McGowan; and I did not have to come here like the the distinguished gentleman on the other side [Mr. GOODE] and be voted into my seat by a vote of the House. [Laughter.] I do not pretend to compare myself with the distinguished statesman of Carolina; but I do say that I equal him in loyalty to the Constitution and to the Republic. In that respect I equal him as I equal any other man who represents any one of the Southern States on this floor.

I thank God that this commission has arrived at such satisfactory conclusions and that we are to have a peaceable inauguration of a President, not an appeal again to arms. I tell you, gentlemen of this House, the men on both sides who fought the battles of the last war had as much fighting as they wanted, and they are not ready for a fight. They want this matter settled here and now. They want Rutherford B. Hayes, who has the honest majority of the people of this country, installed into office on the 4th of March; and it is going to be done.

I have stated the condition of South Carolina during the last campaign. When the soldiers came there they were called upon by republicans to defend them in the right the Constitution gave them to vote for the people of their choice. That right was guaranteed to republicans and democrats alike, for both parties called upon the soldiers to protect them. The white men in the upper portion of the State were bull-dozing the negroes; and it was claimed by the democracy that the negroes in the lower portion of the State were bull-dozing the democrats. [Laughter.] I do not believe much of that, but I give it for what it is worth. I do know and state the fact that troops were called upon by both parties to protect both parties; and, in my judgment, their presence saved bloodshed in the State.

[Here the hammer fell.]

Mr. TEESE. Mr. Speaker, the time for argument has passed. I will not presume at this late time to travel the beaten track of reviewing the proceedings of the commission. I only rise to enter my protest against its decisions and to express my regret that a blow, which I fear will in the near future be fatal to our form of Government, should have been dealt partly by Jerseymen, two of whom sat upon the commission.

Search the annals of the world and no more unjust decision can be found than that of this commission in deciding that Hayes was elected President of the United States, for *that* is the sum and substance of their finding.

It seems to me that some of the objections of the commission to giving consideration to what are known facts are not worthy even of the name of technicalities.

What does the bill constituting this tribunal contemplate it should do? The duty of its members is comprised in the oath each one took, as follows:

I, ——— ———, do solemnly swear (or affirm, as the case may be) that I will impartially examine and consider all questions submitted to the commission of which I am a member, and a true judgment given thereon, agreeably to the Constitution and the laws: so help me God.

Now how was this oath "*to impartially examine and consider*" observed? I will read from the record of the proceedings of the commission, as a specimen only, some of the offers to prove that the returns and certificates from the State of Louisiana were illegal, fraudulent, and void. I read from the RECORD of Wednesday, February 21.

Mr. Commissioner ABBOTT offered the following as a substitute:

"*Resolved*, That evidence will be received to show that the returning board of Louisiana, at the time of canvassing and compiling the vote of that State at the last election in that State, was not legally constituted under the law establishing it, in this: *that it was composed of four persons all of one political party, instead of five persons of different political parties, as required by the law establishing said board.*"

The question being on the adoption of the substitute, it was decided in the negative:

YEAS	7
NAYS	8

Mr. Commissioner ABBOTT offered the following as a substitute:

"*Resolved*, That testimony tending to show that the so-called returning board of Louisiana had no jurisdiction to canvass the votes for electors for President and Vice-President is admissible."

The question being on the adoption of the substitute, it was determined in the negative:

YEAS	7
NAYS	8

Mr. Commissioner ABBOTT offered the following as a substitute:

"*Resolved*, That evidence is admissible that the statements and affidavits purporting to have been made and forwarded to said returning board in pursuance of the provisions of section 26 of the election law of 1872, alleging riot, tumult, intimidation, and violence at or near certain polls and in certain parishes, were falsely fabricated and forged by certain disreputable persons under the direction and with the knowledge of said returning board, and that said returning board, knowing said statements and affidavits to be false and forged, and that none of the said statements or affidavits were made in the manner or form or within the time required by law, did knowingly, willfully, and fraudulently fail and refuse to canvass or compile more than ten thousand votes lawfully cast, as is shown by the statements of votes of the commissioners of election."

The question being on the adoption of the substitute, it was decided in the negative:

Yeas	7
Nays	8

Mr. Commissioner HUNTON offered the following as a substitute:

Resolved, That evidence be received to prove that the votes cast and given at said election on the 7th of November last for the election of electors, as shown by the returns made by the commissioners of election from the several polls or voting-places in said State, have never been compiled or canvassed, and that the said returning board never even pretended to compile or canvass the returns made by said commissioners of election, but that the said returning board only pretended to canvass the returns made by said supervisors.

The question being on the adoption of the substitute, it was decided in the negative:

Yeas	7
Nays	8

Mr. Commissioner BAYARD offered the following as a substitute:

Resolved, That no person holding an office of trust or profit under the United States is eligible to be appointed an elector, and that this commission will receive evidence tending to prove such ineligibility as offered by counsel for objectors to certificates 1 and 3.

The question being on the adoption of the substitute, it was decided in the negative:

Yeas	8
Nays	7

Sir, as it has been well said, this commission not only refused to go *behind* the certificates, (always excepting the Oregon certificate,) but they refused to go *to* them; they refused to give them any examination whatsoever. The result is that a man is counted in for President whom no man of any party claims was elected by the people. No one on this floor or off of it pretends that the Hayes electors were elected by the people. The republicans claim that *if* certain persons had voted, who ought to have voted but did not, then Hayes *would have been elected*, and so Madison Wells and his fellows were justified in throwing out enough democratic votes to give the election in Louisiana to Hayes. This is the only claim I have heard why the Hayes electors should be declared to have been elected. Sir, the infamy of such a conclusion from such premises is best proved by the simple statement of the matter.

Sir, I voted for this commission, not having very much faith in it, but believing that it might at least conduce to the peace and quiet of the country. I believed, and still believe, that if the President of the Senate had attempted to count the votes civil war and anarchy would have been the result. I hope that the peace of the country may not be disturbed, notwithstanding the people have been so cruelly cheated; and I believe there is patriotism enough in the people to bide their time and right their wrongs at the ballot-box. But, sir, as the stream cannot rise higher than its source, so we cannot expect that the mass of the people will be purer or better than their trusted rulers; and if the very fountains of justice are impure, and the representatives of the people and of the States are so blinded by prejudice or party interest as not even to listen to the appeals of right and truth, then may we well say, God save the Republic!

The SPEAKER. The time allowed for debate has expired.

Mr. WALLING. I ask that the pending resolution be read.

The Clerk read as follows:

Resolved, That the objections to the decision of the electoral commission upon the electoral vote of South Carolina be sustained by the House, and that said votes be not counted.

Mr. WALLING. I move to amend by adding to the resolution these words: "in conformity with the decision of said commission."

Mr. JONES. I offer the following as a substitute for both the pending propositions:

Resolved, That the decision of the electoral commission upon the electoral vote of South Carolina be not concurred in by this House.

The SPEAKER. The question will first be taken on the substitute.

Mr. SPRINGER. I rise to a point of order. Do not the rules of the House require that the text of the original proposition should first be perfected before a question is taken on a substitute? I submit that the first question is upon the amendment offered by the gentleman from Ohio, [Mr. WALLING.]

The SPEAKER. The first vote will be taken on the amendment to the original text as moved by the gentleman from Ohio.

Mr. O'BRIEN. Let the proposition be read as it will be if the amendment is adopted.

The resolution and the proposed amendment were read.

Mr. WOOD, of New York. I demand the previous question on the original resolution.

The SPEAKER. The immediate question is on the amendment of the gentleman from Ohio.

Mr. WOOD, of New York. Then I demand the previous question on the amendment to the resolution and the substitute, and on the original resolution itself.

Mr. HALE. Is there any necessity to call the previous question on this proposition? I do not object of course to the gentleman from New York doing all he can to bring the House to a vote on the pending proposition, but it seems to me that amendment is not in order, but that the vote, on the contrary, should be put at once upon the pending resolution, which we have been debating for two hours. The law provides that after the discussion shall take place the question shall then be put, and under the law it seems to me no amendment or anything else can be in order except the vote on the pending resolution.

We have been debating a certain question for two hours in ten-minute speeches, and I make the point of order the question must be first put under the law and that we need not go through the roundabout process of ordering legislation. I make the point of order under the law the question must be put at once after the two hours' debate.

The SPEAKER. The demand for the previous question is usually allowed for the purpose of closing debate. Therefore a substitute has been entertained on several occasions during the progress of this electoral count.

Mr. HALE. But they were always offered at the beginning of the debate, so that the debate proceeded upon the resolution and substitute. Now that part of the work of this transaction has been completed. We have debated the pending resolution and the only resolution pending for two hours. This side of the House did not see fit to offer any substitute.

The SPEAKER. The Chair thinks it is competent at the end of the debate to move to amend the pending resolution.

Mr. HALE. Let me ask the Chair whether that may not render nugatory the whole proceeding, because, if these amendments be voted down, additional amendments might be offered one after another.

The SPEAKER. It is not for the Chair to suggest the remedy. The experience of the gentleman from Maine will tell him the remedy.

Mr. HALE. I think the remedy is in the law, which orders that the question shall then be put.

The SPEAKER. This proposition is amendable, as has been frequently ruled heretofore during the progress of this count.

Mr. CASWELL. I wish to call the attention of the Chair to the language of the law which provides that the main question shall then be put.

The SPEAKER. The Chair has heretofore ruled that the main question in that law did cover amendments in two degrees when offered.

Mr. CASWELL. Was not the resolution under discussion for two hours?

The SPEAKER. The Chair ruled on that point that the main question as used in the law should be understood in a parliamentary sense to embrace the original proposition, the amendment, and then the amendment to the amendment.

Mr. CASWELL. An amendment submitted afterward?

The SPEAKER. In the nature of a substitute. The difficulty with the majority is that they did not have the foresight to see and prevent it.

Mr. SPRINGER. Permit me to say that the ruling of the Chair is evidently correct. If gentlemen will refer to the proceedings in the Florida case they will find there were several amendments offered and voted on in their order, and then a motion to reconsider carried, and another proposition finally adopted.

The SPEAKER. The Chair is very clear on that point. The law says the main question shall then be taken.

Mr. O'BRIEN. The purpose of the law is as expressed in the text: the question shall now be put without further debate, merely to exclude further debate.

The previous question was seconded on the resolution and pending amendments.

The question recurred on ordering the main question.

The committee divided; and there were—ayes 145, noes 60.

Mr. WALLING demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided it the affirmative—yeas 190, nays 73, not voting 27; as follows:

YEAS—Messrs. Adams, Ainsworth, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Beebe, Belford, Bell, Blair, Bland, Blount, Bradley, John Young Brown, William R. Brown, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Cabell, Campbell, Candler, Cannon, Cason, Caswell, Chapin, Chittenden, Conger, Crapo, Crounse, Culberson, Cutler, Danford, Darrall, Davis, Davy, De Bolt, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Egbert, Evans, Faulkner, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Goode, Goodin, Gunter, Hale, Robert Hamilton, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hartridge, Hartzell, Hatcher, Hathorn, Hays, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Holman, Hopkins, Hoskins, House, Hubbell, Hunter, Hunton, Hurlbut, Hyman, Jenks, Frank Jones, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, Franklin Landers, George M. Landers, Lawrence, Leavenworth, Le Moyne, Levy, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, McFarland, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Odell, Oliver, O'Neill, Packer, Page, Payne, Phelps, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, Reagan, John Reilly, James B. Reilly, John Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Sayler, Schleicher, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Southard, Stevenson, Stowell, Strait, Tarbox, Teese, Thomas, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Wait, Waldron, Charles C. B. Walker, Gilbert C. Walker, Alexander S. Wallace, John W. Wallace, Walling, Ward, Warren, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting,

Wike, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, Yeates, and Young—190.

NAYS—Messrs. Ashe, Atkins, John H. Bagley, jr., Banning, Blackburn, Bliss, Boone, Bradford, Bright, John H. Caldwell, William P. Caldwell, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Dibrell, Douglas, Finley, Forney, Franklin, Glover, Andrew H. Hamilton, Henry R. Harris, John T. Harris, Henkle, Hooker, Humphreys, Hurd, Thomas L. Jones, Knott, Lane, Luttrell, Lynde, Mackey, Maish, McMahon, Meade, Mills, Money, Morrison Mutchler, O'Brien, John F. Philips, Poppleton, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Scales, Schumaker, Sheakley, Siemons, William E. Smith, Sparks, Springer, Stanton, Stenger, Stone, Terry, Thompson, Turney, John L. Vance, Robert B. Vance, Waddell, Whitthorne, Wigginton, and Jere N. Williams—73.

NOT VOTING—Messrs. Abbott, Anderson, Bass, Buckner, Carr, Cox, Durand, Ellis, Field, Fuller, Gause, Gibson, Haymond, Goldsmith W. Hewitt, King, Lapham, Lewis, Metcalfe, Milliken, Piper, Purman, Savage, Stephens, Swann, Walsh, Warner, and Wheeler—27.

So the main question was ordered.

The Clerk proceeded to read the list of names.

Mr. RUSK. I ask that by unanimous consent the reading of the names be dispensed with.

Mr. FRANKLIN. I object.

When the names of those voting in the affirmative had been read,

Mr. WALLING said: I understand the objection to dispense with the reading of the names has been withdrawn by the gentleman who made it.

The SPEAKER. It has not.

The names of those voting in the negative were read, and the result of the vote was then announced as above recorded.

Mr. WALLING. I move to reconsider the vote by which the House ordered the main question.

Mr. WOOD, of New York. It is evident, Mr. Speaker, that there is every indication of a determination upon both sides of the House to have an all-night session. I desire to avoid that if possible.

The SPEAKER. Debate is not in order.

Mr. WOOD, of New York. I ask unanimous consent to make a proposition. I propose that all dilatory motions and amendments be withdrawn and that we proceed to vote on the original resolution as amended, and very properly so, by the gentleman from Ohio, [Mr. WALLING;] that we then ask the Senate to meet us, and proceed with the count as far as Vermont.

Mr. SPRINGER. As far as the next State objected to.

Mr. WOOD, of New York. Which I believe will be Vermont; and that we then take a recess till ten o'clock to-morrow. I make that proposition, understanding that our friends on this side of the House are willing to consent to it.

Mr. O'BRIEN. We are willing to accept the proposition on this side of the House.

Objection was made.

The SPEAKER. The gentleman from Ohio [Mr. WALLING] moves to reconsider the vote ordering the main question.

Mr. WALLING. There was an understanding that by an agreement of the House, when the next State should be reached to which objection is made, we should then take a recess until ten o'clock to-morrow. On that understanding I withdraw the motion to reconsider.

The SPEAKER. There was objection to that understanding; and the Chair was proceeding in the ordinary way to state the question before the House.

Mr. WALLING. I understood the objection was withdrawn.

Mr. BANNING. There is no objection to the proposition of the gentleman from New York.

The SPEAKER. The Chair would like to hear the proposition again.

Mr. WOOD, of New York. If the House will bear with me for a minute I will again state my proposition. It is this: That all these propositions and amendments, which although probably pertinent to the original proposition are still dilatory in their character, and certainly in their effect, be withdrawn so that the House may be brought to vote directly on the resolution to non-concur in the decision of the electoral commission.

The SPEAKER. The Chair thinks that the motions to which the gentleman refers are legitimate motions, or he would not have entertained them.

Mr. WOOD, of New York. I understand that perfectly. Then I propose that we shall ask the Senate to join us and proceed with the count, and that when we reach the first State objected to, and the two Houses separate on the objection, the House shall then take a recess.

Mr. KELLEY. It being understood that the next State to be objected to is Vermont. If that be understood, we on this side of the House agree to that proposition.

Mr. TOWNSEND, of New York. I desire to raise a question of order in regard to the motion of the gentleman from Ohio [Mr. WALLING] to reconsider the vote ordering the main question.

A MEMBER. That motion is withdrawn.

The SPEAKER. The Chair does not understand that motion to be withdrawn.

Mr. WALLING. I will say to the gentlemen on the other side of the House that if they will accept the proposition that when the next State to which objection is made is reached in the count we shall then take a recess, I will withraw my motion.

Mr. KELLEY. That State being Vermont.

The SPEAKER. The Chair desires to suggest to the House that this is so important an agreement, and which may involve the possibility of future dispute, that any agreement that may be come to should be in writing.

Mr. KELLEY. I understand the proposed agreement to be this: That the two motions now pending shall be withdrawn; that we proceed at once to vote on the main resolution; that we then notify the Senate that the House has acted upon the objections to the vote of South Carolina; that we then proceed with the count of the votes of Tennessee and Texas; and that when an objection arises to the vote of Vermont a recess shall be taken until to-morrow morning at ten o'clock.

The SPEAKER. The Chair desires that the proposition may be put in writing. The Chair may hereafter be called upon to rule upon the agreement, and he does not want to be led into a situation where he may have to decide on matters of fact between gentlemen on the respective sides of the House.

Mr. WALLING. Let the agreement be put in writing.

Mr. O'BRIEN. I would suggest that the proposed agreement be stated from the Chair.

The SPEAKER. The Chair is unwilling to state any agreement of that character unless it be put in writing.

Mr. BROWN, of Kentucky. I understand the gentleman from New York [Mr. WOOD] is now reducing to writing the proposition he has made.

After an interval,

Mr. WOOD, of New York. I have reduced to writing the proposition which I desire to submit to the House. It is as follows:

The amendment to be withdrawn, and the House to come to a direct vote upon the original resolution as amended by Mr. WALLING, of Ohio; the Senate then to be invited to meet the House for the purpose of continuing the count; and when the State of Vermont shall be reached, and the two Houses shall separate, then the House to take a recess until to-morrow at ten o'clock.

Many MEMBERS. That is right.

The SPEAKER. The gentleman will send his proposition to the Chair.

The proposition was read by the Clerk.

Mr. SPRINGER. I ask the gentleman from New York to add the words "on any question;" so that it will read: "and the two Houses shall separate on any question."

Mr. WOOD, of New York. I offer the proposition as I have sent it to the Chair.

The SPEAKER. The gentleman from New York asks unanimous consent that the agreement just read shall operate to govern the House in further proceedings as indicated. Is there objection? [After a pause.] The Chair hears none.

The question was upon the amendment offered by Mr. WALLING to add to the resolution the following:

In conformity with the decision of said commission.

The resolution, as it would read if amended, was read, as follows:

Resolved, That the objections to the decision of the electoral commission upon the electoral vote of South Carolina be sustained by the House, and that said vote be not counted in conformity with the decision of said commission.

The amendment was agreed to, and the resolution, as amended, was adopted.

Mr. WOOD, of New York. I move that the Senate be notified by the Clerk of the action of the House in this case and that the House is now ready to meet the Senate in joint convention.

The motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. HAMILTON, of Indiana, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution and bills of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 196) authorizing the President to designate and set apart a site for the colossal statue of "Liberty enlightening the world," and to provide for the permanent maintenance and preservation thereof;

An act (H. R. No. 4301) for the relief of A. W. Plymale;

An act (H. R. No. 4452) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1878, and for other purposes;

An act (H. R. No. 2382) in relation to the Hot Springs reservation, in the State of Arkansas;

An act (H. R. No. 4657) to provide a building for the use of the United States district and circuit courts, the post-office and internal-revenue officers at Austin, Texas;

An act (H. R. No. 2833) for the relief of Susan P. Vance; and

An act (H. R. No. 4149) to remove the political disabilities of Lloyd J. Beall, of Virginia.

Mr. HARRIS, of Georgia, from the same committee, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 1216) to provide for the preparation and publication of a new edition of the Revised Statutes of the United States.

COUNTING THE ELECTORAL VOTES.

At six o'clock and eighteen minutes p. m. the Doorkeeper announced the Senate of the United States.

The Senate entered the Hall, preceded by its Sergeant-at-Arms and headed by its President *pro tempore* and its Secretary, the members and officers of the House rising to receive them.

The PRESIDENT *pro tempore* of the Senate took his seat as Presiding Officer of the joint meeting of the two Houses, the Speaker of the House occupying a chair upon his left.

The PRESIDING OFFICER. The joint meeting of Congress for counting the electoral vote resumes its session. The two Houses having separately determined upon the objections to the decision of the commission on the certificates from the State of South Carolina, the Secretary of the Senate will read the resolution adopted by the Senate.

The Secretary of the Senate read the resolution, as follows:

Resolved, That the decision of the commission upon the electoral vote in the State of South Carolina stand as the judgment of the Senate, the objections made thereto to the contrary notwithstanding.

The PRESIDING OFFICER. The Clerk of the House of Representatives will now read the resolution adopted by the House of Representatives.

Mr. JONES, of Kentucky. I desire to inquire if there is a quorum of the Senate present? The law under which we are acting and the Constitution of the United States require that the certificates shall be opened in the presence of both Houses. If, therefore, there is not a quorum of the House and Senate present I imagine that this proceeding cannot go on.

Mr. BANKS. That is not a question for the convention to decide; the Senate must decide it for itself.

The PRESIDING OFFICER. The Clerk of the House will read the resolution of the House.

Mr. JONES, of Kentucky. I protest that this proceeding should not go on.

The PRESIDING OFFICER. Debate is not in order.

Mr. JONES, of Kentucky. My protest is entered and should go on the record.

The Clerk read the resolution adopted by the House, as follows:

Resolved, That the objections to the decision of the electoral commission upon the electoral vote of South Carolina be sustained by the House, and that said vote be not counted in conformity with the decision of said commission.

The PRESIDING OFFICER. The two Houses not concurring in ordering otherwise, the decision of the commission stands unreversed, and the vote of the State of South Carolina will be counted in conformity therewith. The tellers will announce the vote of the State of South Carolina.

Mr. STONE, (one of the tellers.) South Carolina casts 7 votes for Rutherford B. Hayes, of Ohio, for President of the United States, and 7 votes for William A. Wheeler, of New York, for Vice-President of the United States.

The PRESIDING OFFICER. Having opened the certificate received by messenger from the State of Tennessee the Chair hands it to the tellers, to be read in the presence and hearing of the two Houses, and the corresponding certificate received by mail is also handed to the tellers.

Mr. LAPHAM. I suggest that by unanimous consent the reading of the certificates be dispensed with and the result of the vote simply announced.

The PRESIDING OFFICER. Is there objection to dispensing with the reading of the certificate in full and simply announcing the result? [After a pause.] There is no objection and the tellers will make the announcement in conformity with that understanding.

Senator ALLISON, (one of the tellers.) The State of Tennessee casts 12 votes for Samuel J. Tilden, of New York, for President of the United States, and 12 votes for Thomas A. Hendricks, of Indiana, for Vice-President of the United States.

The PRESIDING OFFICER. Having opened the certificate received by messenger from the State of Texas, the Chair hands the same to the tellers, to be read in the hearing and presence of the two Houses, and the corresponding one received by mail is also handed to the tellers.

Mr. COOK (one of the tellers) then read the certificate and announced that the State of Texas cast 8 votes for Samuel J. Tilden, of New York, for President, and 8 votes for Thomas A. Hendricks, of Indiana, for Vice-President.

The PRESIDING OFFICER. Having opened the certificate received by messenger from the State of Vermont, the Chair hands the same to the tellers, to be read in the presence and hearing of the two Houses, and the corresponding one received by mail is also handed to the tellers.

Mr. POPPLETON. I ask that the certificate from the State of Vermont be read at length.

The PRESIDING OFFICER. The certificate in full will be read, objection being made to dispensing with reading any portion of it.

Senator INGALLS (one of the tellers) then read in full the certificate from the State of Vermont, to the effect that that State had cast 5 votes for Rutherford B. Hayes, of Ohio, for President, and 5 votes for William A. Wheeler, of New York, for Vice-President.

The PRESIDING OFFICER. Are there any objections to the certificate from the State of Vermont?

Mr. POPPLETON. I desire to inquire of the President of the Senate whether there have been other returns, or papers purporting to be returns, received from the State of Vermont?

The PRESIDING OFFICER. There have been none received except the one submitted.

Mr. POPPLETON. I desire to say that I have prepared objections, upon information by telegraph and otherwise that there were dual returns from the State of Vermont.

Mr. HEWITT, of New York. I desire to make a statement.

The PRESIDING OFFICER. Is there objection to the member from New York [Mr. HEWITT] making a statement? [After a pause.] The Chair hears none.

Mr. HEWITT, of New York. I hold in my hand a package which purports to contain electoral votes from the State of Vermont. This package was delivered to me by express about the middle of December last, and with it came a letter stating that a similar package had been forwarded by mail to the Presiding Officer of the Senate. Being informed to-day that no package corresponding to this had been received by mail by the Presiding Officer of the Senate, I called upon him and inquired whether any other than one certificate from the State of Vermont had been received by him by mail, and he informed me that there had been no other received by him than the one which was already in his possession.

I then tendered to him this package, the seals of which are unbroken and which is now as it came into my possession. He declined to receive it, upon the ground that he had no authority in law so to do. Under the circumstances I now tender this package to the Presiding Officer of the Senate as purporting to contain electoral votes from the State of Vermont.

Mr. KASSON. I object to the reception of the package.

Mr. SPRINGER. I offer the following resolution——

The PRESIDING OFFICER. The Chair has stated that he has received but one set of certificates from the State of Vermont. He also states that the law prohibits him from receiving any after the first Thursday in February. His duty is to receive and open and have read all certificates that have been received by him up to and on that day.

Mr. SPRINGER. I understand that a third certificate or return from the State of Florida was received on the 30th day of January, and was laid before the two Houses by the Presiding Officer of the Senate when that State was reached.

Mr. KASSON. This is in the nature of debate, and I must object.

The PRESIDING OFFICER. The 30th of January is not the first Thursday in February. The Chair now asks if there are any objections to the certificate from the State of Vermont?

Mr. SPRINGER. I submit the resolution which I send up——

Mr. KASSON. I object.

The PRESIDING OFFICER. If it is an objection to the certificate from the State of Vermont, the Chair will entertain it; but if it is a simple resolution the Chair cannot entertain it.

Mr. SPRINGER. I ask that it be read. It is in reference to "a question arising under the electoral act," which is provided for by the fourth section of the electoral bill, to which I call the attention of the Chair:

That when the two Houses separate to decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or upon objection to a report of said commission, *or other question arising under this act*, each Senator and Representative may speak to such objection or question ten minutes, and not oftener than once.

This is a "question arising under this act," and I offer the resolution as such, and ask that it be read at the Clerk's desk.

The PRESIDING OFFICER. The Chair again states that if the member from Illinois [Mr. SPRINGER] submits an objection to the certificate from the State of Vermont the Chair will entertain it; but the Chair cannot entertain a resolution.

Mr. SPRINGER. I submit it as a question arising under the electoral act.

The PRESIDING OFFICER. The Chair cannot entertain it.

Mr. SPRINGER. I ask that it be read.

The PRESIDING OFFICER. If the member states that it is an objection to the certificate from the State of Vermont, the Chair will direct it to be read.

Mr. SPRINGER. I will read it for information. (Cries of "Object!" "Object!" and "Order!" "Order!")

The PRESIDING OFFICER. It is out of order.

Mr. SPRINGER. Gentlemen may as well hear it read, because it is a question arising under the electoral act. I ask that it be read.

The PRESIDING OFFICER. Objection is made.

Mr. SPRINGER. I ask that the resolution be read as a question arising under the electoral act. The question is this——

Renewed cries of "Order!" "Order!"

The PRESIDING OFFICER. Objection is made.

Mr. SPRINGER. That one of the two returns from the State of Vermont has not been laid before the two Houses.

The PRESIDING OFFICER. The Chair will be compelled to direct the member to be seated.

Mr. SPRINGER. Mr. President, I have rights upon this floor which you cannot take away from me, rights which were given me by the people I have the honor to represent. I desire to submit a "question arising under the electoral act," and now ask that it be entertained by the Chair.

The PRESIDING OFFICER. The Chair has decided that if the member states that it is an objection to the certificate from the State

of Vermont, with the signatures of one Senator and one Representative, it will be read; but if not, it cannot be read.

Mr. SPRINGER. It is a question arising under the electoral act. It is now in order, and I ask the decision of the Chair upon it.

The PRESIDING OFFICER. The Chair decides that he will not entertain anything except objections to the certificates.

Mr. SPRINGER. I appeal from the decision of the Chair.

The PRESIDING OFFICER. The Chair cannot entertain an appeal. [Applause.] The Chair requires order.

Mr. SPRINGER. I ask that the question be put on my appeal.

The PRESIDING OFFICER. The Chair cannot entertain any appeal.

Mr. SPRINGER. This objection must be read; otherwise the count cannot be proceeded with in accordance to law. [Cries of "Order!"]

The PRESIDING OFFICER. The member from Illinois is not in order.

Mr. SPRINGER. Will the Chair allow this to be stated as a question arising under the act—as an objection to the counting of the vote?

The PRESIDING OFFICER. The Chair has stated, and will state once more, that if the gentleman presents an objection bearing the signature of a Senator and a Representative the Chair will receive it and submit it to the joint meeting.

Mr. SPRINGER. Then I will submit this as an objection to counting the vote, on the ground that another return has been sent here which has not been laid before the two Houses, and ask time to prepare the objection in due form and present it with the signature of a Senator and a Representative.

The PRESIDING OFFICER. When the member submits the paper in proper form the Chair will then rule upon it.

Mr. POPPLETON. I send up an objection——

The PRESIDING OFFICER. The Chair will rule upon one case at a time. Let order be restored and gentlemen be seated. We have all night before us. [A pause, during which Mr. SPRINGER was preparing the objection.] The member from Illinois submits an objection to the certificate from the State of Vermont. Has the member a duplicate?

Mr. SPRINGER. Not now; it will be prepared hereafter.

The PRESIDING OFFICER. The Clerk of the House will report the objection.

The Clerk of the House read as follows:

BURLINGTON, VERMONT, *February* 28, 1877.

[Received at two o'clock and twenty-six minutes p. m.]

To S. J. RANDALL,
Speaker of the House of Representatives.

The PRESIDING OFFICER. The Clerk will turn over the paper and read the objection.

Mr. SPRINGER. The objection first and the telegram afterward.

The Clerk of the House read as follows:

The undersigned, Senator and Members of the House of Representatives, object to the counting of the vote of the State of Vermont, for the reason that two returns, or papers purporting to be returns, of the electoral vote of said State were forwarded to the President of the Senate, and that only one of said returns has been laid before the two Houses, the President of the Senate having stated that but one return has been received by him form said State; and a duplicate copy of one of said returns is herewith submitted for the consideration of the Senate and House of Representatives.

A. S. MERRIMON,
Senator.
W. M. SPRINGER,
A. H. HAMILTON,
Members of the House of Representatives.

The PRESIDING OFFICER. Are there further objections to the certificate of the State of Vermont?

Mr. SPRINGER. I ask that the telegram accompanying this objection be read.

The PRESIDING OFFICER. Is there objection to reading the accompanying telegram?

Several members objected.

Mr. TOWNSEND, of New York. It will not do any hurt to read it. It is not long.

Mr. SPRINGER. It is a short telegram; only about ten words.

The PRESIDING OFFICER. Is there objection?

Mr. PAGE. I object. [Cries of "O, no."]

The PRESIDING OFFICER. Does the gentleman persist in his objection?

Mr. PAGE. I waive the objection.

The PRESIDING OFFICER. The Chair hears no objection, and the telegram will be read.

The Clerk of the House read as follows:

BURLINGTON, VERMONT, *February* 28, 1877.

[Received at two o'clock and twenty-six minutes p. m.]

To S. J. RANDALL,
Speaker of the House of Representatives:

Certificate of Amos Aldrich as elector was deposited in this office December 13.

B. B. SMALLEY,
Clerk of the United States District Court for Vermont.

A SENATOR. That is not the post-office. [Laughter.]

The PRESIDING OFFICER. Are there further objections to the certificate from the State of Vermont?

Mr. POPPLETON. Yes, sir. I submit the objection which I send to the desk.

The PRESIDING OFFICER. The member from Ohio submits an objection, which will be read by the Secretary of the Senate.

The objection was read, as follows:

The undersigned Senator and Representatives object to the return from the State of Vermont on the grounds following, namely:

1. That Henry N. Sollace, who is certified to have been elected on the 7th of November, 1876, was at that day, and for a long time before had been, a postmaster of the United States, and therefore held an office of trust and profit under the United States, and could not be constitutionally appointed an elector of said State under the Constitution of the United States.

2. That the law of Vermont did not authorize the election of said Sollace to fill the vacancy alleged to have been the result of the absence of said Sollace from the college of electors.

3. It does not appear that said Sollace had resigned his office of postmaster at the date of his appointment by the college of electors.

4. That Amos Aldrich, who received the highest vote at the election on the 7th day of November, 1876, next to that cast for said Sollace, should have been allowed to have cast one of the electoral votes of the State of Vermont.

W. H. BARNUM, Connecticut,
Senator.
E. F. POPPLETON,
J. A. McMAHON,
JACOB TURNEY, Pennsylvania,
JOHN L. VANCE, Ohio,
G. G. DIBRELL, Tennessee,
FRANK H. HURD,
A. T. WALLING, Ohio,
WM. TERRY,
Representatives.

The PRESIDING OFFICER. Are there any further objections to the certificate of the State of Vermont?

Mr. POPPLETON. I submit the following additional objections.

The PRESIDING OFFICER. Has the member from Ohio a duplicate?

Mr. POPPLETON. I will furnish a duplicate hereafter.

The PRESIDING OFFICER. The objections will be read by the Clerk of the House of Representatives.

Mr. ADAMS (Clerk of the House of Representatives) read as follows:

The undersigned Senator and Members object to the Return No. 1 from the State of Vermont on the ground following, to wit:

I. That Henry S. Sollace, who is certified to have been elected on the 7th day of November, 1876, was at that day, and for a long time before had been, a postmaster of the United States, and therefore held an office of trust and profit under the United States, and could not be constitutionally appointed an elector of said State under the Constitution of the United States.

II. That the law of Vermont did not authorize the election of said Sollace to fill the vacancy alleged to have been the result of the absence of said Sollace from the college of electors.

III. It does not appear that said Sollace had resigned his office of postmaster at the date of his appointment to the college of electors, which fact is proper to be inquired of by the commission established by law.

IV. It is proper for the said commission to inquire and report whether Amos Aldrich, who received the highest number of votes at the election on the 7th day of November, 1876, next to that cast for said Sollace, and who is certified as an elector by Certificate No. 2, is not the duly appointed elector for the State of Vermont.

W. H. BARNUM, of Connecticut,
Senator.
EARLEY F. POPPLETON, of Ohio,
JOHN A. McMAHON, of Pennsylvania,
JACOB TURNEY, of Pennsylvania,
JOHN L. VANCE, of Ohio,
GEORGE G. DIBRELL, of Tennessee,
FRANK H. HURD, of Ohio,
ANSEL T. WALLING, of Ohio,
WILLIAM TERRY, of Virginia,
Representatives.

The PRESIDING OFFICER. Are there further objections to the certificate of the State of Vermont?

Mr. SPRINGER. I ask that the duplicate return shall now be opened by the Presiding Officer and read by the tellers.

The PRESIDING OFFICER. The original certificate from the State of Vermont has been read.

Mr. SPRINGER. I refer to the dual return submitted with my objections, and referred to in those objections. [Cries of "Order!"] I ask that that second return be opened, and now read.

The PRESIDING OFFICER. That is not an objection.

Mr. SPRINGER. That is not an objection, but it is my right to demand that it shall be read as it has been laid before the two Houses. [Cries of "Order!"] It is my right to have it read.

The PRESIDING OFFICER. Does the gentleman refer to the one corresponding with that received by messenger; that is, the one received by mail?

Mr. SPRINGER. I allude to the one submitted by the gentleman from New York, [Mr. HEWITT.]

The PRESIDING OFFICER. So the Chair understood, and rules it out. [Laughter.]

Mr. SPRINGER. I ask that the Chair will now order, the State of Vermont having forwarded double returns, that those returns and the objections thereto shall now be submitted to the judgment of the electoral commission. [Laughter and cries of "Object!"]

The PRESIDING OFFICER. The Presiding Officer has stated that he has not received any duplicate returns from the State of Vermont.

Mr. SPRINGER. They are now before the joint meeting, presented by the gentleman from New York.

The PRESIDING OFFICER. Are there further objections to the State of Vermont? The Chair hears none.

Mr. SPRINGER. Does the Chair decline to receive the return laid on the table with my objections?

The PRESIDING OFFICER. The Chair declines to receive any return from any State at this time.

Mr. WADDELL. As being *aliunde*, I suppose, Mr. President. [Great laughter.]

The PRESIDING OFFICER. In any form. [Laughter.]

If there are no further objections to the certificate from the State of Vermont the Senate will withdraw to its Chamber to separately consider the objections already presented and read.

Mr. SPRINGER. I make the point that the electoral vote of the State of Vermont now goes to the commission, and cannot be considered separately by the two Houses. [Laughter.] O, yes; you can laugh now, but the laugh will be on the other side after awhile. Let me tell gentlemen that the law which they have been so anxious to carry out heretofore is now being disregarded by them. [Laughter.]

The Senate, at seven o'clock and ten minutes p. m., withdrew.

Mr. MILLS. Mr. Speaker, is it in order now for the House of Representatives to proceed to elect the next President of the United States? [Cries of "Recess!" "Order!"]

Mr. WOOD, of New York. I move the House take a recess.

The SPEAKER. No motion is in order, but the House now, in obedience to the unanimous agreement, takes a recess until to-morrow morning at ten o'clock.

Accordingly, at seven o'clock and fifteen minutes p. m., the House took a recess until ten o'clock to-morrow morning.

AFTER THE RECESS.

The recess having expired, the House resumed its session at ten o'clock a. m., Thursday, March 1.

ORDER OF BUSINESS.

The SPEAKER. The Chair desires to submit some requests to which he thinks there will be no objection.

LEAVE TO PRINT.

By unanimous consent, Mr. LYNCH obtained leave to have printed in the RECORD some remarks on the Louisiana report.

By unanimous consent, Mr. LANDERS, of Indiana, obtained leave to have printed in the RECORD some remarks on the substitute offered by him for the Texas and Pacific Railroad bill.

By unanimous consent, Mr. WELLS, of Missouri, obtained leave to have printed in the RECORD some remarks on House bill No. 3922.

By unanimous consent, Mr. LAWRENCE obtained leave to have printed in the RECORD some remarks on general politics and finances.

By unanimous consent, Mr. HAYMOND obtained leave to have printed in the RECORD some remarks on the decision of the electoral commission in regard to the electoral vote of South Carolina.

By unanimous consent, Mr. THROCKMORTON obtained leave to have printed in the RECORD some remarks touching the construction of the Texas and Pacific Railroad.

By unanimous consent, Mr. NEAL obtained leave to have printed in the RECORD some remarks on the construction of the Texas and Pacific Railroad.

By unanimous consent, Mr. CULBERSON obtained leave to have printed in the RECORD some remarks on the Oklahoma Territory bill.

WITHDRAWAL OF PAPERS.

On motion of Mr. GOODIN, by unanimous consent, leave was given to withdraw from the files of the House the papers in the case of A. H. von Luettwitz, lieutenant in the Third United States Cavalry, there being no adverse report thereon.

On motion of Mr. MCMAHON, by unanimous consent, leave was given to withdraw from the files of the House the papers in the case of Michael Mack, there being no adverse report thereon.

On motion of Mr. LANE, by unanimous consent, leave was given to withhold from the files of the House the papers in the case of the claim of the heirs of C. M. Lockwood, there being no adverse report thereon.

On motion of Mr. O'BRIEN, by unanimous consent, leave was given to withdraw from the files of the House the papers in the case of the petition of the Baltimore City authorities relative to outlay by said city in 1863, there being no adverse report thereon.

On motion of Mr. DE BOLT, by unanimous consent, leave was given to withdraw from the files of the House the papers in the case of Frank M. Lewis, of Chariton County, Missouri, there being no adverse report thereon.

UNITED STATES EXECUTIVE DEPARTMENTS AT INTERNATIONAL EXHIBITION.

Mr. KELLEY, by unanimous consent, introduced a joint resolution (H. R. No. 193) authorizing the publication of the report of the board on behalf of the United States Executive Departments at the international exhibition of 1876; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

HENRY LEWIS.

Mr. VANCE, of Ohio, by unanimous consent, submitted the following resolution; which was referred to the Committee of Accounts.

Resolved, That the Clerk of the House be directed to pay Henry Lewis $120 out of the contingent fund of the House for services in the Doorkeeper's department during the months of January and February 1877

SALARIES OF PAGES.

Mr. VANCE, of Ohio, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Clerk of the House be, and he is hereby, directed to pay to the pages of the House their salaries for the entire month of March, out of the contingent fund of the House.

REPORTS OF COMMISSIONER OF FISH AND FISHERIES.

Mr. BALLOU, by unanimous consent, from the Committee on Printing, reported the following concurrent resolution; which was read, considered, and adopted:

Resolved by the House of Representatives, (the Senate concurring.) That of the Reports of the United States Commissioner of Fish and Fisheries for the years 1873-'74 and 1874-'75, in one volume, there be printed from the stereotype plates 5,000 copies; of which 3,000 shall be for the use of the House of Representatives, 1,000 for the Senate, and 1,000 for the commissioner of fish and fisheries.

Mr. BALLOU moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BALLOU also, by unanimous consent, from the Committee on Printing, reported back, with a favorable recommendation, the following concurrent Senate resolution:

Resolved by the Senate, (the House of Representatives concurring.) That there be printed 4,500 extra copies of the Report of the Commissioner of Fish and Fisheries for the years 1875 and 1876; of which 1,000 shall be for the use of the Senate, 2,500 for the use of the House of Representatives, and 1,000 for the use of the commissioner of fish and fisheries.

Mr. BALLOU moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LIGHT-HOUSE AT LITTLE TRAVERSE HARBOR.

Mr. BRADLEY, by unanimous consent, presented a joint resolution of the Legislature of the State of Michigan, asking Congress for an appropriation to construct a light-house on the point of Little Traverse Harbor, in the county of Emmet, Michigan; which was referred to the Committee on Commerce, and ordered to be printed in the RECORD.

The joint resolution is as follows:

Joint resolution asking Congress for an appropriation to construct a light-house on the point of Little Traverse harbor, in the county of Emmet, Michigan.

Whereas the rapidly increasing commerce of Little Traverse Bay and the waters of that vicinity of Lake Michigan demands the immediate improvement of the harbor of Little Traverse by the erection of a suitable light-house at its entrance: Therefore,

Resolved by the senate and house of representatives of the State of Michigan, That our Senators and Representatives in Congress be requested to use their best endeavors to procure the necessary appropriation for the construction of a suitable light-house at the entrance of Little Traverse harbor, Emmet County, Michigan.

Resolved, That his excellency the governor be requested to transmit copies of the foregoing preamble and resolution to each of our Senators and Representatives in Congress.

ALONZO SESSIONS,
President of the Senate.
JOHN T. RICH,
Speaker of the House of Representatives.

Approved February 26, 1877.

CHARLES M. CROWELL.

STATE OF MICHIGAN.
Office of the Secretary of State, ss:

I, E. G. D. Holden, secretary of state of the State of Michigan, do hereby certify that I have compared the annexed copy of joint resolution asking Congress for an appropriation to construct a light-house on the point of Little Traverse harbor in the county of Emmet, Michigan, with the original as enrolled and now on file in this office, and that it is a true and correct transcript therefrom, and of the whole of such original.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Michigan, at Lansing, this 26th day of February, in the year of our Lord 1877.

[SEAL.]

E. G. D. HOLDEN,
Secretary of State.

REMOVAL OF POLITICAL DISABILITIES.

Mr. WIGGINTON. I ask unanimous consent to introduce and have passed at this time a bill to remove the political disabilities of Henry B. Davidson, of California.

Mr. BURCHARD, of Illinois. I object to proceeding to the consideration of bills. I have no objection to bills being introduced for reference.

The SPEAKER. The Chair desires to say that there are on the Speaker's table quite a number of disability bills which he would like to have an opportunity of presenting to the House.

Mr. BURCHARD, of Illinois. I have no objection if this is a bill for the removal of disabilities.

The SPEAKER. The pressure on the Chair in this respect is very great, and the Chair thinks these citizens should have their disabilities removed. Is there objection to the present consideration of these bills?

There was no objection.

The bill (H. R. No. 4694) to remove the political disabilities of Henry B. Davidson, of California, was read a first and second time.

Mr. TOWNSEND, of Pennsylvania. Is there a petition accompanying the bill?

The SPEAKER. There is a petition accompanying it and it will be printed.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed, two-thirds voting in favor thereof.

Mr. HOLMAN. I shall have to object to this business, unless it be confined to matters for reference.

The SPEAKER. The Chair has asked and obtained the unanimous consent of the House that these bills for the removal of political disabilities may be considered at this time.

Mr. HOLMAN. I do not object to the consideration of bills for the removal of disabilities.

By unanimous consent, the following bills were taken from the Speaker's table, read three times, and passed, two-thirds voting in favor thereof:

The bill (S. No. 1203) to remove the political disabilities of M. L. Bonham, of South Carolina; and

The bill (S. No. 1285) to remove the political disabilities of J. L. M. Curry, of Virginia.

Mr. CONGER. Let it be understood that there are petitions accompanying all these bills.

The SPEAKER. The Chair is noticing that fact; and if any member desires, the petitions will be printed in the RECORD.

The following bills from the Senate were by unanimous consent taken from the Speaker's table, read a first and second time, ordered to a third re ding, and passed, two-thirds voting in favor thereof:

A bill (S. No. 1136) to remove the political disabilities of Wade H. Gibbes, of South Carolina;

A bill (S. No. 915) to remove the political disabilities of D. H. Hill, of North Carolina;

A bill (S. No. 1096) to remove the political disabilities of R. C. Gatlin, of Arkansas;

A bill (S. No. 1272) to remove the political disabilities of William Butler, of South Carolina;

A bill (S. No. 1273) to remove the political disabilities of William R. Jones, of Texas;

A bill (S. No. 1274) to remove the political disabilities of S. P. Moore, M. D., a citizen of Virginia;

A bill (S. No. 1276) to remove the political disabilities of W. F. Carrington, of Virginia;

A bill (S. No. 1277) to remove the political disabilities of Catesby ap R. Jones, of Alabama; and

A bill (S. No. 1278) to remove the political disabilities of John S. Marmaduke.

The SPEAKER. There are several House bills removing disabilities which have been returned from the Senate with amendments. If there be no objection, these bills will be taken up, and the amendments acted upon.

There was no objection.

Senate amendments to the bill (H. R. No. 3636) to remove the political disabilities of Richard S. Kinney and William R. Jones were read, as follows:

Strike out the name of William R. Jones.

Strike out the words "reason of their participation in the late war" and insert "the fourteenth amendment of the Constitution of the United States."

The SPEAKER. The Chair understands that in the opinion of the Senate there shall be a separate bill for each individual whose disabilities are to be removed.

The amendments were concurred in.

Senate amendment to the bill (H. R. No. 3791) to remove the legal and political disabilities of William A. Webb, of Virginia, was read, as follows:

Strike out in the body of the bill and in the title the words "legal and."

The amendment was concurred in.

Senate amendment to the bill (H. R. No. 3730) to remove the political disabilities of John D. Simmns and Samuel V. Turner, of Virginia, was read, as follows:

Strike out the name of "John D. Simms" wherever it occurs.

The amendment was concurred in.

Senate amendment to the bill (H. R. No. 3260) to remove the disabilities of Lawrence S. Baker, of Tarborough, North Carolina, was read, as follows:

Strike out in the body of the bill and in the title the words "legal and."

The amendment was concurred in.

DIGEST OF INTERNATIONAL LAW.

Mr. VANCE, of Ohio. I am instructed by the Committee on Printing to report back with a favorable recommendation the Senate resolution which I send to the desk.

The Clerk read as follows:

Resolved by the Senate, (the House of Representatives concurring.) That of a digest of the opinions of the Attorneys-General and of the decisions of the Federal courts with reference to international law and kindred subjects, prepared at the Department of State, there be printed in addition to the usual number 500 copies for the use of the Senate, 1,500 copies for the use of the House of Representatives, and 1,000 copies for the use of the Department of State.

Mr. HOLMAN. I do not think this is a matter of general interest. I believe I must object.

Mr. VANCE, of Ohio. The Committee on Printing have unanimously instructed me to report this resolution favorably and ask the concurrence of the House.

Mr. LAWRENCE. Let the resolution be modified so as to say "for the use of the present members of the House of Representatives."

Mr. HOLMAN. I must call for a division of the House on agreeing to this resolution. This is a publication of no general value.

The SPEAKER. The Chair thinks that unanimous consent is necessary to the passage of any of these resolutions at the present time; and he understands the gentleman from Indiana [Mr. HOLMAN] as objecting.

SMITHSONIAN REPORT FOR 1876.

Mr. SINGLETON. I ask unanimous consent to report back from the Committee on Printing a resolution in reference to the Smithsonian Report for 1876, with sundry amendments.

The Clerk read as follows:

Resolved by the House of Representatives, (the Senate concurring.) That 10,500 copies of the report of the Smithsonian Institution for the year 1876 be printed; 1,000 copies of which shall be for the use of the Senate, 2,000 copies of which shall be for the use of the House of Representatives, and 7,500 for the use of the Smithsonian Institution: *Provided*, That the aggregate number of pages shall not exceed five hundred, and that there be no illustrations except those furnished by the Smithsonian Institution.

The amendments reported by the committee were read, as follows:

In line 6 strike out the word "two" and insert "three;" so that it will read "$3,000" instead of "$2,000."

In line 8 strike out the word "seven" and insert "six;" so that it will read "$6,000" instead of "$7,000."

There being no objection, the amendments reported by the Committee on Printing were agreed to; and the resolution of the Senate, as amended, was concurred in.

Mr. SINGLETON moved to reconsider the vote by which the resolution, as amended, was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BURCHARD, of Illinois. I call for the regular order.

Mr. O'BRIEN. Is there a quorum present? I move that there be a call of the House.

Mr. HENDEE. I have a resolution in relation to the vote of Vermont which I desire to offer.

Mr. WOOD, of New York. I object to everything but the regular order. I offer the resolution which I send to the Clerk's desk.

Mr. WALLING. I rise to a question of privilege. I submit that a member has a right to move a call of the House, and that motion has been made by the gentleman from Maryland, [Mr. O'BRIEN.]

Mr. CONGER. Well, there have been two-thirds of the House voting all the morning to pass bills removing disabilities.

Mr. O'BRIEN. That was done by unanimous consent.

The SPEAKER. The Chair will count the House. [After a pause.] There are one hundred and sixty-two members present, which is more than a quorum.

Mr. WALLING. I rise to a question of order, and it is whether it is not the right of a member on this floor to move a call of the House, and whether upon that motion the roll must not be called to verify the fact that there is a quorum present.

The SPEAKER. The Chair desires to read to the House from Rule 132:

A call of the House shall not be in order after the previous question is seconded, unless it shall appear, upon an actual count by the Speaker, that no quorum is present.

That would seem to imply that a call of the House is in order, and the Chair therefore entertains the motion of the gentleman from Ohio [Mr. WALLING] and will submit it to the House.

Mr. CONGER. I ask the question whether, as we are acting upon the objections made to the vote of Vermont, and when the Speaker has by actual count ascertained that there is a quorum present, if this is not a dilatory proposition?

The SPEAKER. The Chair thinks that the effect of the motion of the gentleman from Indiana is of a dilatory character, but the Chair thinks that he is bound to submit the question once to the House. The Chair desires to say that he has counted the House and that there are one hundred and sixty-two members present.

Mr. WOOD, of New York. Then I submit that it is not proper for any gentleman to demand a call of the House.

Mr. O'BRIEN. I desire to inquire whether it is not within the knowledge of the Speaker that in former Congresses of which he was a member there was a quorum present and a call of the roll showed that no quorum was present?

The SPEAKER. That was when gentlemen declined to vote; and moreover the motion would be allowable under the rules of the House, but under the law is not allowable, and the Chair is not responsible for the law.

Mr. WALLING. I understood the Speaker to say that he would submit the question to the House.

Mr. TOWNSEND, of New York. I understood that the Chair had recognized my colleague from New York, [Mr. WOOD,] and he offered a proposition. I submit that no other proposition can be in order before the resolution offered by my colleague is presented. He is upon the floor to present that resolution.

The SPEAKER. The gentleman from New York [Mr. WOOD] was on the floor to offer the resolution, and to demand the previous question thereon; but neither was the resolution read nor the previous

question demanded until it had been read, nor could it have been demanded until the resolution was read.

Mr. O'BRIEN. I moved a call of the House before the gentleman from New York was recognized.

Mr. WOOD, of New York. Allow me to say a word. The gentleman from Maryland [Mr. O'BRIEN] raised the question that no quorum was present, whereupon the Chair proceeded to determine the question. He counted the House and found that there were one hundred and sixty-two members present, which is more than a quorum. Now I submit that I had the floor, and that my resolution is before the House.

Mr. HOSKINS. My understanding is that we are operating under the electoral law, and if we are operating under that law and the Chair has decided that a quorum is present he is not bound to entertain a motion for a call of the House.

The SPEAKER. The House can very readily, if they do not wish a call of the House, vote down the motion.

Mr. HOSKINS. That is very true but we have to do business under the electoral law

The SPEAKER. This does not depend upon the law, but upon the Constitution itself.

Mr. HOSKINS. Yes; but if a call of the House is allowed now it may be allowed at any stage of the proceedings whenever there is not a full House, or even if one member be absent.

The SPEAKER. The Chair would direct the attention of the gentleman from New York [Mr. HOSKINS] to that clause of the Constitution, which says:

> But a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide.

Now, while the Chair has decided that there is a quorum present, the gentleman from Ohio [Mr. WALLING] practically disputes it, just as is the case when the Chair decides that a vote has either been carried in the affirmative or the negative and a division is called and a question raised as to the correctness of the decision of the Chair.

Mr. GARFIELD. That question is raised when the House is called upon to act on propositions relating to business.

The SPEAKER. The point is just here, that less than a quorum can do nothing. The Chair made an effort to ascertain if there is a quorum present, and he did ascertain to his own satisfaction that a quorum is present.

Mr. HOSKINS. And no gentleman has the right to raise that point until it appears upon a count, either by division or otherwise, that there is no quorum present.

The SPEAKER. The gentleman is mistaken; the Chair has the right to find out for himself whether or not there is a quorum present.

Mr. HOSKINS. The Chair misunderstands me. What I said was that no gentleman on the floor has the right to claim that there is no quorum present, after the Speaker has decided that there is a quorum present, until some question has been submitted to the House and upon a vote there shall appear to be no quorum.

The SPEAKER. That is the very point the gentleman from Ohio [Mr. WALLING] desires to arrive at.

Mr. WOOD, of New York. If a member can at any time rise in his seat and move a call of the House for the purpose of ascertaining if there be a quorum present, then business can be continually interrupted by such a motion.

The SPEAKER. A gentleman would have that right if no quorum was present.

Mr. WOOD, of New York. Under the ruling of the Chair that would be such a dilatory proceeding that the Chair under the law would not entertain it.

The SPEAKER. That depends upon how often the proceeding is repeated.

Mr. HALE. Cannot the Chair order tellers for the purpose of settling the question whether there be a quorum present or not?

The SPEAKER. The Chair thinks there is a quorum present; but the difficulty is that the gentleman from Ohio [Mr. WALLING] is not willing to take the statement of the Chair that there is a quorum present.

Mr. HALE. Cannot the Chair order tellers to determine the question?

Mr. GARFIELD. I understand that a motion for a call of the House has been made.

The SPEAKER. That is the motion.

Mr. GARFIELD. I hope we will take a vote on that motion.

The SPEAKER. The Chair thinks that is what is necessary to be done.

Mr. O'BRIEN. Let the vote be taken; we do not want any delay.

The SPEAKER. It is, in fact, a dispute as to the correctness of the count by the Chair.

Mr. BURCHARD, of Illinois. That certainly is not proper.

The SPEAKER. The Chair does not think there is any propriety in it, but the gentleman has the right to make it. The Chair will order tellers.

Mr. WALLING. I must disclaim any intention of impropriety in the motion I have made; and I make this disclaimer in response to the remark of the Speaker. I have a right to ascertain if there is a quorum in the House, which I propose to do by having a call of the House.

The SPEAKER. The Chair will appoint as tellers the gentleman from New York, Mr. WOOD, and the gentleman from Ohio, Mr. WALLING.

Mr. HENDEE. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HENDEE. My inquiry is this: Will it be in order to call the yeas and nays after the count of the tellers.

Mr. WALLING. Undoubtedly.

The SPEAKER. The tellers will take their places.

Mr. BURCHARD, of Illinois. What is the question upon which the House is now called to vote by tellers?

The SPEAKER. It is upon the motion of the gentleman from Ohio, [Mr. WALLING,] that there be now a call of the House.

The House divided; and the tellers reported that there were—ayes 32, noes 139.

Before the result of this vote was announced,

Mr. WALLING said: I desire to make a parliamentary inquiry.

The SPEAKER. What is it?

Mr. SPRINGER. I call for the yeas and nays.

Mr. WALLING. I desire to inquire if it is in order to call the yeas and nays on my motion; if so, I desire to make that call.

The SPEAKER. It is in order to have the yeas and nays, if the constitutional number direct that they be called.

Mr. WALLING. Then I call for the yeas and nays on my motion.

The question was taken upon ordering the yeas and nays; and there were 44 in the affirmative.

So (the affirmative being more than one-fifth of the last vote) the yeas and nays were ordered.

The question was taken; and there were—yeas 68, nays 169, not voting 53; as follows:

YEAS—Messrs. Ashe, John H. Bagley, jr., Banning, Blackburn, Boone, Bradford, Bright, Cabell, John H. Caldwell, William P. Caldwell, Carr, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Cook, Cowan, Davis, Dibrell, Douglas, Faulkner, Finley, Forney, Franklin, Fuller, Glover, Andrew H. Hamilton, Henry R. Harris, Hartzell, Henkle, Humphreys, Hurd, Thomas L. Jones, Knott, Lane, Luttrell, McMahon, Meade, Mills, Money, Morrison, Mutchler, O'Brien, John F. Philips, Poppleton, Riddle, Roberts, Miles Ross, Scales, Sheakley, William E. Smith, Sparks, Springer, Stanton, Stenger, Stone, Terry, Thompson, Turney, John L. Vance, Robert B. Vance, Waddell, Walsh, Whitthorne, Wigginton, Jere N. Williams, and Benjamin Wilson—68.

NAYS—Messrs. Adams, Ainsworth, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Bell, Blair, Bland, Blount, Bradley, John Young Brown, William R. Brown, Buckner, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Cason, Chittenden, Collins, Crapo, Crounse, Culberson, Cutler, Danford, Darrall, Davy, De Bolt, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Egbert, Evans, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Gause, Goode, Goodin, Gunter, Hale, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, John T. Harris, Harrison, Hartridge, Hatcher, Hathorn, Haymond, Hendee, Henderson, Abram S. Hewitt, Hoar, Hoge, Holman, Hopkins, Hoskins, House, Hubbell, Hunter, Hurlbut, Hyman, Jenks, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Levy, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Packer, Phelps, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, Reagan, John Reilly, James B. Reilly, John Robbins, William M. Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Sayler, Schleicher, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Tarbox, Teese, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Charles C. B. Walker, Gilbert C. Walker, Alexander S. Wallace, John W. Wallace, Walling, G. Wiley Wells, White, Whitehouse, Whiting, Wike, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, James Wilson, Alan Wood, jr., Fernando Wood, Woodworth, and Yeates—169.

NOT VOTING—Messrs. Abbott, Anderson, Atkins, Bass, Beebe, Bliss, Caswell, Cate, Chapin, Conger, Cox, Durand, Ellis, Field, Gibson, Robert Hamilton, Hays, Goldsmith W. Hewitt, Hill, Hooker, Hunton, Frank Jones, King, Franklin Landers, Lewis, Lynde, Mackey, Maish, McFarland, Metcalfe, Milliken, Odell, Page, Payne, Piper, Purman, Rice, Schumaker, Slemons, Southard, Stephens, Swann, Thomas, Tucker, Waldron, Ward, Warner, Warren, Watterson, Erastus Wells, Wheeler, Woodburn, and Young—53.

So the House refused to order a call of the House.

During the roll-call,

Mr. LANDERS, of Connecticut, stated that his colleague, Mr. WARNER, was absent on account of illness.

The vote was then announced as above recorded.

Mr. WALLING. I move to reconsider the vote by which the House refused to order a call of the House.

Mr. WOOD, of New York. I believe I have the floor.

The SPEAKER. The gentleman from New York offered a resolution, which has not yet been read.

Mr. WALLING. But I moved to reconsider the vote by which the House refused to order a call of the House. I have the right to do that. It is my motion. It is a privileged motion.

Mr. HOOKER. The gentleman from New York undoubtedly has the floor.

Mr. SPRINGER. But the motion to reconsider may take any gentleman off the floor.

The SPEAKER. The gentleman from Ohio makes a privileged motion, and that is to reconsider the vote by which the House refused to order a call of the House.

Mr. WOOD, of New York. That is clearly and palpably a dilatory motion.

The SPEAKER. The motion to reconsider cannot be considered as a dilatory motion.

Mr. WALLING. It never has been so held in any legislative body.

Mr. HANCOCK. I rise to a question of order. We cannot hear what is going on.

The SPEAKER. It is well taken. The officers of the House are requested to invite gentlemen who are here by courtesy of the House either to cease conversation or retire beyond the bar.

The gentleman from Ohio moves to reconsider the vote by which the House refused to order a call of the House.

Mr. WOOD, of New York. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. WOOD, of New York. It is that under the ruling of the Chair and under the electoral law it is not competent for any member to make any motion which is clearly intended to cause delay; that the object of this motion can have no practical effect in the interest of public policy or legislation when we know there is more than a quorum of members present. On propositions relating to a call of the House it has been determined three times already there is more than a majority of members on the floor. I hold therefore that the motion to reconsider is entirely unnecessary and only intended to consume time in the call of the roll.

Mr. MILLS. I wish to address the gentleman from New York a question.

Mr. WOOD, of New York. What is it?

Mr. MILLS. I ask the gentleman whether every motion requiring a vote of this House is not to that extent dilatory and does not require some time?

The SPEAKER. The Chair wishes to say in reply to the gentleman from New York that he never has ruled in any particular, either by inference or otherwise, that a motion to reconsider was a dilatory motion. The Chair is very clear that anything the House can do, it can undo by a motion to reconsider.

Mr. WALLING. That is the very thing.

The SPEAKER. The House having had before it a motion to order a call of the House, and having refused to order a call of the House, the House has it within its power to undo its actions by a motion to reconsider.

Mr. HALE. I move to lay the motion to reconsider upon the table.

Mr. HANCOCK. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 173, nays 66, not voting 51; as follows:

YEAS—Messrs. Adams, Ainsworth, Ashe, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Beebe, Belford, Bell, Blair, Bland, Bradley, John Young Brown, William R. Brown, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Cason, Caswell, Chapin, Chittenden, Conger, Crapo, Crounse, Cutler, Danford, Darrall, Davis, Davy, De Bolt, Denison, Dobbins, Douglas, Dunnell, Durham, Eames, Eden, Egbert, Ellis, Evans, Faulkner, Felton, Flye, Fort, Freeman, Frye, Gause, Goodin, Gunter, Hale, Robert Hamilton, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, John T. Harris, Harrison, Hartridge, Hartzell, Hatcher, Hathorn, Haymond, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Hopkins, Hoskins, House, Hubbell, Hurlbut, Hyman, Jenks, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Levy, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Packer, Page, Phelps, William A. Philips, Pierce, Plaisted, Platt, Potter, Powell, Rainey, Rea, Reagan, John Reilly, James B. Reilly, John Robbins, William M. Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Sayler, Schleicher, Seelye, Singleton, Sinnickson, Smalls, Strait, Stevenson, Stowell, Tarbox, Teese, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Robert B. Vance, Wait, Charles C. B. Walker, Gilbert C. Walker, Alexander S. Wallace, John W. Wallace, Warren, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodworth, and Yeates—173.

NAYS—Messrs. John H. Bagley, jr., Banning, Blackburn, Boone, Bradford, Bright, John H. Caldwell, William P. Caldwell, Carr, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Cochrane, Cook, Cowan, Cox, Dibrell, Finley, Forney, Foster, Franklin, Fuller, Goode, Andrew H. Hamilton, Henry R. Harris, Henkle, Hooker, Humphreys, Hurd, Thomas L. Jones, Knott, Lane, Lynde, Mackey, Maish, McMahon, Meade, Mills, Money, Mutchler, O'Brien, Odell, John F. Philips, Poppleton, Rice, Riddle, Roberts, Miles Ross, Scales, Sheakley, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Terry, Thompson, Turney, John L. Vance, Waddell, Walling, Walsh, Whitthorne, and Wigginton—66.

NOT VOTING—Messrs. Abbott, Anderson, Atkins, Bass, Bliss, Blount, Buckner, Cabell, Cate, Caulfield, Clymer, Collins, Culberson, Durand, Field, Garfield, Gibson, Glover, Hays, Goldsmith W. Hewitt, Holman, Hunter, Hunton, Frank Jones, King, Franklin Landers, Lewis, Luttrell, McFarland, Metcalfe, Milliken, Morrison, Payne, Piper, Pratt, Purman, Schumaker, A. Herr Smith, Stephens, Swann, Thomas, Waldron, Ward, Warner, Watterson, Wheeler, Wike, Andrew Williams, Jere N. Williams, Woodburn, and Young—51.

So the motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that it had determined that the vote of Henry N. Sollace as elector of the State of Vermont should be counted with the other four votes of that State, the objections to the contrary notwithstanding. It further announced that the Senate was ready to meet the House to proceed with the count of the electoral vote for President and Vice-President.

ELECTORAL VOTE OF THE STATE OF VERMONT.

Mr. WOOD, of New York. I now claim the floor.

The SPEAKER. The gentleman from New York was recognized by the Chair to submit a resolution. The gentleman from Ohio, [Mr. POPPLETON,] who was the objector, demands as his right as objector to offer a resolution, whereupon the Chair will recognize the gentleman from Ohio if he desires to move a substitute, or the gentleman from New York to move an amendment.

Mr. MILLS. I rise to a parliamentary inquiry. Is not a question of privilege superior to the motion of the gentleman from New York?

The SPEAKER. This is a question of the highest privilege.

Mr. WOOD, of New York. Mine is a question of privilege, of the highest privilege.

Mr. CAULFIELD. The question which I propose to offer to this House is of higher privilege than that even of the gentleman from New York, and I ask that the Speaker will not agree to recognize any other gentleman until he hears this question which I desire to present.

Mr. BANKS. What is the gentleman's privileged question?

The SPEAKER. The Chair has not heard it stated yet.

Mr. BANKS. We cannot act upon it——

Mr. CAULFIELD. The question, Mr. Speaker, which I desire to present——

Mr. WOOD, of New York. I rise to a question of order. I ask the Speaker to entertain the questions of privilege in the order in which they are presented.

The SPEAKER. It is very plain that but one question of privilege can be pending at one time.

Mr. WADDELL. How does the Chair know which question is of higher privilege until he hears the gentleman from Illinois?

Mr. CAULFIELD. I ask that I may be allowed to state what is my question of privilege.

The SPEAKER. The gentleman from Ohio, [Mr. POPPLETON,] the objector to the certificate from the State of Vermont, asks to be recognized, and the Chair considers it his duty to recognize him.

Mr. CAULFIELD. Supposing I can show to the Speaker and to the House that the question which I propose is one of higher privilege than that of the gentleman from Ohio whom the Chair has recognized or proposes to recognize, would I not then be entitled to submit that question to the House before the gentleman from Ohio proceeds?

The SPEAKER. It is impossible for the Chair to distinguish between degrees of privilege attaching to different questions. One privileged question occupying the attention of the House precludes the introduction of another at the same time.

Mr. CAULFIELD. There is no question of privilege now occupying the attention of the House.

The SPEAKER. There is.

Mr. CAULFIELD. And I propose to submit one.

The SPEAKER. There is a question of privilege before the House. The gentleman from Ohio, [Mr. POPPLETON,] the objector, is on the floor on that question of privilege.

Mr. CAULFIELD. Will the Chair allow me to state the question of privilege which I desire to present?

Mr. EDEN. I object.

The SPEAKER. The gentleman from Ohio [Mr. POPPLETON] will submit his proposition.

Mr. POPPLETON. If I am recognized as holding the floor I yield to the gentleman from Illinois, [Mr. CAULFIELD.]

The SPEAKER. Is there objection?

Many members objected.

The SPEAKER. The gentleman from Ohio if he yields the floor yields it absolutely when objection is made.

Mr. POPPLETON. I send a resolution to the Chair.

Mr. WOOD, of New York. There is but one question of privilege before the House. I rise to a question of order.

The SPEAKER. The Chair wants to say to the gentleman from Ohio [Mr. POPPLETON] that he must be dealt with in good faith. The gentleman from Ohio, if he presents anything that does not appertain to the objection that he made in the joint convention, is not entitled to be recognized.

Mr. POPPLETON. I desire to say to the Speaker——

Mr. JONES, of Kentucky. Let the resolution be read.

Mr. POPPLETON. I desire to say that I am informed and believe that the resolution I have sent to the Chair pertains to one of the objections filed in the matter of the electoral vote of the State of Vermont.

Mr. CAULFIELD. The resolution is perfectly relevant.

Mr. SPRINGER. I submit there can be no decision as to the relevancy of this proposition until it has been read in the hearing of the House.

Mr. WOOD, of New York. I submit, as a question of order, that there is but one question which can be submitted to the House under the law which now governs our proceedings.

Mr. SPRINGER. That I deny.

Mr. WOOD, of New York. And that question I have sent to the Chair in the form of the ordinary resolution calling upon the House to act on the objection to the electoral vote of the State of Vermont. The gentleman from Ohio presented to me an identical copy of my own resolution; and it was understood between him and myself that he should present that resolution and I should call the previous question on it.

The SPEAKER. The Chair desires to make a statement to the House.

Mr. CAULFIELD. The House was no party to that agreement.

Mr. WOOD, of New York. The Chair was no party to the agreement. It was between the gentleman from Ohio and myself.

The SPEAKER. The Chair desires to state to the House what took place. The Chair recognized the gentleman from New York [Mr. WOOD] because the Chair did not think the gentleman from Ohio was in the House, although he subsequently learned from the gentleman that he was. The Chair, having been informed by the

gentleman from Ohio that he claimed his right as the objector to offer the usual resolution, sent for the gentleman from New York, and the two gentlemen came to the Chair together, and they entered into an understanding between themselves that the gentleman from Ohio was to be recognized by the Chair to offer the resolution in almost the exact words of the resolution which was in the hands of the gentleman from New York and the usual resolution heretofore offered in such cases.

Mr. WOOD, of New York. With the additional understanding——

The SPEAKER. The Chair was about to state it. With the additional understanding that the gentleman from New York was to be recognized by the Chair to demand the previous question.

Mr. WOOD, of New York. That was the understanding.

The SPEAKER. That is the position of the case.

Mr. WALLING. I desire to offer a resolution pertinent to the pending question, which I desire to have read.

The SPEAKER. The gentleman is not in order.

Mr. SPRINGER. I insist on the reading of the resolution submitted by the gentleman from Ohio, [Mr. POPPLETON]

The SPEAKER. The Chair now submits to the gentleman from Ohio [Mr. POPPLETON] whether, after the statement made to the Chair, and after the statement made by the Chair in the presence of this House, he insists on changing his resolution from the form in which he showed it to the Chair.

Mr. POPPLETON. If the Speaker will bear with me I will make a statement.

The SPEAKER. The gentleman will proceed.

Mr. POPPLETON. I desire that the Speaker and this House shall understand the true status of this matter. I was making an effort to obtain the floor for the purpose of introducing both of these resolutions if necessary. I stood in this aisle attempting to catch the eye of the Speaker.

The SPEAKER. The gentleman was not in possession of the resolution which he now has, for it was then in the custody of the gentleman from Illinois, [Mr. CAULFIELD,] and was shown to the Chair by the gentleman from Illinois.

Mr. POPPLETON. I desire to say that I had notice of the resolution; I was advised as to the resolution; I was present when it was prepared, and while I did not have the physical custody of the resolution I had information concerning it and knew all about it. When I came upon the floor of the House this morning I ascertained the fact that the gentleman from New York, [Mr. WOOD] in my absence had arrogated to himself the right to control the floor against my rights as the objector.

The SPEAKER. Yes; and the Chair would not permit it.

Mr. POPPLETON. I went to the Speaker of this House and laid the matter before him, and he informed me that he would send for the gentleman from New York, [Mr. WOOD.] The gentleman from New York made his appearance, and in company with myself approached the Speaker's desk; and there I claimed my right. The gentleman from New York said that he insisted upon moving the previous question upon the resolution when offered; but I made no reply to it. I made no agreement; I made no contract. I simply placed myself upon my rights as a member of this House and the mover of the objection in the matter of the electoral vote of Vermont.

The SPEAKER. Does not the gentleman from Ohio [Mr. POPPLETON] think that his silence when that statement was made to him by the gentleman from New York [Mr. WOOD] was calculated to lead the Chair to understand that the agreement was accepted?

Mr. POPPLETON. Why, Mr. Speaker, I only desired that the gentleman from New York should not claim that which I believed did not belong to him and did belong to me. I believed I was entitled to the floor and to the conduct of this matter in relation to the electoral vote of Vermont. My only object, my only purpose was that the gentleman from New York should not usurp and take my place in the management of this matter, for I claim that he had no right to do so. I made no compact, no bargain with any party.

Mr. WOOD of New York. It is entirely unnecessary for my friend from Ohio [Mr. POPPLETON] to get anyways warm about this matter; it is a very simple question. I think the gentleman from Ohio does himself as well as others injustice. The Speaker has related correctly and accurately what actually occurred. I had the right to claim the floor; the journal clerk has a record of my recognition by the Chair. My resolution is a question of privilege, and there is nothing in the rules or in the law that gives any one man any greater right than another to move this resolution. It is a question of privilege, and I have just as much right to present such a resolution as the gentleman from Vermont, [Mr. HENDEE,] the gentleman from Ohio, [Mr. POPPLETON,] or any member of this House.

The SPEAKER. The Chair did not say to the contrary.

Mr. WOOD, of New York. When the gentleman from Ohio [Mr. POPPLETON] claimed the privilege of presenting the resolution I yielded to him.

The SPEAKER. The Chair did not say to the contrary, but suggested to the gentleman from New York [Mr. WOOD] that there was a propriety in recognizing the gentleman from Ohio [Mr. POPPLETON] to submit the resolution. The resolution being once before the House any member could have demanded the previous question upon it. It was not for the gentleman from New York only to do so; any other member could have done the same thing.

Mr. SPRINGER. I now rise to a question of order. I make the point of order that the gentleman from Ohio [Mr. POPPLETON] having the floor has submitted a proposition which is upon the Clerk's desk, and that we are entitled to have it read in order that we may know what it is.

The SPEAKER. It will be read, and the Chair will rule upon it afterward.

Mr. RUSK. I object to its being read if it is not in order.

Mr. WOOD, of Pennsylvania. Do not object to the reading.

The Clerk began the reading as follows:

Whereas, at a joint meeting of the two Houses, on the 28th day of February, 1877——

Mr. POPPLETON. I desire to say, as there may be some claim that I have yielded the floor to allow this resolution to be read, that I claim my right to the floor to offer a resolution.

The Clerk continued the reading, as follows:

a sealed package, addressed to the President of the Senate, purporting to contain the electoral vote of the State of Vermont, was delivered to the said President of the Senate by Mr. HEWITT, a member of this House, who then stated that he received it by express about the middle of December last, and with it a letter notifying him that a similar package had been forwarded by mail to the President of the Senate; and said HEWITT being informed by the said President that no package had been received corresponding thereto, that he, Mr. HEWITT, had previously to said joint meeting, tendered said package to said President of the Senate, who declined to receive the same, and which statement was not denied.

And whereas it also appeared by a telegram from the clerk of the district court of the United States for the district of Vermont that a duplicate of said return was deposited in that office on the 13th day of December, 1876;

And whereas objections were made pursuant to law to the certificate purporting to be the electoral vote of Vermont which had been opened by the President of the Senate in the presence of the two Houses, and said package was in terms made a part of said objection, and still remains unopened, and said objection cannot be considered until said package is opened according to law:

And whereas the said return then tendered to said President of the Senate in the presence of the two Houses was retained by him or by the Secretary of the Senate, and the said President of the Senate refused to open said sealed package in the presence of the two Houses: Therefore,

Resolved, By the House of Representatives, that the refusal of the President of the Senate, to open, in the presence of the Senate and House of Representatives, said sealed package purporting to be the electoral vote of the State of Vermont, was a violation of law and of the privileges of this House, and that until said package shall be opened pursuant to law in the presence of the two Houses of Congress, the counting of the votes cannot further proceed according to the Constitution and law now in existence for the counting of said electoral votes for President and Vice-President of the United States.

Resolved, further, That the Clerk of this House inform the Senate of the adoption of the forgoing preamble and resolution and request the Senate to meet this House in joint session, to the end that said package purporting to be a certificate of the electoral vote of Vermont be opened by the President of the Senate and that the proceedings thereafter be held according to law.

The hour of twelve o'clock having arrived, the Chair decided a new legislative day to have begun.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By the SPEAKER: Memorial of the house of representatives of the State of Missouri, reciting that Samuel J. Tilden was duly elected President of the United States, and calling upon Senators and Representatives in Congress to resist the inauguration of R. B. Hayes, to the committee on the privileges, powers, and duties of the House of Representatives in counting the electoral vote for President and Vice-President of the United States.

Also, the petition of Stephen H. Preston, William F. Hewitt, and 75 other citizens of Marshall, Michigan, of similar import, to the same committee.

Also, the petition of citizens of Darlington, Pennsylvania, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. CABELL: The petition of citizens of Carroll County, Virginia, of similar import, to the same committee.

By Mr. HOSKINS: The petition of citizens of Alden, New York, of similar import, to the same committee.

By Mr. HURLBUT: Memorial of H. J. Campbell and others, concerning the recent election in Louisiana, to the committee on the recent election in Louisiana.

By Mr. JENKS: Two petitions from citizens of Pennsylvania, for the passage of a general bill granting arrears of pension, to the Committee on Invalid Pensions.

By Mr. MILLER: The petition of citizens of New Berlin and adjoining towns in New York, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

By Mr. ODELL: The petition of Henry L. Dean and others, of New Rochelle, New York, that all lawful means be used to prevent Rutherford B. Hayes ever becoming President of the United States, to the committee on the privileges, powers, and duties of the House of Representatives in counting the vote for President and Vice-President of the United States.

By Mr. PHELPS: The petition of John Morgan and 257 other citizens and ladies of Middletown, Connecticut, for the passage of a law prohibiting the sale of intoxicating liquors in the District of Columbia and the Territories except by a vote of the majority of the legal voters and of ladies over eighteen years of age, to the Committee for the District of Columbia.

By Mr. PHILLIPS, of Kansas: Joint resolution of the Legislature of Kansas, asking that aid be extended to complete the Southern Pacific Railroad, to the Committee on the Pacific Railroad.

By Mr. SINNICKSON: Four petitions, one from citizens of Newark

another from citizens of Elizabeth, another from citizens of Washington, the fourth from citizens of Rahway, New Jersey, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

By Mr. VAN VORHES: The petition of J. T. Ward, Joseph Dodds, and 33 other citizens of Washington County, Ohio, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. WADDELL: The petition of citizens of Wilmington, North Carolina, for the passage of the bill appropriating $50,000 for the purpose of establishing a colony in the polar regions, to the Committee on Naval Affairs.

IN SENATE.

TUESDAY, *March* 1, 1877—10 a. m.

The recess having expired, the Senate resumed its session.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives (at eleven o'clock and twenty-five minutes a. m.) by Mr. G. M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes; in which it requested the concurrence of the Senate.

The message also announced that the House had concurred in the amendment of the Senate to the bill (H. R. No. 2382) granting the right of way to the Hot Springs Railroad Company over the Hot Springs reservation, in the State of Arkansas.

ENROLLED BILLS.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution:

A bill (S. No. 1216) to provide for the preparation and publication of a new edition of the Revised Statutes of the United States;

A bill (H. R. No. 2382) granting the right of way to the Hot Springs Railroad Company over the Hot Springs reservation in the State of Arkansas;

A bill (H. R. No. 2833) for the relief of Susan P. Vance;

A bill (H. R. No. 4301) for the relief of A. W. Plymate, of West Virginia;

A bill (H. R. No. 4149) to remove the political disabilities of Lloyd J. Beall, of Virginia;

A bill (H. R. No. 4452) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1878, and for other purposes;

A bill (H. R. No. 4657) to provide a building for the United States district and circuit courts, post-office, and internal-revenue officers at Austin, Texas; and

A joint resolution (H. R. No. 196) authorizing the President to designate and set apart a site for the colossal statue of "Liberty enlightening the world," and to provide for the permanent maintenance and preservation thereof.

Mr. DORSEY, (at twelve o'clock and forty minutes p. m.) There are a number of enrolled bills from the House of Representatives on the President's table awaiting his signature. I ask unanimous consent that they be signed and the fact announced to the Senate, so that they may go to the President of the United States for his signature.

The PRESIDENT *pro tempore*. The Senator from Arkansas asks that unanimous consent be given to the signing of several enrolled bills on the table. Is there objection?

Mr. BOUTWELL. I ask whether, in the opinion of the Chair, that would be a departure from the statute under which we are acting?

The PRESIDENT *pro tempore*. The Chair would so construe it.

Mr. BOUTWELL. Then I object.

The PRESIDENT *pro tempore*. Objection being made, the request made by the Senator from Arkansas cannot be entertained.

PRESIDENTIAL APPROVALS.

A message from the President of the United States at one o'clock and fifteen minutes p. m., by Mr. C. C. SNIFFIN, one of his Secretaries, announced that the President had this day approved and signed the following acts:

An act (S. No. 1185) to ratify an agreement with certain bands of the Sioux Nation of Indians; and also with the northern Arapaho and Cheyenne Indians;

An act (S. No. 234) to allow a pension of $36 per month to soldiers who have lost both an arm and a leg;

An act (S. No. 859) for the relief of certain claimants under the donation land law of Oregon, approved September 27, 1850;

An act (S. No. 1271) to authorize the printing and distribution of the eulogies delivered in Congress on announcement of the death of the late Allen T. Caperton, a Senator from the State of West Virginia; and

An act (S. No. 1270) to authorize the printing and distribution of the memorial addresses on the life and character of the late Michael C. Kerr, Speaker of the House of Representatives.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, (at five o'clock and forty-five minutes p. m.,) by Mr. G. M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 4694) to remove the political disabilities of Henry B. Davidson, of California; in which the concurrence of the Senate was requested.

The message also announced that the House had passed the following bills:

A bill (S. No. 915) to remove the political disabilities of D. H. Hill, of North Carolina;

A bill (S. No. 1096) to remove the political disabilities of R. C. Gatlin, of Arkansas;

A bill (S. No. 1136) to remove the political disabilities of Wade H. Gibbes, of South Carolina;

A bill (S. No. 1203) to remove the political disabilities of M. L. Bonham, of South Carolina;

A bill (S. No. 1272) to remove the political disabilities of William Butler, of South Carolina;

A bill (S. No. 1273) to remove the political disabilities of William R. Jones, of Texas;

A bill (S. No. 1274) to remove the political disabilities of S. P. Moore, doctor of medicine, a citizen of Virginia;

A bill (S. No. 1276) to remove the political disabilities of W. L. Carrington, of Virginia;

A bill (S. No. 1277) to remove the political disabilities of Catesby ap R. Jones, of Alabama;

A bill (S. No. 1278) to remove the political disabilities of John S. Marmaduke; and

A bill (S. No. 1285) to remove the political disabilities of J. L. M. Curry, of Virginia.

The message also announced that the House had concurred in the amendments of the Senate to the following bills:

A bill (H. R. No. 3636) to remove the political disabilities of Richard S. Kinney and William R. Jones;

A bill (H. R. No. 3260) to remove the disabilities of Lawrence S. Baker, of Tarborough, North Carolina;

A bill (H. R. No. 3730) to remove the political disabilities of John D. Simms and Samuel V. Turner, of Virginia; and

A bill (H. R. No. 3791) to remove the legal and political disabilities of William A. Webb, of Virginia.

The message also announced that the House had passed a resolution for the printing of ten thousand five hundred copies of the report of the Smithsonian Institution for the year 1876; in which the concurrence of the Senate was requested.

The message further announced that the House had passed a resolution for the printing of five thousand copies of the Report of the United States Commissioner of Fish and Fisheries for the year 1873–'4 and 1874–'5; in which the concurrence of the Senate was requested.

The message also announced that the House had agreed to the resolution of the Senate for the printing of four thousand five hundred extra copies of the Report of the Commissioner on Fish and Fisheries.

ELECTORAL VOTE OF VERMONT.

At ten o'clock and fifty minutes p. m., Mr. G. M. ADAMS, Clerk of the House of Representatives, appeared below the bar and said:

Mr. President, the House of Representatives has passed the following:

Ordered, That the vote of Henry N. Sollace, claiming to be an elector from the State of Vermont, be not counted.

The PRESIDENT *pro tempore*. The Senate will now repair to the Hall of the House of Representatives.

The Senate accordingly proceeded to the Hall of the House of Representatives, and returned to its Chamber at eleven o'clock and thirty minutes p. m., when the President *pro tempore* resumed the chair.

ELECTORAL VOTE OF WISCONSIN.

The PRESIDENT *pro tempore*. The Senate having returned from the joint meeting upon an objection submitted to the certificate from the State of Wisconsin, the Secretary of the Senate will now read that objection.

The Secretary read as follows:

The undersigned, Senators and Representatives, object to the counting of the vote of Daniel L. Downs as an elector for the State of Wisconsin, on the following grounds, namely:

That the said Daniel L. Downs held the office of pension surgeon and of examining surgeon for the Pension Office by valid appointment under the laws of the United States prior to the 7th day of November, 1876, the day of the presidential election, and upon said day, and upon the 6th day of December, 1876, at the time of his assuming to cast a vote as elector for the State of Wisconsin, and that he has continually held said office from a long period prior to the said 7th day of November, 1876, until the present time. And the undersigned therefore state that said Downs, as pension surgeon and as examining surgeon for the Pension Office as aforesaid held an office of trust and profit under the United States on the day of the presidential election and on the day that he voted as an elector for the State of Wisconsin, and therefore could not be constitutionally appointed an elector for the State of Wisconsin or vote as such elector under the Constitution of the United States.

Wherefore the undersigned aver that the said Downs was not duly appointed an elector for the said State, and that his vote cannot be constitutionally counted.

And the undersigned hereto annex the evidence of the facts above stated and to be taken as a part of their objections.

WM. H. BARNUM, Connecticut,
J. E. McDONALD, Indiana,
JAMES K. KELLY, Oregon,
HENRY COOPER, Tennessee,
JOHN W. JOHNSTON, Virginia,
Senators.

WM. P. LYNDE, Wisconsin,
SAML. D. BURCHARD,
J. R. TUCKER, Virginia,
J. F. PHILIPS, Missouri,
WM. M. SPRINGER,
A. V. RICE, Ohio,
CASEY YOUNG,
JOHN L. VANCE, Ohio,
H. D. MONEY,
Representatives.

Mr. CAMERON, of Wisconsin. Mr. President, I offer the following resolution:

Resolved, That the vote of Daniel L. Downs as an elector for the State of Wisconsin be counted together with the other nine electoral votes of that State, the objections made thereto to the contrary notwithstanding.

The resolution was agreed to.

Mr. CAMERON, of Wisconsin. I move that the House of Representatives be informed of the action of the Senate, and that the Senate is now ready to repair to the Hall of the House of Representatives and proceed with the count.

The PRESIDENT *pro tempore*. The Senator from Wisconsin moves that the House be notified that the Senate have voted upon the objection to the certificate from the State of Wisconsin and are ready to meet them.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Secretary will execute the order of the Senate.

At three o'clock and fifty-eight minutes a. m. [Friday, March 2] Mr. GEORGE M. ADAMS, Clerk of the House of Representatives, appeared below the bar and said:

Mr. President, the House of Representatives has adopted the following:

Resolved, That the vote of Daniel L. Downs, as an elector of the State of Wisconsin, should not be counted, because he held an office of trust and profit under the United States, and therefore was not constitutionally appointed an elector by the said State of Wisconsin.

The PRESIDENT *pro tempore*. The Senate will now repair to the Hall of the House of Representatives.

The Senate proceeded to the Hall of the House of Representatives, and returned to its Chamber at four o'clock and twelve minutes a. m., [Friday, March 2,] when the President *pro tempore* resumed the chair and called the Senate to order.

The PRESIDENT *pro tempore*. The joint meeting of Congress for counting the electoral vote having ascertained and declared the result of that vote and the meeting having been declared dissolved, the Senate has returned to its Chamber, and the result of that vote will be entered on the Journal of the Senate. The Senate resumes its legislative business.

Mr. CONKLING. I move that the Senate proceed to the consideration of executive business.

Mr. DAVIS. I ask the Senator from New York to allow the Chair to refer some bills which are on his table.

Mr. CONKLING. Very well.

PETITIONS AND MEMORIALS.

Mr. OGLESBY presented a resolution of the Live-Stock Association of the United States, praying the passage of an act to provide for and maintain a veterinary bureau in connection with the Agricultural Department; which was referred to the Committee on Agriculture.

REPORTS OF COMMITTEES.

Mr. MORRILL. A petition of citizens of the District of Columbia, praying to be granted the use of the Rotunda of the Capitol building for the purpose of holding an inauguration ball therein, March 5, 1877, was referred to the Committee on Public Buildings and Grounds. I am directed by the committee to report it back adversely and ask to be discharged from its further consideration.

The report was agreed to.

Mr. COCKRELL. I beg permission to report from the Committee on Claims on the bill (S. No. 1284) for the relief of William L. Hickam, of Missouri, with an amendment, and to ask that the bill may now be passed.

Mr. CONKLING. Cannot I be allowed one moment to make a remark? To-morrow in the intervals of the appropriation bills, there will be plenty of opportunity for formal matters of legislation. There are a great many executive matters upon the table; we may not be able to have another executive session; it is late in the morning; Senators are all weary, and if on all sides it might be consented to that morning business and reports be withheld until to-morrow, there will be opportunity for them; but it may be a hardship to clear the galleries for an executive session and we may not like to do it. Therefore I insist upon my motion, if my friend will indulge me, that the Senate proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. Pending which the Chair will announce the signature of enrolled bills.

Mr. COCKRELL. I desire to say that this bill is for the payment of $1,600, the amount of an award to the orphan children, the helpless children, of one of the soldiers of our country, and if there be objection to it under such circumstances it will have to go over. It is necessary that it should pass the House in order that the Department may issue a duplicate check and have it paid.

ENROLLED BILLS SIGNED.

The following enrolled bills, having previously received the signature of the Speaker of the House of Representatives, were signed by the President *pro tempore*:

A bill (S. No. 1216) to provide for the preparation and publication of a new edition of the Revised Statutes of the United States;

A bill (H. R. No. 2382) granting the right of way to the Hot Springs Railroad Company over the Hot Springs reservation, in the State of Arkansas;

A bill (H. R. No. 2833) for the relief of Susan P. Vance;

A bill (H. R. No. 4301) for the relief of A. W. Plymate, of West Virginia;

A bill (H. R. No. 4149) to remove the political disabilities of Lloyd J. Beall of Virginia;

A bill (H. R. No. 4452) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1878, and for other purposes;

A bill (H. R. No. 4657) to provide a building for the use of the United States district and circuit courts, post-office, and internal-revenue offices at Austin, Texas; and

A joint resolution (H. R. No. 196) authorizing the President to designate and set apart a site for the colossal staute of "Liberty enlightening the world," and to provide for the permanent maintenance and preservation thereof.

HOUSE BILLS REFERRED.

The bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

The bill (H. R. No. 4694) to remove the political disabilities of Henry B. Davidson, of California, was read twice by its title, and referred to the Committee on the Judiciary.

The bill (H. R. No. 4692) establishing post-roads was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

REPORT ON FISH AND FISHERIES.

The PRESIDENT *pro tempore* laid before the Senate the following resolution:

Resolved by the House of Representatives, (the Senate concurring,) That of the report of the United States Commissioner of Fish and Fisheries for the years 1873–'74 and 1874–'75, in one volume, there be printed, from the stereotype plates, 5,000 copies, of which 3,000 shall be for the use of the House of Representatives, 1,000 for the Senate, and 1,000 for the Commissioner of Fish and Fisheries.

Mr. ANTHONY. I move that the Senate concur in that resolution.

The motion was agreed to.

REPORT OF THE SMITHSONIAN INSTITUTION.

The PRESIDENT *pro tempore* laid before the Senate the following resolution:

Resolved by the House of Representatives, (the Senate concurring,) That 10,500 copies of the Report of the Smithsonian Institution for the year 1876 be printed; 1,000 copies of which shall be for the use of the Senate, 3,000 copies of which shall be for the use of the House of Representatives, and 6,500 copies for the use of the Smithsonian Institution: *Provided*, That the aggregate number of pages shall not exceed five hundred, and that there be no illustrations except those furnished by the Smithsonian Institution.

Mr. ANTHONY. This is the usual resolution. I move that the Senate concur.

The motion was agreed to.

OREGON ELECTORAL VOTE.

Mr. MITCHELL submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That 5,000 additional copies of the evidence and report in the case of the Oregon electoral vote be printed for the use of the Senate and House.

AMENDMENTS TO AN APPROPRIATION BILL.

Mr. ANTHONY, Mr. CLAYTON, Mr. MORRILL, Mr. CHAFFEE, Mr. CONOVER, Mr. MORTON, and Mr. MITCHELL, submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

WILLIAM L. HICKAM.

Mr. COCKRELL. Now I ask that the bill I reported just now be passed. It is agreed to affirmatively by the whole committee.

By unanimous consent, the bill (S. No. 1284) for the relief of William L. Hickam, of Missouri, was considered as in Committee of the Whole. It directs the Secretary of the Interior to cause the pension agent at Saint Joseph, Missouri, to issue and deliver to William L. Hickam a duplicate check, No. 61872, for the sum of $1,616.33, in favor of William L. Hickam, for one lost in the mail November 13,

1876, provided that the Secretary of the Interior be satisfied that the same has not been paid.

The Committee on Claims proposed to amend the bill by adding:

And that said Hickam give bond, with security approved by the Secretary of the Interior, to hold the United States harmless against the payment of the original check.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

PROMOTIONS IN ARMY STAFF DEPARTMENTS.

Mr. LOGAN. I am directed by the Committee on Military Affairs, to whom was referred the bill (S. No. 1243) to repeal the statute forbidding appointments and promotions in the staff of the Army, to report it back without amendment, and I ask for its present consideration.

By unanimous consent the bill was considered as in Committee of the Whole. It repeals section 1194 of the Revised Statutes, now applying only to grades in the Pay Department of the Army above the rank of major.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

EXECUTIVE SESSION.

Mr. CONKLING. Now I insist on my motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After thirteen minutes spent in executive session the doors were re-opened, and (at four o'clock and thirty-five minutes a. m., Friday, March 2) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 1, 1877.

The SPEAKER. The hour of twelve o'clock having arrived, the Chair decides that a new legislative day has begun and the Chaplain will offer prayer.

Prayer was offered by Rev. FRANKLIN BABBITT, Rector of Grace Church, Nyack, New York.

The SPEAKER. The Clerk will now read the Journal of yesterday.

Mr. WOOD, of New York. I move that the reading of the Journal of yesterday be dispensed with.

Mr. WALLING and others objected.

The Clerk commenced the reading of the Journal of yesterday, omitting therefrom the resolutions and reports.

Mr. SPRINGER. (interrupting.) I make the point of order that the Clerk is not reading the Journal of yesterday. He is omitting a large portion.

The SPEAKER. If the gentleman from Illinois insists upon the reading of the papers the Chair desires to say that the Journal is not made up, and it was impossible to make it up, and the gentleman's objection would compel the omission of the reading of the Journal altogether.

Mr. SPRINGER. I make the point of order that under the rules of the House we cannot proceed with business until the Journal of yesterday has been read and approved.

The SPEAKER. The Chair does not sustain that point of order.

Mr. REAGAN. I move to dispense with the further reading of the Journal.

Mr. WALLING, Mr. SPRINGER, and others objected.

The SPEAKER. The Chair cannot have done what is impossible.

Mr. WALLING. So much of the Journal as has been made up can be read?

The SPEAKER. It will be read.

The Clerk resumed the reading of the Journal.

Mr. SPRINGER, (interrupting.) I have made the point of order during the reading of the Journal that the Clerk is not reading the Journal of the proceedings of yesterday at all, and that under the first rule of the House no business can be done until the Journal of yesterday has been read and approved.

Mr. BANKS. No question of order can be raised on the reading of the Journal until that reading has been completed.

Mr. SPRINGER. I raise the point of order now.

Mr. BANKS. But it cannot be raised now.

The SPEAKER. The gentleman can raise the point of order after the conclusion of the reading by moving to correct the Journal.

Mr. SPRINGER. Very well, sir; then I will wait.

The Clerk again resumed the reading of the Journal.

Mr. SPRINGER, (interrupting.) I submit the point of order that the Clerk is not reading the Journal, and I ask that the Journal be read. I understand, however, that I can make the point of order at the close of the reading.

The SPEAKER. Whenever the point of order is raised the Chair will decide it.

Mr. SPRINGER. Then I will reserve the point of order until the end of the reading.

The Clerk resumed and completed the reading of the Journal as far as prepared.

The SPEAKER. If there be no objection the Journal of yesterday will be approved.

Mr. SPRINGER. I made the point of order that the Journal of yesterday had not been read.

Mr. BANKS. No point of order can be raised upon the Journal.

The SPEAKER. It is not a question of order. It is a question whether the Journal is correct.

Mr. SPRINGER. I make the point of order that we cannot proceed with business until the Journal of yesterday has been read under Rule 1 of the House; which is as follows:

1. He [the Speaker] shall take the chair every day precisely at the hour to which the House shall have adjourned on the preceding day; shall immediately call the members to order; and, on the appearance of a quorum, shall cause the Journal of the preceding day to be read.

Now, the Journal of the preceding day has not been read. A portion of the Journal of yesterday has been read, but before we can pass upon the approval of the Journal we must have it read as the proceedings of the House yesterday indicate. I desire in this connection to call the attention of the Chair to a precedent at the close of the Forty-third Congress where the reading of the entire Journal was insisted upon and it was ruled by Mr. Speaker BLAINE that it was in order to have the Journal read and that the proceedings of the House must be stopped until the Journal was made up and read.

Mr. BANKS. The Journal has been read, and if it is incorrect can be corrected. I move that it be approved.

Mr. SPRINGER. I insist upon my point of order.

The SPEAKER. The Chair does not entertain the question of order.

Mr. BANKS. I withdraw my motion.

Mr. SPRINGER. I move to correct the Journal as read in my hearing, and I know no other mode in which I could ascertain its contents, by inserting after the words "Mr. PIPER submitted the following report; which is as follows:" the report itself.

Mr. WOOD, of New York. I move to suspend the rule requiring the reading of the Journal.

Mr. MILLS. I move to lay that motion on the table.

Mr. SPRINGER. I make the point of order that the motion of the gentleman from New York cannot be made.

The SPEAKER. The Chair rules that it can be made.

Mr. SPRINGER. I make the point that the reading of the Journal cannot be dispensed with except by unanimons consent.

The SPEAKER. The gentleman from New York moves to suspend the rule which requires the reading of the Journal.

Mr. MILLS. I move to lay that motion on the table.

Mr. SPRINGER. I demand the yeas and nays on the motion to suspend the rules.

The SPEAKER. That is the gentleman's right.

The question being taken or ordering the yeas and nays, there were—ayes 32, noes 170; less than one-fifth voting in the affirmative.

Mr. SPRINGER and others called for tellers.

Tellers were ordered.

Mr. GARFIELD. Then I renew the demand for the yeas and nays.

The yeas and nays were ordered.

The question being taken, there were—yeas 175, nays 85, not voting 30; as follows:

YEAS—Messrs. Adams, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Bell, Blair, Bland, Blount, Bradley, John Young Brown, William R. Brown, Horatio C. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Culberson, Cutler, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Egbert, Ellis, Evans, Faulkner, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Gibson, Goode, Goodin, Gunter, Hale, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, John T. Harris, Harrison, Hartridge, Hartzell, Hatcher, Hathorn, Haymond, Hays, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Hopkins, Hoskins, House, Hubbell, Hunter, Hurlbut, Hyman, Jenks, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, George M. Landers, Lapham, Lawrence, Leavenworth, Levy, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Odell, Oliver, O'Neill, Packer, Page, Payne, Phelps, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, Reagan, John Reilly, James B. Reilly, John Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Sayler, Schleicher, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Swann, Tarbox, Teese, Thomas, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Wait, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Warner, Warren, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, Yeates, and Young—175.

NAYS—Messrs. Ainsworth, Ashe, Atkins, John H. Bagley, jr., Banning, Beebe, Blackburn, Bliss, Boone, Bradford, Bright, Buckner, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Carr, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Cochrane, Collins, Cook, Cowan, Cox, Davis, De Bolt, Dibrell, Douglas, Finley, Forney, Franklin, Fuller, Andrew H. Hamilton, Henry R. Harris, Henkle, Hooker, Humphreys, Hurd, Thomas L. Jones, Knott, Lane, Lynde, Mackey, Maish, McMahon, Meade, Mills, Money, Morrison, Mutchler, O'Brien, John F. Philips, Poppleton, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Savage, Scales, Schumaker, Sheakley, Siemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Terry, Thompson, Turney, John L. Vance, Robert B. Vance, Waddell, Walling, Walsh, Whitthorne, Wigginton, Wike, Jere N. Williams, and Benjamin Wilson—85.

NOT VOTING—Messrs. Abbott, Anderson, Bass, Chapin, Clymer, Durand, Field, Gause, Glover, Robert Hamilton, Goldsmith W. Hewitt, Holman, Hunton, Frank Jones, King, Franklin Landers, Le Moyne, Lewis, Luttrell, McFarland, Metcalfe, Milliken, Piper, Purman, Stephens, Waldron, Gilbert C. Walker, Ward, Wheeler, and Wilshire—30.

So (two-thirds voting in favor thereof) the motion to suspend the rules and dispense with the reading of the Journal was agreed to.

During the roll-call the following announcements were made:

Mr. STENGER. My colleague, Mr. CLYMER, is absent, engaged on a conference committee.

Mr. GOODE. My colleague, Mr. HUNTON, is detained from the House by sickness.

The result of the vote was announced as above stated.

Mr. SPRINGER. I rise to a parliamentary inquiry, whether the paper which was read by the Clerk purporting to be the Journal is the Journal of yesterday's proceedings.

The SPEAKER. It does not matter whether it is or not; the reading of the Journal has been dispensed with by a suspension of the rules.

Mr. SPRINGER. Something was read which purported to be the Journal.

CORRECTION OF A VOTE.

Mr. WHITTHORNE. Upon ordering the main question on the proposition with reference to counting the vote of South Carolina, I am recorded as not voting. I did vote and voted "no."

ORDER OF BUSINESS.

Mr. WOOD, of New York. Do I understand that the paper presented by the gentleman from Ohio, [Mr. POPPLETON,] and now at the Clerk's desk, is before the House?

The SPEAKER. It has been read for information.

Mr. WOOD, of New York. I raise a point of order upon the paper. I submit that under the first section of the act for counting the electoral votes nothing is competent at this time as business before the House except to proceed to consider the objections presented in the oint meeting of the two Houses. I call the attention of the Speaker to a clause near the close of the first section:

And the Speaker of the House of Representatives shall, in like manner, submit such objections to the House of Representatives for its decision; and no electoral vote or votes from any State from which but one return has been received shall be rejected except by the affirmative vote of the two Houses.

My point is that no business of any kind is in order except to proceed to consider the objections made in the meeting of the two Houses, and that the proposition offered by the gentleman from Ohio is not of that character.

Mr. CAULFIELD. Admit for a moment that the gentleman is correct in his version of the law; if the law is that nothing can be done prior to the consideration of the objections, and there be an impediment in the way of the consideration of those objections, that impediment must be first met and removed. There is an impediment in the way of the consideration of the objections which were made to the counting of the vote of Vermont last evening. That impediment, Mr. Speaker, is this: The gentleman from Illinois [Mr. SPRINGER] rose and offered objections to the certificate which had been presented from Vermont. Those objections in terms made the certificate which the gentleman from New York [Mr. HEWITT] sent to the desk part and parcel of them. It was a material part of those objections made by the gentleman from Illinois. I ask, if those objections are to be considered by this House, is not that certificate one of the objections which we are now called upon to consider?

I ask further, how can those objections be considered until we know exactly what they are? You cannot know what they are until that sealed package of papers made a part of those objections has been opened. Those objections were accepted by the President of the Senate in the presence of the two Houses assembled for the purpose of counting the electoral vote. Those objections are now before this House, and they cannot be heard or considered until that certificate has been opened.

The resolution which has been offered by the gentleman from Ohio [Mr. POPPLETON] simply asks that the Senate be notified this House is now ready to go into joint meeting with them for the purpose of opening that certificate, in order that we may proceed to the business which the gentleman from New York is now trying to hurry us to. We cannot proceed to that business until this obstacle has been removed, and that obstacle cannot be removed until the President of the Senate, occupying his position, Mr. Speaker, at your right, opens that certificate under the law and submits it to the consideration of the two Houses for their consideration. When the President of the Senate accepted that certificate as part of the objections, it became his duty to open that certificate under the law, and the President of the Senate is required by the existing law to open all certificates and papers purporting to be certificates.

Mr. WATTERSON. Let me ask the gentleman a question.

Mr. CAULFIELD. Not yet.

Many MEMBERS on the republican side. Regular order!

Mr. CAULFIELD. Here is a paper purporting to be a certificate and the President of the Senate refused to receive it because it was not presented prior to the 1st day of February. If that be the case, if that is the law, if the certificate could not be received because it was not presented prior to the 1st day of February, then what does the law provide in such a contingency? The law is, when any certificate has not been received—let me turn to the book, and read the exact words:

When the certificate of votes from any State has not been received at the seat of Government on the first Wednesday of January, indicated by the preceding section, the Secretary of State shall send a special messenger to the district judge in whose custody one certificate of the votes from that State has been lodged, and said judge shall forthwith transmit the list to the seat of Government.

The telegram, the letter, the papers, submitted here last evening, all show that the copy required by law of this certificate is deposited with the clerk of the district court at Montpelier, Vermont.

Now, sir, if gentlemen on the other side are determined to go on with their infractions of law, we shall stand here and insist that that certificate be sent for as the law requires, and opened by the President of the Senate.

Mr. HENDEE. I wish to say a word.

Mr. CAULFIELD. We are not here for that purpose. We are here to see that the President of the Senate performs a duty imposed upon him by the law, and that is, if he will not accept that certificate as a certificate under the statute, he has accepted it as part of the objections, and he must open it and let us see what it is. If the Senate will come into this House and the President of the Senate will open that certificate, then the whole objection is obviated, and we can go on with the consideration of the business which the gentleman from New York now persists we shall at once proceed with.

Mr. HENDEE. I wish to inform the gentleman from Illinois that the clerk of the court who sent that dispatch and who holds that package is a democrat and a member of the democratic national committee.

Mr. POPPLETON. What of that? So much the better.

Mr. CAULFIELD. We are glad to hear it. We know then that it is in honest hands.

Mr. HENDEE. Not only that, but the package sent to be delivered to the President of the Senate was put into the hands of the leader of the democratic party, who kept it too long; that was the trouble.

Mr. SPARKS. Now we know that we will get honest returns because they are in the hands of democrats.

Mr. RICE. And one copy was also placed in the mail for delivery to the Vice-President.

Mr. WOOD, of New York. I desire to submit to the Speaker, and through the Speaker to the House, that this discussion is not relevant to the question of order presented by myself. The proposition as to the action of the President of the Senate yesterday is immaterial to that question. I have my own opinion upon that, and it may be, sir, that the gentleman from Illinois and myself may not differ very materially on the proposition. But, sir, this is not that proposition. I hold that this is not the time to consider or to raise the question that the gentleman proposes in this resolution. I hold that we can do nothing except to proceed to consider the objections. What objections? The objections presented to the President of the Senate. And one of these objections was presented by the gentleman's colleague and sent up in due form and is transmitted to this House to be considered in the debate provided for by the law. All the merits that lie behind these objections will come up in the discussion. But the question that I raise now is that it is not competent for us to do anything except to proceed to consider those objections; and the resolution which I had the honor to offer this morning looked to raising the question, to presenting the issue to the House whether the vote of this elector shall or shall not be counted.

Mr. HOOKER. I desire to say a word on the point of order of the gentleman from New York.

It is very evident that the proposition submitted by the gentleman from Illinois is one which must be preliminarily considered before you proceed to the consideration of the other objections which are made. The gentleman from Illinois [Mr. SPRINGER] offered an objection to the closing of the objections to the vote from Vermont, unless the other return which had been made and of which the President of the Senate had been apprised should also be submitted by the President of the Senate in the presence of the two Houses. The failure on the part of the President of the Senate to do this, it is contended, makes the two Houses powerless to entertain any resolution upon that question. I think there is something more involved in this than a mere technical point, and that you cannot proceed now to consider the objections to the electoral vote of the State of Vermont predicated upon the idea that there is but one single return from that State. That is what the resolution of the gentleman from New York proposes; and he reads the concluding clause of the first section of the law in order to demonstrate that in a case where there is but a single return it is the duty of the two Houses immediately to proceed and decide upon the objection by a vote. No one denies that.

But the question that lies back behind this is whether the certificates from the State of Vermont are single or dual in their character. If they are dual in their character the clause of the law to which the gentleman from New York appeals does not apply. On the contrary, if this is a return which it is the duty of the President of the Senate to open and submit to the consideration of the two Houses, Vermont then becomes a State with dual electoral returns, which should be submitted under the law to the electoral commission. The proposition, therefore, of the gentleman from Illinois [Mr. CAULFIELD] should be submitted to the House; unless we concede the doctrine which this commission was created to avoid, namely, that the President of the Senate in the presence of the two Houses has power to open what certificates he pleases and not what it is his duty under the law to open and what the two Houses may determine in separate action it is his duty to open.

Therefore I say the point of order is not well taken. The clause of the law which the gentleman from New York cites in support of the point of order applies to a State from which it is conceded there is but a single return, and not to a State from which it is contended, as the resolution of the gentleman from Illinois does, that there are dual returns which should be submitted to the commission.

Mr. REAGAN. I desire to say a word or two on this matter bearing on the question of order. At the joint meeting of the two Houses on yesterday, after the reading of the returns which came to the hands of the President of the Senate, it was proposed to present an additional return which appeared in the hands of one of the Representatives of the State of New York; and that return was presented to the President of the Senate. He declined to receive that return on the ground that it did not come to him as required by the law which provides as follows:

The electors shall dispose of the certificates thus made by them in the following manner:

1. They shall, by writing under their hands, or under the hands of a majority of them, appoint a person to take charge of and deliver to the President of the Senate, at the seat of Government, before the first Wednesday in January then next ensuing, one of the certificates.

There is no pretense in the objection, and there is no pretense in the argument that the certificate here presented comes within the requirement of the law by being certified and sent by the proper persons to the President of the Senate within the time required by law, and there is no pretense that it comes through an official channel. It has no more significance than any other paper coming in an unofficial way after the time fixed by law had expired.

It has occurred to me that the democracy of Vermont must have been singularly derelict in their duty if they waited for others, when the counting of the presidential vote was going on, to take the guardianship of their interests, and to take steps to secure their rights which they had not themselves thought it necessary to take. But what is the effect of the motion now pending? Is it to consider the objection made yesterday in the joint convention—and what other objections than those made yesterday can be considered?

But that is not the resolution. The object of the resolution, and that goes directly to the point of order, is to re-open the count of the State of Vermont, to notify the Senate that the Vice-President refused to open a certificate of election, and that the House of Representatives considers that he has been derelict in his duty, and has failed to comply with the law, and therefore it summons the Senate back here in order that the law may be complied with and the certificate opened. At the joint meeting of the two Houses yesterday this paper was presented and a refusal was made to receive it. The Senate retired to its Chamber and has taken its action upon the vote of Vermont and concluded all it has to do upon that subject. I will say further that the will of the people of Vermont would be manifestly defeated by the proposed action. It seems to me that it is now proposed to raise a new question outside of the question before the House for its decision. It asks us to do a very extraordinary thing. If we have the power to make a new issue to-day, to pass a resolution to re-open the count and disregard the action that was taken on yesterday, then any other question can be brought up at this time. I submit, therefore, upon the point of order that we can no more consider the question presented by this resolution than we could consider any measure of current legislation at this time. The resolution proposes a new question in disregard of what was done yesterday and a re-instruction of the House and the Senate as to their duty. It seems to me that the only thing we can now do is that proposed by the gentleman from New York, [Mr. WOOD,] to proceed in the ordinary mode to consider the objections to the vote of the State of Vermont which were filed yesterday.

Sir, I am not the keeper of the consciences nor have I the care of the action of others; but I take occasion to express my regret that when there are so many great, valid, and substantial objections to that which has been done we cannot rest upon that which has substance and which will command our own respect and that of the country, but resort to that which it seems to me can command the respect of no man.

The SPEAKER. The Chair desires to say that, with great respect for all the parties concerned, he considers that a grave mistake and wrong was committed yesterday in the joint meeting of the two Houses in this: that the Presiding Officer refused to receive even for opening and reading for information a package which had all the surroundings of an authentic and duly attested paper in relation to an electoral vote of the State of Vermont. The Chair, in one aspect of this case, thinks that he would be called upon to rule that the action of the Presiding Officer of the joint convention on yesterday was wrong. He does not think that he possesses that power; neither in a technical sense, as he understands it, does he believe that the action of the joint convention can be reviewed in this House in the manner proposed. And yet there is above all a fact upon which this matter rests, and that fact is, whether this House shall have possession of that paper; and to that extent, and that extent only, the Chair thinks that the resolution offered by the gentleman from Ohio, [Mr. POPPLETON,] in so far as it requests the return of that paper from the Senate, which, as the allegations in the preamble stated, was taken away from here in an undue manner—that this proposition is in order.

Mr. WOOD, of New York. I offer an amendment to the resolution of the gentleman from Ohio, which I send to the Clerk's desk.

Mr. CAULFIELD. I propose to modify the resolution offered in accordance with the ruling of the Speaker.

The Clerk read the amendment of Mr. WOOD, as follows:

Ordered, That the vote of Henry N. Sollace, claiming to be an elector from the State of Vermont, be not counted.

Mr. HOOKER. I raise the point of order that the amendment is not pertinent to the resolution.

Mr. CAULFIELD. It is not germane at all.

The SPEAKER. The Chair entertains the amendment of the gentleman from New York [Mr. WOOD] as a substitute for the resolution of the gentleman from Ohio.

Mr. CLARK, of Missouri. The gentleman from Ohio [Mr. POPPLETON] has not yielded the floor.

The SPEAKER. The gentleman from Ohio had the floor, and the gentleman from New York now moves to amend the proposition by this substitute.

Mr. CLARK, of Missouri. I understand the gentleman from Ohio had the floor.

The SPEAKER. He had not the floor beyond the presentation of the resolution; that is as clear as day. If the gentleman means to say he is entitled to the floor for debate he is right.

Mr. CLARK, of Missouri. He was entitled to the floor on the resolution he introduced.

The SPEAKER. He is entitled to the floor under the law for ten minutes when the debate shall commence.

Mr. KNOTT. I offer the following as a substitute for the resolution:

Resolved, That this House require that the package tendered by the member from New York [Mr. HEWITT] to the President of the Senate in the presence of the two Houses on yesterday and purporting to be a certificate of the electoral vote for the President and Vice-President of the United States in the State of Vermont, shall be opened by the President of the Senate in the presence of the two Houses, and if found to be such a certificate, the same shall be submitted, together with the certificate read in the presence of the two Houses, to the electoral commission for its judgment and decision, and that the Senate be requested to make a like order, requiring the President of the Senate to open said package in the presence of the two Houses; and until such order be made the House will not be ready to meet the Senate to proceed with the count of the electoral vote.

Mr. POPPLETON. I will accept that as a substitute for my resolution.

Mr. MILLS. O, no. Let us vote on your resolution.

Mr. POPPLETON. I accept it in place of my resolution, and upon it I call the previous question.

Mr. WOOD, of New York. I believe I have the floor on my amendment.

The SPEAKER. When the proposition of the gentleman from Ohio [Mr. POPPLETON] was submitted, the Chair recognized the gentleman from New York [Mr. WOOD] to offer an amendment, and also recognized the gentleman from Kentucky [Mr. KNOTT] to offer a substitute for the amendment, which is an amendment in the second degree, and all that can be moved under the rules. The Chair doubts the right of the gentleman from Ohio, [Mr. POPPLETON,] except by unanimous consent, to withdraw his resolution after it has been entertained and an amendment offered to it.

Mr. O'BRIEN. The gentleman from Ohio [Mr. POPPLETON] had not yielded the floor to the gentleman from New York [Mr. WOOD] to offer an amendment.

The SPEAKER. It was not necessary that he should yield it; the gentleman from New York [Mr. WOOD] took the floor in his own right for that purpose.

Mr. SPRINGER. I rise to a question of order. The gentleman from Ohio [Mr. POPPLETON] submitted a resolution upon which a point of order was made by the gentleman from New York, [Mr. WOOD.] The Chair ruled that a portion of the resolution was in order and a portion of it was not in order. Therefore that portion of the resolution which is in order is pending before the House, and the gentleman from Ohio [Mr. POPPLETON] desires to submit that portion of his resolution which is in order in the words before the House.

The SPEAKER. The gentleman has a right to modify his resolution, but that does not prevent the gentleman from New York [Mr. WOOD] from having the right to move an amendment to it.

Mr. SPRINGER. That is true; but the gentleman from Ohio is entitled to have his resolution submitted in the shape which the Chair has ruled would be in order.

The SPEAKER. The Chair makes no objection to that.

Mr. SPRINGER. That is all we want.

Mr. POPPLETON. That is the position which I assumed at once upon the announcement of the Speaker of his decision, and upon that I called the previous question.

The SPEAKER. The Chair understood, and the gentleman from Ohio certainly stated that he accepted another proposition, the one offered by the gentleman from Kentucky, [Mr. KNOTT,] which the Chair thinks he could not do so as to take away from the gentleman from New York [Mr. WOOD] the right to offer an amendment to the original resolution.

Mr. POPPLETON. I regard the proposition of the gentleman from Kentucky as almost identical with the intimation of the Speaker as to the course which should be pursued.

The SPEAKER. The Chair had not ruled out of order the proposition of the gentleman from Kentucky, but has said that it is in the nature of an amendment in the second degree, and that the power of amendment can go no further under the rules or under the law.

Mr. MILLS. I desire to make a parliamentary inquiry.

Mr. SPRINGER. I want to know what is the proposition before the House at this time?

Mr. MILLS. Is it in order to move to lay on the table the proposition of the gentleman from New York?

The SPEAKER. The Chair does not see how the gentleman can navigate in between two other propositions for that purpose.

Mr. MUTCHLER. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MUTCHLER. Is it in order for this House to entertain a resolution as to whether it will or will not count a vote which has not been presented in the joint meeting of the two Houses? The gentleman from New York [Mr. WOOD] offers a resolution that a certain vote from Vermont be not counted. I hold that it is not in order for the House to entertain any such resolution until the certificate is opened and laid before the two Houses in joint meeting.

The SPEAKER. This entire subject is within, and should be within the control of the majority of this House.

Mr. SPRINGER. I desire to make a further point of order in regard to the proposition of the gentleman from New York; that under the law known as the electoral bill, there having been presented two certificates from the State of Vermont——

The SPEAKER. That is just the fact that the Chair alluded to in his decision.

Mr. SPRINGER. Two returns having been made from that State——

The SPEAKER. The Chair has ruled upon that point of order.

Mr. SPRINGER. How does the Chair know he has ruled upon the point of order until I have presented it?

Mr. EDEN. I rise to make a point of order.

The SPEAKER. The gentleman will state it.

Mr. EDEN. As no further amendment is in order, is it not now in order to proceed with the two hours' debate under the law?

The SPEAKER. That is not only in order, but subsequent to that debate it is in order for the House to be compelled to vote on the main question, which covers the three propositions before the House, the resolution and the two amendments.

Cries of "Regular order!"

Mr. TUCKER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. TUCKER. I raise the point of order upon the amendment of the gentleman from New York [Mr. WOOD] that it is not germane to the original proposition.

The SPEAKER. The Chair has also decided that point.

Mr. TUCKER. Will the Chair allow me to state my reasons?

The SPEAKER. The Chair will hear the gentleman.

Mr. TUCKER. The resolution of the gentleman from Ohio [Mr. POPPLETON] looks to the recovery of the paper taken out of the possession of the House, upon the recovery of which it may appear that there are two certificates from the State of Vermont, which would necessitate the reference of the question of its electoral vote to the electoral commission.

The proposition of the gentleman from New York [Mr. WOOD] is a proposition upon the whole subject, as if there was only an objection to a single return.

If that is voted upon, and we notify the Senate of our decision upon that question, how shall we ever get a vote on the second return, if there is one?

The SPEAKER. That is the very point. It is within the province of a majority of this House to settle that question and not within the province of the Chair to rule upon it. Hence the Chair alluded to it as a question of fact which the majority of this House had the right to determine.

Mr. TUCKER. I apprehend, sir——

Cries of "Regular order!"

Mr. O'BRIEN. I rise to a question of order.

The SPEAKER. The Chair will hear it.

Mr. O'BRIEN. It is this: that the preliminary question raised by the resolution of the gentleman from Ohio must be determined before we enter upon the two hours' debate on the objections, for this reason: If the resolution of the gentleman from Ohio is determined in the affirmative, then it is our right to have before us the return which is now in the possession of the President of the Senate; and until we have the question decided whether we are to have that return before us which is not now in our possession, the two hours' debate upon the objections cannot of course begin.

The SPEAKER. That is not a question of order at all; it is a question for the judgment of this House. If a majority of the House agree in judgment with the gentleman from Maryland, they will vote accordingly and so reach that preliminary question.

Mr. O'BRIEN. Mr. Speaker, [cries of "Regular order!"] I do not desire the Speaker to rule upon the question raised by the gentleman from Illinois, [Mr. EDEN,] that the two hours' debate be allowed to go on. I desire that question to be reserved by the Speaker until this matter is decided upon the resolution of the gentleman from Ohio.

The SPEAKER. Then the gentleman from Maryland withdraws his point of order in that respect. The gentleman from Ohio [Mr. POPPLETON] is recognized under the law to address the House upon the subject of the objection.

Mr. SPRINGER. How much time is the gentleman entitled to?

The SPEAKER. Under the law, to ten minutes and no more; and he can speak but once.

Mr. O'BRIEN. Do I understand the Chair to rule that the two hours' debate is now to commence?

The SPEAKER. The Chair so rules.

Mr. O'BRIEN. I put this question to the Speaker: Supposing that after the two hours' debate shall have been exhausted the proposition of the gentleman from Ohio is sustained, and the President of the Senate delivers to us that return, have we not the right to consider and discuss that in another two hours' debate?

The SPEAKER. That is a speculative inquiry. [Laughter and applause.]

Mr. EDEN. I call for the regular order.

Mr. CAULFIELD. I wish to make a parliamentary inquiry. Do I understand that the two hours' debate allowed by the law is to begin now, under the ruling of the Chair?

The SPEAKER. The gentleman is right in so understanding.

Mr. CAULFIELD. Well, sir, I appeal from that decision. I contend that there is no power in this House to proceed to the consideration of this question until we know what the question is. Under the present circumstances we do not know what the question is.

The SPEAKER. That is for the House to determine, not the Chair.

Mr. CAULFIELD. But until that certificate is opened it is impossible for us to know what objections we are to consider.

Mr. O'BRIEN. We must have the certificate before we can discuss and vote upon this question.

Mr. WATTERSON. I rise to a parliamentary inquiry. I wish to know whether the progress of this debate is in order or not.

The SPEAKER. It is in order. The gentleman from Ohio [Mr. POPPLETON] is recognized; and if he does not desire to speak the Chair will recognize some other gentleman.

Mr. O'BRIEN. Does not the Chair entertain the appeal from his decision?

Mr. CAULFIELD. I insist on my appeal from the decision of the Chair.

The SPEAKER. The Chair declines to entertain the appeal.

Cries of "That is right," and applause.

Mr. SPRINGER. I hope the Chair will not insist upon that position. This is one of the most important questions that ever came before this House. [Cries of "Regular order!"] I insist that this appeal must be entertained and that we must know whether this is a case that has gone to the commission or whether it is now to be considered by the separate Houses. This is not a dilatory motion, but one that arises upon a vital provision of the electoral law; and I ask the Chair to entertain the appeal.

The SPEAKER. The Chair considers that he is bound by the law——

Mr. SPRINGER. I want the law enforced.

The SPEAKER. And the law is as plain as the day.

Mr. SPRINGER. If this case under the law has gone to the commission, it is there now by the operation of the law and we have nothing before us.

The SPEAKER. This House has it within its power by a majority vote to call from the Senate that paper.

Mr. CAULFIELD, Mr. O'BRIEN, and others. When?

The SPEAKER. Surely gentlemen will not say that the Chair has that power.

Mr. WALLING. But we ask for a vote first on calling that paper from the Senate.

Mr. O'BRIEN. We want that question decided now, whether we have the right to send to the Senate for that certificate.

Mr. BEEBE (who addressed the Chair amid cries of "Order!" and great confusion) was understood to say: Mr. Speaker, I have stood with the majority of this House against every proposition to delay obedience to this law. I acknowledge my obligations under that law. I recognize the further fact that we are here not only under that, but in the exercise of every prerogative and privilege guaranteed by the Constitution to this House. [Cries of "Order!" mingled with applause.] Will the Chair entertain the motion——

The SPEAKER. The Chair will entertain no motion.

Mr. BEEBE. Then I charge the Speaker with doing what I have complained of the electoral commission for doing, violating the very law under which we are operating.

Mr. RICE. The Speaker is usurping power.

The SPEAKER. The Chair usurps no power.

Mr. BEEBE. Ninety members of this House demand that appeal from the decision of the Chair, and it cannot be had.

Mr. MILLS. I hope that usurpation is not becoming so incapacitating as to cause usurpation of power over members of this House.

The SPEAKER. The Chair neither usurps nor does he permit oppression upon the Chair. [Applause upon the floor and in the galleries.]

Mr. BEEBE. Will the Chair state the reason for his ruling?

The SPEAKER. The Chair decides according to his conscience and the law.

Mr. BEEBE. Will the Chair state the reason for his ruling?

Mr. WELLS, of Mississippi. I ask whether——

[Here there was great confusion in the Hall, members rising and standing.]

Mr. BEEBE, (standing on top of one of the desks.) I demand to know the reason why the Chair refuses to state his reasons for refusing to hear an appeal. [Applause.] With all respect to the Chair I ask him to state the reason of his ruling.

Mr. SPRINGER. I demand that the galleries be cleared.

Mr. BEEBE. From my place in this House I now under the rules ask the Speaker of this House respectfully to state the reason for his refusal to entertain the motion which I make.

The SPEAKER. The Chair gave his reasons at length on a similar proposition yesterday.

Mr. CAULFIELD. We have no recollection of any such proposition having been made.

Several MEMBERS. It never has been.

Mr. JONES, of Kentucky. If the Chair ruled that way yesterday he must have ruled wrongly.

Mr. FRANKLIN. We demand that the appeal from the decision of the Chair be placed before the House.

Mr. SPRINGER. Mr. Speaker, I move this House now take a recess until to-morrow at ten o'clock.

Mr. BEEBE. I claim that I have some rights upon this floor. I claim that courtesy from the Chair that I always have cheerfully rendered to him.

The SPEAKER. The Chair will proceed with the public business.

Mr. BROWN, of Kentucky. I ask, Mr. Speaker, that the officers of this House enforce order.

Mr. MONEY. Let them try it.

Mr. BROWN, of Kentucky. They can do it.

Mr. SPARKS. Let them try it.

Mr. BROWN of Kentucky. I demand that they enforce order upon you and all others who are out of order. If I were an officer of the House I would try it. [Applause.]

The SPEAKER. The Chair is determined that gentlemen shall take their seats. The Chair is not going to submit longer to this disorder. [Loud applause on the floor and in the galleries.] If gentlemen forget themselves it is the duty of the Chair to remind them that they are members of the American Congress. [Renewed applause on the floor and in the galleries.]

Mr. GLOVER. I appeal to members of this House——

Mr. SPARKS. The Chair is simply the Speaker of this House of Representatives. We are the representatives of the people. [Applause.]

Mr. BEEBE. I respectfully ask——

Mr. SPARKS. Look at these lobbies, Mr. Speaker. I have tried to get the Speaker's ear so that I could direct attention to them. We are mobbed by the lobby! Here is the rule, [holding up the Manual,] and we ask the Chair to enforce it. [Applause.]

Mr. BROWN, of Kentucky. It is not the lobby, sir.

Several MEMBERS. It is.

Mr. BROWN, of Kentucky. The lobby would be ashamed of it. [Applause.]

Mr. SPARKS. So too the American people are ashamed of the action of members, some too claiming to be democrats. [Applause.]

Mr. GLOVER. I appeal to every member of this House to try to contribute something to its order and its respectability. The time must come when we must have order in this House, and it is the duty of every member now to give aid to restore order in this House.

The SPEAKER. The Chair desires every gentleman who is not a member of this Congress to retire.

Mr. COX. I call for the reading of the one hundred and thirty-fourth rule and its enforcement promptly.

Mr. SHEAKLEY. I ask for the reading of the rule.

The SPEAKER. The Chair orders that the spaces behind members' desks on both sides of the House shall be cleared. That he has the right to do, and it is in the interest of good order.

Mr. COX. I have the right to have read the one hundred and thirty-fourth rule. I desire to say with all respect to the Chair that the rule should be enforced in the cloak-room as well as on the floor.

Mr. BURCHARD, of Illinois. On that side of the House.

Mr. COX. On both sides of the House.

Mr. WATTERSON. In the cloak-room as well as on the floor.

The SPEAKER. The Sergeant-at-Arms is discharging his duty in that connection, as the Chair understands.

After an interval,

Mr. SHEAKLEY. I call for the reading of the rule on page 115 of the Digest.

The SPEAKER. Rule 134 will be read.

The Clerk read as follows:

No persons, except members of the Senate, their Secretary, heads of Departments, the President's Private Secretary, foreign ministers, the governor for the time being of any State, Senators and Representatives elect, judges of the Supreme Court of the United States and of the Court of Claims, and such persons as have by name received the thanks of Congress, shall be admitted within the Hall of the House of Representatives or any of the rooms upon the same floor or opening into the same: *Provided*, That ex-members of Congress who are not interested in any claim pending before Congress, and shall so register themselves, may also be admitted within the Hall of the House; and no person except those herein specified shall at any time be admitted to the floor of the House.

The SPEAKER. The Clerk will read the twenty-second rule.

The Clerk read as follows:

It shall be the duty of the Sergeant-at-Arms to attend the House during its sittings; to aid in the enforcement of order, under the direction of the Speaker; to execute the commands of the House from time to time, together with all such process, issued by authority thereof, as shall be directed to him by the Speaker.

The SPEAKER. In obedience to the rule which has just been read, the Sergeant-at-Arms and his deputies will clear the lobby and see that order is maintained. The Chair is resolute in this respect.

Mr. SAVAGE. I desire to call the attention of the Chair to the fact that the cloak-rooms are now filled with parties not entitled to the privileges of the floor, who have simply gone from the floor to the cloak-rooms.

The SPEAKER. The Sergeant-at-Arms will govern himself accordingly.

After an interval during which the floor of the House and the cloak-rooms were being cleared by the Sergeant-at-Arms and his deputies of persons not entitled to the privileges of the floor,

The SPEAKER. Members will be in order and cease conversation. The gentleman from Ohio [Mr. WALLING] desires to ask a question.

Mr. WALLING. I desire to inquire if this debate proceeds now whether at the end of the two hours the House will then be permitted to take a vote on the proposition of the gentleman from Kentucky [Mr. KNOTT] modifying the original proposition of the gentleman from Ohio, [Mr. POPPLETON,] to wit, that that paper be required to be returned here before the vote is taken on the resolution?

The SPEAKER. Undoubtedly.

Mr. WALLING. I wish to ask further whether on that vote being taken, and the House deciding to make that request, it will be made before the House acts on the proposition of the gentleman from New York?

The SPEAKER. The first vote will be on the proposition of the gentleman from Kentucky, [Mr. KNOTT.] If that prevails, of course the House will have to wait until that resolution of the House is executed by the Senate or until some answer is made to it.

Mr. RICE. I wish to inquire whether it would not be more proper, eminently so, to have this question settled beforehand—before the debate takes place.

The SPEAKER. The Chair has already ruled on that, that the debate now commences.

Mr. HARRISON. May I be permitted to say one word?

The SPEAKER. Certainly.

Mr. HARRISON. I understand the debate now is to be upon the objections that are before the House. I ask, is not a part of those objections a sealed paper of which we have not possession?

The SPEAKER. There is allusion in these objections to a sealed paper; but that is not a part of the objections, because that paper is in the possession of the President of the Senate, having been addressed to him as President of the Senate.

Mr. HARRISON. If the Speaker will look at the objection offered by the gentleman from Illinois [Mr. SPRINGER] he will see that the contents of that package are made a part of the objection.

The SPEAKER. Nothing in the objection submitted by the gentleman from Illinois can alter the fact.

Mr. HARRISON. I wish to discuss this question understandingly. There is a paper somewhere which has been made a part of the objection of the gentleman from Illinois. We are now about to proceed with the discussion under the two-hours debate, while we have no idea what we are discussing. I am not one of those who want delay. I want to prevent it.

The SPEAKER. Debate is not in order.

Mr. CAULFIELD. I rise to a parliamentary inquiry.

Mr. BEEBE. It is in order, Mr. Speaker, to discuss——

The SPEAKER. The gentleman from New York [Mr. BEEBE] is not in order, not having been recognized. The gentleman from Illinois [Mr. CAULFIELD] has been recognized by the Chair to ask a question.

Mr. CAULFIELD. I wish to refer to the provision in the first section of the electoral law:

When all objections so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw, and such objections shall be submitted to the Senate for its decision; and the Speaker of the House of Representatives shall in like manner submit such objections to the House of Representatives for its decision.

Under that law I now ask the Speaker to submit the objection of the gentleman from Illinois [Mr. SPRINGER] to the House.

The SPEAKER. All the objections were submitted on yesterday and were read at length.

Mr. CAULFIELD. But the papers are not in your possession or in the possession of this House to submit. There is nothing to submit.

The SPEAKER. The objections were all read yesterday.

Mr. CAULFIELD. We ask you to submit the objections for debate. I ask the Speaker to submit under the law the objection of Mr. SPRINGER to the House for debate.

The SPEAKER. The Chair is going to do it, and recognizes the gentleman from Ohio [Mr. POPPLETON] as entitled to the floor for ten minutes.

Mr. CAULFIELD. I ask to have that objection read.

The SPEAKER What objection?

Mr. CAULFIELD. The objection of Mr. SPRINGER.

The SPEAKER The objections were read yesterday.

Mr. CAULFIELD. They were read here yesterday in the presence of the two Houses for information.

Mr. O'BRIEN. The House is certainly entitled to one reading of the objection.

Mr. BEEBE. I rise to a question of order. Objection having been made to the reading, I ask that the question be submitted to the House under the former rulings of the Chair.

Mr. GARFIELD. I ask for the regular order.

Mr. CAULFIELD. And I am asking for the regular order, and that is the reading of the objection so that we may know what we are considering.

The SPEAKER. The Chair will cause the objection to be read.

The Clerk read the objection.

Mr. SPRINGER. I ask now that the sealed paper that was handed in at the desk yesterday at the joint meeting of the two Houses with the objection be produced.

The SPEAKER. The gentleman asks an impossibility, and the Chair is not presumed to be able to do what is impossible.

Mr. SPRINGER. Then how can we proceed to the consideration of the question when you have it not even in your possession? What are we to consider? Where are the papers?

Mr. PAGE. I would like to know if the gentleman from Illinois [Mr. CAULFIELD] is to occupy the floor for the whole day?

Mr. CAULFIELD. I will if it is necessary to maintain the rights of the American people in this House.

The SPEAKER. Well, there are other persons here who are able to take care of the rights of the people as well as the gentleman from Illinois, [Mr. CAULFIELD.]

Mr. CAULFIELD. I want the Chair to understand that I am able to take care of the rights of my own constituents.

The SPEAKER. The President of the Senate took with him the paper to which the gentleman from Illinois [Mr. CAULFIELD] alludes, which was a paper, so far as the occupant of the chair knows, addressed to Mr. FERRY, Presiding Officer of the Senate. How is it, therefore, possible that this House can call for its reading?

Mr. CAULFIELD. Then we cannot proceed to the consideration of the objection.

The SPEAKER. The paper is not a part of the objection.

Mr. RICE. It was submitted as a part of the objection.

Mr. CONGER. The President of the Senate refused to receive that paper and never has had possession of it.

The SPEAKER. But the Chair was advised that it was taken hence by either the gentleman to whom it was addressed or else by some officer of the Senate who acted in his stead.

Mr. BANKS. It was not taken by the President or by the Secretary of the Senate.

Mr. CONGER. It belongs to Mr. HEWITT, of New York, a member of this House.

The SPEAKER. On the contrary, it was not given back to the gentleman from New York, [Mr. HEWITT.] It was refused to be given back to the gentleman from New York, and so far as the Chair understands it was taken from here by some officer of the Senate.

Mr. O'BRIEN. I think we ought to have it if we can get it.

The SPEAKER. The Chair is unable to get it.

Mr. O'BRIEN. The House of Representatives ought then to send to the Senate, or to any officer of the Senate who has it in his possession, and demand it.

Mr. COX. I rise to a parliamentary inquiry, and it is, whether the Chair could entertain a proposition asking for the return of that paper to the House?

Mr. O'BRIEN. That is all we want.

The SPEAKER. That is the proposition now pending, and if a majority of the House sees fit, they can vote for it and it will be adopted.

Mr. KELLEY. The gentleman from New York [Mr. HEWITT] desires to rise to a question of privilege.

Mr. HEWITT, of New York. I rise to a question of privilege. The Chair has made a statement which I desire to correct. The Chair inadvertently made the statement that the gentleman from New York demanded back the possession of the paper. That is an error. I never demanded back the possession of the paper, because it did not belong to me; but the last I saw of it it was in the possession of the Secretary of the Senate, who stated that it was the private property of Mr. FERRY and contained papers belonging to him, and as a friend of Mr. FERRY he proposed to retain it in his possession, and so far as I know he has retained it.

The SPEAKER. Did not the gentleman from New York in company with another gentleman, a member of the other House, ask to see the paper?

Mr. HEWITT, of New York. I asked to see it, but I did not demand possession of it.

Mr. KASSON. I ask leave to make a statement of fact, which I have authority to make.

Mr. COX. I rise to a point of order. I understood the Chair to say that there is a motion pending and in due time the House will have an opportunity to vote thereon.

Mr. KASSON. I ask leave to state at this point in a few words, that I am authorized to state that the Presiding Officer of the Senate not only declined to receive the paper, but had it not in his possession, has it not now, has not held it at all, and directed the Secretary of the Senate not to take it, as not being a paper he was entitled to; and that the Secretary of the Senate did not take it from the House, and the last known of it is that it was lying on the Clerk's desk near the Secretary of the Senate.

Mr. STONE. I saw him put it in his pocket.

The SPEAKER. There is one thing certain, that the Chair has not possession of it, never had possession of it, and is not able to get it.

Mr. CAULFIELD. There is evidence that he did take it.

Cries of "Regular order!"

Mr. CAULFIELD. I ask the gentleman from New York, [Mr. HEWITT,] how this paper was indorsed?

Renewed cries of "Regular order!"

Mr. CAULFIELD. Have I not a right to ask the gentleman so that we may know what the paper purported to be?

Mr. CANNON, of Illinois. What is pending before the House?

The SPEAKER. The gentleman from Ohio [Mr. POPPLETON] is recognized by the Chair to proceed with the debate.

Mr. POPPLETON. I am ready to proceed whenever I can be heard.

The SPEAKER. The gentleman from Ohio states that he is ready to proceed when order is restored. Gentlemen will take their seats and the House will come to order.

Mr. BEEBE. Mr. Speaker——

The SPEAKER. No one is entitled to the floor except the gentleman from Ohio.

Mr. BEEBE. Can I not rise to a point of order?

Mr. COX. I rise to a point of order, and offer a resolution for the return of the paper to this House.

The SPEAKER. That resolution is already pending before the House. No other resolution is in order than those now pending before the House.

Mr. O'BRIEN. As a preliminary resolution, let the gentleman from New York [Mr. COX] present the one he has indicated.

The SPEAKER. There is a resolution now pending before the House, and an amendment to an amendment pending thereto, and no other resolution is in order.

Mr. BEEBE. Is not a point of order in order?

Mr. COX. I bow to the decision of the Chair, but I think the way I have indicated would be the proper way to settle this matter.

Mr. BEEBE. I rise to a point of order. Will the Chair entertain it?

The SPEAKER. The Chair will listen to it.

Mr. BEEBE. The point of order is that the law provides that "after such debate shall have lasted two hours, it shall be the duty of each House to put the main question without further debate." I submit that after the two hours' debated shall have been exhausted, it will not be competent under the law for this House to send for the paper which is called for in the resolution last submitted; it cannot send for it then. My point is that if we are to have it at all we must necessarily send for it now.

The SPEAKER. The Chair will only state that if the House wants that paper all the House has to do is by a majority vote to send for it.

Mr. LANE. That is all we want.

Mr. COX. I offer a resolution——

Mr. BEEBE. The Speaker will not allow the House to say whether it wants it or not.

Mr. CAULFIELD. When can we get it?

Mr. BEEBE. We cannot get it after debate; that is my point of order.

The SPEAKER. On the contrary, the House can get it after debate, if majority say so.

Mr. BEEBE. But the law says that you cannot further debate it.

The SPEAKER. A new question will then be raised under the law, if the House calls for the paper by a majority vote.

Mr. CANNON, of Illinois. I rise to a point of order. The confusion is so great that I cannot hear the gentleman from Ohio.

The SPEAKER. The Chair desires to state that the time of the gentleman from Ohio is running. If he does not wish to proceed——

Mr. POPPLETON. Why, Mr. Speaker, I cannot proceed in this confusion. I am ready to proceed as soon as order is restored. [A pause, during which the House was called to order.]

Mr. Speaker, I do not propose to discuss this question at any length. Very much time has been exhausted in endeavoring to ascertain the true condition of matters concerning the returns from the State of Vermont. It has been honestly and candidly believed by many members on this side of the House that there were dual returns from the State of Vermont. We have been patiently and anxiously endeavoring to secure that information from a package purporting to contain electoral votes. The main matter of discussion appertaining to the State of Vermont has been cut off by the withholding of the return to which the exceptions in this case refer. I therefore do not desire to discuss a question that is not fairly before this House. I call upon the gentleman from New York [Mr. HEWITT] to accommodate me with a statement from his place as to the indorsement upon the package that he sent to the Clerk's desk during the joint meeting of the two Houses yesterday.

Mr. HEWITT, of New York. Mr. Speaker, I am asked by the gentleman from Ohio to state the nature of the indorsement which was upon the package that I tendered to the President of the Senate. As

near as I can remember, it is addressed to the "President of the Senate of the United States;" and upon one end is indorsed "Electoral votes from the State of Vermont." This package came into my possession by express about the middle of December, and with it came a letter saying, as nearly as I can remember, "Herewith is sent to you the certified return of the electoral votes of the State of Vermont, and another copy is sent by mail to the President of the Senate." At any rate, from that time to this I have been under the impression that a copy had been sent by mail; but I have no personal knowledge of that fact beyond my recollection of what was contained in that letter.

When the counsel engaged before the electoral commission asked me as to duplicate returns I stated that there was a duplicate return from the State of Vermont, and I know that the counsel and many gentlemen in this House have acted under the impression that there was such a duplicate return. I never had any idea to the contrary until yesterday, when a telegram to the Speaker of this House was shown to me in which it was stated that returns had been sent to me. Thereupon I sent to my room and found the package as it had originally come to me, with the seals unbroken. I had no right to break the seals, because it was addressed to the President of the Senate; but I had never been requested to deliver the package to the President of the Senate. It was in my custody. But when this telegram came I felt it to be my duty to a great State and to the country that I should immediately inform the President of the Senate that I had learned indirectly, as a statement coming from him, that no copy of this package had been received by mail. He said that he had received no such package. Thereupon I asked him to receive it from me yesterday afternoon. He declined, on the ground that the law did not allow him to take it. Thereupon I brought it into this House; and inasmuch as it was addressed to him, and I had been applied to to deliver it to him, as it did not belong to me, I felt that it was my duty to do so; that I could do no less than inform the President of the Senate, in the presence of the joint convention, that I had already tendered it to him, and I again tendered it to him.

Now as to what happened afterward. One of the Senators from Vermont asked me in my place to allow him to examine the package. I informed him that the package was not in my custody; that it did not belong to me; but that if he would go with me to the desk I would ask the President of the Senate for the package. He said he had not received it and had it not in his possession. Thereupon, turning my eyes toward the body of the House, I saw the package in the possession of the Secretary of the Senate, and asked him to allow Judge EDMUNDS, the Senator from Vermont, to see it. His reply was, "This package is the private property of Mr. FERRY; it contains papers belonging to Mr. FERRY; I will not allow the seals to be broken; I shall keep it as the friend of Mr. FERRY." Thereupon I said to him, "Will you allow Judge EDMUNDS to look at it?" He said—with some hesitation as I thought—"Certainly," and handed it to Judge EDMUNDS, who looked at it, handed it back, and said—I will not undertake to repeat what he said—I am not positive what he said, but he handed it back; and I saw it in the possession of the Secretary of the Senate, who told me he should keep it as the friend of Mr. FERRY. That is the last knowledge I have of the matter.

Mr. HENDEE. I wish to ask the gentleman from New York one question.

Mr. HEWITT, of New York. Certainly.

Mr. HENDEE. I wish to ask the date when the gentleman received this package by express.

Mr. HEWITT, of New York. As nearly as I can state it was on the 15th or 16th of December last.

Mr. STONE. I desire to add to what the gentleman from New York has said that I saw Mr. GORHAM, the Secretary of the Senate, put the package in his pocket.

Mr. POPPLETON. I do not desire to prolong the discussion so far as I am concerned. My time is nearly exhausted. I yield to the gentleman from Vermont, [Mr. HENDEE.]

Mr. HENDEE. I would rather speak in my own time.

The SPEAKER. There is but half a minute left of the time of gentleman from Ohio.

Mr. POPPLETON. I understood my time is out, and therefore yield the floor to the gentleman from Vermont.

Mr. HENDEE. I yield such part of my time, Mr. Speaker, to the gentleman from Iowa as he may desire.

Mr. KASSON. Mr. Speaker, the phase this question has thus far assumed leaves out of sight the essential character of the objections to the certificate which was read by the President of the Senate. I rise now chiefly to speak on the subject on which the gentleman from New York [Mr. HEWITT] has spoken, and to say in answer to his inquiry that I have just learned that the statement made by the gentleman from Missouri [Mr. STONE] is in part correct. The Secretary of the Senate did at first put the paper in his pocket. The President of the Senate, however, being consulted directed him not to take it, as it might be construed perhaps to be in his official possession. He therefore took out that packet, being directed to do so by the President of the Senate, and left it here on the Clerk's desk which is the last knowledge he had of it. I have only to say it has been intimated to me that it is now somewhere on the floor of this House in a certain quarter which I am not at liberty to designate because it is not verified.

Several MEMBERS. "Name it!" "Name it!"

Mr. KASSON. I decline for the reason I have stated, that it is not sufficiently verified.

I wish to answer another phase of the objections made. It is argued that the President of the Senate was obliged to receive this paper when offered to him on the floor of the House yesterday. That proposition I dissent from, because it is a demand that the President of the Senate shall contravene the law of the United States. The propositiou last offered implies in its first branch the power of the House alone to direct the President of the Senate, and subsequently implies the power of both Houses to direct him to open a paper which by the law he is not entitled to open, as representing the electoral vote of any State in this Union. In support of that I call the attention of the House to section 142 of the Revised Statutes, which provides that Congress shall be in session on the second Wednesday in February succeeding every meeting of the electors, and the certificates, *or so many of them as have been received*, shall then be opened, the votes counted, and the persons to fill the offices of President and Vice-President ascertained and declared, agreeably to the Constitution.

So your Revised Statutes provide for the opening and counting only of the votes which were received on or before the second Wednesday in February, and the declaration of the result was to be made upon those votes which had been received at that time, namely, on the second Wednesday of February, and no other.

Then we come to the law just enacted, and in what respect does that law change the provision of the Revised Statutes? Solely that it brings the date forward from that second Wednesday in February to the first Thursday of February, which was the 1st day of February. So the President of the Senate was absolutely and legally correct when he said that the only papers which could be received and opened by him were those which were presented on or before the 1st day of February last, and upon that law, as he has stated in the presence of the joint convention, he based his refusal to receive it.

Thus you find that the suggestion made—I think without sufficient thought or examination of the law by our Speaker—that it was his duty to receive a paper sent up by any member upon this floor purporting to be electoral votes, and open it, was hardly justified, and would hardly be maintained by the Speaker upon an examination of the statutes I have referred to.

Then, again, the law only requires him to receive and open such as come to him, one copy by special messenger and the other copy by mail.

Mr. WALLING. Let me ask the gentleman a question.

Mr. KASSON. The President of the Senate knew that there were regular returns from Vermont in his possession, and he knew nothing of and had no reason to imagine any other returns than those he received prior to the 1st of February by special messenger and the duplicate which came to him by mail. You thus find that the proposition made is not only that the President of the Senate shall open a paper which did not come into his hands within the time required by law, but he is asked to receive and open a paper which did not come verified in the manner provided by law. You further declare that he should have received a paper which happened to be produced from unofficial hands and sent up to him from the floor of this House, the first knowledge he had of it, or any of us had of it; sent up to him without one single guarantee which could not be afforded by any page upon the floor of this House who had the ability to use a pen and write a few words upon an envelope.

And thus, sir, your theory is that the President of the Senate must, up to the time that the very last State is counted, receive any voluntary paper that any citizen of the Union shall indorse and get some member or Senator at the moment of the declaration of the vote to send up to the President of the Senate in his chair, and that such member may demand that it shall be opened and read. Sir, such a proposition to convert the joint meeting of the two Houses into a waste-paper basket, to receive for opening and examination all the waste paper that anybody may send to it, is a proposition which honorable gentlemen on this floor, I am sure, would not be willing to maintain.

Now, sir, if this were a case where gentlemen had reason to entertain serious apprehension that the will of a State had been defeated, that there was doubt about the honest vote of a State, then they might claim some excuse for such scenes as, I am sure, every sober-minded gentleman greatly regrets to have witnessed here this morning. But with a regular certificate from the State of Vermont, which votes in one way only and always, as steadily as her mountains rest upon their base, with the statute that provided for this express case accompanying the certificate and read in the hearing of the House, with not a charge of fraud or misconduct or error anywhere, to create this excitement upon such a slight foundation as this volunteer packet, is something I think which the sober second judgment of this House will not only regret but emphatically condemn. If, sir, the question comes to a vote upon that proposition of resummoning the Senate under a threat to compel action, I beg gentlemen to remember the statements that have here been made. They are asked to imply, as that resolution does, that the President of the Senate or some officer of the Senate has been guilty of misconduct on the floor of this House during the session of the joint convention. We cannot without injury to our own self-respect pass a resolution of that sort in ignorance of the facts alleged. We are in ignorance of everything

beyond the fact that this packet was at one time in the hands of the Secretary of the Senate, which is not disputed, and was then left on our table. In addition to what I have said touching the President of the Senate and the Secretary of the Senate, I am advised that the tellers have the same statement to make of non-possession of that paper and ignorance of its place of deposit.

Mr. WALLING. I saw him carry it out.

Mr. KASSON. That must be settled as a question of veracity between the gentleman and the Secretary of the Senate.

I now leave to the gentleman from Vermont [Mr. HENDEE] the discussion of the merits of the case.

Mr. O'BRIEN. Will the gentleman from Iowa allow me to ask him a single question?

The SPEAKER. The gentleman from Virginia [Mr. TERRY] is recognized.

Mr. HENDEE. I believe there are two minutes of my time left. I only yielded five minutes to the gentleman from Iowa, [Mr. KASSON.]

The SPEAKER. The gentleman from Vermont had about half a minute and the gentleman from Iowa had nine and a half minutes.

Mr. TERRY. Mr. Speaker, I have no idea that I can say anything that will change the result of the presidential count. That is a foregone conclusion and was ordained from the hour the electoral commission was organized. The majority of that commission have had but one object in view, and to that end all their actions have steadily tended, with the unerring certainty of an inexorable purpose. Evidence has been ignored, and argument, and law, and precedent ruthlessly trampled under foot. This commission, created by law, have been a law unto themselves, disregarding alike the practice in the past and the plainly understood purpose for which they had been created. The law creating the commission clothes that tribunal with all the powers and privileges of the two Houses in counting the electoral votes. In the debates which took place in 1869 in the two Houses upon counting the electoral votes of Georgia and Louisiana, there was no denial of the right of Congress to inquire into the elections in those States, and to a resolution which provided in effect for counting the vote of Louisiana provided it would not change the result, and to reject it if it did, Mr. MORTON, now a member of the commission, offered the following amendment:

That while there is reason to believe, from common report and information, that the late presidential election in Louisiana was carried by force and fraud, still, there being no *legal evidence* before the Senate on that subject, therefore the electoral vote of Louisiana ought to be counted.

It is true that this amendment was rejected upon the question of order, yet it shows clearly that Mr. MORTON and his party then recognized the right of Congress, upon a proper case made by *legal evidence*, to consider and reject the vote of a State, the certificate of a returning board to the contrary notwithstanding. In the debates that took place in 1873, in counting the electoral vote and in considering the objections made to counting the votes of Georgia, Louisiana, and Arkansas, no objection was ever made to any inquiry sought to be made, not in the nature of debate. I maintain, therefore, that precedents and the practice of Congress establish the right to inquire into the legality of elections and the truth of certificates of returning boards. I maintain that this was the received law of the case when the electoral bill was passed, and continued to be the law governing that commission. Wrongs to be redressed and evils to be prevented furnish another rule for arriving at the legislative intent. What was sought to be accomplished by the passage of the electoral bill? The presidential election had been held; two parties were claiming the votes of South Carolina, Florida, and Louisiana, and some persons were claiming that the Vice-President had the right to count the electoral vote, and as a consequence determine all controverted questions involved in the same. Under these circumstances Congress passed the electoral bill, thus denying the right of the Vice-President to count the vote and assuming the prerogative of determining by investigation for whom in fact the votes of those States had been cast. But to the surprise of the country this commission, in the face of precedents and facts, have utterly refused all inquiry into the character of the elections and the truth of the returns. But the facts involved in these controverted States are so familiar to this House that I will not go into them, nor into the contradictory decisions of the commission.

For years the democracy have been struggling to overthrow the republican party and drive them from power, and notwithstanding the appeals made to the prejudices and hatred of the North against the South, yet so corrupt has the republican party become and so flagrant its frauds that the people in the last election placed the seal of a most emphatic condemnation upon the party; but this victory of the people against the spoilers and corruptionists has been rendered naught by the commission, and that party which had been condemned is thereby continued in power for four years more.

By the arbitrary and partisan decisions of the commission the will of the people has been defeated, and it is for the democracy of the House to determine their line of conduct. I utterly repudiate the claim that we are bound in good faith to consummate the work of the Louisiana and Florida returning boards and the iniquitous decisions of the commission.

I not only feel myself free to interpose every lawful impediment in the way of the inauguration of Governor Hayes, but I should feel derelict in duty if I failed to do so. The commission may ignore fraud and aid and abet corruption, and the duty is devolved upon us to defeat the ends that these aim at. By no act or vote of mine can the decisions of the commission be carried into effect. If the democracy have made a mistake in the passage of the electoral bill, the duty is imposed upon them to protect the country against the consequences of that error to the extent of their ability.

Mr. Hayes is represented by his friends as a high-toned and amiable gentleman and the appeal is made to us of the South that our interests would be safe in his hands, and it seems that some southern gentlemen are inclined to take this view of the case. In this I do not concur. I have given this presidential contest all the thought I am capable of, and have come to the conclusion that under the circumstances the inauguration of Governor Hayes would be extremely unfortunate for the country. Not only is he a minority candidate by some 250,000 of the popular vote, and a minority candidate of the popular white vote of more than three-fourths of a million, but he will go into office by a stupendous fraud and will be regarded as a usurper. In my judgment it would be better for the country for the Senate to elect a Vice-President and for him to succeed to the Presidency until an election could be held. He would at least go into office by authority, and under the forms of law. His administration being in pursuance of law would command the support which all good citizens yield to lawful authority. His administration would not necessarily be the prey of all the bad men of the country. How different the case of Governor Hayes. His administration, a fraud and a usurpation, and the work of a foul conspiracy gotten up by the most reckless partisans that ever stood around the seat of power, would be the prey of the thieves, perjurers, and plunderers who have put him in power.

Mr. Hayes cannot shut his eyes to the fact that he has not been elected by the people, and it will be impossible for him to shake off the men to whom he will owe his seat. His administration will be under the control of Cameron, Chandler & Co., and of Wells and Stearns and their guilty colaborers. Upon what principle of right or morals can Mr. Hayes accept the fruits of frauds perpetrated by returning boards and then reject the services of the men who did it? How can he refuse places of trust and profit to Governor Wells, and Packard, and Chamberlain, and others? Honest men of the republican party even will shun an administration with such surroundings. I can scarcely conceive of a condition of things fraught with more danger to the future peace and welfare of the country. In view, therefore, of the action of the commission and the apprehensions of the future, I feel it my duty to interpose every honorable obstacle to the consummation of the most gigantic fraud ever perpetrated upon the liberties of the people.

There is another question to which I wish to refer. It has been given out in some quarters, where doubtless the wish is father to the thought, that a split in the democratic party is imminent, and that southern democrats will seek to make terms with the Administration, and especially is it alleged that this is true of the old-line whigs, who constitute a very large part of the democratic party. As an old whig, the only one in the Virginia delegation, and honored with a seat in this House by an old democratic constituency, I trust I may not be considered as assuming too much when I undertake to say a word as to the feeling and purpose of that glorious old party whose pride was the purity of its principles and the intelligence of its members. They were whigs upon principle, and were true to country and to party. They are now in the democratic party upon principle, and none are more to be relied upon for zeal and steadfast devotion to duty, and they will never abandon their principles or betray their country. The purchasable element of the old whig party have long since gone for the flesh-pots, the true men are left, and the administration that counts on seducing them by the spoils of office will reckon without their host. The followers of Clay and Webster in times past withstood the seductive influences of power, and they are to-day superior to temptations of office. Liberty-loving and law-abiding, they will never affiliate with the party of our oppressors.

While Mr. TERRY was delivering the above remarks, he was interrupted by

Mr. HEWITT, of New York, who said: I think the gentleman from Virginia will allow me to interrupt him for a moment while I make a statement to the House. A messenger has just approached me and tendered me the package which was delivered on yesterday, or attempted to be delivered, to the President of the Senate. It is not my property.

The SPEAKER. Who is the messenger?

Mr. HEWITT, of New York. The messenger stands directly in front of the Speaker. I have no custody of it. It is not my property.

Mr. BLOUNT. Is he the gentleman to whom the gentleman from Ohio referred a while ago?

Mr. HEWITT, of New York. I do not know who he is. I only know that he tenders me the package.

The SPEAKER. If there be no objection on the part of the House the Chair will receive the package.

Objection was made.

Mr. KELLEY. I ask that the messenger be interrogated where the package comes from.

The SPEAKER. The Chair does not think that it would be in order to interrogate the messenger.

Mr. BANKS. Certainly not.

Mr. TERRY. I object to being further interrupted in my remarks.

The SPEAKER. This will not come out of the gentleman's time.

Mr. TERRY then resumed, and concluded the remarks printed above.

The SPEAKER. The gentleman from Vermont [Mr. JOYCE] is recognized.

Mr. HENDEE. I understand that my colleague [Mr. JOYCE] yields a portion of his time to me.

The SPEAKER. The Chair does not think that under the law the gentleman can have more than ten minutes.

Mr HENDEE. Then I ask that I may have leave to print my remarks on this question of law. But I would suggest to the Chair that I have not yet spoken at all in this debate.

The SPEAKER. The gentleman from Vermont [Mr. HENDEE] states that he has not spoken in this debate, having merely been recognized, and having yielded his time to another gentleman. Upon that statement he will now be recognized, as being entitled to speak in the time of his colleague, [Mr. JOYCE.]

Mr. HENDEE. I am not disposed, in the discussion of this case to travel outside of it. I think in the discussion in this House during the last four weeks, a larger breadth of argument has been allowed than would be ordinarily conceded in any debating or legislative body whatever.

A question is presented in the case of the State of Vermont which is purely legal in its character, and can be determined upon no outside issues whatever. The papers show simply that one of the candidates for elector in the State of Vermont (Mr. Sollace,) at the time of the election in November was a post-master, and hence considered to be ineligible. Now while we concede that to be the fact that he was a post-master, yet he was elected to the office of elector by a majority of more than 20,000 votes. There is no question whatever of fraud; there is no question whatever of intimidation entering into the Vermont case. It is simply a question of whether, having been elected in the constitutional and lawful form prescribed by the laws of the State of Vermont and of the United States, Mr. Sollace was in fact an officer, that is, an elector.

Now, I hold to this doctrine that Mr. Sollace was an elector within the purview of the laws of Vermont and the United States until some measures were taken by the local authorities in the courts in the State of Vermont to determine that he was not eligible, and hence had not power to cast his vote in the electoral college. Until that was done he was an elector *de facto*, and whatever acts he performed as such elector were just as valid, so far as third persons were concerned or anything connected with the election, as if he had been eligible.

But I wish to take the gentlemen on the other side on their own ground. The case from the State of Vermont is precisely that of the Oregon case with this one exception, that in the case of Oregon the elector had the certificate of the governor, and in the State of Vermont there is no certificate of the governor except the one issued to the five Hayes electors. Hence the Cronin case was much stronger for the democratic side than the Aldrich case. The question as to whether Cronin was elected, he having received the next highest number of votes, was submitted to the honorable commission, and the commission decided unanimously that Cronin was not elected and could not be in any event considered an elector of the State of Oregon. Now, if that is true doctrine, and I submit that it must be conceded as such, then if there was a vacancy in the case of Oregon there was certainly a vacancy in the case of Vermont; because, under the decision of the commission in the Oregon case, Aldrich was not elected though he had received the next highest number of votes, and this admitting the ineligibility of Sollace.

At the time this vacancy occurred, the Legislature of the State of Vermont was in session, and passed a law providing for the filling of vacancies occasioned either by death, refusal to act, refusal to attend, or in any other manner or for any other cause. That law was drafted for the purpose of covering every possible case of a vacancy that could occur in the electoral college. The vacancy did occur, and under that law Mr. Sollace was elected, after having resigned his office as postmaster and the same having been accepted, an elector by the electoral college. Thus the fact existing that there was a vacancy, and the law of the State of Vermont being constitutional, that vacancy has been filled exactly in accordance with the terms of the law, and Mr. Sollace's vote should be counted.

Mr. GUNTER. When was that law passed?

Mr. HENDEE. On the 22d day of November last.

Mr. GUNTER. That was after the election.

Mr. HENDEE. It was after the election, and it provided for filling all sorts of vacancies. Now, sir, I say as a legal proposition, that if Cronin was not elected, and the commission so find unanimously, then certainly Aldrich was not elected, and that Sollace must have been duly appointed, because the vacancy occurred and was filled in accordance with the terms of the statute of the State of Vermont; and when any member here votes that Mr. Sollace is not an elector of the State of Vermont, he is virtually deciding that Cronin is an elector for the State of Oregon, against the unanimous decision of the commission.

Mr. LAWRENCE. There could be no electoral return from the State except the one read in the hearing of the two Houses yesterday.

Mr. TUCKER. Why could there not be?

Mr. LAWRENCE. Because there were no other lawful electors than those whose names are included in the certificate.

Mr. HENDEE. That is the conclusion upon that point, most certainly.

[Here the hammer fell.]

Mr. HENDEE. Mr. Speaker, having permission to make some further and general remarks, I will now proceed. During the debate of the last few weeks relative to the electoral count, I have sat an attentive listener. On one or two occasions I have attempted to gain the floor that I too might express my views, but, having failed, now I may be pardoned I think for asking the attention of the House for a few minutes longer. I am of that class who believe the Constitution is ample in its provisions for the present contingency, and that the law known as the compromise measure was uncalled for, and in fact unnecessary. And while I did not for good reasons as I believe vote for that bill, I am not prepared to say that it will not in its results prove to be a wise and opportune measure. We shall soon see. For those who framed and secured its passage I have the highest regard. I believe they acted with great fidelity and caution, and only had a desire to secure a fair, peaceful, and speedy solution of the great question now agitating the entire world.

The result of the election of November last put both parties in a condition of great anxiety at first, and later that anxiety had grown into a feeling on the part of the democratic party of desperation. The press of that party had for sixty days, and up to the time of the passage of the compromise bill, fired the public mind by incendiary, threatening, and libelous writings, until that hungry organization had been wrought up to the point of believing that war was justifiable in order that Tilden should be inaugurated. With the leaders and office-seekers of that party the cry had come to be, "Tilden or blood." Of this spirit I heard and read much, and yet I had not the slightest fear of a collision; for I believed the great good sense of the American people of both parties who stood behind these leaders and office-seekers would prevent a rupture. The country could not afford one, and this the intelligent business men of both parties well knew; and as the great majority of our people belong to this class, I considered the probability of war too remote and weak to attract any special attention. With this feeling, and believing the Constitution sufficient and that under it Governor Hayes must be installed, I voted against the bill. Should the result under the law be the same as I believed it must have been without it, and should the country accept that result with any greater satisfaction than it otherwise would, then I shall rejoice that the commission was created. Though it may be a bad precedent, in all human probability it will not in the next century have to be followed, and in my judgment we had better endure the existence of a bad precedent if great good comes from it when created and if no use for it is anticipated thereafter.

Under the law the commission has decided virtually this great question. I have no doubt it has settled it in accordance with law, justice, and the facts, and my only surprise and regret now are that the democratic party, or its leaders I should say, do not accept the result, notify the world, and let the country settle down again into business prosperity. I consider the actions of certain members of this House on the other side in obstructing the course of the law in putting themselves in the way of the completion of the count as demonstrations of bad faith; yes, Mr. Speaker, I might say and be justified, breaches of faith. Let me remind these gentlemen that upon the committee which prepared the law their party had four of its leading members from this House, and from the Senate they had two of their very best men. As the discussion went on it became almost a party measure, and when the vote was taken every democrat in the Senate but one voted for it, and in this House only eighteen democrats were found to vote against it.

So in fact let me say to gentlemen on the other side of the Chamber that this proceeding is of your own getting, and if the result is disastrous to you, you above all other men in the country should hold your peace. You have no right to charge the republican party or its members with intrigue or bad faith in this matter, because the bill was printed and under consideration for several days and no one contends that there is any ambiguity or uncertainty of meaning in its terms or language. It is admitted to that every disputed question was left open for the determination of the commission. In short, you simply provided such a tribunal as you wanted, before which you could make your fight, and to that tribunal you gave just the same powers as Congress possessed, if any, and no more.

You had of your men on that commission your choice; so did we. The four judges were agreed upon by both parties without dissent, and the fifth judge was chosen in the manner suggested by your own leaders. Yes, gentlemen, you have had all the preliminaries your own way, and now that it seems the decision may be against you you rebel. Gentlemen, this, in my judgment, does not become you. Such conduct *never* becomes an intelligent, upright man. It only becomes the political trickster, the ward politician, the man of no honor. I believe, Mr. Speaker, that the constituents of these gentlemen would hold them in much higher esteem should they accept the situation in words of sadness, and anger even if they will, than they will if they resist the decisions of this great and honorable tribunal by dilatory maneuvers and unjustifiable denunciation.

To me, Mr. Speaker, it was a sad spectacle to witness the other day in this House of the American Congress the personal attack of the leader of the great democratic party upon an honorable member of the commis-

sion, and it was the more humiliating, sir, because the grounds upon which the gentleman stood or based his charge were so feeble and so poorly sustained. Sir, this was but another base attempt to charge the cause of democratic defeat to the corruption of the republican party or to two or three of its honored members.

Now, sir, while such scenes as this are debasing and illy become the dignity of this body, there is another kind of debate resorted to by gentlemen on the other side that is truly mortifying to the American citizen, and to my mind degrades the gentlemen who indulge in it. I refer to the unqualified bitter and unjust denunciations made of the judges of our Supreme Court. Will gentlemen please consider this for a moment? These judges had no hand in the creation of this law under which they are compelled to act. They took no part in the recent political struggle. They hold their positions for life, and hence have no personal interest at stake in the result. They act not from any desire of their own, but really against their wills. They were selected wisely, and because they were above reproach, above suspicion, and because of their high character and acknowledged ability.

You gentlemen on the other side made use of this and much more of the same kind to induce us to vote for the bill. Then you argued well. Then you spoke in the highest terms of these men whom you now so vilely traduce; and why? Because defeat has dethroned reason and given place to passion and indiscretion. But let me say to these gentlemen that their harsh and wicked words toward these men fall quite harmless upon the people, who stand behind them, and that when these words recoil it will be upon you who utter them, and the men whom you would destroy will be unharmed. No, gentlemen; when the storm shall have passed and reason shall again have its power with you, then will the blush of shame be visible and you who have done this great wrong, and you only, will be the men who will feel most intensely the great injury you have inflicted.

You cannot afford to even attempt to bring reproach upon the members of our highest court, for though it will fail to prejudice the intelligent and true citizen its tendency is to inspire the ignorant and discontented man with a spirit of distrust and want of faith in the purity and perpetuity of our institutions. When men whom we ourselves select sit in judgment, though they err, they should be sustained unless it be settled they have acted to secure selfish ends or from other impure motives.

Yes, Mr. Speaker, the remarks of some of the gentlemen on the other side certainly fall beneath any man of sober thought and discretion, and especially are they unbecoming a member of this House; and the only excuse, if any is to be tolerated, that can be made is that they have been made in heated debate and at a moment when passion has overcome sense.

Men are not to be censured for resenting in any fair and proper language what they believe to be wrong, but let it be done in respectful and temperate words, such as become the position of the one who utters them and the place where spoken.

Though we may be tragical in thought and feeling, let us be prudent in utterance; for upon our words spoken here may hang the actions of designing and unscrupulous men.

Mr. Speaker, we have a country to protect or to destroy, institutions to perpetuate or to disgrace, and the duty of the hour is ours. Every member upon this floor should feel the responsibility, and determine, irrespective of party, that if any battle is to be fought it shall be one for the safety and protection of our noble country, the weal of her people, and the advancement of her material interests.

I have said, Mr. Speaker, that I believe the commission has determined every issue in accordance with the provisions of the Constitution and law. We have maintained always that as Congress has no power to go back of the returns or certificates, that under the electoral bill the commission has no power to go back of them. This view has from the outset been taken by our counsel, and has in the Florida, Louisiana, and Oregon cases been sustained. To hold otherwise would simply be to say that Congress has the power every presidential election to overturn or render invalid the will of the people, however certain or fairly that will may have been expressed. It must be admitted, sir, that if you can go back at all you can go back and inquire into the validity and regularity of the preliminary proceedings of every election precinct, and even to the extent of inquiring into the right of every citizen to vote.

No, Mr. Speaker, it is folly to claim that the Constitution or laws of the land give to Congress any such unlimited power. That power is delegated or rests in the States or local authorities, and when they have determined those questions and have sent up to us the proper evidence in regular form, we have only to consider and determine the result upon that evidence.

An honorable Senator [Mr. BAYARD] months ago, and before this controversy arose, and upon deliberation, said in the Senate this:

> Nowhere is the power given to either House of Congress to pass upon the election, either the manner or the fact, of electors for President and Vice-President; and if Congress or either House shall assume under the guise or pretext of telling or counting the vote to decide the fact of the election of the electors, then they will have taken upon themselves an authority for which I for one can find no warrant in the charter of our liberties.

This honorable Senator and able lawyer is a member of the electoral commission, and I believe no gentleman can honestly doubt the soundness of the doctrine he has so plainly laid down. Now, sir, had I the disposition I could with more consistency attack the motives and conduct of this gentleman as one of the high tribunal than can members on the other side assail the motives and conduct of the majority of the commission who have only by their decisions asserted the same doctrine. But, sir, I have not the wish nor disposition to say one word against this honorable Senator. His sayings and acts are merely open to fair criticism as are those of every member of the tribunal; but I may be allowed to say that certainly there is more ground to charge upon him partisanship in this matter than there is upon the three judges who have voted with the majority, for they have never made any declarations that are in conflict with their acts.

It seems to me, sir, that there is but one course for gentlemen on the other side that is honorable, or that will command the respect of the American people, and that is to submit to the decision of the commission. The opposition to the proceedings under the law made by some members of this House is no less than revolutionary. The people of all parties who are intelligent and have only the best interests of the country in mind, and who are not seeking office and do not depend upon the success of party for a living, condemn such a course in no uncertain terms. I believe it is no injustice to say that men who persist in efforts to defeat the operations of the law do not and cannot fitly represent the people of this country.

Our country has been suffering for months from a prostration of business. Men and women are out of employment, and the machinery and workshops of the land are motionless, and much of this is due to the fact that this great question is unsettled. I say, sir, let it be settled at once, and many if not all of the business interests of the country now suffering will take new life, and soon we shall see a prosperity which will not only be healthy, but which will become permanent; and not only this, the question whether our Government has strength and can ride safely through all storms will be forever settled.

I am, sir, a thorough partisan, and I have never since the 7th of November last for one moment yielded the point that Governor Hayes was on that day elected President; but had the judgment of this commission determined otherwise and brought into power Governor Tilden, an event which I should regret, though I voted against the bill creating that commission I would have submitted and advised my associates to the same course. And now, gentlemen, I ask you to submit; and to what? The decision of the tribunal you yourselves created.

What is the situation? I ask. This: You claimed Tilden was elected; we disputed it, and claimed the election of Hayes. You asked us to arbitrate; we agreed. The submission was the compromise law, entered into after full deliberation. We have tried the case and won, and now you attempt to revoke when there is no power given in the submission to either party to revoke. No, gentlemen, your conduct is not warranted; and I trust that soon, and in your calmer moments, you will step back into your manhood again and allow the law to have its course.

Mr. JOYCE. Mr. Speaker, this is a novel case in this electoral count. Unlike all the other cases there is no claim made here that the democrats have been "intimidated" or "bull-dozed;" that they were overawed by United States troops; no claim but what the State government of Vermont is republican in form and spirit. There has been no attempt made, that I am aware of, to buy any of the electors. Nobody claims that the canvass was tainted with any "mule contracts." We have not heard that there were any "gobble" or "cipher" dispatches; and nobody claims to know from actual knowledge that there was any "Patrick" or "Pelton," or "Gramercy Park" mixed up in it, at least on our side.

This leaves the claim to exclude Sollace's vote to rest upon the plain, simple, bald fact that Sollace on the day of the election was a post-master.

I do not feel, sir, like calling this a technical objection, or saying that it is frivolous, because whatever the motive may have been which prompted the objection, the question whether it is a vote which the Constitution authorizes and calls for is one of grave and vital importance and demands careful and serious consideration.

Upon the vote of Mr. Sollace hangs the result of the election and makes either Governor Hayes or Governor Tilden President, as it is determined for which it shall be counted. This makes it important, not only to the parties immediately interested, but to the country, as settling a great question of constitutional law and establishing a precedent which may last for all time.

If the Constitution prohibits the counting of this vote for Hayes, or requires it to be counted for Tilden, I would say, follow the Constitution regardless of consequences to men and parties, because we can afford to be disappointed, but we cannot afford, for temporary party triumph, to violate the Constitution of our country.

I shall endeavor therefore, sir, to devote the few moments allotted me in this discussion to an examination of that question.

At the general election held on the 7th of November, 1876, the people of the State of Vermont elected Estey, Farnham, Welch, and Sollace Presidential electors by a majority of about 24,000 votes. On the third Tuesday of November the votes were duly canvassed by the proper officers of the state, the election declared, the governor notified, and within five days from that time those men were also notified that they had been elected. On the day preceding the first Wednesday in December the said electors met at the State-house in Montpelier, and there being a vacancy in the college in consequence of the resignation of Henry N. Sollace the remaining members of the

board proceeded to fill such vacancy as provided and required by the laws of that State.

The vacancy having been filled and the college being complete, they then proceeded to vote for President and Vice-President of the United States. The result of the ballot was five votes for Rutherford B. Hayes for President, and five votes for William A. Wheeler for Vice-President. This result was properly certified to the President of the Senate, the certificate has been opened and read in the hearing of both Houses, objection has been made to the vote of Henry N. Sollace, one of the electors, on the ground that he held the office of postmaster at the time he was elected, and the main question for us to determine now is, whether the vote of Sollace shall be cast out and only the remaining four votes counted for Hayes and Wheeler, or whether in addition to that, the vote of Aldrich, the democratic candidate, he having received the next highest number of votes, shall be counted for Governor Tilden.

Under ordinary circumstances, Mr. Speaker, I should doubt the propriety as I now do the necessity of saying a word upon this question, as it has already been, if I mistake not, four times solemnly decided by the joint commission and the Senate of the United States. But because of its importance and also that the electoral bill gives us two hours to discuss any objections which may be made to the counting of the electoral vote of a State I will avail myself of my ten minutes to discuss briefly the question presented.

1. And first, Mr. Speaker, let us inquire as to the powers and rights of the several States in respect to the election or appointment of electors of President and Vice-President of the United States and the manner of Mr. Sollace's appointment.

The Constitution of the United States provides that—

> The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice-President, chosen for the same term, be elected as follows:
>
> Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.—*Article 2, section 1.*

The statute of the United States provides that each State may provide by law for the filling of vacancies in its electoral college when such college meets to give its electoral vote; that in case of a failure to elect on the day appointed by Congress it may elect on some other day. The electors when so appointed are required to meet on the first Wednesday of December and vote for President and Vice-President of the United States.

It is made the duty of the governor of the State to cause to be made three lists of the votes of the State, certify them, and deliver them to the electors before they vote.

The laws of Vermont provide that the presiding officer at the freemen's meeting in each town shall at the close of the poll in each year when there is a presidential election make and seal up a duplicate certificate of the votes for electors and transmit such certificate by mail to the secretary of state; that officer opens such certificates and puts them on file in his office, to be used or referred to in case the original should be lost.

The original certificates are delivered to the county clerks in the several counties in which said towns are located by the presiding officer of each town meeting, and the clerks meet at the State capitol on the third Tuesday of November, publicly canvass the votes, and declare the number of persons, equal to the number of electors to be chosen, *having the greatest number of votes*, duly elected electors of President and Vice-President of the United States, and give notice thereof to the governor.

The county clerks are also required to make a list of all the certificates, with the number of votes for each person, designating such as they may deem legal and such as they may deem illegal, and lodge a certified copy of such list in the office of the secretary of state. They are also, within five days after counting the votes, to give notice to the persons elected electors, and they, the said electors, are directed to meet at the State-house, in Montpelier, on the day preceding the first Wednesday of December, to vote for President and Vice-President. And it is also provided by the old statute that in case any person so elected an elector shall neglect to attend at the place aforesaid on said day it shall be the duty of the other electors present to fill by ballot the vacancy thus occasioned.

The law relating to the filling of vacancies in the electoral college was amended by the Legislature at its October session, 1876, and is as follows:

> If there shall be any vacancy in the office of an elector for President or Vice-President of the United States at the time provided by law for the meeting and action of the electors, occasioned by death, refusal to act, neglect to attend, or in any other manner, or for any other cause, the other electors present shall immediately fill by *viva voce* and plurality of votes such vacancy in the electoral college. And if any such vacancy shall occur and shall be filled as aforesaid the electors shall attach to the certificate of their votes a statement showing how such vacancy occurred and their action thereon.

This law, which was approved by the governor November 22, 1876, took effect from its passage.

This law, then, was in force when the electoral college of Vermont met on the day before the first Wednesday in December, 1876, to cast the vote of that State for President and Vice-President of the United States.

On the day of the general election, November 7, 1876, Henry N. Sollace, one of the persons voted for as elector, held the office of postmaster at Bridport, Vermont. On the 13th of November he resigned that position, on the 14th his resignation was accepted by the Postmaster-General, and on the 15th his successor, D. H. Bennett, was appointed.

The certificate transmitted to the President of the Senate gives a detailed statement of the proceedings of the electors, the resignation of Sollace as postmaster, and the action of the college in filling the vacancy by the re-appointment of Sollace, and shows that the laws of Vermont were literally and strictly followed by them, and that every provision of the statute was faithfully complied with.

2. Sollace having received a majority of the votes cast, the fact that he was at the time of the election ineligible would not give the election to his opponent, Aldrich.

Judge Cooley, in his valuable work on Constitutional Limitations, says:

> If the person receiving the highest number of votes was ineligible, the votes cast for him will still be effectual so far as to prevent the opposing candidate being chosen.

In Dillon on Municipal Corporations it is said—

> That when the statute fails to declare that votes cast for an ineligible person are void, (and there is no such statute in Vermont,) the effect of such person receiving a majority of the votes cast is, according to the weight of American authority and the reason of the matter, that a new election must be held, and not to give the office to the qualified person having the next highest number of votes.

In Mississippi the court say:

> If the majority candidate is disqualified it does not follow that he who has received the next highest vote, and is qualified, shall take the office.

In the case of Fish *vs.* Collins, in Louisiana, it was said:

> If a competitor received a greater number of lawful votes than the claimant, the latter does not establish a right to the office by showing that his competitor was ineligible.

The supreme court of California, in 1859, in the case of Sanders *vs.* Haynes, said:

> It will be observed that the point of this defense is that the votes cast for Turner, supposing he received the highest number, were nullities, because of his assumed ineligibility. But we do not so consider, although some old cases may be found affirming this doctrine. We think that the better opinion at this day is that it is not correct.
>
> Our legislative precedents seem to be the same way. Upon principle, we think the law should be so ruled. An election is the deliberate choice of a majority, a plurality of the electoral body. This is evidenced by the votes of the electors. But if a majority of those voting by mistake of law or fact happen to cast their votes upon an ineligible candidate it by no means follows that the next to him on the poll should receive the office. If this be so, a candidate might be elected who received only a small portion of the votes, and who never could have been elected at all but for this mistake. * * * It is fairer, more just, and more consistent with the theory of our institutions to hold the votes so cast as merely ineffectual for the purposes of an election than to give them the effect of disappointing the popular will and electing to office a man whose pretensions the people had designed to reject.

The whole matter is admirably summed up by Judge MCCRARY in his valuable work on American Law of Elections in the following manner:

> It is a fundamental idea with us that the majority shall rule, and that a majority or at least a plurality, shall be required to elect a person to office by popular vote. An election with us is the deliberate choice of a majority or plurality of the electors. Any doctrine which opens the way for minority rule, in any case, is antirepublican and anti-American.

3. I submit, therefore, that Sollace was duly elected an elector; that he became an elector *de facto* at least; that the acts of such an officer are valid until an ouster, and that in any event his resignation created a vacancy, which was legally filled by his re-appointment.

The law is well settled that if an ineligible person is elected to an office he can be ousted by *quo warranto;* and the fact that *quo warranto* will lie shows that the election is not absolutely void, but only voidable.

If Sollace was ineligible when voted for, his election and induction into office made him an officer *de facto,* and his acts are valid, at least as to third persons.

Upon this point I desire to get the attention of the House to a decision of the supreme court of Vermont in the case of McGregor *vs.* Balch *et al.*, 14 Vermont Reports, 428.

The opinion of the court was delivered by Chief-Justice Williams, one of the purest and most eminent jurists that has ever adorned the bench of the supreme court of that State.

In discussing this question Judge Williams said:

> An officer *de jure* is clothed with all the power and authority appertaining to the office, and neither his doings nor his acts, within the limits of his authority, can be questioned anywhere.
>
> The acts of an officer *de facto* are, as it respects third persons, valid; as it respects himself, invalid.
>
> An officer *de facto* is one who comes in by the forms of an election, but, in consequence of some informality or want of qualification, is incapable of holding the office.
>
> Therefore, until the appointment of an officer *de facto* is vacated, his acts must be considered as valid.

The evils which would follow if the contrary doctrine should obtain are fully illustrated by Judge Williams by reference to the election of an ineligible person to an office giving power to take the acknowledgment of deeds, confessions of debt, and the solemnization of marriage.

In support of the view taken by the court, he also refers to the case of a judge or a Senator or Representative in Congress, and shows that,

although the person elected may be ineligible at the time of the election, still his acts while performing the functions of the office are valid.

In the courts of this country the ruling has been uniform upon this subject, but time will permit me to refer to but few of the leading cases.

It is said that—

The acts of public officers being in by color of an election or appointment are valid so far as the public are concerned.

An officer *de facto* is one who comes into office by color of a legal appointment or election. His acts in that capacity are valid.

The principle of colorable election holds not only in regard to the right of electing, but of being elected. A person indisputably ineligible may be an officer *de facto* by color of election.

When the appointing power has made an appointment, and a person is appointed who has not the qualifications required by law, the appointment is not therefore void. The person appointed is *de facto* an officer; his acts in the discharge of his duties are valid and binding.

The result is that the appointment of the five electors from Vermont was in every respect legal and valid, and their votes should be and must be counted as set forth and required in the certificate which has been read in the presence of the two Houses.

There has been something said, sir, during this discussion in regard to two sets of returns or certificates from Vermont, and the gentleman from New York [Mr. HEWITT] attempted to offer a bundle of papers to the President of the Senate in the joint meeting of the two Houses, which he claimed had some connection with that matter, but the President of the Senate refused, very properly, to receive them, as not having been presented to him at the time required by law and by no one authorized by any lawful authority to deliver them. This discussion has disclosed the fact that Mr. HEWITT received them by express about the middle of last December, that they have been in his possession ever since; but from whence they came or whither they were to go no mortal man pretends to know. The law requires that the certificates of the votes of electors shall be sent to the President of the Senate by mail and messenger, and not to the chairman of the democratic national committee.

It is said that at the time of the meeting of the electoral college at Montpelier, in December, Mr. Aldrich appeared before the board and claimed the right to cast one of the electoral votes, and when refused that he retired to some secluded spot and organized an electoral college of his own; and, having before me a full report of that meeting, taken from the Albany Evening Journal, I beg leave to have it read, in order that it may enliven this dry and tedious debate, and also for the purpose of showing the genius and pluck of the Vermont democracy.

STILL ANOTHER HOPE.

It is said that the democracy will object to one of the republican electors of Vermont and once more throw a democratic elector in the breach. In Cronin they failed; in Aldrich they hope to triumph. Aldrich is the man who received the next highest number of votes after counting the republican electors, and, claiming the ineligibility of one of the latter, he has come to the rescue. Immortal Aldrich! On Wednesday, December 6, when the electoral college of Vermont was about to commence business, he announced, in person, that he would like to take part in the deliberations, but the college refused his preposterous request, whereupon he straightway protested, and resolved himself into a committee of one, with full powers to create an electoral college in the interests of "reform."

Who does not see Aldrich calling Aldrich to order and nominating Aldrich as president of the college? Aldrich puts the motion, and Aldrich is declared by Aldrich to be unanimously elected. Then Aldrich appoints Aldrich a committee of two to conduct Aldrich to the chair, and Aldrich, getting to the chair, thanks Aldrich for the honor he has conferred upon Aldrich in calling upon him to preside over the deliberations of Aldrich. Then Aldrich announces that if there is no objection Aldrich will act as secretary, and that he will appoint Aldrich two tellers to count the vote of Aldrich. Then, while Aldrich is preparing his ballot, Aldrich announces that he is sure that Aldrich would be glad to hear the views of Aldrich in regard to the political situation, and thereupon Aldrich, amid loud applause from Aldrich, remarks that he thinks bull-dozing in Louisiana was not an outrage, but that it was an outrage for Messrs. Chandler and McCormick to act as officers of the republican national committee. At the conclusion of Aldrich's address Aldrich is heartily congratulated by Aldrich, after which Aldrich proceeds to vote. Aldrich in his character of two tellers having canvassed the vote, Aldrich announces that the vote of Aldrich has been unanimously cast for Tilden and Hendricks. Aldrich then moves a vote of thanks to Aldrich for the able, urbane, prompt, and parliamentary manner in which he has presided over the deliberations of Aldrich. Then Aldrich signs the certificate, appoints Aldrich messenger, and adjourns Aldrich *sine die*. Of course, in the evening Aldrich handsomely entertains Aldrich at Aldrich's mansion, drinking his health and shaking his hand countless times.

You may marshal words and phrases every way, but they cannot overstate this brilliant accomplishment of Aldrich. Cronin was assisted by his nose, by Senator KELLY, and by Pelton, while Aldrich fought this battle single-handed, and with what he believed to be a single eye to justice and renown. Where is the American we therefore ask who is not willing to uncover and salute this humble Vermonter, who, rising from a coachman to an electoral college, now stands before the gaze of the nation with the hopes of the democracy heavily resting upon him.

Mr. Speaker, I have no words of bitterness or reproach for any one. The great drama which has been upon the stage for months and which has shaken the Republic from center to circumference is now happily drawing to a close. In a few hours more the great question will be settled and the people will all acquiesce. The curtain will drop and all the scenes and strifes of the past year will pass into history. And, sir, while I would not utter one unkind sentiment or say one word that would irritate the most sensitive, yet for the good name of our people and the honor of our common country I must be allowed to speak of the sorrow I have many times experienced during this protracted proceeding, and of the hope I now have in the successful accomplishment of what I deem to be the most magnificent achievement recorded upon the pages of the world's history.

Sir, from the moment the decision of the joint commission in the case of Florida became known down to this moment there has been one long and persistent howl from the democracy about the fraud and infamy of the eight men who concurred in the judgment, while not a word has been said about the seven whose judgments and convictions led them in the opposite direction.

Sir, there are men upon this floor who seem willing and almost anxious that this Government of ours should be destroyed and the people ruined unless the party to which they belong can hold the reins of power and control the policy and offices of the Republic. Do they forget, sir, that we are one people, that this goodly heritage is ours in common, that we all share the glory and honor of its past achievements, that its glorious history belongs to us all, that the Union of these States is our ark of safety, and that the old flag is the emblem of our common nationality, that the future prosperity and grandeur of the Republic is the object of every hope and the inspiration of every noble impulse and ambition?

Sir, this is our fathers' house and this is our country. Here we desire to live, and in her sacred soil we hope to rest when "life's fitful fever" is over.

Whatever party may control her destiny, we are all equally interested in her peace, prosperity, and good name. The spirit which has been manifested and the language which has been uttered upon this floor toward the majority members of the joint commission are outrageous and disgraceful.

It is a burning shame to our country, our age, and our civilization, and I would to God that every thought and word of it might be expunged from the record and blotted forever from the memory of mankind.

Sir, I shall not attempt to defend those men against the vile slanders which disappointed men and a venal and subsidized press are sending forth like putrid streams from every democratic cess-pool in the land; they need no defense; they have a reputation and a record which will stand as a wall of adamant against every poisoned arrow which malice or calumny can hurl against them.

Mr. Speaker, the party whose leader and head inspired the brazen fraud in Oregon, whereby it was attempted to cheat the people of that State out of an honest election and elevate to the Presidency a man repudiated by the people and condemned by almost every act of his whole life, should, it seems to me, cultivate modesty in the presence of the telegrams which passed between Salem and Gramercy Park.

Let the words of shame and crime written in those dispatches be stamped upon the memory of every democrat, and let the reeking stench of their wickedness stifle him when he attempts to defame the characters of honest men or tarnish the fame of the noblest and best party that has ever existed in the history of mankind. Here they are—read, ponder, and inwardly digest, and then forever hold your peace.

NEW YORK, *November* 29.

J. N. H. PATRICK, *Portland, Oregon:*

No. How soon will governor decide certificate? If you make obligation contingent on result in March, it can be done and incremable slightly, if necessary.

[No signature.]

PORTLAND, *November* 28.

W. T. PELTON, *No.* 15 *Gramercy Park, New York:*

Certificate will be issued to one democrat. Must purchase a republican elector to recognize and act with democrats and secure the vote and prevent trouble. Deposit $10,000 to my credit with Kountze Brothers, Wall street. Answer.

J. N. H. PATRICK.

PORTLAND, *November* 30.

W. T. PELTON, *No.* 15 *Gramercy Park, New York:*

Governor all right without reward. Will issue certificate Tuesday. This a secret. Republicans threaten if certificate issued to ignore democrats' claims and fill vacancy, and thus defeat action of governor. *One elector must be paid to recognize democrat to secure majority.* Have employed three lawyers; editor of only republican paper as one lawyer; fee $3,000. *Will take $5,000 for republican elector;* must raise money; can't make fee contingent. Sail Saturday. Kelly and Bellinger will act. Communicate with them. Must act promptly.

[No signature.]

This, Mr. Speaker, is "reform;" this is modern democracy; these are the men who are sounding the tocsin on account of "gigantic republican frauds." This is Tilden and New York City after the mask has been removed with the "key" from Michigan.

In the light of these precious scraps of history, how dare gentlemen on the other side, with such audacious effrontery, charge honest men with fraud?

How dare the gentleman from New York stand in his place upon this floor and say that Governor Hayes will go into the Presidency by the vote of a pardoned criminal, a man who had unlawfully offered a bribe which was not accepted—when seventy-odd gentlemen now hold positions in this Government whose conduct at a certain period in our history would, in any other civilized country on the globe, have worked not only a forfeiture of their estates, but of their lives also? Why, sir, the crime of that man pales into insignificance when confronted with that of men who would have destroyed a government and ruined a whole people.

Mr. Speaker, the republican party has administered the affairs of this Government for the past sixteen years, and has, I know, committed many errors; but, sir, notwithstanding its errors and shortcomings those sixteen years are the proudest and most brilliant period in our illustrious history.

By the voice of the American people, uttered in tones which are plainly heard above the roar of democratic frauds and violence, that party is now granted a new lease of power, and every honest man, every man who is in favor of peace and order and a free ballot, every man who respects the rights of others, and believes in the political equality of all men before the law, and every man who loves his country and earnestly desires her honor and prosperity, breathes easier and rejoices with a joy unspeakable and full of glory, that the mad schemes of wicked men have been thwarted and that Governor Hayes is to hold the power and direct the policy of this great and growing Republic for the next four years.

Sir, the enemy are defeated and the great victory is won. From one end to the other of this broad land peans of praise and thanksgiving ascend from every altar and hearth-stone to the God of our fathers for our great deliverance.

The great commission called into being by your mandate has heard you patiently and decided wisely, and if you are sincere, if you are just, if you are honest and patriotic, you will cease from your slanders and vote to accept and affirm their decision, so that the historian of your party may be enabled to say that the last act of your political existence was sensible if not sincere.

Mr. HOOKER. So far as the argument made by the gentleman from Iowa [Mr. KASSON] is concerned, in reference to what is the objection made in this case, he did not proceed far enough in his quotation from the Revised Statutes or he would have found that there is a very different rule from the one which he laid down. Under the Constitution the electoral college of each State is required to send the returns of its vote for President and Vice-President to the President of the Senate. Under the law when an electoral college has assembled in a State it is required to make out three certificates of its findings, one of which is sent by special messenger to the President of the Senate, another by mail to the President of the Senate, and a third is deposited with the judge of the district court of the United States in the district where the electoral college has assembled. This evidently was intended to provide for the preservation of the electoral vote of a State, in the event that the messenger should fail to arrive at the seat of Government with the copy which he is intrusted with, and in the event that the mail should fail to bring the one sent by post.

The law provides that in the event that these certificates sent by mail and messenger are not received by the President of the Senate, the Secretary of State shall send for the remaining certificate. The law is as follows:

> Whenever a certificate of votes from any State has not been received at the seat of Government on the first Wednesday of January, indicated by the preceding section, the Secretary of State shall send a special messenger to the district judge in whose custody one certificate of the votes from that State has been lodged, and such judge shall forthwith transmit that list to the seat of Government.

Therefore the argument of the gentleman from Iowa [Mr. KASSON] falls to the ground, that if the return from an electoral college is not here in February at the time named, therefore the electoral vote of that State cannot be counted.

Mr. KASSON. I referred to that express provision of the law.

Mr. HOOKER. Yes, but you did not read it; you read the preceding section but did not read that.

Mr. KASSON. I gave the date.

Mr. HOOKER. That provision is evidently for the purpose of ascertaining what is the electoral vote of a State by another and different mode than by sending a certificate to the President of the Senate by mail or by messenger.

Now the telegram which was submitted as a part and parcel of the objection of the gentleman from Illinois [Mr. SPRINGER] to counting the vote from the State of Vermont shows that such a return was made by the electoral college and is deposited in the office of the district judge of the district court of the United States in the district of Vermont where this electoral vote is claimed to have been cast.

Therefore when the knowledge of this fact was brought to the attention of the President of the Senate, and when the certificate was submitted to him, he should have examined it, and at least have treated it with the dignity, courtesy, and respect with which the presiding officer of the Senate felt himself bound to treat a spurious return received by him purporting to come from the State of Louisiana and which when read in the presence of the two Houses showed upon its face that it was a spurious return. The President of the Senate felt it to be his duty to submit that to the two Houses.

To hold a different doctrine would be to say that the President of the Senate has the power to determine of himself what papers shall be submitted to the two Houses in their joint meeting. If the President of the Senate had had the return here and had refused to produce it, I ask would the two Houses have been powerless in the presence of the President of the Senate to have demanded that the returns should be produced and read?

Mr. KASSON. May I correct an error of statement made by the gentleman?

Mr. HOOKER. I have but a short time; do it in the time of somebody else.

Mr. KASSON. It is an error of statement made by the gentleman himself.

Mr. HOOKER. Be very brief about it.

Mr. KASSON. The fact stated in the telegram to which the gentleman refers is that the certificate of the election of Mr. Aldrich as elector was deposited in the clerk's office of the district court of Vermont on the 13th of December, 1877.

Mr. HOOKER. As I understand it the dispatch states that his certificate of election as elector is filed with the district judge of the district where the electoral college was assembled. If there be no power to produce these returns, when the certificates sent by messenger or by mail have failed to reach the President of the Senate, then the third mode of preserving the integrity of the vote of the State in the electoral college is nugatory on the statute-book and will not accomplish the purpose which was designed.

Not a State in this Union, I venture to assert, but has complied with the law, and not only sent its electoral returns by mail and by special messenger to the President of the Senate, but also deposited with the judge of the district court of the United States another certificate, in order that if the two former should be destroyed or delayed the electoral vote of that State might be preserved.

Now, with all respect to the decision of the Chair, I desire to say that I think it was proper, if this question was presented to the consideration of this House, before this discussion upon the subject ensued, that that return should be brought back here in a proper and legal form, and in the presence of the two Houses submitted to their consideration. If objection was made that it was spurious and not a proper certified copy of the return deposited with the district judge, then that objection might have prevailed if founded in fact.

But I pass from the consideration of this question to another which I was discussing the other day when a different finding of this commission was under consideration, that is, the question of what is the power of the two Houses when there has been made a finding upon the subject. If this is a case of dual returns, it goes to the commission; if a case of a single return, it goes to the two Houses. If it had gone to the commission, it might have presented a question which would have required their action; and the House would be incapable of passing upon it until the commission had reached a decision.

Then the question arises, what would be the power of the two Houses upon the finding of the commission; and I hold, sir, that when this commission has made a finding, as it has done in respect to several States, recommending the counting of the votes of those States contrary to what is known to be their popular majorities, contrary to what is known to be their true electoral vote—when the commission has thus violated the law which required them to ascertain what constituted the true and legal electoral vote of a State, I hold that when the commission has thus found and so reported to Congress the House is exonerated from any obligation to recognize its finding—is not bound to carry out such finding, because the commission has refused to take cognizance of the very question which it was the purpose and object of the House in the passage of the law to have passed upon.

Refusing to take cognizance of such questions, refusing to receive evidence in a case where fraud is charged, it cannot be contended that this commission holds the power of the House forever in its hands during the pendency of the electoral vote, and that the House has no power to say to the commission, "You have failed to do the very thing for which you were created; you have refused to take evidence in one case wherein it was charged that an elector was disqualified, while you have taken it in another. You have heard the broad charges of fraud made with reference to States of this Union; you have heard the charge that the electoral vote of a State was huckstered all over the land, offered for sale to the highest bidder; yet you say that the frauds of a returning board, the fraud of a canvassing board—whether it be merely the governor and secretary of state, as in most of the States, or whether it be one of these novel institutions such as prevail in Florida and Lousiana; you say that these frauds are sanctified and rendered valid by the certificate of a governor, based upon the false returns of a canvassing board, and the vote of a State must be counted one way when it ought in fairness and justice to be counted another."

This commission, constituted for such broad purposes, failing to act within the scope and purview of the law, failing to take testimony upon the very subject-matter committed to it, has proved false to the trust confided to it by the House—has failed to act as the agent of the House. It is well known, Mr. Speaker, that this commission was created in consequence of a difference of opinion existing with reference to the power of the President of the Senate to open and count the electoral vote. It was raised for the purpose of settling a difficulty which thus existed between some members of the House and some members of the Senate and others. This commission never would have had an existence if it had not been supposed that it was designed to take proof in reference to every question where there was an allegation of fraud in the return of a vote or an allegation of disqualification on the part of an elector. The commission having failed to discharge its duty, shall it be said that the powers and functions of the House under the Constitution have been exhausted?

[Here the hammer fell.]

Mr. MONROE. Mr. Speaker, during all the discussions of the present Congress in regard to counting the electoral vote one political party has contended that Congress and the commission should, in the phrase of the day, "go behind the returns." The other party has refused to do this. Democrats have constantly demanded that we should investigate the manner in which elections were conducted in the States. Republicans have as constantly replied that this is not our proper

work. From this relative attitude of the two parties an attempt has been made to draw an inference unfavorable to the republicans. It is said that this unwillingness on their part to extend the field of inquiry, has an ugly look and can hardly be accounted for in any way, except by the existence of a disposition to conceal some great iniquity from the public gaze. It is asked, what but a desire to shield fraud from exposure could induce republicans to set any limits of time or space to our investigations? Of late the charge is made almost hourly in the House that the republican party is trying to cover up fraud. If this charge is well founded, the republicans are now making one of the darkest pages in all history. For one, I will not see this session close without repelling this charge, both for myself and my party. I have no sympathy with fraud and no desire to protect it. The honored party to which I belong has no such desire, no such sympathy. To see how groundless this charge is, one has only to consider how many things have to be assumed by our opponents in order to render it effective.

1. In making the charge it is assumed, first of all, that the frauds exist, that frauds in the interest of the republican party have been perpetrated to such an extent in the disputed States as to affect the result of the electoral vote. It is even assumed that republicans here, by refusing to investigate, virtually admit the existence of these frauds. I affirm in reply that republicans have never admitted nor believed that frauds such as I have described have had an existence. They do not claim that there have been no frauds committed by republicans in the Southern States; they do not undertake to defend the personal character or all the official acts of all republican members of returning boards. But they do claim and believe, that no frauds were committed by republicans or republican officials in connection with the November election which could have changed one electoral vote. All charges of this kind they have denied as broadly and as specifically as they have been made. They do not admit, for instance, that such a case as that which has been principally complained of, the action of the Louisiana returning board in throwing out the vote of certain districts, was fraud. If there was in that State such a parish as East Feliciana is described to have been, in which for several years previous to 1876 the republican vote had been about seventeen hundred, and in which the registered colored vote for that year had been more than twenty-one hundred; and if when the election returns for November, 1876, were received, it was discovered that but one republican vote had been cast; further, if the returning board upon learning this fact, and upon what in its judgment was conclusive evidence of terrorism and intimidation in such parish, proceeded, in obedience to both the letter and the spirit of the statute law prescribing its duties, to throw out the whole or a large part of the vote of that parish, such action certainly could not be pronounced a fraud. You may, if you please, denounce it; you may say that it is not a sound and wise method; you may call it arbitrary and oppressive; but you cannot declare it to be unlawful, and by no proper use of the English language can you stigmatize it as a fraud. There has been no show of evidence of fraud except fraud upon a scale too small in amount to affect results, and even for this the evidence has been of such quality that it gives a more violent wrench to the moral nature to believe it than to believe in the general fairness of returning boards. We do not then admit the frauds which are assumed. Still less do we admit that, did we deem it proper to enter upon an examination of the character of State elections in Louisiana or elsewhere, we should suffer anything by comparison with our political opponents. Admitting, for the sake of argument, the worst that has been charged in regard to fraud, it would be more than matched by the reports which have reached us of intimidation and of the destruction of all freedom in the use of the elective franchise.

2. Again, in making this charge of a desire to conceal frauds, democrats not only assume the existence of the frauds but also assume that it is practicable for Congress to reach them. This we do not admit. The world is full of frauds which Congress cannot correct. In all the States there are numerous classes of frauds over which we have no control. Bad as fraud is, and eloquent as may be our declamations against it, we are compelled to permit such frauds to continue, if the States will not punish and suppress them, rather than by usurping unconstitutional power to disrupt our whole political system, and absorb all the reserved rights of the States in one great centralized despotism. It is always desirable that fraud should be punished, but it must be done by legitimate authority. It is a familiar maxim—familiar certainly to democratic minds—that Congress has only such powers as are granted to it by the Constitution. To the States the power has been expressly and exclusively granted to appoint electors in such manner as the Legislature thereof may direct. To the ordinary mind it would appear that under this grant of power to the State, is included the whole business of providing by law all the machinery for the election of electors, and for qualifying them to discharge the duties of the electoral college. It would seem evident that should Congress undertake any portion of this work, or assume jurisdiction over it, its action would be simple usurpation and a gross invasion of the rights of the States. How perverse it is, then, to assume that the power of Congress to go behind the returns from the States is so plain that not to see and admit it implies a desire to cover up fraud!—especially when a respectful regard for the rights of the States is in accord with the opinions and practices of a long line of eminent jurists and statesmen. When to this weight of authority has been added the recent decision of our own commission, after the most careful and painstaking deliberation, cannot our democratic friends understand why we should prefer not to overpass the limit which separates the State powers from the Federal? Can they not, by the exercise of a reasonable charity, account for the position which we occupy on some other ground than that of sympathy with fraud?

3. Once more, to make the charge against us of protecting fraud effective, they have found it necessary further to assume that their efforts at delay in proceeding with the electoral count, are due to a desire to get at the facts and real merits of the case, and that our promptness in acting and impatience at delay are due to a desire to escape the facts and to protect frauds from exposure; that they linger upon the field with all the fondness of those who are in search of treasure, and that we hasten over it with the solicitude and trepidation of those who fear that it will give way beneath their feet. We must be permitted to doubt the entire soundness of this theory. I venture to suggest that, in their case, something besides a passion for truth may prompt dilatory motions, and that, in our case, something better than fear of disclosure may produce eagerness to go forward. There may possibly mingle with their motives, for they, like us, are only human, some desire to prevent the inauguration of a republican President; and there may mingle with ours some desire for the faithful discharge of a constitutional duty.

In conclusion, we can well afford to dismiss the further consideration of a charge of complicity with fraud which is founded upon assumptions so violent and for which so little that is worthy of the name of evidence has been offered.

Mr. MONEY. Mr. Speaker, I have been one of the silent members of the House and am now diffident in presenting objections in so grave a matter as the count of the electoral vote of a State; but a conviction of duty to my constituents and to the country forbids me to be a silent witness of the consummation of a great wrong.

When, a few weeks ago, I voted for the electoral bill I little anticipated that to-day I would stand in my place an indignant protestant to the decisions of the commission. I admit at the outset that the bill under which we are now acting was a democratic measure, recommended by every democratic member of the joint committee; submitted to a democratic caucus and overwhelmingly adopted, and passed by the almost unanimous vote of the democratic party in both Houses of Congress. I admit all this; and while I did not like a single feature of the bill for its own sake, yet it was the best method presented to Congress for the settlement of a vexed question. It was demanded by the whole country to insure domestic tranquillity and to revive our languishing industries. Without the bill Mr. Hayes would have been counted in by fraud and put in by force, and the double wrong would have wrecked our free institution. We passed it with implicit confidence in the fairness at least of the judicial portion of the tribunal which has astounded the country by its decision. We had a right to expect something from at least that portion of the commission, and the fault we find to-day is not with the law itself but with the perversion of the law by that commission.

I admit, sir, that I for one thought the judicial members of that commission were more than men; I thought them judges. To my mind they were abstractions of legal wisdom, learning, and justice, capable of sinking partisanship and every unworthy consideration, even their own individuality, in the ascertainment of truth in the case submitted to them.

The disappointment of the country is a just measure of the reasonable expectation of justice at their hands. Speeches, now of public record, made by members of the commission, committed them to full, fair, and thorough investigation of the cause.

That the people are to-day disappointed, that the democratic party is disappointed, is not the legitimate result of the electoral law, but of the disobedience to and violation of the law by the commission. They were organized by the very terms of the law that called them into being to ascertain who were the duly appointed electors for President and Vice-President of the United States. Instead of performing that duty, they have told us who were the *prima facie* appointed electors. Sir, was it necessary that all the eloquence which thrilled this House and rang through the whole country in the debate on the electoral bill should have been expended upon a measure which was designed to produce such a result? Was it necessary that this paraphernalia of a joint commission, composed of members of both Houses and a portion of the Supreme Court, should be called into being to exercise a function to which the President of the Senate was fully competent; to which even the tellers appointed by the two Houses were fully competent; just as competent as this commission to decide upon the superficial technicalities of the case; just as competent to tell the people of the country who were the *prima facie* electors. Yet all this waste of eloquence, this labor, these caucuses, these meetings of joint committees, simply to usher into existence a commission of such imposing character to perform a simple, plain, clerical, and perfunctory task. Sir, the proposition is offensive to reason. It was not necessary to—

> Raise a tempest,
> To waft a feather, or to drown a fly.

What the people had the right to demand, what this Congress contemplated when it passed this bill, and what is provided by the

law itself, is that this commission should reach the bottom facts, and that a decision consonant with truth and justice should be solemnly, conscientiously, and even prayerfully attained. But they have signally failed to meet the expectation of the country. The people asked for bread and they gave them a stone. When they asked for full evidence in the case of a contested State they gave them this:

Ordered, That no evidence shall be received.

Can gentlemen reasonably object that disappointment and denunciation should meet them at every turn? I say the spirit in which the astounding decisions of this commission have been received in every portion of the country bears pregnant and most forceful significance. Is there a man in this House, republican or democrat, who doubts that if this commission, in obedience to the law which organized it, had proceeded really to the examination of the merits of the case and had endeavored to reach the essence of this contest, and then, in pursuance of their plain duty under the law, declared Tilden or Hayes elected—can any man doubt when the news was received that every city, village, town, and hamlet throughout the country would have blazed into a simultaneous illumination, and that from every quarter of the Union a grand chorus of exultation would have been raised? But how was it received? When the news of its first decisions was flashed throughout the country, did it meet a responsive thrill in the popular heart? Did it excite any enthusiasm? Did it call forth any manifestations of rejoicings? No, sir; the country received it everywhere as the news of a disaster. It was as though a great calamity rested all over our land; as though the nation had lost a battle. Sir, those false judgments have no power to stir that love, truth, and justice in the human heart which are the parents of enthusiasm.

In the construction of any law, the best authority, next to the text itself, is the intention of the legislature which formed the law. We all know that it was the unanimous opinion of this House, on both sides, that it was the duty of this commission, for which the law itself provided, that this commission should take all the evidence in this case; every man who supported it supported it on that ground, and every one who objected to it objected to it for the same reason.

I see before me the distinguished gentleman from Ohio, [Mr. GARFIELD,] a member of that electoral commission, and the ground of his objection and vote against the bill was that it *compelled* evidence in this case.

Now, I will animadvert upon the speech which the gentleman from Ohio [Mr. LAWRENCE] made yesterday. That gentleman yesterday denied this commission could have gone into the evidence. Here is what he said when the electoral bill was being contested upon this floor. He objected. He says:

I object then to the bill to regulate the counting of the electoral votes because—

I. In *requiring* evidence to be considered in the count which goes back of the returns required by the Constitution, and which may controvert the authority of electors who have the constitutional evidence of a right to act as such, it is unconstitutional and void.

That was then his opinion. Further on——

Mr. LAWRENCE. Further on you will see that I do not believe we have any such power.

Mr. MONEY. Do not take up my ten minutes. Further on the gentleman speaks with a spirit of prophecy which almost amounts to inspiration. He says—

It is impossible that the commission provided by this bill can reach a result which will command the confidence of the people.

For once in his life my friend from Ohio was right, and I fully concur with him, and go further, that neither do the decisions of the tribunal command nor has their course *invited* the confidence of the people.

The gentleman took occasion yesterday in his speech in answer to my colleague from Mississippi [Mr. HOOKER] to refer to the condition of things precedent to and during the election in Mississippi, and asked how would we like the bull-dozed districts of Mississippi should be investigated? Is not the gentleman, in his character of Representative upon this floor, compelled to take cognizance of the fact that they have been investigated; that the committee of the Senate have explored every ramification of this business; that they have summoned before them men of different vocations and from every quarter of Mississippi, who have been for months dancing attendance in the antechambers of the Capitol, who have testified both *pro* and *con*, and that after a searching examination, conducted mainly by bitter partisan republicans brought from Mississippi for the purpose, an examination in which the rules heretofore held by courts and committees were ignored, an examination not only into the *res gestæ* of the election and of the political canvass preceding, but was an inquisition also into the laws, customs, manners, the public and private business, social and domestic relations of the people of that State; an examination that not only demanded of witnesses what they saw and knew of actual occurrences, but what they heard, thought, and believed, and what other people thought and believed; and yet the whole mass of testimony absolutely amounted to nothing, and, as one of the republican Senators on the committee told me, "could have no practical result."

The good name and character of the people whom I have the honor in part to represent have been assailed at all points, and their vindication is the result. The testimony showed an ardent, zealous, and energetic effort of a noble people, determined to rule themselves and united as one man in a heroic effort to combine every moral, physical and legitimate agent to accomplish so laudable a purpose. The gentleman could have spared himself the ungracious act of insinuating apprehension in us of a possible investigation which has already become matter of record and to which we appeal. Republicans here have been accustomed to plant themselves on the color line and they fail to understand how a man can be black and a democrat. They might as well say that a man cannot be black and appreciate low taxes, good government, and material prosperity. They do not give the negro whom they claimed as the ward of the nation and the *protégé* of the republican party credit for that intelligence and independence of political action which they assume for themselves. They have for many years attempted to support an unnatural condition of things at the South. The Federal power was invoked to keep the pyramid standing on its apex, when the inexorable and persistent law of gravitation demanded that it should rest upon its base. The day has been, but it will never be again, when the ignorance and barbarism of Mississippi, joined with the rapacity of strangers, controlled her destinies.

But, Mr. Speaker, to return from this digression provoked by the speech of the gentleman from Ohio [Mr. LAWRENCE] to the subject-matter before the House. I repel the accusation that it is at any compromise of honor or good faith that we resist *under the law itself* the achievement of this iniquity. We have a duty to perform for those who sent us here. We deny that we have entered into a game of chance. It was not the intention of this House to leave the settlement of so grave a question, involving the rights of millions, upon the uncertain decision of

Fortune, that goddess blind,
Who stands upon a rolling, restless stone.

And if it were true that we played a game of chance we did not expect our opponents to deal from a pack of cards that held eight jacks. I am not an expert, but I believe they are called knaves. Nor as a compact are we bound when the compact has been violated; for this commission has violated the law of its being, annulled it and the Federal Constitution, abused a sacred trust, insulted common sense, and outraged common justice. Its illogical, illegal, and inconsistent decisions can neither be palliated nor denied. Whatever the past reputations of the majority may be, whatever their performance of public duty in its highest sense may hereafter be, they cannot tear away the damning record which they now complete, and which like the shirt of Nessus will burn and blister them to the core.

In the light of these transactions of the commission, the incoming administration casts an adumbration over the land dark with apprehension and distrust, because its muniment of title is founded in fraud—fraud that taints all it touches, and whose agency in the transfer or perpetuation of power marks the decay of nations.

I forbode, sir, that the electoral farce whose last act we witness is but the prelude to the nation's tragedy—not the heroic tragedy of the sword and ax, but the lingering tragedy of moral decay, slower but not less sure of the catastrophe. It may be, Mr. Speaker, that we have fought the last battle for constitutional liberty; but I hope there yet may be among the people, in republics the source both of power and of virtue, that robust and vigorous love of freedom that has been a salient feature of American character and that has held its more than vestal vigils for one hundred years of our national history; that the people may at the next election rise in their sovereign dignity and with one inspired jesture wave from the theater of political action the party that participates in and profits by this fraud.

To my mind the republican party has won a pyrrhic victory, from whose demoralization there is no recovery. If I should be mistaken, if the people are prepared for usurpation so gross and bald as this, if they patiently extend their free hands for the shackles of slaves, then shall I have arrived at a conclusion which in Rome was deemed the highest crime, I shall have despaired of the Republic. Sir, this conclusion of the presidential question cannot bring peace or prosperity. Recognizing fully that the peace sentiment is stronger than any other in our country; recognizing that scarcely any provocation would drive the people to internecine war, and those dreadful horrors which are its natural concomitants, yet there will not be that peace which brings content. A resentful and sullen submission may be had, but fraud has laid its frozen hand upon the Government, and the chill running along the electric chain that binds these States together, and reaching every citizen, the industries of the country will wither and perish beneath the touch. The Administration owing its power to such agency cannot be successful without the sunshine of the people's approbation. You might as well, sir, expect the georgeous efflorescence, the luxuriant fruit of the generous and redundant tropics to be evoked by the will of man from the barrenness and desolation of the icy Arctic.

The gentlemen of the republican party themselves distrust the outrageous award by which they profit, completely traversing their record for the past twelve years. They come with words of conciliation and fair promises to the South; we hope they mean all they say. A glorious opportunity is presented to Mr. Hayes, even with the inauspicious beginning of his administration, to do good to his country and to mark his lease of power among the brightest in our annals. If he will give himself to that high duty of statesmanship, the reconciliation of the people to the Government; if he will take

the mailed hand of Federal power from the stricken and suffering States of Louisiana and South Carolina; if he will allow the blessings of self-government to those who have tasted the bitterness of alien oppression; if, to quote the language of his friend, General FOSTER, he would rule States rather than provinces, freemen rather than slaves; if he would strive to supplant sectional hate with reconciliation, then he will find no factious opposition to such policy in the South. But not knowing his policy, and knowing well that as stated by his friends here it traverses all the matured utterances and carefully considered policy and accomplished acts of his party for the last twelve years, I must be excused to-day from lubricating the processes of the count and hastening an event I may regret.

The South yields readily to kindness, but gentlemen are mistaken if they think those who have character and influence enough to become leaders of the Southern people can be induced by the love of place to yield their convictions and walk at the chariot wheels of Mr. Hayes to grace his triumph. To my fellow-democrats who differ as to the action this moment to be had, I say bear with us even as we do with you.

We follow what we conceive to be a duty, and cannot believe that our people will present a keener edge of indignation to those who struggle to prevent the consummation of a fraud than to those who perpetrate it. As for my own part, I cheerfully submit my record to the liberty-loving constituency which I have the honor to represent in this House.

[Here the hammer fell.]

Mr. DENISON. Mr. Speaker, I have been in the habit of speaking directly to the point before me, and therefore I shall have nothing to say whatever on this occasion as to any electoral count except the counting of the electoral vote of my own State of Vermont.

I submit, sir, that the certificates of Vermont which were in the hands of the President of the Senate were the only certificates to which we can direct our attention. The supposed certificate and bundle of papers handed up to the President of the Senate yesterday we have nothing to do with and can have nothing to do with unless we violate the law. The law is that all certificates shall be in the hands of the President of the Senate by the 1st day of February, 1877, so far as the electoral count this year is concerned. That being so, we have nothing to do except with the returns that were found in the hands of the President of the Senate at that time. The other returns are to us of no more consequence than a last year's almanac; and those who insist that they shall be counted are unmistakably in the wrong.

Those certificates, then, to which we are at liberty to address our attention tell us this, and this only, that five gentlemen were elected to be the electors of the State of Vermont. One of them was ineligible. His ineligibility was voided by his resignation and the acceptance of that resignation and the appointment of his successor, he being himself re-elected to fill the vacancy when his ineligibility had ceased. Now I ask gentlemen if upon their oaths they can deny the right of Vermont to her vote. Gentlemen, I understand, are here bound to act upon their oath of office as much as if they stood in a jury-box. I ask them, then, whether, upon their oaths, they are prepared to deny to my State her right to the vote she has cast. Some gentlemen here may do it, but I am thankful to feel assured that more than two-thirds of the members of this House, and the Senate unanimously, are prepared to count the votes cast by the State of Vermont.

Mr. WILSON, of West Virginia. Mr. Speaker, I send to the Clerk's desk a preamble and resolutions adopted a few days ago at a meeting of the democratic members of the Legislature of West Virginia, and ask to have them read.

The Clerk read as follows:

Whereas said tribunal refused to inquire into said alleged frauds and utterly disregarded the plain provisions of the act creating said tribunal, rendering contradictory and partisan decisions, attempting to legalize and force upon the people the results of the most infamous frauds ever attempted upon a free people: Therefore,

Resolved, That our Senators be instructed and our Representatives in Congress be requested to use all legal, constitutional, and honorable means to prevent the consummation of this most foul conspiracy against republican government and the liberties of the people.

Resolved, That our Senators in Congress be instructed and our Representatives requested to oppose any appropriation for the support of the Army that does not restrict expressly and strongly the Army from being used in the Southern States and confine its use to the protection of our western frontier.

Mr. WILSON, of West Virginia. Mr. Speaker, there has been no period in the history of this country when the people have been so outraged as they are now by the partisan decisions of the electoral commission. And if, in their opinion, anything could justify the repudiation and nullification of a statute regularly enacted, it would be those decisions.

The joint committee charged with the duty of providing for the counting of the electoral votes, in their report accompanying the electoral bill, and alluding especially to the members of the commission who were to come from among the judges of the Supreme Court of the United States, expressed the opinion that "it would be difficult, if not impossible, we think, to establish a tribunal that could be less the subject of party criticism than such a one." We naturally supposed, sir, that the justices of that high tribunal, who long ago promulgated the doctrine that "fraud vitiates every transaction, even the most solemn," and who have adhered to it in their judicial decisions, would, when called to act on this electoral commission, still adhere to it. We could not have supposed that they would have been so forgetful of their duty and of their reputations as to render anywhere, under any circumstances, decisions manifestly erroneous, contradictory, and partisan.

The fact is apparent that a large majority of the votes cast at the election were cast for Tilden and Hendricks electors, and that a decided majority of those electors were appointed. But this commission, by counting the votes of Louisiana and Florida for candidates whom the people rejected, has entirely and fraudulently defeated the popular will. To do this the commissioners were compelled to reverse on one day their action of the day before. We see them going behind the electoral returns of the States of Florida and Oregon to ascertain whether or not ineligible electors had been chosen; we see them, sustained by no rule of law and no rule of honest construction, refusing to go behind the returns for the same purpose in the State of Louisiana. Well may we, well may the people, be shocked and astounded at these monstrous iniquities.

The electoral law, however, stands upon the statute-book. Can it be properly disregarded and disobeyed until it shall have been repealed or adjudged invalid? It received the sanction of not only the Senate and the President of the United States, but this democratic House also. Can we who created it, who gave it the impress of a law, disobey it without overstepping our duty?

The democratic party has ever been the law-abiding party of the country, and I would not like to see it, at this time or at any other time, commence the work of repudiating statutes of its own creation.

The resolutions to which I have called attention point out that the way out of the difficulty must be legal, constitutional, and honorable. Would it be legal, would it be constitutional, would it be honorable to disown and break down in the manner proposed a statute of our own making—a law which has not been repealed and has not been condemned by the courts; a law, too, for the passage of which pressure as great as was ever exerted upon a legislative body was brought to bear on this Congress from all sections and chiefly by the democratic party?

Mr. Speaker, I have heretofore steadily voted for every measure that promised to secure an honest count, I have voted to give all the time that was necessary for consulting, for making up objections to the various returns, and for the preparation of arguments by gentlemen on this floor; and I shall in the future do whatever, to use the words of my constituents, I legally, constitutionally, and honorably can to defeat this most foul conspiracy.

But I do not wish to trespass longer upon the attention of the House, and yield the floor to the gentleman from Pennsylvania, [Mr. MAISH.]

Mr. MAISH. Mr. Speaker, a favorite method for illustrating moral or immoral truths in ancient times was the fable. In the multiplicity of speeches which have been delivered on this floor on the finding of the electoral commission I am not aware that any have been employed. I am unwilling to let this great proceeding go down to posterity without at least the use of one. I have recently found in the Philadelphia Times one that is admirably adapted to my purpose; and I accordingly send it to the Clerk's desk to be read.

The Clerk read as follows:

STOPPED AT THE PORTAL—THE EXCITEMENT CONCERNING THE BIRTH OF AN HEIR TO THE KING OF THE CANNIBAL ISLANDS.

Recent advices from the Pacific give some interesting particulars of the disturbance which has arisen concerning the succession to the crown of the Cannibal Islands It is known that for many years great uneasiness has been felt among the faithful subjects of His Majesty the King because he was without an heir, and when it was at length announced that the queen was about to present him with the hoped-for child, every one awaited the interesting event with the utmost anxiety, and especially the king himself and his household, who dreaded the change of dynasty that must occur should the king die without an heir male. There was a considerable party in the kingdom, however, to whom the idea of a change was not distasteful, and who therefore rather hope that the child might prove a girl. In due time the child was born, and the certificate of the royal physican and the royal nurse set forth the welcome fact that it was a boy. Great was the rejoicing in the king's household; but soon it began to be whispered abroad that the physician and nurse had either made a mistake or told a lie. One of the ladies in waiting had declared her belief that the child was a girl. The consulting physician had thrown out the same idea. The matter got into the newspapers and became the subject of excited discussion in the Parliament. The king and his counsellors stuck to it that an heir was born and all was well, but the popular excitement became so great that it was evident some steps must be taken to settle the controversy. It was accordingly agreed, with the concurrence of all parties, that a high commission, composed of fifteen eminent physicians, should be appointed to examine the child, and, that there should be no appearance of partiality, seven of the fifteen were to be chosen by the opposition. So fair an arrangement did this seem that the whole public readily acquiesced. It would require but to view the infant to decide the case, and surely fifteen pairs of scientific eyes could not be all deceived. And so the high commission was convened and the nation quietly abided the result.

The queen was duly informed of the royal inquisition that was about to visit her, and all was made in readiness for their reception. The chosen fifteen put on their stateliest robes of office, and proceeded upon their mission, and with due dignity approached the portal of the royal bed-chamber. But here it was that the king's adherents showed the wisdom and safety of their action. "Halt," said the fifteenth commissioner; "know you not the law is written which forbids our entrance here? No foot of man less sacred than the king's or his own physician's dare cross the border of the queen's apartment. It is not for us to enter here. The law forbids. We must seek for evidence, but within the law."

"Yes," said an objector, "but see the purpose for which we were appointed. The law which created us knew it were impossible to decide the issue without our entrance here. It certainly was its intent that we should do so. Is not everything made ready for our reception? The power invested in us is our authority."

"Nay, not so," was the reply. "Let us seek the evidence we have. See here, this certificate bears all the marks of legal requirement; its signatures are those

of lawful officers; it says the child is a boy, and so must our decision be. What says the court?"

And eight responded, "So think we," and seven answered "no." And thus was given in the verdict, the child must be a boy.

So it happens that the Cannibal Islands are filled with mutterings of discontent, since it is now known that the child was a girl and it is generally thought that the change of dynasty has only been delayed.

Mr. HAYMOND. Mr. Speaker, I shall not, in the few remarks that I am permitted to make, follow the worn and beaten track by reproducing arguments that have, in this and the preceding debates, been so often rung upon the ears of this House. The important question is, shall this House carry out in good faith the law recently enacted to regulate the counting of the electoral votes, and submit in good faith to the decision of the electoral commission?

I can not, sir, consistently bring myself to the point of interposing obstacles to delay or defeat the election of a President, and thus render void an act which I supported in good faith. I am not willing to become responsible for anarchy, nor am I willing to permit the prosperity and business interests of the country to be disturbed by the excitements and passions of another presidential election during the present year. I can only contemplate another election so soon, with a renewal of all the existing causes of strife, with fear and sad forebodings. In voting for the electoral bill I was prompted entirely by patriotic motives. I did not base my support of the measure upon the presumption that it would elect the candidate of my choice, but to secure a fair and amicable settlement of the most complicated and dangerous questions, save the issues of the great rebellion, that have happened since the foundation of the Government.

When I saw that the session was rapidly passing away and the time almost reached when the electoral votes were to be counted; that we were rushing headlong, without chart or compass, and that the wisest solons of the nation were unable to comprehend the difficulties before us and devise a rational method to escape the danger of anarchy that appeared imminent, and that the people in all sections of the country, alarmed at the situation, were loud in their demands that Congress should without delay adopt some plan by which the dangers might be averted and peace and harmony sustained—then it was that, in obedience to the dictates of my conscience and in accordance with my sense of public duty, I voted for the passage of the bill creating the electoral commission.

I shall not now, sir, by bad faith and by puerile inconsistency, condemn my own act; neither shall I so far surrender myself to chagrin or disappointment as to charge with fraudulent intentions those who have decided adversely to the claims of the democratic party. It is too early to hazard predictions as to what may follow if this or that candidate is declared elected. "There is a Divinity that shapes our ends, rough hew them how we will;" and I shall not forsake the idea, though defeated in the choice of a candidate for President, that our action in this great event was shaped by an all-wise Providence, whose ways are inscrutable, to the end that some important result, now unforeseen, as an essential condition to the grand destiny of this nation, may be worked out.

We have had impromptu opinions almost by the dozen denouncing the electoral law as unconstitutional. But I have not been disturbed with serious doubts in regard to its constitutionality. The Constitution contains but one positive injunction on the subject, namely: "the votes shall be counted;" and it names but one condition under which they shall be counted, namely: in the presence of the two Houses of Congress; and this is all. The requirements of the Constitution are clearly subserved by the law and its object was limited to the single purpose of determining what were the lawful votes cast for President and Vice-President.

We had an election by the people which was close and undecisive. Two great parties put forth their utmost strength in the contest and each claimed the victory. Congress could not decide, because each House, claiming equal jurisdiction, disagreed upon the result as radically as the two great political parties, and if one man at the other end of the Capitol had counted the votes, as it was claimed by many that he had a right to do, a large majority of the people of the country would have declared the act revolutionary and an unwarranted usurpation of power; but the issue had to be settled, and since a plan has been adopted by a large majority in both Houses of Congress, backed by the public sentiment of the country, for its settlement, it is the duty of every man entitled to the appellation of patriot to abide by the result in good faith, whether the verdict has been in his favor or not.

It has pained me, sir, to hear in this House so many hasty and bitter denunciations of the judges and other members of the electoral commission. They are all, "all honorable men," and until we have learned more of their purposes, have had more time to consider the logical results of their decision, and have stepped down and out from this theater of excitement to our homes and the quiet retreats of retirement, we should accord to each and all of them patriotic motives. Their decision appears to be based ostensibly upon the time-honored doctrine of State rights, tenaciously advocated by leading statesmen of this country since the days of Thomas Jefferson. If their verdict is based upon solid ground as to Louisiana, Florida, and South Carolina, then we should have no more tampering with State sovereignty, no further military interference by the Federal Government with State elections, no further attempts to foist upon the people of any State executive and legislative officers never chosen by them, but leave each State the absolute right to govern itself and regulate its own affairs, subject only to the Constitution of the United States. I believe the decision to be in consonance with this doctrine.

Louisiana and South Carolina will then rise up in their majesty and liberate themselves from the enthrallments that have made them the burlesque of republican government and the disgrace of the nation in the recent election. Let us hope that the incoming President will exhibit such statesmanship as will lead him to respect the rights of the States. Let him not dare to "go behind the returns," and attempt to foster any State government not created and supported by the people, or to maintain in power usurpers by Federal bayonets. But if he does it would be better for him if he had never been born, for in the disputed title to his office his administration would be regarded with disrespect and his efforts would turn to ashes like the fruit upon the shores of the forbidden sea.

The troubles and perplexities that we have to encounter in deciding who was elected President are due mainly to the exceptional state of affairs in several of the Southern States. They are incident to the late war, and are the legitimate offspring of the mistakes and blunders of reconstruction. They come from the mistaken policy of attempting to sustain corrupt and mercenary rulers in opposition to the will of the people.

This policy cannot be much longer maintained. It has had its carnival and must rapidly disappear under the condemnation of the whole American people. Before another presidential election those States will have vindicated their sovereignty, and when this is done we will hear no more about mercenary and unprincipled returning boards and double returns of electoral votes.

The members of the returning board of Louisiana were perhaps as fraudulent and as iniquitous as they have been represented to be. It looks like they threw out enough votes to overcome the 8,000 majority of Tilden with the sole intent to defeat his election. Their action appears to have been adapted to the necessity of the case, and they would have been no doubt equal to the emergency had the majority for Tilden been 20,000 or even 50,000.

But this great Government will not perish because a presidential election has been marred by the irregularities of a few unprincipled men. The deed was so bold and startling that it will make crime odious in the future, and the American people will never suffer its repetition, and I trust there will never again be an occasion when it could happen.

I am not one of those who will despair of the Republic or who believes that its liberties will be endangered by the inauguration of Mr. Hayes, even if his title to the Presidency is ever so questionable. I have heard *ad nauseam* many doleful predictions and fearful prognostications, but similar ones have occurred at periodical intervals since the foundation of the Government. A class of persons of peculiar constitution and temperament, who may be denominated morbid croakers, has always been ready, under the slightest pretexts, to herald their notes of alarm and to sound the doom of republican institutions, and it will not be strange in a crisis like this that the story should be repeated with increased emphasis. Notwithstanding all such predictions, however, the Government will survive, and the watchword from the mountain-tops and the valleys will be "onward," and, as Mr. Webster said in his famous speech, "This nation will continue to grow with its growth and strengthen with its strength."

What is a transient political triumph in the career of a nation like this, created to endure, so resplendent in its progress and in all the elements of greatness, and so strong in the affections of the people? It will move onward in its grand destiny with a momentum that no power can arrest, and it can no more be overwhelmed by the passions of the hour than the sun can be jostled from his central position in the heavens by the nebulous tail of some erratic comet.

I shall continue to maintain the supremacy of the law, whoever may be chosen President. I am for the country under all circumstances, and I think my vision is strong enough to penetrate the clouds and mists that float around us, and to see in the clear sky beyond that our flag still waves, and that the temple of constitutional freedom still peers aloft, and though assailed still proudly stands and will stand unshaken upon its immutable foundations while the mountains stand and while time endures.

Mr. LEVY. Mr. Speaker, thoroughly convinced of the injustice wrought by the decision of the electoral commission and abating not one "jot or tittle" in condemnation of its proceedings, still regarding it as impracticable and impossible to avert the results of its action, and while protesting against the wrong by which the spirit and intent of the law were frustrated, I feel that sound policy and the paramount consideration of the salvation of the State and people of Louisiana require that their Representatives in this House should abstain from a futile attempt to nullify that decision and thereby postpone the redemption which is essential to their very existence and from which alone they can expect peace and prosperity.

This redemption from usurpation and oppression is to me, as a Louisianian, superior to everything else. Crushed and humiliated in all her constitutional rights, enthralled and impoverished by men who, under usurped authority, assume and exercise the powers of arbitrary and merciless rulers instead of discharging the functions of obedient servants of the people, dominated by men who sacrifice all her material and substantial interests to the gratification of their lust for place and personal aggrandizement, who postpone the

public good to their own selfish aims and purposes, Louisiana finds herself to-day in the attitude of destitution and woe; standing upon the very edge of a yawning, terrible abyss, in whose depths misery and destruction stretch forth their arms to receive her in hateful and loathsome embrace. If this suffering and affliction awaited only her stalwart sons, if ruin and desolation were to fall alone upon the young, the active, and the self-reliant, I think I do but simple justice to them when I declare that they are equal to their fate and would not shrink from the duty of boldly baring their breasts and bravely meeting and resisting the shock. But, sir, there are other and holy considerations which suggest themselves to their judgment and require profound and serious deliberation. The rights, the safety, the happiness, the well-being of her old men, tottering in age and infirmity; of fathers who in their declining years look to their sons for care and sustenance; of mothers who have fondly nursed their boys and demand of them protection and safety; of wives who in the hour of despair and danger claim of their husbands the fulfillment of their solemn marital vows to love and to cherish, to protect and defend; of innocent maidens and of helpless infants who in prayerful tones and with lisping voice and tearful eyes appeal to fathers and to brothers to extend their fostering care—these, all these, crowd upon brave men, silence the voice of passion, and appeal to reason and to sound judgment.

I abandon no principle. I do not change my settled convictions of political right when I declare that in this crisis of the fate of my State and people, of my friends and brethren, in this hour of supreme peil to the honor, the safety, the homes, the firesides, the *lares* and *penates* of my friends and neighbors, I, as one of their trusted Representatives, honored by them far more than my poor, feeble qualifications merit, solemnly aver that I hold it my sacred duty to subordinate all issues and considerations, save those involving personal honor, to the duty of saving that State and people and working out their redemption from the ruin and degradation which threaten them. I care not what may be the consequences so far as my political prospects are concerned, I ignore all thought of personal advantage; I rise superior to selfish considerations; I dare to risk the coldness and the condemnation of party friends and the reproach, ay, the obloquy of partisan associates, to bear the fury of the present storm; and if I can contribute aught toward relieving my beloved State from the bondage which oppresses and enslaves her, to unrivet the chains which bind her fair limbs and elevate her to the dignity of that freedom to which the "laws of nature and of nature's God entitle her," I can well afford to wait on the future for a vindication of the motives which actuate me, or if, as is often the case, this vindication may not take place, I can submit to the mortification which attaches to the knowledge that one's motives are misconstrued and misinterpreted and I can at least console myself with the highest of earthly consolations, the approval of my own conscience, and enjoy the satisfaction which results from the performance of which I believe to be a high and sacred duty.

I know that the people of Louisiana, the white people of Louisiana, have been most cruelly and grossly misrepresented. I know that for party purposes and for selfish ends there have been ascribed to them the most shocking barbarities and the violation of every rule of civilization and enlightenment. These slanders have been most industriously circulated and have served to excite prejudice and sectional animosity against us; but, sir, intimately acquainted as I am with these people, I know and I assert that they are baseless and unjust, that the universal sentiment of the intelligent, the influential, the thoughtful, and the controlling element of that people, is love of and desire for peace, order, and good government; the recognition and the enforcement by just laws of all the civil and political rights of every class of the community; the honest acceptance of the issues of the war which resulted in the enfranchisement of the colored race and the endowment of that race with all the rights of American citizenship under the Constitution and its more recent amendments; the earnest desire to elevate the colored people to the plane of high civilization and enlightenment, to bring about harmony of feeling, and to raise them in the moral, political, and educational scale; to repress violence growing out of political and ethnical antagonism, and to see all our citizens, regardless of race, color, or previous condition of servitude, live together in the bonds of civil and political unity in our great American brotherhood. I know, and I pledge my word and my honor to the truth of the declaration, now made in this solemn presence on this grave occasion, that the white people of Louisiana, represented by the overwhelming majority of its numbers, its capital, its intelligence, its culture, will in the administration of the government of the State, in its executive, legislative, and judicial departments, extend equal and impartial justice to all classes of citizens; protect them alike and equally in the enjoyment of all their rights of life liberty, person, and property; repress violence and lawlessness no matter where it originates, or by whom committed, and thus insure that harmony and good feeling which go hand in hand with the progress of the State in the road of happiness and prosperity.

The people of Louisiana have solemn, earnest, and, I believe, truthful assurances from prominent members of the republican party, high in the confidence of Mr. Hayes, that in the event of his elevation to the Presidency he will be guided by a policy of conciliation toward the Southern States, that he will not use the Federal authority or the Army to force upon those States governments not of their choice, but in the case of these States will leave their own people to settle the matter peaceably, of themselves. This, too, is the opinion of President Grant, which he freely expresses, and which I am satisfied he will carry out and adhere to. Under these circumstances, pretermitting, at least at this time, any discussion of the manner and means by which Mr. Hayes may secure the Presidency, satisfied from the action of Congress that his accession to the office is well-nigh an accomplished fact, I do not hesitate, for the reasons before stated, to declare, that, actuated by a sense of duty to Louisiana, I shall throw no obstacle, by any action or vote of mine in the way of the completion of the electoral count; but, relying upon the good faith, the integrity, and the truthfulness of the gentlemen who have given these asurances, and having faith in their individual personal honor, I shall unhesitatingly discharge this duty and call upon those of my fellow-members who have been influenced in their action on this question by a desire to protect Louisiana and South Carolina to join me in the course which I feel called upon and justified in pursuing.

Mr. GARFIELD. I would not occupy a moment of the time of the House but for the sake of removing what seem to me to be one or two misapprehensions about the case in hand. It is alleged by some of the gentlemen who have spoken on this subject that somewhere or other there is a double return from the State of Vermont, and if so, the case ought to go to the electoral commission. I want to call the attention of the House to the fact that the electoral law speaks from the 1st day of February, and it speaks in tones of absolute authority that the President of the Senate is to open and deliver to the tellers all the certificates received by him up to that day, and he has no authority to deliver any others. If he had, anybody, everybody, from every State in the Union, might send any number of papers purporting to be certificates of the electoral votes of their States, and he would be compelled to present them all. No man believes that any such doctrine was intended or declared in this law.

Now, the President of the Senate has thus far faithfully opened all the certificates received by him up to the day of the passage of the electoral law. He even delivered one pretended certificate that was received the night before the law passed, namely, on the 31st of January. He delivered one that was found to be a mock certificate, and this House and the Senate were ashamed that they were compelled to listen to its reading. But yesterday came the statement from the gentleman from New York [Mr. HEWITT] that the day before he called upon the President of the Senate and informed him that about two months ago he [Mr. HEWITT] had received by express a sealed package and an intimation that something had been sent through the mail to the President of the Senate. The President of the Senate responds, and no man questions his declaration, that he has received no dual returns from the State of Vermont, and under the law he must refuse to receive this *post hac, post mortem* package tendered to him in the presence of the two Houses. If he should receive it there would be no end to the demands made on him to receive anything that anybody chose to tender.

Now the only thing that remains to be said is this: I understand that it has been stated by some gentlemen here in the House that they saw the Secretary of the Senate take this package and put it in his pocket, and they inferred that the Secretary had carried it away. I hold in my hand a letter from Mr. GORHAM, Secretary of the Senate, addressed to me, which I will read so that it shall go upon the record. It is as follows:

UNITED STATES SENATE CHAMBER,
Washington, March 1, 1877.

DEAR SIR: In reply to your verbal inquiry, I have to say that the paper presented by Mr. HEWITT, of New York, yesterday, in the joint meeting, and which the President of the Senate refused to receive, was not at any time in Mr. FERRY'S hands. As to myself, I did take it up, and remarked in the hearing of several, including the House tellers, that I was a friend of Mr. FERRY'S, and as the paper seemed to be a private communication addressed to him, I would take charge of it. I put it in my coat-pocket, intending to bring it away with other papers. Being admonished by the President of the Senate that my reception of it might be considered a constructive reception by him, I took it from my pocket and laid it in plain view upon the desk where I was seated. I never again had it in my possession and do not know where it is. I felt no responsibility concerning it. If it was brought out of the House, I do not know it. If it was taken at all, I do not know by whom.

Respectfully,

GEO. C. GORHAM.

Hon. JAMES A. GARFIELD,
House of Representatives.

That letter clears up all possible question about the matter. I understand that all persons belonging to the official force of the Senate who were present at the meeting of the two Houses disclaim any knowledge whatever of the whereabouts of the paper, and disclaim any implication that it was taken to the Senate at all. The fact that it has been discovered here in this House now ends the whole of that chapter.

Mr. HEWITT, of New York. A Senate messenger brought it to me and refused to tell me from whom he received it, although I asked him.

Mr. GARFIELD. I did not know that, and I have no desire to go any further into that question.

The SPEAKER. Order must be preserved. There is too much confusion in the Hall for the gentleman to be heard.

Mr. GARFIELD. I will wait until Ajax and the other chiefs have settled their quarrel. [After a pause.] Now, Mr. Speaker, there is no pretense of a claim that under any law in America the President

of the Senate ought to receive this paper under the circumstances. Furthermore, the paper does not purport to be an electoral vote. There is no signature on the back of the paper, as I am told, authenticating it as from anybody in the world. For anything we know, it is another mock certificate. But gentlemen say that they had a dispatch, which has been read, and made a part of one of the objections. But this dispatch to the Speaker of the House only declares that some judge in Vermont has a certificate that Aldrich is an elector.

Now the fact that the pretended certificate of an elector was deposited in the office of a justice in Vermont is of no account. It is no authority for the statement that we have double returns of electoral votes. It is no return of an electoral college. It does not pretend to be. Therefore, Mr. Speaker, if anybody is deceived by the pretense that we ought to have the paper opened in this House, coming as it does in a round-about way, by an unauthorized hand, not sent here by any messenger known to the law and not delivered until after the time when it was lawful to deliver it, that pretense is cleared away. When gentlemen vote on this question, let them vote upon the facts as they know them, for a vote for this resolution is simply a vote to prevent the conclusion of the count an plunge the nation into anarchy.

[Here the hammer fell.]

Mr. STONE. I desire to say a word in connection with the remarks of the gentleman from Ohio, [Mr. GARFIELD.] He has read a letter from Mr. Gorham, the Secretary of the Senate. Being one of the tellers on the part of the House I feel called upon to state what I know in connection with this matter. When that package was sent to the desk yesterday I saw Mr. Gorham throw it under the desk among the rubbish. I immediately wrote a note to the gentleman from New York [Mr. HEWITT] informing him that the package had been thrown under the desk. Mr. HEWITT approached me and we had some conversation, and during the time that conversation was going on I cast my eye towards Mr. Gorham I saw him take the package from under the desk and put it into his coat pocket. Therefore I have substantial proof of the fact that he did hold it in his possession.

Mr. HOAR. He says so himself.

Mr. FIELD. It is greatly to be regretted, Mr. Speaker, that this whole day should have been consumed in an attempt to rectify a mistake of the President of the Senate. That it was a mistake I think I can show, a grievous mistake, which the dignity and self-respect of this House should compel it to rectify if it can.

I shall not go into any question about the vote of Vermont, whether it be good or bad, nor inquire whether the paper which has been referred to is of any value. All I know is that a question arose respecting it which the President of the Senate assumed to decide for himself and refused to submit to the two Houses. Now, I deny that the President of the Senate has power to decide any question or to do anything except to keep order and exercise such power as is expressly given to him by this electoral law.

You know, Mr. Speaker, and we all know that this is the very question that has lain at the foundation of our debates during this whole session. At the beginning of the session it was maintained by the republicans that the President of the Senate could count the votes for President and Vice-President. Upon that point they stirred up the country, subsidized the press, and procured any number of legal opinions. But what did it all come to at last? Why, sir, the Senate itself after solemn debate repudiated the doctrine as having no real foundation. And the President of the United States, in a message to Congress, declared that never in the history of this Government, from first to last, had the President of the Senate assumed to decide any question in dispute.

Now, he does assume to decide this question whether or not the paper tendered to him by the member from New York [Mr. HEWITT] was a return to be opened by him. I say that if the members of this House consent to this attempt of the Presiding Officer of the Senate, then they must take heed to what is coming, for at the next quadrennial election the Senate may come into this Hall and its President may say, "I am to determine which are the returns to be opened." He may say, in answer to questions put to him, as he said yesterday, "I have not received such a return." And shall we be told that no one has the right to demand, "Why have you not received it? It was your duty to receive it. At all events, whether it was your duty to receive it or not depends not upon you, but upon us."

Suppose that the President of the Senate had refused to receive the certificate from Florida known as No. 3, which he did receive on the 31st day of January, would that have been a reason why we should not have insisted upon its being opened and read?

Obsta principiis, is the rule of prudence and the rule of law. The Commons of England have gained the liberties of the English people, which have made our Anglo-Saxon race the glory of the earth, by standing upon the smallest question that concerned their privileges. We must not give up jot or tittle of the rights of this House. It was the duty of the President of the Senate, when that paper was before him, instead of refusing to receive and open it, to submit the question to the two Houses, and the only remedy that can be now had is for him to be invited back here to open the paper in our presence.

Why, it may be asked, cannot it be opened here by you, Mr. Speaker? Why did I object to its being received by you? For two reasons: First, each House has the right to say whether it is a paper proper or not to be received. The Senate has the same right in that respect that we have. The question must be submitted to the two Houses together, and each must separate and determine upon it.

If the two Houses differ upon the question, then arises the very contingency which I have forewarned this House might arise at any time.

Further than that, if there are two returns, we have agreed by this electoral law that they shall go to the commission and afterward be determined by the two Houses, respectively. Let us deal with this question as the representatives of the people, not as democrats, not as republicans, but as guardians of the right of the House of Representatives in the electoral count: a right to participate in the decision of every question that can be raised.

Mr. CATE. Will the gentleman allow me to ask him a question?

Mr. FIELD. Certainly, if it does not come out of my time.

The SPEAKER. It must come out of the gentleman's time.

Mr. CATE. I desire to get the gentleman's ideas upon the question submitted by the gentleman from Iowa [Mr. KASSON] as to the effect of a return not having been received on the day, or coming by a different channel than that provided by law.

Mr. FIELD. I will answer the question of the gentleman with pleasure. There is no time fixed by law when a paper must be received to make it valid.

Mr. HOAR. Is there not a source fixed by law through which these returns must come?

Mr. FIELD. It is not so fixed by law as to deprive a State of its rights under the Constitution. You have decided—you gentlemen who, having acted as judges, come in here and debate with us what you have decided—that the law cannot contravene the Constitution, nor can Congress derogate from the rights of a State. Congress could not do it if it attempted it, and it has not attempted it.

This is what Congress has done. In 1792 it passed a law that the certificate of the electors should be sent in by the first Wednesday in January, but if not received by that time the Secretary of State should send for it. He may send for it at any time before the two Houses meet to count the vote. But the act of 1792, if it were otherwise in the way, has been repealed by the electoral law of this session, which declares that "all the certificates and papers purporting to be certificates of the electoral votes of each State shall be opened." I have answered the objection that this paper has not been received, because it ought to have been received. In point of fact it was delivered in our presence. It was delivered by the member from New York [Mr. HEWITT] to the President of the Senate, and he refused to receive it or open it. Are the representatives of the people to submit to that? Are republicans to submit to it? If you do, then look out for 1881.

Let us put our heel upon the doctrine that the President of the Senate is, in respect to the counting of the electoral vote, anything more than a presiding officer; that up to the meeting of the two Houses he is other than custodian of the certificates; and that when they are opened by him he has any other duty to perform than to submit to the two Houses every question that may arise.

The SPEAKER. The time for discussion having expired, the proposition of the gentleman from Kentucky, [Mr. KNOTT,] which is first in order, will be read.

The Clerk read as follows:

Resolved, That this House requires that the package tendered by the member from New York [Mr. HEWITT] to the President of the Senate in the presence of the two Houses on yesterday, and purporting to be a certificate of electoral votes for President and Vice-President of the United States in the State of Vermont, shall be opened by the President of the Senate in the presence of the two Houses, and if found to be such a certificate, the same shall be submitted, together with the certificate read in the presence of the two Houses, to the electoral commission for its judgment and decision; and that the Senate be requested to make a like order requiring the President of the Senate to open said package in the presence of the two Houses, and until such order be made the House will not be ready to meet the Senate to proceed with the count of the electoral vote.

Mr. SPRINGER. I call for the yeas and nays on the adoption of this resolution.

The yeas and nays were ordered.

The Clerk proceeded to call the roll, but was interrupted by

Mr. HAMILTON, of New Jersey, who said: I rise to a parliamentary inquiry. Is it in order to have that paper read? If so, I request that it be read.

The SPEAKER. The Chair has not the paper.

Mr. BLAND. I rise to a parliamentary inquiry. Is it in order to have a divison of the question upon this resolution?

Mr. CONGER. I submit that this demand is too late, as the first name on the roll had been called.

Mr. BLAND. I desire a separate vote upon the last clause of the resolution providing that until such order be made by the Senate the House will not be ready to proceed with the counting of the vote. The resolution contains two distinct propositions. [Cries of "Regular order!"]

Mr. CONGER. The roll-call had commenced.

The SPEAKER. The roll-call had commenced and will proceed.

The question was taken; and there were—yeas 116, nays 148, not voting 22; as follows:

YEAS—Messrs. Ainsworth, Ashe, Atkins, Bagby, John H. Bagley, jr., Banning, Beebe, Blackburn, Bland, Bliss, Blount, Boone, Bradford, Bright, Buckner, Samuel D. Burchard, Carr, Cate, Caulfield, Chapin, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Davis,

De Bolt, Dibrell, Douglas, Eden, Ellis, Faulkner, Field, Finley, Forney, Franklin, Fuller, Glover, Goode, Andrew H. Hamilton, Robert Hamilton, Hardenbergh, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hartzell, Hatcher, Henkle, Holman, House, Humphreys, Hurd, Jenks, Frank Jones, Thomas L. Jones, Knott, Franklin Landers, Lane, Luttrell, Lynde, Mackey, Maish, McFarland, McMahon, Meade, Mills, Money, Morrison, Mutchler, O'Brien, Odell, John F. Philips, Poppleton, James B. Reilly, Rice, Riddle, John Robbins, William M. Robbins, Roberts, Miles Ross, Savage, Sayler, Scales, Schumaker, Sheakley, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Teese, Terry, Thomas, Thompson, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Gilbert C. Walker, Walling, Walsh, Erastus Wells, Whitthorne, Wigginton, Wike, Jere N. Williams, Benjamin Wilson, and Young—116.

NAYS—Messrs. Adams, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Bell, Blair, Bradley, John Young Brown, William R. Brown, Horatio C. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Cutler, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Durham, Eames, Egbert, Evans, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Gause, Goodin, Gunter, Hale, Hancock, Haralson, Benjamin W. Harris, Hathorn, Haymond, Hays, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Hopkins, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Packer, Page, Payne, Phelps, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, Reagan, John Reilly, Robinson, Sobieski Ross, Rusk, Sampson, Schleicher, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Swann, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Waldron, Alexander S. Wallace, John W. Wallace, Ward, Watterson, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Yeates—148.

NOT VOTING—Messrs. Abbott, Anderson, Bass, Cabell, John H. Caldwell, William P. Caldwell, Clymer, Durand, Gibson, Goldsmith W. Hewitt, Hooker, Hunton, King, Levy, Lewis, Metcalfe, Milliken, Piper, Purman, Stephens, Tarbox, Wait, Charles C. B. Walker, Warner, Warren, and Wheeler—26.

So the resolution was not adopted.

During the roll-call,

Mr. TUCKER said: My colleagues, Mr. CABELL and Mr. HUNTON, are absent from the House by reason of sickness.

Mr. WAIT. On this question I am paired with the gentleman from Alabama, Mr. CALDWELL. If he were here he would vote "ay," and I should vote "no."

Mr. STENGER. My colleague, Mr. CLYMER, is absent, engaged on a conference committee.

Mr. WARREN. My colleague, Mr. ABBOTT, is absent on account of sickness.

The result of the vote was announced as above stated.

Mr HOPKINS. I submit the following amendment——

Mr. WOOD, of New York. The question, I think, recurs now on my proposition.

The SPEAKER. The previous question is not prevailing. It has not been asked.

Mr. WOOD, of New York. I call for the previous question. [Cries of "Too late."] I demanded the previous question at the time my proposition was submitted to the House.

The SPEAKER. But it was not sustained by the House.

Mr. WOOD, of New York. The Speaker did not submit the question.

The SPEAKER. Does the gentleman now demand the previous question?

Mr. WOOD, of New York. I do, and I ask that the vote upon my demand be taken immediately.

Mr. SPRINGER. If the previous question is now seconded, it does not cut off the amendment of the gentleman from Pennsylvania, [Mr HOPKINS.]

The SPEAKER. The gentleman from New York demands the previous question on the original proposition, on the amendments and on the amendment just offered by the gentleman from Pennsylvania, [Mr. HOPKINS.]

The previous question was seconded and the main question ordered.

Mr. HALE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The amendment of the gentleman from Pennsylvania [Mr. HOPKINS] will now be read.

The Clerk read as follows:

Resolved, That this House requires that the package tendered by the member from New York [Mr. HEWITT] to the President of the Senate in the presence of the two Houses on yesterday, and purporting to be a certificate of electoral votes for President and Vice-President of the United States in the State of Vermont, shall be opened by the President of the Senate in the presence of the two Houses, and if found to be such a certificate, the same shall be submitted, together with the certificate read in the presence of the two Houses, to the electoral commission for its judgment and decision; and that the Senate be requested to make a like order requiring the President of the Senate to open said package in the presence of the two Houses.

Mr. WOOD, of New York. That is substantially the same resolution which was just voted down.

Mr. CAULFIELD. No, sir; I ask the gentleman from Pennsylvania to state the difference.

The SPEAKER. Debate is not in order.

Mr. HOPKINS. It is the same resolution, except the last four lines.

Mr. RICE. Let us have the yeas and nays.

Mr. PAGE. I make the point of order that this is the same proposition once voted on.

Mr. WOOD, of New York, rose.

Mr. HOPKINS. I voted against the other resolution because of the last four lines.

The SPEAKER. Debate is not in order.

Mr. HOPKINS. I was only responding to the gentleman from New York.

Mr. HUMPHREYS. Let us have the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 115, nays 147, not voting 28; as follows:

YEAS—Messrs. Ainsworth, Ashe, Atkins, Bagby, John H. Bagley, jr., Banning, Beebe, Blackburn, Bland, Bliss, Blount, Boone, Bradford, Bright, Buckner, Samuel D. Burchard, Carr, Cate, Caulfield, Chapin, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Davis, De Bolt, Dibrell, Douglas, Eden, Field, Finley, Forney, Franklin, Fuller, Glover, Goode, Andrew H. Hamilton, Robert Hamilton, Hardenbergh, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hartzell, Hatcher, Henkle, Holman, Hooker, Hopkins, House, Humphreys, Hurd, Jenks, Frank Jones, Thomas L. Jones, Knott, Franklin Landers, Luttrell, Lynde, Mackey, Maish, McFarland, McMahon, Meade, Mills, Money, Morrison, Mutchler, O'Brien, Odell, John F. Philips, Poppleton, Rea, James B. Reilly, Rice, Riddle, William M. Robbins, Miles Ross, Sayler, Scales, Schumaker, Sheakley, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Teese, Terry, Thomas, Thompson, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Gilbert C. Walker, Walling, Walsh, Warren, Erastus Wells, Whitthorne, Wigginton, Wike, Jere N. Williams, Benjamin Wilson, and Young—115.

NAYS—Messrs. Adams, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Bell, Blair, Bradley, John Young Brown, William R. Brown, Horatio C. Burchard, Burleigh, Buttz, Candler, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Cutler, Danford, Davy, Denison, Dobbins, Dunnell, Durham, Eames, Egbert, Ellis, Evans, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Gause, Gunter, Hale, Hancock, Haralson, Benjamin W. Harris, Hathorn, Haymond, Hays, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, George M. Landers, Lane, Lapham, Lawrence, Leavenworth, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Packer, Page, Payne, Phelps, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Reagan, John Reilly, John Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Schleicher, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Swann, Tarbox, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Waldron, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Ward, Watterson, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Yeates—147.

NOT VOTING—Messrs. Abbott, Anderson, Bass, Cabell, John H. Caldwell, William P. Caldwell, Campbell, Darrall, Durand, Faulkner, Gibson, Goodin, Goldsmith W. Hewitt, Hunton, King, Le Moyne, Levy, Lewis, Metcalfe, Milliken, Piper, Purman, Roberts, Savage, Stephens, Wait, Warner, and Wheeler—28.

So Mr. HOPKINS'S amendment to the amendment was disagreed to.

During the vote,

Mr. WAIT stated that he was paired with Mr. CALDWELL, of Alabama, who, if present, would vote in the affirmative, while he would vote in the negative.

The vote was then announced as above recorded.

Mr. LANE. I move to reconsider the vote by which the amendment of the gentleman from Pennsylvania was rejected.

Mr. WOOD, of New York. I make the point of order that the previous question is operating all through and therefore the motion to reconsider is not in order.

Mr. LANE. It is always in order.

Mr. WALLING. It is a question of the highest privilege.

Mr. BANKS. While the previous question is pending until exhausted on all questions under consideration no other question can be considered; it must be exhausted before any question can be entertained to reconsider.

Mr. LANE. A motion to reconsider is of the highest character; there is no question about it. What the gentleman refers to has nothing to do with the motion to reconsider. My motion is in order; there is no doubt about it.

Mr. WALLING. I rise to a question of order, and I desire to state the point of order I make before the Chair decides; and that is that the proposition upon which the House was acting was a request to the Senate to return a certain paper which had been in some form or other taken by the Senate away from the joint meeting of the two Houses. The resolution of the gentleman from New York is to proceed with the count, which is entirely a different one. This is to return a paper from the Senate to this House. It is different from that of the gentleman from New York. The previous question could not operate except upon the subject-matter upon which we voted.

The SPEAKER. There is great force in the statement of the gentleman from Massachusetts that where the previous question has not been fully executed it is not in order to entertain any other motion, but the practice of the House the Chair thinks would allow the motion to reconsider. If the gentleman from Massachusetts, however, can point to any rule the Chair would like to have him do it.

Mr. BURCHARD, of Illinois. Not when it is partly executed.

Mr. HOOKER. It is entirely executed so far as the vote on the proposition is concerned.

Mr. WALLING. That is a very different proposition from this. This is a different proposition from that of the gentleman from New York.

Mr. BANKS. The rule relative to this question is that when the previous question is ordered the questions pending upon which it is ordered and covered by it must be voted on before any new question can be proposed to the House. This motion to reconsider therefore is at variance with that rule.

Mr. SPRINGER. The House voted to reconsider and lay on the table a few minutes ago.

Mr. BANKS. This part of Barclay's Digest has been handed to me and I will call attention to it. It is on page 172. It is not in order to move the reconsideration of a vote on ordering the main question when it is partly executed. No motion can be made until the previous question is executed.

Mr. WILSON, of Iowa. The latest ruling we have had on this subject was, I think, from Mr. Speaker COX, who held that a motion to reconsider was not in order until the operation of the previous question had been exhausted upon the amendments and the main question.

Mr. HOSKINS. As I understand the operation of the previous question, it applies not only to the amendment, but to the original resolution. And in this case, of course, the previous question attaches not only to the proposition which has been voted upon, but clear down until we reach the original proposition. The action of the House in ordering the main question has not been executed until the last and final vote is taken. If, therefore, you attempt to reconsider this vote, you attempt to nullify and reverse the order of the House, which is that the question shall now be put.

The SPEAKER. Not nullify; unless the House desires to do so.

Mr. HOSKINS. But the previous question attaches, and has been partly executed; and I maintain that no motion to reconsider a partly executed previous question is in order.

The SPEAKER. The gentleman will observe, the practice of the House has been that when a reconsideration of a vote has taken place then the proposition is divested of the previous question.

Mr. HOSKINS. Yes; but until the previous question has been fully executed and all the votes taken under it, no intermediate motion can intervene.

The SPEAKER. But the gentleman must recollect that where a proposition has the previous question operating upon it, and a reconsideration of it by the House takes place, it is immediately divested of the previous question; and by analogy that would allow, it seems to the Chair, this motion to reconsider to come in.

Mr. HOSKINS. This vote is only a partial execution of the order of the previous question, and the motion to reconsider cannot be entertained until the whole order has been executed.

The SPEAKER. It only delays. The majority does not suffer to any extent. It only delays the final decision.

Mr. SPRINGER. Will the gentleman from New York [Mr. HOSKINS] allow me to state that the practice has been the reverse of what he states?

Mr. PAGE. Has the Chair ruled on the point of order?

The SPEAKER. The gentleman from New York applies his statement to the case where the previous question has been ordered; and it is settled in the rules that where the previous question is ordered and operating, then, if the previous question is partially executed, it is not in order to move a reconsideration of the vote by which the main question was ordered.

Mr. HOSKINS. The previous question attaches to the original motion and to all the amendments down to the main proposition.

The SPEAKER. This point is a very delicate one—if the Chair may use the expression—to decide. In the absence of any rule prohibiting it and in the presence of the analogy to which the Chair has alluded, that when a motion is reconsidered it is divested of the operation of the previous question, the Chair would rule that this motion is in order.

Mr. HALE. I move that the motion to reconsider be laid upon the table.

Mr. LANE. I call for the yeas and nays.

The yeas and nays were ordered.

The Clerk commenced to call the roll.

Mr. LANE, (interrupting.) I addressed myself to the Chair before the call of the roll commenced. I desire to have the proposition read, that the House may understand it.

Mr. WELLS, of Mississippi. I rise to a question of order. I wish to know if the gentleman can interrupt the roll-call.

Mr. LANE. I rose and addressed the Speaker in time. I do not intend to violate the rules. I desire that the Clerk shall read the original proposition, the vote on which it is now proposed to reconsider.

The SPEAKER. The roll-call has been commenced.

Mr. LANE. I addressed myself as well as I could and as loudly as I could to the Chair before the commencement of the roll-call.

The SPEAKER. The Clerk will proceed with the call.

The Clerk continued and completed the call of the roll.

The question being taken, there were—yeas 171, nays 80, not voting 39; as follows:

YEAS—Messrs. Adams, Ainsworth, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Bell, Blair, Blount, Bradley, John Young Brown, William R. Brown, Horatio C. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Carr, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Cutler, Danford, Darrall, Davis, Davy, Denison, Dunnell, Durham, Eames, Eden, Ellis, Evans, Felton, Flye, Fort, Foster, Freeman, Frye, Gause, Goode, Goodin, Gunter, Hale, Robert Hamilton, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hartridge, Hartzel, Hathorn, Haymond, Hays, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Jenks, Frank Jones, Joyce, Kasson, Kehr, Kelley, Kimball, King, Lamar, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Levy, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, McFarland, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Odell, Oliver, O'Neill, Packer, Page, Payne, Phelps, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, Reagan, John Reilly, James B. Reilly, John Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Sayler, Schleicher, Seelye, Singleton, Sinnickson, Slemons, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Tarbox, Teese, Thomas, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Waldron, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Wike, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Yeates—171.

NAYS—Messrs. Ashe, Atkins, John H. Bagley, jr., Banning, Beebe, Blackburn, Bland, Bliss, Boone, Bradford, Bright, Buckner, Samuel D. Burchard, Cate, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Cochrane, Collins, Cowan, Cox, Culberson, De Bolt, Dibrell, Douglas, Faulkner, Finley, Forney, Franklin, Fuller, Glover, Andrew H. Hamilton, Henry R. Harris, John T. Harris, Hatcher, Henkle, Hooker, Humphreys, Hurd, Thomas L. Jones, Knott, Franklin Landers, Lane, Luttrell, Lynde, Mackey, Maish, McMahon, Meade, Money, Morrison, Mutchler, O'Brien, John F. Philips, Poppleton, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Scales, Schumaker, Sheakley, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Terry, Turney, John L. Vance, Robert B. Vance, Waddell, Gilbert C. Walker, Walling, Whitthorne, Wigginton, Jere N. Williams, and Benjamin Wilson—80.

NOT VOTING—Messrs. Abbott, Anderson, Bass, Cabell, John H. Caldwell, William P. Caldwell, Caulfield, Chapin, Clymer, Cook, Dobbins, Durand, Egbert, Field, Garfield, Gibson, Goldsmith W. Hewitt, Holman, Hopkins, House, Hunton, Lewis, Metcalfe, Milliken, Mills, Piper, Purman, Savage, Stephens, Swann, Thompson, Wait, Walsh, Ward, Warner, Warren, Wheeler, Willard, and Young—39.

So the motion to reconsider was laid upon the table.

During the roll-call the following announcements were made:

Mr. JOHN REILLY. I desire to say that my colleague from Pennsylvania, Mr. HOPKINS, is absent on account of sickness.

Mr. COOK. I am paired with Mr. WARD, of New York, who is absent on account of sickness. If he were present he would vote "ay" and I would vote "no."

The result of the vote was then announced, as above recorded.

Mr. WOOD, of New York. I now demand the previous question upon the resolution.

The SPEAKER. The previous question is already operating.

Mr. WALLING. I move to lay the resolution of the gentleman from New York upon the table.

Mr. McCRARY. Under the law that motion is not in order. It is the duty of the Chair to put the question on the resolution. This is a question that goes beyond the main question, and certainly no motion to lay on the table is in order under the operation of the previous question.

Mr. HOAR. The motion to lay on the table is in substance that the question shall never be taken. Now the law requires that the two Houses shall vote on the main question after two hours' debate.

Mr. WALLING. You can vote down the motion to reconsider.

Mr. HOAR. The Chair has ruled that certain motions are in order including the motion to reconsider, but the Chair has never ruled that the entire subject-matter may be withdrawn from the consideration of the House; so that this would be a direct violation of the electoral bill.

The SPEAKER. The Chair would direct the attention of members to page 133 of the Manual, which says:

> An order for the main question to be put does not preclude the motion to lay on the table, but it may be made at any stage of the proceedings between the demand for the previous question and the final action by the House under it.

An order for the main question to be put does not preclude a motion to lay on the table, but it may be made.

Mr. HOAR. There is no doubt that the Chair is entirely right under the rule, but my point is that the electoral bill requires the question to be taken at the end of two hours' debate; and although the Chair has very properly ruled that amendments are in order, yet it is not in order to put a motion to remove the entire subject from the House, as a motion to lay on the table would do.

The SPEAKER. The vote on the motion to lay on the table is a counterpart of the vote that would carry the resolution.

Mr. SPRINGER. If the House lays this resolution on the table another resolution could be offered under the law.

Mr. HOAR. But the previous question is operating.

Mr. SPRINGER. But the previous question will exhaust itself when we have passed upon all the questions now pending.

Mr. WALLING. There is no possible doubt that upon every principle of parliamentary law the motion is in order.

Mr. McCRARY. The language of the law is as follows. I read from the close of the fourth section:

> And after such debate shall have lasted two hours it shall be the duty of each House to put the main question without further debate.

Now, if that be the duty of the Chair he certainly cannot entertain a motion to lay upon the table, for suppose that motion should be carried, then the question could not be put in accordance with the requirement of the statute.

Mr. SPRINGER. If the motion to lay on the table should be carried the gentleman from Iowa or any other gentleman may move another resolution in accordance with the expressed desire of the House under the statute. If one resolution be defeated another may be offered, and therefore we may lay the pending resolution on the table and adopt something else.

Mr. WOOD, of New York. I submit that the rules of the House must be construed according to the law which provides that we have to vote in the affirmative and negative on the question of this elector from Vermont, and we must decide that question now. If the gentleman from Ohio [Mr. WALLING] can move to lay the resolution settling that question upon the table he can prevent the House from coming to a vote.

The SPEAKER. The Chair will state in answer to the gentleman who refers to the law that these are motions which appertain to and are allowed in the progress of the main question being put.

Mr. WOOD, of New York. In ordinary cases, but this is an extraordinary case, and we are operating under an extraordinary law.

The SPEAKER. The Chair understands the law to provide that the main question shall be put at the end of the two hours of debate, but these motions are motions allowed and recognized under the rules and which are applicable where the main question is ordered.

Mr. WOOD, of New York. The Chair will pardon me; suppose this motion to lay upon the table should carry, the effect would be that the House could not decide the main question.

The SPEAKER. On the contrary, another proposition to decide it can be offered.

Mr. BEEBE. It can be done under the provisions of the law without any motion at all.

Mr. WILSON, of Iowa. If the Chair desires to hear any further remark, I will say, in regard to the motions which have been made since the previous question was ordered, that the electoral bill was framed entirely upon the rules of both the House and the Senate. The Senate for example has no previous question. A ministerial duty devolves upon the Chair at the end of two hours to put the question on the main question, and the Chair could with great consistency have held that at the end of two hours the main question, "Shall the decision of the commission stand as the judgment of the House?" should be then put. Whenever the previous question is seconded, you have, under the rules of the House, all the subsidiary motions, amendments, motions to table, motions to reconsider that motion, and a consequent absolute impossibility of executing this law.

Now there is no disposition to find fault with the entertaining of an amendment showing the views of the minority, although I believe that the law strictly construed cuts it out. But when we go further and appeal to our rules outside of the law, rules which the Senate could not apply and under which we are doing something not contemplated by the law, it would be perfectly competent for the minority in counting the votes of the few remaining States to defeat the count by these dilatory motions, and I hold that under the law these dilatory motions cannot be entertained.

The SPEAKER. The Chair desires to state that the law reads as follows: "But after such debate shall have lasted two hours, it shall be the duty of each House to put the main question without debate."

Now the Chair thinks that any motions which are allowed by the rules of the House, and which pertain to the main question, are allowable at any period of the progress of the main question.

Mr. WILSON, of Iowa. Then one word further and I will not say anything more. It will be absolutely necessary for this House, as a question of the highest privilege, if they intend to execute this law, to adopt a resolution cutting off all filibustering, or we may as well stop right now.

Mr. WALLING. I deny that there is any intention on the part of this side of the House to filibuster. When fraud is law filibustering is patriotism.

Mr. GARFIELD. If the Chair has ruled that this motion to lay on the table is in order, I hope we will now proceed to vote.

Mr. REAGAN. I wish to say in regard to this motion to lay on the table that, if it should succeed and another similar resolution should be offered and it is competent to move to lay that on the table, it seems to me we may go on indefinitely, and cannot protect ourselves against delay under the ruling indicated by the Chair.

The question was taken on the motion to lay on the table; and upon a division there were—ayes 65, noes 119.

Before the result of this vote was announced,

Mr. WALLING called for tellers.

Mr. HANCOCK. I call for the yeas and nays; we may as well take them at once.

The yeas and nays were ordered.

The question was taken; and there were—yeas 61, nays 167, not voting 62; as follows:

YEAS—Messrs. Atkins, Bagby, John H. Bagley, jr., Blackburn, Bliss, Boone, Samuel D. Burchard, Carr, Cate, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Cochrane, Collins, De Bolt, Dibrell, Douglas, Finley, Forney, Franklin, Glover, Andrew H. Hamilton, Henry R. Harris, Henkle, Hooker, House, Humphreys, Thomas L. Jones, Lane, Luttrell, Lynde, Mackey, McMahon, Meade, Mills, Money, Morrison, O'Brien, John F. Philips, Rice, Riddle, Roberts, Miles Ross, Schumaker, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Terry, Thompson, Turney, John L. Vance, Robert B. Vance, Waddell, Gilbert C. Walker, Walling, Whitthorne, Wigginton, and Wike—61.

NAYS—Messrs. Adams, Ainsworth, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Bell, Blair, Blount, Bradley, Bright, John Young Brown, William R. Brown, Horatio C. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Cutler, Darrall, Davy, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Ellis, Evans, Faulkner, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Gause, Goode, Gunter, Hale, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hartridge, Hartzell, Hatcher, Hathorn, Haymond, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Jenks, Joyce, Kasson, Kehr, Kelley, Kimball, King, Lamar, George M. Landers, Lapham, Lawrence, Leavenworth, Levy, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, McFarland, Miller, Monroe, Morgan, Mutchler, Nash, New, Norton, Oliver, O'Neill, Packer, Page, Payne, William A. Phillips, Pierce, Plaisted, Platt, Poppleton, Potter, Powell, Pratt, Rainey, Rea, Reagan, James B. Reilly, John Reilly, John Robbins, William M. Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Sayler, Schleicher, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Tarbox, Teese, Thomas, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Warren, Watterson, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Yeates—167.

NOT VOTING—Messrs. Abbott, Anderson, Ashe, Banning, Bass, Beebe, Bland, Bradford, Buckner, Cabell, John H. Caldwell, William P. Caldwell, Caulfield, Chapin, Clymer, Cook, Cowan, Cox, Culberson, Danford, Davis, Durand, Egbert, Field, Fuller, Gibson, Goodin, Robert Hamilton, John T. Harris, Hays, Goldsmith W. Hewitt, Holman, Hopkins, Hunton, Hurd, Frank Jones, Knott, Franklin Landers, Le Moyne, Lewis, Maish, Metcalfe, Milliken, Neal, Odell, Phelps, Piper, Purman, Scales, Sheakley, Slemons, Stephens, Swann, Wait, Waldron, Walsh, Ward, Warner, Erastus Wells, Wheeler, Jere N. Williams, and Young—62.

So the motion to lay on the table was not agreed to.

During the call of the roll the following announcements were made:

Mr. FORNEY. My colleagues, Mr. BRADFORD and Mr. HAYS, are absent on account of being unwell, and are paired. If they were present Mr. BRADFORD would vote "ay," and Mr. HAYS would vote "no."

Mr. WILLIS. My colleague, General WARD, is absent and paired with Mr. COOK, of Georgia. If Mr. WARD were here he would vote "no," and Mr. COOK would vote "ay."

Mr. WELLS, of Mississippi. I desire to announce that Mr. WAIT, of Connecticut, is paired with Mr. CALDWELL, of Alabama. If present Mr. WAIT would vote "no," and Mr. CALDWELL would vote "ay."

Mr. JOHN REILLY. My colleague, Mr. HOPKINS, is absent on account of sickness.

Mr. ELLIS. My colleague, Mr. GIBSON, is absent on account of illness. If here he would vote "no."

Mr. COCHRANE. My colleague, Mr. CLYMER, is absent on a committee of conference.

The vote was then announced as above recorded.

Mr. WOOD, of New York. I now call for the regular order.

Mr. POPPLETON. I move to reconsider the vote by which the House refused to lay on the table the amendment moved by the gentleman from New York, [Mr. WOOD.]

Mr. WOOD, of New York. I raise the point of order that that motion cannot be entertained.

The SPEAKER. Why not?

Mr. WOOD, of New York. Because its intention and design is to continue this session unnecessarily.

Mr. FRANKLIN. How do you know that?

Mr. WOOD, of New York. It is a dilatory motion.

The SPEAKER. The Chair thinks it is a motion which under the rules of the House pertains to the main question.

Mr. WOOD, of New York. It is a dilatory motion.

Mr. FRANKLIN. How does the gentleman know that?

Mr. WOOD, of New York. It is designed to have that effect, and that is its purpose.

Mr. FRANKLIN. It may have that effect; but how does the gentlemen know that that is the design?

The SPEAKER. The question is upon the motion to reconsider.

Mr. HANCOCK. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 64, nays 162, not voting 64; as follows:

YEAS—Messrs. Ashe, Atkins, John H. Bagley, jr., Banning, Blackburn, Bliss, Boone, William P. Caldwell, Carr, Cate, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Cochrane, Collins, Cowan, Cox, De Bolt, Dibrell, Douglas, Finley, Forney, Franklin, Glover, Andrew H. Hamilton, Henry R. Harris, Henkle, Hooker, Humphreys, Hurd, Thomas L. Jones, Knott, Lane, Luttrell, Lynde, Maish, McMahon, Meade, Mills, Money, Morrison, Mutchler, O'Brien, John F. Philips, Poppleton, Rice, Riddle, Roberts, Miles Ross, Sheakley, Slemons, William E. Smith, Sparks, Springer, Stanton, Stenger, Stone, Terry, Turney, John L. Vance, Robert B. Vance, Waddell, Walling, Whitthorne, and Jere N. Williams—64.

NAYS—Messrs. Adams, Ainsworth, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Bell, Blair, Blount, Bradley, Bright, John Young Brown, William R. Brown, Buckner, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Caswell, Chittenden, Conger, Crapo, Crounse, Cutler, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Ellis, Evans, Faulkner, Felton, Fort, Foster, Freeman, Frye, Garfield, Gause, Goode, Gunter, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Hartridge, Hartzell, Hatcher, Hathorn, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Hoskins, House, Hubbell, Hunter, Hurlbut, Hyman, Jenks, Joyce, Kasson, Kehr, Kelley, Kimball, King, Franklin Landers, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Levy, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Packer, Page, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, John Reilly, James B. Reilly, John Robbins, William M. Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Schleicher, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Tarbox, Teese, Thomas, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Waldron, Charles C. B. Walker, Alexander S. Wallace, Warren, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Wike, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Yeates—162.

NOT VOTING—Messrs. Abbott, Anderson, Bagby, Bass, Beebe, Belford, Bland, Bradford, Cabell, John H. Caldwell, Cason, Caulfield, Chapin, Clymer, Cook, Culberson, Davis, Durand, Egbert, Field, Flye, Fuller, Gibson, Goodin, Hale, Robert Hamilton, John T. Harris, Harrison, Haymond, Hays, Goldsmith W. Hewitt, Holman, Hopkins, Hunton, Frank Jones, Lamar, Lewis, Mackey, McFarland, Metcalfe, Milliken, Odell, Payne, Phelps, Piper, Purman, Reagan, Sayler, Scales, Schumaker, Southard, Stephens, Swann, Thompson, Wait, Gilbert C. Walker, John W. Wallace, Walsh, Ward, Warner, Wheeler, Wigginton, Willis, and Young—64.

So the motion to reconsider was not agreed to.

During the roll-call, the following announcements were made:

Mr. COOK. I am paired with the gentleman from New York, Mr. WARD.

Mr. PLAISTED. My colleague, Mr. FRYE, is absent on account of sickness. If present he would vote "no."

Mr. WIGGINTON. I am paired with the gentleman from Mississippi, Mr. LAMAR. If present he would vote in the negative and I should vote in the affirmative.

Mr. HUMPHREYS. The gentleman from Texas, Mr. REAGAN, and the gentleman from Indiana, Mr. FULLER, are paired.

Mr. FORNEY. My colleagues, Mr. BRADFORD and Mr. HAYES, are paired. Mr. BRADFORD would vote "ay" and Mr. HAYES "no."

Mr. HATCHER. My colleague, Mr. BLAND, has gone home sick. If present he would vote "no."

Mr. WIKE. My colleague, Mr. BAGBY, has been called from the House on account of illness. If present he would vote "no."

Mr. WELLS, of Mississippi. The gentleman from Connecticut [Mr. WAIT] and the gentleman from Alabama [Mr. CALDWELL] are paired. Mr. WAIT would vote "no" on this question and Mr. CALDWELL "ay."

The result of the vote was announced as above stated.

Mr. WOOD, of New York. I move to suspend the rules and adopt the following resolution——

The SPEAKER. It is not now in order. The House is operating under the previous question.

Mr. WALLING. And the gentleman himself put the House under the constraint of the previous question.

Mr. WOOD, of New York. Then I ask a direct vote on the amendment proposed by me.

The SPEAKER. The amendment of the gentleman from New York will be read.

The Clerk read as follows:

Ordered, That the vote of Henry N. Sollace, claiming to be an elector for the State of Vermont, be not counted.

Mr. CAULFIELD. I rise to a question of order. The main question, as I understand, must be ordered after two hours' debate.

The SPEAKER. It has been.

Mr. CAULFIELD. Yes, sir; the view that I take of the law, after reading it carefully, is this——

The SPEAKER. This is not a point of order.

Mr. CAULFIELD. Well, I make a point of order. My proposition is that the amendment of the gentleman from New York is not before the House, has never been discussed before the House. The main question before this House to-day has been whether in regard to the vote of the State of Vermont there was a single return or a double return. I propose to read the law:

That when the two Houses separate to decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or upon objection to a report of said commission or other question arising under this act, each Senator and Representative may speak to such objection or question ten minutes, and not oftener than once.

The question that arose under this act was whether there was a single or a double return; that is the only question now before the House; and we have therefore the right to debate the gentleman's amendment, when it does come up, for two hours more.

The SPEAKER. There is nothing in the law about debating any resolution. The debate contemplated by the act is upon the objection.

Mr. CAULFIELD. I rise now to a parliamentary inquiry: What was the motion before the House during the debate to-day?

Mr. PAGE. The objections.

Mr. CAULFIELD. What objection?

The SPEAKER. The law provides for debate upon the objection.

Mr. CAULFIELD. If that be the case, then we have not debated the objection, because we have not had the certificate before the House. The objection has not been debated.

The SPEAKER. That is no point of order at all. The question now is on the amendment of the gentleman from New York, which has just been read.

Mr. CAULFIELD. I ask the amendment be read.

Mr. EDEN. You cannot call for the reading of the amendment when the House is dividing, and I object to the reading of the amendment.

The SPEAKER. The gentleman from Illinois objects.

Mr. WELLS, of Mississippi. I demand the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. CAULFIELD. I demand we shall know what we are voting on. What is the amendment and what is the original proposition to which the amendment is offered?

The SPEAKER. The Chair has stated the amendment, on which the House is now dividing, and that amendment has been read. It has been read once at this stage, and it is not in order to have it read again except by unanimous consent.

Mr. EDEN. And I object.

Mr. CAULFIELD. I ask that the original proposition to which this amendment is offered be also read.

The SPEAKER. That is not before the House at this time.

Mr. CAULFIELD. I insist that the original resolution be read.

The SPEAKER. The gentleman cannot insist on the original resolution being read, for that is not at this time before the House, as the pending question is on the amendment of the gentleman from New York.

Mr. CAULFIELD. I do not insist on the amendment, but I insist on the reading of the original resolution.

The SPEAKER. That is not before the House.

Mr. LANE. I ask by unanimous consent that the original proposition be read.

Mr. WELLS, of Mississippi. And I object.

The question was taken; and it was decided in the affirmative—yeas 206, nays 19, not voting 65; as follows:

YEAS—Messrs. Ashe, Atkins, George A. Bagley, John H. Bagley, jr., William H. Baker, Ballou, Banks, Banning, Beebe, Belford, Bell, Blackburn, Blair, Bland, Boone, Bradley, Bright, John Young Brown, William R. Brown, Horatio C. Burchard, Samuel D. Burchard, Burleigh, William P. Caldwell, Campbell, Candler, Cannon, Carr, Cason, Chittenden, John B. Clark, jr., of Missouri, Cochrane, Collins, Conger, Cox, Crapo, Crounse, Culberson, Cutler, Danford, Darrall, De Bolt, Denison, Dibrell, Douglas, Dunnell, Durham, Eames, Eden, Ellis, Evans, Faulkner, Felton, Finley, Forney, Foster, Franklin, Freeman, Frye, Garfield, Gause, Glover, Goode, Gunter, Hale, Andrew H. Hamilton, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Henry R. Harris, Harrison, Hartridge, Hartzell, Hatcher, Hathorn, Haymond, Hendee, Henderson, Henkle, Abram S. Hewitt, Hill, Hoar, Hoge, Hooker, House, Hubbell, Humphreys, Hunter, Hurd, Hurlbut, Hyman, Jenks, Thomas L. Jones, Kasson, Kehr, Kelley, Kimball, King, Lamar, Franklin Landers, George M. Landers, Lane, Lapham, Lawrence, Leavenworth, Levy, Lord, Lynch, Mackey, Magoon, Maish, McDougall, McCrary, McDill, McMahon, Meade, Miller, Mills, Money, Monroe, Morgan, Mutchler, Nash, New, Norton, O'Brien, Oliver, O'Neill, Packer, Page, John F. Philips, William A. Phillips, Pierce, Plaisted, Platt, Poppleton, Potter, Powell, Pratt, Rainey, Rea, James B. Reilly, Rice, Riddle, John Robbins, William M. Robbins, Roberts, Robinson, Miles Ross, Sobieski Ross, Rusk, Sampson, Scales, Schleicher, Seelye, Sheakley, Singleton, Sinnickson, Slemons, A. Herr Smith, William E. Smith, Southard, Sparks, Springer, Stenger, Stevenson, Stone, Stowell, Strait, Teese, Terry, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Turney, Van Vorhes, John L. Vance, Robert B. Vance, Waddell, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Walling, Warren, Watterson, Erastus Wells, G. Wiley Wells, Whitehouse, Whitthorne, Wigginton, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, and Yeates—206.

NAYS—Messrs. Adams, Ainsworth, John H. Baker, Buttz, Davy, Dobbins, Fort, Joyce, Le Moyne, Lynde, Neal, Purman, John Reilly, Savage, Smalls, Tucker, White, Whiting, and Wike—19.

NOT VOTING—Messrs. Abbott, Anderson, Bagby, Bass, Bliss, Blount, Bradford, Buckner, Cabell, John H. Caldwell, Caswell, Cate, Caulfield, Chapin, John B. Clarke, of Kentucky, Clymer, Cook, Cowan, Davis, Durand, Egbert, Field, Flye, Fuller, Gibson, Goodin, Robert Hamilton, John T. Harris, Hays, Goldsmith W. Hewitt, Holman, Hopkins, Hoskins, Hunton, Frank Jones, Knott, Lewis, Luttrell, McFarland, Metcalfe, Milliken, Morrison, Odell, Payne, Phelps, Piper, Reagan, Sayler, Schumaker, Stanton, Stephens, Swann, Tarbox, Thomas, Thompson, Wait, Waldron, Gilbert C. Walker, Walsh, Ward, Warner, Wheeler, Jere N. Williams, Woodworth, and Young—65.

So the amendment was agreed to.

During the roll-call,

Mr. COOK stated he was paired with Mr. WARD, and that both would vote in the affirmative.

Mr. WELLS, of Mississippi, stated that Mr. WAIT was paired with Mr. CALDWELL, of Alabama, and both would vote in the affirmative.

Mr. JOHN REILLY stated that Mr. HOPKINS was absent on account of sickness.

Mr. MACKEY stated that he was paired with Mr. WOODWORTH.

The vote was then announced as above recorded.

Mr. O'BRIEN. I move to reconsider the vote by which the amendment of the gentleman from New York [Mr. WOOD] was adopted.

Mr. GARFIELD. And I move to lay that motion upon the table.

Mr. WOOD, of New York. I wish to inquire whether the proposition to reconsider is not a dilatory motion?

Mr. O'BRIEN. O, no; not at all, sir. [Great laughter.]

The SPEAKER. The Chair is not bound at this stage to express any opinion on such a subject.

Mr. WELLS, of Mississippi, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 172, nays 55, not voting 63; as follows:

YEAS—Messrs. Adams, Ainsworth, Bagby, John H. Baker, William H. Baker, Ballou, Banks, Bell, Blackburn, Blair, Blount, Bradley, Bright, John Young Brown, William R. Brown, Buckner, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Carr, Cason, Caswell, Chapin, Chittenden, Conger, Crounse, Culberson, Cutler, Danford, Davis, Davy, Denison, Dunnell, Durham, Eames, Eden, Ellis, Evans, Faulkner, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Gause, Goode, Goodin, Gunter, Hale, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hartridge, Hartzell, Hatcher, Hathorn, Haymond, Hays, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Hoskins, House, Hubbell, Hunter, Hurd, Hurlbut, Hyman, Jenks, Frank Jones, Joyce, Kasson, Kehr, Kelley, Kimball, King, Lamar, Franklin Landers, George M. Landers, Lapham, Lawrence Leavenworth, Le Moyne, Levy, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, McFarland, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Packer, Page, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rea, Reagan, James B. Reilly, John Robbins, William M. Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Sayler, Scales, Schleicher, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Tarbox, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Waddell, Alexander S. Wallace, John W. Wallace, Warren, Watterson, G. Wiley Wells, White, Whitehouse, Whiting, Wike, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Yeates—172.

NAYS—Messrs. Ashe, Atkins, John H. Bagley, jr., Beebe, Bliss, Boone, William P. Caldwell, Cate, Caulfield, John B. Clark, jr., of Missouri, Cochrane Collins, Cowan, Dibrell, Finley, Forney, Franklin, Glover, Andrew H. Hamilton, Henry R. Harris, Henkle, Hooker, Thomas L. Jones, Lane, Luttrell, Lynde, Mackey, Meade, Mills, Money, Morrison, Mutchler, O'Brien, John F. Philips, Poppleton, Rice, Riddle, Roberts, Schumaker, Sheakley, Slemons, William E. Smith, Southard, Sparks, Springer, Stone, Terry, Turney, John L. Vance, Robert B. Vance, Gilbert C. Walker, Walling, Whitthorne, Wigginton, and Jere N. Williams—55.

NOT VOTING—Messrs. Abbott, Anderson, George A. Bagley, Banning, Bass, Belford, Bland, Bradford, Cabell, John H. Caldwell, John B. Clarke of Kentucky, Clymer, Cook, Cox, Crapo, Darrall, De Bolt, Dobbins, Douglas, Durand, Egbert,

Field, Fuller, Gibson, Robert Hamilton, John T. Harris, Goldsmith W. Hewitt, Holman, Hopkins, Humphreys, Hunton, Knott, Lewis, Maish, McMahon, Metcalfe, Milliken, Odell, Payne, Phelps, Piper, Purman, Rainey, John Reilly, Miles Ross, Savage, Stanton, Stenger, Stephens, Swann, Teese, Thomas, Thompson, Wait, Waldron, Charles C. B. Walker, Walsh, Ward, Warner, Erastus Wells, Wheeler, Wilshire, and Young—63.

So the motion to reconsider was laid on the table.

During the call of the roll,

Mr. SAVAGE said: I am paired with Mr. WADDELL, of North Carolina, who if he were here would vote "no," while I would vote "ay."

The Clerk proceeded to read the list of names.

Mr. CARR. I move that the reading of the names be dispensed with.

Mr. CATE and others objected.

The reading of the list was concluded and the result of the vote was then announced as above recorded.

The SPEAKER. The question is now on the original proposition of the gentleman from Ohio [Mr. POPPLETON] as amended by the adoption of the substitute offered by the gentleman from New York, [Mr. WOOD.]

Mr. POPPLETON. I call for the reading of the resolution as amended.

The SPEAKER. The Chair will cause it to be read.

The Clerk read as follows:

Ordered, That the vote of Henry N. Sollace, claiming to be an elector from the State of Vermont, be not counted.

Mr. VANCE, of Ohio, and Mr. COX addressed the Chair.

Mr. VANCE, of Ohio. I move to lay upon the table the resolution as amended.

The SPEAKER. For what purpose does the gentleman from New York rise?

Mr. COX. I was about to offer the same motion as has just been made by my friend from Ohio, [Mr. VANCE.]

Mr. POPPLETON. I have called for the reading of the resolution presented by myself as amended by the adoption of the resolution offered by the gentleman from New York.

The SPEAKER. It has just been read.

Mr. POPPLETON. The amendment has been read, but not the original resolution.

The SPEAKER. The original resolution has been amended by the adoption of a substitute for it.

Mr. CAULFIELD. The resolution of the gentleman from New York was offered as an amendment, not as a substitute.

The SPEAKER. O, well; it is the same thing.

Cries of "Regular order!"

Mr. CAULFIELD. I move to lay the resolution, as amended, on the table.

The SPEAKER. That motion has already been made by the gentleman from Ohio, [Mr. VANCE.]

Mr. WELLS, of Mississippi. I call for the yeas and nays.

Mr. KASSON. I rise to a point of order. It is that when the House has just adopted a proposition and a motion to reconsider has been made and that motion to reconsider laid on the table, it is not then within the province of the House to attack it by a motion to lay on the table.

The SPEAKER. The Chair thinks the motion of the gentleman from Ohio [Mr. VANCE] is a legitimate parliamentary motion.

Mr. COX. A motion to lay on the table is always in order; at every stage.

The yeas and nays were ordered.

The question was taken; and there were—yeas 53, nays 180, not voting 57; as follows:

YEAS—Messrs. Atkins, John H. Bagley, jr., Beebe, Blackburn, Bliss, Boone, William P. Caldwell, Carr, Cate, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Cochrane, Collins, Cox, Dibrell, Douglas, Forney, Franklin, Glover, Andrew H. Hamilton, Henry R. Harris, Henkle, Hooker, Humphreys, Thomas L. Jones, Lane, Luttrell, McMahon, Meade, Mills, Morrison, Mutchler, John F. Philips, Poppleton, Rice, Riddle, Roberts, Miles Ross, Schumaker, William E. Smith, Southard, Sparks, Stanton, Stone, Terry, Turney, John L. Vance, Robert B. Vance, Gilbert C. Walker, Walling, Wigginton, Wike, and Jere N. Williams—53.

NAYS—Messrs. Adams, Ainsworth, Ashe, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Banning, Belford, Blair, Bland, Blount, Bradley, Bright, William R. Brown, Buckner, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Culberson, Cutler, Darrall, Davis, Davy, De Bolt, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Ellis, Evans, Faulkner, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Gause, Gibson, Goode, Goodin, Gunter, Hale, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hartzell, Hatcher, Hathorn, Haymond, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Hoskins, House, Hubbell, Hunter, Hurlbut, Hyman, Jenks, Frank Jones, Joyce, Kasson, Kehr, Kelley, Kimball, King, Lamar, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Levy, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Money, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Packer, Page, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, Reagan, John Reilly, James B. Reilly, John Robbins, William M. Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Sayler, Scales, Schleicher, Seelye, Singleton, Sinnickson, Slemons, Smalls, Springer, Stenger, Stevenson, Stowell, Strait, Tarbox, Teese, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Waddell, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Warren, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Yeates—180.

NOT VOTING—Messrs. Abbott, Anderson, Bass, Bell, Bradford, John Young Brown, Cabell, John H. Caldwell, Caulfield, Chapin, Clymer, Cook, Cowan, Danford, Durand, Egbert, Field, Finley, Fuller, Robert Hamilton, John T. Harris, Hartridge, Hays, Goldsmith W. Hewitt, Holman, Hopkins, Hunton, Hurd, Knott, Franklin Landers, Lewis, Lynde, Mackey, Maish, McFarland, Metcalfe, Milliken, O'Brien, Odell, Payne, Phelps, Piper, Purman, Sheakley, A. Herr Smith, Stephens, Swann, Thomas, Thompson, Wait, Waldron, Walsh, Ward, Warner, Wheeler, Whitthorne, and Young—57.

So the House refused to lay the resolution, as amended, on the table.

During the roll-call,

Mr. PHELPS said: I am paired with the gentleman from New York, Mr. ODELL. If he were here he would vote "ay," and I should vote "no."

The result of the vote was then announced as above recorded.

Mr. MONEY. I move to reconsider the vote just taken.

Mr. HALE. And I move to lay that motion on the table.

Mr. WELLS, of Mississippi. I call for the yeas and nays.

Mr. WALLING. That is right; let us have the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. The Clerk will call the roll.

Mr. CARR. I move to reconsider the vote by which the yeas and nays were ordered.

The SPEAKER. It is the constitutional right of one-fifth of the members present to have the yeas and nays.

The question was taken; and there were—yeas 170, nays 57, not voting 64; as follows:

YEAS—Messrs. Adams, Ainsworth, Ashe, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Blair, Bradley, Bright, John Young Brown, William R. Brown, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Culberson, Cutler, Davy, De Bolt, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Egbert, Ellis, Evans, Faulkner, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Gause, Goode, Goodin, Gunter, Hale, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hatcher, Hathorn, Haymond, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Jenks, Frank Jones, Joyce, Kasson, Kehr, Kimball, King, Lamar, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Levy, Lord, Lynch, Mackey, Magoon, MacDougall, McCrary, McDill, McFarland, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Packer, Page, Payne, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Purman, Rainey, Rea, Reagan, John Reilly, James B. Reilly, John Robbins, William M. Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Sayler, Scales, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stenger, Stevenson, Stowell, Strait, Tarbox, Teese, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Warren, Watterson, Erastus Wells, G. Wiley Wells, White, Whiting, Wike, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Yeates—170.

NAYS—Messrs. John H. Bagley, jr., Banning, Blackburn, Bliss, Boone, William P. Caldwell, Carr, Cate, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Cochrane, Collins, Dibrell, Douglas, Finley, Forney, Franklin, Glover, Andrew H. Hamilton, Henry R. Harris, Hartzell, Henkle, Hooker, Humphreys, Thomas L. Jones, Lane, Luttrell, Maish, McMahon, Meade, Mills, Money, Morrison, Mutchler, O'Brien, John F. Philips, Poppleton, Rice, Riddle, Roberts, Miles Ross, Sheakley, William E. Smith, Southard, Sparks, Springer, Stone, Turney, John L. Vance, Robert B. Vance, Waddell, Gilbert C. Walker, Walling, Walsh, Whitthorne, Wigginton, and Jere N. Williams—57.

NOT VOTING—Messrs. Abbott, Anderson, Atkins, Bass, Beebe, Bell, Bland, Blount, Bradford, Buckner, Cabell, John H. Caldwell, Caulfield, Chapin, Clymer, Cook, Cowan, Cox, Danford, Darrall, Davis, Durand, Field, Fuller, Gibson, Robert Hamilton, John T. Harris, Hartridge, Hays, Goldsmith W. Hewitt, Hoge, Holman, Hopkins, House, Hunton, Hurd, Kelley, Knott, Franklin Landers, Lewis, Lynde, Metcalfe, Miller, Milliken, Odell, Phelps, Piper, Schleicher, Schumaker, Slemons, Stanton, Stephens, Swann, Terry, Thomas, Thompson, Wait, Waldron, Ward, Warner, Wheeler, Whitehouse, and Young—64.

So the motion to reconsider was laid upon the table.

During the roll-call,

Mr. PHELPS said: I am paired upon this question with Mr. ODELL. If he were here he would vote "no" and I should vote "ay."

The result of the vote was then announced as above recorded; and the question recurred on the resolution offered by Mr. POPPLETON, as amended by the substitute of Mr. WOOD, of New York.

Mr. WALLING. Upon this question I ask to be excused from voting.

Mr. VANCE, of Ohio. I move that the request of my colleague be granted.

The SPEAKER. The Chair does not entertain the motion.

Mr. WALLING. Then I appeal most respectfully from that decision of the Chair.

The SPEAKER. The Chair does not entertain the appeal, and the question, the Chair repeats, is upon the adoption of the original proposition as amended by the substitute of the gentleman from New York, [Mr. WOOD.]

Mr. WELLS, of Mississippi. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 207, nays 26, not voting 57; as follows:

YEAS—Messrs. Ainsworth, Ashe, Atkins, Bagby, George A. Bagley, John H. Bagley, jr., John H. Baker, Ballou, Banks, Banning, Belford, Bliss, Blount, Boone, Bradley, Bright, John Young Brown, William R. Brown, Horatio C. Burchard, Samuel D. Burchard, Burleigh, William P. Caldwell, Campbell, Candler, Cannon, Carr, Cason, Cate, Caulfield, Chittenden, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Cochrane, Collins, Conger, Cowan, Cox, Crapo, Crounse, Culberson, Cutler, Darrall, Davis, De Bolt, Denison, Dibrell, Dobbins, Douglas, Dunnell, Durham, Eames, Eden, Egbert, Ellis, Evans, Faulkner, Felton, Finley, Flye, Forney, Franklin, Freeman, Frye, Gause, Glover, Gunter, Hale, Andrew H. Hamilton, Hancock, Haralson, Hardenberg, Benjamin W. Harris, Henry R. Harris, John T. Harris, Harrison, Hartzell, Hatcher, Hathorn, Haymond, Abram S. Hewitt, Hill, Hoar, Hooker, House, Hubbell, Humphreys, Hunter, Hurlbut, Jenks, Frank Jones, Thomas L. Jones, Kasson, Kehr, Kelley, Kimball, King, George M. Landers, Lane, Lawrence, Leavenworth, Levy, Lord, Lynch, Lynde, Mackey, Maish, MacDougall, McCrary, McDill, McMahon, Meade, Miller, Mills, Money, Monroe, Morgan, Nash,

New, Norton, O'Brien, Oliver, Packer, Page, Payne, John F. Philips, William A. Phillips, Pierce, Plaisted, Poppleton, Potter, Powell, Pratt, Purman, Rainey, Rea, John Reilly, James B. Reilly, Rice, Riddle, John Robbins, William M. Robbins Roberts, Robinson, Miles Ross, Sobieski Ross, Rusk, Savage, Sayler, Scales, Schleicher, Seelye, Sheakley, Singleton, Sinnickson, Smalls, A. Herr Smith, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Stowell, Swann, Tarbox, Teese, Terry, Thomas, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts Turney, John L. Vance, Robert B. Vance, Waddell, Charles C. B. Walker, Gilbert C. Walker, Alexander S. Wallace, John W. Wallace, Walling, Walsh, Watterson, Erastus Wells, G. Wiley Wells, Whitehouse, Whitthorne, Wiggington, Wike, Willard, Andrew Williams, Alpheus S. Williams, James Williams, William B. Williams, Willis, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, Yeates and Young—207.

NAYS—Messrs. Adams, William H. Baker, Blackburn, Blair, Buttz, Caswell, Danford, Davy, Fort, Hendee, Hoge, Hoskins, Hyman, Joyce, Lapham, Le Moyne, Magoon, Neal, O'Neill, Sampson, Stevenson, Strait, Thompson, Warren, White, and Whiting—26.

NOT VOTING—Messrs. Abbott, Anderson, Bass, Beebe, Bell, Bland, Bradford, Buckner, Cabell, John H. Caldwell, Chapin, Clymer, Cook, Durand, Field, Foster, Fuller, Garfield, Gibson, Goode, Goodin, Robert Hamilton, Hartridge, Hays, Henderson, Henkle, Goldsmith W. Hewitt, Holman, Hopkins, Hunton, Hurd, Knott, Lamar, Franklin Landers, Lewis, Luttrell, McFarland, Metcalfe, Millikin, Morrison, Mutchler, Odell, Phelps, Piper, Platt, Reagan, Schumaker, Slemons, Stephens, Van Vorhes, Wait, Waldron, Ward, Warner, Wheeler, Charles G. Williams, and Jere N. Williams—57.

So the resolution, as amended, was adopted.

During the roll-call the following proceedings took place:

Mr. WAIT. I am paired upon this question with Mr. CALDWELL, of Alabama; if he were here he would vote "ay," and I should vote "no."

Mr. PHELPS. I am paired upon this question with Mr. ODELL; if he were here I suppose he would vote "no," and I should vote "ay."

Mr. MONEY. I move that the reading of the names be dispensed with. [Loud cries of "Object!"]

Mr. WALLING. I rise to a question of order. The reporting of this vote is a very important matter, as it is upon a very important question.

Mr. EDEN. I call the gentleman from Ohio to order; no debate is in order while the House is dividing.

Mr. WALLING. I insist that order be restored before the roll-call proceeds.

The SPEAKER *pro tempore*, (Mr. COCHRANE.) The Chair sustains the point of order and respectfully suggests to gentlemen in the Hall, and especially to those in the rear of the seats, that they preserve order. The officers of the House will see that gentlemen are seated.

The result of the vote was then announced as above recorded.

So the resolution, as amended, was adopted.

Mr. CLARK, of Missouri. I move to reconsider the vote by which the resolution, as amended, has been adopted.

Mr. HALE. And I move to lay that motion on the table.

Mr. WELLS, of Mississippi. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 174, nays 59, not voting 57; as follows:

YEAS—Messrs. Adams, Ainsworth, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Bell, Blair, Bland, Blount, Bradley, Bright, John Young Brown, William R. Brown, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Cason, Caswell, Caulfield, Chittenden, Conger, Crapo, Crounse, Cutler, Danford, Davis, Davy, De Bolt, Denison, Dobbins, Dunnell, Eames, Eden, Egbert, Evans, Faulkner, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Gause, Goodin, Gunter, Hale, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hatcher, Hathorn, Haymond, Hendee, Henderson, Hill, Hoar, Hoge, Hoskins, House, Hubbell, Hunter, Hurlbut, Hyman, Jenks, Frank Jones, Joyce, Kasson, Kehr, Kelley, Kimball, King, Lamar, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Levy, Lynch, Mackey, Magoon, MacDougall, McCrary, McDill, McFarland, Miller, Monroe, Morgan, Nash, Neal, New, Norton, O'Brien, Oliver, O'Neill, Packer, Page, Payne, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Purman, Rainey, Rea, John Reilly, James B. Reilly, John Robbins, William M. Robbins, Sobieski Ross, Rusk, Sampson, Savage, Sayler, Scales, Seelye, Sinnickson, Smalls, A. Herr Smith, William E. Smith, Stenger, Stevenson, Stowell, Strait, Swann, Tarbox, Teese, Thomas, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Waldron, Charles C. B. Walker, Gilbert C. Walker, Alexander S. Wallace, John W. Wallace, Warren, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Wike, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, Yeates, and Young—174.

NAYS—Messrs. Atkins, John H. Bagley, jr., Banning, Blackburn, Bliss, Boone, William P. Caldwell, Carr, Cate, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cowan, Culberson, Dibrell, Douglas, Finley, Forney, Franklin, Glover, Andrew H. Hamilton, John T. Harris, Hartzell, Henkle, Hooker, Humphreys, Thomas L. Jones, Lane, Luttrell, Lynde, McMahon, Meade, Mills, Money, Mutchler, John F. Philips, Poppleton, Rice, Riddle, Roberts, Miles Ross, Sheakley, Southard, Sparks, Springer, Stanton, Terry, Thompson, Turney, John L. Vance, Robert B. Vance, Waddell, Walling, Walsh, Whitthorne, Wigginton, and Jere N. Williams—59.

NOT VOTING—Messrs. Abbott, Anderson, Ashe, Bass, Beebe, Bradford, Buckner, Cabell, John H. Caldwell, Chapin, Cook, Cox, Darrall, Durand, Durham, Ellis, Field, Fuller, Gibson, Goode, Robert Hamilton, Henry R. Harris, Hartridge, Hays, Abram S. Hewitt, Goldsmith W. Hewitt, Holman, Hopkins, Hunton, Hurd, Knott, Franklin Landers, Lewis, Lord, Maish, Metcalfe, Milliken, Morrison, Odell, Phelps, Piper, Reagan, Robinson, Schleicher, Schumaker, Singleton, Slemons, Stephens, Stone, Tucker, Wait, Ward, Warner, Wheeler, and Wilshire—57.

So the motion to reconsider was laid on the table.

During the call of the roll the following announcements were made:

Mr. WAIT. I am paired with Mr. CALDWELL, of Alabama; if he was here I should vote "ay;" I cannot say how he would vote.

Mr. PHELPS. I am paired with Mr. ODELL, of New York; if he was here he would vote "ay," and I would vote "no."

Mr. STONE. I desire to state that Mr. DURHAM, of Kentucky, and Mr. HARRIS, of Georgia, are absent on account of indisposition.

Mr. LANE. I ask that the reading of the names be dispensed with.

Mr. LUTTRELL. I object.

The Clerk read the names, after which the result of the vote was announced as above recorded.

Mr. WOOD, of New York. I suggest that the Senate be now notified that the House is ready to receive them; I make no motion to that effect.

Mr. O'BRIEN. I desire to submit an order notifying the Senate——

Mr. PAGE. I object to any resolution or order.

The SPEAKER. The Chair will state to the House that he has allowed a vote to be taken on every legitimate legislative motion. He has allowed the motion to reconsider to be voted upon whenever it has been made, so that the House might have an opportunity to correct any error it might have committed. The House has had an opportunity to vote on the motion to lay on the table the propositions themselves, and on the motions to reconsider the vote upon those propositions. Now, when the House has advanced to a declaration of its judgment on the objection to counting the vote from the State of Vermont, it is brought to the following paragraph of the law, as its guide and its mandatory instructions:

When the two Houses have voted they shall immediately again meet, and the Presiding Officer shall then announce the decision of the question submitted.

The Senate has notified the House of its action upon the objection to counting the vote from Vermont. The House has now reached its judgment upon the objection, and as far as the Chair is concerned it is his duty, by the terms of the act, mandatory and ministerial, to notify the Senate to that effect.

Mr. O'BRIEN. Therefore I have offered this order to carry out the law.

Cries of "Regular order!" and "Object!"

Mr. LANE. I insist upon the enforcement of the rule.

The SPEAKER. The Chair is going to enforce the rule.

Mr. LANE. I insist that it shall be strictly enforced. [Laughter.]

Mr. SPRINGER. I desire, before the Clerk notifies the Senate, to ask unanimous consent that the following be added to the notice to the Senate:

That the President of the Senate bring with him and lay before the Senate and House of Representatives the double return from the State of Vermont which was offered in joint convention yesterday.

Many MEMBERS. "I object." "I object."

The SPEAKER. Gentlemen need not object; the Chair, under the law, has no right to recognize any such motion.

Mr. SPRINGER. We have a right, before we are again called into joint convention, to pass upon all the objections; we have not yet done so.

The SPEAKER. Nothing is in order but to carry out the mandatory provision of the law.

Mr. WALLING. I think I can make a suggestion that will be satisfactory to all sides, that will be agreed to by the House unanimously.

The SPEAKER. The Chair would be very happy, when he is allowed to recognize the gentleman, to have him make a proposition that will satisfy all sides; but the Chair is not now able to recognize the gentleman for that purpose.

Mr. WALLING. Would not the Chair recognize a proposition——

Mr. COX. By which the Speaker might count in Mr. Hayes without any further procrastination.

Mr. WALLING. For unanimous consent that at a particular time this evening, when a certain stage of the proceedings is reached, and when objections are made to the counting of the vote of any State, that a recess shall be taken as was agreed to last night?

The SPEAKER. The Chair is of opinion that he cannot entertain any such motion.

At ten o'clock and fifty-five minutes p. m. the Doorkeeper announced the Senate of the United States, who then entered the Hall, headed by their President *pro tempore* and accompanied by their Sergeant-at-Arms and Doorkeeper.

The President of the Senate took the chair as presiding officer of the joint convention.

The PRESIDING OFFICER. The joint meeting of Congress resumes its session. The two Houses separately having determined the objection to the certificate from the State of Vermont, the Secretary of the Senate will now read the resolution of the Senate.

The Secretary of the Senate read as follows:

Resolved, That the vote of Henry N. Sollace, as an elector for the State of Vermont, be counted, together with the other four electoral votes of that State, the objections to the contrary notwithstanding.

The PRESIDING OFFICER. The Clerk of the House will now read the resolution of the House.

The Clerk of the House read as follows:

Ordered, That the vote of Henry N. Sollace, claiming to be an elector from the State of Vermont, be not counted.

The PRESIDING OFFICER. The two Houses not having concurred in an affirmative vote to reject one of the votes from the State of Vermont, the whole vote of that State will be counted. The tellers will announce the vote.

Senator INGALLS, (one of the tellers.) The State of Vermont casts

5 votes for Rutherford B. Hayes, of Ohio, as President, and 5 votes for William A. Wheeler, of New York, as Vice-President.

The PRESIDING OFFICER. Having opened the certificate received by messenger from the State of Virginia, the Chair hands the same to the tellers to be read in the presence and hearing of the two Houses. The corresponding one received by mail is also handed to the tellers.

Mr. WOOD, of New York. Mr. President, I suggest that the result be announced without the full reading of the papers.

Mr. LANE and others objected.

The PRESIDING OFFICER. Objection is made, and the certificate will be read in full.

The certificate having been read by Mr. COOK (one of the tellers) and there being no objection thereto, the vote of Virginia was counted—11 votes for Samuel J. Tilden, of New York, as President, and 11 votes for Thomas A. Hendricks, of Indiana, as Vice-President.

The certificate from the State of West Virginia was next opened; and having been read by Mr. STONE, (one of the tellers,) and there being no objections thereto, the vote of West Virginia was counted—5 votes for Samuel J. Tilden, of New York, as President, and 5 votes for Thomas A. Hendricks, of Indiana, as Vice-President.

The certificate from the State of Wisconsin was next opened; and, it having been read by Mr. ALLISON, (one of the tellers,)

The PRESIDING OFFICER. Are there any objections to the certificate from the State of Wisconsin?

Mr. LYNDE. I send to the Chair an objection.

The objection was read; as follows, by Mr. ADAMS, Clerk of the House:

The undersigned, Senators and Representatives, object to the counting of the vote of Daniel L. Downs as an elector for the State of Wisconsin, upon the following grounds, namely:

That the said Daniel L. Downs held the office of pension surgeon and of examining surgeon for the Pension Office, by valid appointment under the laws of the United States, prior to the 7th day of November, 1876, the day of the presidential election, and upon said day and upon the 6th day of December, 1876, at the time of his assuming to cast a vote as elector for the State of Wisconsin, and that he has continually held said office from a long period prior to the said 7th day of November, 1876, until the present time; and the undersigned therefore state that said Downs, as pension surgeon and as examining surgeon for the Pension Office as aforesaid, held an office of trust and profit under the United States on the day of the presidential election and on the day that he voted as an elector for the State of Wisconsin, and therefore could not be constitutionally appointed an elector for the State of Wisconsin or vote as such under the Constitution of the United States.

Wherefore the undersigned aver that the said Downs was not duly appoined an elector for the said State, and that his vote cannot be constitutionally counted. And the undersigned hereto annex the evidence of the facts above stated and to be taken as a part of their objections.

W. H. BARNUM, Connecticut;
J. E. McDONALD, Indiana;
JAS. K. KELLY, Oregon;
HENRY COOPER, Tennessee;
JOHN W. JOHNSTON, Virginia;
Senators.

WM. P. LYNDE, Wisconsin;
J. F. PHILIPS, Missouri;
SAML. D. BURCHARD,
J. R. TUCKER, Virginia;
WM. M. SPRINGER,
A. V. RICE, Ohio;
JOHN L. VANCE, Ohio;
CASEY YOUNG, Tennessee;
H. D. MONEY,
Representatives.

The PRESIDING OFFICER. Are there further objections to the certificate from the State of Wisconsin? If there be none the Senate will now withdraw to its Chamber, that the Houses separately may consider and determine the objection.

The Senate retired at eleven o'clock and twenty-five minutes p. m.

The House was again called to order.

Mr. MILLS. I rise to a question of privilege. I submit the following resolution——

Mr. HOGE and others. I object.

Mr. O'BRIEN. Wait till you hear it read.

The SPEAKER. The Chair suggests that it may be read for information.

Mr. RUSK. It is too long.

Mr. CONGER. I submit that the first regular business is the reading of the objections. I ask that they may be read.

Mr. LUTTRELL. Would it be in order to move that the House take a recess until ten o'clock to-morrow morning. If so, I make that motion.

The SPEAKER. That is in order.

Mr. MILLS. I had the floor.

The SPEAKER. The gentleman from California [Mr. LUTTRELL] moves to take a recess till ten o'clock to-morrow morning.

Mr. MILLS. I will yield for that purpose with the understanding that I have the floor.

Mr. WOOD, of New York, and others. No understanding!

Mr. GARFIELD. I rise to a privileged motion touching the business before us. I move to suspend the rules and adopt the following resolution——

Mr. COX. Regular order!

Mr. GARFIELD. A motion to suspend the rules is in order.

Mr. ATKINS. I understood the Chair recognized the gentleman from Texas and it was understood by the enunciation of the Chair that the paper was to be read for information. Now I want to know if the gentleman from Texas is to be pushed off the floor by the gentleman from Ohio by a superior motion?

The SPEAKER. The gentleman from Texas has not been pushed off the floor. The Chair has recognized the gentleman from California, [Mr. LUTTRELL,] however, to make the motion that the House take a recess until to-morrow morning at ten o'clock.

Mr. MILLS. Will that interfere with my question of privilege?

The SPEAKER. The Chair will recognize the gentleman from Texas afterward. The Chair does not know yet what the motion of the gentleman from Texas is.

Mr. LUTTRELL. I make the motion in good faith that the House take a recess until ten o'clock to-morrow morning. We have been working hard all this day.

Mr. PAGE. I object.

Mr. TOWNSEND, of New York. We have had twelve hours and a half of good faith. [Laughter.]

Mr. GARFIELD. I rise to a question of order. I make the point that the motion to suspend the rules takes precedence.

Mr. O'BRIEN. The motion to take a recess is of the highest order, and not debatable.

Mr. GARFIELD. The motion to suspend the rules is of the highest privilege.

The SPEAKER. The Chair entertains the motion of the gentleman from California to take a recess until to-morrow morning at ten o'clock.

Mr. MILLS. Do I understand the Chair that I have the floor in the morning in preference to others?

The SPEAKER. That depends upon what proposition the gentleman from Texas makes.

Mr. MILLS. I ask my privileged motion be read now.

The SPEAKER. The Chair is really bound to recognize the gentleman who has presented the objections, the gentleman from Wisconsin, [Mr. LYNDE.] But the Chair desires to accommodate himself, as far as he is permitted to do so under the rules, to the wishes of each and every member of the House. The gentleman from California moves the House take a recess until to-morrow morning at ten o'clock.

Mr. BLACKBURN. I rise to a parliamentary inquiry. Should the Chair put the question on the motion made by the gentleman from California, that the House take a recess until to-morrow morning at ten o'clock, and the House should agree to take a recess until to-morrow morning at ten o'clock, where will the gentleman from Texas stand on his proposition?

The SPEAKER. When ten o'clock comes to-morrow morning the Chair will have to decide that point.

Mr. BLACKBURN. One more inquiry. Does the Chair rule that a motion to take a recess sweeps from the floor the gentleman from Texas who has been recognized on a privileged question?

The SPEAKER. The Chair rules that a motion to take a recess under the existing law under which we are acting is equivalent on ordinary occasions to a motion to adjourn.

Mr. MILLS. Can one gentleman take another off the floor to make a motion to adjourn?

The SPEAKER. Not now; for a motion to adjourn could not be made, as the law under which we are acting does not allow anything more than the taking of a recess.

Mr. MILLS. I have the floor and the gentleman from California cannot take it from me.

Mr. LUTTRELL. If the gentleman thinks I have taken the floor from him, I will withdraw my motion for a recess. I wish to take no unfair advantage.

Mr. COX. I ask for the reading of the paper.

The SPEAKER. The Chair desires to have the paper read.

The Clerk read as follows:

Whereas, on the 7th day of November, 1876, an election was held in the several States of the Union for electors of President and Vice-President for the term of four years from the 4th day of March, 1877, at which election the majority of said electors favorable to the election of Samuel J. Tilden for President and Thomas A. Hendricks for Vice-President were duly and constitutionally elected by the qualified voters of the several States;

And whereas the returns of said election in the States of Louisiana and Florida were duly made to the officers in said States whose duty it was under the laws of the same to aggregate the votes of the States aforesaid and certify the names of electors so chosen by the qualified electors in accordance with law;

And whereas said return officers willfully, corruptly, and fraudulently suppressed the votes of those electors who were duly and legally elected, and falsely and fraudulently certified the election of persons who were defeated at the ballot-box;

And whereas the governors of said States falsely and fraudulently gave certificates of election of said persons who were defeated and refused them to those persons who were elected;

And whereas said false and fraudulent certificates were referred to a commission to investigate and report to Congress the true constitutional electoral votes in said States;

And whereas said commission refused to investigate the question as to who were the true constitutional electors chosen by the qualified voters of said States;

And whereas it appears in the count of the electoral votes in the presence of the Senate and House of Representatives, on account of said frauds in suppressing the true votes and certifying the false ones, that Samuel J. Tilden, though having received a majority of the electoral votes cast at the ballot-box in the several States, has not a majority in said joint count of all electors appointed in accordance with the terms of the Constitution.

And whereas Rutherford B. Hayes has not received a majority of the constitutional electors duly and legally appointed and the contingency provided for by the Constitution having happened when it becomes the duty of the House of Representatives to proceed immediately to the election of a President of the United States for the ensuing four years: Therefore,

Resolved by the House of Representatives, That said House will proceed immediately, in obedience to the Constitution, to choose a President from the persons having the highest number not exceeding three on the list of those voted for as President.

Mr. LYNDE rose.

Mr. GARFIELD. I make a point of order on that resolution.

The SPEAKER. The gentleman from Wisconsin [Mr. LYNDE] is recognized.

Mr. LYNDE. I move that the House now take a recess until ten o'clock to-morrow.

Mr. MILLS. The gentleman cannot by that motion take me from the floor.

Mr. GARFIELD. I make the point of order that the resolution of the gentleman from Texas is not pertinent to the objection to the vote of the State of Wisconsin.

The SPEAKER. The gentleman from Wisconsin [Mr. LYNDE] is entitled to be recognized by the Chair as the objector in the joint convention.

Mr. MILLS. Not while I am on the floor. Having obtained the floor on a question of privilege I am entitled to retain it.

The SPEAKER. The Chair desires first to hear from the gentleman from Wisconsin what he proposes in reference to the objection which he made in joint convention. And the Chair would suggest that the only way in which the resolution of the gentleman from Texas can be introduced is in the form of an amendment in the nature of an objection.

Mr. GARFIELD. That is the point I was trying to make. The resolution is out of order except in that way.

The SPEAKER. The gentleman from Wisconsin moves that the House take a recess till to-morrow at ten o'clock.

Mr. MILLS. I offer my resolution as an amendment to the objection, and I desire a vote of the House upon it.

The SPEAKER. The Chair is desirous of showing the gentleman from Texas the exact manner in which he can have a vote on his proposition.

Mr. COX. I rise to a parliamentary inquiry. If the gentleman from Wisconsin who makes a motion for a recess succeeds in that motion, will not the proposition of my friend from Texas be pending when the House re-assembles in the morning?

The SPEAKER. The Chair would then be bound in good faith to recognize the gentleman from Wisconsin to make a proposition in regard to the action of the House in one way or another touching the electoral vote, and he will then recognize the gentleman from Texas.

Mr. MILLS. To offer my resolution as an amendment.

The SPEAKER. Yes; if it be in the form of an objection. It is not now in that form.

Mr. COX. Then I hope we will take a recess.

Mr. CONGER. I hope the Chair will not decide in advance to receive or not to receive the proposition of the gentleman from Texas.

The SPEAKER. The Chair would recognize the gentleman from Texas to offer an amendment. The Chair desires to travel the exact path he has pursued heretofore in respect to all these questions. In the first place, he recognizes the gentleman who presented the objection in the joint convention to make the usual motion in reference to that; and then the Chair will recognize the gentleman from Texas to offer his proposition in the form of an amendment. When it is submitted in that form, of course the Chair would then be prepared to rule upon it.

Mr. McCRARY. I wish to reserve the question of order upon it.

The SPEAKER. The question of order is reserved by the gentleman from Iowa.

Mr. SPRINGER. I call for the yeas and nays on the motion that the House take a recess.

Several MEMBERS. Have a division first.

The question having been put, there was a division by sound. Before the result was declared,

Mr. WELLS, of Mississippi, said: I demand the yeas and nays.

Mr. WALLING. I rise to a question of order. One-half of the "noes" come from the lobby around the seats of members, and not from the members of this House.

The SPEAKER. The Chair will direct the Sergeant-at-Arms to clear the lobby.

MESSAGE FROM THE SENATE.

The Secretary of the Senate, Mr. GORHAM, appeared at the bar and said: Mr. Speaker, I am directed by the Senate to inform the House that the Senate has adopted a resolution that the vote of Daniel L. Downs, as an elector for the State of Wisconsin, be counted together with the other nine electoral votes of that State, the objections made thereto to the contrary notwithstanding. [Loud applause.]

Mr. GORHAM further announced that he was directed to notify the House of Representatives that the Senate was now ready to proceed with the count of the electoral vote for President and Vice-President.

COUNTING THE ELECTORAL VOTE.

Mr. O'BRIEN. I ask that the galleries be cleared.

Mr. CAULFIELD. I hope the galleries will be cleared.

The SPEAKER. The Sergeant-at-Arms will clear the lobby.

Mr. CAULFIELD. I insist that the galleries be cleared.

The SPEAKER. The Chair does not know that the galleries were guilty of any misbehavior; certainly not the ladies in the gallery.

Mr. SAVAGE. I insist that the gallery be cleared. That gallery, Mr. Speaker, [pointing to the gentlemen's gallery,] has three times today insulted the House by demonstrations of this kind.

Mr. CAULFIELD. I saw it with my own eyes.

Mr. LANE. The galleries are quite as honest in making a show for Hayes as we have been.

After an interval, during which the Sergeant-at-Arms cleared the space outside the members' seats of persons not entitled to the privileges of the floor,

Mr. CLARK, of Missouri, said: I desire to know, Mr. Speaker, what question is before the House.

Mr. CAULFIELD. I insist on my motion that that gallery be cleared before we proceed to any other business. If it be necessary, I ask that we take a vote upon that proposition.

Mr. LANE. O, do not make any invidious distinction as to the gallery.

Mr. LUTTRELL. I hope the order will not be made to clear the galleries. There would, no doubt, have been some jollification if we had succeeded.

Mr. MILLS. The people in the galleries have the same right as we have to stand up and see the death of the Republic.

The SPEAKER. The rule of the House is as follows:

In case of any disturbance or disorderly conduct in the galleries or lobby, the Speaker (or Chairman of the Committee of the Whole House) shall have power to order the same to be cleared; or the House may order it cleared.

The Chair, in obedience to a part of that rule, directed the lobbies to be cleared, and will submit the question to the House whether the galleries shall also be cleared.

Mr. GOODE. I hope, Mr. Speaker, that the motion to clear the galleries will not prevail. There was more disorder on the floor than there was in the galleries. [Loud cries of "That's right!"]

The SPEAKER. The Chair so stated, and is not willing, arbitrarily, to order the galleries to be cleared, as he might do. The Chair submits the question to the House, "Shall the galleries be cleared?"

Mr. SPRINGER. I hope not. I desire that some of the American people shall witness this scene.

The question was taken upon clearing the galleries; and it was decided in the negative.

Mr. CLYMER. I call for the regular order of business.

Mr. LYNDE. I submit the resolution which I send to the Clerk's desk and ask that it be read.

The Clerk read the resolution, as follows:

Resolved, That the vote of Daniel L. Downs, as an elector of the State of Wisconsin, should not be counted, because he held an office of trust and profit under the United States, and therefore was not constitutionally appointed an elector by the said State of Wisconsin.

Mr. SPRINGER. I rise to a question of order; and it is that a motion for a recess was made previous to the introduction of this resolution.

The SPEAKER. The gentleman from California [Mr. LUTTRELL] made the motion and afterward withdrew it.

Mr. LYNDE. I move that the House take a recess until to-morrow at ten o'clock a. m.

Mr. WELLS, of Mississippi, and Mr. SPRINGER called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 99, nays 148, not voting 43; as follows:

YEAS—Messrs. Ainsworth, Ashe, Atkins, John H. Bagley, jr., Banning, Beebe, Blackburn, Bland, Bliss, Blount, Boone, Bright, William P. Caldwell, Campbell, Carr, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cowan, Cox, Culberson, De Bolt, Dibrell, Douglas, Egbert, Faulkner, Field, Finley, Forney, Franklin, Glover, Gunter, Andrew H. Hamilton, John T. Harris, Hartzell, Henkle, Abram S. Hewitt, Hooker, House, Humphreys, Hurd, Jenks, Thomas L. Jones, Franklin Landers, George M. Landers, Lane, Luttrell, Lynde, Mackey, Maish, McFarland, McMahon, Meade, Mills, Money, Morrison, Mutchler, O'Brien, Payne, John F. Philips, Poppleton, James B. Reilly, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Savage, Sayler, Scales, Sheakley, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Teese, Terry, Thompson, Tucker, Turney, John L. Vance, Robert B. Vance, Gilbert C. Walker, Walling, Walsh, Whitthorne, Wigginton, Wike, Jere N. Williams, Benjamin Wilson, Yeates, and Young—99.

NAYS—Messrs. Eames, Eden, Evans, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Gause, Goode, Goodin, Hale, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hatcher, Hathorn, Haymond, Hendee, Henderson, Hoar, Hoge, Holman, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kehr, Kelley, Kimball, King, Knott, Lamar, Lapham, Lawrence, Leavenworth, Levy, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Packer, Page, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Rainey, Rea, John Reilly, John Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Schleicher, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Swann, Tarbox, Thomas, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Waldron, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, and Woodworth—148.

NOT VOTING—Messrs. Abbott, Adams, Anderson, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Bass, Belford, Bell, Blair, Bradford, Bradley, John Young Brown, William R. Brown, Buckner, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Cabell, John H. Caldwell, Candler, Cannon, Cason, Caswell, Chapin, Chittenden, Conger, Cook, Crapo, Crounse, Cutler, Danford, Darrall, Davis, Davy, Denison, Dobbins, Dunnell, Durand, Dur-

ham, Ellis, Fuller, Gibson, Robert Hamilton, Henry R. Harris, Hartridge, Hays, Goldsmith W. Hewitt, Hill, Hopkins, Hunton, Frank Jones, Le Moyne, Lewis, Metcalfe, Milliken, Odell, Phelps, Piper, Pratt, Purman, Reagan, Schumaker, Slemons, Stephens, Waddell, Wait, Ward, Warner, Warren, and Wheeler—43.

So the motion to take a recess was not agreed to.

During the roll-call the following announcements were made.

Mr. SCALES. My colleague, Mr. DAVIS, has been compelled to leave the House on account of sickness.

Mr. ELLIS. Upon this question I am paired with Mr. WADDELL; were he present he would vote "ay" and I should vote "no."

Mr. JOHN REILLY. My colleague, Mr. HOPKINS, is absent on account of sickness.

Mr. WELLS, of Missouri. I desire to say that the gentleman from Texas, Mr. REAGAN, is absent on account of indisposition.

Mr. WAIT. Upon this question I am paired with Mr. CALDWELL, of Alabama; if he were here he would vote "ay" and I should vote "no."

Mr. STONE. I desire to announce that Mr. DURHAM and Mr. HARRIS, of Georgia, are absent on account of indisposition.

The result of the vote was then announced as above recorded.

Mr. KNOTT. I move to reconsider the vote by which the House refused to take a recess.

The SPEAKER. It is not in order to move to reconsider the vote on a motion to take a recess which is in the nature of adjournment, and it is not in order to move to reconsider a motion to adjourn.

Mr. WOOD, of New York. I desire to submit to the House a proposition, and to ask its unanimous adoption. The object of it is to enable the House to take a recess at this time and to conclude the discussion and all action upon the main question to-morrow at ten o'clock.

Several MEMBERS objected.

Mr. HALE. If objection is made to that proposition then I call the previous question upon the proposition of the gentleman from Wisconsin, [Mr. LYNDE.]

Mr. WOOD, of New York. I was induced to believe that this proposition would meet the unanimous consent of our friends upon my left.

The SPEAKER. Will the gentleman from New York state his poposition again?

Mr. WOOD, of New York. I have it in writing and I will read it. If objection is made to it, then I will move to suspend the rules and adopt it. This is the proposition:

A motion for the previous question to be entertained on the order offered by Mr. LYNDE and the amendment of Mr. MILLS, if offered in a shape to be in order. The House then to take a recess until Friday, March 2, until ten o'clock a. m., and the vote upon the main question to be taken at one o'clock p. m. to-morrow.

Mr. MILLS. I desire to state to the gentleman from New York [Mr. WOOD] and to this House that I have the assurance of the Speaker that my proposition shall be voted upon, and I do not want any such left-handed proposition from the gentleman who has been leading the republican party on this floor. I want a square vote on my proposition.

Mr. BEEBE. I rise to a point of order. I desire to inquire of the Chair if a motion for a recess is now in order, one motion for that purpose having just been voted down?

Mr. O'BRIEN. I desire to reject the proposition of the gentleman from New York, because if this fraud is to be consummated let it be consummated in the darkness of the night.

Mr. BEEBE. I would like a ruling of the Chair upon the point of order I have submitted.

Mr. BLACKBURN. I desire to say in regard to the proposition submitted by the gentleman from New York [Mr. WOOD] that as one of the members on this side of the House——

The SPEAKER. The Chair would remind the gentleman that a motion to suspend the rules is not debatable.

Mr. BLACKBURN. I do not desire to discuss it, but to call the attention of the House to the fact that Friday has been ushered in, Friday, "hangman's day," a fit day to witness the consummation of the villainy of this procedure. I have no objection to its consummation now.

Mr. HALE. I call the previous question upon the proposition of the gentleman from Wisconsin, [Mr. LYNDE.]

The SPEAKER. The gentleman from New York moves to suspend the rules.

Mr. BEEBE. Is it in order to suspend the rules for the purpose of taking a recess now, one motion for a recess having just been voted down?

Mr. SPRINGER. I rise to a question of order. It is that the motion of the gentleman from New York [Mr. WOOD] is not in order except by unanimous consent.

Mr. HOOKER. I will make the point that a motion to take a recess has been voted down and another motion of the same kind is not now in order.

Mr. SPRINGER. If gentlemen will consent that a recess shall be taken until to-morrow morning at ten o'clock I have no objection; then we will take a recess reserving all our rights.

Mr. WOOD, of New York. If my proposition is not agreed to, then I will insist that we shall proceed with the regular order.

Mr. O'BRIEN. Let the gentleman from New York [Mr. WOOD] be the high priest of the republican party.

Mr. HARRISON. And let the gentleman from Maryland [Mr. O'BRIEN] be the small priest of the filibusters. [Laughter.]

Mr. BEEBE. I desire the ruling of the Chair on the question of order that I raised upon the proposition of the gentleman from New York, [Mr. WOOD.]

The SPEAKER. The gentleman from New York has withdrawn his proposition, and the gentleman from Maine calls the previous question on the proposition of the gentleman from Wisconsin, [Mr. LYNDE.]

Mr. SAVAGE. The law under which we are acting contains this provision:

That when the two Houses separate to decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or upon objection to a report of said commission, or other question arising under this act, each Senator and Representative may speak to such objection or question ten minutes, and not oftener than once; but after such debate shall have lasted two hours, it shall be the duty of each House to put the main question without further debate.

Now, I want to say that if the previous question is seconded it will cut off any debate, any discussion of this matter at all. As each Senator and Representative by the terms of this law is entitled to speak for ten minutes, provided that two hours and no longer is occupied in debate, it is not in order to prevent anybody from exercising his right under the law.

The SPEAKER. The Chair would not rule, if the previous question was ordered, that it could cut off anybody who had any right under the law.

Mr. SPRINGER. Is it in order to put the main question until the two hours for debate have elapsed?

The SPEAKER. The Chair will state the question to the House. The gentleman from Wisconsin, Mr. LYNDE, submits a proposition, to which the gentleman from Texas, Mr. MILLS, submits an amendment in the nature of a substitute, and the gentleman from Wisconsin, Mr. CASWELL, submits a further proposition. That is, an original proposition and two amendments are before the House, which is all that is allowed under what is known as the parliamentary "main question."

The Clerk will now read the proposition of the gentleman from Wisconsin, [Mr. CASWELL.]

Mr. BURCHARD, of Illinois. Has the proposition of the gentleman from Texas [Mr. MILLS] been ruled in order?

The SPEAKER. The gentleman from Texas submits a proposition in the nature of a substitute.

Mr. WOOD, of New York. What disposition has been made of my motion to suspend the rules?

The SPEAKER. The Chair understood the gentleman to withdraw it.

Mr. WOOD, of New York. No, sir; I withdraw nothing.

Mr. HOOKER. I raise the point of order, that the proposition of the gentleman from New York, [Mr. WOOD,] involving as it does a motion for a recess until to-morrow morning at ten o'clock, is not now in order, such a motion having just been voted down by the House.

The SPEAKER. The Chair does not think that the proposition is in order.

Mr. WOOD, of New York. Then I ask that we shall proceed with the regular order.

The SPEAKER. The Clerk will read the amendment of the gentleman from Wisconsin, [Mr. CASWELL.]

The Clerk read as follows:

Resolved, That the vote of D. L. Downs be counted with the other votes of the electors of the State of Wisconsin, the objections thereto notwithstanding.

Mr. RICE. I call for the reading of the substitute of the gentleman from Texas, [Mr. MILLS.]

The SPEAKER. That has been read.

Mr. RICE. I wish to have it read again.

Mr. GARFIELD. I object to its being read again.

Mr. HALE. Has the main question been ordered?

The SPEAKER. The Chair thinks it is not necessary to have the main question ordered. The only object would be to cut off amendments; and the Chair will not entertain any further amendment.

Mr. HALE. That assurance is of course sufficient; but after one of these amendments has been voted down I do not desire that there shall be an opportunity for another amendment.

The SPEAKER. The first question will be on the the proposition of the gentleman from Wisconsin, [Mr. CASWELL.]

Mr. LYNDE. I call for the reading of the objections together with the testimony upon which they are founded.

The Clerk read as follows:

The undersigned Senators and Representatives object to the counting of the vote of Daniel L. Downs as one elector for the State of Wisconsin upon the following grounds, namely:

That the said Daniel L. Downs held the office of pension surgeon and of examining surgeon for the Pension Office by valid appointment under the laws of the United States prior to the 7th day of November, 1876, the day of the presidential election, and upon said day and upon the 6th day of December, 1876, at the time of his assuming to cast a vote as elector for the State of Wisconsin, and that he has continually held said office from a long period prior to the said 7th day of November, 1876, until the present time; and the undersigned therefore state that said Downs, as pension surgeon and as examining surgeon for the Pension Office as aforesaid, held an office of trust and profit under the United States on the day of the presidential election and on the day that he voted as an elector for the State of Wisconsin, and therefore could not be constitutionally appointed an elector for the State of Wisconsin or vote as such under the Constitution of the United States.

Wherefore the undersigned aver that the said Downs was not duly appointed an

elector for the said State and that his vote cannot be constitutionally counted. And the undersigned hereto annex the evidence of the facts above stated, and to be taken as a part of their objection.

W. H. BARNUM, Connecticut,
J. E. McDONALD, Indiana,
JAS. K. KELLY, Oregon,
HENRY COOPER, Tennessee,
JOHN W. JOHNSTON, Virginia,
Senators.

WM. P. LYNDE, Wisconsin,
J. F. PHILIPS, Missouri,
SAML. D. BURCHARD,
J. R. TUCKER, Virginia,
WM. M. SPRINGER,
A. V. RICE, Ohio,
JOHN L. VANCE, Ohio,
CASEY YOUNG, Tennessee,
H. D. MONEY,
Representatives.

WASHINGTON, D. C., *February* 3, 1875.

DANIEL W. DOWNS sworn and examined.

By Mr. SPARKS:

Question. Were you appointed elector in the State of Wisconsin in the last presidential election?

Answer. I was.

Q. In what district?

A. In the third congressional district.

Q. Did you sit as a member of the electoral college?

A. I did.

Q. And voted?

A. And voted.

Q. For whom were the electoral votes of Wisconsin cast?

A. For Hayes and Wheeler.

Q. You were on the ticket and were elected?

A. Yes.

Q. Did you hold any office under the Government of the United States at the time you were appointed elector?

A. I can only give my opinion on that point. I never understood myself as holding an office. I held the position of examining surgeon for the Pension Office.

Q. Did you hold that position at the time you were elected?

A. I did.

Q. Did you hold it at the time you acted and voted?

A. I did.

Q. And hold it now?

A. Yes, sir.

Q. How long have you held it?

A. My recollection is that I received the appointment in 1863.

Q. And that has continued up to the present time?

A. It has continued up to the present time.

Q. Have you your appointment with you?

A. I have not.

Q. It was in writing?

A. Yes, sir.

Q. By whom were you appointed?

A. By the Commissioner of Pensions.

Q. Did you derive any profit from the position?

A. I did. The compensation is fixed by law. In the first instance, when I was first appointed, I received nothing from the United States Government. The law was then changed so that I received $1.50 for each examination, which was paid by the applicant and was refunded to him on the first payment of his pension. The law has been since changed, so that now I have a fee which is paid by the Government of the United States.

Q. How much from each applicant?

A. Two dollars from each person referred to me for examination and examined.

Q. How many applicants do you examine a year?

A. The biennial examination would probably amount to sixty persons. In the other odd year, there would be some fifteen or twenty examinations in the course of a year.

Q. How many examinations would that make annually?

A. Probably an average of forty.

By Mr. BURCHARD:

Q. There is no salary connected with your position?

A. No, sir.

Q. Nothing but a fee?

A. A fee in each case.

Q. At first it was paid by the applicant?

A. Yes.

Q. When was the law changed?

A. I cannot tell you.

Q. Are you now paid on a statement of account?

A. Yes, I render a monthly account and return the notice of reference with my accounts to the Pension Office.

Q. Was there any question raised as to your eligibility as a presidential elector?

A. Not before the election; there was after the election.

By Mr. LAWRENCE:

Q. It never was mentioned before the election?

A. Not that I know of?

Q. How many examining surgeons are there in your county?

A. None, besides myself.

Q. How many in the congressional district?

A. I cannot answer; I know three or four.

By Mr. SPARKS:

Q. You say that at first the applicant paid the fee of $1.50?

A. Yes, sir.

Q. And that was refunded to the applicant by the Government?

A. That was my understanding of it.

Q. So that the Government paid it?

A. Yes.

Q. When was the law changed that you got $2 for each examination?

A. I cannot tell you the time; my recollection is that it was about 1868 or 1870.

Q. Since then the fee has been $2 for each examination, and has been paid by the Government?

A. Yes.

Q. At what period is that paid?

A. Monthly. I make out a monthly statement of the business done by me and send it to the Pension Office, together with the orders of reference. The Pension Office approves of the account and returns it, and it goes to the pension agent of the district, and he pays it.

By Mr. BURCHARD:

Q. You did not suppose that you were ineligible as a presidential elector, and do not suppose it now?

A. No, sir; that was not my understanding.

Q. And no one else supposed so, to your knowledge?

A. No, sir; I understand that I was simply an employé of the Pension Office.

By the CHAIRMAN:

Q. When did you receive your appointment?

A. My recollection is that I received it in 1868. I cannot state positively.

By Mr. BURCHARD:

Q. The examination biennally is of the same or nearly the same persons, is it not?

A. Of the same persons exactly; all persons except those who are termed permanently disabled have to be examined biennially, simply to ascertain whether a continuation of the disabilities exists.

By Mr. SPARKS:

Q. There is a list of persons whom you examine biennially?

A. Yes, sir.

Q. And then there are original applicants constantly coming in for examination?

A. Yes, sir.

Q. And you receive $2 *per capita* for each examination?

A. Yes, sir.

Q. Where is your appointment?

A. I am not positive whether I have it in my possession at home or not. I think I have.

Q. What other duties do you perform besides mere examination?

A. Not any, except that I make a report after I make the examination. I send the certificate of each examination directly to the Pension Office, excepting the certificates of biennial examination. These go to the pension agent and duplicates to the Pension Office.

Q. Do you make any other report except those certificates?

A. No; except that I make out an account monthly of the names of the persons examined, and return them with the orders of examination in order to get my pay.

Q. You draw your pay monthly on those vouchers?

A. Yes, sir.

Q. By whom were you sworn in as examining surgeon?

A. I think I was not sworn in at all, but I would not state positively as it is a good many years since.

Q. If it is the rule to swear in examining surgeons, you doubtless were sworn in?

A. Yes, sir. I suppose so. I have no recollection at all on the subject. I know that I never received any commission beyond simply the appointment in writing.

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
Washington, D. C., February 8, 1877.

DEAR SIR: Yours of the 6th instant, requesting a certificate of the appointment of Dr. Daniel W. Downs as pension surgeon at Richland Center, Richland County, Wisconsin, the time of his appointment, the amount of fees received by him in the years 1875 and 1876, and whether he has ever resigned, and whether he now holds and has held such position since his first appointment, was received on yesterday, but owing to the illness of the medical referee, who has charge of the papers relating to the surgeons employed by the office, I could not sooner get at the information which you desire.

Doctor Daniel D. Downs, of Richland Center, Richland County, Wisconsin, was first employed by the Commissioner of Pensions to make examinations to be used in pension cases as early as May, 1863, and, excepting for the period of his service in the Army during the late rebellion, cases have been occasionally sent to him for examination all along down from that date. In 1875 he made twenty-three examinations, and in 1876 he made thirty-five examinations, receiving for his services $2 for each examination. So far as I am informed he has never declined to make examinations which have been requested; and he is still employed to make examinations in pension cases in his neighborhood. The last order for a claimant to appear before him to be examined was made as late as the 3d instant.

The above statement does not include biennial examinations which he may have made in 1875, the number of which I cannot readily ascertain, as the certificates of such examinations are sent by the examining surgeon to the pension agent who pays the pension.

I suppose you must be in error as to the name being Daniel W., as no other surgeon at that place named Downs has been employed as herein stated than the Daniel L. above referred to.

Very respectfully, your obedient servant,

J. A. BENTLEY,
Commissioner of Pensions.

Hon. J. R. TUCKER,
House of Representatives.

Mr. MAGOON. Mr. Speaker, the constitutional provisions applicable to the question before the House are these: "Each State shall appoint, in such manner as the Legislature thereof may direct," its number of electors. The electors shall meet in their respective States, ballot for President and Vice-President, sign and certify a list of persons by them voted for, and transmit said list, sealed, to the President of the Senate, who "shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted."

Now this power and duty to count the votes is either on the one hand ministerial or on the other hand judicial to a degree possessed by a court in *quo warranto*. If it be simply ministerial, then, there being but one return from Wisconsin and that return being regular and authenticated according to law, and embodying ten electoral votes for Hayes and Wheeler, must be counted.

But if this power to count be that of a court in *quo warranto*, then, this day being March 2, that is to say only two days before the hour for inaugurating a new President, the power cannot be exercised because the official term and duty of the electors have expired, and no court will try title to an office where the term has expired and judgment of ouster cannot be pronounced. (Morris *vs.* Underwood, 19 Georgia, 559.) Thus, in either case, the answer to the objection is in law complete; and the objected vote must be counted.

But suppose it were otherwise, and not only that we could examine *de novo* this objection that Downs was United States examining surgeon, but that we could decide on the very right and even exclude the vote, then, and on the merits, the objection has no legal foundation.

The constitutional provision is that—

No person holding an office of trust or profit under the United States shall be appointed an elector.

Elector Downs, it is alleged, was United States examining surgeon, located at Richland Center, Wisconsin; but where is the evidence? It is not before this House; there is no report of any committee here; no deposition or certified evidence known to the common law, or even to the rules of this House, showing such fact. Hence, as there is no legal evidence submitted, no legal evidence before the House to sustain the objection, the count must go on in conformity to the Constitution.

But even if there were before us competent evidence to prove that Downs was examining surgeon, then *that* is no office of trust or profit under the United States, and Downs is not within the prohibition.

On this subject it was decided by the supreme court of Pennsylvania in Commonwealth *vs.* Binns, 17 Serg. and Rawle, 226—a case powerfully argued and considered—that the strictest possible construction must be given to a law declaring ineligibility and incompatibility of offices; that nothing is within the prohibition unless expressly named, and nothing whatever is to be included by construction. This decision, I believe, states the elementary and universal law in this country. Applying, therefore, this rule to the question whether an examining surgeon appointed by the Commissioner of Pensions *is* a United States officer, holding an office of trust or profit, the answer is plainly a negative.

The Constitution provides that the President shall, *with the advice and consent of the Senate*, appoint all officers of the United States whose appointments are not in the Constitution otherwise provided for, and which shall be established by law; but that—

Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of Department.

It is not claimed that the Commissioner of Pensions is the head of a Department; for, on the contrary, he is himself a subordinate officer to the Secretary of the Interior, who alone is the head of his Department. And, inasmuch as United States examining surgeons are appointed by the Commissioner of Pensions, who is not the head of a Department, nor an appointing authority constitutionally authorized to appoint either officers or inferior officers under the United States, it is plain that the intendment of the law is to appoint neither an officer nor an inferior officer in designating the appointment of such surgeons; and that such surgeon is not regarded as holding any office of trust or profit under the United States. Accordingly, in 1 Curtis, United States Circuit Court Reports, page 15, a decision by Judge B. R. Curtis holds that the continued payment of pensions under the orders of the Secretary of the Navy does not constitute the person paying them an officer of the United States. And in Baker's case, (4 Court of Claims Reports, 27,) held, that persons in the employ of the Government who receive for their services not a salary but whatever they may be worth, are not officers. And so, in 17 Serg. and Rawle, 559, it was decided that the designating of a person to publish the laws and treaties of the United States did not thereby create an office of trust or profit under the Constitution. So that an examining surgeon, not being either an officer or inferior officer of the United States and not holding an office of trust or profit, as these terms have been judicially construed, the prohibition does not apply and the electoral vote of Mr. Downs must be counted.

This is alone a complete and conclusive answer to the objection, besides that other equally conclusive answer to the objection, namely, that Downs, in any consideration, was an elector *de facto;* that he was elected by the people of Wisconsin to his great trust; that he was determined and certified to have been so elected by the board of State canvassers of Wisconsin, all of whom are democrats; that in good faith, believing he was an elector, Mr. Downs met and voted with the electoral college, unquestioned and unopposed, and that his vote as at worst an elector *de facto* stands valid; and, therefore, that, in accordance with the Constitution which we have sworn to support, that vote of elector Downs should now be counted by the President of the Senate in the presence of the Senate and House of Representatives.

Mr. CATE. Mr. Speaker, any words at my command are impotent to express the profound regret I experience for the position in which we find the country to-day. With the broadest and most liberal privileges of the elective franchise guaranteed to all its citizens without distinction of race or color, after an election participated in by more than eight millions of men, involving issues of the gravest moment, and well calculated to produce excitement and irritate the public mind, to the honor and glory of the people be it said that throughout this broad land on the day of election not one circumstance occurred to disturb its peace and order; not one circumstance calculated to prevent an expression of the free and unbiased judgment of the voter. Not one. And yet, sir, by some means the will of the people thus freely and fairly expressed has been defeated, and it is made to appear that a person actually in a minority of more than a quarter of a million of votes has been elected and is about to be installed as President of the United States.

Mr. Speaker, I did not give the so-called electoral bill my support, and I regretted that so many of my friends about me differed with me in opinion, but I know they acted from the purest of motives, and no man deplores more than I do the gross betrayal of their confidence; but I was firm in the belief that the sole power of counting the electoral vote is in the two Houses of Congress, and being there, it was not in the power of Congress to place it elsewhere, but that if Congress possessed the power claimed, it was inexpedient for democrats to consent to deprive the House of the unquestioned power it possessed under existing law to prevent the inauguration of any man not in its judgment elected.

More than a quarter of a century of public life amid the jars of contending parties had made me distrustful of partisan leaders, and therefore I could not trust such vital issues to a tribunal organized as I believed in the interest of my opponents. However high in public estimation the republican members might be, however great their legal lore and their personal integrity, I dreaded the force of their party allegiance, but more than all I feared the influence and power of a great party that was willing to accept as a means of its retention of power the most stupendous and gorgeous frauds the world has ever seen, the perpetrators of which had been complimented for their ingenuity in villainy and pronounced by an honorable Senator the peers of the members of the United States Senate, and by another that the republican party owed them a debt of gratitude, and who have been toasted and feasted by prominent republicans and their crimes excused as though the whole country and General Sheridan have not long since pronounced them villains.

I preferred keeping the power of this House where it could be exercised by the democratic majority in the interest of justice.

Sir, when the history of this period shall be written by some impartial Bancroft, it will appear that this commission was conceived by the astute and unrivaled leaders of the republican party as a means of wresting from a democratic House all its power and privilege that was any value to the country in the present contest in counting and deciding the electoral vote, and lodge it in a tribunal created for the purpose of perpetuating the power of the republican party by counting all the disputed States to Hayes and Wheeler, to put that question beyond doubt or peradventure; and therefore these worthies set about preaching and proclaiming the absolute fairness of the great men, bright and shining lights in their party, who would go on the commission, until democrats, I say it in sorrow and astonishment, were captivated, made to believe that the day of jubilee was at hand in which it would be demonstrated that *three* republicans would be found in the whole party who by reason of being members of the Supreme Court could be trusted to decide between the people and the thieves who were trying to steal the vote of a State in a case where the theft was not denied.

Hear what the patriarch EDMUNDS said in his efforts to commend his scheme to democratic Senators: "No more partisan; no more friend; no more enemy; no more opponent, but the solemn judgment of the judge." Of course he had reference to the judicial element only, for I will not do him the injustice to suppose he had reference to the republicans who were afterward to be chosen from that party, first, because he could not have known who they would be, and, secondly, if he had known who they were he certainly knew that some of them *could not* rise above party.

And poor, pain-racked THURMAN, in the honesty and simplicity of his heart, was so overcome by EDMUNDS'S declamation and apparent sincerity that he declared he was so impressed with their fairness that he would joyfully submit the whole question to the committee reporting the bill. But how sadly has the poor, dear old man and thousands of other people all over the country, who were led to believe that when the time for action came the members would rise above party, been duped and deceived.

While EDMUNDS was cramming his blindfold justice down the gaping mouths of his hearers here, he was quieting the fears of his expectant friends in Vermont with assurances that his bill would place the republican party on its feet again, take from the democratic House its power in counting and determining the electoral vote, and lodge it in the republican party. Here is his letter, dated January 27, in which he says:

WASHINGTON, D. C., *January* 27, 1877.

DEAR SIR: I have yours. Some misapprehension seems to exist as to the history and present state of the law and practice, the opening and disposing of the electoral votes. In order correctly to judge of the propriety of the bill now pending on the subject, it is necessary to know what has taken place hitherto. It is this:

First. Down to 1817 no objection to or dispute concerning the vote of a State arose. During that time the President of the Senate opened the certificates of votes, and they were tabulated by tellers appointed by each House and handed up to the President of the Senate, who declared the result of the tabulation, and then, under the order of the Senate, sometimes he certified that he had opened the certificates and counted the votes, and the result was that so and so had been elected, or that there had been no election.

Second. When the first doubt or dispute arose, in 1817, in respect to the vote of Indiana, the two Houses, as of right, determined what should be done, without a hint even from any one that the President of the Senate had any deciding power.

Third. When the next doubt or dispute arose, in 1821, as to the vote of Missouri, the two Houses did the same thing, without any suggestion of power in the President of the Senate.

Fourth. When the next matter of dispute arose, in 1837, as to the vote of Michigan, the same course was pursued.

Fifth. When the question arose, in 1837, as to the vote of the ineligible electors, the committees on the subject reported that the substantial question was whether the electoral colleges in the several States should decide, or whether Congress should, and that this should be provided for by a permanent provision; there was not the suggestion from any source that the President of the Senate could determine anything.

Sixth. When, in 1857, a question arose as to the vote of Wisconsin, the same thing happened. The two Houses discussed it, and almost every speaker, if not every

one, and the President of the Senate himself, declared that he had no deciding power. On that subject Mr. Collamer, of Vermont, said that, a question arising, "the Chair should have immediately stated the condition of things and the two Houses should have separated to make provision in relation to the manner of settling it," and that it "should have been provided for by law long ago." And there was scarcely an exception to the opinion that the two Houses must decide.

Seventh. 1865 the two Houses passed a joint resolution determining in advance the questions touching the electoral votes of some of the States, and President Lincoln in a message on the subject declared that he had no power over it, even as a part of the law-making power, and that the two Houses had the sole power.

Eighth. On the same occasion in 1865 the two Houses of Congress, being almost entirely republican, adopted the twenty-second joint rule, providing that votes objected to should not be counted without the consent of both Houses.

Ninth. In 1869, under the same joint rule, the two Houses decided all disputes.

Tenth. In 1873, under the same joint rule, the two Houses again decided every question raised.

Eleventh. So far there never was a question of dispute or doubt that the President of the Senate decided or claimed the right to decide, and in every case the count proceeded upon the idea that no vote could be counted without the consent of both Houses.

Twelfth. In 1876, when the House of Representatives had become democratic, through the action of some republicans now supposed to be misleading their party, the twenty-second joint rule fell. Had it stood, the election of the democratic candidate would be morally certain.

Thirteenth. In the same year, and in March last, the republican Senate passed a bill (afterward suspended on a motion to reconsider, made by a democrat), with only three republican votes against it—CONKLING, EDMUNDS, and HOWE—giving each House the power to reject any vote when there should be double returns, the effect of which would be to place the absolute decision of the present dispute in the power of the House of Representatives, and to make the democratic case certain of success.

Fourteenth. The present bill, then, saves the republican cause from the predetermined destruction of its hopes and fortunes being left solely in the hands of its opponents.

Fifteenth. Is there much ground, then, to condemn the action of the Senators who have striven to get the republican cause, as well as the cause of free government under law, out of the valley of the shadow of death, and put them on ground where they can have a fair and equal contest, in whatever way it may terminate?

Very truly yours,

GEO. F. EDMUNDS.

Hon. DANIEL ROBERTS, *Burlington, Vermont.*

Expressing in all the thirteen propositions advanced in the letter that the sole and only object he had in view was to save the republican party from its opponents, with not one word of its justice.

Read the honeyed words of Mr. Commissioner HOAR, breathing the purest and most exalted patriotism:

But it is charged that this commission is in the end to be made up of seven men who of course will decide for one party and seven men who of course will decide for the other, and who must call in an umpire by lot, and that therefore you are in substance and effect putting the decision of this whole matter on chance. If this be true, never was a fact so humiliating to the Republic expressed since it was inaugurated. Of the members of our National Assembly, wisest and best selected for the gravest judicial duty ever imposed upon man, under the constraint of this solemn oath can there be found in all this Sodom not ten, not one, to obey any other mandate but that of party?

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But I especially repudiate this imputation when it rests upon those members of the commission who are to come from the Supreme Court. It is true there is a possibility of bias arising from old political opinions even there, and this, however minute, the bill seeks to place in exact equilibrium. But this small inclination, if any, will in my judgment be overweighted a hundred-fold by the bias pressing them to preserve the dignity, honor, and weight of their judicial office before their countrymen and before posterity. They will not consent by a party division to have themselves or their court go down in history as incapable of the judicial function in the presence of the disturbing elements of partisan desire for power in regard to the greatest cause ever brought into judgment.

Never, sir, was a scheme so skillfully and successfully managed. It will constitute an epoch in political strategy. While cursing the moral turpitude that could conceive such a wrong, we can but admire the consummate skill and judgment that was able to carry it forward to a successful termination.

Acting under an oath or obligation which EDMUNDS thinks so important and with these words still ringing in our ears, this man [Mr. HOAR] has contributed his mite in every instance by a strict party vote to enable himself and the grand commission to go down in history as "incapable of rising above party in the greatest cause ever brought into judgment."

So I repeat the law was conceived for the express purpose of placing the power of deciding the electoral vote of the disputed States in the republican party, and all this gushing about the absolute fairness of the commission and the inclination of its members to rise above the truculent, subservient partisans was but hollow mockery, intended to deceive men too honorable to believe their opponent capable of dishonorable action.

Sir, the law has been executed in bad faith by the republicans from the beginning; instead of selecting men noted for intelligence and moderation and love of justice, and in whose judgments in a political controversy the people would have confidence, confidence that the judgment, whatever it might be, reflected their free and unbiased opinions at least as approximating the truth, men were selected in whose ability to decide impartially nobody in either party has a particle of confidence; men whose blind subserviency to party would permit them to resort to any means or measures that promised success and whose extreme views are distasteful and disgusting to the better class of their own party.

While proclaiming with well-assumed sincerity the desire to make this a fair and just commission, as free as possible from partisan bias, in the secret caucus men are selected for the high position solely because of their intense partisanship and uncompromising hostility and hatred of the democratic party, and who in their political lives have demonstrated their belief that anything was justifiable that should perpetuate republican power. And these men did go upon the commission in mockery of justice as the midnight assassin goes to his work of blood, to compass the election of Hayes at all events. I speak of no mere private or social relations, but of their public acts and reputations.

These men did not go to their seats in the high commission to deliver judgment as law and justice might demand, but as the paid attorney to remember that the republican party was in danger, and to avert which they did, as it was expected they would do if necessary, trample under their feet the best established principles of law and set at defiance the plainest principles of justice, ignoring the settled usages of the two Houses and establishing in their stead the supremacy of falsehood.

Truth forever on the scaffold,
And wrong forever on the throne,

was never more clearly shown than in the decisions of this tribunal. By its unfailing majority vote it subordinates every consideration to that of party and rudely thrusts aside the well-considered precedents of years. Mr. Speaker, the people expected some sort of justice at the hands of this tribunal, some examination of the great questions that have agitated the country so long; whether fraud exists, and if so, whether it will override the expressed will of the people; but in its decisions the commission has abandoned the broad gauge of justice and right and decided every case upon a narrow, miserable technicality. The utmost technical construction has been utilized to sustain the party, such as would be hooted from a court of law.

The mandate of the Constitution, that persons holding an office of trust or profit under the United States shall be ineligible to the office of elector is mainly pronounced directory, of no force if people choose to disregard it. To make the absurdity appear the more prominent, suppose a member of Congress not within the required age or a President who would not be at the time of his inauguration thirty-five years of age to be elected, is the country obliged to take him, and what provisions of the Constitution are mandatory if these are merely directory?

But to show the untamed partisanship that controls the action of the republican officials in this matter, it is only necessary to refer to the action of the presiding officer of the two Houses refusing to receive the certificate of an electoral vote because it did not reach him by mail and by the day fixed by law. The object and substance of the law is that the vote shall be in the hands of the proper officer in time to be presented at the counting of the votes, but the mode and the manner are not so important that the grand object of the law be accomplished.

Sir, does any man in his senses believe that if the republican vote had been thus detained it would have been rejected? Like the provisions of the Constitution these gentlemen would pronounce it directory only. Is the election of a President to be made dependent upon anything as to the mode and manner of transmitting the vote? And is anybody's right to be jeopardized because of a mistake as to the time or manner in which the votes reach the proper officer? If so, it will be a valuable acquisition to the present ability of J. Madison Wells to control the election of President.

Sir, I am one of those who believe that Government must rest upon the consent of the governed or it must exist by the strong hand of power, and just in proportion as the former is interrupted or circumscribed, just in that proportion will the government of force usurp power and place. There can be no compromise between force and law. The fraud and infamy of which we now complain are the result of such a compromise. Its consequences to the future of our country are not difficult to foresee. It offers to crime emolument and power instead of prison bars. It offers to the thief of the suffrages of the people the friendly recognition and companionship of men high in social and political life.

Democrats about me have indulged in the most withering invectives against the action of the commission, and yet feel it to be their duty to sustain and by their votes indorse its action. I asked Mr. HEWITT, of New York, if he believed it to be the duty of democrats to assist in the speedy consummation of what he had pronounced an outrage. Let me remind gentlemen that that same question is being asked by hundreds and thousands of people throughout the country. If the counting in of Hayes by the methods adopted be a fraud and an infamy, it must appear to the average mind that all who assist in the count are a party to the infamy. That is the common sense, practical view of it.

The superlatively eloquent gentleman who sits near me [Mr. JOHN YOUNG BROWN, of Kentucky] exceeds all others in his fierce denunciation of the action of the commission, as he did all others in commending the bill to the favorable consideration of the House, and says: "These incorruptible sages on the commission had acted the part of 'banded jockeys,' and have done in the face of the world that which hungry mountebanks would scorn." Yet *he* sustains the findings and judgments of this band of jockeys and sees a "moral grandeur" in giving his action and efficient co-operation to the early consummation of acts which "hungry mountebanks would scorn."

Strange consistency, it seems to me. If it is what they claim for it, clearly there is no moral or legal obligation to sustain it. If it has acted within the scope and object of its organization you should not denounce it. Cease denouncing it and its judgments as infamous or cease yielding it your cordial support.

The democrats of this House should present a solid front, a wall of

fire, in opposition to any indorsement of the judgments of this commission, upon the principle that it were far better to remand this issue to the people than that any man should be inducted into the sacred seat of Washington by fraud.

A MEMBER. Mr. Speaker, is it in order to allow the Louisiana returning board to print some remarks on this subject? [Laughter.]

Mr. MILLS. They are boarding at present in this Capitol at the public expense. [Laughter.]

The SPEAKER. The gentleman from Texas is entitled to the floor and will proceed.

Mr. MILLS Mr. Speaker, I desire to address to the House some reasons in support of the proposition which I have submitted. I hold it to be the duty of this House to proceed to the election of a President in obedience to the twelfth amendment of the Constitution. We all have taken a solemn obligation to support that Constitution, and to support it without purpose of *evasion* and without retaining one jot or tittle of mental reservation. This sacred charter of our fathers requires the votes of the electors chosen by them to be opened in the presence of the embassadors of all the States and the representatives of all the commons and counted and declared by the highest titled officer of the Government in that solemn and august presence. It enjoins upon us, if in that joint convention of the two Houses, upon the count being had, no candidate shall have a majority of *all* the electors appointed, to proceed immediately to choose a President from among those voted for by the electors.

There are three hundred and sixty-nine electors appointed by the people of the thirty-eight States. Upon the count in the joint assembly it requires one hundred and eighty-five to elect. Has either Mr. Tilden or Mr. Hayes received that number of votes? I do not mean frauds, I mean what the Constitution means, votes of electors chosen by the qualified voters in the several States. I do not mean counterfeits, I mean the real money of the mint. I mean real votes, not shams. I mean the votes of the sovereign people, not the votes of sovereign returning boards, either State or national. I am speaking to democrats now and not republicans. Has Mr. Hayes received a majority of the votes of the constitutional electors of the States? If he has, you have done him gross injustice and stultified yourselves by your action throughout the whole session. You asserted at the beginning of this session, and have maintained to this present hour, that he has not. You have appointed committees and sent them over the country to take testimony to sustain that assertion before the tribunal of the American conscience. Your committees have reported to the House that the electors chosen by the people of Louisiana and Florida were refused certificates of election and fraudulent certificates were given to persons who were not elected. You appealed from the State returning boards to a national returning board, who, you have charged repeatedly upon this floor, perpetrated the same frauds, and denied the right of the people's electors in those two States, and affirmed the frauds certified by the State returning boards. Am I right? If I am, you can choose upon which horn of the dilemma you will hang. For upon one or the other you are certainly impaled.

If Mr. Hayes has not a majority of the votes of the *real* electors, it is your duty, your sworn duty to proceed immediately to elect a President. If Mr. Hayes has a majority of the votes of the *real* electors, you have been guilty of the effort to usurp the Government yourselves by claiming for Louisiana and Florida false and fraudulent votes. This you know every democrat in this House will indignantly deny. What, then, is the result? Mr. Hayes has 173 votes. Mr. Tilden has 184 votes. The twelve votes of Louisiana and Florida have been stolen by dishonest returning boards. Falsehoods and not votes have been sent by their governors to Washington. The *real* electoral votes of those States have been suppressed and do not appear in the joint count, though they were duly and constitutionally appointed in terms of the Constitution. Then do you not see that in the joint count there were present only 357 of the 369 electoral votes appointed by the States?

Do you not see that Mr. Tilden lacks 1 vote of having a majority and Mr. Hayes lacks 12? Do you not know that your adversaries yonder recognized that fact immediately after the election, and have been resorting to everything, fair and foul, to steal, either by open robbery or by the meaner and baser methods of frauds, falsehoods, and bribery, 12 sham votes to make the majority required by law? Do you not know that in this consummation so dear to their hearts they have had the aid of the bayonet in the hands of a Chief Magistrate who has trodden with his heel upon the Constitution of your country? Ay, sir, who has, through the organ of his administration published in this city, threatened to come with his janizaries and tear from his seat the presiding officer of this House and incarcerate in Fortress Monroe its refractory members? They have been striving with all their might to obtain a majority by adding the false to the true.

These are the grounds we have maintained throughout and still maintain. We have held and still hold that Mr. Tilden received 196 true constitutional electoral votes, but that 12 of them were stolen by the corrupt minions of a corrupt Administration. These charges we have thrown in the faces of the representatives of the Administration throughout this session. Who denies it? No one.

These facts being established, what is your duty? The Constitution which you have sworn to support prescribes it. It leaves you no discretion save only the choice between a faithful discharge of the obligations of a high public trust and their abandonment altogether. Will you have the manliness, in the presence of threats, whether of personal violence or of civil war, to stand unmoved by the Constitution of your fathers and declare him whom the people of the United States have said shall be their President and leave to them to say whether they will be cowed and awed into submission by Executive frowns; whether they will crouch like slaves in the presence of his minions and yield their Government to a willful, wanton, and wicked usurpation. Have you got the Saxon manhood to do it? Have you the blood of the English Commons in your veins? Do you remember the history of your ancestors, how they resisted every encroachment upon their liberties, how they confronted the usurper in council and on the field, and is it not humiliating now to see the representatives of the American people cowering in the dust in the presence of a usurper?

Will the representatives of four and a half millions of able-bodied men—men who know their rights and knowing dare maintain—refuse them an opportunity to decide for themselves whether they will surrender their right to govern this country into the hands of infamous returning boards, the natural offspring of an infamous administration, or whether they have the courage to keep and maintain them. The people dare maintain them, but their representatives will not give them an opportunity to do it. Do not underestimate the strength of the people and yield their castle to the summons of the invader. Do your own duty and cast the responsibility from your shoulders to the shoulders of him whom the people have charged with the duty of guarding and supporting their constitutional liberties. When you shall have done this then your responsibility ceases and his begins. Take the advice of the lion-hearted old Roman, Jerre. Black, and try to do *your own* duty and cease to vex your souls about the unwillingness of the people to do theirs.

Elect Mr. Tilden, or rather re-elect him, when more than a quarter of a million majority of voters have elected, and more than a million in whose veins runs Saxon blood; and let him call upon the people of the United States, yet free, thank God, as I believe he will do, and they will very soon decide whether or not they dare to be free; and if necessary to maintain that right they will "clothe their beauteous limbs in steel"—the panoply of freemen—and make usurpers know that they are the sovereigns in this land, and sovereigns who have no subjects. Can you do it? Some one near me says, "Dare you do it?" Is it possible that we witness the spectacle of a usurper placed in the chair of Washington, governing a country given to us by the brave men who won it, who plucked it from the hand of the oppressor, who dared to look a tyrant in the face, who defied arbitrary power, whose valor won, whose blood watered, and whose patriotism consecrated it to freedom? Do they now look down from heaven and behold their sons standing about the graves where heroic ashes sleep and cowering before the frowns of a petty despot who commands at his bidding 25,000 vassals?

This, sir, is the pitiful condition of the American people to-day. We are here to-day in "bated breath and whispering humbleness," in the hall of our sires, witnessing the most gigantic crime ever committed in this country. We are standing by the rack upon which the Republic is stretched and witnessing the stabs of the parricide, and dare not stretch our arms to save or deal one manly blow in vindication of our liberties.

[Here the hammer fell.]

Mr. CASWELL. I have no wish to discuss the general question involved in this controversy. I desire to confine myself strictly to the question that is now before the House and point out to such gentlemen as will do me the honor to listen the exact situation of this man Downs. They object to the counting of his vote because he is a pension surgeon. He is designated by the Commissioner of Pensions to make such examination as may be referred to him in special cases. He has no tenure of office. He has no salary. He is responsible to no power, but he has simply to discharge those special duties when referred to him by the Commissioner of Pensions.

There are two reasons, then, why his vote should be counted. One is that he is not an officer within the prohibition of the Constitution; and the other is that, although he be disqualified, his acts as an elector *de facto*, he having been elected and commissioned, and having entered upon the duties of his office and cast his vote without objection, are binding upon the people; and there is no way by which you can test his eligibility except by a writ of *quo warranto*.

Now, Mr. Speaker, we turn to the Constitution of the United States. In paragraph 2, section 2 of article 2, speaking of the powers of the President, it says he—

> Shall appoint embassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of Departments.

The Commissioner of Pensions appoints this surgeon. He is not the President, nor a court, nor the head of a Department; he is simply the Commissioner of Pensions, and it is not within his power to create an office, it is not within his power to appoint an officer, because all officers are appointed either by the President, by the courts, or by the heads of Departments. And the Commissioner of Pensions is not the head of a Department. And this pension surgeon is no more than a clerk, no more than an employé of the Pension Bureau. And he is

no more an officer than the clerks that sit at the desk in the Pension Bureau.

Now, sir, with reference to the second point, let me say that it is a well-settled doctrine in every State of this Union that an officer entering upon the duties of any official position in the full discharge of the duties of an office makes his acts binding upon all the people. Any other doctrine would overturn half of the official acts in this Government. Why, sir, we, as members of Congress, sit here and pass laws, and afterward on an investigation it is determined that we were not elected; yet the law we assist in enacting is binding upon all the people. So with any other person performing official acts.

[Here the hammer fell.]

Mr. BURCHARD, of Illinois. I intend to devote a moment or two to the discussion of the only question before the House: whether the vote of the elector Downs shall be counted. The work to be performed in the joint meeting as to counting the votes has been practically concluded as soon as this House decides that the vote of Wisconsin is to be counted or rejected. The points of the objection have been argued, and it is scarcely necessary for me to refer to constitutional authorities in support of the arguments that have been made in favor of the eligibility of the elector Downs. The duty that he was to perform was imposed by section 4777 of the Revised Statutes, which authorizes the Commissioner of Pensions to appoint civil surgeons to make examinations and authorizes them to receive a fee of $2. There are decisions of the courts that decide under this act that pension agents under former laws appointed by the Secretary of War are not officers.

I have here a decision in 33 Mississippi Reports, where the court decided that under laws of the United States a pension agent appointed by the Secretary of War under the law at that time—

Is not in a legal sense an officer of the Government of the United States.

This decision was given in the case of Lindley *vs.* The Attorney-General, and that portion of the decision to which I refer may be found at page 529. That was a stronger case than this which is now before the House.

Then, again, I call attention to the fact that he is not required to give a bond; that he is not required by the law to take an oath. There is no feature about this case of an officer of the United States. He is not appointed by the President or by the head of a Department.

Again, by another decision in 20 California Reports it is decided that an appointment which has not received the approval of the head of a Department does not create an office.

This was not by law such an appointment. There are other cases in other States to which objection might have been made with much more force. I have here a certified copy of the commission of one of the electors voted for in Virginia, (Mr. Holladay,) whose place was substituted, as was this case of the Pennsylvania elector, an identically similar case. The evidence was before our committee, and believing that the law of Virginia authorizes the office of elector to be filled, and it having been filled, we thought that the elector was entitled to vote. There was a similar case of ineligibility in Tennessee, where the elector Moore, who had taken an oath to support the Constitution and was an acting midshipman in the service of the rebellion, was elected as an elector. He was disqualified by the fourteenth amendment, but no objection was made to him. But I pass by these cases, and say that there is, under the law, no ineligibility on the part of the elector Downs, and that the objection ought not to be sustained.

Mr. BLACKBURN. Mr. Speaker, the end has come. There is no longer a margin for argument, and manhood spurns the plea of mercy, and yet there is a fitness in the hour that should not pass unheeded. To-day is Friday. Upon that day the Saviour of the world suffered crucifixion between two thieves. On this Friday constitutional government, justice, honesty, fair dealing, manhood, and decency suffer crucifixion amid a number of thieves. [Applause on the floor and in the galleries.]

It was on that day that this presidential fraud received its nomination at the hands of the republican party. It was upon that day as it recurred that every determination reached by the blistered, perjured miscreants that constitute the majority of that commission have been promulgated to the country. It is on that day that you propose to consummate your iniquity and foist into a place of power him whom the people of the land have spurned, scorned, and rejected at the polls. If it must be, it is well that it should occur here and now; but it is well also that before the day is finished the truth should be vindicated and the record should show upon whom the responsibilities fairly rest. Those responsibilities do not rest upon the shoulders of the American people. They finished their work manfully and faithfully. When the sun went down upon the 7th of November they delivered to their representative a title to that office indefeasible and and indisputable, backed by a majority of 260,000 votes. By their leaders that title has been gambled off, gambled away with a stocked deck and loaded dice. It is upon us, the representatives of the people, that the responsibilities for this disgrace are fairly cast. I say it not in anger, but in sorrow. I impugn the patriotism of no man who voted for that bill, but I say it in sober earnestness, and the verdict of history will support the assertion, that it is owing to our own want of sagacity, want of nerve, want of devotion to the trust confided to our keeping, that we are now indebted for the pitiable and humiliating spectacle that the American Republic offers to the world.

The responsibility is ours. Let the people understand that; let us shoulder it and bear it as best we may. Mr. Speaker, when the time shall come for those who have brought this disaster upon us to account to that power that stands behind us, and from which we may not hope to escape, I trust that the manliness that has been lacking here will be manifested there; that we may go back and tell the people that the trust confided to our keeping has been abandoned or surrendered; that we acquit them clear, and hold ourselves alone responsible. I know, further, sir, that when the passions and prejudices engendered by this contest shall have passed and sober judgment shall have resumed its sway the honest, conscientious, patriotic comrades who sit about me, who pursued that course which rendered this result possible to the country, who refused to raise a hand to thwart this crowning degradation, will feel that they have no excuse to offer, only pardon to ask.

It has been in our power at any moment to prevent the execution of this foul sentence and we would not. It is of this alone that I complain. But those gentlemen who sit on the other side of the Chamber will have no defense, no palliation, no excuse to offer for what they have done. I cannot but believe that each and every member on that side of the House who has played the part of conspirator, who has been actively instrumental in chiseling and swindling the American people out of their own fairest and most clearly demonstrated rights does in his own heart put up that cry which comes from the agonized soul—

Can hell itself, with all its powers to damn,
Add yet one curse to the vile thing I am?

Sir, the keenest pang that this disaster brings—I speak for my own side now—the keenest pang that this is to inflict upon us will be found in the reflection that the blow comes, not from the hands of our enemies, but that it comes from the hands of our own honest, conscientious, but misguided friends. [Cries of "True!" "True!"]

So the struck eagle, stretched upon the plain,
No more through rolling clouds to soar again,
Views his own feather on the fatal dart
That winged the shaft that quivered in his heart.

It is ourselves, not they alone, who did this work; and yet this lessens not one whit of the weight of the damning load of responsibility that settles upon them. If we have failed to meet our obligations, however honestly we may have striven; if we shall have proven recreant, unworthy, or unfitted for the trust, I turn with hope, not without faith, to the people that stand behind us, believing, or if not believing yet hoping and praying, in the utterance of as patriotic a sentiment as it is possible for mortal man to cherish, that they, smarting under the disaster that has overtaken them, realizing the shame, dishonor, wrong, and outrage that has been put upon them, will rise in their majesty and might, not only to rebuke and spurn but to punish, ay, if need be in blood, the perpetration of all the villainy and scoundrelism of this proceeding. [Applause on the floor and in the gallery.]

[Here the hammer fell.]

Mr. MACDOUGALL. Why does not some gentleman on that side of the House ask that the galleries be cleared?

Mr. WILLIAMS, of Wisconsin. I do not desire to retort in the spirit indulged in by the gentleman who has just taken his seat, [Mr. BLACKBURN.] But if I did I might remind him and this House that this is not only Friday but hangman's day; and that there could be no more fitting time than just past the hour of midnight

When churchyards yawn, and Hell itself breathes out
Contagion to this world,

that this bogus, pretentious, bastard brat of political reform, which for the last twelve months has affronted the eyes of gods and men should be strangled to death, gibbeted higher than Haman. [Great applause on the floor and in the galleries.]

The SPEAKER *pro tempore*, (Mr. COCHRANE.) The Chair desires to say to the galleries that if there is any further applause in them he will order that the galleries be cleared. And there must be no further applause on the floor. Gentlemen are requested to keep order.

Mr. WILLIAMS, of Wisconsin. I trust, sir, this does not come out of my time.

The SPEAKER *pro tempore*. The officers of the House will see that persons not entitled to the privileges of the floor are not allowed to be upon the floor.

Mr. WILLIAMS, of Wisconsin. I had risen intending to say that this contest, one of the most memorable in the history of the nation, which has engaged the attention of Congress and of the country for the last three months, is nearing its end. It chances to fall to the lot of Wisconsin to close the column of republican States which announces the election of Rutherford B. Hayes as President of the United States, and installs a republican administration in power for four years to come.

The record of the contest is made up. Parties and individuals have fixed their status; we cannot change it now if we would. There has been excitement; there has been passion; there have been criminations and recriminations. Hot and bitter and blistering words have

been uttered, these will vanish and pass away. But as individuals and parties there stands the record of our acts; this will not pass away; our children and our children's children will read it, and as it is graven on the pages of the proceedings of these two Houses, so must it go for final rejection or approval to the supreme tribunal of the American people and the enlightened judgment of mankind.

It is not my purpose in this the closing hour of the debate, with the pressure of the public business crowding upon us, demanding attention, to attempt to re-state the reasons and the grounds of our proceedings, which have been stated and restated, reiterated and re-argued by the ablest legal minds of this or of any age, until they have become as familiar here as household words.

Neither is it my purpose to dwell upon the points urged in objection to this elector from Wisconsin. Two conditions must meet and harmonize in order to render the objection tenable: First, the office must be established by law, and second, under the Constitution the incumbent must have been appointed by the President of the United States, by a court of law, or by the head of a Department. Mr. Downs, this pension surgeon, was appointed by the Commissioner of Pensions, the head of a bureau; not by the President, not by a court of law, not by the head of any Department. He is therefore not disqualified from casting the electoral vote of Wisconsin. That vote will be counted.

This contest will be decided and ended, business will spring into new life, enterprise will take heart and courage, labor will find employment, capital will be unlocked, the wheels of commerce will revolve again, and this country will go forward once more in the grand career of its national destiny.

Did the time permit, I should be glad to say a word to gentlemen on the other side of the Chamber. They need fear no unseemly exultation at our success. There is full and ample guarantee for that, for never have men sat with greater patience under greater provocation than has been exhibited here during the last ten days.

We seek only liberty, justice, and equality for all. And when in the hour of supreme trial, when the country stood on the crumbling verge of anarchy and was hourly in danger of being plunged into all the horrors of civil war and when a few stanch democrats, men who regarded their honor and in their reverence for law stepped to the front and saved this nation from a common calamity, how our hearts went out to you gentlemenof the North and gentlemen of the South in full and hearty gratitude; but when we are told that you recoil from a coalition with the incoming administration as from "a wound of cruel dishonor," how can mutual sympathy thrive? There may have been irregularities in South Carolina and other States in the disordered condition of things there. [Laughter on the democratic side.] But let me tell you, gentlemen, while you laugh we shrink from no investigation of recent atrocities there under the blazing light of truth, and I tell you further, that where in 1860 there was scarcely a common-school house in that State, to-day there are twenty-five hundred school-houses there, there are three thousand teachers, and nearly a quarter of a million of pupils being educated, and half a million of dollars annually spent for common schools, when formerly there were less than sixty thousand.

The seed is planted; the tree has stuck its roots deep into southern soil, and you cannot eradicate it if you would. Stand by your own States; improve and beautify them. We do not seek to dominate over you. Give us a public opinion which shall say to this country and to the world that all your people, of every race, color, and condition, in South Carolina, in Louisiana—in all the South—shall be protected, and which shall forbid now and forever that the poor and humble laborer who tills your soil, cultivates your cotton, your corn, your rice, your sugar; who obeys the laws and creates the wealth which pays your taxes and enables you to live in elegance and ease; assure us that after his hard day's work is done and he retires to his humble cabin for rest he shall not be surrounded by scores of masked men at midnight, men of the "superior race," torn from his terrified wife and children, hitched to the pommel of a saddle, and the life dragged out of him over the roots and stones of the ground. Pledge us that and that all the citizens of the Republic may come and go unchallenged for political opinions, and we promise you in return that you shall be free from all intermeddling from us. Gentlemen, you say we are brothers. In Heaven's name let us be friends!

[Here the hammer fell.]

Mr. O'BRIEN. Mr. Speaker, when I contemplate the proceedings of the last few days, while appreciating personally my friends on the other side, yet when I consider their political conduct I am compelled to say, not in anger but in sorrow, "Shame, where is thy blush?"

Mr. Speaker, down in one of the cells of this Capitol there is now imprisoned four men solemnly condemned by the judgment of the House of Representatives for the greatest crime that was ever perpetrated in the history of the American Republic; and to be just I must say that there is not a crime however infamous of which those prisoners have been adjudged guilty that every member of the republican party upon the other side of the House and in the other wing of the Capitol seems willing to share, ay, and must share, the guilt. You are willing to-day to exult, to rejoice, ay to taunt the democratic side of this House, because you have been successful in robbing over four millions of American freemen of the right which they obtained by the solemn decision upon the 7th of last November to inaugurate their chosen President.

I ask my fellow-members upon the republican side what cause for rejoicing they have when they contemplate the picture which I presented to their view? When, through what I consider the misfortune, if not the weakness, of men placed in position by the democratic party, the country was reduced to such a situation that the whole American nation shuddered at the dread of civil war—in that emergency the democratic party in perfect good faith, in honor, and to preserve the fair name of the Republic offered to the republican side what was believed to be a compromise of their opinions—a measure providing for the selection of an honest tribunal to declare the result of the presidential election.

I ask my fellow-members whether the democratic party did not carry out their part of the agreement in good faith? I ask whether in the democratic column of Representatives and Senators we could have placed the high trusts left to that commission in purer hands than those of the five who were selected by us; and I ask them whether the blush of shame does not tinge their cheeks when they realize that they selected among their five commissioners at least two who were unworthy—deemed so by all honest men to represent them, unworthy because of their character as shown by the records of the two Houses—men recognized as politically dishonest, and deliberately selected because of their known partisanship and astuteness in political warfare?

Not only that; but I say to my republican friends that from the moment that commission was organized, by jobbery, political trickery, and every possible legal device, it has by its partisan majority denied to the American people a rightful and just decision of the questions submitted to it.

While the democratic Representatives on this side of the House have been struggling for the last three days to prevent the consummation of this fraud by constitutional and strictly legal means, we have been unfortunately beset by a desertion from our own side, which I deplore. By united action we could have defended the country successfully, notwithstanding the conspiracy to inaugurate the fraudulent usurper whose success is obtained by a defiance of every principle of honor and justice. We may have contended in vain to prevent the crowning infamy which will forever stain our country's fair name, but we have no apology to make for what we have done. We are willing to refer this question to the American people, and let them determine whether the seventy-five men, more or less, who have stood here battling in favor of right, in favor of justice, in favor of law, in favor of free institutions, have truly represented the people who sent them here to maintain their rights and to preserve inviolate the Constitution of our country.

[Here the hammer fell.]

Mr. LAWRENCE. Mr. Speaker, the single question before the House is whether the vote of the elector Downs should be counted from the State of Wisconsin.

The objection taken to this vote is that this elector was ineligible on the ground that he was an examining surgeon for invalid pensions. I think it has been sufficiently shown, Mr. Speaker, that the position he occupied is not an office, and therefore the objection is not well taken. It certainly has been shown by the gentleman from Illinois, [Mr. BURCHARD,] with the authorities which he read and from the nature of the duties to be performed by an examining surgeon, that this elector did not within the meaning of the Constitution hold any office, and therefore, as I have already remarked, the objection is not well taken. He is no more an officer than would be a lawyer who, for pay, manages a case for the Government of the United States; no more an officer than would be a contractor who erects a building for the Government of the United States under a contract; no more an officer than is the skilled mechanic who shoes the Army horses for the Government and receives his pay for that; or, as my friend here states, he is no more an officer of the Government than is a juror who sits in a national court in the trial of a cause.

But it would make no difference if he were an officer of the Government. It is perfectly well settled in all the books, and there is no case decided by any court in this country to the contrary, that the acts of an officer *de facto* are as to the public and third persons perfectly valid and lawful. There are constitutional and statutory provisions which declare certain classes of persons ineligible to certain offices; but the law is well settled that if such ineligible persons be nevertheless elected to office and enter on the duties thereof they become officers *de facto*, and their acts are entirely legal and valid. I never have met a lawyer of any reputation or learning who disputed this proposition, and I will assume that it is settled law. The electoral vote of the elector Downs is therefore, in any event, legal and valid and should be counted.

Mr. Speaker, we ought not to make bad precedents here, for unfortunately they may return to plague the inventors. If we establish a bad precedent now it may hereafter be turned against those who make it. There is a possibility that the democratic party may come into power some twelve, sixteen, or twenty years hence. [Great laughter.]

Several MEMBERS. O, heavens! do not put it off so long!

Mr. LAWRENCE. When they come here some twenty years hence, as it is possible they may do, claiming to have elected a President, they may find themselves embarrassed and harassed by the precedent they are endeavoring now to establish. [Laughter.]

A MEMBER. They will never come in as long as Wells lives to run a returning board. [Laughter.]

Mr. LAWRENCE. I do not think there is any possibility they can come into power very soon.

I can say now, Mr. Speaker, to the other side of the House, that President Hayes will give to this country an administration so pure, so just, so wise, so acceptable to the people of the country, accompanied with so many reforms, that the republican party will be installed in power more firmly at the end of his four years' term than they ever have been before. This is the firm conviction which rests upon my mind, and I rejoice to know that the blessings which flow from good government are shared by men of all political parties. We have all read the letter in which General Hayes accepted the nomination for the Presidency, and I think its sentiments meet a hearty response in the feelings and are approved by the judgment of the great mass of the people. The principles of this letter will be carried out honestly and fully. I say this because I know the man. I know his purpose is to give to the people of this country an administration satisfactory to every reasonable and just man in every portion of it, from one end to the other. But this is a digression from the subject immediately before the House.

Now, Mr. Speaker, I do not deem it necessary to discuss further the particular vote of this elector from Wisconsin, but I do desire to say a single word in reference to the case of the elector objected to from the State of Vermont.

Mr. PAGE. It is not in order to go back. [Great laughter.]

Mr. LAWRENCE. I merely want to give my republican friends on this side of the House some solace in reference to the vote that they were compelled to cast in the case of the elector Sollace from the State of Vermont. [Laughter.] I wish to show why it was we voted for the proposition in that instance that the vote of Sollace should not be counted.

Mr. STEVENSON. Let me ask the gentleman a question?

Mr. LAWRENCE. Very well.

Mr. STEVENSON. I wish to ask the gentleman from Ohio whether he did not vote in that case to exclude the vote of Sollace?

Mr. LAWRENCE. I did; and now I propose to bring *solace* to those who so voted.

Mr. STEVENSON. That is to the other side?

Mr. SPRINGER. Is not this case exactly like the case of Sollace, the elector from Vermont, for whose exclusion the gentleman voted?

Mr. LAWRENCE. I am coming to that.

Mr. Speaker, I voted for the proposition of the gentleman from New York [Mr. WOOD] affirming that the vote of Mr. Sollace, a presidential elector for the State of Vermont, "be not counted." I did this in order to reach a final decision by the House. The Senate had already decided that the vote of Sollace should be counted. Under the act of January 29, 1877, creating the electoral commission, all electoral votes are to be counted unless rejected by the vote of *both Houses*. The action of the Senate, therefore, determined that the vote of Sollace should be counted, no matter what the House might decide. The question was therefore settled by the action of the Senate. But I knew that if the House *voted down* the proposition of the gentleman from New York, [Mr. WOOD,] then the whole question would be open; it would be left without a final decision by the House at this point, and the entire controversy would be left unsettled. There would then follow *new propositions* and dilatory motions, which might occupy a day or more in debate and which might prevent the two Houses of Congress from completing the count of the electoral votes until the 4th of March; and it was to avoid this that, in common with other republican members, I voted as I did. I believe that the electoral vote of Sollace was legal and valid and should be counted. No vote of mine or of any republican member of this House was intended to throw any doubt on this question. If it becomes necessary I will vote in the same way as to Downs, the Wisconsin elector, and for the same reasons.

If some result had not been reached in the case of Vermont, if debate had been allowed to go on, if dilatory motions had been permitted to be piled one upon another, and the yeas and nays ordered upon each and all of them, this proceeding might have been prolonged until noon on the 4th day of March next. Then no result would have been reached. Before that hour the gentleman from Texas [Mr. MILLS] would have urged some excuse for the resolution he introduced a few hours since. I must confess my great surprise that any gentleman should propose to this House that it should now assume the right of determining that there has been no election when we have not yet finished the counting of the votes.

That gentleman has invited this House, before the two Houses of Congress have finished the work of counting the electoral votes and while that duty is in progress, to take the advice of Jere. Black. By this I understand he alludes to the advice so recently given by that distinguished citizen in his argument before the electoral commission when the objections to the electoral vote of South Carolina were before it for consideration, and to that other advice which he gave when he declared that this House is the exclusive judge to decide when there has been a failure to elect a President. The country took the advice of Jere. Black on one occasion, a little more than sixteen years ago, as the Attorney-General of President Buchanan, but unfortunately it turned out to be the most expensive advice ever given or acted upon by a portion of the people. I trust the experiment may never again be repeated. It is high time we should cease to take such advice as that, and that we should take the advice of men who believe that this is a Republic; that it is clothed with the power to maintain its existence; that it is a nation; that its people belong to one common country and that they are determined that this Republic shall live through all time.

Mr. POPPLETON. I move that the time of the gentleman from Ohio be extended. [Laughter.]

The SPEAKER *pro tempore*, (Mr. COCHRANE.) That motion is not in order.

Cries of "Vote!" "Vote!"

Mr. BURCHARD, of Wisconsin. I rise to a question of order. I trust that some slight degree, at least, of order will be preserved in the Hall.

The SPEAKER *pro tempore*. The Chair sustains the point of order. He has repeatedly requested the House to maintain order. The officers of the House will see that gentlemen in the lobby be seated and cease conversation. The gentleman from Wisconsin will suspend his remarks until order is restored.

Mr. WELLS, of Mississippi. I wish to call the attention of the Chair to the fact that the noise comes from the front, and not from the rear.

The SPEAKER *pro tempore*. The noise comes from the rear as well as from the front.

[Mr. LYNDE and Mr. WALLING addressed the House. Their remarks will appear in the Appendix.]

At the conclusion of his remarks,

Mr. WALLING moved that the House take a recess until ten o'clock to-morrow morning.

Mr. GARFIELD. I raise the point of order upon that.

The SPEAKER. The motion is not in order.

Mr. GARFIELD. I move the previous question on the resolution and amendments, if there is no desire to further continue the discussion.

The SPEAKER. The amendment of the gentleman from Wisconsin [Mr. CASWELL] will first be read and submitted to the House.

The Clerk read as follows:

Resolved, That the vote of D. L. Downs be counted with the other votes of the electors of the State of Wisconsin, the objections thereto notwithstanding.

Mr. MILLS. I desire to withdraw my proposition and to offer it as a substitute for all the other propositions.

Mr. GARFIELD. Is that in order?

The SPEAKER. The gentleman has a right to withdraw his proposition.

Mr. GARFIELD. Not to renew it.

The SPEAKER. The gentleman can renew it as an amendment in the second degree.

Mr. GARFIELD. He cannot without consent renew it at any other place than where it was.

Mr. MILLS. I will state to the gentleman from Ohio [Mr. GARFIELD] who has always exhibited great fairness upon this floor—I accord him that praise—that I first had the floor——

The SPEAKER. The Chair desires that the gentleman from Texas may have a vote upon his proposition.

Mr. GARFIELD. I do not object to that; I only ask that it shall be kept in its place.

Mr. MILLS. It seems to be now in a place where it is so situated that I cannot have a fair vote upon it.

Mr. WOOD, of New York. I think I can unravel the difficulty.

The SPEAKER. The Chair thinks the difficulty is unraveled.

Mr. WOOD, of New York. I think not. I am myself anxious to give a vote in favor of the proposition of the gentleman from Texas, but I cannot concede for an instant that the resolution, proposition, or motion, whatever he may term it, is germane to the question before the House. I think that mixing it up with the original proposition of the gentleman from Wisconsin, [Mr. LYNDE,] making it as it were the negative of that proposition, is entirely irrelevant to the subject.

If the gentleman will put his proposition before the House so that it can be voted upon without any interference with the execution of this law, which requires us to act upon the objection sent down to us from the two Houses in joint meeting, then I am in favor of having a vote upon it.

Mr. MILLS. I will state to the gentleman from New York, and I do so in no unkind spirit, that I had the floor before he or any other gentleman in this House; had it on a question of privilege to offer my resolution alone.

Mr. WOOD, of New York. I do not dispute that.

Mr. MILLS. The Chair advised me to withdraw it from that position and to offer it as a substitute, telling me that I should have a vote on it in that situation. In deference to the judgment of the Chair I did so, but it seems to me now that it is not in a place where I can have a *bona fide* vote upon it in the House.

Mr. WOOD, of New York. The Chair cannot make any agreement for the House; the Chair does not assume to do so.

The SPEAKER. Certainly not.

Mr. WOOD, of New York. I know he does not. But I desire to

understand from the Speaker the position of this question. If the proposition of the gentleman from Texas is the first to be voted upon, as a substitute for all the other propositions, then I shall be compelled to vote against it.

Mr. MILLS. Very well; you have the right to do so.

Mr. WOOD, of New York. If it is proposed as an isolated proposition, then I will vote for it.

Mr. MILLS. I offer it as a substitute for the whole.

Mr. WARREN. It seems to me that the gentleman from Texas has made a mistake in submitting his proposition at this stage. His resolution has no reference to the objection to counting the vote from Wisconsin. It goes further than that, and undertakes to declare that the whole action of the commission and of the Senate in ratifying the decision of the commission is beyond the power conferred by the electoral bill.

Mr. MILLS. Then vote against it.

Mr. WARREN. But I want to vote for it, or some similar resolution. In my judgment, it is a distinct, independent proposition, which has nothing to do with the execution of the law, but it has much to do with declaring what are the privileges and rights of the House—in expressing the opinion of the House upon the action of the commission. Now, I think the most of us on this side of the House will agree that the electoral commission has acted in a manner which the bill creating that commission did not authorize, and which it was not in the power of Congress to authorize by any act that it could pass. But that is a question which obviously comes up after we have gone through the duty which we agreed to perform when we passed the electoral bill.

I was surprised that my friend from Texas should offer that resolution at the time he did offer it, when the simple and sole question before the House related to an objection to counting the vote from Wisconsin and did not relate to the whole question of whether this count when completed was valid under the terms and provisions of the bill, or was consistent with the Constitution itself.

Mr. MILLS. I desire to ask if I change this proposition by consent may I have a vote on it in the House as an independent proposition?

Mr. WOOD, of New York. You may have my support.

Mr. BURCHARD, of Illinois. After the count is concluded, of course?

The SPEAKER. The Chair hears no objection.

Mr. GARFIELD. I demand the previous question on the original proposition and the amendment of the gentleman from Wisconsin.

Mr. WALLING. I rise to a parliamentary inquiry. If the proposition is to be withdrawn at this time, and offered as a separate proposition, can it come before the House?

The SPEAKER. A vote of the House may be taken on that proposition.

Mr. WALLING. After or before the conclusion of the count?

Mr. HURLBUT. After the counting of the vote.

Mr. MILLS. No, sir; directly after these votes I am to take a vote on this as an independent proposition before the Senate comes in.

The SPEAKER. Is there objection?

Mr. GARFIELD. I object.

Mr. MILLS. Then I demand a separate vote on it as an amendment. I offer it as a substitute for all of them.

Mr. WOOD, of New York. We will vote it down.

Mr. MILLS. Then you violate a solemn agreement. I have been deceived if it is so; I have been trifled with if it be voted down.

Mr. BURCHARD, of Illinois. I objected to the gentleman's proposition when it was first presented.

Mr. MILLS. I want it voted on.

Mr. REA. Is it in order to offer a substitute for the gentleman's proposition?

The SPEAKER. It is not. The gentleman from Ohio demands the previous question on the pending proposition.

The previous question was seconded and the main question ordered.

Mr. HALE moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. MILLS. I now demand that my proposition be read.

The Clerk read as follows:

Whereas, on the 7th day of November, 1876, an election was held in the several States of the Union for electors of President and Vice-President for the term of four years from the 4th day of March, 1877, at which election the majority of said electors favorable to the election of Samuel J. Tilden for President and Thomas A. Hendricks for Vice-President were duly and constitutionally elected by the qualified voters of the several States;

And whereas the returns of said election in the States of Louisiana and Florida were duly made to the officers in said States whose duty it was under the laws of the same to aggregate the votes of the States aforesaid and certify the names of electors so chosen by the qualified electors in accordance with law;

And whereas said return officers willfully, corruptly, and fraudulently suppressed the votes of those electors who were duly and legally elected, and falsely and fraudulently certified the election of persons who were defeated at the ballot-box;

And whereas the governors of said States falsely and fraudulently gave certificates of election of said persons who were defeated and refused them to those persons who were elected;

And whereas said false and fraudulent certificates were referred to a commission to investigate and report to Congress the true constitutional electoral votes in said States;

And whereas said commission refused to investigate the question as to who were the true constitutional electors chosen by the qualified voters of said States;

And whereas it appears in the count of the electoral votes in the presence of the Senate and House of Representatives, on account of said frauds in suppressing the true votes and certifying the false ones, that Samuel J. Tilden, though having received a majority of the electoral votes cast at the ballot-box in the several States, has not a majority in said joint count of all electors appointed in accordance with the terms of the Constitution;

And whereas Rutherford B. Hayes has not received a majority of the constitutional electors duly and legally appointed and the contingency provided for by the Constitution having happened when it becomes the duty of the House of Representatives to proceed immediately to the election of a President of the United States for the ensuing four years: Therefore,

Resolved by the House of Representatives, That said House will proceed immediately, in obedience to the Constitution, to choose a President from the persons having the highest number not exceeding three, on the list of those voted for as President.

Mr. WOOD of New York. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. WOOD, of New York. In the first place my point of order is that the gentleman's proposition is not germane to the subject before the House; secondly, that under the electoral law it is not competent for this House to consider any question except the objections which are sent down to us from the joint convention.

This is another subject, beginning with another motion, and cannot be entertained by the Speaker as an amendment.

The SPEAKER. The Chair understood consent was given to have a vote on this proposition.

Mr. MILLS. It was discussed.

Mr. WOOD, of New York. The gentleman has refused that, and insists on offering it as an amendment. I raise the point of order on him.

Mr. MILLS. The point of order comes too late, as the proposition has already been discussed.

The SPEAKER. The Chair thinks it was allowed to come in by consent.

Mr. MILLS. No consent about it.

Mr. FOSTER. If you will find the written statement, you will find he accepts the question of order.

Mr. WALLING. That is not so; that was stricken out.

Mr. GARFIELD. The gentleman from Iowa reserved the point of order until such time as it was again read.

The SPEAKER. The Chair recollects that.

Mr. MILLS. The proposition has been discussed, and there has been no point of order raised. It has been by agreement.

Mr. BROWN, of Kentucky. Mr. Speaker, my understanding in reference to this matter was there was merely the assurance of the Chair that the gentleman should have a vote at some point on his resolution.

Mr. MILLS. No, sir.

Mr. BROWN, of Kentucky. And general consent was not asked.

Mr. MILLS. I wish to state again——

Mr. BROWN, of Kentucky. In one moment. In the various whereases we all agree, but the final resolve the gentleman asks us to support puts us in a false position, and one I think he ought not to force upon his friends at this time.

Mr. POPPLETON. Is debate in order?

The SPEAKER. The Chair has allowed the gentleman from Texas considerable latitude.

Mr. POPPLETON. I rise to a point of order.

Mr. MILLS. The Speaker recognized me to occupy the floor upon a question of privilege, and before any other gentleman had the floor upon any question I had the floor to submit that proposition, upon the assurance of the Speaker I should have an opportunity to offer it as a substitute, and have it voted on in the position in which it is now placed. I then withdrew it, and offered it as it is. To refuse to take a vote on it is in violation of the agreement.

The SPEAKER. The Chair has gone long out of his way to induce the House to allow the gentleman from Texas to have a vote on the proposition.

Mr. JAMES B. REILLY. I desire to say that the attitude in which the gentleman puts this question before the House places, I apprehend, every gentleman on this side of the House in a false position. If put in proper shape, every member I believe on this side of the House would vote for it. In the shape it is I cannot. We are now proceeding under the electoral law, a law passed but a few days ago by ourselves, and it would be a sorry spectacle indeed if law-makers should become law-breakers. While I heartily approve of everything in the gentleman's resolution and would be only too glad to have an opportunity to vote for it, I cannot conscientiously vote for it at this time; and I appeal to the gentleman not to place in a false position at this time his friends who are in full accord and sympathy with him in regard to his proposition. I am as sincere as he is or as any gentleman in this House is in a desire to enter a protest against this wrong and outrage upon justice, but I am anxious to have it in a proper shape; and I again appeal to the gentleman not to place us in this position, for if he forces us to vote upon the proposition now we will be compelled to vote against it.

Mr. MILLS. I have but one object, and that is to discharge the sworn duty which rests upon me to obey the Constitution of the United States. I find myself situated in the contingency in which a President of the United States has not been elected, and I offer a reso-

lution that the House take what is the proper constitutional course in that contingency.

Mr. WOOD, of New York. I rise to a question of order. I want the Chair to decide whether this is in order.

Mr. HARRISON. I wish to speak to this question of order. I ask the Speaker if it is in order at any time to introduce a proposition by agreement which is illegal in itself?

The SPEAKER. That is for the House to decide.

Mr. HARRISON. We are here acting under a law. It is immaterial what our own private views may be.

Mr. MILLS. That law is not superior to the Constitution.

Mr. HARRISON. Under that law we are to decide whether the vote of Wisconsin is to be received or not. We cannot at this time decide any other question. That is a law we cannot get rid of. Whatever our own private views may be, we are compelled to obey the law.

Mr. LANE. It is not above the Constitution of the United States.

Mr. BLAND. I rise to a parliamentary question.

The SPEAKER. The gentleman will state it.

Mr. BLAND. I make this point. I understood the gentleman from Texas, [Mr. MILLS,] at the suggestion of a number of gentlemen, especially the gentleman from New York, [Mr. WOOD,] had agreed to withdraw this resolution at the present time, with the understanding that we should have a vote upon it at a future time.

Mr. GARFIELD. That is right.

Mr. BLAND. And that the previous question was then moved on the other two propositions.

The SPEAKER. The Chair thinks the statement of the gentleman from Missouri [Mr. BLAND] is correct.

Mr. BLAND. That was the understanding of the House, and it was upon that understanding that the previous question was moved. I want that the gentleman's proposition shall be voted upon, but it was understood that it should not be voted upon at this time; and it is bad faith to insist upon it now at this juncture. The arrangement was made by unanimous consent, and the Speaker put it to the House.

Mr. MUTCHLER. The Constitution requires that the two Houses shall proceed to count the vote, and the contingency when this House shall elect a President of the United States does not arise until it is ascertained by the count of the vote that no one has been elected President. And inasmuch as the count has not yet been completed, it is not competent for this House to proceed to elect a President of the United States.

Mr. MILLS. That makes nothing against my resolution. You can vote against it.

Mr. MUTCHLER. I say that for that reason it is not competent for the House at this time to proceed to elect a President of the United States, because the count of the electoral vote has not been completed. And until it is completed and it is ascertained that no one has a majority of all the votes cast, it is not competent for this House to proceed to an election. The resolution of the gentleman from Texas is therefore out of order.

Mr. WOOD, of New York. Clearly out of order.

The SPEAKER. Does the Chair understand that the statement of the gentleman from Missouri is correct? That the understanding was that the gentleman from Texas should have an opportunity hereafter to have a vote upon his proposition?

Mr. WALLING. Before the completion of the count.

Mr. GARFIELD. I demanded the previous question, Mr. Speaker, upon the resolution of the gentleman from Wisconsin, [Mr. LYNDE,] and one amendment to it. My motion did not include the proposition of the gentleman from Texas.

Mr. BLACKBURN. I rise to a parliamentary inquiry. I desire to ask the Chair one question which I think will settle this controversy. I ask the Chair whether it was not understood and announced by the Chair that upon the gentleman from Texas withdrawing his resolution, in the nature of an amendment, he should have a vote upon it in the House before the Senate came back to proceed with the count?

Mr. CAULFIELD. That is it.

The SPEAKER. The Chair will state exactly what occurred between the Speaker and the gentleman from Texas.

The gentleman from Texas [Mr. MILLS] was in the situation in which he was not likely to get any vote on his proposition, because from the past votes of the House it was evident that the amendment to the amendment would be adopted, the effect of which would be to prevent any vote on the proposition of the gentlemen from Texas.

The Chair then sent for the gentleman from Texas and told him of that condition of things, and suggested to him that his only remedy was to withdraw his proposition and get it in in some other way. The Chair has exhausted every agency known to him to secure to the gentleman from Texas a vote in the House on his proposition. When the proposition was originally offered the gentleman from Iowa [Mr. MCCRARY] raised a question of order upon it and reserved it as against the proposition.

Mr. MILLS. Permit me to ask the Speaker a question. Did I not have the floor upon a question of privilege before this question in regard to the vote of Wisconsin came up?

The SPEAKER. The gentleman from Texas was not entitled to the floor, because the gentleman from Wisconsin, [Mr. LYNDE,] who offered the objection, was entitled to it.

Mr. MILLS. Had you not recognized me when the gentleman from California [Mr. LUTTRELL] moved a recess and I contended that he could not do it?

The SPEAKER. The Chair recognized the gentleman from Texas only to facilitate his getting a vote on his proposition.

Mr. MILLS. Did not the Chair tell me that he would recognize me first?

The SPEAKER. The Chair told the gentleman that he would recognize him so as to secure if possible a vote upon his proposition.

Mr. BLAND. The House has given unanimous consent that the proposition of the gentleman from Texas shall be submitted after the count of the electoral votes is completed.

Mr. BLACKBURN. I ask the question whether the Chair did not put it to the House whether there was objection to the gentleman from Texas having a vote on his resolution as an independent question?

The SPEAKER. The Chair did, and the gentleman from Illinois [Mr. HURLBUT] objected.

Mr. PLAISTED. I rose in my place and objected.

Mr. HURLBUT. When the proposition was first presented I objected to its being considered until after the electoral count was completed.

Mr. TOWNSEND, of New York. I rose in my place and objected to its being considered until after the electoral count was completed.

Mr. JAMES B. REILLY. I wish to say that this controversy depends upon the gentleman from Texas retaining a position which will place his amendment before the House.

Mr. MILLS. Has not the previous question been ordered upon the two amendments pending?

The SPEAKER. It is demanded.

Mr. MILLS. Was not the previous question ordered by the House?

Mr. JOHN REILLY. If the gentleman from Texas divides the resolution I think there will be no difficulty about it.

The SPEAKER. The gentleman from Missouri [Mr. BLAND] stated the proposition correctly, that unanimous consnt was given to the gentleman from Texas to offer his proposition as an independent proposition.

Mr. BLAND. After the completion of the count of the electoral votes.

Mr. HARRISON. I would like to ask if this is a part of the counting of the vote of the State of Wisconsin. I hold that no agreement, even if given by every member of the House, could admit that which is not a part of the objection to the vote of Wisconsin. No unanimous consent can do upon this floor what is illegal. It is the law that the vote shall be counted, and if every member of this House should agree to admit a proposition having no reference to the count, it would be illegal, and the Chair would be compelled to rule that it should not come in. If he has ruled otherwise, then it is his duty to take back his ruling.

Mr. MILLS. I only want to be restored to the place I occupied, anterior to all these propositions.

Mr. HARRISON. You had no right to that place.

Mr. MILLS. I had it by the accord of the Speaker.

Mr. HARRISON. But the Speaker could not give you that right.

Mr. MILLS. Who presides over this House, I would like to know?

Mr. HARRISON. The Speaker cannot give the right to do anything that is illegal. We are now counting the vote of Wisconsin, and until that vote is disposed of, nothing else is in order.

Mr. BROWN, of Kentucky. We are acting under the provisions of the electoral bill. The proposition of the gentleman from Texas asks us to repudiate that bill, to stop this count, to undo all that has been done under the bill, and I submit it to the Chair that such being the condition of this proposition the Chair cannot entertain it, and I make that point upon it if its consideration is insisted upon at this time and in this connection.

The SPEAKER. Does the gentleman from Kentucky object to the gentleman from Texas offering it hereafter as an independent proposition?

Mr. EDEN. I object to unanimous consent until after the count is completed.

Mr. BROWN, of Kentucky. I have no objection to the gentleman from Texas having a vote upon this proposition at the proper time.

Mr. CAULFIELD. When will that be?

Mr. BROWN, of Kentucky. Most of the affirmations of his resolution I indorse, but the conclusion I cannot indorse without stultifying and putting myself in a false position before the country. Therefore I insist that at this time the resolution cannot be entertained, and is not in order.

Mr. CAULFIELD. Will the gentleman allow me to ask him a question?

Mr. BROWN, of Kentucky. Yes, sir.

Mr. CAULFIELD. Will the gentleman from Kentucky tell us when this proposition will be in order?

Mr. BROWN, of Kentucky. I am willing to make it in order by unanimous consent after the counting of the electoral vote is completed.

The SPEAKER. The Chair thought unanimous consent had been given.

Mr. MILLS. It was.

Mr. WHITE. I object to any unanimous consent.

Mr. POPPLETON. I rise to a point of order.

Mr. BLAND. I desire to say that I understood——

The SPEAKER. One at a time, if gentlemen please.

Mr. POPPLETON. I desire to raise this point of order: The motion for the previous question was made and sustained and the main question was ordered. The previous question as moved by the gentleman from Ohio [Mr. GARFIELD] included this amendment of the gentleman from Texas, [Mr. MILLS.] I appeal to the notes of the stenographer to prove the correctness of the assertion which I make. Therefore the proposition of the gentleman from Texas is included under the previous question.

The SPEAKER. If it is in order.

Mr. POPPLETON. There was no question of order raised upon it.

The SPEAKER. The gentleman from Iowa [Mr. MCCRARY] reserved the point of order.

Mr. POPPLETON. I call for the notes of the stenographer to bear out my assertion.

The SPEAKER. The Chair recollects distinctly that the gentleman from Iowa reserved all points of order against the proposition.

Mr. CONGER. Allow me to corroborate the statement of the Speaker. When the Speaker proposed that the proposition of the gentleman from Texas, if in order, might be submitted as an amendment, I arose in my place, as the Speaker may remember, and requested that he would not then decide whether the proposition was or was not in order.

The SPEAKER. The Chair recollects that.

Mr. CONGER. And after making that request, the gentleman from Iowa [Mr. MCCRARY] rose and reserved all points of order against the proposition.

Mr. WOOD, of New York. I made a point of order against it when it was read.

The SPEAKER. Is there unanimous consent that the proposition of the gentleman from Texas shall be voted upon as an independent proposition?

Mr. WOOD, of New York. At the proper time.

Mr. BURCHARD, of Illinois. After the count has been completed.

Mr. WADDELL. Will the Chair recognize me to make——

The SPEAKER. The Chair will recognize no one until all gentlemen are seated.

Mr. WALLING. I rise to make a privileged motion.

The SPEAKER. The gentleman is not recognized by the Chair to make any motion.

After a pause,

The SPEAKER said: The Chair will hear the gentleman from North Carolina, [Mr. WADDELL.]

Mr. WADDELL. I rise to a parliamentary inquiry. The House seems in a dilemma upon this matter. The Chair has ruled, as I understand, that if objection is made this proposition cannot be entertained at this time. I now ask the Chair if, after the House has voted upon the proposition in regard to the Wisconsin vote, and Mr. Hayes has been elected, will the proposition then be in order?

The SPEAKER. The Chair will recognize the gentleman from Texas to offer the proposition.

Mr. WADDELL. After the conclusion of the count.

The SPEAKER. The gentleman can then move to suspend the rules and adopt his proposition.

Mr. GARFIELD. I call for the regular order.

Mr. STENGER. Can a separate vote be taken upon the preamble of the resolution?

The SPEAKER. Under a motion to suspend the rules and pass the preamble and resolution, the question is not divisible, for the suspension of the rules will include the suspension of the rule which allows a division of the question.

Mr. EDEN. I call for the regular order.

Mr. WALLING. I rise to make a privileged motion, and I insist upon my right to do so. I move to reconsider the vote by which the House ordered the main question upon the resolution of the gentleman from Wisconsin.

The SPEAKER. That has already been done.

Mr. WALLING. That has not been done—at least within my hearing.

The SPEAKER. The gentleman is mistaken. He certainly will not contradict the Chair.

Mr. WALLING. I did not intend to do that. I wanted to say——

The SPEAKER. The gentleman from Maine [Mr. HALE] made the motion to reconsider and to lay that motion on the table.

Mr. HALE. I myself made that motion, and it was carried.

Mr. EDEN. I call for the regular order.

The SPEAKER. The regular order is upon the amendment of the gentleman from Wisconsin [Mr. CASWELL] to the proposition of the gentleman from Wisconsin farthest from the Chair, [Mr. LYNDE.]

Mr. SPRINGER. Let that amendment be read.

The Clerk read as follows:

Resolved, That the vote of D. L. Downs be counted with the other votes of the electors of the State of Wisconsin, the objections thereto notwithstanding.

The question was taken by a *viva voce* vote, but before the result was announced,

Mr. SPRINGER said: Is it in order to move to lay that upon the table? If so, I make that motion.

Mr. WOOD, of New York. I submit that the House is dividing upon the amendment and it is too late to make that motion.

Mr. HALE. If the motion to lay on the table should prevail, it would carry everything with it.

Mr. SPRINGER. I want to carry everything with it.

Mr. GARFIELD. The House was dividing upon the proposition.

The SPEAKER. The House was dividing upon the proposition. If the gentleman had risen in time, the Chair would have recognized him.

Mr. SPRINGER. I withdraw the motion.

The question was then taken upon the amendment; and upon a division there were—ayes 112, noes 98.

Before the result of this vote was announced,

Mr. WALLING. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. COX. Before the roll-call commences I would like to ask whether the gentleman from Texas will accept a modification of his proposition.

The SPEAKER. That proposition will be entertained after the disposition of this question. It is not now before the House.

The question was taken; and there were—yeas 77, nays 136, not voting 77; as follows:

YEAS—Messrs. Adams, Bagby, George A. Bagley, John H. Baker, William H Baker, Ballou, Banks, Belford, Blair, Bradley, William R. Brown, Horatio C Burchard, Buttz, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Eames, Evans, Flye, Fort Foster, Freeman, Goodin, Haralson, Hathorn, Haymond, Hendee, Henderson, Hoge Hoskins, Joyce, Kasson, Kimball, Lapham, Lawrence, Lynch, Mackey, Magoon, MacDougall, Morgan, Nash, Norton, O'Neill, Packer, William A. Phillips, Platt, Robinson, Rusk, Sampson, Sinnickson, Smalls, A. Herr Smith, Stowell, Strait, Thornburgh, Van Vorhes, Waldron, Alexander S. Wallace, John W. Wallace, Warren, White, Willard, Charles G. Williams, William B. Williams, Alan Wood, jr., Woodburn, and Woodworth—77.

NAYS—Messrs. Ainsworth, Ashe, Atkins, John H. Bagley, jr., Banning, Bell, Blackburn, Bland, Bliss, Boone, Bright, John Young Brown, Samuel D. Burchard, John H. Caldwell, William P. Caldwell, Candler, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clark jr. of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cutler, De Bolt, Dibrell, Douglas, Eden, Egbert, Ellis, Finley, Forney, Franklin, Frye, Garfield, Gause, Glover, Goode, Andrew H. Hamilton, Hancock, Hardenbergh, Benjamin W. Harris, John T. Harris, Harrison, Hartzell, Hatcher, Henkle, Hoar, Holman, House, Hubbell, Humphreys, Hurd, Hyman, Jenks, Thomas L. Jones, Kelley, King, Knott, Lamar, Franklin Landers, George M. Landers, Lane, Leyy, Maish, McCrary, McDill, McMahon, Meade, Miller, Mills, Monroe, Morrison, Mutchler, Neal, New, O'Brien, Oliver, Page, John F. Philips, Pierce, Plaisted, Platt, Poppleton, Potter, Rainey, Rea, John Reilly, James B. Reilly, Rice, Riddle, John Robbins, Miles Ross, Sobieski Ross, Savage, Sayler, Scales, Seelye, Sheakley, Singleton, Southard, Sparks, Springer, Stanton, Stenger, Stone, Teese, Terry, Thompson, Throckmorton, Washington Townsend, Tucker, Tufts, Turney, John L. Vance, Robert B. Vance, Waddell, Gilbert C. Walker, Walling, Watterson, Erastus Wells, G. Wiley Wells, Whiting, Whitthorne, Wiggington, Wike, Andrew Williams, Alpheus S. Williams, James Williams, Jere N. Williams, Willis, James Wilson, Fernando Wood, and Yeates—136.

NOT VOTING—Messrs. Abbott, Anderson, Bass, Beebe, Blount, Bradford, Buckner, Burleigh, Cabell, Campbell, Carr, Chapin, Cox, Culberson, Davis, Durand, Durham, Faulkner, Felton, Field, Fuller, Gibson, Gunter, Hale, Robert Hamilton, Henry R. Harris, Hartridge, Hays, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Hooker, Hopkins, Hunter, Hunton, Hurlbut, Frank Jones, Kehr, Leavenworth, Le Moyne, Lewis, Lord, Luttrell, Lynde, McFarland, Metcalfe, Milliken, Money, Odell, Payne, Phelps, Piper, Powell, Purman, Reagan, William M. Robbins, Roberts, Schleicher, Schumaker, Slemons, William E. Smith, Stephens, Stevenson, Swann, Tarbox, Thomas, Martin I. Townsend, Wait, Charles C. B. Walker, Walsh, Ward, Warner, Wheeler, Whitehouse, Wilshire, Benjamin Wilson, and Young—77.

So the amendment of Mr. CASWELL was not agreed to.

During the roll-call the following announcements were made:

Mr. SCALES. My colleague, Mr. DAVIS, is absent on account of illness.

Mr. STONE. The gentleman from Kentucky, Mr. DURHAM, the gentleman from Georgia, Mr. HARRIS, and the gentleman from Indiana, Mr. CARR, are absent on account of sickness. Mr. CARR, if present, would vote "no."

Mr. JOHN REILLY. My colleague, Mr. HOPKINS, is absent on account of sickness.

Mr. GOODE. The gentleman from West Virginia, Mr. WILSON, is absent on account of sickness.

Mr. A. S. WILLIAMS. My colleague, Mr. DURAND, has been kept away from the House during all these proceedings in the electoral count by severe sickness.

Mr. HOUSE. The gentleman from New York, Mr. HEWITT, is absent on account of illness.

The result of the vote was announced, as above stated.

The question recurring on the resolution of Mr. LYNDE, it was agreed to.

Mr. LYNDE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The later motion was agreed to.

Mr. WOOD, of New York. I now ask that the Senate be notified.

The SPEAKER. The law requires that.

Mr. MILLS. As I have been deceived in regard to my proposition I withdraw it. I do not care to be stultified by having a vote on the resolution after both Houses have declared the election of a President of the United States.

Mr. BLACKBURN. I ask that Rule 134 be enforced and that these lobbies be cleared. [Cries of "O, no."]

Mr. KASSON. Let there be a warning that order must be preserved, or the lobbies and the galleries will be cleared.

Mr. GARFIELD. If the Speaker gives a caution that no demonstrations will be allowed, that will no doubt be sufficient.

The SPEAKER. The Chair desires to state to gentlemen on the floor and in the galleries that no expression of approval or disapproval will be allowed; and any one in the galleries guilty of such demonstration will be put under arrest.

COUNTING THE ELECTORAL VOTE.

At five minutes before four o'clock a. m. the Doorkeeper announced the Senate of the United States, who entered the Hall, headed by their President *pro tempore*, and accompanied by their Sergeant-At-Arms and Doorkeeper.

The PRESIDENT *pro tempore* of the Senate took the chair as presiding officer of the joint meeting.

The PRESIDING OFFICER. The joint meeting of the two Houses of Congress for counting the electoral vote resumes its session. The Houses acting separately having considered and determined the objection to the certificate from the State of Wisconsin, the Secretary of the Senate will read the resolution of the Senate.

The resolution was read, as follows:

Resolved, That the vote of Daniel L. Downs as an elector for the State of Wisconsin, be counted together with the other nine electoral votes of that State, the objections made thereto to the contrary notwithstanding.

The PRESIDING OFFICER. The Clerk of the House will read the resolution of the House.

The resolution was read, as follows:

Resolved, That the vote of Daniel L. Downs, as an elector of the State of Wisconsin, should not be counted, because he held an office of trust and profit under the United States, and therefore was not constitutionally appointed an elector by said State of Wisconsin.

The PRESIDING OFFICER. The two Houses not having concurred in an affirmative vote to reject, the vote of the State of Wisconsin will now be counted. Tellers, announce the vote of the State of Wisconsin.

Mr. ALLISON, (one of the tellers.) The State of Wisconsin casts 10 votes for Rutherford B. Hayes, of Ohio, for President, and 10 votes for William A. Wheeler, of New York, for Vice-President.

The PRESIDING OFFICER, (at five minutes past four o'clock a. m., March 2, 1877.) This concludes the count of the thirty-eight States of the Union. The tellers will now ascertain and deliver the result to the President of the Senate.

Mr. ALLISON (one of the tellers) announced the result, as follows:

List of votes for President and Vice-President of the United States for the constitutional term to commence on the 4th day of March, 1877.

Number of electoral votes to which each State is entitled.	States.	For President.		For Vice-President.	
		Rutherford B. Hayes, of Ohio.	Samuel J. Tilden, of New York.	William A. Wheeler, of New York.	Thomas A. Hendricks, of Indiana.
10	Alabama	.....	10	.....	10
6	Arkansas	.....	6	.....	6
6	California	6	.....	6	.....
3	Colorado	3	.....	3	.....
6	Connecticut	.....	6	.....	6
3	Delaware	.....	3	.....	3
4	Florida	4	.....	4	.....
11	Georgia	.....	11	.....	11
21	Illinois	21	.....	21	.....
15	Indiana	.....	15	.....	15
11	Iowa	11	.....	11	.....
5	Kansas	5	.....	5	.....
12	Kentucky	.....	12	.....	12
8	Louisiana	8	.....	8	.....
7	Maine	7	.....	7	.....
8	Maryland	.....	8	.....	8
13	Massachusetts	13	.....	13	.....
11	Michigan	11	.....	11	.....
5	Minnesota	5	.....	5	.....
8	Mississippi	.....	8	.....	8
15	Missouri	.....	15	.....	15
3	Nebraska	3	.....	3	.....
3	Nevada	3	.....	3	.....
5	New Hampshire	5	.....	5	.....
9	New Jersey	.....	9	.....	9
35	New York	.....	35	.....	35
10	North Carolina	.....	10	.....	10
22	Ohio	22	.....	22	.....
3	Oregon	3	.....	3	.....
4	Rhode Island	4	.....	4	.....
29	Pennsylvania	29	.....	29	.....
7	South Carolina	7	.....	7	.....
12	Tennessee	.....	12	.....	12
8	Texas	.....	8	.....	8
5	Vermont	5	.....	5	.....
11	Virginia	.....	11	.....	11
5	West Virginia	.....	5	.....	5
10	Wisconsin	10	.....	10	.....
369	Total	185	184	185	184

The PRESIDING OFFICER. In announcing the final result of the electoral vote the Chair trusts that all present, whether on the floor or in the galleries, will refrain from all demonstrations whatever; that nothing shall transpire on this occasion to mar the dignity and moderation which have characterized these proceedings in the main, so reputable to the American people and worthy of the respect of the world.

The whole number of the electors appointed to vote for President and Vice-President of the United States is 369, of which a majority is 185.

The state of the vote for President of the United States, as delivered by the tellers, and as determined under the act of Congress approved January 29, 1877, on this subject, is:

For Rutherford B. Hayes, of Ohio..... 185 votes
For Samuel J. Tilden, of New York..... 184 votes

And the state of the vote for Vice-President of the United States, as delivered by the tellers, and as determined under the act of Congress approved January, 29, 1877, on this subject, is:

For William A. Wheeler, of New York..... 185 votes
For Thomas A. Hendricks, of Indiana..... 184 votes

Wherefore, I do declare—

That Rutherford B. Hayes, of Ohio, having received a majority of the whole number of electoral votes, is duly elected President of the United States for four years, commencing on the 4th day of March, 1877.

And that William A. Wheeler, of New York, having received a majority of the whole number of electoral votes, is duly elected Vice-President of the United States for four years, commencing on the 4th day of March, 1877.

This announcement, together with the list of the votes, will be entered upon the Journal of the two Houses.

The count of the electoral vote being completed, and the result declared, the joint meeting of the two Houses is dissolved. The Senate will now retire to its Chamber.

The Senate accordingly retired from the Hall of the House of Representatives at ten minutes past four o'clock a. m., March 2, 1877.

The SPEAKER then resumed the chair and called the House to order.

Mr. TUCKER. I move that the House do now adjourn.

Mr. ATKINS. I hope the gentleman from Virginia will withdraw that motion and allow us to take up the Army appropriation bill.

Mr. TUCKER. I think after such a scene as has now transpired we should adjourn. I insist on my motion.

The motion was agreed to; and accordingly (at four o'clock and eleven minutes a. m.) the House adjourned till twelve o'clock m.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By Mr. BOONE: The petition of C. Brim and 53 other citizens of Calloway County, Kentucky, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. EDEN: The petition of James T. Davis and others, of Shelby County, Illinois, of similar import, to the same committee.

By Mr. LUTTRELL: The petition of E. M. Hiatt and other citizens of California, of similar import, to the same committee.

By Mr. NORTON: The petition of citizens of Cattaraugus County, New York, of similar import, to the same cammittee.

By Mr. PHELPS: The petition of S. Hine and 77 others, of Haddaway, Connecticut, for the passage of an act prohibiting the sale of intoxicating liquors in the District of Columbia and the Territories except by a majority vote in favor thereof by the legal voters and women over eighteen years of age residing therein, to the Committee for the District of Columbia.

By Mr. JAMES B. REILLY: The petition of citizens of Pottsville, Pennsylvania, that aid be extended to persons who will locate and settle on public lands, to the Committee on Public Lands.

Also, the petition of citizens of Schuylkill County, Pennsylvania, for the repeal of the bank-tax laws, to the Committee on Banking and Currency.

By Mr. ROBBINS, of North Carolina: Resolution of the Legislature of North Carolina, favoring the construction of a Southern Pacific Railroad, to the Committee on the Pacific Railroad.

Also, the petition of Matilda J. Babbitt, to have refunded to her certain license taxes illegally collected from her by United States revenue officers, to the Committee of Claims.

By Mr. STEVENSON: The petition of A. G. Danforth and other citizens of Tazewell County, Illinois, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

By Mr. VANCE, of North Carolina: Resolutions of the Legislature of North Carolina, favoring the construction of a Southern Pacific Railroad, to the Committee on the Pacific Railroad.

Also, resolutions of the Legislature of North Carolina, that Congress take such action as will secure the just and fair adjustment of the affairs of the Freedman's Savings Bank, to the Committee on the Freedman's Bank.

By Mr. THOMPSON: The petition of James C. McKee, that the consummation of the crime against the country by the action of the electoral commission may be prevented by using all legal means, to the Committee on the Judiciary.

By Mr. WADDELL: Resolutions of the Legislature of North Carolina, favoring the construction of a Southern Pacific Railroad, to the Committee on the Pacific Railroad.

By Mr. WALDRON: Joint resolution of the Legislature of Michigan, for an appropriation to construct a light-house on the point of Little Traverse Harbor, Michigan, to the Committee on Commerce.

By Mr. W. B. WILLIAMS: Joint resolution of the Legislature of Michigan, of similar import, to the same committee.

IN SENATE.

FRIDAY, *March* 2, 1877.

The Senate met at twelve o'clock noon.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

On motion of Mr. CAMERON, of Pennsylvania, and by unanimous consent, the reading of the Journal of yesterday's proceedings was dispensed with.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of War, transmitting, for the information of the Committee on Military Affairs, a letter of the Adjutant-General of the 24th instant, touching the memorial of the General Assembly of Colorado asking for an appropriation for a military wagon-road from White River agency, Summit County, to Hot Sulphur Springs, Grand County, Colorado; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a message from the President of the United States, transmitting, in response to a resolution of the 27th instant, a report of the Secretary of State relating to the payment of moneys claimed to be now due the Dominican government from the Government of the United States; which was referred to the Committee on Appropriations.

EDWARD A. LELAND—VETO MESSAGE.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was read:

To the Senate of the United States:

I have the honor to return herewith, without my approval, Senate bill No. 691, entitled "An act for the relief of Edward A. Leland."

The reasons for withholding my approval may be found in the accompanying communications received from the Secretary of the Interior.

U. S. GRANT.

EXECUTIVE MANSION, *February* 28, 1877.

DEPARTMENT OF THE INTERIOR,
Washington, February 27, 1877.

SIR: I have the honor to return herewith the bill (S. 691) entitled "An act for the relief of Edward A. Leland," accompanied by copy of a letter from the Commissioner of Patents suggesting an objection to the bill in its present form, and to recommend that it be returned to Congress for amendment in accordance with the suggestions of the Commissioner.

I have the honor to be, very respectfully,

Z. CHANDLER,
Secretary.

The PRESIDENT.

DEPARTMENT OF THE INTERIOR, UNITED STATES PATENT OFFICE,
Washington, D. C., February 27, 1877.

SIR: In the matter of the enrolled bill (S. No. 691) extending letters-patent of Edward S. Leland, I have the honor to report that said letters-patent were granted for an improved paint-can, August 14, 1860, for the term of fourteen years, that they consequently expired on the 14th day of August, 1874, whereupon the invention became the property of the public.

The present act proposes to extend the term of the patent seven years from said 14th day of August, 1874, and give to them the same effect in law as if they had been originally granted for the term of twenty-one years.

It will be seen, therefore, that those who have innocently used and purchased the invention since the expiration of the letters-patent on the 14th of August, 1874, under the impression that the invention was the property of the public, will, by the retroactive terms of the bill, be liable for damages for such use upon suits for infringement.

This hardship is generally, if not always, provided against by a proviso to such bills, setting forth in terms "that no person shall be held liable for the infringement of said patent, if extended, for making use of said invention since the expiration of the original term of said patent and prior to the date of its extension."

Unless such a proviso is incorporated into the present bill the injustice alluded to may be done.

Very respectfully, your obedient servant,

ELLIS SPEAR,
Commissioner of Patents.

HON. Z. CHANDLER,
Secretary of the Interior.

Mr. MORRILL. As I do not see the chairman of the Committee on Patents in the Chamber, I move that the message be referred to the Committee on Patents.

The motion was agreed to.

CREDENTIALS.

Mr. KELLY presented the credentials of La Fayette Grover, elected by the Legislature of Oregon a Senator from that State for the term commencing March 4, 1877; which were read and ordered to be filed.

Mr. RANSOM presented the credentials of M. C. Butler, elected by the Legislature of South Carolina a Senator from that State for the term commencing March 4, 1877; which were read and ordered to be filed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of Robert S. Kennedy, John F. Henry, and many others, bankers and merchants of the city of New York, praying for the immediate completion of the count of the electoral vote; which was ordered to lie on the table.

He also presented a petition of E. T. Kendrick and 30 others, of Florida, praying for cheaper telegraphic facilities and that the telegraph business be transferred to the superintendence of the Post-Office Department; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a resolution of the Legislature of Michigan, in favor of the passage of a law providing for a survey of Portage Lake, Manistee County, Michigan, with a view to the construction of a harbor of refuge; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislative Assembly of Montana Territory, in favor of the passage of a law providing for the sale of a portion of their school lands, the proceeds of which shall be used in maintaining their schools; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislative Assembly of Montana Territory, praying the passage of an act to so amend the organic act of that Territory as to permit and authorize the Legislative Assembly of that Territory to prescribe the mode and manner for the election of certain officers; which was referred to the Committee on Territories.

He also presented a memorial of the Legislative Assembly of Montana Territory, in favor of the establishment of a mail-route from Bozeman City, Montana Territory, to the city of Cheyenne, in the Territory of Wyoming; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of H. H. Porter and 130 others, praying an appropriation for the survey of the outlet to Portage Lake, Michigan; which was referred to the Committee on Appropriations.

He also presented a resolution of the Legislature of the State of Michigan in favor of an appropriation for a light-house at the entrance of Little Traverse Harbor, Michigan; which was referred to the Committee on Appropriations.

Mr. CAMERON, of Pennsylvania, presented two petitions of citizens of Pennsylvania, praying the repeal of the law imposing taxes on the deposits, circulation, and capital of all banks; which were referred to the Committee on Finance.

He also presented resolutions of the City Council of Philadelphia, asking the retention of the original draft of the Declaration of Independence in the exposition established in that city; which were referred to the Committee on the Library.

He also presented a resolution of the Franklin Institute of Pennsylvania, in favor of an appropriation for the establishment of a colony in the Arctic regions for the purpose of making explorations, &c., in the direction of the North Pole; which was referred to the Committee on Military Affairs.

He also presented a memorial of the Philadelphia Board of Trade, remonstrating against any change in the present tariff and internal revenue laws; which was referred to the Committee on Finance.

He also presented a petition of citizens of Pittsburgh, Pennsylvania, praying for the passage of House bill No. 4298, for the improvement of the Youghiogheny River in Pennsylvania; which was referred to the Committee on Commerce.

Mr. McCREERY presented the petition of A. Buford, of Midway, Kentucky, praying the removal of his political disabilities; which was referred to the Committee on the Judiciary.

Mr. CLAYTON presented the petition of Lewis Downing, James McDaniel, Paulina Jones, and others, praying for relief for military services rendered by them from March 25, 1863, to May 31, 1865; which was referred to the Committee on Military Affairs.

He also presented a petition of citizens of Sebastian and Franklin Counties, Arkansas, praying for the extension of a mail route from Charleston to Alma; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. KERNAN presented a memorial of head-men and warriors of the Seneca Nation of New York Indians, residing on the Alleghany Indian reservation, remonstrating against the passage of the bill to amend the act of February 19, 1875, in respect to leasing lands on said reservation; which was referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. MORRILL, from the Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 4112) directing the Secretary of the Treasury to report upon the necessity of a public building at Rochester, New York; reported adversely thereon, and the bill was postponed indefinitely.

He also, from the Committee on Finance, to whom was referred the bill (H. R. No. 3925) relating to the production of fruit brandy, and to punish frauds connected with the same, reported it with an amendment.

Mr. WRIGHT, from the Committee on Claims, to whom was referred the bill (H. R. No. 401) for the relief of Mrs. Flora A. Darling,

of New Hampshire, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Frances Lynch, of Cheraw, South Carolina, praying compensation for subsistence stores furnished the United States Army in 1865, asked to be discharged from its further consideration; which was agreed to.

He also, from the Committee on Claims, to whom was referred the bill (S. No. 858) for the relief of William C. Edmonston, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1038) for the relief of George E. Hosie, late inspector of tobacco, cigars, and snuff in and for the second internal-revenue collection district of the State of Mississippi, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Jesse Ward, praying compensation for property taken and appropriated by United States forces during the late war, submitted an adverse report thereon, which was ordered to be printed, and he moved that the claim be rejected; which motion was agreed to.

Mr. CRAGIN, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 1173) for the relief of Frederick R. Smith, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. PADDOCK. I am instructed by the Committee on Agriculture to report back certain memorials referred to that committee relating to an appropriation to defray the expenses of a commission to investigate the grasshopper subject and recommend that the memorials be referred to the Committee on Appropriations, which has had that subject under consideration. I move that the memorials be referred to the Committee on Appropriations.

The motion was agreed to.

REPORT ON MINING STATISTICS.

Mr. ANTHONY. I am directed by the Committee on Printing, to whom was referred a resolution of the House of Representatives to print 4,000 copies of the report of R. W. Raymond on mining statistics, to report it without amendment, and I ask for its present consideration.

By unanimous consent the Senate proceeded to consider the resolution, as follows:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed of the report of R. W. Raymond on mining statistics for 1875, with the accompanying engravings, 2,500 copies for the use of the House of Representatives, 1,000 for the Senate, and 500 for the Secretary of the Treasury and commissioners.

The resolution was agreed to.

REPORT ON OREGON ELECTORAL VOTE.

Mr. ANTHONY. I am directed by the same committee, to whom was referred a resolution to print five thousand copies of the report on the electoral vote in the Oregon case, to report it with an amendment striking out the words "and House" after "Senate," so as to read:

Resolved, That 5,000 additional copies of the evidence and report in the case of the Oregon electoral vote be printed for the use of the Senate.

I ask for the present consideration of the resolution.

Mr. WHYTE. I object to the consideration of the resolution at this time.

The PRESIDENT *pro tempore*. Objection being made, the resolution goes over.

VIRGINIA E. WHITE.

Mr. KERNAN. I am authorized by the Committee on Finance, to whom was referred the bill (H. R. No. 1016) for the relief of Virginia E. White, of Ohio County, West Virginia, to report it without amendment. There is a report of the House committee which states the facts, and that report is presented with the bill. I have been requested to ask that the bill be considered now. I would state that it returns $1,250 of tax erroneously and improperly assessed on income.

By unanimous consent the Senate as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to pay to Virginia E. White, widow and executrix of Andrew White, deceased, who was administrator, with the will annexed, of Daniel Steenrod, deceased, $1,250, being the amount of tax erroneously and improperly assessed on income on the estate of Daniel Steenrod, deceased, and paid by Andrew White as the administrator of the estate, and since his death recovered of Virginia E. White as the executrix of Andrew White by the residuary legatees of Daniel Steenrod.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HERMAN HULMAN.

Mr. COOPER. I am directed by the Committee on Finance, to whom was referred the bill (H. R. No. 256) for the relief of Herman Hulman, of Terre Haute, Indiana, to report it without amendment.

Mr. MORTON. I should be glad to have that little bill considered now, if there is no objection to it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Commissioner of Internal Revenue to allow the amount of the claim filed by Herman Hulman, of Terre Haute, Indiana, for abatements in his office, for the sum of $1,809.41, as the abatements asked for by him are right and proper, and he should not be required to pay that amount to the Government.

Mr. SAULSBURY. I think there ought to be some explanation made of the bill.

Mr. SHERMAN. The only objection I have to the bill is the reason given in the bill for its passage. I have no doubt the bill is just. It is the abatement of a forfeiture imposed on a distillery by an erroneous estimate of its capacity. I suppose it is all correct, but I do not like the phraseology of it, and if we are to amend it at all, the reason given in the bill for its passage ought to stricken out. The Senator from Tennessee [Mr. COOPER] examined it carefully, I have no doubt.

Mr. MORTON. An amendment would necessitate sending the bill back to the House and endanger its passage. Although there may be objection to the phraseology of the bill, I prefer to have it passed as it is.

Mr. COOPER. I examined the bill once before for the committee, and reported under instruction from the committee in favor of its rejection. Upon a recommitment to the committee and an examination of the facts, the committee became satisfied that the Commissioner of Internal Revenue was mistaken himself in regard to the facts. After examining the facts thoroughly we became convinced that it is similar to a bill heretofore passed and that it is in strict accordance with law; that is, that Mr. Hulman should not in any way be held responsible for the mistake which was made by the assessor upon an application made out by the assessor, which failed to accomplish what Mr. Hulman intended and what the assessor supposed would be accomplished by the application. The bill is just. The phraseology certainly ought to be amended, but as an amendment to the bill would send it back to the House, and would be simply a change of phraseology, it had better be allowed to pass in its present form.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

COLONEL FRANK L. WOOLFORD.

Mr. McCREERY. I rise to ask for the present consideration of a bill which I hold in my hand. I do not believe, if the Senate hear it read, that there will be any objection from any quarter.

The PRESIDENT *pro tempore*. Is there objection to the motion? The Chair hears none.

Mr. McCREERY. I move that the Senate proceed to the consideration of the bill (H. R. No. 4117) for the relief of Colonel Frank L. Woolford, late of the First Kentucky Cavalry Volunteers, of certain disabilities.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It relieves Colonel Frank L. Woolford, late of the First Kentucky Cavalry Volunteers, from all the penalties and effects of General Order No. 117, dated at Washington, March 24, 1864, signed E. D. Townsend, Assistant Adjutant-General, dishonorably dismissing him from the service of the United States, and restores him to all the rights and privileges he would be entitled to had said order not been issued and enforced.

Mr. CAMERON, of Pennsylvania. I trust that this bill will pass without any opposition. When at this moment, on this side of the House, we are in such good humor, and when I trust our friends on the other side are a little penitent, we ought to be magnanimous. This man was a good soldier on the Union side; but he had a frailty; he thought he was an orator; and upon one occasion he was a little too "handy with his tongue," to use an expression very common among the Scotch-Irish of Pennsylvania, and he made some very foolish remarks. After having fought and having been wounded, and having gone everywhere that duty called him, he was dismissed by the Secretary of War. I think it was a little cruel, and I trust this bill will be passed.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REPORT ON LOUISIANA INVESTIGATION.

Mr. HOWE. The Committee on Privileges and Elections has instructed the subcommittee designated to make inquiry in the State of Louisiana to make a partial report which I now send to the Chair and ask to have printed. Further report will be made from the same committee some days hence touching a portion of the State not included in this report.

Mr. SAULSBURY. The Senator from Indiana [Mr. McDONALD] and myself being unable to agree in our conclusions with the majority of the subcommittee on questions of law and fact I have been authorized by the Committee on Privileges and Elections to submit the views of the minority, which I shall be prepared to do to-day. I ask therefore that I may be allowed to place upon the file to-day the views of the minority in connection with the report which has been presented by the Senator from Wisconsin.

The PRESIDENT *pro tempore*. Is there objection to the submission of the views of the minority to accompany the report? The Chair hears none, and it is so ordered.

Mr. SAULSBURY. I desire that the same order in reference to printing may be taken in regard to the minority report that may be made with reference to the regular report.

The PRESIDENT *pro tempore*. That has been ordered.

PAPERS WITHDRAWN.

On motion of Mr. MITCHELL, it was

Ordered, That Mrs. Elizabeth Stevens, administratrix of Hazard Stevens, have leave to withdraw her petition and papers from the files of the Senate.

TROOPS IN THE MODOC COUNTRY.

Mr. WHYTE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War furnish for the use of the Senate a copy of the final report of the operations of the troops in the Modoc country by General Alvan Gillem, while under his command, which report is dated 1st June, 1874.

INAUGURATION CEREMONIES.

Mr. MORRILL. I offer the following resolution, which is customary, I believe:

Resolved, That a committee of three Senators be appointed by the President *pro tempore* to make the necessary arrangements for the inauguration of the President-elect of the United States on the 5th of March instant.

The resolution was agreed to.

The PRESIDENT *pro tempore* appointed Mr. MORRILL, Mr. HOWE, and Mr. MCDONALD as the committee.

Subsequently Mr. MCDONALD, being unable to serve, was excused from service and Mr. MCCREERY appointed in his place.

AMENDMENTS TO AN APPROPRIATION BILL.

Mr. MORRILL. I am directed by the Committee on Public Buildings and Grounds to report an amendment intended to be proposed to the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes. I do not ask to have it printed, but merely referred to the Committee on Appropriations. I make that motion.

The motion was agreed to.

Mr. COOPER, Mr. MCDONALD, and Mr. KELLY submitted amendments intended to be proposed by them to the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes; which were referred to the Committee on Appropriations.

DEFICIENCY APPROPRIATION BILL.

Mr. SARGENT submitted the following report; which was read:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4559) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1877, and for prior years, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 49, 58, 68, and 70.

That the House recede from its disagreement to the amendments numbered 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 50, 51, 52, 53, 54, 55, 56, 57, 59, 60, 61, 63, 64, 65, 66, 69, 71, 72, 74, 75, 76, 77, 78, 79, and 80, and agree to the same.

That the House recede from its disagreement to the amendment numbered 4 and agree to the same, with an amendment, as follows: Strike out of said amendment these words "to H. F. Hutchinson, $259.25," "to Andrew Carnes, $147.60," "to Louis Delano, $313.04," and strike out in lines 12 and 13 the words "nine hundred and thirteen dollars and sixty-eight," and insert in lieu thereof "one hundred and ninety-three dollars and seventy-nine;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 5, with an amendment substituting the words "Treasury Department" for "Internal Revenue Office;" and the House agree to the same.

That the House recede from its disagreement to the amendment numbered 14, and agree to the same with an amendment as follows: In line 5 of said amendment strike out "three hundred and seventy" and insert "and fifty-three;" in lines 6 and 7 strike out "five hundred and twenty-four" and insert "two hundred and seven;" and add at the end of the amendment the following: "and no part of this sum shall be used for payment of postage or purchase of postage-stamps;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 15 and agree to the same, with an amendment as follows: Strike out from said amendment the word "four," and strike out on page 6, line 2, of the bill, the words "hundred thousand" and insert after the word "seven," in line 1, page 6, of the bill, the words "and for prior years;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 62, and agree to the same, with an amendment as follows:

In lieu of said amendment substitute the following:

"For defraying the expenses of the Supreme Court and circuit and district courts of the United States, including the District of Columbia, and also for jurors and witnesses and expenses of suits in which the United States are concerned, of prosecution for offenses committed against the United States, and for the safe keeping of prisoners, to be disbursed by the Attorney-General, being deficiencies for the fiscal year 1877 and prior years, $300,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 67, and agree to the same, with an amendment as follows: In lieu of "thirty-seven" insert "twenty-five;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 73, and agree to the same, with an amendment as follows: Insert before the word "seven" the words "one thousand;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 81, and agree to the same, with an amendment as follows: In line 11, page 9, of the bill strike out "the" and insert in lieu thereof "a;" and after the word "Digest," in the same line, insert "of the rules and practice of the House;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 82, with an amendment as follows:

Insert: "for miscellaneous items, $15,000," "for clerks to committees, $4,527," "for pages, $2,369.56," "for folding documents, $3,000," "for stenographers to committees, $780;" and in line 21, page 9, of the bill strike out "annum" and insert "session."

And the House agree to the same.

A. A. SARGENT,
WM. WINDOM,
R. E. WITHERS,
Managers on the part of the Senate.

J. D. C. ATKINS,
HENRY WALDRON,
ROB. HAMILTON,
Managers on the part of the House.

Mr. SARGENT. Mr. President, the two principal points of difference between the two Houses were the items relating to judicial deficiences and the pay of the Navy. By the letters of the First Comptroller and of the Attorney-General, submitted to the Senate and also to the committee of conference, it was shown that to conduct the business of the Department of Justice for the remainder of the fiscal year, including the balance on hand, there would be required about $1,200,000. The appropriations last year were less by some $750,000 than the ordinary appropriations for carrying on the judicial system. I have no doubt that the expenditures during the present fiscal year have been considerably increased by the operation of the United States statute providing for the appointment of deputy marshals in cities of 20,000 inhabitants and upward to supervise elections, and the payment to them of $5 a day for a period not exceeding ten days during the time so employed. But making all the allowance that could be paid for marshals, still there was much more of a reduction in the present year's appropriations than ordinarily suffices to run the courts of the United States.

This item was the last one on which we arrived at a conclusion in the committee of conference, and we were able to procure from the conferees of the House only $300,000. Accepting the principle laid down very generally in the Senate last session, that if either House refused to appropriate more than a given sum, but while appropriating an insufficient sum did not insist upon a change of law, and merely left a deficiency, the other House after full and free conference would assent to that result and leave the deficiency thereafter to be provided for, the conferees on the part of the Senate concluded that it was better to accept this $300,000, and leave to a future session of Congress the payment of the necessary deficiency which will be left.

Of course we appreciate the fact that all the courts of the United States may be closed up; that we may have no grand juries to inquire into crime; that we may have no petit juries to try crime; that witnesses may not be brought or may remain unpaid. It is an unfortunate circumstance that the two Houses are so far apart upon this deficiency; but we have done what we thought our duty in accepting the amount which the House would give, and therefore report the bill back with this item of deficiency at $300,000.

I should like to say, however, that it is not possible to allege that the Department of Justice, even if it has appointed and paid these deputy marshals, has exceeded its authority, has done anything more than obey the plain provisions of law; and unquestionably Congress must, when there is time to consider the matter, do justice in this case. But to insist on it at the present time would be simply to sacrifice the bill, and therefore we have reported it in this shape.

The pay of the Navy stands somewhat in the same fix. The House made an indefinite appropriation which by careful figuring amounts to $150,000, and in addition to that an appropriation of $500,000, in all $650,000, to bridge over a gap of $1,650,000. This seemed to the Senate conferees to be a mere matter of arithmetic, and the elements of our calculation were not successfully assailed; in fact there was hardly an attempt to show that the Navy Register does not represent correctly the number of officers, the number of men, and the amount of pay allowed to each grade; and taking the average between sea pay, leave or waiting orders pay, and shore duty pay, that this average would prove that the amount which was asked by the Secretary of the Navy was correct.

In this connection the House assented to an addition of $500,000 to the $560,000, which they had before in the deficiency bill inserted, making, so far as I can see or the Senate conferees could understand, a probable deficiency of $400,000 more at the end of the fiscal year. But acting upon the same principle which we adopted in regard to the judiciary item, we accepted this amount, which was the last figure that would be conceded. If there is a deficiency at the end of the year it will have to be made up in the future, because we have made no provision for reducing the number of officers or reducing their pay, and it is due to the House conferees to say that they did not make a proposition tending in that direction, and in fact expressed a disinclination to do so, appreciating as well as the Senate conferees that the service of the officers entitled them to the pay they are now receiving.

These are the two principal items of difference and they have been reconciled in this way. For the reasons I have given I recommend the adoption of the report.

The report was concurred in.

TAX ON GRAPE BRANDY.

Mr. SARGENT. Mr. President, I am compelled probably for the whole of the remainder of the session, certainly after a few moments shall have passed, to be out of the Senate upon the Committee on Appropriations. The Finance Committee this morning, by the Senator from Vermont, [Mr. MORRILL,] reported a very important bill

affecting the distillers of brandy from grapes, largely affecting my State. It has the sanction of the Department. I think it will take but a moment to pass it. It is in the shape of an amendment to a House bill intended to cover the same matter. The measure reported by the Committee on Finance is in harmony with the views of the Department, although they were not ready to assent to the bill as passed by the House. I should like to appeal to the Senator from Vermont to call up that bill and see if it cannot be passed in a moment while I can be in the Senate.

Mr. MORRILL. My impression is that the justice of the bill asked for on the part of the Senator from California will so recommend it that there will be no lengthy discussion upon it, that it will barely have to be read in order to be approved.

Mr. DAWES. What is it?

Mr. MORRILL. It provides merely that there shall be a credit given on grape brandy for the space of three years and that warehouses shall be established in different parts of the State of California.

I will say this, that the State of California is a large State, runs a great length upon the shore of the Pacific, and many of the valleys from top to bottom are covered with grape-vines. The committee have been informed that the capital invested in these grape-vines and the lands will be entirely lost to the large majority of the owners unless they can have a credit given for the time that it takes the brandy to ripen, which is three years.

The bill has been carefully prepared at the Department, providing all possible safeguards against any fraud or collusion by which the United States shall be defrauded of any portion of the revenue that may be due, but merely giving these men who are engaged in grape culture an opportunity to keep the brandy in Government warehouses until it shall become fit for sale.

Mr. DAWES. I should like to inquire of the Senator from Vermont if there is any danger of the Government being deceived about the character of the brandy, whether it can distinguish between the grape brandy and other brandy? That used to be the great difficulty in fixing these bills. There is the apple brandy, there is the peach brandy, and there are various kinds of brandy that might be manufactured and called grape brandy. If the bill is properly guarded——

Mr. SARGENT. It is identified by warehouse stamp.

Mr. DAWES. I know.

Mr. SARGENT. The bill, it seems to me, should cover brandy distilled from apples, grapes, or peaches.

Mr. DAWES. I know the Senator from California has always been anxious to have so broad a bill as that, but the difficulty of having so broad a bill as that is that it would substantially relieve all the Pacific coast from paying duties on that kind of liquor. If it does not cover any more than what the Senator from Vermont intends to cover by it, it is an excellent bill.

Mr. SARGENT. That is all it does.

Mr. MORRILL. My impression is that the bill has been submitted to the various members of the Committee on Finance for careful examination. There is also a provision left in the bill providing that the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may make all needful rules and regulations for carrying into effect the provisions of this act, and such regulations when made shall have the force and effect of law.

Mr. DAWES. I know nothing against the bill. Both Senators will excuse me for making inquiries about the bill. The matter had come up in another place so often that I was anxious to know whether they had succeeded in guarding that point in the bill.

Mr. MORRILL. I am also as familiar perhaps as the Senator from Massachusetts.

Mr. DAWES. And a great deal more so.

Mr. MORRILL. Now, familiar with the previous importunities for such a bill as this, I have consented to this with reluctance; and after examination and on conference with the officers of the Internal Revenue Department, I am satisfied that it will be productive of more good than evil. I therefore can support it.

Mr. MERRIMON. I beg to ask the Senator from Vermont if there is any substantial reason why the provisions of the bill might not be extended to other States? In my own State the grape culture is very considerable and increasing annually, and I am sure that its provisions would be as interesting to the people of North Carolina in proportion as to the people of California; and unless there is some special reason why this discrimination should be made, I cannot consent to the passage of such a bill.

Mr. MORRILL. Certainly the Senator from North Carolina will see that this is an experiment. There are other States more largely interested than North Carolina, outside of California. There are Missouri, Iowa, and Ohio; but the Committee on Finance chose to report a bill confined to this State, so as to try it for a year, and if it operates properly it may become a general law. I hope, therefore, the Senator from North Carolina will not ask to have this made a general law now, and thereby defeat it, because it is a real necessity for California, where they have so large an amount of land and capital invested in the grape culture.

Mr. DAWES. I did not understand the Senator. Is it confined to California for one year?

Mr. MORRILL. No; it is confined to California, but not for one year.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 3925) relating to the production of fruit brandy, and to punish frauds connected with the same.

Mr. COCKRELL. I suppose, as a matter of course, if it works well in California, this will be extended to all the other States. I think the law ought to operate upon Missouri. Certainly we are raising a great deal of wine there. We can supply the whole world with wine hereafter, and it is a production that ought to be encouraged.

Mr. MORRILL. This is not for wine culture. It is exclusively for grape culture devoted to grape brandy.

Mr. COCKRELL. We use that occasionally too. [Laughter.]

Mr. PADDOCK. If the statement of the Senator from Vermont is correct, it ought to be applied to Nebraska as well.

The amendment reported by the Committee on Finance was to strike out all after the enacting clause of the bill and in lieu thereof to insert the following:

That the Commissioner of Internal Revenue shall be, and hereby is, authorized, in his discretion, and upon the execution of such bonds as he may prescribe, to establish warehouses, to be known as special bonded warehouses, not exceeding ten in number in any one collection district, exclusively for the storage of brandy made from grapes, each of which warehouses shall be in the charge of a storekeeper, to be appointed, assigned, transferred, and paid in the same manner that storekeepers for distillery warehouses are now appointed, assigned, transferred, and paid. Every such warehouse shall be under the control of the collector of internal revenue of the district in which such warehouse is located, and shall be in the joint custody of the storekeeper and the proprietor thereof, and kept securely locked, and shall at no time be unlocked or opened or remain open except in the presence of such storekeeper or other person who may be designated to act for him, as provided in the case of distillery warehouses. And such warehouse shall be under such further regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

SEC. 2. That every distiller of brandy from grapes, upon rendering his monthly return of materials used and spirits produced by him, shall immediately pay the tax upon such spirits, or may, after they have been properly gauged, marked, and branded, under regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury, and also stamped as hereinafter provided, cause them to be removed in bond from the place of manufacture to a special bonded warehouse, under such regulations, and after making such entries, and executing and filing with the collector of the district in which such spirits were manufactured such bonds and bills of lading, and giving such other additional security as may be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury.

SEC. 3. That all brandy intended for deposit in a special bonded warehouse, before being removed from the distillery, shall have affixed to each package an engraved stamp indicative of such intention, to be provided and furnished to the several collectors as in the case of other stamps, and to be charged to them and accounted for in the same manner; and for the expense attending, providing, and affixing such stamps ten cents for each stamp shall be paid the collector on making the entry for such transportation.

SEC. 4. That any brandy made from grapes removed in bond according to law may, upon its arrival at a special bonded warehouse, be deposited therein upon making such entries, filing such bonds and other securities, and under such regulations as shall be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury. It shall be one of the conditions of the warehousing bond covering such spirits that the principal named in said bond shall pay the tax on the spirits as specified in the entry or cause the same to be paid within three years from the date of the original gauging of the same, and before withdrawal, except as hereinafter provided.

SEC. 5. That any brandy made from grapes may be withdrawn once and no more from one special bonded warehouse for transportation to another special bonded warehouse; and such brandy shall, on its arrival at the second special bonded warehouse, be immediately entered therein, from which warehouse it shall be withdrawn only on payment of the tax or for immediate exportation. In case the brandy withdrawn is intended for deposit in another special bonded warehouse, an additional stamp, indicative of such intention, shall be affixed to each package withdrawn, as in the case of brandy withdrawn from a distillery intended to be so deposited. And in case the brandy is intended for exportation, an engraved stamp, indicative of such intention, shall be affixed to each package so removed, as in the case of spirits withdrawn from a distillery bonded warehouse for exportation, under the provisions of section 3330, Revised Statutes; all the provisions of which section not inconsistent with this act are hereby made applicable to such withdrawals. And all withdrawals authorized by law of grape brandy from any special bonded warehouse shall be upon making such withdrawal entries, and under such regulations, and unless the withdrawal is upon payment of tax, upon the execution of such bonds and bills of lading as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe. Export bonds given under the provisions of this act shall be canceled upon the production of such certificates of lading as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, or upon proof of loss at sea satisfactory to the Commissioner of Internal Revenue. And the provisions of existing law relative to an allowance of loss by casualty in a distillery bonded warehouse are hereby made applicable to brandy stored in special bonded warehouses, in accordance with the provisions of this act.

SEC. 6. That the provisions of existing law in regard to the exportation of distilled spirits are hereby extended so as to permit the exportation from special bonded warehouses of grape brandy free of tax in any original cask containing not less than twenty gallons, and for the exportation of grape brandy upon which all taxes have been paid, with the privilege of drawback in quantities of not less than one hundred gallons, and in the distillers' original casks, containing not less than twenty wine gallons each.

SEC. 7. That whenever, in the opinion of the Commissioner of Internal Revenue, any special bonded warehouse is unsafe or unfit for use, or the merchandise therein is liable to loss or great wastage, he may discontinue such warehouse, and require the merchandise therein to be transferred to such other warehouse as he may designate, and within such time as he may prescribe; and all the provisions of section 3272 of the Revised Statutes of the United States relating to transfers of spirits from warehouses, including those imposing penalties, are hereby made applicable to transfers from special bonded warehouses.

SEC. 8. That the tax upon any brandy distilled from grapes, removed from the place where it was distilled, and in respect of which any requirement of this act is not complied with, shall, at any time, when knowledge of such fact is obtained by the Commissioner of Internal Revenue, be assessed by him upon the distiller of the same, and returned to the collector, who shall immediately demand payment of such tax, and, upon the neglect or refusal of payment by the distiller, shall proceed to collect the same by distraint. But this provision shall not exclude any other remedy or proceeding provided by law.

SEC. 9. That nothing in this act shall be construed as extending the time in which the tax on brandy made from grapes shall be paid beyond three years from the day on which the taxable quantity is ascertained by the gauger; and all brandy made from grapes, found elsewhere than in a distillery or special bonded warehouse, not hav-

ing been removed therefrom according to law, and all brandy on which the tax has not been paid within three years of the date of the original gauging shall be forfeited to the United States.

SEC. 10. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may make all needful rules and regulations for carrying into effect the provisions of this act, and such regulations when made shall have all the force and effect of law.

SEC. 11. That in case any grape brandy removed from the distillery for deposit in a special warehouse shall fail to be deposited in such warehouse within ten days thereafter, or within the time specified in any bond given on such removal, or if any grape brandy deposited in any special warehouse shall be taken therefrom for deposit in another warehouse, or for export, or otherwise, without full compliance with the provisions of this act, and with the requirements of any regulations made thereunder, and with the terms of any bond given on such removal, then any person who shall be guilty of such failure, and any person who shall in any manner violate any provision of this act, or of the regulations made in pursuance thereof, shall be subject, on conviction, to a fine of not less than $100 nor more than $5,000, and to imprisonment for not less than three months nor more than three years, for every such failure or violation; and the spirits as to which such failure or violation shall take place shall be forfeited to the United States.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

P. J. QUATTLEBAUM.

Mr. STEVENSON. I am instructed by the Committee on the Judiciary to report a bill to remove the political disabilities of P. J. Quattlebaum, of Georgia. I ask for its present consideration.

By unanimous consent, the bill (S. No. 1288) to remove the political disabilities of P. J. Quattlebaum, of Georgia, was read three times.

The bill was passed, two-thirds of the Senators present voting in favor thereof.

POST-OFFICE APPROPRIATION BILL.

Mr. WEST. From the committee of conference on the bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes, I beg leave to report that the two committees have had under consideration the various differences existing between the two bodies, and have agreed upon all except such as I will now designate.

The Senate committee adheres to the proposition of the Senate amendment to increase the amount for transportation by railroad from $9,000,000 to $9,600,000, with the provision also that $250,000 of that amount may be used by the Postmaster-General to obtain proper facilities on the great trunk lines of railroads, &c. The committee on the part of Senate would have been willing to modify the amount contained in that proposition, but they were not met with a corresponding disposition on the part of the House.

The committee also report back a disagreement as between the two bodies on the amendments of the Senate providing for $500,000 to carry the mails between the United States and China and Japan, and for a similar sum to carry the mails from New Orleans to Rio de Janeiro, the Senate committee offering with respect to these two items to reduce the amounts to $300,000 respectively. I am requested to ask that the Senate insist upon its amendments on those two items and ask for a further conference on the part of the House. I make that motion.

The PRESIDENT *pro tempore*. The Senator from Louisiana moves that the Senate insist on its amendments named and ask for a further conference.

The motion was agreed to.

By unanimous consent, the President *pro tempore* was authorized to appoint the committee.

JULIUS S. BOHRER.

The PRESIDENT *pro tempore*. The morning hour has expired, and the Chair calls up the unfinished business, which is the bill (S. No. 1010) for the relief of Julius S. Bohrer, master in the United States Navy. The question is on the amendment reported by the Committee on Naval Affairs, as amended, to strike out all after the enacting clause and insert:

That the Secretary of the Treasury be, and hereby is, authorized and directed to pay to Julius S. Bohrer, retired master, United States Navy, or his legal representatives, the pay and allowances of a retired master from the 30th day of December, 1865, to the 5th day of June, 1876, out of any moneys in the Treasury not otherwise appropriated.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred it.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ACTS OF CONTINENTAL CONGRESS.

Mr. HOWE. I move to proceed to the consideration of Senate bill No. 1019.

The motion was agreed to; and the bill (S. No. 1019) to provide for the reprint of the resolves, ordinances, and acts passed by the Continental Congress and the Congress of the Confederation, was considered as in Committee of the Whole.

Mr. HOWE. There are some blanks to be filled. I move to fill the first blank with "five thousand."

The motion was agreed to.

Mr. HOWE. The next I move to fill with "fifteen hundred."

The motion was agreed to.

Mr. HOWE. The next with "three thousand."

The motion was agreed to.

Mr. HOWE. I move to insert in the next blank "five hundred."

The motion was agreed to.

The bill, as amended, reads as follows:

That there be printed at the Government Printing Office, for the use of Congress, 5,000 copies of the resolves, ordinances, and acts of the Continental Congress and the Congress of the Confederation of the United States, 1,500 copies for the use of the Senate, 3,000 copies for the use of the House of Representatives, and 500 copies for the use of the Executive Departments.

SEC. 2. That said resolves, ordinances, and acts shall be taken from the journals and printed with a proper index under the supervision of the Librarian of Congress.

SEC. 3. That the sum of $1,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expense of making such work and index; the same to be disbursed under the direction of the Joint Committee on the Library.

The bill was reported to the Senate; ordered to be engrossed for a third reading, read the third time, and passed.

SWAMP LANDS IN MISSOURI.

Mr. COCKRELL. I move that the Senate proceed to the consideration of House bill No. 1253, reported favorably from the Committee on Public Lands.

The motion was agreed to; and the bill (H. R. No. 1253) granting to the State of Missouri all lands therein selected as swamp and overflowed lands, was considered as in Committee of the Whole.

Mr. WRIGHT. I should like to inquire of the Senator from Missouri the necessity for this legislation.

Mr. COCKRELL. The necessity for this legislation is, that under the act of Congress, as determined by the Supreme Court of the United States and the supreme court of Missouri, swamp land was conveyed by the General Government to the State in fee, and it was conveyed by the State to the counties, but patents have never been issued. A large number of persons are living on these lands; they cannot get them, and they are delayed year after year before the investigations can be made in the Land Office. I have a letter from the Commissioner of the General Land Office, stating that there will be only a small amount of land actually affected by this bill. It affects a class of persons who have invested their all on this land, and they want to get some title. They are paying taxes on it, and still have not title.

Mr. WRIGHT. Is there not authority of law now to make a patent by the United States?

Mr. COCKRELL. It has to go through a mode of investigation and they have been at it so long that it takes years and years to settle it.

Mr. WRIGHT. Then what is the short-cut proposed by this bill?

Mr. COCKRELL. It is simply to vest the title and confirm it without waiting for action at the Land Office, which may take three or four years and at an expense which would be greater than the value of the land.

Mr. WRIGHT. Do I understand that these lands have been selected and it is known exactly what they are?

Mr. COCKRELL. Yes, sir. The bill says:

That all lands in the State of Missouri selected as swamp and overflowed lands, and regularly reported as such to the General Land Office, and now withheld from market as such, so far as the same remain vacant and unappropriated, and not interfered with by any pre-emption, homestead, or other claim, under any law of the United States.

It is only to expedite the business and give title. They have been at it now fifteen years and have not got through with it, and it is a very great expense and very little profit to anybody.

Mr. WRIGHT. I merely want to understand this bill. As I understand, under the law as it is at present, notwithstanding reports by the proper officers of the swampy character of this land, those reports have to be investigated by the superior officers and their swampy character in fact ascertained and settled. Now it is proposed by this bill that all lands which have been returned, without waiting for an investigation by the proper Department, shall vest at once in the State of Missouri—all that have been selected——

Mr COCKRELL. All lands regularly "selected as swamp and overflowed lands and regularly reported as such" and "now withheld from market" on that account. There will not be in the State of Missouri probably three hundred acres or five hundred acres, according to the letter of the Commissioner of the General Land Office, about which there will be any controversy as to their swampy character.

Mr. WRIGHT. Then I understand this legislation has the approval of the Department.

Mr. COCKRELL. They make no objection to it. As a matter of course they do not recommend one way or another.

Mr. WRIGHT. Has the matter been referred to the Department?

Mr. COCKRELL. Yes, sir; and I have the letter of the Commissioner of the General Land Office here. I hope the bill will be passed. It is simply confirming title to a class of persons who are very needy and have expended large sums of money.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LANDS IN KLAMATH INDIAN RESERVATION.

Mr. KELLY. I move that the Senate proceed to the consideration of the bill (H. R. No. 1316) to adjust the claims of the owners of lands

within the limits of the Klamath Indian reservation, in the State of Oregon.

Mr. INGALLS. I am convinced that it will be impossible for that bill to pass the Senate without a very protracted discussion, that the present stage of business will hardly permit. I regret exceedingly to interpose an objection to any motion made by the Senator from Oregon, but I ask if his motion is open at this time to an amendment.

The PRESIDENT *pro tempore*. It cannot be amended.

Mr. INGALLS. Can I not move to amend his motion by proposing to proceed to the consideration of another bill?

The PRESIDENT *pro tempore*. That is not in order. The Senate can negative the motion, and then any Senator who obtains the floor can move the consideration of any other bill.

Mr. INGALLS. The subject has already been twice before the Senate.

Mr. KELLY. Four times.

Mr. INGALLS. Then certainly it has been twice. [Laughter.] That does not contradict my statement that the subject has already been twice before the Senate and has received a very considerable investigation; and the more I have examined it the deeper have become my convictions that it establishes an injurious and dangerous precedent, and that the bill ought not to pass. Of course, if the Senate see fit to take up the bill, I cannot prevent it; but I submit to the Senate whether it is advisable at this stage of the business to take up a bill that must lead to protracted discussion.

Mr. KELLY. It is well known that I have not had very much of the time of the Senate, but this bill has, as stated by the honorable Senator from Kansas, not only been considered twice, but four times. I do think every Senator knows its merits or its demerits, if it has any. It is the only favor I shall ask of the Senate, and I trust there will be no objection to it. I will not, so far as I am concerned, ask more than five minutes to explain it. It may be that I may have to answer objections that may be urged against it, but surely the discussion has been so elaborate that every Senator must have made up his mind. I ask as a favor now that the bill be taken up and voted on.

Mr. WRIGHT. I agree with the Senator from Kansas, from my knowledge of the bill and the information that has come to me since it was up before, that it cannot pass without very protracted discussion. There are questions involved in this bill of very great importance. I feel, just as he does, the very greatest reluctance to antagonize anything that the Senator from Oregon may want at this time, and I do not feel like standing here and objecting to taking up this bill; but the Senate must take it up with a full knowledge that if taken up it will lead to discussion, and possibly a discussion for the remainder of the day. That is the condition of it. I am very sure there are objections to the passage of this bill, and objections that the Senate will be called upon to consider, and that they will deliberate long and carefully upon before they pass this bill. In view of the state of the session now, and the very important matters that are pressing upon us, I cannot see any ground on which this bill can be pressed at this time.

The PRESIDENT *pro tempore*. The Senator from Oregon moves the present consideration of the bill named.

Mr. INGALLS. If the Senate decline to take up this bill, as I hope they will, it is my purpose to ask attention to House bill No. 2454, concerning which I presume every Senator on this floor has been importuned during the past session. It is the bill providing for the amending of the laws granting pensions to soldiers and sailors of the war of 1812 and their widows, and for other purposes, which involves the consideration of the question of reducing the period of limitation from sixty to ten days, and also removing the bar that was imposed by the resolutions of 1862 and 1867 from certain soldiers of that war who were upon the pension-roll, but who were supposed to have participated in some way in the acts of the southern confederacy. This subject is one of confessedly the very highest importance to a very large number of citizens of this country; and as it is of a character that applies to all sections of the country, and it has been urged upon the attention of the Senate so repeatedly and with so much strenuousness, I hope the Senate will decline to proceed with the consideration of a purely local bill that establishes a dangerous precedent, and allow me to call up House bill No. 2454.

Mr. KELLY. Just one word, Mr. President. I think it is hardly fair that this bill is to go over and go over for further consideration. I assented to it before so that Senators might have an opportunity to fully investigate it. Now, at the close of the session, objection is made that we cannot hear it. I am very certain that my friend from Iowa is mistaken when he supposes it will take any length of time. It has been so fully discussed by Senators that all know its merits, and if the Senator from Iowa has anything now to urge he can certainly do it in a brief space of time. I insist on my motion.

Mr. MITCHELL. Mr. President, I shall vote with my colleague to take up this bill. I think it ought to be taken up and disposed of. I cannot vote for the bill, however, myself when it is up; but I do not base my objections to the bill upon the same ground on which many Senators who have spoken have based their objections, namely, that these parties had no title to the lands included in the Klamath agency. My own opinion is that they have the title, and it is a controversy that ought to be settled; but I cannot give my consent to the settlement proposed in this bill. At the same time I am willing to vote that the matter shall come up, that it may be considered and disposed of one way or the other.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Oregon, [Mr. KELLY.]

The question being put, the yeas were 8.

Mr. KELLY. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 14; as follows:

YEAS—Messrs. Bayard, Bruce, Burnside, Chaffee, Cooper, Cragin, Ferry, Goldthwaite, Gordon, Hamlin, Johnston, Jones of Florida, Kelly, Kernan, McCreery, Mitchell, Norwood, Oglesby, Paddock, Randolph, Stevenson, West, Whyte, and Windom—24.

NAYS—Messrs. Anthony, Cameron of Wisconsin, Christiancy, Cockrell, Dawes, Howe, Ingalls, Logan, Morrill, Sharon, Sherman, Teller, Wadleigh, and Wright—14.

ABSENT—Messrs. Alcorn, Allison, Bailey, Barnum, Blaine, Bogy, Booth, Boutwell, Cameron of Pennsylvania, Clayton, Conkling, Conover, Davis, Dennis, Dorsey, Eaton, Edmunds, Frelinghuysen, Hamilton, Harvey, Hereford, Hitchcock, Jones of Nevada, McDonald, McMillan, Maxey, Merrimon, Morton, Patterson, Ransom, Robertson, Sargent, Saulsbury, Spencer, Thurman, Wallace, and Withers—37.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. MORRILL. I recollect a bill of something of this character years ago, and in looking upon the map where the road was surveyed it was quite obvious that the parties in locating the road had taken a route not the nearest one, but the one that would give them the most and the best land, going far greater distances than were required for the road from one point to another and going through the most valuable portions of the land. It seemed to me at that time that the bill was grossly unjust and unfair. I desire to ask the Senator from Oregon if this is that bill, the road referred to in which went, instead of a straight line, ziz-zagging about through different portions of the country, in order, as was perfectly apparent, to obtain the greatest quantity and best of the lands.

Mr. KELLY. Shall I answer now?

Mr. MORRILL. Certainly.

Mr. KELLY. The honorable Senator from Vermont is very much mistaken. It is true the road is somewhat crooked, but if the Senator were only there he would see that it is the only possible way in which the road could be made unless it was to go over mountains sometimes averaging from five to ten thousand feet in height, rendering the road wholly valueless. The road was intended to bring into market the most valuable lands for settlement.

Mr. INGALLS. If I can have the attention of the Senator from Vermont a moment upon the subject to which he has referred, I should like to read to him a single paragraph of a communication from the United States Indian agent stationed at this agency, dated the 23d of September, 1874. It appears as an appendix to the report in the House of Representatives that was made by Mr. LAFAYETTE LANE at the first session of the present Congress. Mr. Dyar, the agent, says:

> This road runs diagonally through the whole length of the Klamath reservation, a distance of sixty miles or more, traversing the very best portions of the same; in fact, is so located as to embrace within the limits of the six miles in breadth more than one-half of all the land upon the reserve suitable for cultivation or for winter grazing.

Mr. MORRILL. If this is the road to which I alluded, I am very sure that if Senators could see the line of the road upon the map there could be but a very small vote obtained in favor of a bill of this kind.

Mr. KELLY. Mr. President, I will refer to the act of Congress granting lands in the first instance—I do not wish to occupy the time of the Senate, however, in reading—but it is contained in the thirteenth volume of the Statutes at Large, page 355. The act was approved July 2, 1864, granting lands to the State of Oregon for the purpose of constructing a road from Eugene City, by way of Middle Fork of Willamette River, and the most feasible pass in Cascade range of mountains, near Diamond Peak. I call the attention of the honorable Senator from Vermont to this act. It was marked out in the act of Congress where the road should go:

> The most feasible pass in Cascade range of mountains, near Diamond Peak, to the eastern boundary of the State, alternate sections of public lands, designated by odd numbers, for three sections in width on each side of said road.

Here the act of Congress granting to the State of Oregon certain lands prescribed where the road should go; it said it should go through the most feasible pass in the Cascade Mountains, and should go by Diamond Peak to the eastern boundary of the State of Oregon. The fault, if there be any, is with Congress in making the grant, but really there was none, because the object of Congress was to open up the public lands of the United States; the road was for the purpose of bringing the lands into market where they were most valuable. That was the reason why this grant was made. There was certainly no wrong in the company following the requirements of the law of Congress and going where Congress designated that the route of the road should be. Whether the agents of the State or the company that had in view the construction of the road intended before the law was passed to get the best lands I do not know, but such is the law of Congress which prescribes the direction and the route.

The State of Oregon granted these lands on the 24th of October, 1864, to the company for the purpose of constructing the road. They built the road at an expense of some $300,000 more than they can sell the lands for at this day. It cost them more than they can get. The company, in fact, became insolvent and was compelled to transfer

these lands. They built the road, and it is now used by the United States in carrying goods to this very Klamath Indian reservation.

Not only that, but there was no reservation there at the time. The Indian reservation was located subsequently to the passage of the law of Congress making the grant, but I admit prior to the time when the lands were given by statute to the company. The treaty with the Klamath Indians was not ratified until the 2d of July, 1866, two years after the company had commenced the construction of this road and built it. Article 12 of that treaty is in these words:

This treaty shall bind the contracting parties whenever the same is ratified by the Senate and President of the United States.

And it was proclaimed in 1870, long after this road had been constructed and accepted. These lands had been earned by the company; they had been patented to the company; and after the road had been constructed and the lands selected, then the Indian agent chose to establish this reservation upon these lands. The same Indian agent from whose report my friend from Kansas has read in the strongest terms recommends that the United States grant to the company other lands in lieu of these, so that the Indians may remain where they are. I admit that these lands that they have given up are valuable; they are the most valuable there are in the grant; there is no doubt of that; and very reluctantly will they consent to take other lands for them; but the Indian agent and the United States authorities there, as well as the State authorities, have recommended that for the purpose of peace and quiet with the Indians they be allowed to take the lands now patented to the company, be permitted to keep them as their own, and that other lands in lieu of these which were earned by the company shall be granted to it, but only upon the condition that it shall reconvey all lands patented to it to the United States.

It is nothing but good faith, Mr. President, that this should be done. I do not care about it, and I will not consume the precious time of the Senate; because I admit that the few remaining hours are precious indeed, and I do not wish to take any more time than is barely necessary to state this case, which I know is just and right.

Mr. WRIGHT. I should like to ask the Senator from Oregon one or two questions. Will he be good enough to tell me how much land this company gets, or rather the capitalists who bought out the original road or company, how much they get outside the reservation and how much they already have?

Mr. KELLY. I cannot say; but I will say to my friend that all outside of the reservation is virtually of little account. It is through a mountainous region. A great portion of it in Southeast Oregon is sage-brush land, and a large portion of it is on the Cascade Mountains which is virtually worth nothing and will not be for many, many years to come, when it may possibly be valuable for the timber. In fact, the land granted outside of this reservation is comparatively worthless.

Mr. WRIGHT. Do they not get outside of this reservation 6,700,000 acres of land?

Mr. KELLY. I do not know. Perhaps they do.

Mr. WRIGHT. What is the length of the road built by them?

Mr. KELLY. I think it is four hundred and odd miles.

Mr. WRIGHT. Is the road now in use or is it out of repair?

Mr. KELLY. It is in use at this day. It is the road over which goods are taken to the Klamath Indian reservation; the very goods that the United States furnishes to the Indians, the annuity goods, are all transported over this road. It is the regular route through that section of the country and the only one.

Mr. WRIGHT. One other question. How much land in this reservation will they get by this bill?

Mr. KELLY. The amount within the reservation is 402,000 acres.

Mr. WRIGHT. What proportion of that do they get?

Mr. KELLY. Four hundred and sixty-one miles is the length of the road.

Mr. WRIGHT. How many acres will they get in the reservation?

Mr. KELLY. I cannot tell that; 102,000 acres, I think.

Mr. WRIGHT. Do they not get about 130,000 acres?

Mr. KELLY. No, sir; 102,313.09 acres is the exact amount, I find.

Mr. WRIGHT. This bill has been before the Senate several times, as has already been stated; objections have been pointed out to it; and those objections to my mind have never been removed. Now, I do not propose to discuss it, but I send to the Clerk's desk an article upon this subject taken from an Oregon paper which I ask to have read as a statement of the nature of this grant and the character of this bill, how it came that the men who are now trying to get these lands got the whole of this grant, how much they have paid for it, how much they have already got, and how much they will get by this proposed legislation, and also to show the condition of this grant at the time of the legislation under which they pretend to claim. I send it to the Clerk's desk that it may be read, being, as I believe and as I am advised, a correct statement of this entire transaction, and if it be true it is a better statement of it, a more thorough statement of it, and one that will be better understood than any that I could make. I may say that it has been handed to me by a gentleman in whom I have entire confidence, and it is said to present the exact character of this entire transaction.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The Clerk will read the paper.

The Chief Clerk read as follows, from the Oregon State Journal of April 1, 1876, published at Eugene City:

Mr. LANE, from the Committee on Public Lands, submitted a report strongly recommending the passage of his bill. In this report he says: "In February, 1870, a treaty with the Klamath Indians was ratified, which treaty set apart a large tract of land as the Klamath Indian reservation. Said reservation embraced within its limits 130,377 acres of land, which under the act of July 2, 1864, legally inured to the said road company. The particular section of road which runs through the reservation was accepted according to law by the governor of the State as early as 1866, four years prior to the ratification of the treaty referred to." Mr. Lane here makes a false statement. The particular section of the road above referred to was not approved by the governor in 1866. It was not constructed till the fall of 1869, and was accepted and approved by the governor on the 12th day of January, 1870.

Mr. LANE knew, by reference to volume 16, United States Statutes, page 707, (to which his attention had been called by a copy of a letter from Governor Grover to the Secretary of the Interior,) that a treaty was concluded October 14, 1864, between the United States and the Klamath and Modoc tribes and Yakooskin's band of the Snake Indians. Ratification, with amendments, was advised July 2, 1866; amendments assented to December 10, 1869, and proclaimed by the President February 17, 1870.

The amendments referred to had nothing whatever to do with the boundary of the reservation. It will be seen that this treaty was concluded October 14, 1864. The act of Congress granting lands to the State of Oregon for the purpose of constructing a road was approved July 2, 1864, and by the Legislature of the State of Oregon conferred upon the O. C. M. Road Company on the 24th October, 1864, ten days after the Klamath treaty was concluded. But by the terms of the act of Congress rights to particular lands did not attach till the State or company selected the route and made a survey of the same, and filed a map thereof with the Secretary of the Interior. This was not done till in 1865. The report of the superintendent of the road bears date of November 29, 1865. By reference to the report it will be seen that Mr. Pengra, the superintendent, spent several days with the superintendent of Indian affairs while in the Klamath country. Negotiations preliminary to treating for peace had been opened by Pauline, a chief of a band of Snake Indians. In mentioning this matter Mr. Pengra uses this language, under date of August 6, 1865, (for the report is made in the form of diary:) "This chief, (Pauline) I was informed, had frequently expressed a desire to treat and be at peace and amity with the whites, * * * but finally agreed to meet the superintendent in Sprague's River Valley, some forty miles distant, (from Fort Klamath,) and near the eastern boundary of the country claimed by the Klamath Indians."

So Mr. Pengra, superintendent of the road company, knew at this time of the location of the Klamath reservation, before any road-line was settled. It requires no great knowledge of law to understand that the conclusion of this treaty specifying the metes and bounds of the reservation would be as valid in the matter of precedence as the filing of pre-emption or homestead claims, with this additional advantage in favor of the rights of the Indians: their title had been from time immemorial and was still in the Indians. The act of Congress of July 2, 1864, excludes from the operations of this grant all lands sold or otherwise reserved prior to the location of the road line. We have not a copy of the act before us, but give the substance from memory. Hence, by priority of rights the reservation lands are excluded from the operations of the grant.

The reserved rights of the Indians date by treaty from the 14th day of October, 1864, and no specific claim of the road company could attach prior to the adoption of the road-line by the company, made after the making of the superintendent's report of explorations and surveys, which bears date of November 29, 1865, more than a year after the treaty was concluded. Yet in view of these facts we find, upon examination of Mr. Lane's report and accompanying papers, that a studied effort has been made to mislead the members of Congress into a support of this measure. Governor Grover writes to the Secretary of the Interior under date of October 22, 1875, and says: "The line of the wagon-road passes through Klamath-Lake basin; and Klamath Indian reservation, as established subsequent to the listing of the wagon-road lands to the State for the use of said Wagon-Road Company, embraces 130,377 acres of said lands belonging to the Wagon-Road Company. * * * The Wagon-Road Company and their successors in interests have paid taxes upon said reservation lands from the time when they were segregated to said company."

The governor does not give us the dates of segregation as he might have done, since they are matters of record in his office, but the Commissioner of the General Land Office gives them as April 21 and December 8, 1871, and April 2, 1873. The governor further says: "The entire wagon-road grant has been transferred by sale to a number of prominent capitalists, chiefly of the State of California, as I understand, without notice that the Klamath Indians claimed to hold the lands," &c.—just as though the Government was under obligations to make good frauds perpetrated by the road company! But the facts are the "prominent capitalists" did know of the reservation claim, or their agents did who made the contract. Mr. Pengra, in writing to the Commissioner of Indian Affairs, in his zeal to promote the interests of "prominent capitalists," says "that the lands granted to the State of Oregon by the act July 2, 1864, were, by the Legislative Assembly of said State in September following, granted to the Oregon Military Road Company," when he knew very well that it was not till October 24, ten days after the Klamath treaty was concluded.

So it is, through Mr. Lane's report and accompanying papers, a studied effort to cover up material facts and give prominence to certain other facts, with a view to mislead Congress. The whole job is a swindle upon the Government. It is a case of "prominent capitalists" against the people; in which event persons are generally found ready to assist "capitalists." These "prominent capitalists" paid the road company $125,000 for their land grant, containing between six hundred thousand and seven hundred thousand acres of land, exclusive of this on the reservation, and now it is proposed to take from the poor men seeking Government lands on which to make homes one hundred and thirty thousand acres more and give these "prominent capitalists." The road is out of repair and impassable across the Klamath Marsh, and no effort is being made to keep up repairs. In fact, neither the company nor "prominent capitalists" feel under any obligations to keep up repairs on the road. Road companies and swamp-land "angels" already hold a monopoly of the lands of our State, and now to give one hundred and thirty thousand acres more to "prominent capitalists" is about equivalent to publishing to the world: No immigrants wanted unless they have money to pay such prices as these monopolists see proper to charge.

It might be well enough for our next Legislature to investigate this land business, and see how much "prominent capitalists" have to do with it.

Mr. WRIGHT. I have nothing to add to that article. As I stated before, the article is vouched for to me by a gentleman in whom I have confidence. If the statements made in that article to any considerable extent are true, then there ought not to be a vote in the Senate for this bill. It is very manifest that the bill has passed the House on a misunderstanding and mistake as to the true condition of these lands and the condition of our legislation. I do not know how many Senators paid attention to the article just read, but so many as have paid attention to it, it seems to me, must be satisfied at once that this would be most flagitious legislation. I trust that the bill

will not be pressed, under the circumstances, and if it is, I trust that it will be defeated.

Mr. KELLY. Some of the statements in the paper have a semblance of truth and others are destitute of truth. It says that the lands were not selected and patented, as I understand, until about 1869. That probably is the date when they were finally examined; that is, when the last portion of the lands was examined by the executive of the State of Oregon, then Governor Wood; but long before that certain other portions were examined, and the company received their lands and they were selected and patented. And here, by the way, I will correct an error that I made. I said that the whole amount in the reservation was 102,313 acres. That is the amount of lands that are patented to the company for which they have received patents from the United States. The whole amount is, as was stated by the Senator from Iowa, 130,000.

Mr. WRIGHT. That is to say they will get 130,000 acres in lieu of lands in this reservation if this bill passes?

Mr. KELLY. Yes, sir; and these are the only valuable lands they have. Again the writer of the article says they paid $125,000. In fact they paid $200,000 in gold and agreed to pay $100,000 more toward the construction of a railroad from California to Oregon in case it was built that way; if not, they were to pay the $200,000 in gold. That was the sum paid by the present owners. There is an error of only $75,000 there. So far as the listing and patenting of the lands are concerned and so far as the dates when the Indian treaty went into operation are concerned there is no dispute. All that is matter of record. It is a matter of record that the treaty was proclaimed in 1870 on the 17th day of February. It is true it was ratified July 2, 1866; but two years before that the company had commenced to construct this road on the line prescribed by the act of Congress to the most feasible pass in the Cascade Mountains by Diamond Peak, following the line laid out for them by the act of Congress.

Mr. President, I have an opinion that was given by my colleague and his law partner when they examined the title to these lands. His firm gave an opinion, fortified by reason and authority, to show that this company was entitled to these lands, after examining all the questions of law and of fact. This company propose, in the interest of peace with the Indians, to give up all these valuable lands that they have earned and which have been patented to them, and to which they have in my judgment an unquestioned title. They are willing to give them all up for the sake of peace. If I had time I could read from the report made by the committee of the House, in which they refer to Hon. E. P. Smith's opinion, Commissioner of Indian Affairs, and that of Mr. Dyar, and that of the governor of Oregon. Two letters from Mr. Smith, the Commissioner, are here, all suggesting the propriety of this measure.

It may be said that if these gentlemen are the legal owners by patent from the United States, why do they not assert their rights in the courts? I have no doubt they could do so; and if they were to do that, it might produce trouble. The Indians are on the lands, and if the gentlemen concerned should assert the title they have, the result necessarily would be to produce disquiet. They do not want to do that. As they have earned the lands, I think it is but just that they should receive compensation for them by other lands in lieu. It is certainly not asking anything unreasonable after they have earned these lands and propose to give them up and transfer the title they have, to ask for other lands in lieu of them. The bill has heretofore been amended in several instances by the Senate and everything, it seems to me, is guarded for the interest of the Government.

Mr. OGLESBY. Mr. President, this bill passed the House of Representatives, came to the Senate, and was referred to the Committee on Public Lands. It is fair to say of this bill that it did receive very considerable attention in the committee. It has been a long time since it was before us, but it was, as I now remember, pretty thoroughly explained and discussed there. I also voted this morning to take up the bill for present consideration. As a member of the committee from which the bill is reported, I thought I owed that much to it; but I at no time saw my way clear to approve this bill. I felt obliged to oppose it in committee and I feel obliged to oppose it now. It did not commend itself to my approval; and I think, without going into any extensive argument to-day, that it ought not to pass. I have no earthly hostility toward the measure, but I could not see my way clear to give it my support.

In the first instance a large portion of this road was built over a desert country where it cost nothing to make it. Wagon tracks run through the sage-brush on the desert will make a highway.

Mr. KELLY. Will my honorable friend allow me——

Mr. OGLESBY. I will correct that. I will give you the full benefit of it. Certain parts of the road were constructed over difficult and extensive mountains and rocky hills; some rivers were crossed and bridges put up. There was considerable expenditure of money on portions of the road. That statement ought to be made because it is true. But the company that constructed this road has ceased to exist. There is no obligation that can be imposed by this Congress on any corporation or any body *in esse* to improve it and keep it in repair. There is not anybody responsible for it. The corporation that built the road is defunct and no covenant can be entered into with anybody to keep it in repair.

Another thing; it crosses over valuable Indian lands in an Indian reservation, and I cannot make up my mind that the company had a prior right to those lands over the Indians. I think the proper construction would give the occupation of the land for Indian purposes in the reservation prior to the title in the company. I thought so at the time the bill was considered in committee; I think so yet. It is a valuable donation of land, and for a purpose that might be commendable enough if we were perfectly sure we understood ourselves in its operation. The road was built, a large portion of it, through desert country, where it cost nothing; another portion as I have stated was through a populous portion of Oregon, where it did cost considerable. Now, to give this land to the assignees of a company that has gone out of business, that has ceased to exist, I thought was carrying the matter further than I could go. I have no hostility toward the measure except to state to this body, as I ought as chairman of that committee, that the bill did not meet my approval and does not now meet it. I shall have to vote against it.

Mr. MITCHELL. My colleague [Mr. KELLY] has appealed to me in regard to the title to these lands. I have said before in the Senate when this matter was up, and I repeat now, that it has been my opinion and is my opinion still that, so far as the title is concerned, these parties have it. I had occasion, as stated by my colleague, to investigate the matter as a lawyer many years ago, before I had a seat here, and I then came to the conclusion that the company had the title to these lands. So far as that question is concerned, I have never had any difficulty in reference to this bill. So far as the settlement of this controversy is concerned, as to the propriety of a speedy settlement, I have never had any doubt, nor have the people of Oregon. They unite in saying that this controversy between these parties and the Indians ought to be speedily settled in some proper way, and in fact there are on the files of the Department and of the Senate long petitions and letters from the citizens of Oregon urging a speedy settlement of the controversy. But there is a difference of opinion in Oregon among the people as to whether or not the settlement proposed by this bill is a proper one or one that ought to meet the approval of Congress—a very wide difference of opinion.

I do not agree to all the statements contained in the newspaper article read at the desk. In so far as that article attacks the title of these parties, I cannot subscribe to it. That is not my opinion. But the trouble is here: this bill proposes to grant lieu lands to these parties, and that is to be a floating grant extending over the whole State of Oregon. There is where the objection comes in, as a matter of policy; and I myself have had considerable hesitation in regard to the matter. Feeling that I ought to vote for some measure that would speedily settle this controversy, I have not felt and I do not now feel that I can vote for this bill in its present shape.

If this grant was to be limited in some respects so that these parties would not be at liberty to go all over the State in the selection of the lieu lands, I might then feel justified in giving it my support. I do not know whether the amendment that I have in my hand would meet with the approval of my colleague or not. I do not know whether it would meet with the approval of the parties owning this land across the Indian reservation. I would be willing, however, to vote for the bill with the amendment which I now send to the desk and offer; but should the amendment not be adopted, I cannot vote for the bill.

The PRESIDENT *pro tempore*. The proposed amendment will be read.

The CHIEF CLERK. In line 11 after the word "mineral" it is proposed to insert:

Within a distance of six sections on each side of the line of the military road running from Eugene City to the eastern boundary of the State, and not included in the Klamath reservation.

Mr. OGLESBY. That amendment of course ought to made.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Oregon, [Mr. MITCHELL.]

Mr. INGALLS. Before that is adopted, I should like a word of explanation from the Senator from Oregon, as I am not sure that in the hurried reading by the Clerk I fully comprehended the terms of his amendment. Does he intend by his amendment to confine this selection of indemnity or lieu lands to that portion of the military road that lies outside of the Klamath reservation exclusively?

Mr. MITCHELL. No, sir; I intend to confine it to the whole line of the road; instead of permitting the grant to float all over the State, I confine it to within six sections on either side of the line of the road.

Mr. INGALLS. What is the present limit?

Mr. MITCHELL. Three sections.

The PRESIDENT *pro tempore*. The question is on the amendment.

The amendment was agreed to.

Mr. INGALLS. Mr. President, if this were a purely local matter, it is unnecessary for me to say that I should interpose no objection to the passage of the bill. If the people of Oregon are contented to have their vacant lands all occupied by grants to corporations, it is, of course, personally to me a matter of no consequence. But there is underlying this whole question a principle that, if it is once admitted by the action of Congress, will involve the United States Government in an absolutely incalculable amount of expenditure upon matters arising under a condition almost precisely like this. In brief, this proposition is to allow a grant of lands to a wagon-road corporation, to take effect within the limits of an Indian reservation previously

established; and if that proposition is admitted, if this precedent is once established, then there is not a State in this Union through which subsidized or land-grant railroads run and within which there have been Indian reservations established that have been penetrated by these roads, in which the Government will not be called upon, without equivalent or compensation, to give either large quantities of lands to these corporations or make large payments of money to the Indians whose lands, by this bill, will have been held to have been improperly taken.

The facts in regard to this matter are briefly that, on the 2d day of July, 1864, Congress passed an act granting public lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State; and, in this connection, the dates are important, and I ask the attention of the Senate to them, because they establish the rights respectively of the corporation, the Government, and the Indians. By an act of the Legislative Assembly of the State of Oregon, which was approved on the 24th day of October, in the same year, 1864, this grant was conferred by the State upon the Oregon Central Military Road Company, which road was completed throughout its entire length according to the terms of the grant as established by data before the Department, the 12th day of January, 1870. The treaty with the Klamath Indians, establishing an Indian reservation in that tract of country through which this road runs, appears by the report of the Commissioner of Indian Affairs to have been made and recognized as valid on the 14th day of October, 1864. The Senator from Oregon states that it was not ratified until February 17, 1870.

Mr. KELLY. July 2, 1860, and proclaimed in 1870.

Mr. INGALLS. Proclaimed on the 17th of February, 1870.

Mr. COCKRELL. Will the Senator from Kansas permit me to ask him when those Indians were removed to that reservation?

Mr. INGALLS. They were on the reservation at the time when the treaty was made in October, 1864.

Mr. COCKRELL. Before this selection of land?

Mr. INGALLS. Long before the selection of the land.

Mr. KELLY. I beg to correct the Senator from Kansas. They were not on the reservation, as I understand, until after the treaty was ratified.

Mr. INGALLS. The selections of lands were as follows: On the 21st of April, 1871, 51,248.56 acres were selected and approved; on the 8th of December, 1871, 37,414.51 acres were approved; and on the 2d of April, 1873, 4,487.34 acres, making, according to the report of the Commissioner of the General Land Office, the then incumbent, S. S. Burdett a total aggregate of 93,150.41 acres within the limits of this reservation that had been selected and approved by the Department.

Now, the only question is whether or not by virtue of the act of July 2, 1864, the grant of lands to the State of Oregon attached to the Klamath Indian reservation, or whether they were at that period of time public lands within the meaning of the act by which this grant was made. The Supreme Court of the United States has had this whole subject before it within the past year, in the somewhat celebrated case of The United States against The Leavenworth, Lawrence and Galveston, and The Missouri, Kansas and Texas Railroad Companies, which run through the State of Kansas and intersect each other within an Indian reservation known as the Osage ceded lands. Those two railroads run through that tract diagonally, the tract itself comprising about a million acres; and the companies claimed that under and by virtue of the act which endowed them with portions of the public land, upon the extinction of the Indian title to the Osage ceded tract, their grant became operative, and that those lands then became public lands within the meaning of the terms of that act, and that they therefore took a grant within those limits. The settlers upon those lands took issue with this proposition. The Commissioner of the General Land Office and the Secretary of the Interior held that the claim of the railroad companies was correct; that their grant did inure within the limits of the Osage ceded tract. But a suit was instituted by the Attorney-General in the name of the United States, and after a protracted argument by eminent counsel, the court decided that the holding of the Commissioner of the General Land Office and the Secretary of the Interior was wrong; that under no sense whatever could the Indian lands ever be considered as public lands, either before or after the title was extinguished. The court say:

> We held that they attached only to so much of our national domain as might be sold or otherwise disposed of, and that they did not embrace tracts reserved by competent authority for any purpose or in any manner, although no exception of them was made in the grants themselves. Our decision confirmed a grant of every alternate section of land to such whereto the complete title was absolutely vested in the United States.

They proceed to say further:

> The words "public lands" are habitually used in our legislation to describe such as are subject to sale or other disposal under general laws. That they were so employed in this instance is evident from the fact that to them alone could, on the location of the road, the order withdrawing lands from pre-emption, private entry, and sale apply.

Now, sir, if you will apply the terms of that decision to the conditions named in this bill it is evident that the Klamath Indian reservation never was public land within the meaning of the term as employed in the act making a grant to the State of Oregon.

Mr. COCKRELL. In what volume is the decision of the Supreme Court you are reading from?

Mr. INGALLS. It is not published.

Mr. COCKRELL. Is it in pamphlet form?

Mr. INGALLS. It is in last year's reports, which are not yet published. I have sheets of it before me.

Mr. PADDOCK. I think it is perfectly apparent that this bill cannot be passed at this session, and it seems to me a consumption of time which might be well employed in the consideration of bills to which there will be no objection. I move, therefore, that the bill be postponed until the first Monday of December next.

Mr. KELLY. I hope the Senator will not make that motion.

Mr. PADDOCK. I dislike exceedingly to antagonize my friend from Oregon; but it seems to me impossible that this bill can pass, and it is a consumption of time that ought not to be tolerated.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Nebraska.

Mr. KELLY. I ask for the yeas and nays.

The yeas and nays were not ordered.

The PRESIDENT *pro tempore*. The question is on the motion to postpone.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4306) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1878, and for other purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 2847) granting a pension to Lucinda Starnes;

A bill (H. R. No. 3730) to remove the political disabilities of Samuel V. Turner, of Virginia;

A bill (H. R. No. 1347) granting a pension to Hattie D. McKain;

A bill (H. R. No. 3636) to remove the political disabilities of Richard S. Kinney;

A bill (H. R. No. 3791) to remove the political disabilities of William A. Webb, of Virginia;

A bill (H. R. No. 3260) to remove the political disabilities of Lawrence S. Baker, of Tarborough, North Carolina;

A bill (S. No. 915) to remove the political disabilities of D. H. Hill, of North Carolina;

A bill (S. No. 1096) to remove the political disabilities of R. C. Gatlin, of Arkansas;

A bill (S. No. 1136) to remove the political disabilities of Wade H. Gibbs, of South Carolina;

A bill (S. No. 1203) to remove the political disabilities of M. L. Bonham, of South Carolina;

A bill (S. No. 1277) to remove the political disabilities of Catesby ap R. Jones, of Alabama;

A bill (S. No. 1278) to remove the political disabilities of John S. Marmaduke;

A bill (S. No. 1285) to remove the political disabilities of J. L. M. Curry, of Virginia;

A bill (S. No. 1272) to remove the political disabilities of William Butler, of South Carolina;

A bill (S. No. 1273) to remove the political disabilities of William R. Jones, of Txeas;

A bill (S. No. 1274) to remove the political disabilities of S. P. Moore, M. D., a citizen of Virginia;

A bill (S. No. 1276) to remove the political disabilities of W. F. Carrington, of Virginia;

A bill (H. R. No. 197) granting a pension to Julia A. Schutt, widow of Martin Schutt, a deceased soldier; and

A bill (H. R. No. 3280) granting a pension to James Johnson.

WESTERN AND ATLANTIC RAILROAD.

Mr. GORDON. I move to proceed to the consideration of Senate bill No. 177.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to the consideration of the bill (S. No. 177) to authorize the Secretary of War to adjust and settle claims of the State of Georgia against the Government on account of the Western and Atlantic Railroad.

The Committee on Military Affairs reported the bill with an amendment to strike out all after the enacting clause and insert the following:

> That the Secretary of War is hereby authorized to re-open the settlement made by the United States Government with the Western and Atlantic Railroad, of the State of Georgia, and to adjust the same upon the basis and the plan of settlement which was adopted in the settlement made by the Secretary of War with the Nashville and Chattanooga Railroad Company, the East Tennessee and Georgia Railroad Company, and the Nashville and Decatur Railroad Company, under the authority of the act of Congress approved March 3, 1871.
>
> SEC. 2. That when said claims have been adjusted in pursuance of the provisions of this act, the Secretary of War be, and he is hereby, authorized to issue his warrant on the Treasury of the United States to the governor of Georgia or his order for the amount of money it is found ought to be refunded to said railroad on account of said settlement.

Mr. CAMERON, of Wisconsin. I ask if there is a report in this case?

The PRESIDENT *pro tempore*. There is a report.

Mr. CAMERON, of Wisconsin. From what committee?

Mr. COCKRELL. The bill is reported from the Committee on Military Affairs.

Mr. CAMERON, of Wisconsin. I ask for the reading of the report.

The PRESIDENT *pro tempore*. The report will be read.

The Secretary read the following report submitted by Mr. GORDON April 3, 1876:

The Committee on Military Affairs, to whom was referred Senate bill No. 177, report the substitute which accompanies this report, and recommend that the substitute pass.

It is a bill to authorize the Secretary of War to open the settlement made by the United States Government with the Western and Atlantic Railroad, of Georgia, and to make a settlement upon the same basis which was adopted by the Government in its settlement with the railroads of Tennessee.

The committee make this recommendation for the following reasons:

First. The Western and Atlantic Railroad, of Georgia, was turned over to the owners about the same time, to wit, on the 21st day of August, 1865; that the said railroads of Tennessee, the Nashville and Chattanooga Railroad, the East Tennessee, Virginia and Georgia Railroad, and the Nashville and Decatur Railroad, were turned over to their owners, and under the same orders from the War Department, and by the order and under the direction of Major-General Thomas; that the United States Government turned over these roads to their owners, and sold to each of them the engines, rolling-stock, &c., owned by the Government and used upon these roads respectively; that the sale was made to each of these railroads of the said Government property upon an appraisement made at the time and at the same or like prices to each and to all.

Second. Because afterward, to wit, in the year 1871, the United States Government, through the Secretary of War, acting under act of Congress of March 3, 1871, proceeded to revise the prices and re-adjust the settlements formerly made with the said Tennessee railroads, and reduced the amounts due from those roads to the Government, for the reasons assigned by the Secretary of War in his letter to the Judiciary Committee of the House of Representatives, dated January 21, 1874, in which the Secretary says:

"The committee further ask what the basis or reasons of such deductions were; whether or not any allowance was made for damages claimed to have been done these roads during the war; and whether or not the War Department found the Government appraisals of the property purchased by said corporations to have been excessive.

"To which it is answered—

"First. That no allowance was made for damages of any kind.

"Second. That the appraisal of the property sold was regarded as excessive," &c.

And because, although the excessive prices were paid by the Western and Atlantic Railroad, of Georgia, no deductions were or ever have been made in behalf of this last-mentioned road.

Third. Because the committee believe that, if the prices paid for the Government property were excessive in the case of the Tennessee railroads, the same prices were also excessive in the case of the Western and Atlantic Railroad, of Georgia, and that it is just and equitable that like deductions should be made to this road, and that the Government deal with all these creditors alike.

The committee, therefore, recommend that this substitute for the original bill pass, authorizing the Secretary of War to settle with the Western and Atlantic Railroad, of Georgia, upon the same basis which was adopted by the Government in the settlement with the Tennessee railroads.

Mr. BURNSIDE. This bill is simply for the relief of a railroad company that paid promptly the demands of the Government, while other railroads did not pay, and afterward settled with the Government upon a certain basis; and now this bill provides that settlement shall be made with this railroad upon the basis of settlement made with other railroads, particularly those in Tennessee. It is recommended unanimously by the Military Committee, and I am satisfied it is but just to this road that the bill should pass.

Mr. CAMERON, of Wisconsin. I should like to ask the Senator from Rhode Island a question, in order to understand this bill. Did this road make a settlement with the Government at any time?

Mr. BURNSIDE. As I understand, the road answered the demands of the Government. It was more a demand on the part of the Government than a settlement.

Mr. CAMERON, of Wisconsin. Did the Government afterward settle with other roads more favorably?

Mr. BURNSIDE. It afterward settled with other roads more favorably and now this road asks to be settled with on the same terms.

Mr. CAMERON, of Wisconsin. This road wants the settlement opened and wants to make a settlement on the same terms that the Government settled with these other roads; is that it?

Mr. GORDON. If the Senator from Wisconsin will allow me, the Tennessee roads to which this bill refers paid for their property precisely the same rates that were assessed upon the property purchased by the Georgia road. The appraisal of the property on all these roads was made by a board of officers appointed by the Government. This Georgia road paid its assessments. Afterward the Tennessee roads applied to the War Department to have these prices reduced on the ground that they were excessive. The Department, under act of Congress, appointed another board of officers who re-examined the property and reported that the prices were excessive to the extent of fully 25 per cent., and a deduction was made by the War Department. The Western and Atlantic Railroad of Georgia asks that the Secretary of War be authorized to make the same settlement with it as was made with the others. A number of roads have had similar deductions made since that time.

Mr. WRIGHT. I should like to make some inquiries about this bill. I have an impression that this bill was at one time before the Judiciary Committee of this body.

Mr. GORDON. The Senator is mistaken. It was never before any committee except the Committee on Military Affairs.

Mr. WRIGHT. I have an impression that legislation of some kind was asked, and was before the Judiciary Committee, touching these roads. I should like to know how much is involved probably in this bill; that is to say, how much the Government will have to pay back if the bill should pass.

Mr. GORDON. I think about $160,000 or $175,000. I answered that question when the bill was discussed last session; but I have not the data now before me. The amount, however, cannot change the principle upon which the settlement is asked. I am willing for an amendment on the bill, fixing the percentage to be deducted at 25 per cent., if the Senator insists, although it is proper that this road should be placed upon the same basis with the Tennessee roads.

Mr. WRIGHT. I inquire why it is that the Department cannot arrange and settle this matter with this company, as it has settled with the others?

Mr. GORDON. Because a bill was passed to authorize the other settlements, and the Secretary of War did settle according to the recommendations of the board. I will read the names of the board if the Senator will allow me.

Mr. WRIGHT. My impression was, as I understood the Senator's statement just now, that application was made to the Department, and not to the Legislature, where they made the settlements heretofore. I understand now that it was based upon legislation touching these other roads. That is to say, those settlements were not made under the general power of the Department to adjust and settle these matters, but there was special legislation authorizing them to settle with these other roads on the basis named. Am I correct in that?

Mr. GORDON. Under a law passed March 3, 1871, the Secretary of War proceeded to revise the prices of these other roads, and a board—composed of Colonel R. B. Marcy, inspector-general; Colonel W. M. Dunn, assistant judge-advocate-general; and Major M. I. Ludington, quartermaster—proceeded to re-adjust those prices and to recommend the deduction on account of excessive charges by the Government. All this bill proposes to do is to allow the War Department to make the same deductions for the Western and Atlantic Railroad and for precisely the same reasons.

Mr. WRIGHT. Will the Senator allow me to ask why it was that this road was not included in the legislation at the same time?

Mr. GORDON. Simply because at that time the State of Georgia did not present her claim. This road belongs to the State. I endeavored to get a similar bill passed immediately upon my entrance into the Senate. I assure my friend from Iowa that it is an eminently just bill. It was discussed in committee, and received the unanimous sanction of the Committee on Military Affairs after the fullest investigation.

Mr. WRIGHT. Neither of the roads covered by the legislation of 1871 was in Georgia?

Mr. GORDON. No, sir; they were in Tennessee.

Mr. WRIGHT. Both of them?

Mr. GORDON. Yes, but connecting with this road at Chattanooga, Tennessee.

Mr. WRIGHT. There was no effort made at that time to include this road in that legislation?

Mr. GORDON. No, sir; there was no effort made.

Mr. WRIGHT. Then it was not excluded by the action or non-action of Congress, but merely because the matter was not pressed at that time? This road was not excluded by Congress?

Mr. GORDON. Not at all. There was nothing asked at that time for this road. There is no doubt the report is correct, and that the prices were excessive. The Government cannot desire to exact excessive prices of any of these roads. We only ask that the prices of the property sold be brought down to what it was justly worth at the time. That is the purpose of this bill.

Mr. CAMERON, of Wisconsin. That is right.

The PRESIDENT *pro tempore*. The question is on the amendment to strike out all after the enacting clause and insert what has been read.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to authorize the Secretary of War to open and re-adjust the settlement made by the United States Government with the Western and Atlantic Railroad of Georgia."

WILLIAM WHEELER HUBBELL.

Mr. CRAGIN. I move that the Senate proceed to the consideration of the bill (S. No. 667) for the relief of William Wheeler Hubbell, and to make just compensation for the past making, or use, or vending of his patent explosive shells, fuses, and percussion exploders by the United States.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Naval Affairs with an amendment to strike out all after the enacting clause and in lieu thereof to insert:

That the Secretary of the Treasury be, and is hereby, authorized and directed to pay to William Wheeler Hubbell, of Philadelphia, Pennsylvania, or his heirs or legal representatives, the sum of $33,333.33, out of any general appropriation for judgments of the Court of Claims, in full satisfaction of the balance of his actual

loss and damage, ascertained by the Court of Claims, for the past use made by the United States of certain patents, the inventions of said Hubbell, mentioned in the preamble and reference of joint resolution approved June 3, 1864, said payment to be in full for all past use by the Government of his inventions of whatever name or nature; and the acceptance of the sum provided by this act shall be a full and complete transfer of his patents dated September 30, 1862, for concussion fuse; his patent dated July 8, 1862, for rifle projectiles; his patent dated October 31, 1865, for incendiary shell; and of all patents and inventions mentioned in said joint resolution to the United States.

Mr. CRAGIN. I move to amend the amendment in line 7, after the word "any," by striking out the words "general appropriation for judgments of the Court of Claims," and inserting: "out of any money in the Treasury not otherwise appropriated;" so as to read: "The sum of $33,333.33, out of any money in the Treasury not otherwise appropriated, in full satisfaction," &c.

The amendment was agreed to.

The amendment, as amended, was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to settle for the inventions and patents of William Wheeler Hubbell."

CHANCY J. POORE.

Mr. CHRISTIANCY. I move to proceed to the consideration of the bill (H. R. No. 2229) for the relief of Chancy J. Poore, late a private in Battery G, First New York Light Artillery. It is for the change of a single word in a soldier's discharge, in order to correct a mere clerical error.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of War to correct the entry made as the cause of the discharge from the service of the United States of Chancy J. Poore, late a private in Battery G, First New York Light Artillery, so as to show the cause of such discharge to have been "phlebitis" instead of "diabetes," as erroneously entered in the record.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS E. MALEY.

Mr. SPENCER. I move that the Senate proceed to the consideration of the bill (S. No. 1111) for the relief of Thomas E. Maley.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceded to consider the bill. It relieves Thomas E. Maley, who was, on December 15, 1870, duly retired from the active service and placed upon the list of retired officers of the United States Army, with the full rank of lieutenant-colonel, on account of wounds received in battle while performing the duties of lieutenant-colonel in command of eight companies of his regiment, from the operation of the act of Congress entitled "An act for the relief of General Samuel W. Crawford, and to fix the rank and pay of retired officers of the Army," approved March 3, 1875, solely because the injuries received by him in battle are more severe, dangerous, and disabling and more fully incapacitate and disqualify him for any service than the loss of an arm or leg or the permanent disability of an arm or leg by resection; and he is restored upon the list of retired officers of the Army to the full rank of lieutenant-colonel, held by him from the date of his retirement up to March 3, 1875, with the pay of such rank from the date of the passage of this act, and shall hereafter hold and receive the rank and pay of lieutenant-colonel upon the list of retired officers of the Army.

Mr. COCKRELL. I ask that House bill No. 3483, which is a case precisely similar, go with this bill.

Mr. SPENCER. I do not object to that.

The PRESIDENT *pro tempore*. One bill only can be passed at a time.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

GEORGE A. ARMES.

Mr. SPENCER. I move that the Senate proceed to the consideration of the bill (S. No. 407) to authorize the restoration of George A. Armes to the rank of captain.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. COCKRELL. To put the bill in a better form, I wish to offer a substitute.

Mr. SPENCER. I will accept the substitute presented by the Sena- from Missouri.

Mr. INGALLS. Let us hear it read.

The CHIEF CLERK. It is proposed to strike out all after the enacting clause of the bill and to insert:

That the provisions of law regulating appointments in the Army by promotion in the line are hereby suspended for the purposes of this act, and only so far as they affect George A. Armes; and the President can, if he so desire, in the exercise of his own discretion and judgment, nominate, and, by and with the advice and consent of the Senate, appoint said George A. Armes, late captain in the Tenth United States Cavalry Regiment, to the same grade and rank of captain held by him on June 7, 1870, in any vacancy occurring: *Provided, however*, That no pay, compensation, or allowance whatever shall ever be given to said Armes for the time between June 7, 1870, and the date of appointment hereunder.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Missouri.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ROSETTA HERT AND OTHER HALF-BREED INDIANS.

Mr. BOGY. I move to take up the bill (H. R. No. 534) for the relief of Rosetta Hert, (late Rosetta Scoville,) Charles C. Benoist, Emily Benoist, and Logan Fanfan, half-breed Indians.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Private Land Claims, with an amendment in line 5, to strike out the words "money in the Treasury not otherwise appropriated" and insert:

Funds which may remain of the moneys arising from the sale of lands known as the Nemaha half-breed reserve, on the Missouri River, in Nebraska, under an act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations, approved February 28, 1859, upon these parties satisfying the Secretary of the Interior that they are entitled to the same.

Mr. PADDOCK. I should like to have the bill explained by the Senator who reported it.

Mr. BOGY. The report explains the bill very fully. It is to provide for the payment of a fund now remaining in the Treasury of fourteen or fifteen hundred dollars to half-breed Indians, whenever they make their proofs to the Secretary of the Interior. The money is to come out of the fund now remaining there for that purpose. It is a very small sum. The subject was examined by the Committee on Indian Affairs and the bill was reported unanimously.

Mr. CLAYTON. Let the bill be read.

Mr. BOGY. Let it be read as proposed to be amended.

The Chief Clerk read as follows:

That the proper accounting officers of the Treasury and Department of the Interior are hereby authorized and directed to pay, out of any funds which may remain of the moneys arising from the sale of lands known as the Nemaha half-breed reserve, on the Missouri River, in Nebraska, under an act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations, approved February 28, 1859, upon these parties satisfying the Secretary of the Interior that they are entitled to the same, to Mrs. Rosetta Hert, (late Rosetta Scoville,) Charles C. Benoist, Emily Benoist, and Logan Fanfan, each the sum of $204.38, as their distributive shares of the moneys arising from the sale of the lands known as the Nemaha half-breed reserve on the Missouri River in Nebraska.

The amendment was agreed to.

Mr. WRIGHT. I wish to call the attention of the Senator from Missouri to one point. If I heard correctly the reading of the bill, the first two or three lines provide that there shall be paid by the Secretary of the Treasury and the Secretary of the Interior this money. Is that the case?

Mr. BOGY. There is a misprint there, I think.

Mr. WRIGHT. Does the bill provide that this money shall be paid by both the Secretary of the Treasury and the Secretary of the Interior?

Mr. BOGY. There is a misprint. How it got in the bill I do not know. The words "Department of the Interior" should be stricken out.

Mr. WRIGHT. That is what I supposed. Of course you do not want to have both named in the bill; but it must be one or the other.

Mr. BOGY. In the forty-third and fourth lines of the bill, after the word "Treasury," I move to strike out the words "and Department of the Interior;" so as to read:

That the proper accounting officers of the Treasury are hereby authorized and directed to pay, &c.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

REPORT OF SILVER COMMISSION.

Mr. JONES, of Nevada. I ask leave to submit the report of the joint monetary commission.

The PRESIDENT *pro tempore*. The report will be received and printed.

Mr. BOUTWELL. I submit a minority report, signed by Mr. Francis Bowen, a member of the commission, and also a report of my own, which I ask may be printed.

The PRESIDENT *pro tempore*. They will be printed.

Mr. PADDOCK submitted the following resolution; which was referred to the Committee on Printing:

Resolved by the Senate, (the House of Representatives concurring,) That 3,000 copies of the report of the monetary commission, created by the joint resolution of August 15, 1876, together with accompanying evidence and documents, be printed for the use of the Senate and 7,000 for the use of the House of Representatives.

WARREN MITCHELL.

Mr. JONES, of Florida. I move that the Senate proceed to the consideration of the bill (S. No. 1145) for the relief of Warren Mitchell.

Mr. CAMERON of Wisconsin. I object to the consideration of the bill.

The PRESIDENT *pro tempore*. The Chair will submit it to the Senate. The question is on the motion of the Senator from Florida to proceed to the consideration of this bill.

The question being put, it was declared that the noes appeared to prevail.

Mr. JONES of Florida. I ask for a division.

Mr. CONKLING. May I inquire from what committee the bill is reported?

Mr. JONES, of Florida. From the Committee on Claims.

Mr. CAMERON, of Wisconsin. Would it be proper for me to make a statement in regard to this bill?

The PRESIDENT *pro tempore*. It would be.

Mr. CAMERON, of Wisconsin. A bill for the relief of this claimant was referred to the Committee on Claims at the last session of the present Congress. It was considered by the committee during that session. It was referred to me for special examination. I made such examination and reported adversely. The report was concurred in by this committee and concurred in by the Senate, and the bill was indefinitely postponed. Subsequently the bill was recommitted to the committee. It was again considered by the Committee on Claims and a majority of the committee reported in favor of the bill. In examining another case referred to the Committee on Claims since that time, the committee have discovered some very important evidence bearing upon this claim. It was claimed that this claimant, Warren Mitchell, was loyal during the late civil war. In examining the case of Connor Brothers, we had occasion to look into certain testimony taken before the district court for the district of Kentucky; and it appears from that testimony that this same claimant, Warren Mitchell, was employed by the confederate government at Nashville, prior to the occupation of Nashville by the Federal forces, for the purpose of packing meat for the confederate government. He had a contract with the confederate government by which the live hog was furnished to him, he agreeing to slaughter the hog and return the hams, sides, and shoulders to the confederate government and retain the rest of the hog for his pay. Immediately before the occupation of Nashville by the Federal forces he left with the confederate army and went South. This testimony, I will state, was not before the Committee on Claims at the time the bill was reported from the committee.

Mr. JONES, of Florida. What case does the Senator refer to in which these facts were made to appear?

Mr. CAMERON, of Wisconsin. The case of Connor Brothers.

Mr. JONES, of Florida. Investigated by the committee of the Senate?

Mr. CAMERON, of Wisconsin. By the Committee on Claims of the Senate.

Mr. JONES, of Florida. Recently?

Mr. CAMERON, of Wisconsin. Quite recently. The Senator from Florida was not present.

Mr. JONES, of Florida. I ask for the reading of the report in this case.

The PRESIDENT *pro tempore*. The report will be read.

The Secretary read the following report submitted by Mr. JONES, of Florida, from the Committee on Claims, January 17, 1877:

The Committee on Claims, to whom was referred the memorial of Warren Mitchell, of the State of Kentucky, praying to be refunded the proceeds of seven hundred and thirty bales of cotton seized by officers of the United States at Savannah, Georgia, and covered into the Treasury, having considered the same, report as follows:

The petitioner, at the commencement of the late civil war, was a resident of the city of Louisville, in the State of Kentucky, where he was engaged in commercial business. The firms with which the petitioner was connected were largely indebted to the Bank of Kentucky and other banks in Louisville, and, in consequence of the large amount of debts due these firms in the South, their creditors became apprehensive that they would not be able to meet their liabilities, and the petitioner was advised to go South and endeavor to collect or secure the debts due said firms This advice was given by Mr. V. McKnight, president of the State Bank of Kentucky, and others, and McKnight went with the petitioner to General Anderson, then in command at Louisville, introduced him to that officer, and procured a pass for him to go South for the purpose stated.

Under this pass, the petitioner went into the States in insurrection in the month of July, 1861, and remained there until the latter part of the year 1864 During this period he collected a large amount of debts due said firms, and purchased seven hundred and thirty-four bales of cotton, which were delivered to him, and then stored in the city of Savannah. The cotton was purchased in the months of November and December, 1864. When Savannah was captured by the United States Army under General Sherman, this, with a large amount of other cotton, was seized by the military authorities, turned over to the agents of the Treasury, and then sold. The net proceeds of the petitioner's cotton, after deducting all expenses of sale, shipment, &c., as appears from the books of the Treasury, amounts to the sum of $128,692.22. On the 3d of July, 1865, the petitioner received a full pardon from the President of the United States for all offenses committed by him or arising from any participation in the rebellion. The petitioner instituted a suit in the Court of Claims to recover the proceeds of his cotton from the Government, but, that tribunal being equally divided in opinion touching the claimant's right to recover, his case was dismissed, and he appealed to the Supreme Court.

The opinion of the court in the case is to be found in 21 Wallace, 350. The ground upon which the court decided against the claimant is purely technical. They found that he had purchased the cotton; that it was captured; and that the proceeds were in the Treasury; but decided that his purchase gave him no title, because his domicile was in Louisville, in a loyal State, and that a contract made under such circumstances was void.

In arriving at this conclusion the court held that the permit given to the claimant by General Anderson conferred no rights upon him; but your committee are constrained to think, without questioning the law as laid down by the court, that no advantage ought to be retained by the Govenment which resulted from the void and illegal act of its own officer. Admitting to the fullest extent possible the unauthorized and illegal character of the pass given to the claimant by General Anderson, after a full disclosure of the object of the former's mission, is it not plain that Mr. Mitchell would not have gone to the South at all if the pass had not been given to him? The circumstances under which the application was made and the permit granted show most conclusively that the officer and claimant were both ignorant, the one of his power, the other of his duty. General Anderson represented the Government in a high military station. The claimant was a loyal citizen, anxious to save the bulk of his fortune, about to be lost, as he thought, by the civil war then commenced. The law of nations, which was applied by the court very rigorously in this case, is founded on wise and just principles. It prohibits all commercial intercourse between the citizens or subjects of countries at war with each other, because it would tend to strengthen and increase the power of the public enemy, which it is ever the object of war to destroy. But in this case the real purpose of the citizen was to save from destruction what had been honestly earned and accumulated before hostilities began, and under the protection of the Government. Why is it that the most enlightened writers on the laws of war have praised the humane usage which permits the subjects of one nation to withdraw their property from another on the eve of hostile relations? And has it not always been an object of importance, on the conclusion of peace, to save to the subjects of the belligerent power their rights of property which were suspended during the flame of battle? We know, too, that when the private property of a subject is recaptured from an enemy by the forces or cruisers of that nation to which such subject belongs, that it is restored to him. The principles which uphold this practice spring from the reciprocal duties of allegiance and protection which constitute the most important relations in the State.

Had the claimant in this case entered the confederate territory for the purpose of uniting his fortunes with those in arms against the United States, his case would be different. But he was a man advanced in life, fifty-three years of age, and was not in sympathy with the secession movement. He did no act while at the South which was disloyal, unless it be claimed that the conversion of his credits into cotton was of that character. It must be conceded, under the decision of the Supreme Court, that if the petitioner had been domiciled in the State of Georgia, instead of the State of Kentucky, and had taken the most active part in the war against the United States, he would have recovered his property in the Court of Claims. It is only because his domicile was in a loyal State that he has been denied relief, while it might be claimed that the presence of the petitioner in the insurrectionary States and the investment of credits there in cotton was a technical violation of the laws of war, still the facts in the case show that there was no guilty intention, such as usually carries with it criminal consequences or forfeitures. The transactions of the claimant were not of a character to benefit the confederate authorities. They were all founded in debts due the claimant previous to the war, and which, if he had not collected, would under the laws of the States in rebellion, have been confiscated to the use of the confederate authorities. The Supreme Court held that his purchase, being against public policy, gave him no title. Did it confer any upon the Government? The proceeds of the cotton stand on the books of the Treasury in the name of the claimant. The money of course must follow the right of the thing which produced it. If the cotton was not Mitchell's, whose was it? It was seized as his, sold as his, and the fund arising from it the records of the Government admit to be his; he had actual possession of the cotton at the time of its seizure, and even if his *title* was defective, it is an elementary principle of law that such a possession is good against every one except the rightful owner. The law will not enforce a contract which arises out of an illegal consideration; neither will it disturb the rights of a party under such a contract after it is executed.

The whole right of the Government to hold this fund is derived from the fact that the claimant was, at the time he bought the cotton, a citizen of a loyal State. This establishes his loyalty, for it is in proof that he did not aid the confederacy, but, on the contrary, added to its burdens by becoming a consumer, while he did not increase its defenders.

Your committee are of opinion that the petitioner is entitled to the relief prayed for, and report a bill for his relief, authorizing the Secretary of the Treasury to pay him the sum of $128,692.22, being the net proceeds of the cotton taken from his possession as hereinbefore stated.

Mr. STEVENSON. I never heard the testimony which has been suggested by the Senator from Wisconsin. I know this claimant well. He is one of the most respectable merchants in the city of Louisville. I am quite sure he took no part in the rebellion. He was a commission merchant, engaged in furnishing breadstuffs, pork, &c., to the South. When the war broke out, he being largely indebted to the banks of Louisville, and people in the South being indebted to him, and bearing a very high character, he was permitted by General Anderson under a military permit to go South. He there collected debts, was advanced some money, and invested it in cotton. This cotton was seized by the Government and sold, half of the amount of the proceeds used in costs and fees, and the other half is in the Treasury of the United States. This old man, after a life-time of usefulness and honor, finds himself bankrupt unless the Government chooses to relieve him. He was pardoned by the President. Even if what the Senator says be true, I understand the Supreme Court have settled again and again that a pardon even to the rankest rebel would give him the right to claim the proceeds of the cotton under the law.

It seems to me that this is a very just claim. I do not see how the Government, having absorbed more than half the property of this old man—his honest earnings, that which belonged to him, and that which now belongs to him—can rest satisfied, this man having been pardoned by the President, to hold on to this money; but it is with the Senate and not with me to decide it.

Mr. JONES, of Florida. It may be proper for me to say a few words in regard to the merits of this case, having made the report which has been read. I think it is a case of great merit and of the strongest equity. It so struck me from the first time the facts were presented to my mind, and nothing which the Senator from Wisconsin has stated has changed my convictions. Here was a citizen of the State of Kentucky. We know that his character followed the character of the State. Kentucky in the late unhappy war was regarded as a loyal State. This gentleman was a citizen of that Commonwealth, and for all legal purposes must be regarded as a loyal citizen. That was the view taken of this case, as I understand, by the Supreme Court when the case came before them. Without making any inquiry into the individual conduct of the person, the court fixed his character and status by the character and status of the State to which he belonged. He was a citizen of Kentucky at the time the permit was granted to him to enter the Southern States to collect his debts.

I have little to say about the power of the officer who granted this permit. Let it be admitted that he had no authority to grant it, what then? Is it to be insisted here that the Government shall take advantage of the wrong of its own officer? He had either authority to grant the permit to Mr. Mitchell or he had not. If he had authority to grant it, then the act was valid, and everything that was done

under it was valid also. If he had no authority to grant it, then he violated his public duty, and it was wrong; but can the Government come in and found any title upon a violation of duty on the part of General Anderson, who commanded in the district of Kentucky? The permit was given to this man to go South, and under it he passed the lines and went into the confederacy and collected the large part of his fortune. That was invested there. He put it into cotton and carried it to Savannah, and when that city was captured by General Sherman the accumulation of three years' energy and industry was seized and appropriated by the Government. The property was sold, the proceeds were paid into the Treasury, after deducting one-half of the same for expenses and commissions. The balance is there to his credit upon the books of the Government. This is the case in a nutshell.

When the case went before the Supreme Court that tribunal, in interpreting the law, decided that as this gentleman was a citizen of a State which was regarded as loyal he could not, under the law as it then existed, hold any intercourse or make any contracts with persons residing within the confederate lines; and upon that technical ground, and that alone, that judgment is founded. According to the reasoning of the court, if this man had been a confederate out and out, a resident of the State of Georgia, and had received his pardon, he could have gone on and asserted his claim before the Court of Claims to recover, as a number of other claimants did in like cases; but because he happened to be a citizen of a loyal State the court held that this rule of law must apply to him, and that he acquired no right by the contracts that he made while within the limits of the confederacy. It was not denied that the property which produced this fund was his. None of the facts was disputed. On this technical question of law the whole case was decided, and they held that he could not recover. He came before our committee. We had the right to look into the equity of this case, and we found, as far as the testimony before us went, that he was a loyal man, a citizen of a loyal State, and that this property was his. The books of the Treasury show precisely the amount that was due him. Should he be placed in a worse condition in consequence of his being a citizen of Kentucky than he would be if he had been a citizen of the State of Georgia, the State of Florida, or the State of South Carolina? That is the question.

I never before heard anything about the testimony to which the Senator from Wisconsin has alluded. It may be all true, but it appears from the testimony in this case that this man was pardoned, as was said by the Senator from Kentucky. That fact is made distinctly to appear in the report which is now before the Senate. He was pardoned. How, therefore, can the Government claim this fund? On what ground can it rest its right to claim it?

Mr. CAMERON, of Wisconsin. Will the Senator allow me to ask him a question?

Mr. JONES, of Florida. Certainly.

Mr. CAMERON, of Wisconsin. If he were a loyal man and had done no disloyal act, for what purpose did he obtain a pardon?

Mr. JONES, of Florida. I suppose the claimant could answer that question, if he were here, better than myself. The fact is here stated and the evidence shows that he obtained a pardon. I suppose he resorted to that as a mere matter of precaution. I know a number of individuals who did the same thing, who, in my judgment, had done nothing to call for the granting of a pardon. He had this controversy on hand with the Government, and it may be that as a matter of precaution before going into litigation in the Court of Claims and the Supreme Court he obtained a pardon, which I admit he did. Does it presuppose any iniquity? We are told by the decision of the court that if he had been a rebel this fact would have blotted out this technical objection and he would have come before the Senate with clean hands. The judgment of that court is to be regarded.

I think it a case of great merit, because there is no way in the world by which the Government can found any claim to this property, except upon the order of this officer alone, General Anderson, who permitted this man to pass his lines and transact this business within the confederacy; and after he had gone on under this order and acquired this property the Government is to turn around and say "we take advantage of this void order, confiscate your goods, and pocket the proceeds of the cotton."

Mr. CAMERON, of Wisconsin, rose.

The PRESIDENT *pro tempore*. The Chair now reminds Senators, as both sides have spoken, that Senators must not speak to the merits of the question on the motion to take up. The question is, Will the Senate proceed to the consideration of this bill.

Mr. STEVENSON. I ask for the yeas and nays.

Mr. CAMERON, of Wisconsin. Yes; let us have the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 21, as follows:

YEAS—Messrs. Alcorn, Bailey, Barnum, Bayard, Bogy, Cooper, Dennis, Goldthwaite, Hereford, Johnston, Jones of Florida, Kelly, McCreery, McDonald, Maxey, Merrimon, Norwood, Randolph, Ransom, Robertson, Saulsbury, Spencer, Stevenson, and Whyte—24.

NAYS—Messrs. Booth, Boutwell, Bruce, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Dawes, Ferry, Hamlin, Ingalls, Jones of Nevada, Logan, McMillan, Mitchell, Morrill, Oglesby, Paddock, Sharon, Teller, and Wright—21.

ABSENT—Messrs. Allison, Anthony, Blaine, Burnside, Cameron of Pennsylvania, Clayton, Cockrell, Conover, Cragin, Davis, Dorsey, Eaton, Edmunds, Frelinghuysen, Gordon, Hamilton, Harvey, Hitchcock, Howe, Kernan, Morton, Patterson, Sargent, Sherman, Thurman, Wadleigh, Wallace, West, Windom, and Withers—30.

So the motion was agreed to; and the bill (S. No. 1145) for the relief of Warren Mitchell was read the second time and considered as in Committee of the Whole. It authorizes the Secretary of the Treasury to pay to Warren Mitchell, out of any moneys in the Treasury derived from the proceeds of captured and abandoned property, $128,692.22, being the proceeds of cotton taken from him at Savannah, Georgia, the proceeds of which have been paid into the Treasury.

Mr. INGALLS. The claim of Mr. Mitchell appears to have been very deliberately and exhaustively considered by the judicial tribunals of this country. I have the twenty-first volume of Wallace's Reports, and on page 350 is found the syllabus of the case of Mitchell *vs.* The United States. It seems that the action was originally brought before the Court of Claims, which was equally divided in opinion as to whether the claim of Mitchell should be sustained, and his petition was accordingly dismissed. The claimant then removed his case to the Supreme Court upon appeal, assigning for error that on the facts found the Court of Claims should not have dismissed the petition, but should have decided that he had acquired a valid title to the cotton. A brief statement of facts appears to show that he was a resident of Kentucky at the outbreak of the war, and that after the 17th day of July, 1861, he went under a military pass of a Federal officer into the rebel States, and in November and December, 1864, bought a quantity of cotton there, seven hundred and twenty-four bales, and never returned to the loyal States until just after that time and when the war was not far from its close. Upon this state of facts he was held, on a question whether he had been trading with the enemy, not to have lost his original domicile, and accordingly to have been so trading.

The case seems to have been elaborately argued by the attorney for the appellant, and also by the Attorney-General and assistant attorney-general for the United States. The point of law involved was whether the domicile that the claimant had acquired was changed, and it was held that it must be presumed to continue until it was shown affirmatively to have been changed. The court say:

"Where a change of domicile is alleged, the burden of proving it rests upon the person making the allegation." * * *

When the claimant left Louisville, it would have been illegal to take up his abode in the territory whither he was going. Such a purpose is not to be presumed. The presumption is the other way. To be established, it must be proved. Among the circumstances usually relied upon to establish the *animus manendi* are: Declarations of the party, the exercise of political rights, the payment of personal taxes, a house of residence, and a place of business. All these *indicia* are wanting in the case of the claimant.

The rules of law applied to the affirmative facts, without the aid of the negative considerations to which which we have adverted, are conclusive against him. His purchase of the cotton involved the same legal consequences as if it had been made by an agent whom he sent to make it.

The amount involved in this claim is very considerable, aggregating $128,692.22, and as the claim has been submitted to the judicial tribunals of the country, has been fully argued and decided against the claimant, it seem to me there should certainly be a very conclusive amount of additional testimony advanced before Congress should be asked to overrule the final decision of the Supreme Court.

Mr. STEVENSON. I admit all that the Senator has said, that in point of law the Court of Claims, I believe, by a divided vote probably has decided against this claimant. The Supreme Court decided it purely upon a technicality as to domicile. The great question of *ex æquo et bono* which addressed itself to the court was all in favor of this claimant. He lost his cotton; the United States got it; they took half the proceeds, paying costs and damages on the other half, and although that cotton sold for, I think, in the neighborhood of $300,000, (I will not undertake to be accurate,) all that he asks is $128,000, which is the amount paid into the Treasury.

Mr. President, if everything that the Senator from Kansas said were true, this is an equitable appeal to Congress to relieve this claimant. Such relief has been granted a hundred times. It was done in the case which I referred to not long since, of Harmony *vs.* Mitchell, where General Doniphan directed certain goods of traders to be seized lest they might fall into the hands of the enemy. The Supreme Court decided that the order was illegal, but yet Congress relieved the claimants. Where a man acts under a void order or in the execution of a void command, and the Government itself becomes the beneficiary, the equitable power of Congress should be applied to grant equitable relief. Surely if ever there was a case in which the equity of any claimant addressed itself to the sound discretion of this body it is this case. This man devoted his whole life to merchandise in Louisville. He engaged in business without ever supposing there would be a war with the South, having his debts all there. When the war broke out, and when he had collected this cotton in payment of his debts, the United States seized the cotton, and because General Anderson's order, which allowed him to go South, turns out to be void, shall the United States hold that old man's property, and say, "We have you on a legal technicality, and we will turn a deaf ear to your complaint," and that, too, in the face of examples, almost *pari passu*, like this where relief was granted?

I do not think there can be a doubt in regard to this case. How inconsistent would it be to reject this claim! The Supreme Court say that if his arms and hands had been red in the blood of rebellion, he could have recovered; if he had been a rebel fighting from the beginning of the war to this time, he could have recovered; but he was an honest merchant engaged in his trade in Louisville, and went South

to save just debts to pay his creditors. Under such a state of the case as that, having already lost half, the Government having received it, can the Government consistently with a high sense of equity and in the view of past precedents undertake to hold on to it? I hope not, Mr. President.

Perhaps I shall never open my voice again in this Senate Chamber; but I shall go out believing that no utterances of mine were ever made in a case where relief was more demanded by all the stern requirements of a just and equitable policy.

Mr. CAMERON, of Wisconsin. Mr. President, it is true that this claimant was a merchant doing business in the city of Louisville prior to the breaking out of the recent civil war. I suppose it is true, although that is not proved by the statement of the claimant himself, that there were large, or at least considerable sums of money owing to him in the Southern States at the time of the breaking out of the war. It is shown that in July, I think, 1861, he went to General Anderson, who at that time commanded the military district of Kentucky, and obtained from General Anderson a sort of permit to go into the seceding States. General Anderson did not guarantee that that permit was a valid and legal authority for him to go into the Southern States. The Government did not guarantee that such a permit was a valid and legal authority for him to leave Kentucky to go into the seceding States. He took that paper for whatever it was worth, and it turns out by the judicial decision of the highest court of the country that it was worth nothing; worth no more than so much blank paper. He went into the seceding States early in 1861. He remained in the seceding States until late in 1864 or early in 1865. He remained there during four long years.

Mr. JONES, of Florida. Will the Senator permit me to ask him a question?

Mr. CAMERON, of Wisconsin. Certainly.

Mr. JONES, of Florida. What time does it appear he was dealing with the enemy at Nashville, according to the evidence to which the Senator referred a while ago?

Mr. CAMERON, of Wisconsin. Prior to the 24th day of March, 1862.

Mr. JONES, of Florida. At what time?

Mr. CAMERON, of Wisconsin. He was in Nashville immediately before Nashville was taken possession of by the Federal forces. It was taken possession of by the Federal forces, if my memory serves me right, on the 24th day of March, 1862.

I was remarking, Mr. President, that he remained in the seceding States during four years. He states in his petition that he was engaged during that time in collecting, or attempting to collect, the debts which were due to him in those States. He does not in his petition or in any of his proofs go into any particulars. He merely makes a general statement. He does not show in his petition, nor does he show in his proofs outside of the petition, where he was at any time during the four years that he remained in the seceding States, except that he was in Savannah at the time it was captured by General Sherman's forces. The Senator from Florida states in his report that it appears he was a loyal man. My recollection of the testimony submitted to the committee is that no evidence whatever was given upon the question of loyalty or disloyalty. I presume the Senator assumed that because his domicile was in a loyal State therefore he was a loyal man. The testimony to which I have alluded was examined by the Committee on Claims only a short time ago; I think about two weeks since. The Senator from Florida who is a member of that committee was not present at the time the testimony was taken by the committee; but I assert that the testimony taken by the committee in the case of Connor Brothers shows that Warren Mitchell was employed by the confederate government at Nashville prior to the capture of Nashville by the Federal forces in March, 1862, as a meat-packer for the confederate government; that he had a contract with the confederate government by which that government furnished him the live hog: he slaughtered the hog and returned to the government the hams, shoulders, and sides, cured, and he retained the rest of the animal for his pay.

Both the Senator from Florida and the Senator from Kentucky say that this question was decided by the Court of Claims and also by the Supreme Court on a mere technicality. I submit that it was not decided upon a technicality, but that the question upon which it was decided was a question of substance. The Senator says that if he were an inhabitant of a seceding State he could have recovered in this case. I suppose, according to the law of nations, when a citizen of the United States, not of one of the seceding States, went into the Confederate States and there assisted in any way the Confederate States in carrying on the war against the United States he ought to be deemed more guilty than an inhabitant of one of the seceding States.

When the Committee on Claims considered this case at the last session of the present Congress they were of the opinion that the equities of the case were not sufficiently strong to authorize the committee to go behind the decision of the Court of Claims and behind the decision of the Supreme Court, no matter what the character of this man is, no matter whether he is old or young. It is satisfactorily shown to us by the decision of the highest court in the land that he is not legally entitled to recover. Then he comes here, and as a matter of grace and favor asks Congress to pass a bill paying him this large some of money. I submit, Mr. President, that the equities as they appear to the Senate are not sufficiently strong to authorize Congress to go behind the decision of the court and to pay this large sum of money to the claimant.

Mr. STEVENSON. I am at least supported by a majority of the committee, of which the Senator who has just taken his seat is a minority. He does not represent this committee. What are standing committees for but to examine in such cases, first, the loyalty, then the equity, and then the justice? So that I say to the Senator so far as the equity is concerned my statements are upheld by a majority of his own committee. That is all I have to say on that point.

I say further that there have been a dozen cases that the Senator cannot controvert in which this identical principle has been settled, that, though an order was illegal, yet Congress when the court has decided against it has paid the claimant. No man will deny that principle; and why shall you make an exception in this man's case? Is it prejudice? Is it injustice? Is it the locality from which he comes? Then let every man take notice of his own claims. In Mitchell *vs.* Harmony this principle was recognized; and I say that this is a just claim. What is it? There is no doubt that the United States got this man's money; none that this was his cotton; but the allegation is that he should suffer for the illegal order of General Anderson, which allowed him to go to the South to collect his debts, an honest purpose, a just purpose, a loyal purpose. He applied to the military before he went, saying; "These men are indebted to me; give me permission to go there and save my property that I may pay my loyal creditors." General Anderson gave him permission; he went there; he took this cotton; it was sold; the Government has the proceeds, after taking half from him; and the Senator from Wisconsin says here is no equity. Great God, upon what standard does his idea of equity rest?

I have nothing more to say, Mr. President. I trust this case to the judgment of a majority of a standing committee of this House. I trust it to the sense of equity of the Senate, and hope that they will pass this bill.

Mr. CAMERON, of Wisconsin. Mr. President, is is true that at the present session of Congress the majority of the Committee on Claims reported in favor of the payment of this claimant; but at that time the positive evidence which was afterward brought before the committee of the disloyalty of the claimant was not before the committee. I am satisfied that if this claim were recommitted to the committee, and the testimony to which I have alluded with regard to his false claim of loyalty were brought to the attention of the committee, not a single member of the committee would vote in favor of this claim.

I do not think the Senator from Kentucky is entirely justified in questioning my motives in reference to the action I have taken in regard to this claim. It was submitted to me, as one of the members of that committee, for examination. I examined it, and reported against it; and the entire committee, so far as I now recollect, agreed with me in that report. It was subsequently, as I have stated, recommitted; and when considered during the present session of Congress, a majority of the committee, not having the evidence which subsequently came to our knowledge before them, reported in favor of the payment of the claim.

Now, the Senator from Kentucky asks whether the locality from which this claim comes influenced me or the committee to any extent. I do not think that the locality could influence the committee at all, because we all very well remember that Kentucky was neutral during the war. It is said that she sold mules to both parties, and grew rich while the remainder of the Southern States were growing poor. The locality, I assure the Senator, has nothing whatever to do with my action in regard to this claim.

Mr. ALCORN. Mr. President, it occurs to me that there is a misapprehension with regard to this claimant in one respect, and that the Senator from Wisconsin is not justified in asserting that the claimant here has represented himself as loyal to the Government. I may be mistaken, but it occurs to me that I heard read in the report that he had been pardoned by President Johnson. If he represented himself to President Johnson as loyal, that President certainly would not have undertaken to pardon him. It must have been upon his representation that he was disloyal that he was pardoned. Now, if the Senator from Wisconsin could convict this claimant of falsehood, I would for myself decide that that falsehood established against him would so taint his claim with fraud as to forbid that the Senate should give him any relief. But I do not understand that he has represented himself as loyal. Do not some of the papers which have been read state the fact that he was pardoned by President Johnson?

Mr. CAMERON, of Wisconsin. The papers do state that he was pardoned; but the claimant himself claims that he was loyal, and the Senator from Florida, who made the report which has been read in the presence and hearing of the Senate, stated that he was loyal.

Mr. JONES, of Florida. I stated in the report that from what I could learn he had no sympathy with the secession movement, but as a matter of precaution, after having remained for some years within the confederate lines, he asked for a pardon and obtained it.

Mr. ALCORN. In asking for a pardon and obtaining it he confessed himself disloyal. I do not understand that he has attempted by any proof or by any affidavit on his part to show that he was loyal. The Senator from Florida represents him as loyal from the fact that he is a citizen of a loyal State and so technically a loyal

man, but the claimant here has not represented himself as loyal and therefore he is entitled to the consideration of a disloyal man.

The proof shows that this claimant had a certain amount of property in the Southern States, and that that property was seized and sold. There has been no adjudication against him, no confiscation of that property.

The moneys arising from the sale of this cotton, the net proceeds, are now in the Treasury. To whom does the money belong? No proceeding has been had against him. It has not been declared to be the property of the Government of the United States; but the Government of the United States holds it in trust for the owner. It occurs to me that legally he is entitled to this money, though technically he did not recover before the Supreme Court. The cotton was his property. It has not been adjudicated the property of the Government; there has been no proceeding of confiscation of his property; and in equity I should hold for myself, the money being in the Treasury, there being no mistake whatever, the Government not having shown a title to this money by any proceeding against this claimant whereby confiscation could have been legally had, that he ought to have the proceeds of his cotton.

I repeat, if it can be shown that he has represented himself as loyal, and thereby been detected in falsehood, it would taint the whole case to a degree that should lead the Senate not to consider his equities at all.

Mr. WRIGHT. This claimant, as all claimants do who come to Congress knowing full well that they must establish their loyalty before they can have any standing before us, asserts in his petition and attempts to establish by his testimony that he was loyal to the Government during the war. If the committee had not been satisfied from the proof then before them of his loyalty, there would have been no member of the committee who would have voted in favor of reporting this bill; but as I remember, as the testimony then stood, a majority of the committee thought that point was sufficiently sustained by evidence, and therefore they reported this bill.

I repeat that this claimant knew perfectly well that he must not only assert his loyalty, but establish it; else he could have no standing before the committee or before the Senate. Hence, he did assert it, and he undertook to establish it by evidence.

I feel perfectly certain also in making another statement here. The Senator from Kentucky makes not a little claim in favor of the justice and equity of this demand, for the reason that a majority of the committee have reported in favor of it. That report was made under the circumstances that I have just alluded to, upon the evidence that was then before the committee; and I repeat that I do not believe there is a member of the committee who would have thought of reporting in favor of this bill if he had not been satisfied then of his loyalty.

I can say another thing, that no measure has been reported from that committee in favor of any claim at this session of Congress, nor, as far as I know, at any session of Congress since I have been here, unless there was affirmative evidence of loyalty. We have held that as a condition first to be established with reference to all these claims, that there must be proof of loyalty. Since this case was reported, in the examination of another case it turns out that there is the most conclusive evidence rebutting entirely the case made by the claimant in the first instance; and it is upon that testimony largely that the contest is now made against this bill, not forgetting, however, by any means the position which the claimant occupied as one asking relief here after the highest court in the land had decided against him. I understand that that decision was not upon a technicality, but it was upon this theory: That he was so engaged in trade at the time that it was contrary to public policy that such a person should be paid. That is to say, he was so engaged in trade with those who were at war with the Government that it was contrary to the very plainest principles of public policy and the well-settled principles of international law that he should be paid his claim. If he had not been thus engaged, being loyal, then I do not see how there would be much, if any, trouble in the Supreme Court, aside from the one of purest technicality; and that was that the law allowed only a certain class of persons to go into the Court of Claims for the purpose of having a return or a recompense for their cotton seized. That stood upon the language of the statute, which only allowed those who were residents of certain States to go into the Court of Claims and have compensation for their property seized, and not having been a resident of such State, it is said, could have no standing in court. But at the same time the point is made that his trade with the rebel government was contrary to public policy, and therefore he could have no claim upon the Government of the United States for his property.

In addition to that, the evidence establishes, since this case was reported, that he was not only engaged in such trade but that he was engaged in slaughtering pork or preparing pork for the rebel army, and under such circumstances and in such a condition that there never has been a report by our committee that could by any possibility recognize a claim of this character.

Under such circumstances, in view of this additional evidence, I think the claim should again go to the committee, and I therefore move that the bill be recommitted to the Committee on Claims. I do it for the reason, as I have already stated, largely that the evidence which has been developed since shows that this person occupies a very different position from what he did, as the committee regarded, at the time the claim was passed upon before.

Mr. JONES, of Florida. Mr. President, it will be remembered that a week or two ago a case not nearly as meritorious, in my opinion, as this one, not surpassing it at least in merit, came before the Senate; the case of a citizen of Georgia whose cotton was taken at or about the same time, who remained in the State of Georgia during the whole period of the war, who had been engaged in arms against the public authority of the United States, as disclosed by the testimony. That was thought to have been, and in my judgment was, a meritorious case; and I think that the Senator from Iowa voted for the bill for the relief of that claimant.

Mr. WRIGHT. No. My friend, the Senator from Florida, certainly does not want to do me an injustice. I reported against that bill from the Committee on the Judiciary, and contested the bill here to the very last moment; and finally a communication was sent from the Treasury Department, which stated that a substitute in a certain form could do no harm; and, upon the recommendation of the Department, I offered the substitute, and it was passed. But it was not for the payment of any certain amount, at all; it was referring it to the Treasury Department, because the Secretary said that the bill could not possibly do any harm, for there could be no allowance under it.

Mr. JONES, of Florida. There could be no allowance under it.

Mr. WRIGHT. Yes, sir, in the form of the substitute.

Mr. JONES, of Florida. Very well. This case has been well stated by the Senator from Kentucky, [Mr. STEVENSON.] It was decided upon a mere technicality in the Supreme Court. This man came from a loyal State, the State of Kentucky. In such cases, I understand, proof of loyalty has not been required. When a citizen comes before us from the State of Massachusetts, from the State of Indiana, or from any State in the Union which is known to have been loyal during the war, it has not been, as I understand, the practice to inquire closely into his status during the late war. The presumption of law is in his favor, that he is loyal. When he comes from a disloyal State, so called, then the presumption is against him and he must overcome that presumption by meeting the question in the outset and showing affirmatively his loyalty. That has been the practice before this committee, as I understand. This was a case of that description. Here was a man from the State of Kentucky, *prima facie* loyal, and there was nothing in his case to demand any proof of loyalty. He held the permit of the officer of the Government authorizing him to go from that loyal State into the Southern States upon business which was supposed at the time to have been legitimate. He went there under this order, and while there he acquired this cotton upon the faith of this officer of the Government, because I think it will not be denied by any man that if General Anderson had not granted the order Mitchell never would have gone into the confederacy. After he acquires the property what is the attitude of the Government? It turns around and repudiates the action of its own officer and says that he shall be placed in a worse condition than he would have been in if the order had never been granted. The order, say the Senators, was void. Grant that it was; but, as I said in my report, did that fact confer any rights upon the Government? All the rights that it now claims to this man's property are founded in that order; it can have none beyond it.

I ask, in all candor and seriousness, if this great Government can afford to set up a title to property acquired in that way? Can it afford to say that General Anderson deluded this man with the belief that he had authority to give him this permit, and after it is given, after he acts in good faith under it and acquires this property, then turn around and say, "We repudiate the act, we will take your property?" And without submitting the question to the decision of any lawful court, as was well said by the Senator from Mississippi, [Mr. ALCORN,] the whole thing is gobbled up and he is told that he has no rights because this order did not confer any authority upon him to pass the military lines.

Mr. WRIGHT. I only wish to add one thing to what I have said, that I think the whole of the Senator's argument is answered by just one suggestion. Assuming that the order of General Anderson was ever so valid to allow this party to go into the Confederate States and trade, to collect his debts, it did not give him any authority to go there and trade as he did and furnish aid and comfort and assistance to the enemy by furnishing them pork, as he did at Nashville. I think that is a complete answer.

Mr. JONES, of Florida. That, I will say, of course is matter that has since come up, not anything that has been before me.

Mr. WRIGHT. That is the reason I move to recommit the bill, because I feel very sure if that fact had been known at the time the Senator made his report he would not have concurred in the report himself.

Mr. JONES, of Florida. But behind all that, in support of the equity of this case, lies this: that if this man had furnished pork in Tennessee and in Georgia, had been engaged in active hostilities against the Government, and had been pardoned and had gone into the Court of Claims, under the law as it stood at the time the case was passed upon he could have recovered his property.

Mr. WRIGHT. May I ask the Senator a question? If that matter had been made known to him at the time he reported the bill, would he have prepared the report in favor of the allowance of this claim?

Mr. JONES, of Florida. That is another question. I decided the

question on the evidence before me. But I say that, under the law as it stood at the time this case was decided, if this man had been a citizen of Tennessee, and had furnished pork or any other thing to the army of the confederacy, and had engaged in armed hostility to the United States, and had been pardoned and had gone into the Court of Claims, under the law he would have been entitled to the property. But his case went off on the technical ground that he was a citizen of a loyal State, namely, the State of Kentucky.

The PRESIDENT *pro tempore*. The Senator from Iowa has moved to recommit the bill to the Committee on Claims.

Mr. WRIGHT. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 31, nays 29; as follows:

YEAS—Messrs. Allison, Anthony, Blaine, Booth, Boutwell, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Cragin, Dawes, Dorsey, Ferry, Frelinghuysen, Harvey, Howe, Ingalls, Logan, McMillan, Mitchell, Morrill, Morton, Oglesby, Paddock, Sargent, Sharon, Teller, Wadleigh, Windom, and Wright—31.

NAYS—Messrs. Alcorn, Bailey, Barnum, Bogy, Conover, Cooper, Davis, Dennis, Eaton, Goldthwaite, Gordon, Hereford, Hitchcock, Johnston, Jones of Florida, Kelly, Kernan, McCreery, Maxey, Merrimon, Norwood, Randolph, Ransom, Robertson, Saulsbury, Stevenson, Wallace, Whyte, and Withers—29.

ABSENT—Messrs. Bayard, Bruce, Burnside, Clayton, Cockrell, Edmunds, Hamilton, Hamlin, Jones of Nevada, McDonald, Patterson, Sherman, Spencer, Thurman, and West—15.

So the motion to recommit was agreed to.

TOWN SITES ON PUBLIC DOMAIN.

Mr. OGLESBY. I move that the Senate proceed to the consideration of the bill (H. R. No. 1765) respecting the limits of reservations for town sites upon the public domain. I will state in regard to this bill that it is one of very great interest to the people in Utah. It is of no local or personal interest to any Senator, but to those people it is of very great concern. The subject has been under consideration in Congress for two or three years and, at last, the Senate committee and the House committee have agreed upon a bill which has passed the House and is recommended by the Committee on Public Lands of the Senate. It will be a very excellent disposition of the question if the Senate will hear the four sections of the bill read and pass them. I do not want to take time to go into a lengthy explantion, unless some Senator should desire, about the merits of the bill. I move to take it up.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

The first section declares that the existence or incorporation of any town upon the public lands of the United States shall not be held to exclude from pre-emption or homestead entry a greater quantity than twenty-five hundred and sixty acres of land, or the maximum area which may be entered as a town site under existing laws, unless the entire tract claimed or incorporated as such town site shall, including and in excess of the area specified, be actually settled upon, inhabited, improved, and used for business and municipal purposes.

Section 2 provides that where entries have been heretofore allowed upon lands afterward ascertained to have been embraced in the corporate limits of any town, but which entries are or shall be shown, to the satisfaction of the Commissioner of the General Land Office, to include only vacant unoccupied lands of the United States, not settled upon or used for municipal purposes, nor devoted to any public use of such town, the entries, if regular in all respects, shall be confirmed and may be carried into patent. This confirmation is not to operate to restrict the entry of any town site to a smaller area than the maximum quantity of land which, by reason of present population, it may be entitled to enter under section 2389 of the Revised Statutes.

Section 3 provides that whenever the corporate limits of any town upon the public domain are shown or alleged to include lands in excess of the maximum area specified in section 1, the Commissioner of the General Land Office may require the authorities of such town, and it shall be lawful for them, to elect what portion of these lands, in compact form and embracing the actual site of the municipal occupation and improvement, shall be withheld from pre-emption and homestead entry; and thereafter the residue of such lands shall be open to disposal under the homestead and pre-emption laws.

Section 4 declares that it shall be lawful for any town which has made, or may hereafter make, entry of less than the maximum quantity of land named in section 2389 of the Revised Statutes, to make such additional entry or entries of contiguous tracts, which may be occupied for town purposes, as, when added to the entry or entries therefore made will not exceed twenty-five hundred and sixty acres; but such additional entry shall not, together with all prior entries, be in excess of the area to which the town may be entitled at date of the additional entry by virtue of its population as prescribed in section 2389.

Mr. INGALLS. Is there a report in that case?

The PRESIDENT *pro tempore*. There is no printed report.

Mr. INGALLS. I should like to hear the bill explained.

Mr. OGLESBY. The bill relates to a subject, as I stated before, of great concern and great interest to the people in Utah. It does not embrace any land within the city of Salt Lake.

Mr. INGALLS. Is the bill intended to apply to a particular case?

Mr. OGLESBY. No, sir; the bill is intended to limit the boundaries of town sites under the statute law. If the Senator will remember, there are various instances in which a town can take twenty-five hundred acres or six hundred acres, or so many hundred acres, according to the number of people in the incorporated village or town.

Mr. INGALLS. How then does this bill change the law?

Mr. OGLESBY. It limits the town sites to twenty-five hundred acres, unless the town is actually occupying more ground than that. If the boundaries of the city cover more ground than that actually, then the pre-emptors and homestead settlers cannot take it; but if, as is the case all over Utah where whole cities have grown up and taken up rich valleys, extending the limits indefinitely all over the valleys, when pre-emptors or homestead settlers have gone on and attempted to make improvements the gentiles, as they are called, wake up the last day to find that by some mysterious mode or other the corporate limits have been extended over their pre-emption and homestead claims. Corporate limits have been extended indefinitely in all directions around there until it is impossible to get a location; and yet the inhabitants of the town do not reach the land, do not come near it, do not touch it, but they simply shove these people off until a favorite comes along, and that favorite is regarded, and then the town site is moved a little so as to let him get a pre-emption or homestead. The corporate limits of the town are then modified so that the favorite can get his pre-emption or homestead. If he happens to be a gentile or an outside barbarian, or a gentleman of culture and refinement, he is cut off by the corporate limits held in abeyance and chaos over his rights. This bill simply defines the limits of these corporations, that they shall not hold the public domain unless between actual defined limits of a corporation exceeding twenty-five hundred acres; but if in fact they do cover more territory than twenty-five hundred acres by actual occupancy then that by this bill is prevented from being taken otherwise. It opens the public lands in those rich valleys—and they are not very numerous, you know—to actual settlement by pre-emptors and homestead settlers. It relieves from these corporations just that much of the public domain that is held there under claim of the statute law where the boundaries of the corporation or town reach around. This is to limit, restrain, and define that, to leave the public land open to the settler and pre-emptor. That is the substance of the bill.

Mr. INGALLS. Has the bill been submitted to the Secretary of the Interior?

Mr. OGLESBY. I suppose it was in the House. The bill has been before us for a year or two. The Senator from Minnesota [Mr. WINDOM] had it particularly in charge during my absence, seven or eight weeks. It has been thoroughly discussed in the House and in the Senate, and both committees have concluded that it is the best measure we can get on the subject, and it is a measure that absolutely ought to receive the attention of Congress, as we think. It is the best bill we can get on the subject.

Mr. PADDOCK. I understand it to have been approved by the Commissioner of the General Land Office.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

AMENDMENTS TO AN APPROPRIATION BILL.

Mr. BLAINE, Mr. INGALLS, and Mr. STEVENSON submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1878, and for other purposes; which was referred to the Committee on Appropriations.

MOTION FOR A RECESS.

Mr. WINDOM. I wish to ask unanimous consent of the Senate that a recess be taken at five o'clock until half-past seven, or, if it be preferred that the Senate remain in continuous session, until we can report upon the sundry civil bill. The committee will have it ready to report in fifteen or twenty minutes, and I suggest the recess as perhaps being the most desirable.

Mr. SARGENT. Suppose you say from five to eight, which will give a chance to print the bill.

Mr. WINDOM. I do not believe it can be printed in that time.

Mr. SARGENT. I think it can. We are wearied out, and I think we had better have a recess from five to eight.

Several SENATORS. Five to eight.

Mr. WINDOM. Several Senators suggest that the recess be from five to eight o'clock. As that seems to be the general desire, I move that the Senate take a recess from five to eight o'clock this evening.

The motion was agreed to.

Mr. WINDOM. I wish to say one word to Senators present, that unless we can act upon the sundry civil bill to-night it will be impossible to get it through; and therefore I appeal to every Senator to be present, so that we may be sure to have a quorum.

NAVAL APPROPRIATION BILL.

Mr. SARGENT submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4616) making appropriations for the naval service for the year ending June 30, 1873, and for other purposes, having met, after full and free conference, report that they cannot agree.

A. A. SARGENT,
A. H. CRAGIN,
WM. A. WALLACE,
Managers on the part of the Senate.

J. H. BLOUNT,
EUGENE HALE,
W. C. WHITTHORNE,
Managers on the part of the House.

Mr. SARGENT. I move that the Senate further insist on its amendments and ask for another conference.

The motion was agreed to.

By unanimous consent, the President *pro tempore* was authorized to appoint the committee on the part of the Senate; and Mr. SARGENT, Mr. BOUTWELL, and Mr. WITHERS were appointed.

AGRICULTURAL REPORT.

Mr. PADDOCK. I move that the Senate proceed to the consideration of the concurrent resolution of the House of Representatives authorizing the printing of the Report of the Commissioner of Agriculture.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed 300,000 copies of the Report of the Commissioner of Agriculture for 1876; 224,000 copies for the use of the House of Representatives, 56,000 copies for the use of the Senate, and 20,000 copies for the use of the Department of Agriculture.

Mr. ANTHONY. I move to amend that by reducing the number to 200,000; 35,000 for the Senate, 140,000 copies for the House, and 25,000 for the Commissioner.

Mr. PADDOCK. I hope the amendment of the Senator from Rhode Island will not prevail, because at this late hour if the resolution should be so amended it may be a question whether it can be passed at all at this session, and it certainly is an imperative demand on the part of the agricultural interests of this country that the resolution should pass. I hope the amendment will not prevail.

Mr. HARVEY. I hope the resolution will be passed without amendment. There is no document published by Congress that is in so much demand and none of so great use.

Mr. ANTHONY. This amendment gives seven hundred and fifty copies to each Senator and to each member of the House of Representatives of this book for gratuitous distribution.

Mr. PADDOCK. If there were seventeen hundred and fifty there would yet not be enough. It is a very easy matter here to appropriate a million of dollars in the interest of commerce, to remove a snag somewhere in the navigation off the coast of Rhode Island which may obstruct a clam-boat, but when it comes to the interest of agriculture, in which more than one-half of the people of this country are deeply concerned, it seems to be almost impossible to make any progress.

Mr. ANTHONY. We have not found it very easy to get appropriations to remove the obstructions from our navigation.

The PRESIDENT *pro tempore*. The question is upon the amendment of the Senator from Rhode Island.

Mr. CLAYTON. I hope the number will not be reduced.

The amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the resolution.

Mr. ANTHONY. Then I will introduce as a substitute a bill making an appropriation. This publication is to cost $120,000. I offer this bill in lieu of the resolution.

Be it enacted, &c., That the Public Printer be, and he is hereby, directed to cause to be printed 300,000 copies of the report of the Commissioner of Agriculture for the year 1876; of which 224,000 copies shall be for the use of the House of Representatives, 56,000 copies shall be for the use of the Senate, and 20,000 copies shall be for the use of the Department of Agriculture; and that the sum of $120,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated for the execution of the work.

Mr. PADDOCK. I hope this amendment will not prevail. It is practicable for my friend, if he wishes to make an appropriation to defray the expense of printing this report, to submit an amendment to the Appropriation Committee to be placed upon the sundry civil bill or some other bill under consideration by that committee; and for the reason that I have before assigned, that at this late hour of the session it would be unfortunate to make an amendment to the resolution lest it might fail absolutely, I object to the amendment. I hope it may be voted down.

Mr. ANTHONY. You cannot make any amendment that will prevent a bill passing by the vote of the Senate and House. In fact I feel much obliged to my friend from Nebraska that he had not introduced a bill for seventeen hundred and fifty copies instead of seven hundred and fifty copies for each Senator and Member. I think if we are going into this expensive work of printing we ought to face the music and make an appropriation when we make the order for printing.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Rhode Island as a substitute.

Mr. MORRILL. I would suggest to my friend from Nebraska that it would be of no importance to pass this resolution without the appropriation, for the reason that the Printing Department will not have the funds to print the books, and it will turn out as it did some years ago, that the books will not be printed for the reason that there is no fund provided. It seems to me that it is not at war with the purpose of getting the larger number printed to have it accompanied by an appropriation bill, so that if one passes the other should pass to make both effectual.

Mr. WEST. It occurs to me that probably an arrangement can be arrived at in regard to this matter that will suit the Printing Committee and also suit the friends of the measure for printing the agricultural report. The sundry civil bill will be in here to-night, and if the Senate see proper it can make the requisite appropriation upon that bill, but do not hamper this measure by making an amendment upon it and thereby accomplishing its defeat.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Rhode Island, [Mr. ANTHONY.]

Mr. PADDOCK. I give notice to the Senate that if this amendment is voted down I shall offer an amendment to the sundry civil bill to provide for the expense of printing these reports; therefore I hope the amendment will be voted down. I think that will be agreeable to the chairman of the Committee on Printing.

Mr. MORRILL. The notice as given is all well enough, but it will not be in order. No committee has recommended it, and it will be an increase in the amount of the appropriations.

Mr. PADDOCK. I think the point of order suggested by the Senator from Vermont is not correct.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Rhode Island.

The question being put, there were, on a division—ayes 21, noes 14; no quorum voting.

Mr. PADDOCK called for the yeas and nays, and they were ordered.

Mr. MERRIMON. I beg to ask the chairman of the committee what amount is required?

Mr. ANTHONY. One hundred and twenty thousand dollars.

Mr. MERRIMON. How many copies?

Mr. ANTHONY. Three hundred thousand, at forty cents a copy.

Mr. HITCHCOCK. I hope the original resolution will prevail. I believe that of the hundreds of thousands of dollars appropriated for public printing there is no expenditure of a dollar more generally desired and more generally satisfactory to a large portion of the constituency of the great Northwest than this. I think this is economy that is rather unusual. I hope the resolution will not be amended, but will be passed as it is.

The PRESIDENT *pro tempore*. The question is on the amendment.

The question being taken by yeas and nays, resulted—yeas 21, nays 29; as follows:

YEAS—Messrs. Anthony, Bogy, Booth, Boutwell, Bruce, Burnside, Cameron of Wisconsin, Cragin, Davis, Dawes, Howe, Kernan, Merrimon, Morrill, Norwood, Robertson, Sargent, Wadleigh, Wallace, Whyte, and Wright—21.

NAYS—Messrs. Allison, Bailey, Barnum, Chaffee, Christiancy, Clayton, Cockrell, Cooper, Dennis, Ferry, Goldthwaite, Harvey, Hitchcock, Ingalls, Johnston Logan, McCreery, McMillan, Maxey, Mitchell, Paddock, Randolph, Ransom, Spencer, Stevenson, Teller, West, Windom, and Withers—29.

ABSENT—Messrs. Alcorn, Bayard, Blaine, Cameron of Pennsylvania, Conkling, Conover, Dorsey, Eaton, Edmunds, Frelinghuysen, Gordon, Hamilton, Hamlin, Hereford, Jones of Florida, Jones of Nevada, Kelly, McDonald, Morton, Oglesby, Patterson, Saulsbury, Sharon, Sherman, and Thurman—25.

So the amendment was not agreed to.

The PRESIDENT *pro tempore*. The question is on concurring in the resolution as passed by the House of Representatives.

The resolution was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4559) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1877, and for prior years, and for other purposes.

CHANGE OF NAMES OF VESSELS.

Mr. CONKLING. I ask consent, as I am compelled to go out, to report two bills from the Committee on Commerce changing the names of vessels. I call the attention of the Senator from Massachusetts to the fact that these bills are reported. They concern his constituents; they are all regular; and although I may be out for a few moments myself, if he or his colleague will take an opportunity to call them up there will be no objection. The bills I report without amendment are the bill (H. R. No. 1611) authorizing the changing of the name of the sloop Addie Parker, of New Bedford, Massachusetts, and the bill (H. R. No. 1824) to change the name of the pleasure yacht Hiram B. to Iola.

Mr. DAWES. I hope these bills will be passed at once. There cannot be a particle of objection to them.

Mr. CONKLING. Nobody can object to them.

There being no objection, the bill (H. R. No. 1611) authorizing the changing of the name of the sloop Addie Parker, of New Bedford, Massachusetts, was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

By unanimous consent the bill (H. R. No. 1824) to change the name of the pleasure yacht Hiram B. to Iola was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HEIRS OF ASBURY DICKINS.

Mr. MCMILLAN. I move that the Senate proceed to the consideration of the bill (S. No. 129) for the relief of the heirs of Asbury Dickins. The subject of this bill is entirely familiar to the members of the Senate, and I apprehend it will require no time in discussion. I suppose upon the reading of the report in this case the facts will be drawn to the attention and memory of the Senate so that they can proceed without any further delay. This bill has been upon the Calendar

during the last session and this, and it is extremely desirable that the matter should be disposed of one way or the other, and if the Senate will consent to vote upon this subject it is all I desire. I wish to have the business of the Committee on Claims disposed of, so that the Calendar may be rid of it, and that the various parties concerned may have justice done them. I think this a just case calling for the action of the Senate.

Mr. WRIGHT. I just wish to say one word about this proposition of my friend from Minnesota. I do not propose to antagonize him at all, but I give him notice now that when the bill shall be taken up I shall expect that the two reports shall be read—the majority and the minority; and it will take just about one hour to read them. I want that understood.

Mr. WINDOM. That being the state of the case, I ask consent to make a report from the Committee on Appropriations.

Mr. MCMILLAN. I think this matter had better be disposed of now. My motion is before the Senate, and I ask action upon it. I am under the impression that the reading of the reports will not occupy nearly so long as the Senator from Iowa supposes. I may be mistaken, however.

Mr. WINDOM. I fear if this motion is put it will take until five o'clock, and I shall not have an opportunity to report the sundry civil bill.

Mr. MCMILLAN. I will yield for that report as soon as the bill is up.

Mr. COCKRELL. I do hope that this case of Asbury Dickins will not be taken up. I have a precisely two hours' speech to make on that case whenever it comes up in the Senate, and I am sure it will consume at least one day's time of the Senate. It has been upon the Calendar for the last twenty-five years. It is a claim that originated from 1832 to 1837, and it has been pending ever since, and it has been argued at length, and I do hope that the time of the Senate right at the heel of the session will not be consumed in useless debate. It cannot pass the House. It can do no party any good to take it up, and it is a consumption of time to no purpose.

Mr. MCMILLAN. I do hope the Senate now will give the Senator from Missouri an opportunity to make such a speech, for I am sure it would secure the passage of the bill without any delay if the Senate would just take that course, and the only thing then is a matter of time. But, Mr. President, I think the circumstances of this case are such as to call——

Mr. WEST. I rise to a question of order, and I do it in justice to the Senate and the business before it, that it is out of order to discuss the merits of a bill on a motion to take it up.

Mr. MCMILLAN. I am not aware that I have discussed the merits.

The PRESIDENT *pro tempore*. The Senator from Minnesota had not discussed the merits.

Mr. WEST. I understood he was speaking of the peculiar circumstances of the case.

Mr. MCMILLAN. But not referring to the merits of the bill.

Mr. WINDOM. I ask my colleague to yield until I can have a disposition of the sundry civil appropriation bill.

Mr. MCMILLAN. I yield.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. WINDOM. I am instructed by the Committee on Appropriations to report back the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes, and to recommend its passage, with sundry amendments. I ask unanimous consent of the Senate to consider this bill to-night without printing. There are quite a large number of amendments, and I do not believe they can be printed with the bill until morning, and if we wait until morning I doubt very much if the bill can be passed. I submit that question to the Senate. If it cannot be printed before eight o'clock, I ask that it be considered without printing.

Mr. ANTHONY. O, no; there is time to have it printed, I think.

Mr. WINDOM. I am informed that there is time enough to print it, therefore I withdraw the request. The understanding is that the bill shall be proceeded with to-night.

Mr. MCMILLAN. I will, under the circumstances, withdraw the motion I made, and will take some other opportunity during the session.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. ALLISON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4306) making appropriations for the support of the Militaty Academy for the fiscal year ending June 30, 1878, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 10, 12, 13, 14, 16, 21, and 22.

That the House recede from its disagreement to the amendments numbered 1, 2, 3, 4, 5, 6, 7, 9, 11, 15, 17, 18, 19, 20, and 23.

That the House recede from its disagreement to the amendment numbered 8 and agree to the same, with an amendment as follows: Strike out "eleven thousand" and insert in lieu thereof "eight thousand nine hundred and ninety-nine;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 24, and agree to the same, with an amendment as follows: Strike out of said amendment the words "nine hundred;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 25 and agree to the clause proposed to be stricken out with an amendment as follows: After the word "band" insert "for the fiscal year ending June 30, 1878," and the House agree to the same.

That the Senate recede from its amendment numbered 26, with an amendment striking out all of the amended matter after the word "Army" in line 20, page 6 of the bill; and the House agree to the same.

W. B. ALLISON,
JOHN A. LOGAN,
WM. A. WALLACE,
Managers on the part of the Senate.

HIESTER CLYMER,
JAMES H. BLOUNT,
EUGENE HALE.
Managers on the part of the House.

The report was concurred in.

REPORT ON IMMIGRATION.

Mr. HARVEY. I offer the following resolution, and ask its reference, with the accompanying papers, to the Committe on Printing:

Resolved, That there be printed of the special report of the Chief of the Bureau of Statistics on immigration, from the stereotype plates, 1,000 copies in the English and 2,000 copies in the German language, for distribution by the Treasury Department in those countries in Europe where the languages are spoken.

The resolution, with the accompanying papers, was referred to the Committee on Printing.

MARSHAL P. THATCHER.

Mr. COCKRELL. I move to proceed to the consideration of the bill (H. R. No. 3574) for the relief of Marshal P. Thatcher, who had a horse lost in the service and who cannot get pay for him because he had not been mustered according to the regulations.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It proposes to pay to Marshal P. Thatcher, late of the Second Michigan Cavalry, $150, in full satisfaction for the loss of a horse, April 15, 1862, while in the military service of the United States.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HENRY VOELTER.

Mr. WADLEIGH. I move to take up Senate bill No. 1255. It is the only thing the Committee on Patents have asked for.

The motion was agreed to; and the bill (S. No. 1255) for the relief of Henry Voelter was considered as in Committee of the Whole. It authorizes the Commissioner of Patents to hear and determine the application of Henry Voelter for the extension for the further term of seven years of the letters-patent for improvement in reducing wood to paper-pulp, granted to him August 10, 1858, antedated August 29, 1856, extended for seven years from August 29, 1870, and re-issued upon an amended specification June 6, 1871; the form of such application and the mode of proceeding under it to be in all respects the same as was provided by the act of Congress approved July 8, 1870, entitled "An act to revise, consolidate, and amend the statutes relating to patents and copyrights" for the extension of patents granted prior to March 2, 1861; and if upon such hearing the Commissioner shall be satisfied that Voelter, without neglect or fault on his part, has failed to obtain from the use or sale of his invention or discovery a reasonable remuneration for the time, ingenuity, and expense bestowed upon it and the introduction of it into use, and that it is just and proper, having due regard to the public interest, that the term of the patent should be so extended, the Commissioner shall make a certificate upon the re-issue patent, renewing and extending the same to Voelter, his executors, administrators, or assigns for the term of seven years from the 29th day of August, 1877, which certificate shall be recorded in the Patent Office, and thereupon the patent shall have the same effect in law as though it had been originally granted for twenty-eight years.

Mr. COCKRELL. Is there a report?

The PRESIDENT *pro tempore*. There is a report.

Mr. COCKRELL. Let it be read.

Mr. WADLEIGH. It is long.

Mr. COCKRELL. That committee ought to make short reports.

Mr. WEST. It is evident, in view of the reading of that report and the discussion that will follow on this bill, that it cannot pass before the hour at which we are to take a recess; and as there are a number of executive communications on the table from the President, I move that the Senate proceed to the consideration of executive business up to the hour of recess.

Mr. WADLEIGH. Let me say that the moment this bill is understood there would be no discussion upon it and no opposition to it. It is the case of an invention wholly new, of immense value to this country, where the inventor has lost $33,000 as it stands to-day.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Louisiana that the Senate proceed to the consideration of executive business.

The motion was agreed to.

ELECTORAL COMMISSION RECORDS.

Mr. ANTHONY. While the galleries are clearing I will offer the following resolution from the Committee on Printing and ask for its present consideration:

Resolved, That 500 additional copies of the report of the proceedings of the electoral commission be printed to replace 500 copies taken from the bound edition of the CONGRESSIONAL RECORD for the use of the electoral commission.

The resolution was considered by unanimous consent, and agreed to.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business. After three minutes spent in executive session the doors were re-opened; and (at five o'clock) the Senate took a recess until eight o'clock p. m.

EVENING SESSION.

The Senate re-assembled at eight o'clock p. m.

CLAIM OF DOMINICAN REPUBLIC.

Mr. WINDOM, from the Committee on Appropriations, to whom was referred the message of the President of the United States, communicating, in answer to a resolution of the Senate of February 27, 1877, information in relation to the demand for the payment of money claimed to be now due the Dominican government from the United States, asked to be discharged from its further consideration, and that it be referred to the Committee on Foreign Relations; which was agreed to.

Mr. CAMERON, of Pennsylvania. I am directed by the Committee on Foreign Relations to report to the Senate a provision to pay to the assignees of the Dominican Republic the sum of $71,400.80 for the occupation of the bay of Samana, with accompanying documents; and I move that it be referred to the Committee on Appropriations, who may present it as an amendment to the sundry civil bill.

The motion was agreed to.

HENRY VOELTER.

Mr. WADLEIGH. I call for the unfinished business.

The PRESIDING OFFICER, (Mr. MITCHELL in the chair.) The unfinished business is the bill (S. No. 1255) for the relief of Henry Voelter. The question is on the motion of the Senator from New Hampshire, [Mr. WADLEIGH,] to proceed to the consideration of the bill. Is the Senate ready for the question?

Mr. DAVIS. Let the bill be read for information.

Mr. WADLEIGH. It is already before the Senate, as I understand.

The PRESIDING OFFICER. The bill will be reported for information.

The Chief Clerk read the bill.

The PRESIDING OFFICER. The question is on proceeding to the consideration of the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

INFRINGEMENT OF PATENTS.

Mr. WADLEIGH. I move to proceed to the consideration of the bill (H. R. No. 3370) to amend the statutes in relation to damages for infringement of patents, and for other purposes, which was reported from the Committee on Patents with certain amendments.

Mr. BOUTWELL. I suggest to the Senator from New Hampshire that that is a bill of a good deal of importance, as I understand it. It ought to be fully considered, and in full Senate.

Mr. WADLEIGH. I will state for the information of the Senator from Massachusetts that the parties who desire the passage of this bill and the parties who oppose its passage had a long consultation, in which they agreed upon certain amendments to this bill which made the bill satisfactory to both sides.

Mr. BOUTWELL. Is it a bill relating to private rights?

Mr. WADLEIGH. It is a bill relating to private rights, to a certain extent.

Mr. BOUTWELL. Let it be read. I thought it was a bill for the alteration of public laws.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Hampshire to proceed to the consideration of the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. CONKLING. Mr. President, before we enter upon this bill, I wish to say that I have, now that I learn what the bill is, remonstrances by telegraph and otherwise from many people, who insist that this bill is not what it should be by any means; and I trust that we shall not at this hour of the night take up a bill which covers so much of doubtful territory as is covered by this bill. For one, I want an opportunity to look at it and I want an opportunity to be heard upon it if the allegations made to me by letter and by telegram, by lawyers, by inventors, and by manufacturers, have any considerable thing to rest upon, and certainly we cannot have that now at this hour of the night and with the evening belonging to the Committee on Appropriations.

Mr. CAMERON, of Pennsylvania. Mr. President——

Mr. WADLEIGH. One moment, if my friend pleases. If the Senator from New York had taken the trouble to ascertain what this bill as amended is I am sure he would interpose no objection to its passage. The bill as originally presented was the bill against which he received remonstrances, and numerous remonstrances against it came to the Committee on Patents, and a long hearing was had before that committee, on which eminent counsel appeared on both sides; and finally those counsel, comprising some of the most eminent patent lawyers in the country, upon both sides, agreed upon amendments to this bill, which made it satisfactory to all; and I venture to say that from no source whatever has there come any remonstrance against the bill as it is with these amendments; and I hope it will be considered, as it remedies certain well-known evils in reference to patent law and practice.

Mr. CAMERON, of Pennsylvania. That bill cannot go through. I ask the indulgence of the Senate to take up a bill.

The PRESIDING OFFICER. The Chair will state to the Senator from Pennsylvania that this bill has already been taken up and is now in Committee of the Whole.

Mr. CAMERON, of Pennsylvania. I thought it was disposed of.

Mr. MORRILL. There is a report, I believe, that was not read in relation to this bill. I ask for the reading of the report.

The PRESIDING OFFICER. The Chair is informed by the Clerk that there is no report accompanying the bill. The bill is in Committee of the Whole, and upon the amendment.

Mr. CONKLING. Which bill?

The PRESIDING OFFICER. The bill which was taken up before the Senator from New York obtained the floor.

Mr. CONKLING. The patent bill?

The PRESIDING OFFICER. Yes, sir.

Mr. CONKLING. I want to be heard upon that. Mr. President, the Senator from New Hampshire expresses the opinion that no remonstrance has been made to this bill since it assumed the shape in which it now presents itself. As throwing some light upon the fact in that respect, I mention to the Senator from New Hampshire that yesterday when he presented a bill relating to the Patent Office, which is not this bill at all, and I interposed an inquiry, in consequence of which the bill went over, I received from those who supposed it was this bill as now reported messages, after the afternoon papers had been issued, thanking me for interposing and begging me to look at some of the features of the bill which, on reference to it, I found did not exist, but do exist in this bill. These dispatches came from people known to me in some instances, who are very apt to know what they are talking about; and opening this bill now at random, my eye falls upon the third section; and a few lines of that section I wish to read, to illustrate, if I can, to the Senate the sort of measure with which it is proposed now, at ten minutes after eight, to begin a change of the patent laws:

SEC. 3. That every patent, or any interest therein, shall be assignable in law by an instrument in writing; and the patentee, or his assigns or legal representatives, may, in like manner, grant and convey an exclusive right under the patent for the whole or any specified part of the United States, or may grant licenses under said patent, exclusive or otherwise, as the parties may agree. And when there are two or more joint owners, or owners in common, of any patent, a license from any one of said owners shall be good and valid in law, and shall vest in the licensee full right to the said invention, according to the terms of said license, unless the conveyance or other instrument creating such joint ownership, or ownership in common, shall provide that no license shall be valid unless executed by all of such owners, or a specified portion thereof in number or interest, or unless an agreement to that effect shall be made by said owners, and filed for record before the execution of said license.

Mr. CAMERON, of Pennsylvania. Let us take the question.

Mr. CONKLING. On what?

Mr. CAMERON, of Pennsylvania. I beg the Senator's pardon. I spoke in my seat without reflection.

Mr. CONKLING. But I did not hear my friend, and I am trying to hear him.

Mr. CAMERON, of Pennsylvania. I am very anxious to get up a little bill to pay but a few hundred dollars to a disabled soldier.

Mr. CONKLING. I am going to occupy the floor for but a moment, and I think in aid of the Senator's wish. Addressing myself to any Senator who listens and who has had any experience in the trial of patent causes and the settlement of patent law I was going to consider for a moment what this section proposes, what it proposes in reference to existing cases, what it proposes in reference to other cases. For example, the Supreme Court said long ago, and has often repeated, that no interest in an invention is assignable at all until it has been brought into complete and effectual existence. In the language of the court, an invention *in fieri* is not assignable at all. Will any lawyer tell me what effect upon that principle of law this section is to have (I do not know from reading it twice) either as to existing cases or to other cases? Can it be that without an opportunity to examine this bill and to understand it, we should take up a measure as radical in its operation as that, which we know is objected to, to which, speaking for one, my attention has been repeatedly and earnestly called for the last two or three months? I had nomore idea that the consideration of the bill was to proceed now than I had that the Geneva award bill or any other important measure was to be taken up to-night, which I supposed was to be occupied by the Committee on Appropriations.

I beg to assure my friend from New Hampshire that the last thing I want to do is to interfere with his committee or the work of any committee of which I am not a member, and I would not interpose on this subject, if I had not received many letters from lawyers and others protesting against various provisions of this bill. Knowing what I do of the history of patent legislation for the last ten or fifteen years, and knowing something, as I do from others, of what occurs under the statutes as they stand now, in the courts and elsewhere, I do respectfully insist that a subject of this sort should be taken up when there is time to discuss it, time to understand it, and time to go sure-footed in attempting changes so radical as it seems to me are proposed by this bill.

I am with the Senator from Pennsylvania in getting up any bill which he wants to take up, and I shall be with the Senator from New Hampshire for taking up this bill whenever it can be taken up deliberately. Particularly if a little notice is given so that we may possess ourselves of it, I will assist him at any time in taking it up, but I hope the honorable Senator will not feel that he is bound, (although I know his desire is as that of every Senator ought to be to care for the measures which come from his committee,) to-night, with so thin a Senate, to summon us unexpectedly to take up a bill which I think every Senator ought to understand.

Mr. WADLEIGH. I will delay the Senate but a single moment. The Senator from New York has pointed out in this bill that portion of it to which he objects.

Mr. CONKLING. No, I beg the Senator's pardon. I opened the bill at random to read an illustration to show the character of the bill. I do not know that I do object to it, for I do not understand what the reasons are.

Mr. WADLEIGH. The bill simply provides that the owners of a patent right who own it as joint owners shall be partners therein, and that one of them may convey the rights of partners; and that is the rule now with reference to all species of personal property at common law. It introduces no new principle whatever, and so far as it applies to this subject it is correct and right. I will simply say that this bill has already passed the House as it was first introduced. Its passage at this session is demanded by a very large interest, and, as I said, numerous counsel appeared before the committee for the purpose of urging its passage. It attempts to remedy certain evils which if they continue to exist will render the patent law of no use to anybody, and so odious that it will fall of its own weight. I had hoped that this bill or some measure of relief would pass at this session. Of course if the Senate vote otherwise I cannot help it, but I should like to have the bill passed.

Mr. BOUTWELL. I should like to know from the Senator from New Hampshire in what particulars this bill would work changes in the existing laws?

Mr. WADLEIGH. The bill in the first place provides for a period of limitation within which suits may be brought after infringement. That period is four years. Now there is practically no limitation whatever, which is a great hardship to those who use patent rights.

Mr. CONKLING. Does the Senator say there is no limitation to the time in which damages for infringement may be recovered?

Mr. WADLEIGH. As I understand the latest decisions made within three months, and which were quoted to the committee, suits for infringement may be brought at any time within the life of the patent and within six years afterward, and perhaps forever afterward.

Mr. CONKLING. No doubt of it; but does the Senator say there is no period of limitation within which damages may be recovered?

Mr. WADLEIGH. That is not what I said.

Mr. CONKLING. But this bill limits that, if my friend will pardon me, as I read it:

Shall recover only for such damages for infringement as shall have occurred for and during the term of four years immediately preceding the commencement of such action or proceeding.

If my friend will pardon a further interruption, I beg to suggest to him that this bill makes two very important changes in the law. In the first place, the law is not now that there is no limitation of the period for which damages may be recovered. It changes that, but it makes two important changes. In the first place, it fixes four years as the whole term. It makes that four years the four years immediately antedating the suit. Suppose the person whose rights have been infringed is unable to obtain his evidence and his footing on which to commence his suit, and a period has intervened since the infringement. He is to recover only for the particular four years. I need not say to a patent lawyer as good as the Senator from New Hampshire that many cases occur, not in supposition merely but in practice, where virtually this would denude the party of his right altogether.

The PRESIDING OFFICER. The amendments reported from the Committee on Patents will be acted upon in their order. The first amendment of the comittee will be reported.

The CHIEF CLERK. The first amendment of the committee is in section 1, commencing in line 7, to strike out the following words:

One year immediately preceding the notice of infringement and after such notice shall be given and until the date of the judgment: *Provided*, That where no other notice of infringement shall be given, the commencement of a suit for such infringement shall be construed as notice.

And in lieu thereof to insert—

four years immediately preceding the commencement of such action or proceeding.

So that the first section of the bill will read:

That from and after the passage of this act, the plaintiff in any action at law or proceeding in equity, if found entitled in such proceeding or action to recover damages for infringement of any patent, shall recover only for such damages for infringement as shall have occurred for and during the term of four years immediately preceding the commencement of such action or proceeding.

Mr. CAMERON, of Pennsylvania. I move to postpone the bill indefinitely, or, if the Senator from New Hampshire prefers, I will move to postpone it for the present. I have had, I think, a hundred letters on the subject of this bill, all from people interested in manufacturing and matters connected with patents in my State. I believe it would do them a great deal of wrong. I will move to postpone the bill until the first Monday in December, and for the reason that there is a great deal of interest taken in all these patent bills by everybody almost. Certainly there is not a township in all this country where there are not a great many people interested in everything that is pertaining to patents; and in all the letters to me on this subject it is said that this bill ought not to be passed. If it is not necessary, I shall not occupy more than a moment of time, because it is so near the end of the session, and I move now to postpone the bill until the first Monday in December.

The PRESIDING OFFICER. The question is on the motion of the Senator from Pennsylvania, to postpone the bill until the first Monday in December.

The motion was agreed to.

EDWIN MORGAN.

Mr. CAMERON, of Pennsylvania. I move, and I beg the Senate to indulge me while I make the motion, the immediate consideration of a bill reported from the Committee on Military Affairs with an amendment. I move that the Senate take up the bill (H. R. No. 2019) for the relief of Edwin Morgan, late captain of Company G, Seventy-seventh Regiment, Pennsylvania Volunteer Infantry. I hope it will be taken up now, because it will have to go to the other House on account of the amendments and be returned here. It is only a few hundred dollars.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to pay to Edwin Morgan, late captain of Company G, Seventy-seventh Regiment Pennsylvania Volunteer Infantry, the pay and allowances of a second lieutenant of infantry, in command of company, from the 19th day of June, 1864, to the 1st day of May, 1865, together with three months' pay proper, allowed to certain officers of the volunteer service under section 4 of act of Congress approved March 3, 1865, after deducting from the pay and allowances any sums of money heretofore paid him for his services for that time.

The bill was reported from the Committee on Military Affairs with an amendment in lines 8 and 9, to strike out "the 19th day of June" and insert "the 7th day of July."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 4691) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes; and

A bill (H. R. No. 4433) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871.

HOUSE BILLS REFERRED.

The bill (H. R. No. 4691) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

Mr. SARGENT. I think, as the Committee on Appropriations have the sundry civil bill and several conferences on hand, they will hardly be able to take up the Army appropriation bill in committee before morning; and therefore I ask that it be printed.

The PRESIDING OFFICER. It will be so ordered, if there be no objection. The Chair hears none.

The bill (H. R. No. 4433) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, was read twice by its title, and referred to the Committee on Claims.

CATHERINE HARRIS.

Mr. SPENCER. I move that the Senate proceed to the consideration of the bill (H. R. No. 2606) for the relief of Catherine Harris.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to pay to Catherine Harris, widow of Matthias Harris, late a chaplain in the United States Army, the amount of pay and allowances due him as a chaplain of the Army from the 5th of February, 1864, to the 10th of October, 1864.

Mr. DAVIS. What is the amount involved?

Mr. SPENCER. It is about $200.

Mr. DAVIS. Let us hear what the bill says. I ask the Clerk to read the bill again.

The Chief Clerk read the bill.

Mr. DAVIS. Is there a report with the bill?

Mr. SPENCER. There is a report.

Mr. DAVIS. Let it be read.

The PRESIDING OFFICER. The report will be read.

The Secretary read the following report, submitted by Mr. SPENCER from the Committee on Military Affairs January 23:

The Committee on Military Affairs, to whom was referred the bill (H. R. No. 2606) for the relief of Catherine Harris, respectfully report:

The following report accompanies the papers transmitted from the House, and is presumed to be the report of the House Committee on Military Affairs. It is a correct statement of the facts as shown by the proof, and warrants the recommendation that the act should pass. A critical examination, however, develops the fact that Chaplain Harris was never at any time during the period mentioned out of the service of the United States, nor could the order of the Secretary of War, Mr. Stanton, be legally construed so as to deprive him of his rank and pay. The order, however, having been revoked, no matter how arbitrarily it may have been construed or illegally interposed, the relief asked for is beyond question just and entitled to be granted. In fact, under the record herewith presented, the Pay Department was not justified in refusing to pay Chaplain Harris for the period provided for in the act. Your committee therefore recommend the passage of the act.

"Catherine Harris is the widow of the late Matthias Harris, who served over twenty years as a chaplain in the United States Army.

"In consequence of allegations that he gave utterance to disloyal sentiments in a sermon preached to the troops, the Adjutant-General of the Army, by letter, January 28, 1864, to Major-General Augur, commanding Department of Washington, informed him that 'The Secretary of War directs that you order the commanding officer at Fort Washington, Maryland, to discontinue the employment of Rev. M. Harris as chaplain at that post.' January 30, 1864, Major-General Augur, by letter, communicated this order to the commanding officer at Fort Washington, which was received and carried into effect February 5, 1864, on which date Chaplain Harris ceased his duties, and subsequently drew his pay as a chaplain in full to that date.

"It appears that the Secretary of War, (Hon. E. M. Stanton,) after personally investigating the matter, was satisfied that an injustice had been done, and by letter, October 8, 1864, he directed Major-General Augur 'that the order to discontinue the employment of Rev. M. Harris as chaplain at Fort Washington be revoked, and he will be assigned to duty at Fort Foote.'

"October 10, 1864, Major-General Augur communicated these orders, by letter, to the commanding officer at Fort Washington, and also inclosed to him the following order:

["Special Orders No. 253.]

"HEADQUARTERS DEPARTMENT OF WASHINGTON,
"TWENTY-SECOND ARMY CORPS,
"*Washington, D. C., October* 10, 1864."

"Chaplain Matthias Harris is hereby relieved from duty at Fort Washington, and will report to Brigadier-General Hardin, commanding division, for assignment to duty at Fort Foote.

"By command of Major-General Augur:

"C. H. RAYMOND,
"*Assistant Adjutant-General.*"

"Chaplain Harris resumed his duties and drew his pay from October 10, 1864, until the time of his death. His widow claims that he was entitled to pay for the time between February 5, 1864, and October 10, 1864.

"From an examination of the official orders referred to, it is evident that their object, or at least their effect, was to place Chaplain Harris in the position of never having been relieved from duty. The letter of the Secretary of War, of October 8, 1864, was not to restore Chaplain Harris to duty, but it revoked the former order dismissing him. The effect of revocation was to place Chaplain Harris in the same position as if the original orders had never been written or issued. That such was the construction of Major-General Augur is evident from his Special Orders No. 253, which, before assigning Chaplain Harris to duty at Fort Foote, relieved him from duty at Fort Washington. If the purpose had been simply to restore Chaplain Harris to the Army, the original orders for his dismissal would not have been revoked; he would simply have been restored to duty and assigned to Fort Foote without the intervening formality of relieving him from duty at Fort Washington, which duty he could only be upon constructively. It would seem to have been the purpose of the Secretary of War to place Chaplain Harris in the position of never having been discontinued from service, and to obliterate from his record, so far as a revocation could do it, the fact.

"It appears, therefore, to your committee that Chaplain Harris must be considered as having been continuously an officer of the Army, and that, not having drawn his pay as such from February 5, 1864, to October 10, 1864, his widow is now justly entitled to the same.

"The committee report that the bill ought to pass."

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ALMERON E. CALKINS.

Mr. CHRISTIANCY. I move that the Senate take up the bill (H. R. No. 559) for the relief of Almeron E. Calkins, late a second lieutenant in the Eighth Michigan Infantry.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Paymaster-General of the United States Army to pay Almeron E. Calkins, late a second lieutenant in the Eighth Regiment of Michigan Cavalry, the pay and allowances of a second lieutenant from the 22d of March, 1864, to the 23d of July, 1864, the date of his muster as such second lieutenant.

Mr. CHRISTIANCY. This bill has met the unanimous approval of the Committee on Military Affairs in the House and also of the corresponding committee in the Senate. The whole substance of the bill is this: This man Calkins was a lieutenant and actually commanded a company in Sherman's march to the sea; yet he never had an opportunity of being mustered in as an officer, and he has been unable to obtain his pay. That is the whole substance of the case.

The bill was reported to the Senate without amendment; ordered to a third reading, read the third time, and passed.

JOHN S. MILLER.

Mr. BOUTWELL. I move that the Senate proceed to the consideration of the bill (S. No. 1130) for the relief of the executors of the estate of John S. Miller, deceased.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Commissioner of Internal Revenue to credit Barbara Miller, John S. Miller, and William H. Miller, executors of the estate of John S. Miller, deceased, with the amount of $12,117.10, assessed against them for deficiency in the production of spirits at their distillery at Sterling, Illinois, during the months of April, May, and June, 1876; but the Commissioner of Internal Revenue shall be satisfied that they have paid the legal tax upon all spirits produced at their distillery during those months.

Mr. COCKRELL. Is there a report in that case?

Mr. BOUTWELL. I can state the purpose of the bill in a moment.

Mr. COCKRELL. Is there a written report with the bill?

Mr. BOUTWELL. There is no written report with it by the Senate committee; but there was a report made to the House, I think, in the last Congress. I can state the facts briefly, which will be better probably.

Mr. COCKRELL. I should like to hear the report read, if there is a report with the bill?

Mr. BOUTWELL. I am not sure whether there is a report with the bill or not.

The PRESIDING OFFICER. The Chair is informed that no report accompanies the bill.

Mr. BOUTWELL. But there was a report made in the House. This claim arose in this way: At a distillery in Illinois, as in every other distillery, the Department made an estimate of the capacity of the distillery at the rate of sixteen quarts, or four gallons, for every bushel of grain used in the distillery, fermentation being allowed for forty-eight hours. The law requires that such estimate shall be made, and that the distillery shall pay an amount of tax equal to 80 per cent. of that estimate, and shall pay also for whatever may be made in excess of the estimate. It turned out that during three months, the spring months of the year 1876, the estimate of the capacity of the distillery exceeded the actual product, so that the tax assessed was about $12,000 in excess of what it should have been upon the quantity produced. The Commissioner of Internal Revenue recommends the allowance of this tax against the assessment already existing. The bill was examined by the Committee on Finance, and their opinion was unanimous that this allowance should be made. These are the facts, and upon these facts the Senate can judge.

Mr. COCKRELL. It was because I anticipated the very statement which is made by the Senator from Massachusetts that I asked for an explanation or for the reading of the report. Now it would seem to be gross injustice that one committee of this Senate should report upon a similar state of facts adversely and another committee should report favorably, when both cases are based upon the same facts and upon the same principle. If I am not very much mistaken, the Committee on Claims only the past week considered a case of the very same character and nature as the case described by the Senator from Massachusetts and now under consideration, and that committee report adversely. I think it would be doing great injustice to let this bill pass.

This was a distiller. He made his estimate of the amount of whisky which would be made month by month, and because he failed to make that amount he comes in now and claims a deduction. You establish that principle and every distiller in the United States will be appealing at the doors of Congress for abatements. They know the capacity of their stills and they ought to be governed by the assessments that are made at that time by the ascertainment of the amounts. There has been a bill of this kind under consideration in the Committee on Claims, and, as I understand it, that committee have reported adversely. I do not think it would be right that the Senate should pass this bill under the circumstances.

Mr. CAMERON, of Wisconsin. As the Senator from Missouri has remarked, a bill similar to this was referred to the Committee on Claims; the bill was referred by the Committee on Claims to the Treasury Department, and the Secretary of the Treasury, in response to an inquiry made of him, wrote us a lengthy communication in which he recommended that the bill do not pass, and we thought he made a very conclusive argument against it. Our own opinion agreeing with the opinion of the Secretary of the Treasury, we unanimously reported against the bill.

Mr. BOUTWELL. Well, Mr. President, I think the policy of the Government ought to be uniform in that respect, and under the circumstances I think that the passage of this bill ought not to be pressed. At some future time perhaps Congress will decide what should be done. I move that the further consideration of the bill be postponed until the first Monday of next December.

The motion was agreed to.

CLOTHING TO SOLDIERS.

Mr. CLAYTON. I move that the Senate proceed to the consideration of House joint resolution No. 175.

The motion was agreed to; and the joint resolution (H. R. No. 175) authorizing the issue of clothing to Company A, Second Regiment United States Cavalry, was considered as in Committee of the Whole. It is an authority to the Secretary of War to issue to fifty enlisted men of Company A, Second Regiment United States Cavalry, clothing in lieu of and equal in amount to that lost by them at the fire which occurred in the camp of Company A, Second Cavalry, on the 16th day of July, 1874, as shown and recommended in the report of the board of survey convened under Special Orders No. 138, headquarters Fort Laramie, Wyoming Territory, of date of July 17, 1874.

Mr. DAVIS. Let us hear this matter explained.

Mr. CLAYTON. It explains itself. I will state that the barracks

caught fire and the clothing of these soldiers was destroyed while they were trying to take care of Government property. It is based on a report of the Secretary of War. The bill is recommended by him. The ascertainment of the amount of clothing destroyed was the result of a board of survey called by the proper officers of the War Department. This resolution is to allow the War Department to re-issue clothing to these soldiers in lieu of what was destroyed while they were endeavoring to save the public property. There is no question whatever about it. It amounts to a very small matter anyhow.

Mr. DAVIS. The Senator says the resolution is based upon a recommendation of the Secretary of War. Let that be read.

The PRESIDING OFFICER. The recommendation of the Secretary of War will be read.

Mr. WINDOM. Before that is read I wish to explain the delay in calling up the sundry civil bill. We expected it here at eight o'clock, but the printers were unable to have it ready before nine, as we are informed.

The Secretary read the following letter of the Secretary of War:

WAR DEPARTMENT, *January* 6, 1876.

The Secretary of War has the honor to transmit to the House of Representatives copy of the proceedings of a board of survey convened at Fort Laramie, Wyoming Territory, to inquire into and report upon the circumstances attending a fire which occurred in the camp of Company A, Second Regiment of United States Cavalry, on the 16th day of July, 1874, with the recommendation that an act be passed (draught inclosed) authorizing the issue of clothing to the fifty enlisted men of Company A, Second Cavalry, as mentioned in the proceedings of the board of survey, equal in amount to and in lieu of that lost by them at the said fire.

WM. W. BELKNAP,
Secretary of War.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

FRANCIS HEGUER AND JOHN C. COLLINS.

Mr. CLAYTON. I have another joint resolution of similar character which I think had bettter be disposed of at once. I move to proceed to the consideration of House joint resolution No. 176.

The motion was agreed to, and the joint resolution (H. R. No. 176) authorizing the issue of clothing to private Francis Hegner, Company F, Seventh Cavalry, and private John C. Collins, Company G, Seventh Cavalry, was considered as in Committee on the Whole.

It authorizes the Secretary of War to issue to private Francis Hegner, Company F, Seventh United States Cavalry, and private John C. Collins, of Company G, Seventh United States Cavalry, clothing in lieu of and equal in amount to that lost by them respectively at the burning of the cavalry stable at Fort Abraham Lincoln, Dakota Territory, November 10, 1874, as shown and recommended in the report of the board of survey convened by Special Orders No. 213, headquarters Fort Abraham Lincoln, Dakota Territory, of the date November 11, 1874.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

W. W. VAN ANTWERP.

Mr. COCKRELL. I ask leave to take up the bill (H. R. No. 2694) for the relief of W. W. Van Antwerp, late major of Fourth Michigan Cavalry. I move to take it up.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which provides for paying to—

W. W. Van Antwerp, a citizen of Jackson, Michigan, $160, being the value of a private horse, lost in action while Van Antwerp was in the strict line of his duty as a soldier.

Mr. COCKRELL. The bill provides for paying him $150 for a horse.

The Committee on Military Affairs reported the bill, with an amendment in line five, to strike out "sixty" and insert "fifty;" so as to read, "$150."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

POST-OFFICE APPROPRIATION BILL.

Mr. WEST submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes; having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses, as follows:

The House recedes from its disagreement to the amendments of the Senate numbered 3, 4, 5, 8, 10, 20, 21, 22, 23, 24, 26, 28, 29, 30, and 31.

The Senate recedes from its amendments numbered 19 and 27.

The House recedes from its disagreement to amendment No. 1, and agrees to the same with an amendment making the amount $135,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 2, and agrees to the same with an amendment making the amount $125,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 6, and agrees to the same with an amendment making the amount $3,340,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 7, and agrees to the same with an amendment making the amount $1,825,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 9, and agrees to the same with an amendment making the amount $400,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 11, and agrees to the same with an amendment making the amount $800,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 14, and agrees to the same with an amendment making the amount $1,225,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 15, and agrees to the same with an amendment making the amount $1,000,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 16, and agrees to the same with an amendment making the amount $150,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 17, and agrees to the same with an amendment making the amount $110,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 18, and agrees to the same with an amendment making the amount $670,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 25, and agrees to the same with an amendment making the amount $14,150; and the Senate agree to the same.

Upon amendments Nos. 12, 13, 32, 33, 34, and 35 the conferees have been unable to agree; and so report to their respective Houses.

J. R. WEST,
H. HAMLIN,
L. V. BOGY,
Managers on the part of the Senate.

W. S. HOLMAN,
JAMES H. BLOUNT,
CHAS. FOSTER,
Managers on the part of the House.

Mr. WEST. I ask for the adoption of the report.

Mr. STEVENSON. I should like to hear an explanation of some of those items. Nobody can understand them by merely hearing the Clerk read the numbers. The Senator from Louisiana has charge of the bill, and I should be glad to hear from him.

Mr. WEST. The conferees have only agreed upon matters of detail, and arranged and accommodated the respective sums, leaving open the main questions contained in the bill.

The report was concurred in.

Mr. WEST. I now move that the Senate insist upon its amendments upon which the conferees have not been able to agree and ask for a further conference upon the part of the House.

The motion was agreed to; and by unanimous consent the President *pro tempore* being authorized to appoint the committee on the part of the Senate, Messrs. WEST, DORSEY, and BOGY were appointed.

LAND CEDED BY TREATY OF 1842.

Mr. McMILLAN. I move to proceed to the consideration of the bill (H. R. No. 186) to provide for compensation to the owners of certain lands ceded by the United States to Great Britain in and by the treaty of Washington of July 8, 1842.

The motion was agreed to; and the bill was considered as in Committee of the Whole. The preamble recites that the United States, in and by the treaty of Washington of July 9, 1842, by adopting a conventional line "from the monument at the source of the river Saint Croix, running north, following the exploring-line run and marked by the surveyors of the two governments in the years 1817 and 1818," instead of a true line, did cede to the British Crown a strip of land commencing at an angle at said monument, and increasing to nearly one mile in width at the river Saint John, certain portions of which, amounting to 10,718 acres and 137 square rods, had been granted to citizens of the United States by the States of Maine and Massachusetts while the same were within the lines of the United States, and for which the United States received compensation in equivalents and concessions from the British Crown; and that the United States have made compensation to the States of Maine and Massachusetts for so much of the territory as was owned by them, respectively, and all citizens owning lands on the west of the exploring-line, which vested in British subjects by operation of the treaty under the act of July 12, 1862, and other acts, and have hitherto failed to make compensation to those citizens owning lands upon the strip and tract east of the exploring-line, which passed either to British subjects or to the British Crown by virtue of the exploring-line being adopted as the treaty-line between the two countries at that point, whereby those citizens became entitled to compensation for said lands so appropriated to public use.

The bill therefore directs the Secretary of the Treasury to pay to the parties entitled thereto compensation for the land taken from the State of Maine by the conventional line and included in the province of New Brunswick, not exceeding 10,718 acres and 137 square rods, appropriated by the United States, its value in money at the date of the appropriation, and also for all timber cut therefrom by British subjects during the suspension of jurisdiction by the respective governments preceding the treaty; but the whole amount of compensation so made shall not exceed an average compensation of $3 per acre, and the same shall be distributed and applied in proportion to the relative value of the lands when appropriated. All payments made under the act are to be in full of all compensation due by the United States for the lands so appropriated. In determining the amount and value of the land appropriated, and the amount of compensation to be made to any claimant, the Secretary of the Treasury may use any evidence heretofore taken in relation thereto by the Department of State or

by the States of Maine and Massachusetts, and any and all official documents and correspondence pertaining thereto to carry the act into effect.

Mr. WHYTE. From what committee does this bill come? It is a very important bill.

The PRESIDING OFFICER. The Committee on Claims.

Mr. McMILLAN. It is reported from the Committee on Claims.

Mr. WHYTE. Is there a report?

Mr. McMILLAN. There is a report accompanying the bill.

Mr. WHYTE. I should like to hear it read.

The PRESIDING OFFICER. The report will be read.

Mr. McMILLAN. I call the attention of the Senate to the fact that the facts are stated in the preamble, which by the report are found to be true. I merely wish to call the attention of the Senate to that.

The Secretary read the following report submitted by Mr. WADLEIGH, from the Committee on Claims, on July 15, 1876:

The Committee on Claims, to whom was referred the bill (H. R. No. 186) to provide for compensation to owners of certain lands ceded by the United States to Great Britain in and by the treaty of Washington of July 9, 1842, submit the following report:

They find that the recitals of the preamble to the bill are true.

The subject-matter was before the Forty-third Congress, upon the petition of James A. Drew and others, and the careful report made thereon by Mr. DUNNELL, of the Committee of Claims, which accompanies House bill No. 2873, of the first session of that Congress, sets forth fully and concisely the facts and conclusions that establish the validity of the claim of the beneficiaries under this bill for the indemnity it provides.

Under the treaty of 1783, the division line between the United States and the province of New Brunswick on the east was agreed to be a line drawn due north from the source of the Saint Croix River to the high lands that divide the waters flowing into the Gulf of Saint Lawrence from those which flow into the Atlantic Ocean. A dispute arose afterward in regard to the location of these highlands, which was not adjusted until the convention of 1842, which composed this and other vexed controversies. In 1794, the two governments determined the spot to be regarded as the source of the Saint Croix and identified it by a monument. No formal survey of this due-north line was ever made by the two governments in concert; but, by authority of the State of Massachusetts, the line was run from the monument by surveyors in 1804, and in 1840 by Major Graham, of the United States Topographical Engineers. That the line fixed by these explorations is the true treaty-line of 1783 was claimed as beyond question by our Government, and in effect conceded by Lord Ashburton in the negotiations that preceded the conclusion of the convention of 1842. Long prior to this latter convention, and before the territorial dispute arose, the State of Massachusetts made grants of lands, by townships, chiefly to educational institutions and soldiers distinguished for patriotic services, bounding easterly on this line. By the treaty of 1842, a new boundary was adopted, in place of the old, to meet commercial and political exigencies, for which the United States obtained valuable compensations in the settlement of other boundaries. As thus newly established, the boundary, commencing at the head of the Saint Croix, by the monument, was made to diverge some degrees westerly from due north. In consequence of this variation, and by operation of the treaty provisions, the title to an amount of land equal to ten thousand acres or more, lying between the two boundaries, was divested from the proprietors under the grants, and vested in British subjects; and it is to indemnify the proprietors for these lands taken by the sovereign power for a public use that the committee recommend the passage of the accompanying bill of relief.

In the year 1833, in consequence of the disagreement as to the boundary, it was arranged between the two governments, as appears from the diplomatic correspondence, that both governments should suspend the exercise of jurisdiction over the disputed territory (which included these lands) until a final adjustment of the controversy. This diplomatic understanding was adhered to until the convention of 1842 composed the troubles, with the exception that the authorities of Maine, in 1839, interfered by force to protect the valuable timber forests from depredations. During the period of suspended jurisdiction, principally from 1832 to 1839, and while the owners were powerless to protect their rights and interests, these lands were settled upon and the valuable growth of timber thereon removed by the subjects of Great Britain from the contiguous province. Under the operation of the fourth article of the treaty of 1842, these "squatters," who had been in actual possession for six years before the date of the treaty, were confirmed in their titles, to the exclusion of the proprietors, whose title was derived under their grants. Judicial determinations fully establish this construction, and give effect to it. (See Little *vs.* Watson, 32 Maine R., 214.)

The obligation of the Government to make this indemnity seems too clear for discussion, and is confessed by abundant precedent. In recognition of this obligation the Federal Government, by express provision of the treaty, allowed to the States of Maine and Massachusetts $300,000 for their public lands within the territorial cession.

By the act of July 12, 1862, Congress admitted and satisfied claims made for lands of individuals owners which fell *within* the jurisdiction of the United States upon the reconstruction of boundaries, but which the proprietors were dispossessed of under the fourth article of the treaty, and the title thereto vested in British subjects. The lands specified in this bill constituted a portion of the townships granted by Massachusetts, which, at the date of the grants, were indisputably a part of her public domain. By the establishment of the conventional line of 1842, a section of these townships remained, as before, within the Federal jurisdiction, and a section was transferred to the British Crown. As to the whole, the American owners were dispossessed. For the part which fell within the jurisdiction, the Federal Government, acknowledging its liability, has made compensation. For the part which passed to the foreign jurisdiction, the bill under consideration proposes indemnity. The right to compensation in the two cases seems identical. It is pertinent to recall that a pecuniary compensation was made to the States of Maine and Massachusetts for their public lands so transferred to the British government; and of the lands so paid for by the Federal Government, a part occupied the same relative position as those covered by the provisions of this bill. Surely, the right of the private proprietor to compensation should not be held less than the right of the State.

Exhaustive reports upon the various claims of this class, arising out of the treaty of 1842, have been submitted by committees of both branches of Congress, in former years, with concurrent unanimity sustaining their justice and validity. We refer particularly to reports—

In the Senate:

By Mr. Wade, third session Thirty-fourth Congress, (Report No. 323.)
By Mr. Clark, first session Thirty-fifth Congress, (Report No. 168.)

In the House:

By Mr. Maynard, first session Thirty-fifth Congress, (Report No. 394.)
By Mr. Walton, second session Thirty-seventh Congress, (Report No. 72.)
By Mr. DUNNELL, first session Forty-third Congress, (Report No. 386.)

The bill reported favorably from the Committee of Claims of the last House of Representatives passed the House, but failed to secure action in the Senate.

The States of Maine and Massachusetts have each taken action in aid of the claimants, urging the justice of the claim upon the attention of the Government. The governor and council of Maine, in 1869, in execution of a resolution of the Legislature, investigated the subject, and found that the territory in question embraced 10,718 acres and 137 rods, and its average value $3 an acre. The act of July 12, 1862, allowed compensation for contiguous lands of no greater value, inclusive of damage for timber removals while the exercise of jurisdiction was suspended, at the rate of $4 per acre.

The amendments reported by the Committee on Claims were in line 14, after the word "made" to insert "for said land and timber;" in line 17, after the word "appropriated" to insert the words "and timber when taken;" in line 20, after the word "appropriated" to insert the words "and the timber so taken;" and in line 22, after the word "appropriated" to insert the words "and the timber taken."

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

RICHMOND FEMALE INSTITUTE.

Mr. WITHERS. I move that the Senate proceed to the consideration of the bill for the relief of the Richmond Female Institute, of Richmond, Virginia.

The motion was agreed to; and the bill (S. No. 780) for the relief of the Richmond Female Institute, of Richmond, Virginia, was read the second time and considered as in Committee of the Whole. It proposes to pay to the treasurer of the Richmond Female Institute, of the city of Richmond, Virginia, $4,933.33, in full payment and satisfaction for the rent, use, and occupation of its buildings by the Army of the United States from October 1, 1865, to October 10, 1866, all claims for injuries or damages being satisfied by the acceptance of this sum.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

ACCOMMODATIONS FOR CONGRESSIONAL LIBRARY.

Mr. MORRILL. I am instructed by the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 1235) to authorize the taking of certain parcels of land for the Congressional Library, and for other purposes, to report it back, and I ask for its present consideration.

The bill was read for information.

Mr. MORRILL. Mr. President, I should like to call the attention of the Senate to the provisions of this bill. It is a proposition to condemn land directly east of the Capitol, taking one tier of lots directly beyond the present limits of the Capitol. If Senators will look at the Congressional Directory they will see the boundaries of it are between B street north, B street south, and Second street east; that is to say, two whole squares on each side of East Capitol street, and the four triangular squares, with all the streets and avenues by which we would obtain more land in the avenues and streets than that which we shall be called upon to pay for in the several parcels or lots.

The bill is for the purpose of extending these grounds so as to furnish accommodation for the Congressional Library, and also at some future time for another large building, probably for the national museum. It will be obvious to any who have investigated the subject that this whole Capitol would not be more than sufficient to contain the books that will be accumulated in the Congressional Library in fifty or a hundred years hence, and it is almost indispensable that some action should be taken immediately for providing larger room for our national Congressional Library. I suppose there are at this moment not less than between fifty and sixty thousand volumes that are lying loose around on the floor and subject to great damage annually because it is not possible to have them shelved. I am aware that there is a diversity of opinion as to the location of the public library. It was suggested at one time that it should be moved down where the Botanic Garden now is, but upon investigation that is found to be a kind of foundation that would require to be piled. Whenever there is a large freshet the water runs into the doors of our conservatories there now, and it is a wholly unsuitable place for such a building. Besides, it would be destructive of the great park that now exists between here and the White House. Then, again, it has been suggested that it should be placed upon one side or the other of the Capitol; but any one can see at once, if it should be so placed, one end of the building would be three or four stories high, while the other would be but two or three. It would be like a Swiss cottage set upon the mountains, and therefore it would not be in that symmetry of form that is necessary for a public library.

Again, it has been suggested that the building should be upon Judiciary Square. The site where the present court-house is, is the finest one remaining in the hands of the United States at the present moment. It is a very beautiful site, but I hardly think that members of Congress of either House would be in favor of the removal of the library to so distant a spot, whereas if it is located where it has been proposed by the Committee on Public Buildings and Grounds it would be more accessible; and the rooms that we now have in the Capitol would also be maintained to preserve what might be called a working library, containing chiefly all the books that would be required by members of Congress and their families for immediate

use. If this building should be located at the point indicated, just beyond the present boundaries of the Capitol grounds, of course it would be connected with the Capitol by a pneumatic tube and a book could be obtained or returned in two or three minutes.

This bill does not propose to appropriate money for the purchase of these lands, but it proposes that they shall be condemned by the 1st of January, 1878, and a report thereon made to Congress, and then that an appropriation shall be made therefor. I may say that now is a most opportune time for condemning any lands in the city of Washington. Never, perhaps, have they been so depressed in price as at the present moment. I know of parties who own a considerable number of lots here who would sell them at an immense sacrifice in order to be rid of them. I am sure that we should promote the public interest by securing the condemnation of these lands now. They are inevitably to be taken by the United States, and there never can be a better moment to do it than at the present time. I know that it has been sometimes proposed that we should extend the front on the west side, but according to the opinions of all the architects and artists who have been consulted in relation to the matter that could not be extended more than thirty feet without great mutilation of the plan of the Capitol. Then it has been proposed that we should extend it on the east side; but a building extended upon the east side, of this Grecian style of architecture, would be wholly incongruous; it would be making a cross, which would be unsuitable for a Government building, and ruin the beautiful facade that now presents itself to the eyes of all observers. Besides destroying the beauty of this magnificent Capitol, it would utterly mutilate the Capitol grounds which we have recently taken so much pains, at so much cost, to extend and beautify.

I hope, therefore, that the bill will receive the approbation I could wish, the unanimous approbation of the Senate. I am told that such a bill as this can pass the House, but that a bill appropriating money cannot pass the House. I therefore urge it upon the attention of the Senate at this time.

Mr. DAVIS. I should like to ask the Senator who has just addressed the Senate if he has made an estimate as to the probable cost (I know it can only be the probable cost) of the grounds and buildings proposed to be purchased? I will inquire as to the grounds taken separately.

Mr. MORRILL. I have not ascertained, so far as this ground is concerned, what it would cost, and have been unable to ascertain, but I know that it can be obtained at a very low price. As I have already stated, the avenues and streets form a larger portion of the ground than what we should be compelled to buy. A building placed in the centre of the left-hand side for a library would not need to occupy all, but yet it would present a very fine site for that building, leaving enough for a national museum; and I have no doubt, whenever the treasures that we now have on hand shall be displayed, and that within five years, or ten at the outside, we shall be compelled to build a national museum that will compete with anything there is in the world.

Mr. WITHERS. I understand, then, that the bill only contemplates the condemnation of this land.

Mr. MORRILL. That is all.

Mr. WITHERS. Before any appropriation is to be made, the value of the land will have to be reported to the Senate, and Congress will have an opportunity to pass upon it before the condemnation can be confirmed.

Mr. MORRILL. Yes, sir; that is all there is in the bill.

Mr. DAVIS. I understand that the award that may be made must be reported to Congress for its action; but at the same time before we enter upon an enlarged expenditure it would be well to know the probable cost. The Senator speaks of a national museum. I believe within a day or two we passed a bill appropriating $250,000 for a national museum, or something bordering on to that, to be attached to the Smithsonian Institution. I believe I am correct in that view.

Mr. MORRILL. Yes, sir.

Mr. DAVIS. Is it contemplated that both of these buildings will be necessary?

Mr. MORRILL. I will say to my friend from West Virginia that it is expected that the appropriation that we make now for the building on the Smithsonian grounds will last for some years; it will cover between two and three acres; but that is to be a very cheap building. Whenever we do build a national museum we shall have to build one that will be creditable to the Government, and of course it would cost somewhere probably between one and two million dollars or thereabouts.

Mr. DAVIS. I am disposed to be somewhat liberal in public buildings, especially where they are put up to last, and are not to be temporary. I do not want to do anything that would prevent a proper improvement around and about this city connected with public buildings. I believe this is always to be the capital of this country, and, believing that, I of course would feel a natural interest that whatever is done should be done on a scale that would be worthy of the country. Yet in entering upon an improvement I think we ought to have an approximation to the amount involved before we start. I regret somewhat that the Senator having charge of this bill cannot give some idea of the probable cost of the ground, for that is the first move, and we are now called upon to pass a bill to condemn ground for this purpose.

Mr. MORRILL. I can only say to the Senator from West Virginia that only a small part of this ground is covered by buildings. I agree with him that we ought to do whatever we do in a way that would be creditable to the Government. I will say that so far as the Committee on Public Buildings and Grounds are concerned they have been extremely watchful in relation to these matters. I am aware that the Treasury building is partly built of granite and partly of sandstone; so is the Patent Office. The Capitol is built partly of sandstone and partly of marble. Two buildings, the Interior Department and the Post Office Department, are absolutely ruined in point of good taste by having no grounds round about them, no proper site. The object of this bill is to guard in season and to obtain a proper site for the Library. I have no doubt that those who will come here after us will secure this land at whatever cost. I believe that it can be done now cheaper than it can ever be done again. It is for that purpose, and that only, and because of the immediate necessity of a public library, that the Committee on Public Buildings and Grounds have felt called upon to act in relation to this matter.

Mr. HOWE. Mr. President——

The PRESIDING OFFICER. The Chair reminds Senators that the discussion is a little premature. The question is on the motion of the Senator from Vermont, that the Senate proceed to the consideration of this bill.

Mr. HOWE. I only rise to second it.

Mr. SARGENT. Cannot the question be taken without debate?

Mr. HOWE. I only rose to second the motion.

Mr. WINDOM. I wish to notify the Senate that the sundry civil bill is here and we are ready to proceed with it.

Mr. HOWE. Let us take the vote.

Mr. WINDOM. If a vote can be had without debate, I will wait.

Mr. MORRILL. I think there is no disposition to have further debate.

The PRESIDING OFFICER. The question is on the motion of the Senator from Vermont, to proceed to the consideration of Senate bill No. 1235.

Mr. STEVENSON. I hope that will not be done. This bill must be discussed before it can be passed. I shall make my protest against Congress entering upon a blind contract for the purchase of grounds when the gentleman from Vermont cannot tell us even the estimated cost. If we passed the bill, these men would put up that ground to any price they pleased. Condemn it by the supreme court of the District, and you are compelled to take it. I protest against any such wild extravagant expenditure as that. This bill cannot get through without discussion, and I hope we shall go on with the regular business.

Mr. MORRILL. If the sundry civil bill is ready I feel bound not to be in the way. I withdraw my motion for the present.

The PRESIDING OFFICER. The motion to proceed to the consideration of the bill is withdrawn.

ARMY APPROPRIATION BILL.

Mr. BLAINE, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 4691) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes, reported it back with an amendment in the nature of a substitute for the entire bill.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. WINDOM. I move that the Senate proceed to the consideration of the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. WINDOM. It has been utterly impossible since the bill has been prepared to make an abstract so as to present briefly the action of the Committee on Appropriations in their amendments, and the committee will endeavor to explain them as the bill progresses. I move the application of the five-minute rule to the bill.

The PRESIDING OFFICER, (Mr. MITCHELL in the chair.) The Senator from Minnesota moves that the five-minute rule apply in the consideration of this bill.

The motion was agreed to.

The PRESIDING OFFICER. If there is no objection, the Senate will consider the amendments in their order as reported from the Committee on Appropriations. The Clerk will report the first amendment.

The first amendment of the Committee on Appropriations was in line 28, after the word "dollars" to insert the words "for the supreme court of the District of Columbia, $3,000;" in line 41, after the word "States" to strike out the words "or in the Court of Claims of the United States," and in line 46, after the word "shall" to strike out the word "not" and insert "only;" so as to read:

For printing and binding for the State Department, $15,000; for the Treasury Department, $180,000; for the War Department, $72,000; for the Navy Department, $39,000; for the Interior Department, $135,000; for the Agricultural Department, $9,000; for the Department of Justice, $6,000; for the Post-Office, $105,000; for the Congressional Library, $15,000; for the Supreme Court of the United States, $20,000; for the supreme court of the District of Columbia, $3,000; for the Court of Claims, $10,000; and for printing and binding for Congress, including the proceedings and debates of Congress, $694,000; and of the sums hereby appropriated for the several Departments, the courts, and for printing and binding for Con-

gress, including the proceedings and debates of Congress, there shall only be used for the several purposes herein provided the sums specified, and the unexpended balances shall not be used for any other purposes; and there shall be taxed against the losing party in each and every cause pending in the Supreme Court of the United States the cost of printing the record in such case, which shall be collected, except when the judgment is against the United States, by the clerks of said courts respectively, and paid into the Treasury of the United States; but this shall only apply to records printed after the 1st of October next.

The amendment was agreed to.

The next amendment was after line 47 to insert:

For printing and binding for the Library of Congress, $12,000; to be available immediately: *Provided*, That in the expenditure of the appropriations for public printing and binding herein made the Public Printer shall not pay any greater price than fifty-five cents per one thousand ems for composition, and forty-six cents per hour during a legal day's work to printers and binders.

The amendment was agreed to.

The next amendment was to strike out from line 54 to line 65, inclusive, in the following words:

That all public documents already printed or ordered to be printed by the present Congress shall be credited to the present members of said Congress and delegates, and subject to their order for the period of nine months after the expiration of their terms as members and delegates; and that public documents already printed or ordered to be printed may pass through the mails upon the frank of members and delegates of the present Congress, in compliance with laws now in force regarding transmission of public documents through the mails, during the said period of nine months after their terms as members and delegates.

And in lieu thereof to insert:

That all public documents already printed or which have been ordered to be printed by the present Congress shall be distributed among Senators in accordance with the usage of the Senate, and among the Representatives and Delegates of the said Congress, and subject to their respective orders, until the 1st day of January next; and that such of these documents as cannot under existing laws be transmitted through the mails free of postage may be so transmitted under the frank of such Senators, Representatives, and Delegates until the 1st day of January next, subject to such regulations as the Postmaster-General may prescribe; and all public documents which may be transmitted through the mails free of postage may be sent from the document and folding rooms of the two Houses of Congress, free of postage, to such Senators, Representatives, and Delegates until the 1st day of January next.

The amendment was agreed to.

The next amendment was under the head of "judiciary," in line 143, to increase the appropriation for defraying the expenses of the Supreme Court and circuit and district courts of the United States, including the District of Columbia, and also for jurors and witnesses' expenses, &c., from $2,500,000 to $2,800,000.

The amendment was agreed to.

The next amendment was in line 158, to increase the appropriation for payment of the necessary expenses incurred in defending suits against the Secretary of the Treasury or his agents for the seizure of captured or abandoned property, and for the examination of witnesses, &c., from $25,000 to $40,000.

The amendment was agreed to.

The next amendment was in line 193, after the word "seventy-five" to insert the words "and thereafter;" so as to read:

That the Secretary of the Treasury shall reserve of any of the revenues of the District of Columbia not required for the actual current expenses of schools, the police, and fire department, a sum sufficient to meet the interest accruing on the 3.65 bonds of the District during the fiscal year beginning July 1, 1877, and thereafter, and apply the same to that purpose; and in case there shall not be a sufficient sum of said revenues in the Treasury of the United States at such time as said interest may be due, then the Secretary of the Treasury is authorized and directed to advance, from any money in the Treasury not otherwise appropriated, a sum sufficient to pay said interest; and the same shall be re-imbursed to the Treasury of the United States from time to time as said revenues may be paid into said Treasury, until the full amount shall have been refunded.

The amendment was agreed to.

The next amendment was after line 202, to insert:

To pay on behalf of the United States, as a portion of the general expenses of the District of Columbia, to be expended by the commissioners of said District, to be drawn only as needed, for immediate use, $500,000.

The amendment was agreed to.

The next amendment was after line 207, to insert:

That the Secretary of the Treasury be authorized and directed to advance to the commissioners of the District of Columbia $75,000 for support of the public schools of the District, to be available immediately; and said commissioners shall refund the amount so advanced out of any revenues of the District for the current fiscal year not required for its actual expenses.

The amendment was agreed to.

The next amendment was after line 228, to insert:

To pay Selmar Seibert for report of Court of Claims, May 1, 1860, $731.83.

Mr. SARGENT. Should not the word "for" be "per?"

Mr. WINDOM. It ought to be "per report of Court of Claims."

The PRESIDING OFFICER. The amendment will be so modified by unanimous consent.

The amendment, as modified, was agreed to.

The next amendment was to strike out the following clause after line 248:

That all sums herein appropriated, or that may be hereafter appropriated, for the support, in whole or in part, of any asylum, charitable or reformatory institution, or society in the District of Columbia, shall be expended under the authority and control of the commissioners of said District, who shall have power to make such regulations in respect thereto as they may deem expedient.

Mr. STEVENSON. I should like to ask why that is stricken out. Is there no head to direct these institutions? It seems to me the provision is a very proper one. Why should it be stricken out?

Mr. WINDOM. It was stricken out because the committee believed (and they wish to submit that question to the Senate) that it was inexpedient to place all these various benevolent institutions, such as the Deaf and Dumb Asylum and the Insane Asylum under the control of the local authorities of the District of Columbia. They are supported by the Government and should be under the control of the Government. Their accounts are settled by the accounting officers of the Government, and this is an innovation which the committee thought ought not to be made without more consideration than we were able to give it.

Mr. STEVENSON. Then the amendment ought to go a little further. Before that I see a provision that no indigent person can be received into one of these institutions, except upon executive order. What executive order? These commissioners, or who?

Mr. SARGENT. The Senator will observe that one-half the expense of indigent persons who may hereafter be admitted to the insane hospital from the District of Columbia, is to be paid from the treasury of the District, and as we require them to pay one-half, we also allow their authorities to have patients admitted; but the insane there are partly from the Army of United States, and from the naval service. The general purposes of the institution are quite broad; but we allow a certain number of indigent insane of the District to be admitted on executive order from the authorities of the District.

Mr. STEVENSON. It seems to me, if we have commissioners here whom we pay—gentlemen of high character, and whose business it is to supervise everything—that they ought to have some say in this matter. I think they ought to have control over all these institutions. I know of none of the States in which they have not some regular head to whom all such institutions look; and they have superintendents who report to him. I have great confidence in the gentlemen who are the commissioners of the District, and I cannot see why they should not have power in these matters. If there be any improper government in any of these institutions, to whom is appeal to be made except to these commissioners?

Mr. WINDOM. I will ask the Senator from Kentucky if he really believes that institutions which are supported almost exclusively by the Federal Government should be placed under the control of these local authorities?

Mr. STEVENSON. I do not think that giving them a supervising control would place them entirely under the control of the District authorities.

Mr. WINDOM. The clause which the committee have striken out gives them omnipotent control over all these institutions:

Shall be expended under the authority and control of the commissioners of said District, who shall have power to make such regulations in respect thereto as they may deem expedient.

There is absolutely no limit to the power of the commissioners in the House bill.

Mr. DAWES. I should like to call the attention of the Senator from Kentucky to the Deaf and Dumb Asylum, which has directors appointed by the President of the Senate and the Speaker of the House, and all its funds are received from the Government here, and they account to the Secretary of the Interior, and the Secretary of the Interior reports to Congress. Why should the commissioners of the District have anything to do with controlling that?

Mr. STEVENSON. I did not mean that. I am very glad to hear the gentleman from Massachusetts give the explanation; it satisfies me entirely.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was under the head of "Columbia Institution for the Deaf and Dumb" in line 268, after the word "and" to strike out the word "forty-eight," and insert "fifty-eight;" so as to read:

For the support of the institution, including salaries and incidental expenses, the maintenance of the beneficiaries of the United States, and $500 for the books and illustrative apparatus, $48,000. And the accounting officers of the Treasury are hereby authorized, in the settlement of the accounts of the disbursing agent for the said institution, to give credit for voucher No. 5 in the first quarter of 1876, and for vouchers Nos. 41 and 48 in the second quarter of the same year; said vouchers being receipts for moneys paid for fuel for the use of said institution, if the said accounting officers shall find that said vouchers were for expenditures made for the benefit of said institution.

The amendment was agreed to.

The next amendment was in line 277, to increase the appropriation "for the completion of the work on the erection, furnishing, and fitting up the buildings of the institution in accordance with plans heretofore submitted, and for repairs," &c., from $40,000 to $69,524.62.

The amendment was agreed to.

The next amendment was after line 279 to insert:

For inclosure, improvement, and care of grounds, $5,000.

Mr. STEVENSON. I desire to call for some explanation of this last amendment; and the reason I do it is, that I observe in the inclosures upon public grounds here great waste of public money. I do not know who is to blame for it, but I see that some of the finest iron inclosures that would last for ages, that have cost a great deal of money, have lately been taken down, and small chains and insignificant posts put in their places, over which stock can easily get, and by which trees and ornamental shrubs are liable to destruction. This I see daily; and I understand that further improvements of the same character are in contemplation. I enter my protest against such improvement as that; and I do hope that this committee will look thoroughly into that, and see who is to blame for it.

Mr. WITHERS. I will inform my friend that the committee are of

his opinion, and have made provision in this very bill prohibiting the further removal of fences.

Mr. STEVENSON. I am very glad to hear it, and thank the committee for one.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was under the head of "Columbia Hospital for Women and Lying-in Asylum," in line 285, to increase the appropriation for the support of the hospital from $16,000 to $19,500.

The amendment was agreed to.

The next amendment was in line 291, under the head of "Capitol extension," to increase the appropriation for "work on the Capitol and for general care and repair thereof," from $40,000 to $50,000.

The amendment was agreed to.

The next amendment was the following items, as lines 291 to 307:

For constructing terrace-wall on Capitol grounds, in accordance with the plans of Fred. Law Olmsted, $100,000.
For walks in west park of the Capitol grounds, $20,000.
For walks in east part of the Capitol grounds, $10,000.
For coping, $25.000.
For paving court east of the Capitol, $64,000.
For paving East Capitol street, $9,000.
For four new steam-boilers, waste-water pipes, and attachments, for the Senate wing of the Capitol, $15,000.
For annual repairs of the court-house in the city of Washington, $1,000.

Mr. MORRILL. I ask the chairman of the Committee on Appropriations to accept an amendment after line 302, in these words:

And all sums appropriated for the Capitol grounds shall be immediately available.

It will strike everybody at once that unless this is done, we shall lose the best working part of the season, May and June.

Mr. WINDOM. I think there is no objection to that.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont to the amendment of the Committee on Appropriations.

The amendment to the amendment was agreed to.

Mr. MORRILL. After line 305, I move to insert the words:

And the Architect of the Capitol is hereby directed to dispose of the old boilers at public auction.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment of the Committee on Appropriations was in line 323, after the word "gas-fitters" to insert the words "superintendent of gas;" so as to read:

For lighting the Capitol, and grounds about the same, including Botanical Garden; for gas, pay of lamp-lighters, gas-fitters, superintendent of gas, plumbers and plumbing, lamps, lamp-posts, matches, materials for the electrical battery, and repairs of all kinds, $30,000; to be expended under the direction of the Architect of the Capitol.

The amendment was agreed to.

The next amendment was in line 330, to increase the appropriation "for survey of the public lands and private land claims" from $150,000 to $450,000.

Mr. KERNAN. I should like to inquire as to that amendment changing $150,000 to $450,000 for the surveys of the public lands. That is a very large change.

Mr. WINDOM. It is a large change from the House bill and also a large change from former appropriations for that purpose. It is a large increase of the House bill and a very large reduction on the appropriations that have heretofore been made. In past years we have appropriated about six or seven hundred thousand dollars usually for that purpose. Last year the appropriation was $325,000. The House bill now is $150,000 and we make it $450,000 by this amendment. It is still $150,000 less than the usual amount, and less, a portion of the committee thought, than ought to be appropriated, but it was all we could hope to get at this time.

The amendment was agreed to.

Mr. CHAFFEE. I ask the chairman of the committee to allow an amendment in line 351, page 15, after the word "timbered" to insert "or mountainous."

The PRESIDING OFFICER. That will be in order after the amendments reported by the committee have been agreed to, but it is not in order now.

Mr. CHAFFEE. I ask the chairman to accept it.

Mr. WINDOM. It can be moved afterward.

The next amendment of the Committee on Appropriations was to strike out lines 353 to 369, in the following words:

That an accurate account shall be kept by each surveyor-general of the cost of surveying and platting every private land claim, to be reported to the General Land Office with the map of such claim; and that a patent shall not issue nor shall any copy of any such survey be furnished for any such private claim until the cost of survey and platting shall have been paid into the Treasury of the United States by the party or parties in interest in said grant, or by any other party: *And provided further*, That before any land granted to any railroad company by the United States shall be conveyed to such company, or any persons entitled thereto under any of the acts incorporating or relating to said company, unless such company is exempted by law from the payment of such cost, there shall first be paid into the Treasury of the United States the cost of surveying, selecting, and conveying the same by the said company or persons in interest.

Mr. STEVENSON. I should like the chairman of the committee to give me some explanation of that. I cannot very well conceive what practical objection can exist to having a regular account kept by each surveyor-general of the cost of surveying and platting every private land claim, to be reported to the General Land Office, with a map of such claim.

Mr. WEST. I will explain to the Senator from Kentucky, as a member of the committee, that those are the exact words that were incorporated in the act of last session, and they are the law of the country at the present time. The committee deemed that there was no necessity for repeating the statute over again, and struck out the words with a view, if the committee of conference should give any explanation of the matter, that they might be re-instated. But it is the law now without re-enacting it.

Mr. STEVENSON. That is entirely satisfactory, if it is the law now.

Mr. WEST. That is so now.

Mr. WINDOM. That is as the committee understand it.

Mr. STEVENSON. I think there ought to be no mistake about it, and I reserve for myself the right if, on looking into the law I find it is not as here reported, to move to re-instate these words.

Mr. WINDOM. I think the Senator will find by reading the statute of last year that this is an exact copy of it.

Mr. STEVENSON. I do not pretend to doubt. I only want information.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was in line 372, to strike out after the word "the" the words "one hundred and fourth meridian of longitude west from Greenwich" and insert "twenty-seventh meridian of longitude west from Washington;" so as to read:

For survey of eastern boundary of Wyoming Territory, estimated length, one hundred and thirty-nine miles, being that part of the twenty-seventh meridian of longitude west from Washington lying between the forty-third and forty-fifth degrees of north latitude, and being the boundary between the Territories of Wyoming and Dakota, $7,000.

The amendment was agreed to.

The next amendment was in line 397, to increase the appropriation "for rent of office of surveyor-general of California, fuel, books, stationery," &c., from $2,000 to $3,000.

The amendment was agreed to.

The next amendment was in line 429, after the word "at" to strike out the word "ninety-eight" and insert "ninety-nine;" and in line 430, after the word "and" to strike out the words "$65,483.21" and insert "$80,000;" so as to make the clause read:

For salaries and commissions of registers of land offices and receivers of public moneys at ninety-nine land offices, $380,000.

The amendment was agreed to.

The next amendment was in line 436, to increase the appropriation "for expenses of depositing money received from the sale of public lands" from $10,000 to $13,000.

The amendment was agreed to.

The next amendment was in line 449, after the word "dollars" to insert:

And the unexpended balance, not exceeding $6,000, of the appropriation made by the act for sundry civil expenses for the fiscal year 1876 for the national association for the relief of the colored women and children of the District of Columbia is hereby re-appropriated and made available for said purposes; and the accounting officers of the Treasury Department are hereby authorized to allow and credit the treasurer of the national association for the relief of the colored women and children of the District of Columbia the sum of $535.75, paid for the purchase of land for the institution, and for recording a deed of the same, during the fiscal year ending June 30, 1875, and to allow and credit said treasurer for payments during the same year, for proper purchases of supplies made during the year preceding, for the support of said institution, the sum of $855.12.

The amendment was agreed to.

Mr. DORSEY. I wish to reserve that amendment.

Mr. WINDOM. The amendment should include the striking out of the words "ten thousand dollars" in line 449. It is not designed to appropriate the two sums, but by an error in the print it does so.

The PRESIDING OFFICER. The amendment will be considered as modified in that form.

Mr. SARGENT. And the word "and" should be stricken out.

The PRESIDING OFFICER. It will be so modified.

Mr. MORRILL. So that it will read:

For the national association for the relief of the colored women and children of the District of Columbia, the unexpended balance, not exceeding $6,000, &c.

The PRESIDING OFFICER. The amendment will so stand.

The next amendment of the Committee on Appropriations was after the word "subsistence," to strike out "$18,000; salaries and compensation, as follows: Of surgeon, $1,400; of one surgeon and dispensary clerk, $1,000; of engineer, $720; matron, $216; nurses and cooks, $1,800; fuel and light, $3,000; clothing, $3,500; rent of hospital buildings, $2,000; medicines and medical supplies, $2,500; and miscellaneous expenses, $1,000: in all, $35,636;" and in lieu thereof to insert "salaries and compensation, fuel and light, clothing, rent of hospital buildings, medicines and medical supplies, forage and transportation, and miscellaneous expenses, $45,000;" so as to make the clause read:

For the Freedman's Hospital and Asylum in Washington, District of Columbia, namely: For subsistence, salaries, and compensation, fuel and light, clothing, rent of hospital buildings, medicines and medical supplies, forage and transportation, and miscellaneous expenses, $45,000.

The amendment was agreed to.

The next amendment was in line 486, under the head of "Smithsonian Institution" to increase the appropriation "for preservation

and care of the collections of the national museum" from $13,000 to $25,000.

The amendment was agreed to.

The next amendment was after line 487 to insert:

For expenses of making up into sets for distribution to colleges and academies the duplicate ores, minerals, and objects of natural history now belonging to the United States or in the collections of the international exposition presented to it by foreign governments, $5,000.

The amendment was agreed to.

The next amendment was after line 492 to insert:

For a fire-proof building for the use of the national museum, three hundred feet square, to be erected under the direction and supervision of the Regents of the Smithsonian Institution, in accordance with the plan of Maj r-General M. C. Meigs, now on file with the Joint Committee of Public Buildings and Grounds, on the southwest corner of the grounds of the Smithsonian Institution, the sum of $250,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated; said building to be placed west of the Smithsonian Institution, leaving a roadway between it and the latter of not less than thirty feet, with its north front on a line parallel with the north face of the buildings of the Agricultural Department and of the Smithsonian Institution; and all expenditures for the purposes herein mentioned, not including anything for architectural plans, shall be audited by the proper officers of the Treasury Department.

Mr. SARGENT. On line 500, after the word "dollars," I move to strike out the words "is hereby appropriated out of any money in the Treasury not otherwise appropriated."

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment was after line 516, to insert in the items of appropriation for the Botanic Garden:

For iron balcony in the interior of rotunda, $950.
For plumbing, and repairs to heating-apparatus, $600.

The amendment was agreed to.

The next amendment was after line 543, to insert for the subtreasury and post-office at Boston:

For continuation of building, $100,00.

Mr. DAWES. I desire to add an amendment there to make the sum immediately available.

Mr. WINDOM. There is no objection to that.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment was in line 546, to increase the appropriation for continuation of custom-house and post-office building at Cincinnati, Ohio, from $400,000 to $500,000.

The amendment was agreed to.

The next amendment was in line 554, to increase the appropriation for continuation of custom-house and subtreasury building at Chicago, Illinois, from $400,000 to $500,000.

The amendment was agreed to.

The next amendment was in line 562, to increase the appropriation for continuation of post-office and court-house building at Philadelphia from $400,000 to $500,000.

The amendment was agreed to.

The next amendment was after line 566 to insert:

Custom-house, New Orleans, Louisiana: For completion of the building, $30,000.

The amendment was agreed to.

The next amendment was in line 570, to increase the appropriation for continuation of appraisers' stores building at San Francisco, California, from $50,000 to $100,000.

The amendment was agreed to.

The next amendment was in line 575, to increase the appropriation for continuation of court-house and post-office building at Saint Louis, Missouri, from $400,000 to $500,000.

The amendment was agreed to.

The next amendment was after line 576 to insert:

Court-house and post-office at Little Rock, Arkansas; For continuation of building, $50,000.

The amendment was agreed to.

The next amendment was in line 581, to increase the appropriation for completion of court-house and post-office building at Parkersburgh, West Virginia, from $10,000 to $15,000.

The amendment was agreed to.

The next amendment was after line 587 to insert:

Court-house, custom-house, and post-office, Memphis, Tennessee: For continuation of building, $50,000.

The amendment was agreed to.

The next amendment was in line 593 to insert:

Court-house and post-office at Pensacola, Florida: For completion of repairs and for furniture, $15,000.

The amendment was agreed to.

The next amendment was after line 601 to insert:

Jail in the District of Columbia: For finishing inside of cupola, painting ceiling over guard-room, constructing coal-vaults, and building stable and straw-house, $8,000; to be paid out of the unexpended balance of the appropriation for said jail made by the act of March 3, 1875, which is hereby re-appropriated and made available for this purpose.

The amendment was agreed to.

The next amendment was after line 608 to insert:

For a suitable building, with fire-proof vault extending to each story, at Utica, New York, for the accommodation of the post-office, United States circuit and district courts, and internal-revenue offices, to be erected upon the site purchased by the United States under the act of May 31, 1872, the sum of $100,000, to be expended under the direction of the Secretary of the Treasury, who shall cause proper plans and estimates to be made, so that no expenditure shall be made or authorized for the full completion of said building beyond the sum of $225,000.

Mr. WHYTE. I have made no objection to the increased appropriations proposed by the committee on the part of the Senate for the completion of public buildings now being erected; but I observe that this amendment and the two succeeding amendments contemplate the commencement of new buildings and therefore they are but wedges for new expenditures, and I hope the Senate will not agree to them. Any buildings that are now under or in the course of erection, I think it proper that the appropriation should be made to continue; but I do not think at this time we ought to commence new public buildings, and therefore I hope these amendments will not be agreed to.

Mr. MORRILL. I desire to say to the Senator from Maryland, as I think he was not present when this matter was considered in the Committee on Public Buildings and Grounds, that an expenditure has already been made at Utica in relation to this building of a considerable amount four years ago, and it is the same in relation to Topeka, only not so long ago. The site was authorized to be purchased, but there was no appropriation made for the building.

Mr. DAVIS. Do I understand the Senator from Vermont that the Committee on Public Buildings and Grounds recommend this appropriation?

Mr. MORRILL. They do.

Mr. CONKLING. Perhaps it is unnecessary, but I beg to say one word about this matter. I shall claim the support of the Senator from Maryland with some confidence after hearing me as I understand this amendment to be exactly in the line of his conviction in this regard.

A site was purchased for this building. There was an unexpended balance, which under the statute, with which the Senate is familiar, was covered back into the Treasury. The time has come when there is no post-office, no internal-revenue accommodation, no accommodation for the judges. I have here letters sent to me by the marshal of the district, appealing to me to know what he can do to get chambers for the United States circuit judge and circuit court, he being a resident there. The time has come when absolutely from necessity the Government must either rent here or there expensively, as will be the case, and at the same time lose the interest and the use of the site which has been purchased, or that site must be utilized. In other words, to state it briefly, this is a work of absolute necessity, to complete a building ordered long ago, and in a very clear case, which building has been in abeyance for the want of an appropriation although the site has been paid for, and the public service is absolutely suffering for lack of accommodations of any sort whatever.

The building now occupied as a post-office, for reasons which I will not detain the Senate by stating, is no longer available. The post-office must be moved; it must go somewhere. It is a very large and important office, this being the geographical center of the State. This is believed to be by everybody, I think, whose attention has been given to it, altogether the economical and judicious mode of carrying on the public service; and therefore, as the Senator from Maryland has said, under the principle which he lays down, it seems to me that this is one of the excepted cases.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was after line 620, to insert:

For a suitable building, with fire-proof vault extending to each story, at the city of Topeka, Kansas, for the accommodation of the United States circuit and district courts, post-office, pension agency, land offices, and other Government offices in said city, to be erected upon the site purchased by the United States under the act of March 3, 1875, the sum of $50,000; to be expended under the direction of the Secretary of the Treasury, who shall cause proper plans and estimates to be made, so that no expenditure shall be made or authorized for the full completion of said building beyond the amount of $225,000.

The amendment was agreed to.

The next amendment was after line 633, to insert:

For a suitable building, with fire-proof vault extending to each story, at the city of Harrisburgh, Pennsylvania, for the accommodation of the post-office and other Government offices in said city, to be erected upon the site purchased by the United States under the act of March 3, 1875, the sum of $50,000; to be expended under the direction of the Secretary of the Treasury, who shall cause proper plans and estimates to be made, so that no expenditure shall be made or authorized for the full completion of said building beyond the amount of $300,000.

The amendment was agreed to.

The next amendment was in line 675, to increase the appropriation for supplies of light-houses on the Atlantic, Gulf, Lake, and Pacific coasts from $50,000 to $80,000.

The amendment was agreed to.

The next amendment was in line 685, to increase the appropriation for maintenance of lights on the Mississippi, Ohio, and Missouri Rivers, and such buoys as may be necessary, from $125,000 to $150,000.

The amendment was agreed to.

The next amendment was in line 702, to increase the appropriation for commencing the construction of a light-house at Staunard's Rock, Lake Superior, Michigan, from $25,000 to $50,000.

The amendment was agreed to.

The next amendment was under the head of "Bureau of Engraving and Printing," in line 743, after the word "Department" to strike out the words "*And provided further*, That it can be done as cheaply, as perfectly, and as safely;" so as to read:

For labor and expenses of engraving and printing, namely: For labor, (by the day, piece, or contract,) including labor of workmen skilled in engraving, transferring, plate printing, and other specialties necessary for carrying on the work of

engraving and printing notes, bonds, and other securities of the United States, the pay for such labor to be fixed by the Secretary of the Treasury at rates not exceeding the rates usually paid for such work; and for other expenses of engraving and printing notes, bonds, and other securities of the United States; for paper for notes, bonds, and other securities of the United States, including mill expenses, boxing, and transportation; for materials other than paper required in the work of engraving and printing; for purchase of engravers' tools, dies, rolls, and plates, and for machinery and repairs of the same, and for expenses of operating macerating machines for the destruction of the United States notes, bonds, national-bank notes, and other obligations of the United States authorized to be destroyed, $800,000: *Provided*, The work be performed at the Treasury Department.

Mr. KERNAN. I should like to inquire why that clause is proposed to be stricken out. It seems to me it is a very reasonable provision that the work shall not be done in the Government establishment unless it can be done there as cheaply and as well as elsewhere.

Mr. WINDOM. The clause was stricken out for two reasons. One is that the words "provided that it can be done as cheaply, as perfectly, and as safely" seem to render the entire provision nugatory, leaving the discretion wholly to decide whether it can be done complying with all these conditions. The other reason is that in the judgment of the committee this work ought to be done in the Department. The question is submitted to the Senate. We have stricken out that clause in order that their attention may be called to it. We believe the work ought to be done in the Department, and if not, that there ought to be some provision better than that in order to give any authority or any direction by which it should go anywhere else, if that be desirable.

Mr. SARGENT. I should like to ask the chairman whether any contracts are now existing? There may be contracts now existing there which this would violate.

Mr. WINDOM. I am not aware of any; but if there were, the proviso which we strike out would not help it.

Mr. SARGENT. But ought we not to add words which would protect existing contracts if they exist?

Mr. WINDOM. I am not aware of any, but the words we strike out would not protect them.

Mr. SARGENT. I am aware of that; but as a matter of precaution, would it not be well to provide for the protection of any existing contracts?

Mr. WINDOM. I am informed by the Senator from Massachusetts, [Mr. BOUTWELL,] who knows better than any one of us about what the facts are, that probably there are no contracts without former appropriations to meet them.

Mr. WEST. If there are the subject is now within the jurisdiction of the committee of conference.

Mr. KERNAN. The Senator from Massachusetts has had experience, and I should like to inquire whether he believes we should keep building up larger and larger this printing bureau. It is becoming a very extraordinary Government business.

Mr. BOUTWELL. As I am appealed to, I will say that I have no doubt the work can be better done and more economically performed by the Government when you consider the quality of the work than it could be obtained of outside parties; but, on the other hand, the public may think that there is better security by having one imprint upon every security made by an outside party. As a matter of fact, there probably is no additional security obtained in that way. I should myself rather prefer to leave it with the Secretary of the Treasury to decide from time to time what portion, if any, of the work should be done by other parties and what done by the Government directly. My experience leads to the conclusion that the work done by the Government is better work, and that is all-important in engraving and printing the public securities.

Mr. BLAINE. I understand that some of this work has been contracted for. I do not know whether that is so or not, but it will do no harm to put in a proviso that all contracts made shall be carried out. I move that amendment.

Mr. WEST. Make it "except in cases where contracts exist."

Mr. BLAINE. I move this amendment:

Provided, further, That all contracts already made shall be faithfully carried out.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maine to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment of the Committee on Appropriations was to strike out lines 747 to 763 in the following words:

Survey of the Atlantic, Pacific, and Gulf coasts: For every purpose and object necessary for and incident to the continuation of the survey of the Atlantic and Gulf coasts and the western coast of the United States and the Mississippi River to the head of ship navigation, with soundings and observations of deep-sea temperatures in the Gulf Stream and the Gulf of Mexico, and observations of currents along the same coasts, the continuation of the survey of the Pacific coasts of the United States, with soundings and observations of deep-sea temperatures in the branch of the Japan Stream off, and observations of other currents along, the same coasts, and the preparation, engraving, lithographing, and issuing of charts, the preparation and publication of the Coast Pilot and other results of the coast survey, the purchase of materials therefor, and including compensation of civilians engaged in the work, and pay and subsistence of engineers for the steamers engaged on those coasts, $350,000.

And in lieu thereof to insert:

Survey of the Atlantic and Gulf coasts: For every purpose and object necessary for and incident to the continuation of the survey of the Atlantic and Gulf coasts of the United States, and the Mississippi River to the head of ship navigation, with soundings and observations of deep-sea temperatures in the Gulf Stream and the Gulf of Mexico, and observations of currents along the same coasts, and the preparation, engraving, lithographing, and issuing of charts, the preparation and publication of the Coast Pilot and other results of the coast survey, the purchase of materials therefor, and including compensation of civilians engaged in the work, and pay and subsistence of engineers for the steamers engaged on those coasts, $300,000.

Survey of the western coast: For every purpose and object necessary for and incident to the continuation of the survey of the Pacific coasts of the United States, with soundings and observations of deep sea temperatures in the branch of the Japan Stream off, and observations of other currents along, the same coasts, and the preparation, engraving, lithographing, and issuing of charts, the preparation and publication of the Coast Pilot and other results of the coast survey, with the purchase of materials therefor, including compensation of civilians engaged in the work, and pay and subsistence of engineers for the steamers engaged on those coasts, $200,000.

Geodetic surveying, Coast Survey: For every purpose and object necessary for and incident to the continuation of the triangulation of the Coast Survey to form a connection between the Atlantic and Pacific coasts of the United States, and furnishing points for State surveys, including compensation for civilians engaged in the work, $50,000.

The amendment was agreed to.

The next amendment was in line 838, to increase the appropriation "for transportation of notes, bonds, and other securities of the United States," from $25,000 to $65,000.

The amendment was agreed to.

The next amendment was in line 845, to increase the appropriation "to enable the Secretary of the Treasury to have the records of captured and abandoned property examined and information furnished therefrom for the use and protection of the Government" from $2,500 to $5,000.

The amendment was agreed to.

The next amendment was to strike out the following proviso in lines 856, 857, 858, 859, and 860:

Provided, That the office of appraiser of merchandise at the port of Toledo, in the district of Miami and the State of Ohio, be, and the same is hereby, abolished; and the duties of the said office shall hereafter be performed by the collector of customs without additional compensation.

The amendment was agreed to.

The next amendment was in line 867, to increase the appropriation "for the introduction of shad into the waters of the Pacific and Atlantic States, the Gulf States, and of the Mississippi Valley, and of salmon, white-fish, and other useful food-fishes into the waters of the United States to which they are best adapted, and for continuing the inquiry into the causes of the decrease of food-fishes of the United States," from $45,000 to $52,500.

The amendment was agreed to.

The next amendment was after line 871, to insert the following proviso:

Provided, That of any appropriations for the service of the United States Fish Commission a sum not to exceed $1,000 per annum be allowed for rent and other necessary office expenses, beginning with the 1st day of January, 1876.

The amendment was agreed to.

The next amendment was in line 889, to increase the appropriation "for heating, ventilating, and hoisting apparatus, and repairs of same, for all public buildings under control of the Treasury Department" from $50,000 to $100,000.

The amendment was agreed to.

The next amendment was in line 898, to increase the appropriation "for photographing, engraving, and printing plans for all public buildings under control of the Treasury Department" from $1,000 to $3,000.

The amendment was agreed to.

The next amendment was after line 948, to insert:

For experiments in testing iron, steel, and other metals, with a view to ascertain their strength and value and to determine their constitution and characteristics, $40,000. And the board authorized by section 4 of the act "making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1876, and for other purposes," approved March 3, 1875, is hereby continued for this purpose for the next fiscal year.

Mr. STEVENSON. I should like to ask what use there is in that. I believe this has been done for a great many years. I have received a great many letters from my constituents asking for information, and I have been unable to furnish them with any relative to the results of such appropriations. I should like to have a little information for their benefit.

Mr. WINDOM. I think this board has not been in existence very many years.

Mr. STEVENSON. Three or four years, I think.

Mr. WINDOM. The last appropriation enabled them to prepare a very expensive machine for the purpose of testing iron and steel. That machine was only prepared very recently, and the tests have not been made. We suspended the appropriation about the time we got ready to make the tests. Certain inferior modes had been used. I will say to the Senator in reference to the advantages of this that we have very voluminous letters on the subject, from officers of the Army and various other interests not connected with or interested directly in this thing at all, showing that it is of very great value, especially to the iron and steel interests and all the interests growing out of the manufacture of these materials. The committee were thoroughly convinced of its value.

Mr. STEVENSON. Where is this test proposed to be made and how is it proposed to be made? That is to say, at what point and under what circumstances are these preparations for the testing of iron and steel?

Mr. WINDOM. At Watertown arsenal, in the State of New York, where the machine is prepared. I cannot tell the Senator how, for I

am not sufficiently scientific to understand just how the tests are made.

Mr. STEVENSON. My information is that there was an appropriation three or four years ago, and while in New York on one occasion I took upon myself some trouble, at the request of some iron-founders in Louisville, to try and ascertain what was being done. I was told that these parties had been then engaged in preparations, but had been delayed. Now, I should like to know from the chairman whether any report of a practical nature has ever been had from any appropriations like this, as to testing the strength and value of iron.

Mr. WINDOM. I am informed that there have been reports, but I have not been sufficiently interested in the subject myself to read them, and cannot speak of their merit.

Mr. STEVENSON. I hope the item will not be inserted.

Mr. ANTHONY. There has been a report, and a very valuable report. This commission is rendering very excellent service in informing the country and the world of the quality of different kinds of iron and of the kinds of strain it will bear, whether lateral or vertical.

Mr. STEVENSON. May I ask the Senator from Rhode Island when this report was made and where I can find it; because I am honestly seeking information in this line. I have been seeking it for some time but have never found it.

Mr. ANTHONY. I think the report was made at this session, communicated by the President of the United States.

Mr. STEVENSON. That may be. It has been more than a year since I inquired.

Mr. ANTHONY. The results of the investigations of this commission have been very valuable indeed in deciding upon the best qualities of iron for ships, for bridges, for supports, for cables, and for various forms in which iron is used. The iron that is best for cables is not the best for pillars or supports or for the bottoms of ships. Different kinds of work require different qualities of material, and this commission detects and makes public the peculiar qualities of the different kinds of iron adapted to peculiar uses.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was after line 957 to insert:

For retracing and conspicuously marking the boundary line between the State of Arkansas and the Indian Territory, at a rate not exceeding $50 per linear mile, (estimated distance one hundred and ninety-eight miles,) in accordance with the act of March 3, 1875, $9,900; and $10 each for one hundred and ninety-eight iron boundary mile-posts, $1,980; in all, $11,880, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendment was after line 967 to insert:

That the unexpended balance of the appropriation made by the act of June 11, 1874, for the survey of the boundary between the United States and the British possessions from the Lake of the Woods to the summit of the Rocky Mountains, being the sum of $15,992.36, be, and the same is hereby, continued and made available, or such part thereof as may be required, for the printing and publication of the report of the commissioner of the United States, with the reports of the chief astronomer and his subordinates, with the necessary maps, drawings, and illustrations, under the direction of the Secretary of State.

The amendment was agreed to.

The next amendment was after line 979 to insert:

For five hundred copies of the latest edition of Lewis Heyl's work, entitled United States Duties on Imports, $1,250: one copy for each Senator, Representative, and Delegate, and the residue for the use of the committees of the Senate and House of Representatives.

The amendment was agreed to.

The next amendment was after line 985 to insert:

To enable the Secretary of the Navy to grade and pave Hanover street bounding on the grounds of the United States Naval Academy, from Governor street to the harbor, or water's edge, Annapolis, Maryland, $3,000.

The amendment was agreed to.

The next amendment was after line 990 to insert:

For printing and binding the codified laws of Dakota Territory, $6,000.

The amendment was agreed to.

The next amendment was after line 992 to insert:

For the purchase of one thousand copies of Hickey's Constitution of the United States, five hundred copies of which shall be for the library and the committee-rooms of the Senate, and five hundred copies of which shall be for the library and the committee-rooms of the House of Representatives, at the rate of $1.50 per volume, $1,500.

The amendment was agreed to.

The next amendment was after line 999 to insert:

For the purchase from B. Lewis Blackford of one hundred sets of the Annals and Debates of Congress from 1789 to 1824, each set containing forty-two volumes, fifty sets for the library and the committee-rooms of the Senate and fifty sets for the library and the committee-rooms of the House of Representatives, at $1 a volume, $4,200.

The amendment was agreed to.

The next amendment was after line 1007 to insert:

To enable the Metropolitan police board of the District of Columbia to employ additional police force on inauguration day, $1,000, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendment was after line 1011 to insert:

For compensation of three commissioners, clerk, and stenographer, office expenses, surveying and drafting, labor, &c., as provided for in statute relating to the disposition of the Hot Springs reservation, approved ——— —, 1877, $27,500: *Provided*, That the sum above mentioned shall be repaid to the Treasury of the United States from the fund arising from the sale of the Hot Springs reservation.

Mr. DAVIS. I think I shall have to ask for an explanation of that. I do not see why this expenditure is to take place there. I think the Senator from Arkansas probably can explain more fully than the chairman of the committee.

Mr. WINDOM. The chairman is much obliged to the Senator from West Virginia, and is very glad to be excused.

Mr. DORSEY. We passed a bill a few days since providing for the appointment of three commissioners and requiring the commissioners to employ a clerk, and a stenographer, and engineers, and draughtsmen, to survey and lay out the Hot Springs reservation. That bill provides for the compensation of all the employés, and that that compensation and the expense of surveying is included in this item, and nothing more. It is all to be refunded from the money raised from the sale of the lands.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was after line 1020 to insert:

For Bartholdi's fountain, exhibited at the international exhibition in 1876, the sum of $6,000.

Mr. STEVENSON. I should like to have the chairman explain to me about Bartholdi's fountain.

Mr. WINDOM. I think the same suggestion made by the Senator from West Virginia might apply very well to this case, for the Senator from Vermont [Mr. MORRILL] can make a better explanation than the chairman of the committee; and therefore it is referred to him.

Mr. STEVENSON. I am willing to get light from any quarter.

Mr. MORRILL. I will say to the Senator from Kentucky that Bartholdi's fountain was brought over here for exhibition at the centennial exhibition. It is a bronze fountain about thirty feet high, containing a great many figures, and is a very beautiful work of art, as I am informed. I have never seen it, but I have a picture of it here, and it appears to be a very beautiful thing. The author of the work brought it to this country after having had it made at an expense of about $12,000. Rather than take it back to France he has offered to sell it to the Government for $6,000; and those with whom I have consulted have advised that it is a very cheap article at that price, and one that the Government ought to avail itself of.

Mr. STEVENSON. It is for the purchase of the fountain, not for its exhibition?

Mr. MORRILL. No, sir.

Mr. WINDOM. I was appealed to, and I have one item of information that the Senator from Vermont has not. I have seen it, and it is a very beautiful fountain.

Mr. STEVENSON and Mr. SARGENT. Why not say "for the purchase of?"

Mr. MORRILL. It ought to say that.

Mr. WINDOM. I move to insert "for the purchase of" before "Bartholdi's."

Mr. STEVENSON. If those words had been in I should not have asked the question.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment of the Committee on Appropriations was after line 1023, to insert:

For the completion of the system of sewerage and necessary filling of Tiber Valley, in Washington, between L street and the Capitol, according to the estimate of R. L. Hoxie, engineer in charge, of date of February 20, 1877, or so much thereof as may be necessary, $20,000.

The amendment was agreed to.

The next amendment was after line 1029, to insert:

To pay the amount due Hamilton G. Fant for rent or hire of quarters for troops and officers on military duty at Point Lookout, Maryland, being a deficiency for the fiscal year 1871 and prior years, and being for that amount certified on the 11th day of January, 1877, by the Third Auditor of the Treasury, as allowed by the Second Comptroller, and part of $30,000, reported by the Secretary of the Treasury on the 6th of January, 1877, to Congress for payment, $1,565.

The amendment was agreed to.

The amendment was after line 1040, to insert:

To pay the expenses of a commission of five skilled entomologists, to be appointed by the Secretary of the Interior, to report upon the depredations of the Rocky Mountain locusts in the Western States and Territories, and the best practicable methods of preventing their recurrence, or guarding against their invasions, who may be attached to the United States Geological and Geographical Surveys of the Territories, $25,000.

The amendment was agreed to.

The next amendment was after line 1048, to insert:

To pay W. A. Britton, late United States marshal, western district of Arkansas, $2,000.74, amount expended by him in fitting up a building for the use of the United States court in said district.

The amendment was agreed to.

The next amendment was after line 1053, to insert:

To enable the Secretary to send a steam revenue vessel to the seal-islands of Alaska, and maintain the same in cruising in those waters, for the protection of the sea-otter hunting-grounds and the seal-fisheries of the United States, $18,000.

The amendment was agreed to.

The next amendment was after line 1058, to insert.

To pay expenses incurred by the two voluntary committees in obtaining copies of evidence filed before the returning board of Louisiana, which has been printed by order of the Senate, $2,400, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendment was after line 1063, to insert:

For survey of the boundary-line between Colorado and Utah, being so much of the thirty-second meridian of longitude west from Washington Observatory as lies between the thirty-seventh and forty-first degrees of north latitude, at a rate not exceeding $70 per mile, (estimated distance two hundred and eighty miles,) $19,600; this appropriation to be available immediately.

Mr. ALLISON. I think this work ought to be done by a civil engineer, and I offer an amendment to cover that point, to be added to the amendment of the committee:

Provided, That the Commissioner of the General Land Office shall enter into a contract for the execution of said survey with a competent civil engineer only.

Mr. WITHERS. Why?

Mr. ALLISON. It is a very important work; the boundary lies between the State of Colorado and the Territory of Utah.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment of the Committee on Appropriations was after line 1071, to insert:

To pay the Morgan Envelope Company for stationery furnished the Post-Office Department for the fiscal year ending June 30, 1876, $229.20.

The amendment was agreed to.

The next amendment was after line 1075, to insert:

For expenses necessarily incurred in the removal of the Bureau of Education, with its documents, library, and papers, and for preparing the new rooms for the reception and care of the same, and for the distribution of the reports and publications of the bureau, wrapping-paper, twine, wrapping and mailing the same, $2,500.

The amendment was agreed to.

The next amendment was after line 1082, to insert:

For the necessary clerical force to enable the Commissioner of the General Land Office to carry into effect the act of Congress approved June 22, 1876, for bringing into market the public lands in the States of Arkansas, Louisiana, Mississippi, Alabama, and Florida, $10,000; to be available from and after the passage of this act.

The amendment was agreed to.

The next amendment was after line 1089, to insert:

For the publication of proclamations relating to the sales of public lands in the different States and Territories, as authorized by section 2 of an act entitled "An act providing for the sale of saline lands," approved January 12, 1877, and an act entitled "An act to repeal section 2303 of the Revised Statutes of the United States, making restrictions in the disposition of the public lands in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida, and for other purposes, approved July 4, 1876, such sum is hereby appropriated as may be necessary to pay for the same.

The next amendment was in line 1112, to increase the appropriation "for an iron-working and finishing ship (shop G) for the arsenal at Rock Island, Illinois," from $30,000 to $80,000.

The amendment was agreed to.

The next amendment was in line 1119, to increase the appropriation "for general care, preservation, and improvement of sewers, new roads, care and preservation of water-power, of permanent buildings and bridges, including painting, building fences, and grading grounds, and repairs and extension of railroads, and for care and preservation of the Rock Island bridge, and expense of operating and maintaining the draw," from $20,000 to $25,000.

The amendment was agreed to.

The next amendment was in line 1129, to increase the appropriation for continuing surveys of Lakes Erie and Ontario; determination of points in aid of State surveys and construction of maps; continuation of triangulation south from Chicago and east to Lake Erie; survey of the Mississippi River, and miscellaneous, from $90,000 to $125,000.

The amendment was agreed to.

The next amendment was to strike out in lines 1141 to 1153 these words:

That upon the happening of the contingency prior to January 1, 1878, on which the Secretary of the Treasury is authorized to issue bonds of the United States in payment to James B. Eads on account of the improvement by a system of jetties at the mouth of the Mississippi River, under and by virtue of the provisions in the act of March 3, 1875, entitled "An act making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes," the Secretary of the Treasury is hereby authorized to pay the sum that shall become due to the said James B. Eads in money instead of the issue of such bonds, and the sum necessary for said purpose is hereby appropriated.

And to insert in lieu thereof:

The requisite amount is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay all money that may hereafter become due and owing to James B. Eads and his associates, in accordance with the provisions of the act approved March 3, 1875.

The amendment was agreed to.

The next amendment was in line 1172, to increase the appropriation "for filling in and improving grounds south of Executive Mansion" from $3,000 to $5,000.

The amendment was agreed to.

The next amendment was in line 1175, to increase the appropriation "for ordinary care and extension of greenhouses at the nursery" from $1,000 to $2,000.

The amendment was agreed to.

The next amendment was in line 1181, to increase the appropriation "for manure and hauling of the same for the public grounds," from $1,000 to $3,000.

The amendment was agreed to.

The next amendment was in line 1185, to increase the appropriation "for purchase and repair of tools" from $500 to $1,000.

The amendment was agreed to.

The next amendment was in line 1187, to increase the appropriation "for trees, tree-stakes, lime, and whitewashing" from $1,000 to $3,000.

The amendment was agreed to.

The next amendment was in line 1195, after the word "reservations" to strike out "two" and insert "six;" in line 1198, after the word "any" to insert "iron," and in line 1199, after the word "fence" to strike out the words "or paling;" so that the clause will read:

For improving various reservations, $6,000: *Provided*, That no sum of money herein appropriated shall be expended by the Commissioner of Public Buildings and Grounds to take down or remove any *iron* fence around any square or reservation in the city of Washington.

The amendment was agreed to.

The next amendment was in line 1220, to increase the appropriation "for repairs of the Executive Mansion, refurnishing the same, and fuel for the same, and for care and necessary repairs of the greenhouses" from $17,000 to $30,000.

The amendment was agreed to.

The next amendment was in line 1221, to insert after the words "Executive Mansion" the words "and public grounds;" so as to make the clause read:

For lighting the Executive Mansion and public grounds, namely, for gas, pay of lamp-lighters, gas-fitters, plumbers and plumbing, lamps, lamp-posts, matches, and repairs of all kinds, fuel for watchmen's lodges, and for greenhouses at the nursery, $15,000.

The amendment was agreed to.

The next amendment was in line 1234, to increase the appropriation "for repairing and extending water-pipes, purchase of apparatus to clean them, and for cleaning the springs that supply the Capitol, Executive Mansion, and War and Navy Departments" from $3,000 to $5,000.

The amendment was agreed to.

The next amendment was in line 1253, to increase the appropriation "for expenses of the observation and report of storms by telegraph and signal for the benefit of commerce and agriculture throughout the United States; for manufacture, purchase, or repair of meteorological and other necessary instruments for telegraphing reports; for expenses of storm-signals, announcing probable approach and force of storms; for continuing the establishment and connection of stations at life-saving stations and light-houses; for instrument-shelters; for hire, furniture, and expenses of offices maintained for public use in cities or ports receiving reports; for river reports; for books, periodicals, newspapers and stationery, and for incidental expenses not otherwise provided for" from $300,000 to $350,000.

The next amendment was in line 1263, to increase the appropriation "for the construction and continuing the construction, maintenance, and use of military-telegraph lines on the Indian and Mexican frontiers, for the connection of military posts and stations, and for the better protection of immigration and the frontier settlements from depredations, especially in the State of Texas and the Territories of New Mexico and Arizona and the Indian Territory, under the provisions of the act approved March 3, 1875," from $15,000 to $30,000.

The amendment was agreed to.

The next amendment was in line 1269, to strike out from the clause "for geographical surveys of the territory west of the one hundredth meridian, and for preparing, engraving, and printing the cuts, charts, plates, and atlas-sheets for geographical surveys west of the one hundredth meridian, $50,000, which shall be immediately available," the following proviso:

Provided, That no transportation shall be furnished by the War Department.

The amendment was agreed to.

The next amendment was in line 1275, to increase the appropriation "for collection and payment of bounty, prize-money, and other claims of colored soldiers and sailors; for salaries of agents and clerks; rent of offices, fuel, lights, stationery, and similar necessaries; office furniture and repairs; transportation of officers and agents; telegraphing and postage" from $10,000 to $20,000.

The amendment was agreed to.

The next amendment was in line 1282, to increase the appropriation "for the publication of the official records of the rebellion, both of the Union and confederate armies," from $10,000 to $40,000.

The amendment was agreed to.

The next amendment was in line 1300, to strike out after the word "building" the words "and for working material for the north wing, $350,000," and to insert in lieu thereof the words "$300,000; and for preparing granite for the construction of the north wing, $250,000;" so as to make the clause read:

State, War, and Navy Department building: For continuation of the east wing of the building, $300,000, and for preparing granite for the construction of the north wing, $250,000; which shall be immediately available, and expended under the direction of the Secretary of War.

The amendment was agreed to.

The next amendment was in line 1315, to insert after the word "thousand" the word "dollars;" so that the clause will read:

For preparation of illustrations to complete the second edition of the Medical and Surgical History of the War, part III, $25,000.

The amendment was agreed to.

The next amendment was in line 1322, under the head of Department of Agriculture to increase the appropriation "for labor, manure, repairing concrete walks and laying new concrete walks, pur-

chase of trees for arboretum, and for tools and repairs of mowing-machines" from $5,000 to $3,500.

The amendment was agreed to.

The next amendment was in line 1330, to increase the appropriation "for continuing and completing the preparation of a report on forestry, as provided for by an act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1877, and for other purposes, approved July 15, 1876," from $2,000 to $3,000.

The amendment was agreed to.

The next amendment was in line 1336, to change the name of "Broadstreet" to "Bradstreet."

The amendment was agreed to.

The next amendment was to strike out from line 1405 to line 1420, inclusive, in the following words:

"That the sum of $375,000, or so much thereof as may be necessary, be appropriated to pay the amount due to mail contractors for mail service performed in the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Texas, Tennessee, Virginia, and West Virginia, the years 1859, 1860, 1861, and before said States respectively engaged in war against the United States; and the provisions of section 3480 of the Revised Statutes of the United States shall not be applicable to the payments herein authorized: *Provided*, That any such claims which have been paid by the Confederate States government shall not be again paid.

Mr. MAXEY. I hope the Senate will not agree to the amendment. The purpose of the provision as it came from the House was to pay mail contractors in the States named for services rendered anterior to the war under contract with the Post-Office Department. All these accounts are audited. Every contract for the payment of which appropriation is here made has been audited and approved by the Post-Office Department, and is only awaiting an appropriation. As I understand it the war suspended these claims but could not extinguish them. This is a debt for services performed for the United States under a contract, and it is just and fair and in my judgment it ought to be allowed. I trust the Senate will not agree to the amendment striking out this provision.

Mr. DAVIS. I fully agree with the Senator from Texas.

Mr. MAXEY. I will add, if the Senator will excuse me, what I was about to omit. Section 3480 of the Revised Statutes prohibits the officers of the Government from paying accounts which accrued prior to April 13, 1861, until the payment is authorized by a statute, and the purpose of the provision is to authorize the payment of these audited claims.

Mr. DAVIS. I fully concur with the Senator from Texas as to the justice of this claim. I take it there is no Senator here who will not acknowledge that the Government owes this money and that it is to be paid at some day, soon if not now. It ought to have been paid long since. Recollect that the labor was performed for which this money is to be appropriated sixteen or eighteen years ago, and these people have been waiting all this time without pay. I think there is no more just claim against the Government anywhere, and I hope there will be no objection to retaining the provision in the bill as it came from the House.

Mr. WINDOM. It struck me, Mr. President, and I think that was the impression of the committee, that this was quite too old a claim and quite too complicated in all its bearings to justify us in agreeing to the proposition of the House of Representatives on this subject. It contains in itself legislation which I think should be very carefully considered:

The provisions of 3480 of the Revised Statutes of the United States shall not be applicable to the payments herein authorized.

I will read the clause in the Revised Statutes which is suspended for the purpose of letting in this batch of old claims, which I have a distinct recollection have been before Congress during the last twelve or fifteen years I do not know how often.

Mr. NORWOOD. I should like to know from the Senator from Minnesota, when he thinks these claims will be any younger?

Mr. WINDOM. Before I vote for them they will be a good deal older. Section 3480 provides:

It shall be unlawful for any officer to pay any account, claim, or demand against the United States which accrued or existed prior to the 13th day of April, 1861, in favor of any person who promoted, encouraged, or in any manner sustained the late rebellion, or in favor of any person who during such rebellion was not known to be opposed thereto, and distinctly in favor of its suppression; and no pardon heretofore granted or hereafter to be granted shall authorize the payment of such account, claim, or demand, until this section is modified or repealed.

Now, Mr. President, we have recently in the history of this country heard a great deal about the intention to open up upon the Treasury the vast flood of claims that were supposed to be prevented by this section of the statutes. I regard this as simply lifting the curtain a little for the present, opening the door but a small way, a little crack to let this in; but let the door once be opened, let this act be suspended for this purpose, and I tell you, Mr. President, that the flood of claims which will pour in here was not exaggerated during the last six months by any body who spoke on the subject.

Mr. JONES, of Florida. I do not think the claims provided for in this section are of the dangerous class which has been mentioned by the Senator from Minnesota. These are claims founded in every instance upon an express contract with the Government. In nearly every case the contracts have been fulfilled. The honor of the Government is at stake. The men to whom this money is due have just as good a right to look to the Government for the payment of it as the individual who holds the written promise of the Government. These claims grew out of contracts made with citizens of the South previous to the war. I ask the Senator from Minnesota what difference there is in law or in morals between a claim founded on contracts of this kind and that which arises out of the printed obligation of the Government, which may be in the hands of the same party? The services have been performed. The individuals spent their money in fulfilling these contracts. There is no pretense for saying that there have been any laches upon their part. It is true that the war intervened and prevented the fulfillment of them; but is that any plea to interpose against the payment even at this day? They are not like claims arising out of the ravages of war, as damages to property from the marching and countermarching of armies. Those are a class of claims which it is not the intention of anybody in the South to bring up here; but these claims, as I have said, arise out of express contracts with the Government; and the words proposed to be stricken out provide the money to enable the proper department of the Government to liquidate the sum due upon those contracts.

If a person in the South should hold a promissory note or the bond of the Government what would Senators say if he came here and demanded payment? Would it be pretended that because he happened to be a citizen of that section he should be refused payment, when he held the obligation of the Government? In this case he holds its contract. After having fulfilled it, years have elapsed, and no provision has been made for the payment of the money. If the claims are old, it is not the fault of those to whom the money is due. I do not think that these claims ought to be put upon the same footing with that large and dangerous class of claims to which the Senator from Minnesota has alluded.

Mr. WITHERS. I want to say a word or two in connection with this matter. It will be remembered that this provides for a class of claims which have been audited and allowed by the Government. The amount of money appropriated in this section stands to-day upon the books of the Treasury of the United States to the credit of these contractors. The service was rendered which they contracted to render; the amount of money is due them, and it is admitted to be due them by the Government. This or a similar provision has passed the Lower House three times, twice when that body was republican largely and once when it was democratic; but the payment has been stopped in the Senate. If the Senate of the United States choose to take the ground that they will repudiate the contracts of the Government and refuse to pay the amount justly due the contractors, as admitted by Government officials themselves, solely because at a period subsequent to the performance of the contracts the parties were engaged in rebellion, they have the power, I admit, to do so; but I respectfully submit that it would not be to the credit of this Government, that they would neither maintain its honor nor add to its estimation in the minds of honorable men, when this amount is due contractors for services rendered, if from any cause they refuse to pay those contractors. It makes no difference of what crime they may have been guilty subsequent to the performance of their contract, the Government is in duty bound to comply with this obligation and pay these contractors.

Mr. LOGAN. I should like to ask the Senator a question in reference to these contracts. I do not know very much about them, I am sure, but when he says the accounts were audited and these men were contractors, did they continue as contractors after that time?

Mr. WITHERS. Not that I am aware of.

Mr. STEVENSON. The services were performed before.

Mr. WITHERS. The services were performed before the war.

Mr. LOGAN. I understand that. I ask if they were in the service in which they were under contract with the Government at the time the war broke out?

Mr. WITHERS. I presume the contractors fulfilled their services for the conveyance of the mails for a certain limited time.

Mr. MAXEY. A proclamation was issued by the President preventing the carrying of the mails any further from a certain date.

Mr. LOGAN. But the Senators do not seem to understand the point, or if they do they do not answer my question. Were these contractors, whom it is proposed to pay, contractors of the Government at the time the war broke out? That is the question.

Mr. WITHERS. Some of them probably were and some of them were not.

Mr. LOGAN. The Senator says some were and some were not. Why not specify them so that we may know who is to be paid and who is not to be paid.

Mr. WITHERS. I suppose it makes very little difference as to what proportion, and I am unable to designate the exact number who had completed their contracts and those who had not at the time the war commenced; but the Postmaster-General directed that after a certain date no further contract should be recognized, and these allowances were made up to that time.

Mr. LOGAN. What I wanted to get at was this: If these men were contractors with the Government at the time, the war broke out and if they had their contracts audited prior to that time, what disposition did they make of the property of the Government at the time the rebellion began? Did they continue to keep it for the benefit of the Confederate States, or did they return it back to the Government

Mr. WITHERS. What property did they have?

Mr. LOGAN. If they were contractors they had some property of the Government in their possession.

Mr. WITHERS. The contractors for carrying the mails use their own property; they have vehicles of their own and horses of their own.

Mr. LOGAN. I beg the Senator's pardon; they had pouches and locks and all that. Did they keep them?

Mr. JOHNSTON. The postmasters were responsible for those articles.

Mr. LOGAN. I beg the Senator's pardon; that is not the case.

Mr. WITHERS. I thought the Senator asked for information.

Mr. LOGAN. I think I understand this question as well as the Senator does. The contractors had certain property of the Government. The question is, did they return that property to the Government or did they turn it over to the confederacy.

Mr. NORWOOD. The Senator says they had property. What property did they have?

Mr. LOGAN. They had that character of property.

Mr. NORWOOD. The postmasters had possession of that.

Mr. LOGAN. The postmasters had possession of it to distribute the mails and hand back to the contractor. When he is filling his contract and has the carrying of the mails the contractor has it in his possession. Did they make any attempt to return to the Government either through the postmasters or in any other way that property? That is what I ask.

Mr. WITHERS. I presume, if the Senator will permit me, that if the Government had any claim upon these contractors for the property of the Government in their possession it certainly would have asserted that claim and deducted it from the amount due by it to the contractor.

Mr. LOGAN. Yes, they would have gone down there and asserted the claim of the Government very easily! It was a very easy thing to do! I have this to say in reference to these claims, the same as any other claims coming up from men of this character, every one of the contractors employed by the Government at that time, and the Senators know it if they know anything about the records of the Post-Office Department, continued to assist the confederacy and used whatever they had in their possession from the Government for the benefit of the confederacy. The contractors and postmasters robbed the Government of every mail-pouch, and every lock, and everything connected with the mails, for the purpose of carrying on the postal service of the Confederate States, and these are the gentlemen who come forward and ask for this payment. That was the question I wanted to put to the Senators. When gentlemen come to a government the same as they would go to their neighbor and ask for a thing of this kind, let them clean their hands first.

Mr. WITHERS. The gentleman will find the property of the Government as clean in the hands of these gentlemen as he will nearer home.

Mr. LOGAN. The Senator certainly understood me. I mean in this case where gentlemen take property of the Government and use it for purposes against the Government they have no right to make a claim against the Government. That is what I mean; hence I say they should clean their hands. If they intend that the Government should pay the amount due them they should have returned to the Government everything they had; and if they went into the rebellion they should have gone into it with clean hands. I cast no reflection upon the Senator or any of his constituents; and he certainly understood it, for he is a man of very fair understanding indeed.

Mr. CLAYTON. If I understood the provision which is proposed to be stricken out, I shall vote to retain it. These services were actually performed; and there is no proposition here to pay except for services actually performed.

Mr. WITHERS. None whatever.

Mr. CLAYTON. If these services were performed before the rebellion by these mail contractors under their contracts, and the money was due them for the service, I cannot see why it should be withheld. It seems to me to be indirectly fining those men for what they afterward did in going into the rebellion. If you are going to hold men responsible pecuniarily for the rebellion, we had better make a general provision to that effect.

So far as the argument made by the Senator from Illinois is concerned, if these contractors had Government property in their possession, there is no question but what it was charged to them. The Government always holds all its officials and contractors responsible for the property that is placed in their possession. If, as the Senator intimates, this property was used for some other purpose and was not turned over to the Government, I have no doubt the Government charged those men with the value of the property in every case. But whether that be so or not, even if it were true that they used this property afterward for some other purpose, I have no doubt that the Government charged them for the use of it. I cannot see, with the light that is before me, why we should withhold from these people moneys which were due them, which were theirs, which they had the right to demand. If we can do that, then we ought to go one step farther and equalize this thing by fining every one engaged in the rebellion, because to refuse this payment would be indirectly doing that.

Mr. ALCORN. I desire to state, Mr. President, that I think the Senator from Illinois was a little broad in his statement when he asserted that all these mail carriers appropriated to themselves or for the use of the confederate government the property of the United States that was in their possession. It happens that I am able to speak understandingly of one or two cases that came under my immediate observation, one in which the mail carrier was ejected on account of his want of loyalty to the confederate government, from his position as a mail carrier, and not permitted to carry the mail at all.

These persons performed the service under the direction of the Postmaster-General. There were attempts made in some of the Southern States to suspend the carrying of the mails in those States after the secession ordinances had been passed. While not now able to lay my hand upon that order I know very well that an order was issued to them stating the fact that the Government of the United States did not recognize the ordinances of secession and requiring of the mail contractors the regular delivery of the mails. They did go on and deliver the mails, where they were not interrupted and disturbed in doing so, up to the time of the proclamation of the Postmaster-General declaring that the time had ceased when the mail should be carried by them. The contractors have no property of the Government charged to them. If they did have anything charged to them, that stands to their charge, and the account is credited simply by the amount due, less the amount of public property charged to their account. The amount has already been audited on the books and stands there to the credit of these men for work, as has already been stated, that has been performed; and is the Government now to come here and undertake to plead that because these men afterward went into the rebellion they shall not be paid.

Many of them did not go into the rebellion; many of them were loyal people; and yet they are not paid. If a rebellion should be started in any portion of the Government to-day, with equal justice might you deny to the holder of the bonds of the United States the payment of that bond because he happened to be in the rebellion. I have in my pocket now, given me by a servant of the Government before the war, two warrants amounting to about $500, that were issued but mislaid by some means and not presented; and because the time has expired, the man is denied any redress by the Government, although the paper properly certified with a seal attached is here ready to be presented.

The honorable Senator from Minnesota said that if we should now enact this provision the flood-gate would be opened and all the claims of which we have heard so much would be rushed into Congress, and the Government would be bankrupted. His idea is that there can be no just plea to the payment of the claims now because of the fear of what might be done hereafter. The honorable Senator stated that the apprehension of claims had not been magnified in the last canvass at all, that the amount had not been understated. My judgment is that in that the Senator is mistaken, and that the apprehensions of the people of the North with regard to the magnitude of the claims that might be presented by the South, even with the consent of the southern people, are greatly magnified.

The PRESIDING OFFICER, (Mr. WEST in the chair.) The time of the Senator has expired.

Mr. ALCORN. I move to strike out the word "and."

Mr. SPENCER. I will yield to the Senator from Mississippi five minutes of my time.

Mr. ALCORN. I only want two minutes and a half.

The PRESIDING OFFICER. The Chair accords to the Senator from Mississippi the time of the Senator from Alabama.

Mr. ALCORN. I am very much obliged to the Senator from Alabama.

Mr. President, do you suppose that you would find in the Southern States a majority of the people who, for example, would be willing to pay for the slaves that were liberated? I apprehend not. Would the 850,000 people in the State of Mississippi, for example, be ready to pay the 25,000 slaveholders in that State for the property that was emancipated by reason of the proclamation of the President and the amendment to the Constitution subsequent thereto? There were only 300,000 slaveholders in all the South; and it is well known to the people who resided there that there was some degree of jealousy always felt between the two classes. There was even an "irrepressible conflict" between those who held slaves and those who did not hold them. I undertake to say that if the question were left to the Southern States themselves, to the white people alone, there could not be found a tithe of the people who would be able, ready, or willing to vote for the payment of the emancipated slaves.

Then, again, with regard to the confederate debt. It was stated that the southern people would be in favor of paying the confederate debt. Really I have maintained, and I believe correctly, that even if the confederate government had succeeded, the people of the South would have repudiated that debt. I heard it stated, again and again, before the close of the war, that they never calculated on paying that debt, and I do not believe to-day that one-tenth portion of the population, confining it to the white people of the South, would be in favor of paying that debt, if you would submit a proposition of the kind to them.

I come back again to the mail contractors and to the subject that is under discussion. From these men I have received numerous letters stating the fact that they have always been loyal, that they hold the claims against the Government of the United States, and that

they never did go into the rebellion. Many of these contractors were old men, too old to go into the rebellion. Some of them continued to be loyal to the Government. I am told by my honorable friend to my right [Mr. CLAYTON] that he is acquainted with a number of cases of that character in the Southern States. I am acquainted with one or two myself. I am familiar with a case that came under my observation in which a mail contractor was stopped in his service, and the property of the Government wrested from him, because of the fact that he was himself disloyal to the confederate government; and yet he is not paid. He here is refused because of the fact that he is presumed to be disloyal, residing as it is said in a disloyal State.

Mr. BLAINE. I desire to emphasize the distinction between this claim and the large class of claims to which the Senator from Minnesota has referred. It has been alluded to by almost every gentleman who has spoken, and it ought to be kept clearly in view. It is that this has nothing whatever to do with the class of claims which has been the subject of political agitation. These are claims based upon services performed prior to the war. I suppose every Army officer and every Navy officer who went into the war on the side of the Confederate States was paid on his pay-roll up to the date of his resigning. By retaining this provision in the bill, we shall be treating the men who carried the mails precisely as officers of the Army and Navy were treated who went into the rebellion against the Government.

Mr. LOGAN. Will the Senator allow me to ask him if he can give any instance of an Army officer who went into the rebellion without having drawn his pay before he went, and who received any pay after that time?

Mr. BLAINE. I do not imagine any of them went into the rebellion without drawing their pay.

Mr. LOGAN. Some of them did.

Mr. BLAINE. I never heard of any one who made any reclamation after doing that.

Mr. SPENCER. They drew their pay up to the day when they resigned.

Mr. BLAINE. The statute quoted by the Senator from Minnesota is a very simple statute. It was founded on an apprehension as to what might be done by the Departments to keep them from going pell-mell into paying claims from the Southern States. It is no limitation upon the discretion of Congress whatever. Congress simply said, in effect, "until we pass upon these matters you shall not audit and pay them in the Departments;" that is all. Here this case is on its equities, and as I voted for it twice in another branch of Congress I do not see how very consistently I can refuse to vote for it here.

Mr. JOHNSTON. This claim does not stand on any different footing from the claims of marshals who took the census in the year 1860. The balance stood in their favor upon the books of the Treasury, and since the war, by a law of Congress, those census-takers or marshals have been paid. The claim for taking the census of 1860 stands exactly, according to my idea, upon the same footing as these mail contracts. But this is not a claim; it is a debt. It is not to be put in the category of unsettled claims which are to be adjudged and adjudicated.

Mr. WINDOM. I think I have a few minutes of my five minutes left, if I do not violate the rule. I do not wish to violate it.

The PRESIDING OFFICER. The present occupant of the Chair was not here when the Senator spoke last.

Mr. MORRILL. I will yield to the Senator from Minnesota two minutes of my time.

The PRESIDING OFFICER. That meets the case. The Chair will recognize the Senator from Minnesota.

Mr. WINDOM. I believe I am one of the most liberal, so far as these matters are concerned, in the Senate or anywhere else, but really I have heard so much of these claims in the last eight or ten years that I am not willing to act upon them at this late day in the session without some examination. The discussion which has taken place shows that there may be a very different claim on the part of some of these men to what exists on the part of others. The argument that it is just the same as the payment of a bond does not strike me as sound; it is specious. The same argument precisely which the Senator from Mississippi has made, and which was made by the Senator from Florida, would open up every one of these claims that I referred to in the remarks made a moment ago. It is said that this is a contract, and consequently we are just as much bound as if these parties held our bond. Therefore, if you took a man's horse or cow during the rebellion, you took his property, and you are just as much bound to pay for it as if you made a contract for it.

Mr. WITHERS. There would be no contract in that case.

Mr. CLAYTON. The comparison will not apply to property taken during the war.

Mr. WINDOM. You might pay the owner of the property on the same principle exactly that you would pay the other claim, in my judgment. These claims ought to be considered by the Department; they ought to be acted upon by a committee of this body, and not brought in, as they have been, when we have not time to consider them.

Mr. DAVIS. Mr. President——

The PRESIDING OFFICER. The Chair is under the impression that the Senator from West Virginia has already consumed his time on this subject.

Mr. DAVIS. I think the Chair is mistaken.

Several SENATORS. Let us vote.

Mr. WHYTE. So far from this act of Congress, section 3480 of the Revised Statutes, operating against the payment of this claim, it is really in favor of the payment of the claim. It is an act which merely suspended the claims until Congress should modify the statutes. It expressly provides, not that it is to be a repudiation of these claims, but that the claims are not to be paid by any officer of the Treasury until Congress modifies this provision of law, and it is perfectly proper, right, and honorable in Congress at this time to modify the law and pay these people their claims.

Mr. WITHERS. Before the vote is taken I wish to offer a slight amendment to meet the difficulty which has been suggested by some of our friends on the other side. I know it will satisfy their minds, and nobody will have any objection to it. I would add to the clause a proviso:

Provided, That in any case where these contractors were in possession of any property belonging to the Government it shall be deducted from the amounts due them under their contracts.

Mr. CHRISTIANCY. With that amendment I am unable to see the least objection to the provision as in the bill originally, and I shall support it and vote against the amendment of the committee.

Mr. LOGAN. I should like to make a suggestion to the Senate.

The PRESIDING OFFICER. The Senator from Illinois has already occupied the floor, the five-minute rule prevailing.

Mr. LOGAN. I do not think I occupied the floor five minutes.

Mr. CONKLING. I have not been heard on this amendment. Am I entitled to the floor?

The PRESIDING OFFICER. The Senator from Illinois says he has not consumed his time.

Mr. CONKLING. If I am entitled to the floor I should like to yield my time to the Senator from Illinois. That I believe I have the right to do.

The PRESIDING OFFICER. The Senator from Illinois will proceed.

Mr. LOGAN. The rule upon which I object to this payment seems to me to be a correct one, that persons in the condition these people were in, having in their possession means by which they could advance the interest of a contending party against the Government, forfeited what rights they had to their claims under their existing contracts. I put a case to the Senator from Michigan. He says if the Government will deduct the value of the property they may have had in their hands he sees no objection to the provision. Suppose I were a Government contractor, and had some explosive material in my hands belonging to the Government, and should blow up a ship and destroy the property of the Government with it, and when my contract would expire with the Government they should pay me less the value of this torpedo which I used against the Government. Is that the principle upon which the gentleman presumes these men are entitled to receive their pay? They had in their possession the property of the Government, and used it for the Confederate States. They became contractors under the Confederate States, and used that which the Government had furnished them, as did the postmasters, in order to facilitate the postal service in the Confederate States. That is the condition of these claims; and it is a different theory from any I ever heard before in reference to the payment of claims.

While I am up I wish to say one word in reference to the remarks of the Senator from Mississippi, [Mr. ALCORN.] The Senator from Mississippi, in his peculiar manner, which is of a very friendly character, suggested that you might accuse persons of claiming to recover for the loss of slaves. The question of payment for slaves has nothing to do with this proposition, nor has the confederate debt. I say to Senators now that the confederate debt and the question of the payment for slaves are not a bugaboo to the northern people or to any persons who represent them. They are not alarmed by any such talk as that; because we understand the amendments to the Constitution about as well as other Senators, and we know that those amendments preclude any such payment. It is not necessary to throw in that argument always when a question of this kind comes before the Senate.

But I object to the payment of these claims on another ground, that if they are legitimate and proper for the Government to pay, let them be examined. Let us pass a law giving the Court of Claims a right to examine them, if you desire to do so, and suspend the statute of limitations as applicable to them, or let them be examined by a commission or a committee, or by the Department officers, and let us have a report in reference to them. It certainly would be far better than to place them upon a bill of this kind for the purpose of forcing them through in order that the bill may be signed. If it were a separate bill, it might be vetoed; but on a bill of this character, it must be signed or else the appropriations will fall. This is the character of legislation that is inaugurated for the purpose of paying claim after claim; and I do not believe there is any law for it or any justice in it.

For those reasons, in what little time I shall remain in the Senate, which is very short, I shall not agree to pay any claims of this kind unless they have been properly investigated and properly reported to the Senate by an authority having examined them to see whether or not they are a character of claim that ought to be paid, and whether

each individual making his claim has a right under the law to make the claim.

Mr. SARGENT. I shall vote for the House provision for several reasons. In the first place, if I am not in error, these are audited accounts. These are accounts which the accounting officers of the Treasury have found to be due, and they would be paid if there were an appropriation, unless the provision of the Revised Statutes or the law upon which the contracts were based prevented them. They stand upon a very different basis from claims for mere destruction of property, or use of property, or damages arising from any cause. I shall vote for retaining the provision, for I think the time has come when we can well remove the obstruction to the payment of demands arising out of contracts. We are far enough removed from the war to be able to do it.

I shall vote for retaining the provision for a third reason—a reason which has a very powerful influence upon my mind. I recognize the fact that in the recent conflict through which we have passed during the last month a very considerable number of Senators and Members representing Southern States have not been carried away by passion or by prejudice and induced to violate the honor which was pledged at the time they cast their votes for the electoral tribunal, but that they stood with conservative men and with republicans from other portions of the Union in favor of carrying out in good faith the compact which at that time was made. I do not know that there is any extraordinary virtue in doing that. As a republican I should have felt bound by that law, and should have yielded a cheerful assent in case the tribunal had otherwise decided; and I believe that would have been done by all republicans. It would have been praiseworthy in the republicans to yield their assent to the consequences. I am willing to accord praise to those who have enabled the result which was there determined to be carried out. That consideration has a very powerful influence upon my mind, and I base my principal reason for voting to retain this provision upon that ground.

Mr. WITHERS. I withdraw my amendment for a reason suggested to me, and which was brought more clearly to my mind by the remarks of the gentleman who last spoke. These claims having been already audited, that is a settlement of the business. They are admitted by the Government; the accounts are due, and any charge that would probably go against these contractors has already been adjusted in the allowance of the claims.

Mr. WINDOM. Mr. President——

The PRESIDING OFFICER. Before assigning the floor to the Senator from Minnesota the Chair would suggest that he is violating his own rule.

Mr. WINDOM. I am not rising to debate the question, but simply to remark that it is very apparent from the course of Senators here that there was either a clerical or typographical error in striking out the provision in the House bill.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on Appropriations striking out from line 1406 to line 1420.

Mr. CHRISTIANCY. I was asked a question a few minutes since by the Senator from Illinois, to which I did not reply. I wish to say here that this is a simple matter of debtor and creditor, and not a question of torpedoes; and that, while a war suspends the obligation of a contract during its continuance, it does not extinguish it. That is the only reply I wish to make.

Mr. MORRILL. At this time of night I do not propose to consume any time in the discussion of this amendment. I will only say that the only reluctance that I have to vote against this provision is because I do not know the precise amount of these claims that may be existing against the Government. The Committee on Finance have heretofore recognized the principle involved in the provision, and they have reported in favor of paying collectors of internal revenue where they could not take the test oath. That was reported year after year.

Mr. MAXEY. If the Senator will permit me, my information from members of the House is that this amount was made up from a letter of the Postmaster-General, stating officially the amount of claims audited, which amount is the amount named in the bill.

Mr. MORRILL. Therefore I regard the principle as having been settled here by the Senate and by the House years ago in favor of paying claims of this character. The deduction of the amount of property in the hands of these contractors must be very small; it cannot extend beyond the mail-bags that were used by the contractors in carrying the mail. If I were satisfied that this amount of $375,000 would liquidate the whole of the claims I should very cheerfully vote for it.

The PRESIDING OFFICER. The question is on the amendment, striking out the clause.

The amendment was rejected.

Mr. WINDOM. I will not ask for a division, for I am afraid I shall not have any votes.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes; that it further insisted upon its disagreement to the amendments of the Senate to the said bill, numbered 12, 13, 32, 33, 34, and 35; that it agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that it had appointed Mr. WILLIAM S. HOLMAN of Indiana, Mr. HIESTER CLYMER of Pennsylvania, and Mr. CHARLES FOSTER of Ohio managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 256) for the relief of Herman Hulman, of Terre Haute, Indiana;

A bill (H. R. No. 1016) for the relief of Virginia E. White, of Ohio County, West Virginia;

A bill (H. R. No. 1253) granting to the State of Missouri all lands therein selected as swamp and overflowed lands;

A bill (H. R. No. 2229) for the relief of Chancy J. Poore, late a private in Battery G, First New York Light Artillery; and

A bill (H. R. No. 3117) for the relief of Colonel Frank L. Woolford, late of the First Kentucky Cavalry Volunteers, of certain disabilities.

SALE OF DESERT LANDS.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 4261) to provide for the sale of desert lands in certain States and Territories, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHN K. LUTTRELL of California, Mr. LA FAYETTE LANE of Oregon, and Mr. LORENZO CROUNSE of Nebraska managers at the conference on its part.

Mr. SARGENT. I move that the Senate insist on its amendments and agree to the conference asked by the House.

The motion was agreed to.

By unanimous consent, the President *pro tempore* was authorized to appoint the committee on the part of the Senate; and Messrs. SARGENT, OGLESBY, and KELLY were appointed.

SUNDRY CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes.

The next amendment of the Committee on Appropriations was in line 1431, after the word "of," to strike out "this" and insert "the;" and after the word "House," to insert the words "of Representatives."

The amendment was agreed to.

The next amendment was to strike out lines 1442 to 1449, in the following words:

> The accounting officers of the Treasury are hereby authorized to settle the accounts arising out of the appointment, on June 24, and July 14, 1875, by the Secretary of the Interior, of commissioners to investigate affairs at the Red Cloud agency; such accounts to be paid out of moneys appropriated for the Sioux Indians for the fiscal years ending June 30, 1876.

Mr. ALLISON. This is also a typographical error. I think this clause ought really to remain in the bill. When it was disagreed to it was disagreed to for the reason that the committee was not quite familiar with the effect of the provision.

The PRESIDING OFFICER, (Mr. WEST in the chair.) Does the Chair understand that the Senator from Iowa, from the Committee on Appropriations, withdraws the amendment?

Mr. ALLISON. I have no authority to withdraw the amendment on account of the Committee on Appropriations. I was endeavoring, in a very feeble way of course, to satisfy the Senate that this amendment ought to be disagreed to. The money provided for in this item has already been paid to the parties to whom it was due; the parties have already received the money; but the Treasury officers are not able to settle the accounts with the proper officers in the Indian Bureau; and this is more for the adjustment of the accounts. The whole matter was carefully considered by the Committee on Appropriations of the House, and the Committee on Indian Affairs of the Senate have full statements from the Secretary of the Interior in reference to it. I therefore ask that this amendment of the Committee on Appropriations be disagreed to.

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on Appropriations.

The amendment was rejected.

The PRESIDING OFFICER. The amendments reported by the Committee on Appropriations are disposed of.

Mr. WINDOM. The committee have one or two amendments that are not printed with the bill. On page 46, after line 1102, I am instructed by the committee to offer the following:

> To protect the piers at the draw of the bridge across the Mississippi River at Rock Island, Illinois, owned by the United States, by the erection of booms, to be expended under the direction of the Secretary of War, $15,000.

The amendment was agreed to.

Mr. WINDOM. The Senator from Vermont [Mr. MORRILL] appeals to me to allow him to offer an amendment; I will yield.

Mr. MORRILL. There was an amendment sent to the Committee on Appropriations from the Committee on Public Buildings and Grounds, where the words "at Albany, New York" were accidentally

omitted, and therefore I offer the following amendment to supply the place, to come in on page 25, after line 590:

For the custom-house, post-office, United States circuit and district courts, and internal-revenue offices at Albany, New York, on the site purchased in 1872, $100,000; and the limitation fixed by the law on this cost of the building is hereby amended and fixed at a sum not exceeding $500,000.

I desire to say that the inhabitants of Albany have paid about as much as the Government has for the site. An appropriation was made and the limit of the cost of the building at Albany, the capital of the State of New York, a city of about one hundred thousand inhabitants, was fixed at $350,000; and the act provided that it should be a fire-proof building. The Committee on Public Buildings and Grounds was informed by the Secretary of the Treasury, who obtains his information from the Architect, of course, that a fire-proof building there of the size required for a post-office, custom-house, United States circuit and district court-rooms and internal-revenue offices, cannot be made for $350,000; therefore, the committee have recommended $500,000, although the Architect desired to have it fixed at $750,000. I think there will be no objection to the proposition.

The amendment was agreed to.

Mr. WINDOM. I am instructed by the Committee on Appropriations informally to offer the following, to come in after line 1102:

To pay to the assignee of the Dominican Republic the sum of $71,486.62, rent for the occupation of the Bay and Peninsula of Samana until December 1871, by the United States as a coaling-station, pursuant to a convention between the United States and said Dominican Republic of 1869.

Mr. MORRILL. I should like to have some member of the committee explain this amendment. I have never understood that the Government of the United States were holden for this amount.

Mr. WINDOM. The Committee on Foreign Relations requested the Committee on Appropriations to act upon this matter, and believing it to be a claim that ought to be paid, the Committee on Appropriations, I believe unanimously, at least so far as they could be consulted, instructed me to report it. I think the Committee on Foreign Relations can make a more perfect explanation of it than I can, and if any of them are present I would ask them to do so. I had it explained to me to my entire satisfaction, but I have not had the papers. Perhaps the Senator from New York, who is a member of that committee, may be able to make the explanation.

Mr. CONKLING. This amendment is one which was considered very carefully and fully by the Committee on Foreign Relations, and reported favorably and referred to the Committee on Appropriations. The matter arises thus: The United States some years ago, in November 1869, by a convention with the Dominican Republic, entered into a lease of the Peninsula and Bay of Samana. I have before me the convention and the lease. I would read it, except that we are under the five minutes' rule. The Government undertook to pay for that peninsula and bay, as rent, $150,000 a year. The occupation was for two years as a coaling-station. The rent of the first year was paid in the language of the letter which lies here from the Navy Department "out of moneys under control of the State Department." When the second payment came to be made, there was no fund deemed applicable to it; and here is—I would also be glad to read it if time permitted—a letter from the Comptroller of the Treasury and other officers stating how it was that under the statutes as they stood there was no fund applicable to paying this rent at that time and no fund applicable afterward to paying it when the circumstances which I will state arose; and the Comptroller of the Treasury, Dr. Brodhead, and others thought it was the appropriate subject of a specific appropriation by Congress.

Mr. BAYARD. Under treaty stipulation?

Mr. CONKLING. Under treaty stipulation. Pending this condition of things certain citizens came forward and advanced in payment upon this lease, to save it from falling, $50,000 and something more, in gold; and before the committee were the papers authenticated by the Dominican Republic, a power of attorney, an assignment, an order, everything which they could execute to enable them at once to realize this money. It was paid by them.

In one sense this is a claim by the citizens who advanced the money upon the Government; but meanwhile these citizens said to the Dominican Republic "You must refund us." The Dominican Republic said "We would if we could. We will do everything we can to induce your Government, we having had the money, to re-imburse you." Accordingly there was sent here an agent, an envoy of some sort—I do not know how to describe him although his name and title appear here—who came and made a formal demand of this money, and the amendment is in response to that demand, the money in equity being not due to the Dominican Republic but due to the citizens of this Republic who from motives of patriotism, upon learning of the condition of things and the importance of continuing this lease and making the payment at once advanced in gold the money which made the payment. As the Committee on Foreign Relations were advised and as far as I have ever been advised in the much that I have heard on this subject, there is no escape from the fact that this is a debt due in every sense of equity and law.

I have heard it said that the President of the United States, although authorized by and with the advice and consent of the Senate to negotiate treaties, could not by proposing a convention bind the United States as by an *assumpsit*. I assume for the sake of the argument that that is true; but the implied *assumpsit* is the difficulty here. The Government of the United States occupied this bay and peninsula as a coaling station. Time after time reports came here which apprised both Houses of Congress of the fact. One of them is now in my hand. The facts were perfectly open and notorious that we were occupying all this property, and the reports stated how valuable it was. Owing to the condition of the appropriations at the time, it was deemed necessary to anticipate the ordinary time when an appropriation would be made applicable to this object. Thereupon, as volunteers in one sense, no doubt, these men stepped forward and parted with their money in gold and it paid this obligation of the Government. In technical language it was money paid for the use of the United States, and by its privity, and therefore, in legal language again, at the instance of the United States; and I can see no mode in which we who have been the tenants of this property under a treaty stipulation and a lease, and have occupied and enjoyed it, can turn around and say we will not pay the *quantum vaebat* or the sum nominated in the lease and in the treaty, there being as I understand no dispute whatever about the equity of the claim.

If I could say another word I would, but I do not wish to transgress the rule.

The PRESIDING OFFICER. The Senator's five minutes have expired.

Mr. WHYTE. I should like to ask the Senator from New York whether the gentlemen who paid this money and now expect to get it back from the Government of the United States were not engaged as a company and corporation in making a speculation on the Dominican government; and the Government of the United States not having entered into the contract, as they supposed it would, whether they are not now seeking to be refunded what they paid in a forlorn speculation?

Mr. CONKLING. My honorable friend is referring to persons who have no sort of connection with this amendment, and no opportunity to receive anything under it. This money was advanced by citizens who had no connection whatever with San Domingo, with the Bay of Samana, with any corporation or with anything else except that as patriotic citizens they most unwisely (as I thought at the time and as I ventured to advise although it was too late) listened to the suggestions made by the commissioners who had been sent to Samana and made by other persons still nearer to the Government and under circumstances susceptible to no suspicion, they came forward to execute the contract of the Government and to protect its honor and its interest, for in both forms it was put to them, and advanced this money which was paid upon the lease and extinguished the debt of the United States; and to this day the United States has never paid one farthing. Attempts have been made heretofore, not very well directed, usually in the last hours of the session, and being everybody's business it was nobody's business, and it has fallen through. At last it came before the Committee on Foreign Relations and that committee went over it very fully and could find no answer to the plain facts of the case.

So I can assure the Senator from Maryland that there is nothing in it suggestive of the idea which he presents, although I think I can name the parties to whom he possibly refers and they are not the parties directly or indirectly that have anything to do with this claim.

Mr. MORRILL. I would not offer the least obstruction to the payment of this sum if it were equitably due from the United States, although it is well known perhaps to most of the Senators that I was very decidedly opposed to the purchase or the lease of Samana Bay. I had an impression that the only forfeiture that the United States would be liable to under any possibility was the payment of the $150,000 for the lease of that bay, and that when the treaty was not ratified by the United States we could not by any possibility become liable to any further sum. Although I have not refreshed my memory by the terms of the lease or of the treaty, that is my present impression.

Mr. CONKLING. Will my friend allow me one moment? Here is the lease specifying the terms: here is the letter from the Secretary of the Navy addressed to the President stating the precise length of occupation, the exact amount of money paid, and this deficit unquestionably exists as certified by all these papers.

The PRESIDING OFFICER. The question is on the amendment.

Mr. McCREERY. I call for the yeas and nays on this question. The President has the right, by and with the advice and consent of the Senate, to make treaties. What right he has to send commissioners to lease foreign bays and islands I do not understand.

Mr. CONKLING. The commissioners never leased it.

Mr. McCREERY. Who did lease it?

Mr. CONKLING. I will read, if my friend will allow me in his time:

Convention celebrated between the United States of America and the Dominican Republic for a lease of the bay and peninsula of Samana.

For this purpose the President of the United States has invested with full powers Mr. Raymond H. Perry, commercial agent of the United States to the Dominican Republic, and the President of the Dominican Republic has invested with full powers Mr. Manuel Maria Gautier, secretary of state of the Dominican Republic, who, after exchanging their said full powers, found in good and due form, have agreed upon, concluded, and signed the following articles:

ARTICLE I.

The Dominican Republic grants immediate possession and occupation, in the form of a lease, to the United States of America, of all the territory comprised in the peninsula and Bay of Samana, extending, &c.

I omit the boundary.

The United States shall possess and occupy the above described territory during a period of fifty years from this date, &c. * * *

ARTICLE II.

During the above-named term of occupation of the said territory the United States shall pay as an annual rent to the Dominican Republic, on the 1st day of January of each year, in Washington, D. C., or in the city of New York, the sum of $150,000 in gold coin of the United States. The Dominican Republic hereby acknowledges to have received the sum of $147,229.91 on account of the first payment under this convention.

Here are the letters from the Department showing that after the expiration of that year, for a series of months, to-wit: until December, or, exactly speaking, the last of November of that year, lacking one month of the full year, they continued to occupy and enjoy under this lease, and not until then was the possession surrendered.

Mr. BAYARD. This is the continued *pro rata* payment?

Mr. CONKLING. Yes, sir.

Mr. NORWOOD. I should like to ask the Senator from New York if the amount advanced was $50,000 why the amount asked for now is $71,000?

Mr. CONKLING. Being the exact amount paid, with simple interest at 7 per cent. uncompounded, although the agreement was originally that these men were to receive 10 per cent. It was thought we had no right except to allow the legal interest without rest and without compounding.

The PRESIDING OFFICER. Does the Senator from Kentucky insist on his demand for the yeas and nays?

Mr. McCREERY. I do.

The yeas and nays were ordered; and being taken, resulted—yeas 34, nays 7; as follows:

YEAS—Messrs. Allison, Anthony, Barnum, Bayard, Blaine, Booth, Bontwell, Chaffee, Christiancy, Clayton, Conkling, Conover, Dennis, Dorsey, Eaton, Gordon, Hamlin, Harvey, Howe, Ingalls, Jones of Florida, Jones of Nevada, Kelly, Logan, McDonald, Maxey, Norwood, Oglesby, Paddock, Sargent, Spencer, West, Windom, and Withers—34.

NAYS—Messrs. Bailey, Cooper, McCreery, Morrill, Ransom, Stevenson, and Whyte—7.

ABSENT—Messrs. Alcorn, Bogy, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Cockrell, Cragin, Davis, Dawes, Edmunds, Ferry, Frelinghuysen, Goldthwaite, Hamilton, Hereford, Hitchcock, Johnston, Kernan, McMillan, Merrimon, Mitchell, Morton, Patterson, Randolph, Robertson, Saulsbury, Sharon, Sherman, Teller, Thurman, Wadleigh, Wallace, and Wright—34.

So the amendment was agreed to.

Mr. HITCHCOCK. On page 8, after line 172, I move the following amendment from the Committee on the District of Columbia:

For the purchase of the remainder of the Peters farm, $10,000.

I desire to say that this is recommended by the Attorney-General, under whose supervision this institution, the Reform School, is; it has been favorably acted on by the Committee on the District of Columbia, and I believe it is a very meritorious and wise appropriation. I trust the Committee on Appropriations will not object to it.

Mr. WINDOM. The Committee on Appropriations had that matter referred to them and were of the opinion that it was not advisable to make the purchase now. I hope we may have a vote.

Mr. HITCHCOCK. I call for the yeas and nays.

Mr. DAVIS. I make the point of order, if the yeas and nays are called for taking up time here—or perhaps I had better move to lay it on the table.

Mr. HITCHCOCK. The amendment is in order.

The PRESIDING OFFICER. The Senator from West Virginia withdraws the point of order and moves to lay the amendment on the table.

Mr. HITCHCOCK. I hope the Senator will not press that motion.

Mr. DAVIS. If the Senator wishes to speak I will not press the motion.

Mr. HITCHCOCK. I wish to say a word.

Mr. DAVIS. I withdraw the motion.

Mr. HITCHCOCK. I have been for six years a member of the District Committee, and I am somewhat familiar with the appropriations which have been made in the name of charity to this District; and I believe of all the appropriations made there are none that have produced more beneficent results from a small expenditure than the appropriations which we have annually made for the Reform School. They have out there to-day a farm of one hundred and fifty acres. There are about two hundred boys kept on that farm at a very small expense. They need more land. They need more land in order to employ the boys wisely and well. They need this land particularly for other reasons. They need it in order that they may get a front upon the East Branch, so that they may obtain ice. They need it to prevent neighbors, who will interfere with the welfare of the boys; getting possession of the land. This is an appropriation to buy one hundred acres of land at $100 an acre only, a reasonable proposition; and it has been recommended for two successive years by the Department earnestly. I will read from the report of the Attorney-General on this subject very briefly. He says:

Second. Purchase of the remainder of the Peters farm. More land suitable for cultivation is necessary to enable the school to raise all the vegetables, grain, &c., required on the premises.

The greater part of the land now belonging to the school is not available for this purpose, being thin, poor, and not susceptible to much improvement through the agency of fertilizers, and therefore not suitable for the purpose of high cultivation. It is, however, available for the cultivation of fruit and grapes, and part of it for grass, which is being put down as fast as the force and means at our command will permit.

The remainder of the Peters farm adjoins the school, being part of the adjoining tract of which the school land is a part, and it is desirable to obtain it for several reasons: Because it lies adjacent to and adjoining the school, and it is desirable to prevent it from falling into the hands of persons who would not be desirable neighbors, and who might have a bad influence upon the boys; because it is well adapted to raising vegetables and the smaller fruits for the supply of the school and for sale, from which quite a revenue could be derived, besides giving the boys an opportunity of learning by experience the business of market gardening, which they could in after life follow as a useful and profitable occupation; because, if this land goes out from under the control of the trustees of the school, those who purchase it will have the right of way along the whole southern line of our present site, and if it should be occupied by persons whom it might be disadvantageous to have brought in contact with the boys, their close proximity and daily contact would be highly injurious to the good management and discipline which now obtain.

In view of these facts, we hope Congress will look favorably upon this estimate.

I believe the proposition of the amendment is meritorious, and I hope it will prevail.

The amendment was agreed to.

Mr. ALLISON. I move, from the Committee on Appropriations, to insert after line 942 the following:

To pay John R. Lynch, of Mississippi, expenses in contested-election case, $500; and C. B. Darrall, of Louisiana, expenses in contested-election case, $400.

These amounts were agreed to by the Committee on Appropriations, but in the hurry of the preparation of this bill were not inserted in the print. They are recommended by the Committee on Elections in the House of Representatives.

The amendment was agreed to.

Mr. HOWE. I move an amendment, to insert after line 513:

To enable the Librarian of Congress to employ sufficient help to complete the index to the debates and documents of Congress, $2,500.

The amendment was agreed to.

Mr. McDONALD. I offer an amendment, to insert after line 990:

Six thousand and four dollars and forty-eight cents to pay John W. Dodd & Co. for grading, paving, and curbing the sidewalk bordering the gutters on the north side of Michigan street, from the west side of the United States arsenal grounds to the east line of said grounds in the city of Indianapolis and State of Indiana.

Mr. WINDOM. I must raise the point of order that this is a private claim and not appropriate on this bill.

Mr. McDONALD. This is for work already done upon an account approved by the officer in charge of the arsenal grounds.

The PRESIDING OFFICER. The Chair decides that the point of order made by the Senator from Minnesota is well taken and that the amendment is not admissible.

Mr. OGLESBY. I offer an amendment to come in after line 532.

Mr. WINDOM. Is that reported by the Committee on Public Lands?

Mr. OGLESBY. Yes, sir.

Mr. WINDOM. I cannot make the point of order, then, but I know what it is, and before it is read I desire to say that the Committee on Appropriations considered it and rejected it with a great many other propositions that might be meritorious if we had not already too much on the bill.

The PRESIDING OFFICER. The amendment will be read.

The CHIEF CLERK. On page 22, after line 532, it is proposed to insert:

For the erection of monuments at the geodetic points established by the geological and geographical survey of the Rocky Mountains region, which points may be used as starting points for the surveys of the public lands, $25,000.

Mr. WHYTE. Unless we desire an extra session of Congress—I think that all these amendments are running in that direction—we had better not adopt them.

Mr. WINDOM. I think we have quite enough on the bill now.

Mr. WHYTE. There is no use in sending the bill to the other House with all these amendments.

Mr. OGLESBY. I thought I had the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. OGLESBY. I have been assisting the Committee on Appropriations all I could, and various other gentlemen, in getting various very proper amendments in this bill. I believe this is the first one I ever offered in the Senate in my life for an appropriation out of the national Treasury, and it is a subject that I think a good deal of. I do not know whether the Committee on Appropriations gave much attention to it or not; perhaps they did give some attention.

I have had a notion for some time that surveys continued over these desert lands are very expensive to the Government, and if they keep on from year to year the expense will continue for surveying desert lands. This amendment provides that the true meridian shall be ascertained west of the Observatory here by telegraph and by astronomical observation until the exact point is found a thousand miles or two thousand miles or any other distance west on the desert. When the exact point is found, another line is run from that, ten miles, and then by what is termed triangulation they establish points, and there put an iron monument which will stand for a thousand years, and then make another point from that without surveying. Having these prominent points over the desert, then from these iron monuments that are fixed and stand forever, if there be any timber land or mineral land or irrigable land, you can run to that land and make a survey as to that particular land without surveying the whole desert to get to it. That is all there is in it, and it is a very sensible amendment and ought to be adopted.

Mr. PADDOCK. And it is in the interest of economy.

Mr. OGLESBY. Certainly.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Illinois.

The amendment was rejected.

Mr. ANTHONY. I offer an amendment from the Committee on Printing which I presume the Committee on Appropriations will accept; it is to come in after line 47:

For printing the Agricultural Report for 1876, $120,000.

The Senate ordered this work to be done against my advice and remonstrance, but if it is to be done we must have the money to do it with.

Mr. WINDOM. Of course we cannot resist that. If Congress has made the order we must pay for its execution.

The amendment was agreed to.

Mr. SPENCER. I move, on page 39, after line 48, to insert:

The above appropriations for contestants and contestees shall be immediately available.

Mr. WINDOM. This is simply making available the appropriation for the contestants and contestees of the House. There can be no objection to it.

The amendment was agreed to.

Mr. LOGAN. I offer House bill No. 58 as an additional section to this bill; it is what is known as the bounty bill.

The Chief Clerk proceeded to read the amendment, but was interrupted by——

Mr. WINDOM. I raise the point of order that that is legislation.

The PRESIDING OFFICER. The Chair decides——

Mr. LOGAN. Before the Chair decides I desire to appeal to my friend not to raise the point of order on this measure to-night. I notice that I was about the only one almost who refused to vote for an appropriation of $375,000 to pay mail contractors on the ground that they had performed service for the Government as it was said; and even the patriotism of gentlemen was appealed to to vote for that. My honorable friend from California gave as a reason, which was sufficient for him as a matter of course, that he voted for that on the ground that some of our friends had been patriotic in the last few days. That is according to his notion.

Mr. SARGENT. One ground.

Mr. LOGAN. One ground.

Mr. PADDOCK. A pretty fair ground, too.

Mr. LOGAN. I am not objecting to the ground, if my honorable friend from Nebraska will allow me; but, inasmuch as you put it on the ground that other gentlemen voted as the Senator from California did, and, therefore, it was patriotism, I now ask the patriotism of this Senate to allow what is due to soldiers who have certainly performed service for this Government that no man and no person can deny, who have been deprived of that which the Government owes them under the law for over ten years. They only ask that which is honestly due them. It has passed through the House of Representatives five different times, and just that many times appeals have been made to the Senate. If mail contractors must be paid and other contractors must be paid because they have performed service for the country, in God's name, I ask, why it is that the soldiers of the country should not be permitted to have the little pittance which is due to them by the laws of this land? This is the only opportunity there will be to get a vote on this measure, and I hope the Senate will allow it to be attached, as an amendment, to this bill. It is just as legitimate as many other things that have been offered and have been adopted by the Senate.

Mr. WINDOM. I ask for the ruling.

The PRESIDING OFFICER. Under the exception taken by the Senator from Minnesota the Chair rules under Rule 29 that the amendment is not in order.

Mr. LOGAN. It is never in order for a soldier to get anything here!

Mr. CHAFFEE. I move, on page 15, line 351, after the word "timbered," to insert "or mountainous;" so as to allow $13 a mile for surveys in mountainous country the same as in timbered country. I also move to make the appropriations for the surveys of public lands available immediately.

The PRESIDING OFFICER. That is a distinct amendment, and the Senator will be kind enough to reserve that until the first amendment is acted on. The first amendment of the Senator from Colorado is to insert after "timbered," in line 351, the words "or mountainous."

The amendment was agreed to.

Mr. CHAFFEE. Now I offer the further amendment.

Mr. WINDOM. The motion made by the Senator from Colorado has reminded me that an error has occurred in printing the bill. The committee recommended the striking out of all after the words "private land claims" in line 345 to the end of line 352. It is a mistake in printing. I move that those words be stricken out.

The Chief Clerk read the words proposed to be stricken out, as follows:

The cost of such surveys shall not exceed $10 per mile for standard lines, (and the starting point for said survey may be established by triangulation,) $7 for township and $6 for section lines, except that the Commissioner of the General Land Office may allow for the survey of standard lines in heavily timbered or mountainous land a sum not exceeding $13 per mile.

The amendment was agreed to.

Mr. CHAFFEE. Now I move to make the appropriation for surveys of public lands available immediately, because the summer is half over before surveys can be commenced.

Mr. WINDOM. I think there can be no objection to that.

Mr. DAVIS. Do we not make regular appropriations for surveys? Last year we made appropriations, and now this appropriation for next year is to be made available at once. It is just crowding two years into one. I hope the amendment will not be pressed. I think it wrong.

Mr. PADDOCK. I hope I may be allowed to say to the Senator from West Virginia that the idea is that if the appropriation is made available immediately these surveys may be made much earlier in the season, before the commencement of the next fiscal year, and be made much more economically to the Government and much more efficiently and effectively than if delayed.

Mr. DAVIS. And then next year there will be a deficiency. They will say it was used up this year, when it belonged to next year.

Mr. WINDOM. I speak only for myself, not for the committee; but it occurs to me that it is better to commence these surveys in the spring and that the appropriations should be made immediately available every year.

Mr. PADDOCK. The whole experience of the Government leads to that conclusion.

Mr. DAVIS. Then why have a fiscal year at all? Why not, when the bills pass, let the Departments go to work at once and spend the money? We know that we passed within a few days deficiency bills amounting to one-half as much as the original appropriations. This is a step in that direction. I withdraw my objection and submit if the chairman of the committee says it is right; but it is against my judgment.

Mr. WINDOM. I am willing to take the vote upon it.

Mr. CHAFFEE. I desire to state that no surveyor can get into the field before the month of July if this amendment be not made; and in a mountainous country like Colorado the snows become so deep by the 1st of December that the contractor cannot do the work well. My object is simply to allow the surveyors to go into the field a month or two earlier. That is all there is of it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Colorado.

Mr. DAVIS. I know that the Senator from Colorado made the motion, but I submitted to the chairman of the committee, and now I submit again; if the chairman of the committee desires it, then I, of course, withdraw my objection; otherwise I cannot.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Colorado.

Mr. HARVEY. The amendment of the Senator from Colorado is certainly correct in this: as he stated, it is impossible for contractors to get ready and go into the field any earlier than the time he stated; and until this money is made available the surveyor-general cannot even make a contract, so that the contractors do not know who is to go into the field, and until after the 1st of July a contract cannot be made. It throws the surveys into the winter and imposes hardship upon the contractor and is of no benefit to the public.

Mr. DAVIS. I understand we pay so much a rod or mile and it does not make any difference to the Government whether it is winter or summer.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. BLAINE. I offer the following amendment, with the permission of the commitee.

That the claimants against the Great and Little Osage Indians for the alleged balence that remains of a national debt of said Osages, as fixed and limited by resolution of their national councils, passed July 26, 1873, are hereby given the right to test the legality and equity of their claims by a suit in the Court of Claims against the United States as the trustee of the funds of said Osages: *Provided*, That nothing shall be be paid under any judgment of said court until the assent thereafter, formally expressed, by the national councils of the said Osages.

Mr. WHYTE. This is legislation not appropriate to this bill.

Mr. BLAINE. It was referred, and the committee gave permission to offer it.

The PRESIDING OFFICER. The Chair would state to the Senator from Maryland that it is legislation relating to a special subject. The clause in the rule applies to general legislation.

Mr. WHYTE. That does not make any distinction, I presume, whether it is general or special legislation. The rule applies to legislation.

The PRESIDING OFFICER. The Chair will read the rule:

No amendment which proposes general legislation shall be received to any general appropriation bill.

If the Senator from Maryland insists on his point the Chair will submit the question to the Senate.

Mr. WHYTE. It occurs to me that this legislation.

Mr. WRIGHT. I should like to know how this claim originated and what it is for; what services have been rendered and how it is that this claim originates that we should send it into the Court of Claims by a provision on this bill?

Mr. BLAINE. It is a matter that has been a good while in dispute, and has been vexing the committees of Congress and both branches of Congress, and it will continue to do it, and possibly if it is an improper claim it will slip through some time. Now it is proposed to

have it tested by the rules of evidence in the Court of Claims, and thereafter, if the Court of Claims shall give judgment in favor of it, that nothing shall be paid on it until the award is confirmed by the national council of the Indians. It is giving it two tests to run instead of having it put through Congress some time when it may not be noticed or may not be known. I do not think that any injustice can be done by this. The United States have their solicitor; the Interior Department have cognizance of it as trustee immediately for the Government; and how any harm can come of it I do not see. I think all claims that are worthy of any recognition at all ought to go there instead of pestering the halls of Congress, so that some sort of legal tests and the laws of evidence may be applied to them.

Mr. WRIGHT. Upon the same principle every single claim that is made against the Government, whether it has any foundation or not, ought to be sent to the Court of Claims. A man comes to Congress, and as soon as he gets here we should say "We will not take the trouble to look into it; just let it go to the Court of Claims and be done with it." That would be an easy way to get rid of them and put that course on the ground that the thing may some time slip through Congress.

Mr. BLAINE. I think it will be a very fortunate day when no claim shall be presented to Congress for passage. I hope to live to see the day when such a thing as a claim to be voted on by either branch of Congress will be unknown.

Mr. WRIGHT. I hope we shall watch and scrutinize every claim that gets to the Court of Claims. When claims get there they often get through the court by some means or other, and that is the end of them, because then the argument is, "Here is a judgment and the Government is bound to pay it." I should like to know something about this claim, what it is for, before I vote to send it to the Court of Claims. The language of the amendment is of such a character that I cannot tell what it is for, and I should like to have some explanation of it before I consent to have any claim go before the Court of Claims.

Mr. CONKLING. Can the Senator from Iowa tell me what would be the issue in the Court of Claims under that proposition?

Mr. WRIGHT. I do not see how we could make up any issue upon it.

Mr. BLAINE. It refers to the Osage resolution of a certain date.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Maine.

Mr. CONKLING. On the amendment or on the question of order?

The PRESIDING OFFICER. On the amendment. The Chair decides that it is in order.

Mr. CONKLING. In voting upon this amendment I cannot overlook a question suggested to me by the words midway the amendment as I caught them, that the Court of Claims shall ascertain whether the claim is legal or equitable, and I wish the Secretary to read those words again.

The Chief Clerk read as follows:

Are hereby given the right to contest the legality and equity of their claim by a suit in the Court of Claims against the United States as the trustee of the funds of said Osages.

Mr. CONKLING. Experience has taught us that when we refer a claim to the Court of Claims, that being a special tribunal which could have no jurisdiction except by an express enabling act, there goes with the reference what I think I may call a presumption or intendment that there is a claim and that the court is to proceed to see what it is and how much it is. I do not mean that the court never decides that there is no claim; I only mean that when Congress refers a specific matter to the court, the reference to it carries a certain presumption with it.

It has been thought therefore in the Senate important to guard these resolutions, the joint resolutions as they used to be, bills as more recently they have come to be, against any misapprehension on this point. It strikes me that this amendment is unusually open to the criticism heretofore made in this respect. The parties are authorized to test in the court whether legally or equitably there is a claim. It may very well be that these parties have no legal claim and yet under this the court may feel at liberty to say, "Why there is an equitable right here," and to base a judgment upon that finding. The claim in question is an old one; it has been before the committees of the Senate several times; I think once or twice before a committee of which I had the honor to be a member. My recollection is that there has never been a favorable report upon it in the Senate since I have been here. I dare not assert that positively because I am not full enough in my recollection about it, but that is my impression, and if the claim be the one which I think it is it is certainly questionable, to say the least.

As the Senator from Iowa has said, the amendment is somewhat vague in its statement, and, as I think it suggests, the Court of Claims might go pretty much at large without much regard to the rules of law and possibly without a great deal of regard to the rules of evidence if that tribunal was satisfied that equitably treated there was a claim between these parties. I suggest if it is to be done it should be made more definite in that respect. I think, as some Senators have suggested, that the concurrence of Congress specifically ought in a case of this sort to be required. Otherwise, as the Senator from Iowa says, the office of Congress in regard to it is merely perfunctory; a judgment comes here from the Court of Claims and *prima facie* it is right and no attention is paid to it. If this is to be done, I think there ought expressly to be a reservation requiring Congress affirmatively to approve any judgment that may be rendered.

Mr. DAVIS. The Senator made some inquiry as to whether there had been favorable reports. I understand that the substance of this amendment has passed the House once, perhaps twice; and I read very recently a very favorable report made by the House committee on this subject. I understand further that it was submitted to Ex-Attorney-General Pierrepont, who reported in favor of it, and said it was a proper or legal claim. I understand further that it comes out of the Indians' money, and by their consent.

Mr. CONKLING. That is the very reason why we ought to be careful.

Mr. DAVIS. And at their request.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Maine.

Mr. COCKRELL. I move to add "and the Congress of the United States," so as to require the assent of Congress also.

Mr. BLAINE. Very well, I accept the modification.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. BLAINE. The whole matter is now left in the hands of Congress.

The PRESIDING OFFICER. The question is on the amendment as modified.

A division was called for.

Mr. BLAINE. I fear it may defeat a quorum; and, if so, I will not insist on it.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BLAINE. If there is any trouble to arise from disclosing the lack of a quorum, I should rather have it withdrawn. If in the judgment of the Chair there is a quorum present, I would rather have it voted on.

The PRESIDING OFFICER. The Chair is of opinion that there is a quorum present.

Mr. BLAINE. Then I ask for a vote.

The question being put, there were on a division—ayes 17, noes 16; no quorum voting.

Mr. BLAINE. I withdraw the amendment.

Mr. SARGENT. There will be a very great necessity for the committee of conference to unload this bill.

Mr. BLAINE. I have withdrawn the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. SARGENT. I do not think it can be withdrawn to prevent my making a speech. I say there will be great necessity——

The PRESIDING OFFICER. There is nothing before the Senate.

Mr. SARGENT. The amendment was before the Senate at the time I began to speak, and no one has the floor to withdraw it. I believe I understand my rights. I say, and now repeat again, that it will be the duty of the committee of conference, especially of the conferees on the part of the Senate, to unload a great deal on this bill. I believe the last straw has been piled on. Already the camel's back is broken. The bill is getting to be a public monstrosity, and there is no possibility of passing it and avoiding an extra session provided the conferees of the Senate insist on a tithe even of the amendments put upon it against the recommendation of the committee.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the bill (S. No. 628) for the relief of John J. Anderson, surviving copartner of the firm of Anderson & White.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 2694) for the relief of W. W. Van Antwerp, late major of Fourth Michigan Cavalry.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 4476) to provide for the appointment of an official short-hand reporter for the United States courts in and for the district of California, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. GEORGE W. MCCRARY of Iowa, Mr. P. D. WIGGINTON of California, and Mr. BERNARD G. CAULFIELD of Illinois, managers at the conference on the part of the House.

The message also announced that the House further insisted on its disagreement to the amendments of the Senate to the bill (H. R. No. 4616) making appropriations for the naval service for the year ending June 30, 1878, and for other purposes, asked for a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES H. BLOUNT of Georgia, Mr. JOHN T. HARRIS of Virginia, and Mr. EUGENE HALE of Maine, managers at the conference on the part of the House.

The message further announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4554) for the support of the government of the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 559) for the relief of Almeron E. Calkins, late a second lieutenant in the Eighth Michigan Cavalry;

A bill (H. R. No. 1611) authorizing the changing of the name of the sloop Addie Parker, of New Bedford, Massachusetts;

A bill (H. R. No. 1765) respecting the limit of reservations for town sites upon the public domain;

A bill (H. R. No. 1824) to change the name of the pleasure-yacht Hiram B. to Iola;

A bill (H. R. No. 2606) for the relief of Catherine Harris;

A bill (H. R. No. 3574) for the relief of Marshal P. Thatcher;

A joint resolution (H. R. No. 175) authorizing the issue of clothing to Company A, Second Regiment United States Cavalry; and

A joint resolution (H. R. No. 176) authorizing the issue of clothing to private Francis Hegner, Company F, Seventh Cavalry, and private John C. Collins, Company G, Seventh Cavalry.

DISTRICT TAX BILL.

Mr. SPENCER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4554) for the support of the government of the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes, having met, after a full and free conferences have agreed to recommend and do recommend to their respective Houses as follows:

The Senate recedes from its amendments numbered 2, 9, 10, 12, 13, 14, 17, and 19.

The House recedes from its disagreement to the amendments numbered 3, 4, 5, 6, 7, 11, and 16; and agree to the same.

The Senate recedes from its amendment numbered 1, and agrees to the same with an amendment as follows:

On page 1, line 5 of the bill, strike out "$1" and insert "$1.25."

And the House agree to the same.

The Senate recedes from its amendment numbered 15, and agree to the same with an amendment as follows:

On page 8, line 18 of the bill, after the words "United States" strike out the words "other than those for the government of the District of Columbia."

And the House agree to the same.

The Senate recedes from its amendment numbered 18, and agrees to the same with an amendment as follows:

In line 10 of the said amendment strike out "five" and insert "four."

And the House agree to the same.

GEO. E. SPENCER,
S. W. DORSEY,
WM. H. BARNUM,
Managers on the part of the Senate.
LAWRENCE T. NEAL,
WM. W. CRAPO,
Managers on the part of the House.

The report was concurred in.

Mr. McMILLAN. Does the conference report leave a distinction between property in the city of Washington and property outside of it, a difference of twenty-five cents per $100 in the taxation of lands?

Mr. SPENCER. I will explain to the Senator from Minnesota. The bill as it passed the House taxes the property in the county at 1 per cent., while it taxes the property in the city at 1½ per cent. The Senate amended that so that it taxed property alike. The conference committee split the difference, so that city property is taxed at 1¼ per cent., and the county property is taxed at 1¼ per cent.

Mr. McMILLAN. I can see no reason for any distinction of that kind, and I shall not support the report of the conference committee.

The PRESIDING OFFICER, (Mr. WEST in the chair.) The Chair has announced that the report is adopted.

Mr. McMILLAN. I ask for a division on that question.

The PRESIDING OFFICER. The Senator can enter a motion to reconsider. The report is adopted.

Mr. McMILLAN. I withdraw the motion.

REPORTERS FOR UNITED STATES COURTS.

The PRESIDENT *pro tempore* laid before the Senate the action of the House of Representatives on the amendments of the Senate to the bill (H. R. No. 4476) to provide for the appointment of an official short-hand reporter for the United States courts in and for the district of California.

Mr. WRIGHT. I move that the Senate insist on its amendments, and agree to the conference asked by the House.

The motion was agreed to.

By unanimous consent the President *pro tempore* was authorized to appoint the committee on the part of the Senate; and Mr. WRIGHT, Mr. HOWE, and Mr. COOPER were appointed.

SUNDRY CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes.

Mr. DORSEY. I offer the following amendment to come in after line 917:

To pay W. W. Wilshire, contestee in the contest of Gunter *vs.* Wilshire, third district Arkansas, $2,000.

Mr. WINDOM. That matter was before the Committee on Appropriations with several others of a similar character. The committee decided that they could not recommend appropriations for any contestants in the House where the committee of the House itself had not acted. There has been no action on the part of the committee of the House, and I think we ought not to assume to judge this matter for them.

Mr. DORSEY. I do not quite agree with the chairman of the committee that there were several other items of this sort. I only remember two others, and they have been put on the bill, being submitted by the Senator from Iowa. Now, the fact is that almost every case of this kind has been provided for in this bill. This is a just case. I know all the facts connected with it. The contestant who secured this seat was paid $3,000 for expenses, and this man who was ousted after a contest of six months has not been paid a cent.

Mr. CLAYTON. I thought such a bill had passed at one time. It certainly passed one House. I ask my colleague if it did not.

Mr. DORSEY. I think that two years ago it passed the House but failed here.

Mr. CLAYTON. That is my recollection.

Mr. DAVIS. Then the amendment is clearly out of order, and I raise the point of order. We must get along.

The PRESIDING OFFICER, (Mr. WEST in the chair.) What is the point of order?

Mr. DAVIS. It is a private claim and does not come from any committee.

Mr. WITHERS. The committee reported adversely.

Mr. DORSEY. If this is a claim, here are four or five pages of the bill covered by just such claims.

Mr. DAVIS. They were recommended by the committee. The Senator is a member of the Appropriation Committee, and he knows very well that we must get on with the bill.

The PRESIDING OFFICER. The Chair will rule the point of order to be well taken.

Mr. CONOVER. I have a little amendment to offer which I think will occupy but a moment's time:

For an agent to protect the naval reserved timber lands in the State of Florida.

Mr. WINDOM. I regret to raise the point of order on my friend from Florida, but it is too late in the day or night to entertain such an amendment.

Mr. CONOVER. I think if the chairman of the committee will allow me to have this letter read he will withdraw his objection.

Mr. WINDOM. I cannot withdraw it. The amendment has not been reported by any committee.

The PRESIDING OFFICER. The Chair decides the point of order to be well taken. The amendment is out of order.

The bill was reported to the Senate as amended.

Mr. DAVIS. I want to reserve three amendments—perhaps an explanation of them can be given very readily—on pages 32 and 33.

The PRESIDING OFFICER. They will be considered as reserved.

Mr. ALLISON. What are they?

Mr. WITHERS. The Coast Survey amendments.

The PRESIDING OFFICER. The question will be on concurring in the amendments made as in Committee of the Whole except those reserved by the Senator from West Virginia.

The amendments not excepted were concurred in.

The PRESIDING OFFICER. The reserved amendments will be read.

Mr. DAVIS. It is not necessary to read them; I do not want to take time. I have no doubt the chairman of the committee can explain them.

Here are amendments appropriating, one $300,000 and another $200,000 for the Coast Survey, one on the Atlantic and the other on the Pacific. I was not in committee when they were considered. I happened to be out at the time. The amount is very large when it is borne in mind there are $450,000 for the ordinary surveys elsewhere.

Mr. WINDOM. The amendment reported by the Committee on Appropriations striking out the provision of the House bill simply conformed to the appropriation for the current year, and the reason for changing the form is that if we do not make the appropriation in the form we have been accustomed to do, it changes the accounts and confuses the accounts at the Department, as we are informed. Hence, we have changed the form to make it as it has been heretofore. As to the amount, it is precisely the same as the current year, and the current year is a good deal of a reduction over former years. The House bill this session reduces the amount for the Coast Survey very much.

Mr. DAVIS. I think there is an advance, however, over the appropriation of the House of perhaps $200,000.

Mr. WINDOM. The House omitted to make that appropriation which has been made heretofore. We simply conform to the present law, making the same appropriation that was made for this year.

The PRESIDING OFFICER. The question is on concurring in the reserved amendments made as in Committee of the Whole.

Mr. DAVIS. With the explanation I am satisfied.

The amendments were concurred in.

Mr. SARGENT. I move to strike out three words on page 21, line 499. I move to strike out the words "the sum of." They are unnecessary.

The PRESIDING OFFICER. That is a mere verbal correction, and will be made by the Clerk, if there be no objection. The Chair hears none.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. WINDOM. I ask consent that this bill may be printed as passed by the Senate, with the amendments numbered, so as to facilitate the conference committee.

The PRESIDING OFFICER. If there be no objection that order will be made.

TERRITORY OF BLACK HILLS.

Mr. HITCHCOCK. I move that the Senate proceed to the consideration of the bill (S. No. 1048) to establish the Territory of the Black Hills, and to provide a temporary government therefor.

Mr. DORSEY. I ask the Senator to withdraw the motion for a moment.

Mr. HITCHCOCK. It will take but a moment, I think.

Mr. WINDOM. I move that the Senate adjourn until eleven o'clock to-morrow.

The PRESIDING OFFICER. The Senator from Minnesota moves that the Senate adjourn until eleven o'clock to-morrow.

Mr. SPENCER. I want to make an inquiry. I want to inquire if this motion prevails whether the bill of the Senator from Nebraska will be the unfinished business to-morrow.

The PRESIDING OFFICER. The Chair will state not, unless it is taken up.

Mr. SPENCER. Let it be taken up so as to be the unfinished business. It is a matter of national importance.

Mr. McMILLAN. Is the motion to adjourn debatable?

Mr. SPENCER. I thought the motion was withdrawn.

The PRESIDING OFFICER. The motion was withdrawn, the Chair understood.

Mr. HITCHCOCK. I think at this period of the session it is perfectly clear that no extended debate can be had on this or any other bill. This is one of the simplest and shortest ordinary forms of bill for the organization of a new territorial government.

Mr. WINDOM. I have not withdrawn the motion to adjourn.

Mr. SPENCER. Well, do withdraw it.

Mr. HITCHCOCK. If I may be allowed a single moment, I wish to state that I think if we can reach a vote on the bill no Senator can particularly object to its passage through the Senate. It will gratify me exceedingly if it can be passed through the Senate at least, at the close of my term of service as a Senator. I do not suppose anybody will think it is in immediate danger of passing the House; but I believe it is a very important matter to the country, of great interest to the people of the Northwest, and I believe there is really an urgent necessity that the bill should pass at the present time. It will gratify me exceedingly at least if it can pass the Senate at the present session.

Mr. WINDOM. I renew my motion to adjourn until eleven o'clock to-morrow.

The motion was agreed to; and (at twelve o'clock and fifty-two minutes a. m., Friday, March 3) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March* 2, 1877.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. I. L. TOWNSEND.

READING OF THE JOURNAL.

Mr. WILSON, of Iowa. I understand that the journal clerk is ill and that the Journal is not wholly made up. I move to dispense with the reading of the Journal.

Mr. WALLING. I object.

Mr. WILSON, of Iowa. Then I will move to suspend the rules for that purpose.

Mr. WALLING. I raise the question of a quorum.

Mr. WILSON, of Iowa. I think we have certainly had enough of the gentleman from Ohio in that particular line. He should now allow us to finish the business of the House. There are bounds beyond which gentlemen should not go.

Mr. MORRISON. Gentlemen will judge of that for themselves.

Mr. WILSON, of Iowa. I judge for myself.

Mr. WALLING. I am the judge, sir, of my duty on this floor.

Mr. GLOVER. I desire to ask unanimous consent——

The SPEAKER. The Chair cannot now recognize a request for unanimous consent. The Journal will be read as far as made up.

The Clerk proceeded to read the Journal as far as made up. When the Clerk ceased reading,

Mr. WALLING said: Is the Journal concluded?

The SPEAKER. It is not.

Mr. WALLING. I demand that the Journal be completed, and read.

The SPEAKER. The journal clerk who makes up the Journal has been taken ill, and it is impossible for the Journal to be completed at present.

Mr. WILSON, of Iowa. I press my motion to suspend the rules so as to dispense with the further reading of the Journal.

Mr. WALLING. I demand a call of the House to ascertain whether there is a quorum here.

The SPEAKER. The vote on the motion of the gentleman from Iowa will develop whether there is a quorum. It answers the same purpose.

Mr. WALLING. I claim the right as a member on this floor to demand a call of the House.

Mr. WILSON, of Iowa. The gentleman has not that right while a motion to suspend the rules is pending.

The SPEAKER. The motion to suspend the rules does away with the rule under which the gentleman from Ohio claims his right.

The question being taken on the motion of Mr. WILSON, of Iowa, to suspend the rules, on a division by sound, the Speaker stated that in the opinion of the Chair the ayes had it.

Mr. WALLING. I call for a division.

The House divided; and there were—ayes 88, no 1.

Mr. WALLING. A quorum has not voted.

The SPEAKER. Is the question of a quorum raised?

Mr. WALLING. It is.

The SPEAKER. The Chair will order the Clerk to call the roll.

The Clerk proceeded to call the roll.

Mr. WALLING, (interrupting.) I will withdraw the call upon the assurance that the House shall proceed to the consideration of the pension bills.

Mr. RUSK. I ask that by unanimous consent the House proceed to the consideration of pension bills until there is a quorum present.

Mr. WALLING. I will not withdraw the call except on that assurance.

Mr. CLYMER. I rise to make a privileged report.

The SPEAKER. The gentleman from Ohio cannot make any such conditional arrangement as that.

Mr. WALLING. I understand that unanimous consent is not given to take up the pension bills. I therefore insist on the call being proceeded with.

The SPEAKER. The call of the roll will proceed.

The roll being called, the following members failed to answer to their names:

Messers. Anderson, George A. Bagley, Banks, Bass, Beebe, Belford, Blair, Bland, Blount, Burleigh, Cabell, William P. Caldwell, Carr, Caswell, Caulfield, John B. Clarke of Kentucky, Crounse, Culberson, Davy, De Bolt, Durand, Faulkner, Fort, Gibson, Goodin, Hamilton, Hays, Henkle, Goldsmith W. Hewitt, Hoar, Hoge, Hoskins, Humphreys, Hunton, Hurlbut, Hyman, Jenks, Frank Jones, Thomas L. Jones, Kasson, King, Franklin Landers, Lane, Levy, Lewis, Lord, Mackey, Maish, Metcalfe, Milliken, Money, Monroe, Mutchler, Nash, Norton, Phelps, John F. Philips, Piper, Plaisted, Poppleton, Powell, Purman, Rea, James B. Reilly, Rice, Sobieski Ross, Savage, Sayler, Scales, Sheakley, Sinnickson, Slemons, Sparks, Stephens, Stowell, Charles C. B. Walker, John W. Wallace, Warner, Watterson, G. Wiley Wells, Wheeler, Wilshire, Alan Wood, jr., Fernando Wood, Woodworth, and Yeates.

During the roll-call,

Mr. GOODE stated that his colleagues, Mr. HUNTON and Mr. CABELL, were detained from the House by sickness.

The SPEAKER. The calling of the roll has developed the presence of a quorum, two hundred and four gentlemen having answered to their names.

WILLIAM H. PENN.

Mr. DOUGLAS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That William H. Penn, one of the assistant doorkeepers of this House, be paid out of the contingent fund of the House the sum of $2 per day from the 11th day of January, 1877, to the 4th day of March ensuing.

LEAVE TO PRINT.

Mr. RIDDLE. I ask unanimous consent to have printed in the RECORD, some remarks on the presidential question.

There was no objection.

By unanimous consent, a similar permission was granted to Mr. WHITE, Mr. COX, Mr. LUTTRELL, Mr. MEADE, Mr. YOUNG, Mr. BANNING, Mr. HOLMAN, Mr. A. S. WILLIAMS, Mr. VANCE of North Carolina, Mr. HARDENBERGH, Mr. WILLIAMS of Alabama, and Mr. J. H. BAGLEY, jr.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed without amendments bills of the House of the following titles:

A bill (H. R. No. 256) for the relief of Herman Holman, of Terre Haute, Indiana;

A bill (H. R. No. 1016) for the relief of Virginia E. White, of Ohio County, West Virginia; and

A bill (H. R. No. 4117) for the relief of Colonel Frank L. Woolford, late of the First Kentucky Cavalry Volunteers, of certain disabilities.

The message further announced that the Senate had passed bills of the following titles; in which he was directed to ask the concurrence of the House:

A bill (S. No. 1243) to repeal the statute forbidding appointments and promotions in the staff of the Army; and

A bill (S. No. 1284) for the relief of William L. Hickman, of Missouri.

The message further announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4559) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1877, and prior years, and for other purposes.

The message further announced that the Senate had concurred in the following resolutions of the House:

A resolution to print extra copies of the Report of the Commissioner of Fish and Fisheries for the years 1873, 1874, and 1875;

A resolution for printing extra copies of the Report of the Smithsonian Institution for the year 1876; and

A resolution for printing the report of R. W. Raymond on mining statistics for the year 1875.

PAY OF PAGES.

Mr. HANCOCK. I offer the following resolution:

Resolved by the House of Representatives, That the sum of $1,300, or so much thereof as may be necessary, be paid out of the contingent fund of the House to pay the following pages not provided for who have served during this session, namely: William B. Hester, session; C. S. Henry, session; Frank Sebring, session; G. W. Webber, session; Joseph Callahan, session, and to George B. Wilton, F. M. Schultus, and Eden E. Finley for the time served by them; and the Committee of Accounts is hereby directed to audit the claims of said pages upon the facts of the service rendered by the aforesaid persons.

Mr. HOLMAN. I insist that it should go to the Committee of Accounts. We know nothing about this matter.

Mr. HANCOCK. I move that the rules be suspended and the resolution adopted.

Mr. WHITE. Is it in order to offer an amendment?

The SPEAKER. A motion to suspend the rules is not amendable.

Mr. HOLMAN. I insist that the resolution should go to the Committee of Accounts.

Mr. HANCOCK. Is debate in order?

The SPEAKER. It is not.

Mr. HANCOCK. If it were I would like to make a statement.

The question was taken on Mr. HANCOCK's motion to suspend the rules and pass the resolution; and on a division there were—ayes 100, noes 35.

Mr. HOLMAN. That is not a quorum, and this legislation is fearful, and we ought not to begin upon it.

Mr. HANCOCK. These boys have served all winter as pages and have not received one dollar.

Mr. ROBERTS. I desire to make a statement in regard to this matter.

The SPEAKER. Debate is not in order.

Mr. ROBERTS. I ask unanimous consent to make a statement.

No objection was made.

Mr. HOLMAN. I insist that during the balance of this session the privilege of the floor ought to be confined to the members of the House and I ask that the rule in relation to the subject be read.

The SPEAKER. The Chair is not aware of the presence of anybody except such as have a right to the floor under the rule. If the gentleman will indicate anybody who has not the right the Chair will see that he is removed from the floor.

Mr. HOLMAN. There are a large number of persons on the floor.

The SPEAKER. The officers of the House will see that the lobbies are vacated by gentlemen who are not entitled to the privilege of the floor, but the Chair would suggest that there are quite a number of the members of the next Congress present, and that accounts for the large number upon the floor.

Mr. ROBERTS. I do not think that the House can in justice to itself make this allowance, in view of the fact that we have already under the rule twenty-eight pages and in addition thereto when the sundry civil bill was before the House a provision was made for six additional pages, making thirty-four in all. It is now proposed, as I understand by this resolution, to add five additional pages. I say that this is all wrong in every possible and conceivable aspect of the case and that this House cannot in justice to itself undertake to make this allowance. I only desire to make this statement because the Committee of Accounts, of which I am chairman, have given full consideration to this subject and have allowed all that should be allowed when we added six to the number provided for by the rules.

Mr. HOOKER. Allow me to say a single word. This amendment had its origin from the fact that one or two pages who were known to the gentleman from Texas, [Mr. HANCOCK,] as well as to myself, had been in constant attendance last session, having been borne on the rolls and regularly compensated last session. They came here at the beginning of this session and they have been here upon the floor discharging their duties. They have rendered the services. I speak in reference to two or three of them who have certainly rendered the services and not received a dollar of pay. They have been kept here the whole time and I think it would be false economy to deny to those boys pay for their services. I would say to the chairman of the Committee of Accounts that his committee will not be responsible for this. I trust the responsibility will be taken by the House and the House will declare that this act of justice shall be done to these boys.

Mr. ROBERTS. I do not desire to debate the question at all, but I do desire to say simply that if there be any more pages here upon this floor than the six additional ones allowed they were notified long since at my instance that they would be discharged.

Tellers were ordered on the motion of Mr. HANCOCK; and Mr. ROBERTS and Mr. HANCOCK were appointed.

Mr. HANCOCK. I would like to make a brief statement.

Mr. WALLING. I object to further debate upon this question.

The House divided; and the tellers reported that there were—ayes 121, noes 34.

Before the result of the vote was announced,

Mr. COCHRANE called for the yeas and nays.

Mr. MILLS. O, no; do not do that.

Mr. COCHRANE. I insist upon the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division there were—ayes 19, noes 120.

Mr. COCHRANE. No quorum has voted, and I call for a further count.

Tellers were ordered; and Mr. HANCOCK and Mr. COCHRANE were appointed.

The House again divided; and the tellers reported that there were—ayes 16, noes 135.

So (one-fifth not voting in the affirmative) the yeas and nays were not ordered.

Accordingly (two-thirds voting in the affirmative) the rules were suspended and the resolution was adopted.

LOUISIANA RETURNING BOARD.

Mr. WADDELL. I move that the rules be suspended and the preamble and resolution passed which I send to the Clerk's desk.

The Clerk read as follows:

Whereas J. Madison Wells, L. M. Kenner, G. Casanave, and T. C. Anderson, now held in custody of the Sergeant-at-Arms of this House for contempt in refusing to answer questions and deliver books and papers, are in the judgment of this House the peers of the majority of the electoral commission, who have completed the work of said Wells, Kenner, Casanave, and Anderson with greater contempt for and defiance of this House and the public opinion of the country than was exhibited by them;

And whereas justice demands that each of the said returning boards should occupy the same position, and this House has no power to confine the majority of the electoral commission: Therefore,

Resolved, That the said Wells, Kenner, Casanave, and Anderson be forthwith discharged and set at liberty, in order that they may assist the said majority of the electoral commission in inaugurating the person whom they have jointly counted into the office of the President of the United States over the votes of a large majority of the legal voters of the country.

Mr. CONGER. I rise to a point of order. If it is necessary for members to exhibit such a specimen of their spite as this——

Mr. WADDELL. I call the previous question.

The SPEAKER. It is not necessary.

The question was taken upon suspending the rules and passing the preamble and resolution; and upon a division there were—ayes 75, noes 73.

Before the result of this vote was announced,

Mr. WALLING called for the yeas and nays.

The yeas and nays were ordered.

Mr. SAMPSON. Is it in order to ask for a division of the question and that a vote be taken upon the preamble separately?

The SPEAKER. It is not; the motion is to suspend the rules, including the one giving the right for a division of the question.

Mr. TUCKER. Would it be in order to offer a substitute for the resolution?

The SPEAKER. It would not.

Mr. ATKINS. Would it be in order for me to ask the gentleman who offered this resolution to allow it to be passed over for the present?

Mr. CONGER. I object to anything but to the call of the roll.

Mr. WELLS, of Missouri. I desire to state that the gentleman from Tennessee [Mr. ATKINS] is quite unwell and wishes to leave the House; but before doing so he wants to report the Army appropriation bill.

Cries of "Regular order!"

The SPEAKER. The regular order is the call of the roll.

The question was taken; and there were—yeas 21, nays 115, not voting 154: as follows:

YEAS—Messrs. Blackburn, Bliss, Boone, Carr, Cate, Cowan, Davis, Dibrell, Fuller, Andrew H. Hamilton, Franklin Landers, Luttrell, Odell, James B. Reilly, Rice, William M. Robbins, Miles Ross, Slemons, Terry, John L. Vance, and Waddell—21.

NAYS—Messrs. Adams, Ainsworth, George A. Bagley, William H. Baker, Ballou, Banks, Blair, Bland, Bradley, William R. Brown, Horatio C. Burchard, Burleigh, Buttz, Candler, Caswell, Chapin, Chittenden, Conger, Crounse, Culberson, Cutler, Danford, Darrall, Davy, De Bolt, Denison, Dobbins, Dunnell, Eames, Egbert, Evans, Flye, Fort, Foster, Freeman, Frye, Hale, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Henry R. Harris, Harrison, Hatcher, Hathorn, Hendee, Henderson, Abram S. Hewitt, Hoge, Hopkins, Hoskins, Hubbell, Hyman, Joyce, Kehr, Kelley, Kimball, Lapham, Lawrence, Leavenworth, Lord, Lynch, Mackey, Magoon, McCrary, McDill, Monroe, New, Norton, Oliver, O'Neill, Page, Payne, William A. Phillips, Pierce, Platt, Powell, Pratt, Rainey, Reagan, Roberts, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Seelye, Sinnickson, Smalls, A. Herr Smith, William E. Smith, Stevenson, Stowell, Strait, Swann, Tarbox, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Alexander S. Wallace, John W. Wallace, Ward, White, Whitehouse, Willard, Andrew Williams, Charles G. Williams, James Williams, William B. Williams, Willis, James Wilson, and Fernando Wood—115.

NOT VOTING—Messrs. Abbott, Anderson, Ashe, Atkins, Bagby, John H. Bagley, jr., John H. Baker, Banning, Bass, Beebe, Belford, Bell, Blount, Bradford, Bright, John Young Brown, Buckner, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Campbell, Cannon, Cason, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cox, Crapo, Douglas, Durand, Durham, Eden, Ellis, Faulkner, Felton, Field, Finley, Forney, Franklin, Garfield, Gause, Gibson, Glover, Goode, Goodin, Gunter, Robert Hamilton, John T. Harris, Hartridge, Hartzell, Haymond, Hays, Henkle, Goldsmith W. Hewitt, Hill, Hoar, Holman, Hooker, House, Humphreys, Hunter, Hunton, Hurd, Hurlbut, Jenks, Frank Jones, Thomas L. Jones, Kasson, King, Knott, Lamar, George M. Landers, Lane, Le Moyne, Levy, Lewis, Lynde, Maish, MacDougall, McFarland, McMahon, Meade, Metcalfe, Miller, Milliken, Mills, Money, Morgan, Morrison, Mutchler, Nash, Neal, O'Brien, Packer, Phelps, John F. Philips, Piper, Plaisted, Poppleton, Potter, Purman, Rea, John Reilly, Riddle, John Robbins, Sayler, Scales, Schleicher, Schumaker, Sheakley, Singleton, Southard, Sparks, Springer, Stanton, Stenger, Stephens, Stone, Teese, Thomas, Thompson, Throckmorton, Tucker, Turney, Robert B. Vance, Charles C. B. Walker, Gilbert C. Walker, Walling, Walsh, Warner, Warren, Watterson, Erastus Wells, G. Wiley Wells, Wheeler, Whiting, Whitthorne, Wigginton, Wike, Alpheus S. Williams, Jere N. Williams, Wilshire, Benjamin Wilson, Alan Wood, jr., Woodburn, Woodworth, Yeates, and Young—154.

So (two-thirds not voting in favor thereof) the rules were not suspended.

At the conclusion of the roll-call,

Mr. HARRIS, of Virginia, asked unanimous consent that the reading of the names be dispensed with.

Mr. COCHRANE objected.

The Clerk read the list, and the result of the vote was then announced as above recorded.

DEFICIENCY APPROPRIATION BILL.

Mr. WALDRON submitted the following report; which was read by the Clerk:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4559) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1877, and for prior years, and for other purposes, having met after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the Senate recede from its amendments numbered 49, 58, 68, and 70.

That the House recede from its disagreement to the amendments numbered 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 50, 51, 52, 53, 54, 55, 56, 57, 59, 60, 61, 63, 64, 65, 66, 69, 71, 72, 74, 75, 76, 77, 78, 79, and 80, and agree to the same.

That the House recede from its disagreement to the amendment numbered 4 and agree to the same, with an amendment, as follows: Strike out of said amendment these words "to H. F. Hutchinson $259.25," "to Andrew Carnes $147.60," "to Louis Delano $313.04," and strike out in lines 12 and 13, the words "nine hundred and thirteen dollars and sixty-eight," and insert in lieu thereof "one hundred and ninety-three dollars and seventy-nine;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 5, with an amendment substituting the words "Treasury Department" for "Internal Revenue Office;" and the House agree to the same.

That the House recede from its disagreement to the amendment numbered 14, and agree to the same, with an amendment as follows: In line 5 of said amendment strike out "three hundred and seventy" and insert "and fifty-three;" in lines 6 and 7 strike out "five hundred and twenty-four" and insert "two hundred and seven;" and add at the end of the amendment the following, "and no part of this sum shall be used for payment of postage or purchase of postage stamps;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 15 and agree to the same, with an amendment as follows: Strike out from said amendment the word "four," and strike out on page 6, line 2, of the bill the words "hundred thousand" and insert after the word "seven" in line 1, page 6, of the bill, the words "and for prior years," and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 62, and agree to the same, with an amendment as follows:

In lieu of said amendment substitute the following:

"For defraying the expenses of the Supreme Court and circuit and district courts of the United States, including the District of Columbia, and also for jurors and witnesses and expenses of suits in which the United States are concerned, of prosecution for offenses committed against the United States, and for the safe keeping of prisoners, to be disbursed by the Attorney-General, being deficiencies for the fiscal year 1877 and prior years, $300,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 67, and agree to the same, with an amendment as follows: In lieu of "thirty-seven" insert "twenty-five;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 73, and agree to the same, with an amendment as follows: Insert before the word "seven" the words "one thousand," and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 81, and agree to the same, with an amendment as follows: In line 11, page 9 of the bill strike out "the" and insert in lieu thereof "a;" and after the word "Digest," in the same line, insert "of the rules and practice of the House," and the Senate agree to the same.

That the Senate recede from its amendment numbered 82, with an amendment as follows:

Insert: "For miscellaneous items, $15,000," "for clerks to committees, $4,527," "for pages, $2,369.56," "for folding documents, $3,000," "for stenographers to committees, $780; and in line 21, page 9 of the bill strike out "annum" and insert "session."

And the House agree to the same,

J. D. C. ATKINS,
HENRY WALDRON,
ROB. HAMILTON,
Managers on the part of the House.

A. A. SARGENT,
WM. WINDOM.
R. E. WITHERS,
Managers on the part of the Senate.

Mr. HOLMAN. I trust the gentleman from Michigan [Mr. WALDRON] will explain the principal concessions made in this bill.

Mr. WALDRON. The additions made by the Senate to this bill amounted to $2,068,676. In the conference the Senate yields of that amount $1,088,445, and the House recedes from its disagreement to $1,152,576. The bill is therefore increased in the aggregate $1,152,576 over and above the amount which it contained when it originally passed the House. Two items make up the bulk of this $1,152,000. One is an item of $500,000 for a deficiency in the pay of the Navy; and another an item of $300,000 for deficiency in the Department of Justice for the current year and for prior years. The other amounts are made up of a number of small items—surveying the public lands, Indian deficiencies, &c., which I can explain if the House should desire it. If no gentleman wishes to discuss the matter I call for the previous question.

Mr. ATKINS. As a member of the committee of conference I wish to make only this remark: The large deficiency in the Navy is not for this year alone, but for this year and previous years.

The report was adopted.

Mr. WALDRON moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MILITARY ACADEMY BILL.

Mr. CLYMER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 4306, making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1878, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 10, 12, 13, 14, 16, 21, and 22.

That the House recede from its disagreement to the amendments numbered 1, 2, 3, 4, 5, 6, 7, 9, 11, 15, 17, 18, 19, 20, and 23.

That the House recede from its disagreement to the amendment numbered 8 and agree to the same with an amendment as follows: Strike out "eleven thousand" and insert in lieu thereof "eight thousand nine hundred and ninety-nine;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 24, with an amendment as follows: Strike out of said amendment the words "nine hundred," and the Senate agree to the same.

That the Senate recede from its amendment numbered 25, and agree to the clause proposed to be stricken out, with an amendment as follows: After the word "than" insert "for the fiscal year ending June 30, 1878," and the House agree to the same.

That the Senate recede from its amendment numbered 26 with an amendment striking out all of the amended matter after the word "Army," in line 20, page 6, of the bill; and the House agree to the same.

HIESTER CLYMER,
JAMES H. BLOUNT,
EUGENE HALE,
Managers on the part of the House.

WILLIAM B. ALLISON,
JAMES A. LOGAN,
WILLIAM A. WALLACE,
Managers on the part of the Senate.

Mr. CLYMER. I demand the previous question.

Mr. WALLING. I ask for the reading of the bill as it will be if amended.

The SPEAKER. That is not in order.

Mr. CLYMER. The conference report alone is to be read.

Mr. WALLING. I ask you, sir, when a bill is demanded to be read on this floor where amendment is proposed, whether the House can proceed to business until that is done?

Mr. CLYMER. I desire to say——

Mr. WALLING. I raise that point of order.

Mr. CLYMER. The conference report alone is before the House, and the bill has been read as it heretofore passed the House.

Mr. WALLING. This is not the bill passed by the House.

Mr. CLYMER. The conference report alone is before the House. We have read in the conference report all that has not heretofore passed the House.

Mr. HOLMAN. The practice has been uniform that, by unanimous consent, any given amendment may be read in connection with the bill. Inasmuch as the bill has been passed, the conference report alone is now before the House. While, by unanimous consent, the practice always has been for gentlemen to ask the portion of the bill in connection with a given amendment may be read, so as to ascertain the sense of the proposition, I have never known in my experience any call upon the Speaker to have the bill read as it would be if amended. Ordinarily that would be impossible.

The SPEAKER. The Chair finds no rule which gives the right to a member to call for the reading of the bill. The conference report is the only business before the House.

The conference report was adopted.

Mr. CLYMER moved to reconsider the vote by which the conference report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REBEL RAID ON HENDERSON, TENNESSEE.

Mr. ATKINS obtained the floor.

Mr. EDEN. I ask the gentleman to yield to me.

Mr. WALLING. I demand the regular order of business, which is the morning hour.

The SPEAKER. The gentleman from Tennessee has been recognized.

Mr. ATKINS. I yield for a moment to the gentleman from Missouri to make a report.

Mr. GLOVER. Mr. Speaker, I am instructed by the Committee on Military Affairs, to whom was referred a resolution to inquire what assessments were made upon the citizens of Henderson, Tennessee, and its vicinity in reference to the rebel raid upon that place in 1862, what amount of money was collected, and what disposition made of it—which sum was intended to re-imburse the citizens and Government for losses sustained, but which instead was turned over to the quartermaster and provost marshal of that department, and used for the Army to the extent of $23,320—to submit a report and accompanying testimony; and I move they be laid upon the table and ordered to be printed.

Mr. WALLING. I ask for the reading of the report and testimony.

Mr. GLOVER. I hope not, as I only ask the report and accompanying testimony be laid upon the table and ordered to be printed.

The SPEAKER. If the gentleman demands the reading of the report, it will be read.

Mr. ATKINS. I hope the gentleman will not insist on that.

Mr. WALLING. I withdraw my demand for the reading of the report.

The SPEAKER. The reading of papers is a question to be submitted to the House.

Mr. WALLING. I have the right to demand the reading of the report.

The SPEAKER. Not as an individual right.

Mr. WALLING. I withdraw the demand.

The report and accompanying testimony were laid on the table, and ordered to be printed.

ENROLLED BILLS.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled, bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 197) granting a pension to Julia A. Schutt, widow of Martin Schutt, a deceased soldier;

An act (H. R. No. 1347) granting a pension to Hattie D. McKain;

An act (H. R. No. 2847) granting a pension to Lucinda Starnes;

An act (H. R. No. 3260) to remove the disabilities of Lawrence S. Baker, of Tarborough, North Carolina;

An act (H. R. No. 3280) granting a pension to James Johnston;

An act (H. R. No. 3636) to remove the political disabilities of Richard S. Kinney;

An act (H. R. No. 3730) to remove the political disabilities of Samuel V. Turner, of Virginia;

An act (H. R. No. 3791) to remove the political disabilities of William A. Webb, of Virginia;

An act (S. No. 915) to remove the political disabilities of D. H. Hill, of North Carolina;

An act (S. No. 1096) to remove the political disabilities of R. C. Gatlin, of Arkansas;

An act (S. No. 1136) to remove the political disabilities of Wade H. Gibbes, of South Carolina;

An act (S. No. 1203) to remove the political disablities M. L. Bonham, of South Carolina;

An act (S. No. 1272) to remove the political disabilities of William Butler, of South Carolina;

An act (S. No. 1273) to remove the political disabilities of William R. Jones, of Texas;

An act (S. No. 1274) to remove the political disabilities of S. P. Moore, M. D., a citizen of Virginia;

An act (S. No. 1277) to remove the political disabilities of Catesby ap R. Jones, of Alabama;

An act (S. No. 1278) to remove the political disabilities of John S. Marmaduke; and

An act (S. No. 1285) to remove the political disabilities of J. L. M. Curry, of Virginia.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 1010) for the relief of Julius S. Bohrer, master in the United States Navy;

A bill (S. No. 1019) to provide for the reprint of the resolves, ordinances, and acts passed by the Continental Congress and the Congress of the Confederation; and

A bill (S. No. 1288) to remove the political disabilities of P. J. Quattlebaum.

The message further announced that the Senate had passed without amendment the bill (H. R. No. 1253) granting to the State of Missouri all lands therein selected as swamp and overflowed lands.

ARMY APPROPRIATION BILL.

Mr. ATKINS. I rise for the purpose of making a privileged motion, and ask the attention of the House.

The SPEAKER. The gentleman from Tennessee [Mr. ATKINS] calls up the Army appropriation bill.

Mr. ATKINS. Mr. Speaker, there are two inquiries which it becomes this House to make.

First. Do the revenue now coming in and the estimates based thereupon demand still further retrenchment?

Second. Whether the public service will bear any reductions in expenditures; and if so, what branches of the service will best warrant the reduction.

Our revenue, both of customs and internal revenue, for the last six months has been steadily diminishing.

The following will show the falling off of customs: The Treasury received from customs for the year ending 30th of June, 1876, $148,071,987.61; and for the year ending June 30th, 1877, first quarter, $37,554,728.53; estimate for three quarters, $89,445,271.47; total, $127,000,000, or a falling off of $21,071,987.61 over last year.

And the following exhibits the decrease in internal revenue: The Government had received from internal revenue for the year ending June 30th, 1876, $116,700,732.03; the first quarter of the year ending 30th June, 1877, the internal revenue was, $28,813,336.37; the estimates for the remaining three quarters amount to $91,511,663.63, or an increase of $3,624,267.97 over last year; or a net falling off of revenue from both customs and internal revenue of $17,447,716.64.

With this unfavorable exhibit, will any member of this House deny that there is necessity to cut down the expenditures of the whole service so as to accommodate our diminished and diminishing receipts? Or will they ask for the raising of taxes, or supply the deficiency by a Government loan? Now it is obvious that one of the three expedients must be resorted to.

We must either reduce below the present rate of expenditures, or borrow money by the sale of bonds, or raise taxes. Of the two latter propositions I frankly say I prefer the last one. I admit that the people are in no condition, at this perilous juncture of public affairs and in the midst of a great commercial crisis which like a maelstrom threatens to swallow up every interest in the land, to bear an increase of taxation. But would it not be the sounder policy in the long run to impose additional taxation rather than increase the national debt, thus postponing the evil to another day?

But is not either expedient less desirable than the reduction of expenditures?

John Stuart Mill says:

> Honest public financiering is neither more complex nor difficult than honest private management of debts and credits. The central motto which should govern both is, "live within your means." When this is adhered to, the rest is a very simple matter of keeping and collecting accounts, which duties may be performed by any competent clerk.

The inquiry then which presses itself upon the legislation of this hour is can we further reduce expenditures so as to meet our failing revenue? I am confident that it is within the power of Congress to bring our expenditures within the limits of the revenues of the Government.

Each year the expenditures should grow less instead of greater.

A comparison of the last fiscal year with this demonstrates that proposition. When the Committee on Appropriations, with the trenchant blade wielded by the late chairman, cut off nearly $30,000,000, republican orators on this floor protested in the name of a crippled and ruined service, and declared that the deficiency bills of this session would be largely increased, thus asserting the reductions to be inopportune and inexpedient. But what is the fact to-day? The usual deficiencies under the lead of a democratic House and its officers prove to be less this first year of democratic rule than they have been for several years past. This fact attests the wisdom and sound economy of our action at the last session.

For instance, in 1874 the deficiency was $4,083,914.26; in 1875 the deficiency was $4,703,699.18; in 1876 it was $2,908,171.09; while for 1877 the deficiencies are only $632,315.07, being about one-fourth of last year and about one-eighth of former years. This speaks well for democratic economy or badly for republican extravagance. The lesson taught us by these facts is, that it is within the power of the heads of departments and bureaus, by a close scrutiny into their respective duties and by a sincere desire to co-operate with this House in every possible economy, to bring our annual budget within $100,000,000 for the current ordinary expenditures. This most desirable result may be attained without the slightest injury to the machinery of Government, including the diplomatic, military, and naval service.

The want of this voluntary and cordial co-operation of cabinet officers and heads of bureaus with the friends of retrenchment in this House is a serious drawback to a successful result in that direction. With the most competent and economical chiefs in the departments the task of just and intelligent reduction and retrenchment is difficult and perplexing. But where extravagance seems to be the settled policy of executive and administrative officers the labor of the legislative bodies in ascertaining the simple requirements of the service becomes herculean, and well-nigh impossible of accomplishment.

In reviewing the work of the last session there are a few instances in which the knife was used perhaps too freely, while in many others it was not used enough and very frequently not at all, although it should have been.

If we expect to bring our net ordinary expenditures down below one hundred millions per annum the rule of reduction must be rigidly applied. The sum is made of parts, the whole of fractions, and many little items in the end amount to large reductions.

The principal saving proposed by this bill consists in the reduction of the number of enlisted men from 27,500 to 17,000. I will mention a few other small items of reduction. By allowing the Army, as proposed by this bill, to reduce by natural causes until it reaches 17,000 enlisted men, the item for recruiting, which is estimated at $125,000, is left at $20,000. In addition to that, a heavy saving may be made in transportation of the military forces by stationing the troops in defense of the frontier settlements, where they are most needed; and, as the General of the Army has suggested, and his opinion is supported by other high military authority, that infantry is more effective against the Indians than cavalry, a large reduction of expenditure might be made by adopting in the main the former instead of the latter arm of the service, as is provided in the bill.

An additional saving, as well as a great convenience, may be effected by repealing the act of February 13, 1870, which provides for the separation of the various items of appropriation, and allowing them, as formerly, to be made in bulk, thus saving large sums of interest on idle capital, clerical hire, and other expenses. This is especially recommended by the Quartermaster-General.

This bill does not touch the salaries of officers, with two exceptions, to wit, the General and Lieutenant-General. It reduces the salary of the General of the Army from $13,500, with fuel, quarters, &c., amounting to $5,000 more; making in all $18,500. When the office was created the salary was $4,800 and other allowances amounting to $11,704 per annum in all. The Lieutenant-General is reduced from $11,000 to $9,000.

The proposed reduction of the Army from the basis of 25,000 enlisted men to 17,000 in the matter of economy is important. And further, the bill makes no appropriation for the additional and extra number of cavalry which was hurried through Congress to meet the threatening raids of the Sioux tribe of Indians, and about which there has been no little political scandal, and connected with which a dark and bloody tragedy has been enacted.

It will be remembered that the reduction made for the support of the Army at the last session were vigorously opposed by the Senate, and that the proposition for a joint committee of both Houses and the Secretary of War to draw up a plan for the re-organization of the Army was originated and urged as a substitute for the proposed reductions of the House of Representatives. That joint commission was to sit during the vacation, and was under the terms of the law to report to Congress by the first of last December. But it is now the close of the Forty-fourth Congress, and no report has been made.

The House, therefore, it seems to me, in the absence of the report for the re-organization of the Army promised us at the last session as a reason why our bill should not be urged at the time, is now fully justified in again submitting proportionate reductions proposed in the bill which passed that body last year. And I will add that in the main we have endeavored to conform the pending bill to that one.

In the appropriations for the Army, as in every other department of the Government, the expenditures for the present fiscal year are materially less than former years, while the next fiscal year promises still more flattering results to the friends of economy. As late as 1874 the amount appropriated for the Army was $31,796,801.08, while the sum appropriated for this present fiscal year ending 30th of June, 1877, is $25,987,167.90, being less than the appropriation of 1874 by $5,809,633.18.

The estimates submitted to Congress by the War Department on the 1st of December last for the next fiscal year were $31,984,975.90, exclusive of the Military Academy. This estimate was based upon a basis of 27,500 fighting men. Upon being requested by the Committee on Appropriations to furnish estimates upon the basis of 22,000 enlisted men, the sum was reduced to $26,229,388.30, being $4,555,879.90 less than the estimates of the 1st of last December. The sum proposed by this bill is $22,139,000, which is $9,845,975 less than the original estimate, owing in part to the large reduction in the force.

This House remembers the extraordinary efforts of the War Department at the last session of Congress, just about the beginning of the presidential campaign, to induce Congress—in which it finally succeeded, but not by my consent—to increase the Army by providing for the recruiting of twenty-five hundred cavalry, avowedly to be employed in what was grandiloquently styled the Sioux war, but which no doubt were intended to supply the places of infantry troops which were withdrawn from the Territories and sent into the Southern States to control elections. Gentlemen also remember that so soon as the Army was increased the savage Sioux army, which but yesterday, as it were, was reported by semi-authentic sources to number ten thousand strong, dwindled into flying detachments of plundering robbers, and scattered over the broad expanse of the uninhabited plains and mountains of the outlying Territories. And that was the end of the organized Sioux war. But the Government still retains the increased force in the field, and desires its continuance at least for, the balance of the year, to hunt those maraunding bands of savages; that is, the Sioux war is still raging and peace is not declared, and hence the Army must be kept up to the full standard of 27,500 enlisted men.

The time has come when this Government should get on a business footing. It has been on a grand tourney of extravagant display long enough. The time has come when all supernumeraries should be dispensed with, and all superfluous and unnecessary offices and bureaus and expenses and unnecessary commissions should be left off; and let the Representatives of the people, who are charged with the duty of levying and collecting taxes off of the people, and paying them out to an Army, both military and civil, see to it, that these extraneous and unnecessary avenues of the public expenditures are closed up. Let us simplify the machinery of Government, and trust the people to govern themselves, remembering that the worst form of government is that which governs too much. Let us have less routine and less red tape, fewer and more competent and more honest officers; let the Government and the people come nearer together; let the Government spend less, and thereby let the people have more of their own earnings. In other words, let us have a frugal Government, and a well-to-do people, instead of a splendid rich Government and a spoliated poor people. Let the reforms so happily inaugurated by the majority in the House be continued until this auspicious result is attained. Then shall we deserve and receive the plaudits of a patriotic, enlightened, and relieved constituency.

There is a practical moral and political benefit in the reduction of the force, in the assertion of the principle which is thereby set up and maintained, which is that the Army as an adjunct of civil government is wholly unnecessary and actually hurtful.

This leads me to the consideration of the necessity and use of a large standing army in this country.

Why should we have a large standing army? The physical impregnability of the United States against foreign invasion renders a standing army for that purpose entirely useless. Every war in which as a nation we have been engaged, from the revolution of 1776 to the present time, demonstrates the practical feasibility of relying upon citizen soldiery for all purposes of defense.

When we look upon the map of this country and see that our territory is bounded on the north principally by the great lakes, and on all other sides by ocean fronts, we take in at a glance how impregnable against foreign assault nature has made our frontiers. In Europe, where the territorial limits are separated from their neighboring nations by mere imaginary lines and where the population is much more compact and greater to the square mile; where a much larger proportion of the people are living within the limits of great cities, and are more dependent and under greater need of physical restraint, it is considered necessary that large standing armies be kept up to overawe the people and preserve order and maintain the supremacy of the laws. Another incentive stimulates European governments to maintain large standing armies: to keep their people in subjection to hated forms of government, built upon the broken hearts and crushed hopes of the toiling millions, for the benefit and support in royal magnificence and splendor of crowned princes and their long retinue of courtiers and dependents. But the greatest necessity now seems to exist to maintain large standing armies, with the most expensive armaments, by all of the first-class and many of the second-class powers of Europe, for self-defense. Each nation is jealous and distrustful of the power and good faith of all the rest; hence, for centuries Europe has been little better than a grand military camp.

The amount of money which has been spent in the life-time of this republic by European powers to carry on their wars, and maintain their armies in time of peace up to the standard of a war footing, had it been properly and equally distributed, would have educated every child born as their subject, and abolished every almshouse within their borders, and placed every one within the reach of a competency. Instead of that pleasing picture of European society, continued wars and standing armies have wasted the resources of the common people, diverted the minds of the masses from habits of frugal economy, blinded the youth with the glare and pomp of military adventure, made the masses tenants at the will of a bonded and landed aristocracy upheld by standing armies made insolent and tyrannical through pampering and the lavish expenditure of gold. Who can fathom the depths of human woe, calculate the losses, morally and materially, inflicted upon society, or properly estimate the repressive influence upon the world's general progress, which are the resultant forces of large standing armies, whether of invasion or occupation, or even of defense?

The idea is un-American and antirepublican; it is of European and monarchical growth. The structure of their forms of government—based upon force instead of upon the consent of the governed, as in this country—the maintenance of order, and the preservation of peace and the execution of the laws are only compelled by the presence of the army. Even the very police duty of those countries is performed by detachments from the army, while in this country, under our admirable dual system of Federal and State governments, each moving in concentric circles, always paralled yet never conflicting, the regulation of public order is left to home government or local authority, all based upon the consent of the people. At least such is our theory, and for long, long years such was our practice. And if we have wandered away from that sensible, just, and economical mode of government and fallen into the European idea of preserving public order by the army, the sooner it is abandoned the better. If there has ever been since the first few months following upon the close of the late war between the States any necessity for the intervention of the Army to secure the execution of the laws made in pursuance of the Constitution of the States and of the United States, I have yet to learn of the instance. Had the people been allowed without Federal coercion to manage their own affairs since the war, they would have done so much more justly to all concerned and with far greater satisfaction to a very large majority of the people even of the Northern States. The disrupted condition of society which the war left among other evils as a heritage to the South, and which almost always follows civil wars from necessity, afforded a pretext for the use of the Army in those States. And as the dominant party determined to tear down the old State governments and also the new ones which were set up by President Johnson and enter upon its famous and ill-advised reconstruction policy—and I only speak of it now for the purpose of a historical illustration—and to do this were compelled to inaugurate the rotten borough or carpet-bag system of representation and government, which required, or they supposed it did, the presence of the Army to make it successful, time, partial success, and habit have rendered the use of the Army in the Southern States a seeming necessity to the ruling authorities at Washington. It is to this use of the Army that I object. It is degrading to the dignity of an American soldier to make a policeman of him; it is insulting to his chivalry and patriotism, it is dwarfing his noble profession to the ignoble level of a Turkish Janizary, who never tasted the sweet waters of liberty, but was born and bred beneath the frowning shadows of despotism and thinks it an honor to lick the hand of his master or but touch the hem of his garment or die for his defense.

American soldiers policemen! Insult if true, and slander if pretended to cover up the tyrannical and unconstitutional use of the Army by protecting and keeping in power tyrants whom the people have not elected; and but for Federal military protection their governments would fall at the first breath of popular expression. The

hollow insincerity and circumlocution which have attended every step of the unconstitutional use of the United States Army deserve the scorching denunciation of every true soldier and of every lover of his country and of its Constitution.

The process has been to first stifle the lawful will of the people and set up in power these minions of despotism. This has been done by driving at the point of the bayonet the legally elected legislators and officers of those States from power. United States district judges have been invoked to violate the law and issue orders wholly illegal and unconstitutional, under which pretended judicial authority these unpardonable outrages upon civil liberty have been committed. In this manner these pretenders becoming the *de facto* governments, the President then virtuously and patriotically responds to their call for troops to protect them in their infamous assumption of authority. When this point is reached the law-abiding Executive, full of devotion to the Constitution and with a heart always yearning for peace, panoplied with magisterial power, recurs to the fourth section of the fourth article of the Constitution with infinite satisfaction, and forthwith military aid is afforded the men whom he, in violation of the Constitution, first created with his own usurping hand. Such has been the process.

The last section of this bill seems to me to be a very salutary one. It provides that no part of the money appropriated by it shall be used in any State to maintain the political power of any State government, but to leave the people of a State perfectly free to regulate their own affairs in their own way, subject to the Constitution of the United States.

The Federal Constitution provides that the United States shall guarantee to every State a republican form of government. The language is that the United States shall guarantee, &c., not that the President shall do so. Is the President considered the United States? Or does the political power reside in Congress, restricted by the limitations of the Constitution? Now, I grant that the President is made by the Constitution the Commander-in-Chief of the land and naval forces of the United States, but he is subject to laws and regulations made by Congress.

Congress alone has power to raise and equip armies and to provide laws and regulations for their government.

Congress in its discretion can refuse to vote supplies to the Army and can actually repeal all laws authorizing its existence. It can disband the Army. Congress alone has the right to declare war; that is, to say whether the Army shall fight or remain idle. If Congress has the power to refuse to allow the Army to enter into active hostilities with a public or foreign enemy, surely it has the right to say that it shall not be used to destroy the sovereignty of a State, to bind it hand and foot, and hand it over to the torture of the oppressor.

If Congress has the right and power alone to appropriate money for the support of the Army, it surely can impose a condition or regulations upon the particular use that the money is applied to. Because if it has not that power, then, sir, has the Executive the power over both the purse and the sword.

Gentlemen have not forgotten surely that such a restriction was placed upon the Army appropriation bill in the Thirty-fourth Congress in reference to the use of the Army in the Territory of Kansas; that it was introduced by Mr. Barbour, of Illinois, a republican, and was voted for by the whole party in the House, and sustained by all of the republican Senators. We are then in this country not without a precedent in this respect. I may add, too, that similar instances are cited in English history in the contests for liberty between the Commons and the Crown. But in free America, as gentlemen on this floor often boast, the doctrine that the people through Congress should control the purse and sword is heretical, I suppose.

The effect of the unlawful use of the Army in the States to overturn one State government and set up another has progressed to such an extent as seriously to alarm the friends of constitutional government of all parties.

When the President of the United States undertook to overturn the present State government of Arkansas, and in a brief and soldier-like message to Congress, and which has no parallel in American history, announced that intention, no further blow was needed, had he executed his threat, to have effectually destroyed and eliminated from our system the principle of self-government by the States as members of the American Union. When I look back two brief years and remember how narrowly that splendid State escaped the hand of the political executioner, and contemplate the ruin which would surely have overtaken the other States of the South and eventually of the whole sisterhood, I wonder that such acts should longer meet the approval of the masses of the people in the North, or even be tolerated by them. But yet we see this potent agency, the Army, scattered throughout the Southern States in a presidential election year with the evident approval of the majority of the people of the northern States. We see, too, within less than two months a corporal of the guard of the Army seating and unseating the legislators of a State. We see the halls of legislation of one of the original thirteen States—the home of the revolutionary heroes Marion and Sumter—barricaded by usurpers, and they protected by the mailed hand of the central Government.

The events which have been for the last three months and are now transpiring within this Capitol, to my mind furnish a strong argument for the decrease of the Army.

Within this time the country has witnessed the remarkable spectacle of two defeated pretenders claiming the governorship of two States which had repudiated them at the ballot-box and elected others, being upheld and protected in their forcible usurpation of the State-house of each Commonwealth by the military arm of the General Government directed by the Executive. Coupled with that outrage upon popular liberty, the voice of the people of two States in their choice of President has been smothered by self-perpetuating and corrupt returning boards, ready to sell the rights of the people for gold; and when the majority of this House was beginning to despair of a fair adjustment in counting the electoral vote for President, and gave indications that it intended to make an election, which it surely would have done, regardless of personal consequences, should the Senate arbitrarily attempt the same without its co-operation—under these interesting circumstances and grave responsibilities we all remember the Executive threat came floating around and into this very Hall to arrest the democratic members of this House and imprison them in Fort Monroe by the military which had been gathering here for weeks from remote sections of the country. This Executive threat appeared day after day in the columns of the republican newspaper of Washington, the accredited organ of the President and his Cabinet, and never was rebuked or denied.

The advantage and power of an army of twenty-five thousand men, even in a great country like this, is not to be despised when brought against the people, however righteous their cause, wholly unorganized and without equipments and armaments. But suppose we had had an army of one hundred thousand men? Would the soldier at the head of the Government, who is said to have made these threats, and which have not been authoritatively denied and cannot be in my opinion, and who no doubt, as did his courtiers and confidants, dream in daylight of the necessity being forced upon him of cutting the Gordian knot of our political troubles and holding over in the teeth of the Constitution—would the difference between an army of twenty-five thousand and one hundred thousand men have added anything to his boldness or increased the temptation to wrest power from the people by either inaugurating the defeated candidate of "his own party," or seizing the helmet of state himself by a *coup d'état* after the style of Louis Napoleon? Instead of detachments of the Army hovering around this Capitol to be held in readiness for the butchery of liberty, if they are not needed to defend the frontiers let them be disbanded and return to civil pursuits at once, and the burden of their support, which is not less than $1,000 for each soldier, on an average, be taken off the public Treasury.

The plea which a usurping Executive offers for these flagrant outrages of quartering troops upon the people in time of peace is that of preserving the peace within the States. It will not bear the test of examination and of criticism. Where did the Executive derive his authority to send troops to Arkansas after that people had recognized their government and elected a new set of State officers? Neither Governor Garland or the Legislature applied for military re-enforcements to suppress insurrection or repel invasion. And it was only the minion of Federal power, and not the legally elected governor or Legislature, that asked for troops to be sent to Louisiana. Nor did the "Old Dominion," where repose the ashes of four of the most renowned Ex-Presidents, including the Father of his Country and the immortal author of the Declaration of American Independence and the chief patron of the Constitution itself, ask for troops, when only last year a company was arbitrarily quartered in the city of Petersburgh as a menace to the citizens of that Commonwealth of the Revolution.

Now, sir, as one of the untrammeled Representatives upon this floor, I declare here to-day, and now, that it is time the American Congress should stamp the seal of condemnation upon this unlawful use of the American Army lest it be accepted hereafter by some ambitious and wicked President as a precedent. It is time that the iron hand of the soldier was taken from the throat of the prostrate and bleeding form of liberty. If we have no further and better use for the Army let it be disbanded at once and the civilization of the age will rejoice for the deliverance; the desolated form of constitutional freedom will again rise up in those downtrodden States and smile upon a contented people, trained in the arts of government, liberty, and law.

Every argument has been made to induce the republican party to change its policy of vengeance and remorseless hate toward the conquered South. In vain have the people South borne uncomplainingly the overthrow of their rights of self-government, submitted to military governments, succeeded by the still more rotten borough system of carpet-bag rule, which has eaten up their substance and prostrated every industrial interest, swelled the lists of tax assessments and collections upon realty to the point of confiscation, and bankrupted both government and people. Every argument suggested either by human reason or human sympathy has been exhausted, and yet no relief has been granted. Our people have witnessed the flagrant infractions upon the Constitution with scarcely a murmur, while a cry of denunciation in the North has rung out even in notes of warning. We have cultivated the sentiment of patriotism and nationality, no matter whatever indignation and oppressions have been heaped upon us by an unforgiving party, until really that virtue shines more resplendently in southern than in northern hearts; for it is not an infrequent event that the Government falls under the bitter animadversion of northern speakers and writers; those times when never a word escaped the lips or slipped the pen of

a southerner. Even now many northern writers and statesmen laugh at the Constitution, and deride the Union which admits to its embrace the Southern States. And yet more than half of the northern people either regard us, or affect to regard us, with suspicion.

Rumor floats to-day about this Hall that the Executive will or has recognized the Nicholls government in Louisiana. Why not recognize Governor Hampton as well? Has he still a hope of keeping South Carolina in the republican fold, and therefore declines to recognize that gallant and patriotic southern leader, while he despairs longer of holding Louisiana in the radical camp? Or does he think that Louisiana, or rather Wells and his villainous returning board, have done enough for that State in being the instrument of grabbing the presidential office? Are these rumors true? I hope they are. But why do gentlemen this morning, since I came into this Hall, so bitterly protest against this restrictive clause in this bill prohibiting the use of the troops to uphold pretended political power in any of the States against the will of the people? Is it the prerogative of the President or is it the right of Congress to secure republican forms of government to the States?

The scenes through which we are passing, so disgraceful to the authorities, need some relieving feature. The truth is, Mr. Hayes, coming into power as he does, ought to be thankful to his predecessor for any relief he can render in the few short hours left him. Thank God, those hours are few in number. Twelve long, dreary, years have passed by, during all of which time not a hand has been raised against the authority of the Federal Government. The symbol of its power has waved in peaceful triumph over every square foot of southern territory, whether in the crowded city or among the rural districts, or whether floating from the masts of ships and steamers as they ride upon the rolling waves, which seem to murmur back in gentle anthems the music of the Union. We have opened our doors and cordially invited our northern fellow-countrymen to come and live among us and enjoy our genial climate and cultivate our prolific soil; and hundreds of thousands have done so. We have made governors and Senators of some who have settled among us, that they might be of us but not to oppress us. Failing in every effort to convince our enemies of our good faith and patriotic intentions, except an appeal to their pity, which sooner than make the true southern heart would prefer to cease to beat; having exhausted every moral, social, and political consideration, we have arrived at the last argument in this difficult theorem. It is plain that it is now a question of self-interest with the North, for the wave of poverty and bankruptcy has reached northern commercial centers and now stares the whole country in the face.

Far-seeing democratic statesmen, both North and South, have for years past drawn aside the veil of the future and painted in vivid portraiture the very picture of distress and gloom which now hangs from the outer walls of millions of households. The philosophical truth has again and again been enforced that it was impossible for the body to remain sound, healthy, and vigorous when one or more of the limbs is stricken with paralysis and disease. The decaying condition of the prostrate States could not in the nature of things be confined to themselves, but must affect every member of the body-politic, and the commercial life-blood which flows through them must flow through all and eventually enfeeble all. The South, in her day of pride and prosperity, was the liberal and profitable patron of northern trade and commerce. The profits of northern merchants, dealers, and mechanics, and even farmers, were sought and highly prized. What is that southern trade worth now? What has destroyed those profits and ruined this internal commerce? Let the history of the republican party for the last decade answer that question. But the momentous issue which now presses upon the people North as well as South is, shall this same ruinous policy continue? Shall the oppressive hand still hold us in its iron grip, or shall peace, fraternity, home rule, and prosperity be substituted for the erring policy of the past?

But there is a better and a different use for the Army. That use is principally to protect the border settlements on the frontiers of Texas and in the Territories. A few men, very few, are required to man our forts upon the ocean front; the rest should be conveniently stationed to keep the savage tribes of Indians in subjection and to drive back the cattle thieves and robbers of Mexico on the Rio Grande. Although I do not profess to have any special knowledge of my own on the subject, yet I am assured from unimpeachable sources and from facts now patent to all intelligent men that a much less force than we now have is required for this service.

How many of the United States troops are now on the frontiers? Is it possible that the authorities have withdrawn one single company or soldier necessary to the protection of the helpless settler with his wife and little ones during the past summer and autumn while the presidential election was pending, in order that they might be transported at immense cost to the Government to any of the Southern States to "bull-doze" the voters of those States and carry the election for one of the political parties? If so the blood of those victims will never fade from the page of history which shall record the misdeeds of this Administration. Take away the soldiers from among the people; call constitutional government into power as they are now ready to exercise it by the voice of the people, the moment that Federal power shall loose its clutch; throw the responsibility upon the people for good government, for the protection of the life and property of every human being, and all will be peace, good-will, and prosperity. As proof of this, contrast Southern States under democratic with their condition under republican rule; Georgia under Smith and Colquitt with Georgia under Bullock. But particularly examine the different and much improved condition of affairs in Arkansas under the guiding hand of her patriotic and statesmanlike Garland with the rule of Clayton. No, the people only need to be trusted and they will act wisely and justly.

The number of troops which we need to provide payment for at this time is the number necessary to defend our borders; whatever number is essential to that end I am prepared to vote for and advocate, and not another soldier. Send capital and muscle to the South instead of soldiers if you want peace and prosperity.

The time has arrived when the good of the Republic justifies, in fact demands, that the policy of controlling elections by the bayonet should cease. The rights and privileges of the Southern States, in which military force has been used to set aside the verdict of the people at the ballot for President and Vice-President, are not alone violated. If that were all, those States might linger yet for many years shorn of their equality in the Union; but the correlative rights of all of the other States of the Union are equally affected by the overthrow of constitutional liberty in the Southern States. The people of New York and New England, of the Northwest and of the Pacific slope have been defrauded, while the South has been trodden beneath the iron heel of the oppressor, "with an eye to pity, but no arm to save."

No lower depth of humiliation remains to a people once proud and free than to realize the necessity of having to submit, through long and hopeless years, to a despicable tyranny, which insults while it robs the people, and skulks in craven cowardice the responsibility of its crimes behind the glittering sheen of Federal bayonets. Can constitutional liberty longer endure under bayonet rule or will it assert itself? But why need the South, more than the North, specially repine over the decay, if not the death, of constitutional government in the prostrate States?

It is true theirs has only been a nominal freedom at best since the war, living all the time under duress, restrained by the war prejudices of the northern people from the assertion of their manhood. For twelve long years some of the Southern States have not known self-government or constitutional freedom. And the Army has been used as the main instrument to effect their overthrow and uphold this despotism. Is it longer the policy of the American people to hold any American State bound to the car of carpet-bag rule by the aid of the Army? That is the issue. For one, I repeat it, I will never vote to appropriate money for the support of the Army if that is its mission.

The people of Louisiana and South Carolina cannot be longer fettered by my vote; the Army must be removed from their soil.

The cup so often quaffed by the southern people is this hour commended through the Louisiana returning board and the commission to the northern people. The people of the North are now made familiar with the infamies and tyrannies of the republican party and the Administration at Washington for long years heaped upon the Southern States. That it will be drank in submission I shall not believe until I see it, but that a hurricane of indignation will at the next election sweep these usurpers from power I have not the least doubt. I know the people South are growing weary, and well they may; hope deferred maketh the heart sick, but the ways of peace are the paths of victory to the democracy, and time will yet vindicate the truth.

Mr. BANNING. Mr. Speaker, the bill to fix the pay and allowance of Army officers, which was reported from the Military Committee, passed this House in March of the last session of this Congress. That bill made the following reductions in the pay and allowances of Army officers:

First. It reduces the pay and allowances of the General of the Army from $18,081.91 to $10,000, thus saving to the Government $8,081.91. I do not think it necessary for me to stop to argue the propriety of this reduction or the sufficiency of the remaining salary of $10,000. It is double that of a Senator, 25 per cent. more than that of a Cabinet officer or a supreme judge, and as much as a proper performance of our duties will admit of our giving the distinguished commander of our armies.

Second. The bill reduces the pay and allowances of the Lieutenant-General from $13,593.86 to $8,000 a year, saving $5,593.86; leaving the Lieutenant-General a salary which is 60 per cent. more than the salary of a Senaror, being a salary for life, equal to that of a Cabinet officer.

Third. The bill reduces the pay and allowances of a major-general from $10,093 to $6,000, saving on the pay of three major-generals $12,281.56; leaving the annual pay of the major-general $1,000 more than the pay of a Senator, which is an ample compensation for these officers.

Fourth. This bill reduces the pay of the brigadier-general from $7,613 to $5,000 per annum, saving on the pay of fourteen brigadier-generals $35,781.13; leaving the pay of each the same as the pay of a Senator, making a saving on the general officers' pay of $60,000.46 annually.

The pay proper of the colonel, lieutenant-colonel, major, captain, and first lieutenants is not changed. These are the hard-working officers of the Army, many of them having been general officers in

the war; men who led their commands in action; whose long and faithful service entitles them to the highest consideration, whose pay proper is not too large, and, in the opinion of the committee, should not be reduced.

The bill reduces the pay and allowances of all second-lieutenants $200 per annum for the first four years of their service, fixing the salary at $1,200 not mounted and $1,300 mounted. This amount is, in the opinion of the committee, a fair compensation for young, inexperienced officers of this grade. The amount is sufficient for their support, and the testimony of experienced soldiers is that small salaries are best for young officers who know but little of the real value of money. It teaches them to avoid extravagance and practice economy. This pay is more than the average earnings of young men just starting in civil life. It is estimated that this reduction will make a saving of $25,000 per annum.

Sixth. The chaplains' pay is reduced from $1,500 per annum to $1,200 per annum. This will make a saving of $10,200.

Seventh. The repeal of the statute authorizing regimental adjutants and quartermasters to be extra lieutenants is recommended by many experienced officers of the Army and by the Secretary of War. It is a reduction of eighty officers, who, as extra adjutants and quartermasters, are not needed, and is a saving of $121,700 annually.

Eighth. The reduction of the rent of officers' quarters from $18 per room per month to $12 per month it is estimated by the Quartermaster's Department will save $107,839.30 annually, and leave allowances to officers for quarters as follows: To a colonel, $60 per month when on detail; to a lieutenant-colonel, $48 per month; to a captain, $36; and to a lieutenant, $24.

Ninth. The estimated saving in fuel is $5,996.16 per annum. The reduction of the number of horses allowed officers and preventing officers drawing forage for any horses except such as are actually owned, kept, and used in the service, it is estimated, will make a saving in forage of $140,000. Add to these items the savings made in reduction in amount of transportation, pay, and allowances of extra lieutenants as adjutants and quartermasters, and it will be found that the passage of the bill will save more than $500,000 annually.

These reductions of pay and allowances left the Army officer well and handsomely paid; better paid than they were paid during the war; better paid than the officers of any army in the world, and 50 per cent. more salary than they would average if they were reduced to the necessity of earning their living as civilians.

This bill, the passage of which would save the Government near a half million of dollars annually, is yet pending in the Senate.

Our Army consists of 25,400 enlisted men and 2,151 commissioned officers on the active list and 300 on the retired list; being a total of 27,851 officers and men. Of the officers there are 1 General, 1 Lieutenant-General, 3 major-generals, and 14 brigadier-generals, 67 colonels, 86 lieutenant-colonels, 242 majors, 29 aids-de-camp, 591 captains, 40 adjutants, 40 regimental quartermasters, 1 battalion adjutant, 1 battalion quartermaster, 588 first lieutenants, 445 second lieutenants, and 34 chaplains, with the rank of captains of infantry. There are 40 sergeant-majors, 40 quartermaster sergeants, 40 chief musicians, 60 principal musicians, 2 saddle sergeants, 10 chief trumpeters, 114 ordnance sergeants, 148 commissary sergeants, 200 hospital stewards, 1 battalion sergeant-major, 1 battalion quartermaster-sergeant, 430 first sergeants, 1,910 sergeants, 1,816 corporals, 240 trumpeters, 628 musicians, 240 farriers and blacksmiths, 620 artificers, 120 saddlers, 430 wagoners, 205 privates of the first class, 179 privates of the second class, leaving our Army with 16,655 private soldiers.

A further examination shows the officers and men distributed as follows: General officers, 11; military secretary to the Lieutenant-General, 1 lieutenant-colonel; aids-de-camp to general officers, 29, of whom 6 are colonels, 2 lieutenant-colonels, 9 captains or lieutenants, 12 lieutenants. In the Adjutant-General's Department there are 1 brigadier-general, 2 colonels, 4 lieutenant-colonels, and 10 majors; 17 in all. In the Inspector-General's Department there are 1 colonel, 2 lieutenant-colonels, and two majors; 5 in all. In the Bureau of Military Justice there are 1 brigadier-general, and 4 majors; 5 in all. In the Quartermaster's Department there are 1 brigadier-general, 4 colonels, 8 lieutenant-colonels, 14 majors, and 30 captains; making 57 commissioned officers in the Quartermaster's Department. In the Subsistence Department there are 1 brigadier-general, 2 colonels, 3 lieutenant-colonels, 8 majors, 12 captains; 26 in all. In the Medical Department there are 1 brigadier-general, 6 colonels, 10 lieutenant-colonels, 50 majors, 69 captains, 56 first lieutenants, 200 hospital stewards—being 192 commissioned officers, 200 hospital stewards; 392 in all. In the Pay Department there are 1 brigadier-general, 2 colonels, 2 lieutenant-colonels, 50 majors; 55 in all. In the Corps of Engineers there are 1 brigadier-general, 6 colonels, 12 lieutenant-colonels, 24 majors, 30 captains, 1 battalion adjutant, 1 battalion quartermaster, 26 first lieutenants, 10 second lieutenants, 1 battalion sergeant-major, 1 battalion quartermaster-sergeant, 20 sergeants, 16 corporals, 8 musicians, 80 privates of the first class, 74 privates of the second class—being 109 commissioned and 200 enlisted; making a total of 309. In the Ordnance Department there are 1 brigadier-general, 3 colonels, 4 lieutenant-colonels, 10 majors, 20 captains, 16 first lieutenants, 40 sergeants, 80 corporals, 230 privates—being a total of 54 commissioned and 350 enlisted; a total of 404.

Signal Corps, 1 colonel, 400 enlisted men.

Post chaplains, 30.

In this statement we have the general officers and staff officers of our Army, consisting of 562 commissioned officers. Add to this the non-commissioned staff unattached to regiments—114 ordnance-sergeants and 148 commissary-sergeants, 200 hospital stewards, 60 sergeants, 96 corporals—and we have the commissioned and non-commissioned staff.

We have 10 regiments of cavalry; which are made up of 10 colonels, 10 lieutenant-colonels, 30 majors, 120 captains. 10 adjutants, and 10 quartermasters with the rank of lieutenant, 120 first lieutenants, 120 second lieutenants, 10 sergeant-majors, 10 quartermaster-sergeants, 10 chief musicians, 10 saddler-sergeants, 10 chief trumpeters, 120 first sergeants, 600 sergeants, 408 corporals, 240 trumpeters, 240 farriers and blacksmiths, 120 saddlers, 120 wagoners, 6,480 privates, 432 commissioned officers; being a total of 8,082 officers and men in our cavalry service.

We have 5 regiments of artillery; consisting of 5 colonels, 5 lieutenant-colonels, 15 majors, 60 captains, 5 adjutants, and 5 quartermasters, 120 first lieutenants, 65 second lieutenants, 5 sergeant-majors, 5 quartermaster-sergeants, 5 chief musicians, and 10 principal musicians; 60 first sergeants, 250 sergeants, 250 corporals, 120 musicians, 120 artificers, 60 wagoners, 1,725 privates, 280 commissioned officers; total, 2,880. We have 25 regiments of infantry; consisting of 25 colonels, 25 lieutenant-colonels, 25 majors, 250 captains, 25 adjutants, and 25 quartermasters, 250 first lieutenants, 250 second lieutenants, 25 sergeant-majors, 25 quartermaster-sergeants, 25 chief musicians, 50 principal musicians, 250 first sergeants, 1,000 sergeants, 1,000 corporals, 500 musicians, 500 artificers, 250 wagoners, 8,460 privates, 877 commissioned officers; making a total in the infantry of 12,085 non-commissioned officers and privates.

At our Military Academy we have 9 professors and 300 cadets. Add to these statements 300 Indian scouts, and we have the make-up of our Army.

An examination of these figures shows that our Army needs to be reorganized; that it is more an army of officers than an army of men; that the regiments and companies are mere skeletons, and that consolidation of regiments and companies is demanded, required, and necessary to make our Army what it should be, efficient and useful. We have 45 regimental organizations fully officered.

In these there are enough officers to command 60,000 troops, we have but 25,000, of whom only 16,665 are private soldiers.

On the subject of consolidation, General Sheridan has said:

If you increase the size of the companies you diminish the expense. One great item of expense at present arises from the fact that the companies are so small as to be non-effective. In order to get an effective body of men for any purpose, it is necessary to take three or four companies from different places. That kind of management is, of course, expensive; and that is what we are obliged to resort to at present.

And Captain Corbin, of the Army, in his examination says:

Question. Have you any information or opinion that you can give the committee on the question of consolidation?

Answer. I do not know that I have, except that I think the efficiency of the Army would be greatly enhanced by increasing the size of the companies. I think that the trouble we labor under now with the present company organization of infantry is that it is too small. I believe the maximum is fifty men, and after you take out the non-commissioned officers and the cook, and allow for the sick and the prisoners in the guard-house and the men who are detailed to drive the teams, it leaves hardly any men in the company for duty. I do not think the company organization should consist of less than one hundred men, either in time of peace or time of war, either for active operations or for purposes of instruction. It is rather stupid work for an officer to go out and drill four men. After having been a captain for ten years, I have frequently gone out with only four men. It is very hard to make an entertainment of that kind partake of the nature of a military movement. We go on parade duty regularly, to be sure, but the men look upon it as a kind of farce. I have seen a captain go on parade with only his sergeant, the captain forming the front line and the sergeant the rear. The officer cannot take as much interest in that as if he had a hundred men to look after. I think, therefore, it would tend greatly to the efficiency of the Army if you were to increase the companies, even if he had to assign more officers. A company of one hundred men with five officers would be much more efficient than two companies of fifty men each with six officers. Then, the internal administration of a company of one hundred men requires no more sergeants or cooks or commissary-sergeants than a company of fifty men. It is, however, more trouble for an officer to take care of and drill a hundred men than fifty. So, probably, if the companies were increased in size, it would be well to increase the number of officers. I have been told by officers of our Army who have visited Europe that they were greatly impressed with the difference in the size of the companies, and General Hazen and other officers who are capable of judging have told me that that was about the only advantage the European armies had over ours. A company there means a hundred or a hundred and fifty efficient men.

Q. Then, if consolidations and reductions must be made, you would recommend the consolidation of the companies into larger ones?

A. I would, most assuredly. I think if we are to have but 20,000 men in the Army, the larger the companies are made the more service our commanders can get out of the troops, and I think you will find that that is the testimony of most of the officers. I know if I were to go to command a post of a hundred men I would rather have one company of a hundred than two companies of fifty men each, because it would give me more men for active duty. To maintain a company organization you have to have a certain number of men who are useless as soldiers, being engaged on other duty; for instance, four of the best men in your company are taken up as sergeants, so that in two companies of fifty men each there are eight sergeants, and in a company of a hundred there would be just the same number; and the same is true of the musicians, cooks, company clerks, and commissary-sergeants. Then, the property of a large company is just as easily looked after as that of a small one, and one man can do the work as efficiently as two.

I know it is said that we only want a skeleton army and that we must educate officers to have them ready for war if it should come. This is perhaps true to some extent, but unfortunately for our Army the figures which I have produced show that too many of our officers are being educated in the staff, in the Quartermaster's, Subsistence,

Medical, Pay, and Signal Departments, where the tables show it requires more rank to purchase army boots and clothing, distribute hard tack, prescribe quinine, keep accounts, and signal the weather, than it does to command a battalion or meet the enemy and put him to flight.

The staff of our Army, although composed generally of good men, is entirely too large and stationed in large cities, where rents are high and living expensive. It is composed of too many departments or bureaus, too many officers, and is too expensive.

The Quartermaster's and Subsistence Departments should be consolidated, the Bureau of Military Justice abolished, the aids-de-camp reduced in number and in rank, the Pay Department reduced to twenty-five officers, the Signal Service transferred to the Coast Survey and attached to that scientific department. The thirty post-chaplains should be subject to re-appointment and confirmation every four years; then the complaints against them, such as are found in the reports of officers to the Military Committee of last session, would cease. The retired list of the Army should be examined, in order to determine whether any officers on that list are fit for the active list.

Our officers educated at West Point should have an opportunity to review their studies in teaching the soldiers at all posts as they are now taught in the French and German armies, thus to elevate the standard of the soldiers of our Army and prepare them for usefulness in the event of war and for promotion, to which they should be encouraged to aspire. The pay of the sergeant-major, quartermaster-sergeant, and first sergeant should be increased so that these hard-worked men may receive a better remuneration for their labor.

Mr. Speaker, I allude to these much-needed reforms in our Army and am glad to be able to say that if they are not made it is no fault of this House. The bills providing for them passed early in last session, and they are now pending in the Senate.

The pay bill, which has passed this House, if passed to a law would make a saving of nearly half a million of dollars annually. The reorganization bill, which has passed this House, if passed to a law would result in an immediate saving of $387,433.44, and an ultimate annual saving of $1,166,257.76, and make great and much-needed reforms in the management of the Army.

Mr. Speaker, I hold in my hand an abstract of the distribution and location of all the troops in our regular Army. This table shows the following distribution of troops: In Kentucky, 4 officers and 41 men; Missouri, 6 officers and 616 men; Tennessee, 4 officers and 40 men; Alabama, 2 officers and 20 men; Arkansas, 4 officers and 43 men; Virginia, 10 officers and 88 men; Georgia, 18 officers and 185 men; Florida, 36 officers and 256 men; South Carolina, 111 officers and 1,132 men; Louisiana, 91 officers and 1,300 men; North Carolina, 11 officers and 113 men; Texas, 192 officers and 2,933 men; making a total of 489 officers and 6,767 men in the Southern States.

In the Territories there are 710 officers and 12,235 men. In the District of Columbia are 51 officers and 720 men. The balance of the troops are located in the Northern and Western States.

In this connection, Mr. Speaker, I desire to call the attention of the House to the fact that in addition to our Army of 25,000 men we have a militia force in the United States, according to the last report, which I hold in my hand, and print with the permission of the House as a part of my remarks, of 2,875,469 available men for military duty. Of these, 98,865 are organized. In the abstract will be found a statement of the State organizations compiled at the Adjutant-General's Office of these militia organizations.

THE OBJECT OF OUR ARMY.

Mr. Speaker, there is a strange confusion in the minds of the people, shared by some eminent officials, as to what are the uses for which our regular Army was created and what the duties and responsibilities of the individual officer or private.

For the functions to be performed by the Army we must look to the "Constitution and the laws of the United States which shall be made in pursuance thereof," which are declared by article 6 of that instrument to be "the supreme law of the land."

We find in section 2 of article 2 that—

The President shall be commander-in-chief of the Army and Navy of the United States and of the militia of the several States when called into the actual service of the United States.

But as such commander-in-chief he has no other or further powers than such as may by act of Congress agreeably to the provisions of the Constitution be devolved upon him.

The power to declare war; to provide and maintain a navy; to make rules for the government and regulation of the land and naval forces; to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasions; to provide for organizing, arming, and disciplining the militia, &c., and all other powers connected with the Army and Navy except the single one before quoted are vested in the Congress of the United States. The Army can be used for national purposes to execute the laws of the Union, suppress insurrection, and repel invasions, and also aid the States, under section 4 of article 4, "to protect each of them against invasion, and on application of the Legislature, or of the executive when the Legislature cannot be convened, against domestic violence." The manner and occasion of such use, however, are not discretionary with the President as commander-in-chief, but are clearly defined by acts of Congress.

In relation to the use of the Army in the aid of the State governments, by the act of February 28, 1795, and March 3, 1807, (section 5297, Revised Statutes United States,) it is provided that—

In case of an insurrection in any State against the government thereof it shall be lawful for the President, on application of the Legislature of such State, or of the executive when the Legislature cannot be convened, to call forth such number of the militia of any other State or States which may be applied for as he deems sufficient to suppress such insurrection; or, *on like application*, to employ for the same purposes such part of the land and naval forces of the United States as he deems necessary.

Section 5300, Revised Statutes United States, (act of February 28, 1795,) provides that—

Whenever in the judgment of the President it becomes necessary to use the military forces under this title the President shall forthwith, by proclamation, command the insurgents to disperse and retire peaceably to their respective abodes within a limited time.

The first occasion on which it became necessary to consider the propriety of exercising these most important constitutional and legal functions arose in the year 1842, under the administration of President Tyler, in the case of the Dorr rebellion in Rhode Island. Daniel Webster was then Secretary of State, and matters growing out of the relations between the Federal Government and the several States of the Union were conducted through the State Department. In those days the Attorney-General of the United States was not claimed to be, as he now is, the virtual commander-in-chief of the Army. The circumstances of the case briefly stated are as follows:

In 1842 a large majority of the people of Rhode Island, acting outside of the forms of law, established a state government and elected Thomas W. Dorr their governor. On the 4th of April, 1842, Samuel W. King, legal governor of Rhode Island, addressed the President of the United States, stating that "the State of Rhode Island is *threatened with domestic violence*," that the Legislature could not be convened, and calling upon the President for "the protection which is required by the Constitution of the United States."

In another letter of the same date addressed to the President, Governor King recited the facts which led him to make the application for Federal assistance and requested that "such precautionary measures may be taken by the Government of the United States as may afford us that protection which the Constitution of the United States requires." * * * "The Government of the United States has the power to prevent as well as to defend us from violence. The protection provided by the Constitution of the United States will not be effectual unless such precautionary measures may be taken as are necessary to prevent lawless men from breaking out into violence as well as to protect the State from further violence after it has broken out." President Tyler, in a communication prepared by Daniel Webster, declined to interfere. He said, "For the regulation of my conduct on any interposition which I may be called upon to make between the government of a State and any portion of the citizens who may assail it with domestic violence, or may be in actual insurrection against it, I can only look to the Constitution and laws of the United States, which plainly declare the obligations of the executive department, and leave it no alternative as to the course it shall pursue." After reciting section 4 of article 4 of the Constitution and the acts of 1795 and 1807, before quoted, he said:

By a careful consideration of the above recited acts of Congress, your excellency will not fail to see that no power is vested in the Executive of the United States to anticipate insurrectionary movements against the government of Rhode Island, so as to sustain the interposition of the military authority; but that there must be an actual insurrection, manifested by lawless assemblages of the people or otherwise, to whom a proclamation may be addressed, and who may be required to betake themselves to their respective abodes.

On the 4th of May, 1842, the Legislature of Rhode Island passed resolutions calling upon the President for assistance to suppress the insurrection against the State, and reciting that—

A portion of the people of this State, for the purpose of subverting the laws and existing government thereof, have framed a pretended constitution, and for the same unlawful purposes have met in lawless assemblages and elected officers for the future government of this State; and whereas the persons so elected, in violation of law, but in conformity to the said pretended constitution, have, on the 3d day of May instant, organized themselves into executive and legislative departments of government, and under oath assumed the duties and exercise of said powers; and whereas, in order to prevent the due execution of the laws, a strong military force was called out, and did array themselves to protect the said unlawful organization of government and to set at defiance the due enforcement of the laws.

Did the President then interfere? No, sir; he still declined, and in a letter dated May 7, gave the best of reasons for so doing. He says "that he has information that leads him to believe that the danger of domestic violence is hourly diminishing."

I freely confess—

He says—

that I should experience great reluctance in employing the military power of this Government against any portion of the people; but, however painful the duty, I have to assure your excellency that if resistance be made to the execution of the laws of Rhode Island by such force as the civil posse shall be unable to overcome, it will be the duty of this Government to enforce the constitutional guarantee.

On the 9th of May, 1842, the President addressed Governor King of Rhode Island a letter, in which he counsoled peaceful measures.

Why urge matters—

He says—

to an extremity? If you succeed by the bayonet you succeed against your own fellow-citizens, and by the shedding of kindred blood. * * * A resort to force will engender for years to come feelings of animosity.

On the 25th of May Governor King addressed the President, stating that the Dorr government, in addition to companies of men in Rhode Island, was organizing bands of men in Massachusetts, Connecticut, and New York. Therefore Governor King asked for the interposition of the Federal authority, and that the President might place a sufficient body of troops in the State, "to be subject to the requisition of the executive of this State whenever, in his opinion, the exigency of the case should require their assistance."

This request the President declined, in a letter dated the 28th of May, in which he said, "Should the necessity of the case require the interposition of the authority of the United States, it will be rendered in the manner prescribed by the laws."

On the 29th of June the President of the United States being informed "that the difficulties in Rhode Island have arrived at a crisis" which require the interposition of Federal authority in support of the State, directed the Secretary of War to proceed to Rhode Island and in the event of the necessary requisition being made by the governor of Rhode Island to issue a proclamation prepared by Daniel Webster, Secretary of State, and signed by Webster and the President, "commanding all insurgents and all persons connected with the insurrection to disband." This proclamation however was never issued, the Dorr rebellion having been suppressed by the State authorities.

In compliance with a resolution of the House of Representatives of the 23d of March, 1844, (Executive Document No. 225) the President informed the House "that the Executive did not deem it his duty to interfere with the naval and military forces of the United States in the late disturbance in Rhode Island; that no orders were issued for the employment of troops in that State except to strengthen the garrison at Fort Adams; that no orders were given to any officer or officers of the Army or Navy to report themselves to the charter government; that the Executive was at no time convinced that the *casus fœderis* had arisen which required the interposition of the military or naval power." Taking strong ground against the interference of the Executive in State questions, he said:

Actuated by selfish motives, he (the Executive) might become the great agitator, fomenting assault upon the State constitutions and declaring the majority of to-day to be the minority of to-morrow, and the minority in its turn the majority, before whose decrees the established order of things in the State should be subverted. Revolution, civil commotion, and bloodshed would be the inevitable consequences. The provision in the Constitution intended for the security of the States would thus be turned into the instrument of their destruction; the President would become in fact the great constitution-maker for the States and all power would be vested in his hands.

It will be seen upon a thorough examination of this case that President Tyler, acting under the advice of Daniel Webster, denied the power of the Federal Government to interfere in a cause of merely "threatened domestic violence" or to "anticipate insurrectionary movements" against the State, but claimed that there must be an "actual insurrection" and "lawless assemblages to whom a proclamation may be addressed;" that resistance must first be made to the execution of the laws of the State by such force as the *civil posse* shall be unable to overcome; that he could not place any part of the Army of the United States subject to the orders of the State executive to be used whenever in his opinion the exigency of the case should require, and that a proclamation must first be addressed to the insurgents demanding them to disperse.

How different has been the practice under the present administration of ou Government. At Columbia and New Orleans United States troops have been placed under the orders of State executives and of subordinate State officers without previous proclamations and without any lawless assemblages against whom to direct them. There has been a constant and persistent interference in State matters by the Army; State Legislatures legally elected have been dispersed; troops have been used as a police to protect State returning boards in the perpetration of frauds, without any regard to the requirements of the acts of Congress regulating the manner and occasion of such interposition, and in defiance of law and the decisions of the highest tribunal in the land. The Army has been used as a State constabulary. In Louisiana to-day the Army of the United States is engaged in keeping the peace between two State governments, neither of which has been recognized by the President, and in inducting into office from time to time different State officers who have been removed from their offices, and their interference is continued, not upon the ground that either State government is the lawful one, but because the Army has been directed by the President to preserve the present chaotic condition of affairs in that State until he shall make up his mind which State government to recognize.

And yet, sir, the President, when called to an account for the use of troops in Louisiana, as far back as 1874, said in his message to Congress, dated January 13, 1875:

I am well aware that any military interference by the officers or troops of the United States with the organization of a State Legislature or any of its proceedings, or with any civil department of the Government, is repugnant to our ideas of government. I can conceive of no case not involving rebellion or insurrection where such interference by authority of the General Government ought to be permitted or can be justified.

Notwithstanding such expressions of opinion by the President, our Army, degraded from its high position of the defenders of the country from foreign and domestic foes, has been used as a police; has taken possession of polls and controlled elections; has been sent with fixed bayonets into the halls of State Legislatures in time of peace and under the pretense of threatened outbreak; has been placed under the control of subordinate State officials, and, under the instructions of the Attorney-General, has been notified to obey the orders of deputy United States marshals, "general and special," appointed in swarms to do dirty work in a presidential campaign. I call your attention to the late order of the Attorney-General concerning the recent use of the Army during the elections, from which I quote the following paragraphs:

In this connection I advise that you and each of your deputies, general and special, have a right to summon to your assistance in *preventing* and quelling disorder, every person in the district above fifteen years of age, whatever may be their occupation, whether civilians or not, and including the military of all denominations, militia soldiers, marines, all of whom are alike bound to obey you. The fact that they are organized as military bodies, (whether of the State or of the United States,) under the immediate command of their own officers, does not in any wise affect their legal character. They are still the *posse comitatus*. I prefer to quote the above statement of the law upon this point from an opinion by my predecessor, Attorney-General Cushing, because it thus appears to have been well settled for many years, (6 Opinions, 466; May 27, 1854.) I need hardly add that there can be no State law or State official in this country who has jurisdiction to oppose you in discharging your official duties under the laws of the United States. If such interference shall take place, (a thing not anticipated,) you are to disregard it entirely. The laws of the United States are supreme, and so, consequently, is the action of officials of the United States in enforcing them. There is, as virtually you have already been told, no officer of a State whom you may not by summons embody in your own posse, and any State posse already embodied by a sheriff will, with such sheriff, be obliged upon your summons to become a part of a United States posse, and obey you or your deputy acting *virtute offici*.

The Attorney-General based his authority for such use of the Army upon an opinion of Attorney-General Cushing, given on the 27th of May, 1854, concerning the enforcement of the fugitive-slave law, an opinion questionable at best, but strangely perverted by the Attorney-General. What Attorney-General Cushing says is merely that being a soldier of the United States does not exempt a man from being called upon by the proper authorities to act like any other citizen as a part of a *posse comitatus*. He nowhere intimates that the soldier as a part of the Army or that the Army as such shall be used by a marshal in direct violation of the Constitution.

From this opinion of Attorney-General Cushing, which, as I have said, the Attorney-General strangely perverts, he draws the most extraordinary conclusions. Under his opinion issued as order No. 96, any marshal of the United States, or deputy or special marshal, may, upon his own private judgment, order any officer, even the General of the Army, to obey his command.

The General of the Army seems to have held very different views, for in his order to the Army promulgating it he so modified this opinion of the Attorney-General that he occupies precisely the same grounds that I advocate. I take pleasure in calling your attention to what he says. It reads as follows:

The obligation of the military (individual officers and soldiers) in common with all citizens to obey the summons of a marshal or sheriff must be held subordinate to their paramount duty as members of a permanent military body. However, the troops can act only in their proper organized capacity, under their own officers, and in obedience to the immediate orders of those officers. The officer commanding troops summoned to the aid of a marshal or sheriff must also judge for himself and upon his own official responsibility whether the service required of him is lawful and necessary and compatible with the proper discharge of his ordinary military duties, and must limit his action absolutely to proper aid in execution of the awful precept exhibited to him by the marshal or sheriff.

This carefully worded instruction of General Sherman reminds one of the better days of the Republic.

Concerning the powers of the United States in connection with matters relating solely to the States, and not by the Constitution placed under the paramount control of the United States, it may not be amiss to refer to the decision of the Supreme Court of the United States in the case of Cruikshank, 2 Otto, page 542. Mr. Chief-Justice Waite delivered the opinion of the court, (declaring the enforcement act of 1870 unconstitutional,) from which I quote the following paragraph, which will be found on page 556:

Certainly it will not be claimed that the United States have the power or are required to do mere police duty in the States. If a State cannot protect itself against domestic violence, the United States may, upon the call of the Executive, when the Legislature cannot be convened, lend their assistance for that purpose. This is a guarantee of the Constitution, (article 4, section 4,) but it applies to no case like this.

BLIND OBEDIENCE.

As a fit accompaniment of these lawless uses to which the Army has been put, a new and dangerous doctrine has been advanced that the duty of the soldier is blind obedience to the orders of his superior. Such a doctrine, destructive of all law and endangering the very existence of government, has never prevailed in this country, nor in Great Britain, from which nation our military code is derived.

Article 21 of the Articles of War provides that "any officer or soldier who disobeys any lawful command of his superior officer shall suffer death, or such other punishment as a court-martial may direct."

Article 4 of the Articles for the Government of the Navy provides that "the punishment of death, or such other punishment as a court-martial may adjudge, may be inflicted on any person in the naval service" who "disobeys the lawful orders of his superior officer."

Nowhere is any punishment prescribed for the officer or soldier who disobeys unlawful orders. There is no obligation resting upon the soldier to obey an unlawful order; on the contrary, like the private citizen, he is bound to obey and respect the laws of the land, and an unlawful order from a superior affords him no immunity from

punishment. The responsibility rests as well upon him who executes the unlawful order as upon him who issues it. These principles are sustained by English and American writers on military law, as well as by the decisions of the courts in both countries.

The oath of office taken by the officer of the Army and Navy is the same as that taken by persons elected or appointed to any civil office of honor or profit, except the President. It is (section 1756, Revised Statutes of the United States) that he "will support and defend the Constitution of the United States against all enemies, foreign and domestic, and bear true faith and allegiance to the same."

As well then insist that it is the duty of the civil officer to obey an unlawful order of his superior as that the Army or Navy officer is so bound.

The oath taken by the private soldier (article 2, Articles of War) is:

I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to the Rules and Articles of War.

Now, the Articles of War, as well as the Articles for the Government of the Navy, show him that he is to obey the lawful orders only of his superior, and they show him the penalty for such disobedience.

Before going into an examination of the authorities, let us turn back the pages of history and see for what grave reasons the word "*lawful*" was inserted in the English mutiny acts.

During the great English rebellion the contending armies adopted military codes nearly identical, which resulted substantially in Prince Rupert's code of 1672. This was the parent of the code now regulating the army and navy of Great Britain, which, so far as then extant, was substantially adopted by the United States, first in 1775, and again in 1806.

Under the English code of 1715 "every officer or soldier who should refuse to obey the military orders of his superior officer" was liable to capital punishment. Speaking of this, Clode, in his work on Military Law, (edition 1872, page 57,) says:

The army being then under the personal command of a sovereign absolutely irresponsible—for according to our constitutional theory he could do no wrong—the danger of this enactment was not exaggerated by the Lords when in their protest they declared it to be a violation of the fundamental laws of the realm, "by which the commands or orders of the Crown are bound and restrained within the compass of the law, no person being obliged to obey them if illegal, but punishable by the law should he do so, notwithstanding such orders or commands proceed from the king."

So that it will be seen in England as early as 1715 it was held by the House of Lords that even in the absence of the word "lawful" in the English mutiny acts the soldier was punishable by the common law for the commission of an illegal act, although he had the orders of the Crown to do it. Continuing the same subject, Clode says:

The alterations made in the act of 1718 placed some limitation upon this penal obedience by using the words "who shall refuse to obey any *lawful* commands of his superior officer." In 1733 the increase of the army was opposed by several speakers mainly from the danger to which this authority over the army exposed the state. Discontent continued to be expressed, until in the year of 1749, after an angry debate, the words were altered thus: "To disobey any lawful command of his superior officer," which now stands in the military code of 1872.

The words used in our Articles of War are who "disobeys the *lawful* command of his superior officer," and in the Articles for the Government of the Navy who "disobeys the *lawful* orders of his superior officer."

No successful attempt has yet been made to explain away the word "lawful" thus inserted, after repeated debate, in the military code.

Among the English authorities on this point, I quote the following:

So general is the rule that the order of a superior shall be imperative in the military inferior that it will not admit of exception unless when the orders or the thing commanded to be done are directly contrary to law.—*Houga's Precedents on Military Law*, page 104.

So general is the rule that the orders of a superior shall be imperative in a military inferior that it will admit not of exception unless in the instance when the orders, or, more accurately speaking the things commanded to be done, are directly repugnant or contrary to law. In the case only where the orders would afford no legal excuse in a court of law for the act committed under them can the inferior hesitate to obey the commands he receives from his superior.—*Samuel's Military Law*, page 284.

To disobey the *unlawful* command of a superior officer is undoubtedly lawful.—*Simmons on Courts-Martial*, page 207.

If death ensue from the fire of a soldier acting under the orders of his superior, the command itself being illegal, such order would be no justification of the deed in the eye of the common law. And the individual who was the instrument of the death would, with him directing the act by which it was effected, be equally guilty of murder.—*Ibid.*, page 227.

And therefore it is lawful, in a military sense, to disobey an unlawful command of a superior.—*Ibid.*, page 229.

To carry the principle of blind obedience to the full extent to which, by easy deduction, it may be extended; to omit or render nugatory the word "lawful," inserted in the mutiny act, would not only degrade the British soldier in his own eyes and in the estimation of his fellow-citizens, but might lay the foundation of a superstructure dangerous, if not fatal, to the constitution itself."—*Ibid.*, page 230.

On a trial arising out of the Newsonbury affair, at Wrexford, in July, 1831, before Chief-Justice Bushe and Judge Johnstone, the following conversation is reported to have taken place:

Sir WILLIAM COX, (a grand juror.) My lord, I would wish to ask your lordship one question: if a military body be called out, and if the commander give the order to fire, whether those acting under his command are exempt from the consequences?

His LORDSHIP. My opinion is that no subject of the king is bound to obey an illegal order, and if an officer give an illegal order those who obey him are not, in my opinion, exempt.

JUROR. Then, my lord, is the soldier to be the judge for himself in the case, whether he is to obey the order or not?

His LORDSHIP. I suppose so.

[This remark of the learned judge caused much discussion among military men; but there appears nothing new in the opinion. There can be no doubt of its being the law of England.—*Author*, 1835.]

Hickman, chapter 17, quotes case of Sutton *vs.* Johnson, (1 D and E, 501,) in which it was decided that—

It cannot be disobedience when obedience is impracticable or legally improper, for the term implies a crime, whereas there can be no criminality in omitting to do what is physically impossible or forbidden by law. The court-martial cannot, however, justify disobedience to a lawful command under any circumstances.

In the case of Mostyn *vs.* Febrigas, 1 Cowper, 180, Lord Mansfield quoted the case of Captain Gambier, decided by him. Admiral Boscawan ordered Captain Gambier to pull down the houses of certain sutlers on the coast of Nova Scotia who supplied the navy and sailors with spirituous liquors. The order was made by the admiral in good faith and executed by Captain Gambier. The result was a suit by the sutler against Captain Gambier and a verdict for £1,000 damages, besides heavy costs. This case is quoted by the Supreme Court of the United States in 13 Howard, 132, and the principles therein decided re-affirmed.

From these English authorities the following principles appear:

First. The soldier is not punishable by the military law for disobedience of "unlawful" orders.

Second. He is punishable by the common law, just as the citizen is, and the plea of orders of his superior, the orders being illegal, would be no justification: the officer giving the orders and the soldier who executes them are alike punishable; and this is true even where death results from the execution of an illegal order, as well as where the rights of property are invaded.

AMERICAN AUTHORITIES.

Among American authorities in regard to this question are the following:

That there must be some limit to this obedience the safety of society imperatively requires, and it is for the Legislature to ascertain and fix this boundary. The article therefore confines the criminalities of disobedience to the case of lawful orders. An unlawful order, being a direct opposition to the commands of the State, can compel no obedience. * * * Still, if the illegality of an order be made out to the satisfaction of the court, the plea is good and the accused must be acquitted. There is no recognizable principle on which submission to unlawful orders can be legally compelled.—*O'Brien on Courts-Martial*, page 82, ed. 1846.)

The principle of conduct is that illegal orders are not obligatory. This must appear as a consequence to the purposes of military service, and that all orders are given in furtherance of the objects contemplated by the laws creating and concerning the military establishment.—*De Hart's Military Law*, page 165.

See also Harwood on Naval Court-Martial, pages 118, 119:

The Judge-Advocate General (Digest of Opinions, edition 1868, page 5) decided that "the laws of the service inflict no punishment upon an officer who disobeys a command of his superior which is contrary to law. The right exists at all times to refuse obedience to such an order, and it may become an imperative duty to do so."

However meritorious and patriotic the motive which induces the officer to order an illegal act, or the subordinate to execute it, neither can escape the penalty.

DECISION OF THE SUPREME COURT OF THE UNITED STATES.

This principle is laid down very clearly in the case of Mitchell *vs.* Harmony, (13 Howard, Supreme Court of the United States,) before referred to. The history of that case is briefly as follows:

Before the commencement of hostilities in Mexico, Harmony planned a trading expedition to Santa Fé, New Mexico, and Chihuahua. When war commenced Kearney prepared an expedition to invade New Mexico, and prevented Harmony from proceeding in advance of the expedition, but permitted him to fall in the rear. Colonel Doniphan succeeded Kearney in command, and when Doniphan moved on the city of Chihuahua Harmony refused to go any further. Whereupon Doniphan ordered Colonel Mitchell to compel Harmony, with his trains, &c., to continue with the army, which order Mitchell executed. When Chihuahua was evacuated Harmony's property was unavoidably left behind, and was confiscated by the Mexicans. Harmony sued Mitchell in the circuit court of the United States for the southern district of New York, and recovered a judgment for $95,855.38, which was sustained by the Supreme Court of the United States.

Mitchell pleaded the usual "military necessity" of the order, upon which point the Supreme Court was very clear. They say, (page 135:)

The movement upon Chihuahua was undoubtedly undertaken from high and patriotic motives. It was boldly planned and gallantly executed, and contributed to the successful issue of the war. * * * The question here is whether the law permits it [private property] to be taken to insure the success of any enterprise against the public enemy which the commanding officer may deem it advisable to undertake. And we think it very clear the law does not permit it.

Quoting and approving the Gambier case, the court say:

The motive was evidently a commendable one, and the act done for the public service; yet it was an invasion of the rights of private property, and without the authority of law, and the officer who executed the order was held liable to an action, and the sutler recovered damages against him to the value of the property destroyed. This case shows how carefully the rights of private property are guarded by the laws of England.

Another plea of Mitchell's was:

Fifth, that he (defendant) acted in obedience to the order of his commanding officer, and therefore is not liable.

The court deemed the plea as worthy of very little consideration. They say, (p. 137:)

The fifth point may be disposed of in a few words. * * * The order given was an order to do an illegal act, to commit a trespass upon the property of another, and can afford no justification to the person by whom it was executed. The case

of Captain Gambier, (1 Cowper, page 180,) to which we have just referred, is directly in point. And upon principle, independent of the weight of judicial authority, it can never be maintained that a military officer can justify himself in doing an unlawful act by producing the order of his superior.

Thus it has been seen that "the custom of the service" and "the supreme law of the land," as interpreted by the Judge Advocate-General and the Supreme Court of the United States, relieve the soldiers from obeying an "unlawful" order, and punish him for any wrong committed in obeying an unlawful order.

Abstract of the militia force of the United States, (organized and unorganized,) according to the latest returns received at the office of the Adjutant-General.

States and Territories.	Organized strength.								Number of men available for military duty, (unorganized.)
	Year.	General officers.	General staff officers.	Regimental, field, and staff officers.	Company officers.	Total commissioned.	Total non-commissioned officers, musicians, privates, &c.	Aggregate.	
Maine	1875	1	19	7	38	65	810	875	78,376
New Hampshire	1875	....	12	12	66	90	1,044	1,134	36,394
Vermont	1875	1	11	9	36	57	569	626	30,112
Massachusetts	1875	4	39	100	305	448	6,248	6,696	247,495
Rhode Island	1875	3	35	89	93	220	1,823	2,043	40,839
Connecticut	1875	1	21	36	110	168	2,266	2,434	61,302
New York	1875	27	302	324	855	1,508	17,971	19,479	483,183
New Jersey	1874	3	37	82	195	317	3,521	3,838	134,257
Pennsylvania	1875	14	148	162	536	860	9,723	10,583	356,393
Delaware*	.....	...	...	...	...	...	...	...	.....
Maryland	1875	1	10	17	63	91	1,168	1,259	88,244
Virginia†	1875	...	...	...	...	...	...	498	.....
West Virginia*	.....	...	...	...	...	...	...	...	.....
North Carolina*	.....	...	...	...	...	...	...	...	.....
South Carolina†	1875	15	30	143	340	537	6,412	6,949	77,040
Georgia*	.....	...	...	...	...	...	...	...	.....
Florida*	.....	...	...	...	...	...	...	...	.....
Alabama*	.....	...	...	...	...	...	...	...	.....
Mississippi	1875	7	20	.....	24	51	604	655	135,178
Louisiana	1875	6	15	3	29	53	773	826	113,209
Texas	1875	1	1	5	81	88	1,188	1,276	74,458
Arkansas	1875	14	33	91	535	673	11,027	11,700	95,165
Kentucky	1875	....	6	.....	46	52	901	953	217,044
Tennessee*	.....	...	...	...	...	...	...	...	.....
Ohio	1875	....	6	15	241	262	4,368	4,630	229,725
Indiana*	.....	...	...	...	...	...	...	...	.....
Michigan	1874	1	9	6	48	64	1,020	1,084	.....
Illinois†	1875	1	9	13	102	185	3,086	3,271	.....
Missouri†	1875	...	...	.....	11	11	217	228	.....
Wisconsin†	1875	3	13	6	80	102	1,635	1,737	.....
Minnesota†	1875	...	...	.....	9	9	151	160	.....
Iowa	1875	....	6	10	203	219	2,400	2,619	169,118
Nebraska	1875	....	17	.....	57	74	762	836	46,000
Kansas	1875	5	8	7	83	103	1,835	1,938	90,000
Nevada*	.....	...	...	...	...	...	...	...	.....
Oregon*	.....	...	...	...	...	...	...	...	.....
California	1875	7	79	38	110	234	2,304	2,538	101,937
Grand aggregate	.....	115	895	1,175	4,356	6,541	83,826	90,865	2,875,469

* Returns not received. † No enrollment.

Mr. ATKINS. I desire to make a statement to the House before I offer a motion which I think is proper to be made if we are to pass this bill at this session.

Mr. HAMILTON, of New Jersey. I rise to a question of order. There is so much confusion in the Hall that we cannot hear what is said by the gentleman from Tennessee.

The SPEAKER. The Chair is inclined to think that most of the noise comes from those in the rear of the seats of members. Unless gentlemen in the rear of the seats are seated, the Chair will cause the lobby to be vacated.

Mr. ATKINS. The session is so far advanced, and so many of the appropriation bills are behind, that if they are to be passed this session it will be necessary, in my opinion, so far at least as the Army appropriation bill is concerned, to have it passed under a suspension of the rules. Before I make that motion I desire to say that there are two or three radical propositions in the bill; two I may say. There is one proposition in the bill that is not so radical; it is this: In this bill, for the purpose of saving clerical hire and for the greater convenience of the service, especially in the quartermaster's department, we have condensed into one appropriating clause the appropriations for regular supplies, incidental expenses, transportation, barracks, and quarters.

The Committee on Appropriations deemed that amendment, or rather that form of the bill, very important for the convenience of the department and for the administration of this arm of the service.

Mr. THORNBURGH. Will my colleague allow me to ask him a question?

Mr. ATKINS. Certainly.

Mr. THORNBURGH. Was the Committee on Military Affairs of this House consulted in regard to that question?

Mr. ATKINS. I do not know that they were; but I do not suppose any member of the Committee on Military Affairs will object to it, and it is earnestly recommended by the Quartermaster-General.

The two most important features of the bill are, first, that it is based upon the number of 17,000 enlisted men; and, second, the provision it contains that the appropriations made by the bill shall not be used for the purposes of sustaining by the Army any State government in any State. This has particular reference to the Packard government and to the Nicholls government in the State of Louisiana. But certainly the terms of the proposition are so broad as to embrace every State or any State.

These, sir, are the principal features of the bill that make it vary or differ from the usual Army appropriation bill.

I move to suspend the rules and put the bill upon its passage.

Mr. WALLING. I desire to ask the gentleman from Tennessee one question. Does this bill by its provisions reduce the rank and file of the Army?

Mr. ATKINS. It does.

Mr. WALLING. To what extent?

Mr. ATKINS. From 27,500 to 17,000.

The Clerk proceeded to read the bill.

Mr. WALLING, (interrupting.) I have an amendment which I propose to offer.

Mr. ATKINS. The bill is not before the House for amendment.

The SPEAKER. The gentleman cannot interrupt the reading of the bill to offer an amendment.

Mr. WALLING. Then I desire to make a point of order.

Mr. ATKINS. I make the point of order that the gentleman is out of order, because the bill is being read for information.

The SPEAKER. The gentleman from Ohio is certainly not in order in interrupting the reading of the bill.

Mr. WALLING. Then I will offer the amendment at the proper time.

The Clerk resumed the reading of the bill.

Mr. CONGER, (interrupting.) If the printed bill is correct, the Clerk is now reading a provision which is not in the bill.

Mr. ATKINS. The bill is being read as it was reported by the committee.

Mr. CONGER. The House was not informed that there was any difference between the printed bill and the manuscript one.

Mr. ATKINS. Yes, sir; it was. I made that remark to the gentleman from Ohio, [Mr. WALLING.]

The Clerk resumed the reading of the bill and read the fifth section thereof, which is as follows:

SEC. 5. That no part of the money appropriated by this act, nor any money heretofore appropriated, shall be applied to the pay, subsistence, or transportation of troops used, employed, or to be used or employed, in support of the claim of Francis T. Nicholls or of S. B. Packard to be governor of the State of Louisiana. Nor shall any of said money be applied in support of the claim of the two bodies claiming to be the Legislature of said State, presided over respectively by L. A. Wiltz and Louis Bush; nor of the two bodies claiming to be the Legislature of said State, presided over respectively by C. C. Antoine and Michael Hahn; nor in support of the claim of Thomas C. Manning and associates to be the supreme court of said State; nor in support of the claim of John T. Ludeling and associates to be the supreme court of said State; nor in the aid of the execution of any process in the hands of the United States marshal in said State issued in aid of and for the support of any of such claims. Nor shall the Army, or any portion of it, be used in support of the claims, or pretended claim or claims, of any State government, or officer thereof, in any State, until the same shall have been duly recognized by Congress. And any person offending against any of the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned at hard labor for not less than five nor more than ten years.

Mr. CONGER. I desire to raise the point of order upon that section, that it is new legislation. The Chair will recollect that points of order were reserved upon this bill.

The SPEAKER. But the gentleman from Tennessee indicates his purpose to move to suspend the rules and pass the bill.

Mr. CONGER. But he has not yet done it, and therefore I have a right to make the point of order.

Mr. ATKINS. I have already submitted the motion to suspend the rules.

Mr. CONGER. That motion has not been made, and I claim the right to make the point of order now.

The SPEAKER. The Chair of necessity must recognize the gentleman from Tennessee as having charge of the bill.

Mr. ATKINS. I have made the motion already to suspend the rules and pass the bill.

Mr. CONGER. The House is not acting under a suspension of the rules. I gave notice that I would reserve all points of order on this bill.

The SPEAKER. The motion to suspend the rules is pending, and the bill is now being read for the information of the House.

Mr. CONGER. And while that motion is pending it is the only opportunity I have to make the point of order which I do.

The SPEAKER. The Chair rules that a motion to suspend the rules suspends the rule under which the gentleman has the right to make the point of order.

Mr. CONGER. Then a motion to suspend the rules has the same effect as the suspension of the rules.

The SPEAKER. The Chair recognized the gentleman from Tennessee to move to suspend the rules and pass the bill.

Mr. SPRINGER. The gentleman from Michigan knows that that suspends all rules.

Mr. CONGER. I make the point of order before the rules are sus-

pended. The gentleman from Illinois [Mr. SPRINGER] is infinite in knowledge, but foolish in regard to this matter. He steps over to this side of the House telling me in his authoritative way the law. Sir, the youngest member of the House cannot even be instructed by that gentleman.

Mr. ATKINS. I make the point of order that the bill is being read for information, and that the reading cannot be interrupted.

Mr. CONGER. I desire the Chair to decide upon the point of order.

The SPEAKER. The Chair does not recognize the gentleman from Michigan at this time to make any point of order, for the Chair has entertained the motion of the gentleman from Tennessee.

Mr. CONGER. Then I ask that he make the motion now.

The SPEAKER. He has made it.

Mr. CONGER. Then I ask that it be put to the House.

The SPEAKER. The Chair is causing the bill to be read for information.

Mr. CONGER. And at that time I raised the point of order.

The SPEAKER. The gentleman will surely recollect that the practice is uniform in this respect, that a motion to suspend the rules suspends that rule under which the gentleman claims the right to make the point of order.

Mr. CONGER. Yes, when the motion to suspend the rules is agreed to.

The SPEAKER. The Chair supposed that the House desired to have the bill read; the gentleman from Tennessee can move to suspend the rules and dispense with the reading.

Mr. BANNING. No member has the right to interrupt the reading of a bill.

The Clerk resumed and concluded the reading of the bill.

Mr. ATKINS. I now demand that my motion to suspend the rules be put to the House.

Mr. FOSTER. I desire unanimous consent that I be allowed five minutes to explain the reasons why I shall support the motion of the gentleman from Tennessee.

Mr. ATKINS. I hope the House will agree to that.

Mr. CONGER. I would like to have five minutes also.

Mr. ATKINS. I have no objection to giving the gentleman from Michigan five minutes.

The SPEAKER. Is there objection that the gentleman from Ohio [Mr. FOSTER] and the gentleman from Michigan [Mr. CONGER] shall each occupy five minutes? The Chair hears no objection.

Mr. FOSTER. I do not agree with the proposition to reduce the Army to 17,000 men. I did agree in the committee to a reduction to 20,000. I am not willing either to vote for the proposition in relation to the use of troops in the States of South Carolina and Louisiana under any circumstances. In my judgment, that is a kind of legislation that this House ought not to indulge in. But we have but two legislative days left, and if we are to avoid an extra session we must pass the bill under a suspension of the rules and allow it to go to the Senate, where they can take such steps at once as will put it into a conference. And in that way we may be able to avoid an extra session, and we can do it only in that way.

While protesting against the two provisions of which I speak (and perhaps there are others in the bill which are objectionable) I shall vote, and I trust my party friends will vote with me, for suspending the rules and passing the bill.

Mr. PAGE. Do you expect the Senate to agree to the provisions in this bill?

Mr. FOSTER. I do not expect them to; I do not know.

Mr. PAGE. Would you prefer an extra session of Congress rather than have this bill passed in its present shape?

Mr. FOSTER. I am not prepared to answer that question now.

Mr. PAGE. I do not want any one to shirk responsibility.

Mr. CONGER. At this, almost the last day of the session, with an urgent necessity to employ every moment of the time of this House in order to pass the necessary appropriation bills and other legislation necessary to carry on this Government, I would be the last member here by any act of mine, or by the expression of my own opinion upon a bill, to retard the onward progress of legislation, if I did not believe that in this proposed bill I found legislation which is unconstitutional, in fact which would be injurious to the best and highest interests of the Republic, which would make the Commander-in-Chief of the Army and Navy of the United States, when engaged, as he may be, if called upon by the proper authorities of a State, in performing his constitutional duties—which would make him a criminal, guilty of a misdemeanor, and liable to be dragged from his place of dignity and trust and of confidence, and imprisoned for five years, more or less, in the penitentiaries of the country.

Sir, I can conceive that party spirit, party rancor may drive good men to adopt ultra measures of legislation in order to secure necessary objects, or to prevent other objects being accomplished; but I cannot conceive it possible that an American member of Congress should be willing for any purpose of partisan spite or of partisan hope to pass a law bearing upon its very face the marks of unconstitutionality. I marvel at it; I wonder that such a provision can ben igrafted in a bill presented to an American Congress.

Sir, has it come to this, indeed, that a law shall be passed by a coordinate branch of the Government prohibiting the Commander-in-Chief of the Army from exercising his constitutional powers, compelling him to choose between the violation of his oath when he accepts office and the duress of the dungeon? Yet no man can deny that such would be the effect of the passage of such a law as now proposed, if the government of a State should ever be in the condition of the States here mentioned and it became the duty of the Legislature or of the governor of that State to invoke the aid of the President of the United States to preserve peace and order.

It makes no difference that this bill provides that the Army shall not be used at the call of either of the governors or of the legislatures supposed to be in the interest of one or the other political party. It is equally unconstitutional; it is a blow at the freedom, the existence of the State. It turns over States of this Union, almost by name, to anarchy, to misrule, to confusion; and I care not which party succeeds.

Mr. HOLMAN. Allow me to ask a question.

Mr. CONGER. I cannot yield; I have not time. I call upon my friends of the republican party to look into the provisions of this bill, and they will see that it opens the way to misrule, to anarchy, to confusion.

Mr. ATKINS. One moment, if the gentleman——

Mr. CONGER. I ask the gentleman to allow me my five minutes. He has occupied the time of this House for hours and I have never objected.

[Here the hammer fell.]

The SPEAKER. The five minutes of the gentleman have expired.

Mr. CONGER. I ask that the time of interruption be not taken from my time. The gentlemen, by interrupting me, have prevented my talking the five minutes. I appeal to my republican friends not to vote for so damnable a bill as this.

Mr. ATKINS. I had no desire to get the gentleman off the floor.

Mr. CONGER. Well, the gentleman succeeded in doing so.

Mr. ATKINS. I hope the House will give the gentleman further time.

Mr. HOLMAN. This bill does not interfere with the power of the President to preserve peace in every State in the Union.

Mr. ATKINS. I hope the gentleman from Michigan [Mr. CONGER] will be allowed more time.

Mr. CONGER. I do not want it.

Mr. ATKINS. Then if you have said all you want, why do you complain?

Mr. CONGER. I did not want to be interrupted while I was speaking.

Mr. ATKINS. All the reply I desire to make to the gentleman from Michigan [Mr. CONGER] is to have read by the Clerk a resolution which was passed by the House of Representatives of the Thirty-fourth Congress.

Mr. CONGER. If we have passed bad laws, then it is time that we should stop.

Mr. ATKINS. That was a republican House.

Mr. CONGER. That is no argument in favor of a bad law.

Mr. ATKINS. I ask that the resolution be read.

The Clerk read as follows:

But Congress hereby disapproving the code of alleged laws officially communicated to them by the President, and which are represented to have been enacted by a body claiming to be the territorial Legislature of Kansas, and also disapproving of the manner in which said alleged laws have been enforced by the authorities of said Territory, expressly declare that until those alleged laws shall have been affirmed by the Senate and House of Representatives as having been enacted by a legal Legislature, chosen in conformity with the organic law by the people of Kansas, no part of the military force of the United States shall be employed in aid of their enforcement, nor shall any citizen of Kansas be required under those provisions to act as a part of the *posse comitatus* of any officer acting as marshal or sheriff in said Territory.

Mr ATKINS. I now demand that the question be put to the House on my motion to suspend the rules.

Mr. STENGER. I call for the yeas and nays. [Cries of "O, no!"] Let the House vote down the call if it chooses.

The yeas and nays were not ordered.

The SPEAKER, (having put the question.) In the opinion of the Chair, two-thirds have voted in the affirmative, and the bill is passed.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. REAGAN. I move to suspend the rules and pass, with two amendments reported from the Committee on Commerce, the bill (H. R. No. 4617) making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes.

The bill was read.

Mr. HOLMAN. I rise to a parliamentary inquiry. Does the gentleman move to suspend the rules and pass the bill?

Mr. REAGAN. I move to suspend the rules and pass the bill with two amendments recommended by the Committee on Commerce.

Mr. DOUGLAS. I rise to say that I resist the motion of the gentleman from Texas, and if an opportunity be afforded shall move to recommit the bill, so as to perfect it in such a way as to do justice to other sections than those named in the bill.

The SPEAKER. Under the motion as made by the gentleman from Texas, the gentleman from Virginia [Mr. DOUGLAS] has not the right to move to recommit.

Mr. DOUGLAS. But I appeal to the justice of this House to sustain me by voting down this motion.

Mr. PAGE. We will do it.

Mr. DOUGLAS. The bill should be recommitted in order that justice may be done to other sections.

Mr. HOOKER. I appeal to the gentleman from Texas to withdraw his motion in order to allow us to offer certain amendments.

Mr. HOLMAN. I call for the yeas and nays on the motion.

Mr. REAGAN. I sent up with the bill two amendments to which the motion to suspend the rules applies. Those amendments have not been read.

Mr. PAGE. Is it in order to move to recommit the bill?

The SPEAKER. The Chair has just stated that it is not, in reply to an inquiry of the gentleman from Virginia, [Mr. DOUGLAS.]

Mr. GOODE. I ask that the two amendments accompanying the bill be read.

The Clerk read as follows:

After line 170 add the following:
For the improvement of the harbor of Sandusky, Ohio, $15,000.
For the removal of rocks from the channel and harbor of Brazos Santiago, Texas, $6,000.

Mr. FORT. Is the bill open to amendment?

The SPEAKER. It is not.

Mr. FORT. If not, why are amendments being read at the desk?

The SPEAKER. The committee reports these amendments, and the motion is to suspend the rules and pass the bill with the amendments. The gentleman from Indiana has called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 118, nays 112, not voting 60; as follows:

YEAS—Messrs. Abbott, Adams, Atkins, Bagby, John H. Bagley, jr., William H. Baker, Ballou, Banks, Banning, Belford, Bell, Bliss, Bradford, Bradley, Buckner, Burleigh, John H. Caldwell, Candler, Carr, Chittenden, Conger, Cook, Cox, Crapo, Culberson, Davy, Denison, Dibrell, Dunnell, Eames, Faulkner, Felton, Field, Finley, Flye, Forney, Foster, Freeman, Frye, Fuller, Goodin, Gunter, Hancock, Hardenbergh, Benjamin W. Harris, Henry R. Harris, John T. Harris, Hartridge, Hartzell, Hatcher, Hathorn, Hendee, Henderson, Abram S. Hewitt, Hill, Hopkins, Hoskins, House, Hubbell, Hunter, Hurd, Hyman, Frank Jones, Kehr, Kelley, Leavenworth, Levy, Luttrell, MacDougall, McCrary, Monroe, New, Norton, O'Brien, O'Neill, Payne, Phelps, Pierce, Platt, Pratt, Purman, Rainey, Rea, Reagan, John Reilly, Riddle, John Robbins, Sobieski Ross, Sampson, Sayler, Scales, Seelye, Singleton, Slemons, William E. Smith, Stone, Strait, Swann, Thomas, Throckmorton, Washington Townsend, John L. Vance, Robert B. Vance, Wait, Gilbert C. Walker, Ward, Erastus Wells, Whitehouse, Wigginton, Willard, Andrew Williams, Alpheus S. Williams, William B. Williams, Benjamin Wilson, James Wilson, Alan Wood, jr., Woodburn, Woodworth, and Young—118.

NAYS—Messrs. Ainsworth, Ashe, George A. Bagley, John H. Baker, Blackburn, Bland, Boone, John Young Brown, William R. Brown, Horatio C. Burchard, Buttz, William P. Caldwell, Campbell, Cannon, Caswell, Cate, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cowan, Crounse, Cutler, Danford, Darrall, Davis, De Bolt, Dobbins, Douglas, Durham, Eden, Egbert, Fort, Franklin, Gause, Glover, Goode, Andrew H. Hamilton, Robert Hamilton, Haralson, Harrison, Hoge, Holman, Hooker, Humphreys, Hurlbut, Jenks, Thomas L. Jones, Joyce, Kasson, Kimball, Knott, Lamar, Franklin Landers, Lapham, Lawrence, Le Moyne, Lynch, Mackey, Magoon, McFarland, McMahon, Meade, Morrison, Mutchler, Nash, Odell, Oliver, Packer, Page, John F. Philips, William A. Phillips, Plaisted, James B. Reilly, Rice, William M. Robbins, Roberts, Robinson, Miles Ross, Savage, Sheakley, Sinnickson, Smalls, A. Herr Smith, Southard, Sparks, Springer, Stenger, Stevenson, Tarbox, Teese, Terry, Thompson, Martin I. Townsend, Tucker, Turney, Van Vorhes, Waddell, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Walsh, Warren, White, Whiting, Wike, Charles G. Williams, James Williams, Jere N. Williams, and Yeates—112.

NOT VOTING—Messrs. Anderson, Bass, Beebe, Blair, Blount, Bright, Samuel D. Burchard, Cabell, Cason, Caulfield, Chapin, Durand, Ellis, Evans, Garfield, Gibson, Hale, Haymond, Hays, Henkle, Goldsmith W. Hewitt, Hoar, Hunton, King, George M. Landers, Lane, Lewis, Lord, Lynde, Maish, McDill, Metcalfe, Miller, Milliken, Mills, Money, Morgan, Neal, Piper, Poppleton, Potter, Powell, Rusk, Schleicher, Schumaker, Stanton, Stephens, Stowell, Thornburgh, Tufts, Waldron, Walling, Warner, Watterson, G. Wiley Wells, Wheeler, Whitthorne, Willis, Wilshire, and Fernando Wood—60.

So (two-thirds not having voted in the affirmative) the House refused to suspend the rules and pass the bill.

During the vote,

Mr. WALLING stated that he was paired with Mr. BLOUNT, a member of the Committee on Appropriations, who if present would vote in the affirmative, while he would vote in the negative.

The vote was then announced as above recorded.

Mr. HURD. I submit the following resolution, and on its adoption demand the previous question.

Whereas it has been decided that a President of the United States may be inaugurated upon the fraudulent action of the returning board of Louisiana;

And whereas men who have so contributed to the election of the Chief Magistrate of this Union ought no longer to be in confinement: Therefore,

Be it resolved, That J. Madison Wells, Thomas C. Anderson, G. Casanave, Louis M. Kenner, now in custody of the Sergeant-at-Arms of this House under its order, be hereby discharged.

Mr. CONGER. I ask for a separate vote.

The SPEAKER. The gentleman from Ohio submits the resolution, and on its adoption demands the previous question.

Mr. HUBBELL. I ask that the resolution be again read.

Mr. COX. I wish to move to refer it to the committeee on the Louisiana election. They have charge of that very question.

Mr. HURLBUT. I ask for a separate vote, first on the resolution and then on the preamble.

Mr. SPRINGER. Is this in order as a privileged question or is it a motion to suspend the rules and pass the resolution?

The SPEAKER. It comes in as a privileged question. The gentleman from Ohio did not move to suspend the rules. He demanded the previous question on the adoption of the preamble and resolution.

Mr. CONGER. I rise to a question of privilege. I move to suspend the rules and recommit the river and harbor bill to the Committee on Commerce.

Mr. WALLING. What question does the gentleman submit?

The SPEAKER. The Chair desires to ask the gentleman from Texas [Mr. REAGAN] a question. Did he not on a former occasion report that bill to the House?

Mr. CONGER. He moved that the rules be suspended to pass the bill.

Mr. FORT. The records will show where the bill is.

The SPEAKER. The bill is in the Committee on Commerce now.

Mr. SAVAGE. What becomes of the proposition of the gentleman from Ohio, [Mr. HURD?]

Mr. CONGER. I understood this river and harbor appropriation bill was reported to the House and that the gentleman from Texas [Mr. REAGAN] moved and failed to suspend the rules and pass it.

The SPEAKER. That bill is with the Committee on Commerce now, and the gentleman from Texas moved that the Committee be discharged from its further consideration and the bill passed. The gentleman from Ohio is now recognized to submit the resolution which has been read.

Mr. HURD. I have demanded the previous question on the preamble and resolution.

Mr. HUBBELL. I ask the preamble and resolution be again read.

The preamble and resolution were again read.

Mr. CONGER. I rise to debate that resolution.

Mr. HURD. I have demanded the previous question.

Mr. CONGER. I rise to debate it, as this is the first day on which it has been offered.

The SPEAKER. It is a question of the highest privilege.

Mr. CONGER. I rise to debate it.

Mr. WALLING. I move to suspend the rules and pass the preamble and resolution.

Mr. HUBBELL. I demand a division on the preamble and resolution.

The SPEAKER. The gentleman is not entitled to a division under a suspension of the rules.

Mr. CONGER. I demand the yeas and nays on the motion to suspend the rules.

The yeas and nays were ordered.

The question was taken; and (two-thirds not voting in favor thereof) it was decided in the negative—yeas 92, nays 87, not voting 111; as follows:

YEAS—Messrs. Abbott, Ainsworth, Bagby, John H. Bagley, jr., Blackburn, Bland, Bliss, Boone, Bradford, Bright, Samuel D. Burchard, John H. Caldwell, William P. Caldwell, Cate, Caulfield, John B. Clarke of Kentucky, Clymer, Cochrane, Cook, Cowan, Culberson, Davis, Dibrell, Eden, Finley, Forney, Franklin, Fuller, Gause, Glover, Goode, Goodin, Andrew H. Hamilton, Robert Hamilton, Hardenbergh, Henry R. Harris, Hartridge, Hartzell, Hatcher, Hooker, Hopkins, House, Humphreys, Hurd, Jenks, Thomas L. Jones, Knott, Franklin Landers, George M. Landers, Le Moyne, Luttrell, Mackey, McFarland, McMahon, Money, Morrison, Mutchler, New, O'Brien, Odell, Phelps, John F. Philips, James B. Reilly, Rice, Riddle, John Robbins, Miles Ross, Savage, Sayler, Sheakley, William E. Smith, Southard, Sparks, Springer, Stenger, Tarbox, Teese, Terry, Throckmorton, Turney, John L. Vance, Robert B. Vance, Waddell, Walling, Walsh, Warner, Whitthorne, Wigginton, Wike, Alpheus S. Williams, Jere N. Williams, and Benjamin Wilson—92.

NAYS—Messrs. Adams, Ashe, George A. Bagley, William H. Baker, Ballou, Banks, Blair, Bradley, William R. Brown, Horatio C. Burchard, Buttz, Campbell, Cason, Conger, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Eames, Flye, Fort, Freeman, Frye, Haralson, Benjamin W. Harris, Hathorn, Hays, Hendee, Henderson, Hoar, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Kasson, Kehr, Kimball, Lapham, Lawrence, Leavenworth, Lynch, Magoon, MacDougall, McCrary, Monroe, Nash, Norton, Oliver, O'Neill, Packer, William A. Phillips, Pierce, Plaisted, Platt, Pratt, Rainey, William M. Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Seelye, Sinnickson, A. Herr Smith, Strait, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Alexander S. Wallace, John W. Wallace, Ward, White, Whitehouse, Whiting, Andrew Williams, Charles G. Williams, William B. Williams, James Wilson, Alan Wood, jr., and Woodworth—87.

NOT VOTING—Messrs. Anderson, Atkins, John H. Baker, Banning, Bass, Beebe, Belford, Bell, Blount, John Young Brown, Buckner, Burleigh, Cabell, Candler, Cannon, Carr, Caswell, Chapin, Chittenden, John B. Clark, jr., of Missouri, Collins, Cox, Crapo, Crounse, Cutler, De Bolt, Douglas, Durand, Durham, Egbert, Ellis, Evans, Faulkner, Felton, Field, Foster, Garfield, Gibson, Gunter, Hale, Hancock, John T. Harris, Harrison, Haymond, Henkle, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Holman, Hunton, Frank Jones, Joyce, Kelley, King, Lamar, Lane, Levy, Lewis, Lord, Lynde, Maish, McDill, Meade, Metcalfe, Miller, Milliken, Mills, Morgan, Neal, Page, Payne, Piper, Poppleton, Potter, Powell, Purman, Rea, Reagan, John Reilly, Roberts, Scales, Schleicher, Schumaker, Singleton, Slemons, Smalls, Stanton, Stephens, Stevenson, Stone, Stowell, Swann, Thomas, Thompson, Thornburgh, Tucker, Charles C. B. Walker, Gilbert C. Walker, Warner, Watterson, Erastus Wells, G. Wiley Wells, Wheeler, Willard, James Williams, Willis, Wilshire, Fernando Wood, Woodburn, Yeates, and Young—111.

So the rules were not suspended, (two-thirds not voting in favor thereof.)

MESSAGE FROM THE SENATE.

A message from the Senate by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, without amendment, a bill of the House of the following title:

The bill (H. R. No. 2229) for the relief of Chancy J. Poore, late a private in Battery G, First New York Light Artillery.

The message further announced that the Senate had passed, with amendments in which the concurrence of the House was requested, bills of the House of the following titles:

A bill (H. R. No. 3925) relating to the production of fruit brandy and to punish frauds connected with the same; and

A bill (H. R. No. 534) for the relief of Rosetta Hert, (late Rosetta

Scoville,) Charles C. Benoist, Emily Benoist, and Logan Fan Fan, half-breed Indians.

The message also announced that the Senate had passed bills of the following titles in which the concurrence of the House was requested:

A bill (S. No. 1111) for the relief of Thomas E. Maley;

A bill (S. No. 667) for the relief of William Wheeler Hubbell, and to make just compensation for the past making or use or vending of his patent explosive shell fuses and percussion exploders by the United States;

A bill (S. No. 177) to authorize the Secretary of War to open and re-adjust the settlements made by the United States Government with the Western and Atlantic Railroad of Georgia; and

A bill (S. No. 407) to authorize the restoration of George A. Armes to the rank of captain.

CORRECTION OF RECORD.

Mr. SAVAGE. I rise to a question of privilege. I am recorded as having voted "no" on the proposition that the vote of Henry N. Sollace be not counted. I voted "ay."

The SPEAKER *pro tempore*, (Mr. O'BRIEN.) The correction will be made.

ORDER OF BUSINESS.

Mr. EDEN. I desire to bring before the House for action at this time the bill (H. R. No. 4433) making appropriations for the payment of claims reported by the commissioners of claims under the act of Congress of March 3, 1871, with amendments.

Mr. COCHRANE. I submit to the Chair that the question before the House is the resolution presented to the House by the gentleman from Ohio, [Mr. HURD,] from the committee of which he is a member, and which is a privileged resolution. The gentleman had demanded the previous question on the resolution. Pending that the gentleman from Ohio [Mr. WALLING] moved to suspend the rules and adopt the resolution. The House has voted upon the question as to whether or not the rules shall be suspended. Two-thirds have not voted to suspend the rules. I ask the Chair whether the question should not now be put to the House upon the motion of the gentleman from Ohio, [Mr. HURD.]

Mr. EDEN. I do not yield for that purpose.

The SPEAKER *pro tempore*. The Chair will state in answer to the gentleman from Pennsylvania——

Mr. HUBBELL. I rise to a question of order.

The SPEAKER *pro tempore*. There is one question of order pending now.

Mr. HUBBELL. My question of order is that I cannot hear what is going on.

The SPEAKER *pro tempore*. The House will come to order. A point of order had been made on the resolution by the gentleman from Ohio, [Mr. HURD.]

Mr. HURD. My resolution is a matter of the highest privilege, involving the custody of persons now detained by the Sergeant-at-Arms.

Mr. EDEN. How did the gentleman from Ohio [Mr. HURD] get the floor?

Mr. HURD. The Speaker recognized me.

Mr. COCHRANE. The Chair recognized the gentleman from Ohio [Mr. HURD] on a privileged question. Pending the demand for the previous question, the gentleman from Ohio [Mr. WALLING] moved to suspend the rules and pass the resolution. That motion not having been sustained, the question recurs on the resolution of the gentleman from Ohio, [Mr. HURD.]

The SPEAKER *pro tempore*. The resolution of the gentleman from Ohio [Mr. HURD] was not in order for consideration at this time. Therefore the gentleman from Ohio [Mr. WALLING] moved to suspend the rules and pass the resolution. The suspension of the rules not having been sustained, the resolution is not before the House. The gentleman from Illinois [Mr. EDEN] is recognized.

Mr. WALLING. I arise to a parliamentary inquiry in reference to the last vote.

The SPEAKER *pro tempore*. The gentleman is not in order. The Chair has recognized the gentleman from Illinois, [Mr. EDEN.]

Mr. WALLING. I insist on my right to make a parliamentary inquiry at any time.

The SPEAKER *pro tempore*. The gentleman is not in order, for the reason that the question to which his inquiry refers is not before the House, and the gentleman from Illinois [Mr. EDEN] has been recognized.

Mr. WALLING. I rose to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The Chair rules it out of order. Has the gentleman from Illinois the bill on which he asks the action of the House?

Mr. EDEN. The bill has been reported with certain amendments. The Clerk has it.

The SPEAKER *pro tempore*. The Chair will wait a few minutes while the bill is sent for. In the meantime the House will preserve order.

Mr. HARRISON. Meanwhile I desire to offer the resolution which I send to the desk.

Mr. WALLING. I object. If I was not in order, other gentlemen are not in order in offering resolutions.

Mr. WHITE. I rise to make a parliamentary inquiry. How long shall we have to wait?

The SPEAKER *pro tempore*. That is a matter within the discretion of the Chair. [Laughter.]

Mr. WHITE. Will the Chair entertain a resolution that I desire to offer now by unanimous consent? [Loud cries of "Regular order!" and great confusion.]

Mr. RUSK. Whom are you going to recognize, Mr. Speaker?

Mr. JONES, of Kentucky. What proposition is before the House?

The SPEAKER *pro tempore*. The Chair trusts the House will indulge the gentleman from Illinois until the bill which he desires to have passed can be brought here. [Loud cries of "Regular order!" and confusion.]

The SPEAKER *pro tempore*. The Chair informs the gentleman from Illinois [Mr. EDEN] that the bill upon which he desires action is not in the possession of the Clerk.

Mr. EDEN. Then I withdraw my motion. [Loud cries of "Regular order!" and confusion.]

GEORGE A. ARMES.

Mr. GLOVER. I move that the rules be suspended and the bill (S. No. 407) to authorize the restoration of George A. Armes to the rank of captain be passed. [Cries of "Object!"] I have moved a suspension of the rules and that the bill be passed.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of law regulating appointments in the Army by promotion in the line are hereby suspended, for the purposes of this act, and only so far as they affect George A. Armes; and the President can, if he so desire, in the exercise of his own discretion and judgment, nominate, and, by and with the advice and consent of the Senate, appoint said George A. Armes, late captain in the Tenth United States Cavalry Regiment, to the same grade and rank of captain held by him on June 7, 1870 in any vacancy occurring: Provided, however, That no pay, compensation, or allowance whatever shall ever be given to said Armes for the time between June 7, 1870, and the date of appointment hereunder.

Mr. TEESE. I object to the passage of that bill, and I objected in season. I desire to hear the report on which the bill is founded, and then I propose to object to the bill.

The SPEAKER *pro tempore*. The motion to suspend the rules suspends the reading of the report.

Mr. TEESE. But I objected to the motion in the first place.

The SPEAKER *pro tempore*. The gentleman could not object to a motion to suspend the rules.

The question was taken on Mr. GLOVER's motion; and upon a division there were—ayes 100, noes not counted.

Mr. TEESE. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. FORT. We do not know anything about this case, and I ask that unanimous consent be given to the gentleman from Missouri [Mr. GLOVER] to explain it.

The SPEAKER *pro tempore*. The bill will be again read.

The Clerk again read the bill.

Mr. STONE. I move that the House adjourn.

The SPEAKER *pro tempore*. That motion is not now in order, and the Clerk will proceed to call the roll.

The question was taken; and there were—yeas 112, nays 74, not voting 104; as follows:

YEAS—Messrs. Adams, Ainsworth, Ashe, George A. Bagley, John H. Bagley, jr., Banning, Belford, Bland, Bliss, Boone, Bradford, Bright, Samuel D. Burchard, Buttz, John H. Caldwell, William P. Caldwell, Campbell, Candler, Cason, Cate, Collins, Cook, Cox, Culberson, Davis, Davy, De Bolt, Denison, Eden, Egbert, Ellis, Faulkner, Felton, Field, Forney, Franklin, Fuller, Glover, Goode, Goodin, Andrew H. Hamilton, Haralson, Benjamin W. Harris, Henry R. Harris, John T. Harris, Harrison, Hartzell, Hatcher, Haymond, Hendee, Henkle, Abram S. Hewitt, Hill, Hooker, House, Thomas L. Jones, Kehr, Knott, Franklin Landers, George M. Landers, Lord, Luttrell, Mackey, MacDougall, McFarland, McMahon, Mutchler, New, Odell, Page, John F. Philips, William A. Phillips, Pierce, Rea, Reagan, John Reilly, Riddle, John Robbins, William M. Robbins, Roberts, Rusk, Savage, Scales, Sheakley, Singleton, Slemons, A. Herr Smith, Sparks, Stenger, Stone, Terry, Thomas, Thompson, Throckmorton, Turney, Robert B. Vance, Waddell, Wait, John W. Wallace, Walling, Walsh, Watterson, Erastus Wells, Whitehouse, Willard, Andrew Williams, Alpheus S. Williams, James Williams, Wilshire, Benjamin Wilson, Woodworth, and Yeates—112.

NAYS—Messrs. Bagby, John H. Baker, William H. Baker, Ballou, Banks, Blair, Bradley, William R. Brown, Horatio C. Burchard, Burleigh, Cannon, Caswell, Conger, Crounse, Darrall, Dobbins, Douglas, Durham, Eames, Fort, Freeman, Frye, Garfield, Robert Hamilton, Hancock, Hardenbergh, Hathorn, Hays, Henderson, Hoar, Hoskins, Humphreys, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kelley, Lapham, Lawrence, Leavenworth, Le Moyne, Magoon, McCrary, McDill, Monroe, Neal, Norton, Oliver, O'Neill, Packer, Plaisted, Platt, Rainey, Robinson, Sobieski Ross, Sampson, Seelye, Smalls, Southard, Stanton, Teese, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Waldron, Alexander S. Wallace, White, Wigginton, Wike, William B. Williams, and James Wilson—74.

NOT VOTING—Messrs. Abbott, Anderson, Atkins, Bass, Beebe, Bell, Blackburn, Blount, John Young Brown, Buckner, Cabell, Carr, Caulfield, Chapin, Chittenden, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Cowan, Crapo, Cutler, Danford, Dibrell, Dunnell, Durand, Evans, Finley, Flye, Foster, Gause, Gibson, Gunter, Hale, Hartridge, Goldsmith W. Hewitt, Hoge, Holman, Hopkins, Hubbell, Hunton, Hurd, Jenks, Frank Jones, Kimball, King, Lamar, Lane, Levy, Lewis, Lynch, Lynde, Maish, Meade, Metcalfe, Miller, Milliken, Mills, Money, Morgan, Morrison, Nash, O'Brien, Payne, Phelps, Piper, Poppleton, Potter, Powell, Pratt, Purman, James B. Reilly, Rice, Miles Ross, Sayler, Schleicher, Schumaker, Sinnickson, William E. Smith, Springer, Stephens, Stevenson, Stowell, Strait, Swann, Tarbox, Tucker, John L. Vance, Charles C. B. Walker, Gilbert C. Walker, Ward, Warner, Warren, G. Wiley Wells, Wheeler, Whiting, Whitthorne, Charles G. Williams, Jere N. Williams, Willis, Alan Wood, jr., Fernando Wood, Woodburn, and Young—104.

So (two-thirds not voting in favor thereof) the rules were not suspended.

PAYMENT OF CLAIMS.

Mr. EDEN. I move to suspend the rules for the purpose of considering at this time the bill (H. R. No. 4433) making appropriations for the payment of claims reported allowed by the Commissioners of Claims under the act of Congress of March 3, 1871. I have an amendment which I desire to offer to it.

Mr. WALLING. I demand the reading of the bill and amendment.

The SPEAKER *pro tempore*. The motion of the gentleman from Illinois [Mr. EDEN] is to suspend the rules and pass the bill without reading.

Mr. WALLING. No such motion was made.

Mr. LUTTRELL. I move to dispense with the reading of the bill.

Mr. EDEN. I will state what my motion was; and if I can get the attention of these gentlemen I think I can satisfy even the gentleman from Ohio [Mr. WALLING] as to this amendment. I cannot do it, however, in the prevailing confusion and unless I can have the attention of the House.

Mr. WALLING. If debate is in order I expect to be heard myself.

Mr. EDEN. I have no objection to the gentleman being heard. I wish to ask unanimous consent that the reading of the names and the amounts in this bill be dispensed with. I will state that it is a bill simply to pay the awards made by the commissioners of claims, and does not include a single item except what has been allowed by that commission. The amount of their allowance has in no instance been increased.

Mr. GARFIELD. Is it a bill to pay the amount embraced in the report of the southern claims commission?

Mr. EDEN. It is.

Mr. GARFIELD. Is there any new legislation in the bill?

Mr. EDEN. There is not.

Mr. GARFIELD. Then I hope there will be no objection to it.

Mr. WALLING. I make the point of order that this bill provides for the payment of claims and has not yet been considered in Committee of the Whole.

Mr. HOLMAN. I insist upon the bill being read.

Mr. EDEN. I would inquire of the gentlemen from Indiana [Mr. HOLMAN] if he desires to have read sixty pages of names and amounts, that will give nobody any more information than I could give by a few minutes' explanation? A bill of this character has never heretofore been read on any occasion when it has been passed. If the gentleman insists upon the reading of it, I suppose he has the right to do so.

Mr. GARFIELD. Why does not the gentleman move to suspend the rules and pass the bill?

Mr. HOLMAN. All I wish is that the gentleman from Illinois [Mr. EDEN] will give us a statement as to the number of claims reported by the southern claims commission to the present Congress, the general character of those claims, and the fact whether or not the Committee on War Claims, as far as possible, have looked into the records sent to the House by that commission; and also to state the aggregate amount involved, with such other facts pertaining to the southern claims commission as will inform the House of the character of the bill which we are now asked to pass. I understand that this bill involves an appropriation of $600,000.

Mr. EDEN. Not so much as that.

Mr. HOLMAN. I hope it is not so much; perhaps it is not so much as that. But I think this statement is due to the House in order that members may be able to act intelligently.

The SPEAKER. That is just what the gentleman from Illinois [Mr. EDEN] desires to do. He moves to suspend the rules so as to bring this bill before the House for consideration at this time.

The motion of Mr. EDEN was agreed to, two-thirds voting in favor thereof.

Mr. EDEN. In response to the gentleman from Indiana [Mr. HOLMAN] I would state that this appropriation is in pursuance of an act of Congress passed on the 3d of March, 1871, under which act a commission was appointed, called the commissioners of claims, consisting of three persons nominated by the President and confirmed by the Senate. Under the provisions of that law persons living in the insurrectionary States who were loyal and who had furnished supplies to the Army or Navy of the United States, upon making proof of loyalty and proof of the amount and justice of their claim, and that the supplies were taken for the use of the Army or Navy, such persons were entitled to compensation to the amount that the commission might find to be due.

Mr. WALLING. Is it in order to call for the reading of the bill which is at the Clerk's desk?

The SPEAKER. The gentleman from Illinois [Mr. EDEN] has the floor upon the bill.

Mr. WALLING. I reserve my right to call for the reading of the bill.

Mr. EDEN. This is the sixth annual report of that commission. I believe the amount in this report is smaller than in any preceding report. The whole number of claims passed upon by the commission in this report is eighteen hundred and sixty-six, of which there were allowed in whole or in part nine hundred and seventy-six. The whole amount involved in the claims was $4,264,877.71, and the amount allowed was $474,632.45; and the commission in a subsequent report allowed about $500 more.

As I stated a moment since, this commission is composed of three gentlemen appointed by Presinent Grant and confirmed by the Senate of the United States. This is their sixth annual report. Appropriations have been made at every session of Congress since the commission was organized, to pay the awards of the commission. The Committee on War Claims have given to these cases all the attention they possibly could give them. There are in this report a great many smaller claims; but all claims involving any considerable amount were examined by members of the committee, and this bill is reported by the unanimous direction of the Committee on War Claims.

Mr. CONGER. Will the gentleman state to the House whether the law requires a commission to report all their judgments on these claims to the House for our action here?

Mr. EDEN. That is the fact.

Mr. HOOKER. I desire to ask the gentleman from Illinois how many claims referred to that commission have not been acted upon by them, and further, whether it is not the custom of the commission in ascertaining the validity of any claims from Southern States to send special agents to take *ex parte* testimony, for the purpose of defeating the claims presented for consideration?

Mr. EDEN. The practice of the commission is to send special agents into the Southern States to make investigation in reference to the correctness of the claims and the loyalty of the claimants.

Mr. HOOKER. Do they not take *ex parte* testimony, without notice to the claimants at the time such testimony is taken?

Mr. EDEN. I can speak only with reference to the law. The law authorizes the commission to adopt their own mode of procedure.

Mr. HOOKER. I know that the commission has sent agents into Mississippi and taken testimony without notice to the claimants.

Mr. EDEN. That is probably true; but it is not probable, however, that such a mode of procedure would do injustice to the Government, though it might in some cases do injustice to the claimant.

Mr. HOOKER. That is the reason I want to know whether the claims that were not acted on by the commission were returned to you.

Mr. EDEN. The whole number of claims filed before the commission was 22,298. There was a limitation of two years from the passage of the act within which claims should be filed. The whole amount involved in those claims, I believe, was over $60,000,000. The commission has passed upon about one-half of those claims and made very great reductions, probably allowing not more than one-fifth or one-sixth of the amount of the claims.

Mr. HOOKER. Does the gentleman mean that the commission has passed upon one-half the number of claims presented or one-half the amount of the claims?

Mr. EDEN. They have passed upon one-half of the number of claims and probably one-half of the amount. But they have not allowed one-half of the amount claimed; they have made very great reductions; and in this respect some gentlemen of the South may believe that there has been some ground of complaint on account of these special agents. But I wish to call attention to the fact that such a system would not probably do the Government any injustice; and from the experience I have had in the examination of war claims, I am satisfied it is necessary that this commission, or any other tribunal that undertakes to settle war claims, whether they come from the North or the South, must use a great many precautions in order to see that the Government is not defrauded; and in so doing doubtless many just claims will not be allowed. This bill does not include what are known as the 4th of July claims, the claims coming from the Quartermaster's Department. It includes only claims reported by the commissioners of claims.

Mr. HARRISON. From what localities in the United States are these commissioners appointed?

Mr. EDEN. They are all appointed from the Northern States: Judge Addis, from Vermont; Judge Howell, (formerly a Senator,) from Iowa; and Judge Ferriss, (formerly a member of this House,) from New York.

Mr. SINGLETON. Is it not the fact that these commissioners have adjudged every man to be *prima facie* a rebel against the Government? Do they not in every instance require affirmative proof of loyalty to the Government?

Mr. EDEN. They require actual proof of loyalty in every case as a condition-precedent to the consideration of the claim upon its merits.

There was one portion of the question of my friend from Mississippi that I did not answer. The number of claims yet undisposed of, including the eighteen hundred embraced in this bill, is 11,210.

Mr. HOOKER. And that is about one-half of the whole number?

Mr. EDEN. Yes, sir.

Mr. HOOKER. Are any claims sent to your committee except those favorably reported by the commissioners?

Mr. EDEN. We have not reported a dollar in this bill except what the commission has recommended.

Mr. HOOKER. As I understand, then, all the claims, whether favorably or unfavorably acted upon by the commission, are sent to your committee, but you have not acted at all upon any of those reported unfavorably by the commission.

Mr. EDEN. That is the fact. I now call the previous question on the bill and amendments.

Mr. WALLING. I inquire whether we have not the right to have the bill read before it is disposed of.

The SPEAKER. The practice has never been to read the schedule of claims appended to bills of this character.

Mr. WALLING. Every Monday morning of this session bills introduced have been read *in extenso* upon the demand of one member. I demand the reading of this bill.

Mr. EDEN. I move to suspend the rules and pass the bill with the amendments of the committee without reading.

The motion of Mr. EDEN was agreed to, (two-thirds voting in favor thereof;) and the bill, with the amendments of the committee, was accordingly passed.

Mr. HOLMAN. I rise to move a recess of the House, and desire to state the object of the motion if I can get the ear of the House.

The SPEAKER. The necessity of a recess for an evening session is so manifest the Chair thinks the House will at once accede to it.

Mr. HOLMAN. I wish to call attention to the importance of the House being full to-night.

Mr. WALLING. I demand the regular order.

Mr. HOLMAN. I move the House take a recess until eight o'clock to-night.

The motion was agreed to; and accordingly (at ten minutes after five o'clock p. m.) the House took a recess until eight o'clock this evening.

AFTER THE RECESS.

At eight o'clock p. m. the House resumed its session.

CONTESTED-ELECTION CASES.

Mr. HARRIS, of Virginia, from the Committee of Elections, reported the following resolution, and moved that the rules be suspended and the resolution adopted; which motion was agreed to:

Resolved, That there be printed for the use of the House the usual number of copies of the digest of contested-election cases, by the clerk of the Committee of Elections, together with a full index to the same, to be prepared by the said clerk; for which, and for the necessary preparation and superintendence connected therewith, shall be paid by the Clerk of the House a per diem for days actually employed therein, not exceeding that paid to clerks of committees during the session of Congress, the aggregate amount not to exceed $1,500, and not more than $500 shall be paid before the work is completed.

REAL-ESTATE POOL.

Mr. GLOVER. I am directed by the Committee on Real-Estate Pool to ask that the testimony taken before that committee be printed.

Mr. WILSON, of Iowa. What testimony?

Mr. GLOVER. The testimony taken before that committee.

Mr. WILSON, of Iowa. What is the subject of it?

Mr. GLOVER. The various subjects investigated by that committee.

Mr. WILSON, of Iowa. Relative to the charges against Mr. GARFIELD?

Mr. GLOVER. Part of it is testimony taken in that case.

Mr. WILSON, of Iowa. I object, unless it is passed under suspension of the rules.

Mr. GLOVER. Mr. GARFIELD has seen it and does not object to having it printed.

Mr. WILSON, of Iowa. I object unless it is passed under suspension of the rules.

Mr. GLOVER. I move to suspend the rules, and that the testimony be ordered to be printed. I understood from Mr. GARFIELD that he would not object to the printing of the testimony.

Mr. GARFIELD rose.

Mr. WILSON, of Iowa. The gentleman from Ohio is now present.

Mr. GARFIELD. I understand there is some testimony referring to myself. I have seen but a single deposition, but I am told there is considerable more. I do not think it just, until I shall have a chance to see what it is, that it should be printed. So far as that one deposition is concerned, I do not object, but I have not had any opportunity to see the rest.

Mr. GLOVER. If the gentleman from Ohio has not seen the testimony, it is because he did not apply for it. It is much of the same nature.

Mr. GARFIELD. I wish to say for myself that I do not think a vast mass of testimony reflecting on individuals should be printed in this way. I have not seen all the testimony referring to myself. I do not think it should be printed until I have seen it. So far as the one deposition I have seen, I do not object to that being printed.

Mr. WILSON, of Iowa. Did you have an opportunity to cross-examine the witnesses?

Mr. GARFIELD. I did not.

Mr. WILSON, of Iowa. I will object, then, unless it is done under a suspension of the rules.

Mr. GLOVER. I move to suspend the rules and print the testimony.

Mr. HARRIS, of Virginia. I desire to ask a question. Did the gentleman have knowledge of the taking of the testimony, and if so, did he attend?

Mr. GLOVER. The gentleman has had knowledge since the day before yesterday morning of the taking of the testimony.

Mr. GARFIELD. Then, for the first time, I had information that testimony was taken before that committee.

Mr. WILSON, of Iowa. It is a gross outrage to have an investigation going on against him without letting him know. I protest against it to the utmost.

Mr. GLOVER. I desire to repel the insinuation of the gentleman there has been any outrage in the matter. There is but little new matter in this concern. It is a review of a matter which appeared before the joint select committee of the House in the Forty-third Congress. There are some features of new testimony, all of which Mr. GARFIELD has had liberty to see for over two days.

We omitted giving any public notice of this testimony until the committee had reached a point where, in their judgment, it reflected on Mr. GARFIELD. At that point we notified him; and he has had two days now in which he could have reviewed the whole of this testimony, for there is not much of it.

Mr. WILSON, of Iowa. I insist without any disrespect to the gentlemen on that committee that when a committee enters upon an investigation in regard to a member of this House without his knowing what is being done they perpetrate an outrage on the rights of that member.

Mr. GLOVER. The gentleman from Ohio [Mr. GARFIELD] has known all about it from the day the first testimony was given before that committee.

Mr. WILSON, of Iowa. He says he did not.

Mr. GLOVER. I know that he did know it.

Mr. WILSON, of Iowa. The word of the gentleman from Ohio is as good as that of the gentleman from Missouri.

Mr. GLOVER. I know that one of those witnesses went to the house of the gentleman from Ohio before breakfast in the morning and informed him of the fact that he had been subpœnaed before the committee, and Mr. GARFIELD knew what the witness had to say. The gentleman from Iowa [Mr. WILSON] has brought this out by his unbecoming and unnecessary reflections upon the committee.

Mr. GARFIELD. If anybody here desires to assail me now is the time, and let the assault be made as promptly and by as many as please. But I propose to know who my assailants are and what they say before their assaults shall be printed as part of the proceedings of the House.

Mr. PRATT. I desire to inquire of the Chair if it is not necessary that this request should come from the committee. I am on that committee and know nothing of any desire on the part of the committee to have the testimony printed.

The SPEAKER. The Chair must take the word of the gentleman from Missouri [Mr. GLOVER] as representing the wish of the committee; he being chairman of the committee.

Mr. O'BRIEN. Is it in order to have the testimony read?

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4306) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1878, and for other purposes.

The message further announced that the Senate had passed, without amendment, bills of the House of the following titles:

The bill (H. R. No. 1611) authorizing the change of the name of the sloop Addie Parker;

The bill (H. R. No. 1765) respecting the limits of reservations for town sites upon the public domain;

The bill (H. R. No. 1824) to change the name of the pleasure yacht Hiram B. to Iola; and

The bill (H. R. No. 3574) for the relief of Marshal P. Thatcher.

The message further announced that the Senate agreed to the resolution of the House to print 300,000 copies of the Report of the Commissioner of Agriculture for the year 1876.

REAL-ESTATE POOL.

The SPEAKER. The gentleman from Missouri [Mr. GLOVER] moves to suspend the rules, that he may be permitted to report from the Committee on the Real-Estate Pool certain testimony, and that the same may be printed.

A *viva voce* vote being taken on the question, the Speaker stated that in the opinion of the Chair two-thirds had not voted in the affirmative.

Mr. GLOVER. I call for a division.

Mr. BANNING. I think the House will, on a division, find itself without a quorum. I suggest that by unanimous consent action be taken on pension bills until we have a quorum.

Mr. HAMILTON, of Indiana. I call for the regular order.

The SPEAKER. The Chair is inclined to think that there is a quorum present. A vote on the motion of the gentleman from Missouri [Mr. GLOVER] will develop whether there is or not.

The question being taken, there were—ayes 42, noes 34.

Mr. GLOVER. I call for the yeas and nays.

Mr. HAMILTON, of Indiana. I make the point that a quorum has not voted.

Mr. BAKER, of Indiana. That point is made too late.

The question being taken on ordering the yeas and nays, there were ayes 23.

Mr. WILSON, of Iowa. Count the other side.

The other side being counted, there were noes 42.

So (the affirmative being more than one-fifth of the whole vote) the yeas and nays were ordered.

The question was taken; and there were—yeas 65, nays 62, not voting 163; as follows:

YEAS—Messrs. Ainsworth, Bagby, John H. Bagley, jr., Banning, Bell, Blount, Boone, John Young Brown, Buckner, John H. Caldwell, Candler, Caulfield, Collins, Cowan, Davis, De Bolt, Dibrell, Eden, Finley, Forney, Glover, Goodin, Andrew H. Hamilton, Hardenbergh, Hartzell, Hatcher, Haymond, Henkle, Hill, Hooker, House, Humphreys, Jenks, Thomas L. Jones, Franklin Landers, Levy, Neal, O'Brien, John F. Philips, Poppleton, Rea, Reagan, John Reilly, James B. Reilly, Riddle, Savage, Sheakley, Sparks, Springer, Stenger, Stevenson, Tarbox, Terry, Thomas, Thompson, Turney, Robert B. Vance, Charles C. B. Walker, Walsh, Erastus Wells, Whitehouse, Whitthorne, Wigginton, Wike, and Yates—65.

NAYS—Messrs. Adams, John H. Baker, William H. Baker, Ballou, Banks, Belford, Blair, Bradley, William R. Brown, Caswell, Chittenden, Conger, Crapo, Crounse, Danford, Darrall, Dobbins, Dunnell, Foster, Frye, Benjamin W. Harris, Hathorn, Hays, Hubbell, Joyce, Kelley, Kimball, Lapham, Lawrence, Lynch, MacDougall, McDill, Monroe, Oliver, O'Neill, Packer, Page, William A. Phillips, Pierce, Pratt, Rainey, Robinson, Sobieski Ross, Rusk, Sampson, Seelye, Sinnickson, A. Herr Smith, Strait, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Wait, Waldron, Alexander S. Wallace, John W. Wallace, White, Willard, Charles G. Williams, William B. Williams, and James Wilson—62.

NOT VOTING—Messrs. Abbott, Anderson, Ashe, Atkins, George A. Bagley, Bass, Beebe, Blackburn, Bland, Bliss, Bradford, Bright, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Cabell, William P. Caldwell, Campbell, Cannon, Carr, Cason, Cate, Chapin, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Cook, Cox, Culberson, Cutler, Davy, Denison, Douglas, Durand, Durham, Eames, Egbert, Ellis, Evans, Faulkner, Felton, Field, Flye, Fort, Franklin, Freeman, Fuller, Garfield, Gause, Gibson, Goode, Gunter, Hale, Robert Hamilton, Hancock, Haralson, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hendee, Henderson, Abram S. Hewitt, Goldsmith W. Hewitt, Hoar, Hoge, Holman, Hopkins, Hoskins, Hunter, Hunton, Hurd, Hurlbut, Hyman, Frank Jones, Kasson, Kehr, King, Knott, Lamar, George M. Landers, Lane, Leavenworth, Le Moyne, Lewis, Lord, Luttrell, Lynde, Mackey, Magoon, Maish, McCrary, McFarland, McMahon, Meade, Metcalfe, Miller, Milliken, Mills, Money, Morgan, Morrison, Mutchler, Nash, New, Norton, Odell, Payne, Phelps, Piper, Plaisted, Platt, Potter, Powell, Purman, Rice, John Robbins, William M. Robbins, Roberts, Miles Ross, Sayler, Scales, Schleicher, Schumaker, Singleton, Slemons, Smalls, William E. Smith, Southard, Stanton, Stephens, Stone, Stowell, Swann, Teese, Throckmorton, Tucker, Van Vorhes, John L. Vance, Waddell, Gilbert C. Walker, Walling, Ward, Warner, Warren, Watterson, G. Wiley Wells, Wheeler, Whiting, Andrew Williams, Alpheus S. Williams, James Williams, Jere N. Williams, Willis, Wilshire, Benjamin Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Young—163.

So (two-thirds not voting in favor thereof) the rules were not suspended.

During the roll-call,

Mr. HUBBELL said: I am requested to state that Mr. KNOTT is absent on account of illness; if present he would vote "ay."

The result of the vote was then announced as above recorded.

Mr. HAMILTON, of Indiana. No quorum has voted. I move a call of the House.

ENROLLED BILLS SIGNED.

The SPEAKER. Pending that motion the Chair lays before the House a report from the Committee on Enrolled Bills.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

An act (H. R. No. 256) for the relief of Herman Hulman, of Terre Haute, Indiana;

An act (H. R. No. 1016) for the relief of Virginia E. White, of Ohio County, West Virginia;

An act (H. R. No. 1253) granting to the State of Missouri all lands therein selected as swamp and overflowed lands;

An act (H. R. No. 2229) for the relief of Chancy J. Poore, late a private in Battery G, First New York Light Artillery; and

An act (H. R. No. 4117) for the relief of Colonel Frank L. Woolford, late of the First Kentucky Cavalry Volunteers, of certain disabilities.

WITHDRAWAL OF PAPERS.

On motion of Mr. HARDENBERGH, leave was granted for the withdrawal from the files of the House of the papers in the case of Major Henry G. Healey.

On motion of Mr. VANCE, of North Carolina, leave was granted to withdraw from the files of the House the original papers accompanying the bill H. R. No. 3210, no adverse report having been made thereon.

JOHN KELLEY.

On motion of Mr. HARRIS, of Virginia, it was ordered that the leave given him to withdraw from the files of the House the papers in the case of John Kelley be rescinded, as the request was made under a misapprehension.

LEAVE TO PRINT.

Mr. SPARKS, by unanimous consent, was granted leave to print as a part of the debates in the CONGRESSIONAL RECORD some remarks upon the electoral bill.

NATIONAL COUNCIL OF THE OSAGE INDIANS.

Mr. WILSHIRE. I ask unanimous consent to report a substitute for the bill (H. R. No. 3079) to authorize the execution of a resolution of the national council of the Osage Indians.

There was no objection, and the bill was recommitted to the Committee on Indian Affairs, and ordered to be printed.

SILVER COMMISSION.

The SPEAKER, by unanimous consent, laid before the House the report of the silver commission, the same having been placed in his hands by the gentleman from Missouri, [Mr. BLAND,] and asked the same be printed.

There was no objection, and the report was ordered to be printed.

CORRECTION.

Mr. WIKE. I notice in the RECORD that I am recorded as having voted in the negative yesterday on the proposition of the gentleman from New York [Mr. WOOD] not to count the vote of Mr. Sollace as one of the electors of the State of Vermont. I voted in the affirmative, and I wish the record to show that fact.

The SPEAKER. The Journal and the RECORD will be corrected accordingly.

MAIL ROUTES.

The SPEAKER, by unanimous consent, laid before the House a memorial from the council and house of representatives of the Territory of Montana, in relation to the mail-route from Bozeman City, Montana, to Cheyenne, Wyoming; which was referred to the Committee on the Post-Office and Post-Roads.

HARBORS OF REFUGE ON OHIO RIVER.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting the report of the chief engineer in reference to harbors of refuge on the Ohio River; which was referred to the Committee on Commerce.

PUBLIC SCHOOLS IN THE TERRITORY OF MONTANA.

The SPEAKER also, by unanimous consent, laid before the House a memorial from the legislative council and house of representatives of Montana Territory in reference to the establishment of public schools in that Territory; which was referred to the Committee on Education and Labor.

TERRITORIAL OFFICES.

The SPEAKER also, by unanimous consent, laid before the House a joint memorial from the legislative council and house of representatives of Montana Territory in relation to certain territorial offices; which was referred to the Committees on Territories.

NATIONAL HOME FOR DISABLED SOLDIERS.

The SPEAKER also, by unanimous consent, laid before the House the report of the managers of the National Home for Disabled Volunteer Soldiers; which was referred to the Committee on Military Affairs.

ORDER OF BUSINESS.

Mr. LANDERS, of Indiana. I ask unanimous consent to introduce a bill.

Mr. O'BRIEN. I object, and demand a call of the House.

The SPEAKER. The Chair desires to accommodate gentlemen who have measures to introduce

Mr. HAMILTON, of Indiana. I object and call for the regular order, and that is a call of the House, as no quorum is present.

The SPEAKER. The Chair thinks a quorum is present.

Mr. HAMILTON, of Indiana. I insist on the motion that there be a call of the House, and object to everything but the regular order.

The SPEAKER. The Chair is of the opinion that there is a quorum present.

SALE OF DESERT LANDS.

Mr. LUTTRELL. The bill (H. R. No. 4231) to provide for the sale of desert lands in certain States and Territories has been returned from the Senate with amendments. I move that the amendment of the Senate be non-concurred in, and that a committee of conference be asked upon the disagreeing votes of the two Houses thereon.

Mr. O'BRIEN. I withdraw the motion for a call of the House.

Mr. GLOVER. I desire to withdraw the motion to print testimony at this time.

LEWIS E. CAMPBELL.

Mr. LANDERS, of Indiana, by unanimous consent, introduced a bill (H. R. No. 4695) granting a pension to Lewis E. Campbell, Company K, Twenty-first Regiment Indiana Heavy Artillery; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOAB ALBERTSON.

Mr. LANDERS, of Indiana, also, by unanimous consent, introduced a bill (H. R. No. 4696) granting a pension to Joab Albertson, of Company K, Twenty-first Regiment Indiana Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CURRENCY AND SILVER COIN.

Mr. LANDERS, of Indiana, also, by unanimous consent introduced a bill (H. R. No. 4697) to compel the gradual retirement of national-bank currency and to authorize an issue of United States Treasury notes in lieu thereof; also to repeal an act entitled "An act to provide for the resumption of specie payments," approved January 14, 1875, and also to provide for the coinage of silver dollars; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

Mr. STEVENSON. I ask unanimous consent that the bill just in-

troduced by the gentleman from Indiana [Mr. LANDERS] may be printed in full in the RECORD.

There was no objection and it was so ordered.

The bill is as follows:

An act to compel the gradual retirement of national-bank currency and to authorize an issue of United States Treasury notes in lieu thereof; also to repeal an act of Congress entitled "An act to provide for the resumption of specie payments," approved January 14, 1875, and also to provide for the coinage of silver dollars.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each and every banking association in the United States shall pay a tax upon its circulation, in addition to the tax now authorized by law, as follows, to wit: 1 per cent on the 1st day of January, 1878; 2 per cent. on the 1st day of January, 1879; 3 per cent on the 1st day of January, 1880; and 5 per cent. on the first day of each year thereafter; and the Secretary of the Treasury is hereby authorized and directed to levy and collect such tax from said banking associations at the times herein specified in the manner in which the tax on bank circulation now authorized by law is levied and collected.

SEC. 2. That on and after the 1st day of January, 1878, the notes of banking associations shall not be received in payment of debts, dues, demands, imposts, or taxes due to the Federal Government.

SEC. 3. That the Secretary of the Treasury is hereby authorized and directed to provide an issue of non-interest-bearing Treasury notes, not to exceed the sum of four hundred millions of dollars of the denomination of five, ten, twenty, fifty, one hundred, five hundred, and one thousand dollars, in the same proportion of each denomination as has been adopted in the issue of the legal-tender Treasury notes authorized by the act of Congress of February 28, 1862, and acts supplementary thereto; and the said non-interest-bearing Treasury notes shall be receivable by the United States Government for all taxes, duties, imposts, excises, debts, and demands of every kind, including customs duties, and shall be in the following form, to wit: "The United States will receive this Treasury note in payment of all taxes, duties, imposts, excises, debts, and demands of every kind due to the United States to the value of $5," or whatever sum or denomination may be expressed thereon.

SEC. 4. That the Secretary of the Treasury is hereby authorized and directed to issue said Treasury notes in payment of the current expenses of the Federal Government at the rate of the retirement of the circulation of the national banking associations, or in exchange for gold or silver bullion at the coinage value thereof, or for interest-bearing bonds of the United States at their par value.

SEC. 5. That the Secretary of the Treasury is hereby authorized and directed as often as $10,000 or more of said Treasury notes are paid out of the Treasury in the current expenses of the Federal Government to apply an equal amount of the legal-tender Treasury notes received in payment of current dues and taxes to the purchase of interest-bearing bonds of the United States, or of gold and silver bullion at the market price thereof, which said bullion shall be coined and applied to the redemption of the interest-bearing bonds of the United States in the manner provided by law.

SEC. 6. That the Secretary of the Treasury is hereby authorized and directed to have all gold and silver bullion presented at the Mint of the United States or any of its branches coined free of charge: *Provided*, That all silver bullion coined under any of the provisions of this act shall be coined into standard silver dollars of 412½ grains.

SEC. 7. That the standard silver dollar of 412½ grains shall be a legal tender for all debts, public and private.

SEC. 8. That the act of Congress entitled "An act to provide for the resumption of specie payments," approved January 1, 1875, is hereby repealed; and also all other acts or parts of acts inconsistent with the provisions of this act.

SEC. 9. That the act of Congress entitled "An act to authorize the refunding of the national debt," approved July 14, 1870, and all other acts supplementary thereto for refunding the public debt are hereby repealed.

SEC. 10. That in towns and cities where there is no United States depository the Secretary of the Treasury is authorized to deposit the funds of the Federal Government in such bank or banks as he may select, provided that ample security is given, and provided further that such bank or banks shall not be required to pay interest on such funds.

SEC. 11. The Secretary of the Treasury is hereby authorized to apply any funds in the Treasury of the United States, not otherwise appropriated, to the payment of the expenses incurred in preparing and executing the Treasury notes authorized by this act.

SEC. 12. That the laws in relation to counterfeiting or altering notes issued by the Federal Government, or passing spurious notes thereof, now in force, shall apply to the counterfeiting or altering of the Treasury notes authorized by this act, or passing such counterfeited or altered notes.

ORDER OF BUSINESS.

Mr. CONGER. I move to suspend the rules and pass the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That J. Madison Wells, T. C. Anderson, G. Cazanave, and L. M. Kenner, witnesses now confined by order of the House, be discharged from further custody, and the Sergeant-at-Arms, is hereby directed to carry this order into execution.

Mr. CONGER. On that I demand the yeas and nays.

Mr. WALLING. You do, indeed! well, you shall have them.

Mr. BANNING. They ought to get out in time for the inauguration.

Mr. HOOKER. I move to lay the resolution on the table.

Mr. WALLING. That is right.

Mr. O'BRIEN. That is not in order.

Mr. WALLING. Why not?

Mr. O'BRIEN. You cannot move to lay on the table a motion to suspend the rules.

Mr. HOOKER. I make the point of order that the gentlemen who are down on the list for motions to suspend the rules are not recognized by the Chair.

The SPEAKER. The Chair is desirous to equitably divide the time among gentlemen who have motions to suspend the rules. The Chair was not aware what was the character of the resolution the gentleman from Michigan [Mr. CONGER] desired to offer. The gentleman from New York [Mr. FIELD] was entitled to the floor, but the Chair understood that he yielded for the time.

Mr. FIELD. I yielded merely for such matters as would not interfere with my right to the floor. I propose now to go on. I am directed by the committee on the privileges, powers, and duties of the House in relation to the electoral count to make a report in part, to report the bill which I send to the Clerk's desk, and upon which I call the previous question.

Mr. CONGER. I demand a vote on my motion to suspend the rules. I wish to say, sir, that if the Chair does not intend, when I rise to a question of privilege, although other matter may be pending, to hold that I have the right to take gentlemen from the floor for that purpose, then I would like the Chair to say so.

The SPEAKER. The Chair desires to be equitable all around. He requested the gentleman from New York to yield temporarily, so that other matters which would occasion no controversy might be presented. The gentleman from New York was recognized at the time the House took a recess this afternoon.

Mr. CONGER. He was not upon the floor and I was.

The SPEAKER. He was upon the floor and on his feet.

Mr. CONGER. I must object to the ruling of the Chair. My resolution has been read, and I demand a vote upon my motion to suspend the rules and pass the resolution. We have been unable on this side of the House to offer any resolution to-day.

The SPEAKER. Well, gentlemen on both sides of the House have been complaining.

Mr. CONGER. Perhaps it is time that we should have one chance.

Mr. HOLMAN. I suggest that after the gentleman from New York [Mr. FIELD] gets through with his bill, the gentleman from Michigan [Mr. CONGER] shall then be recognized.

The SPEAKER. The difficulty about that is——

Mr. HOOKER. If gentlemen are going to indicate to the Chair what he shall do——

The SPEAKER. The Chair is compelled to recognize two or three gentlemen who have been waiting for three or four weeks an opportunity to submit motions to suspend the rules. The gentleman from Mississippi in front of the Chair, [Mr. HOOKER,] the gentleman from Mississippi on the left of the Chair, [Mr. LAMAR,] have been waiting for some weeks to move to suspend the rules upon subjects about which there is a controversy, a public controversy, and a controversy in the House. The Chair will be compelled to recognize those gentlemen.

Mr. FIELD. I have reported this bill as a report in part from the committee, and upon it I call the yeas and nays.

Mr. CONGER. I have made my motion to suspend the rules and pass the resolution which has been read, in the interest of imprisoned citizens.

Mr. BURCHARD, of Illinois. I would like to ask the gentleman from New York [Mr. FIELD] how much time he proposes to allow on his bill.

Mr. FIELD. An hour, a half hour on each side.

The SPEAKER. The gentleman from New York held the floor, but yielded for motions that would give rise to no controversy.

Mr. BRADLEY. I raise the question whether the Chair should enter into an arrangement to recognize A, B, and C and to rule others out.

The SPEAKER. The Chair has not ruled anybody out.

Mr. BRADLEY. It strikes me that it would be but fair that others sitting here should have a chance.

The SPEAKER. Every one thinks that he should be the "other."

Mr. CONGER. I desire a ruling on my point. Am I in order?

The SPEAKER. The gentleman is not. The gentleman from New York [Mr. FIELD] will either proceed or yield the floor unconditionally.

CONTEST OF PRESIDENTIAL ELECTION.

Mr. FIELD. Mr. Speaker, I propose——

Several MEMBERS. Let the bill be read.

The SPEAKER. The bill will be read.

The Clerk proceeded to read the bill (H. R. No. 4698) to provide an effectual remedy for a wrongful intrusion into the office of President and Vice-President of the United States. The reading was interrupted by

Mr. CONGER, who said: I rise to a point of order. I wish the Clerk would stop reading when I am addressing the Chair.

The SPEAKER. The Clerk is not under the direction of the gentleman from Michigan.

Mr. CONGER. But it disturbs me to have him read while I am addressing the Chair.

The SPEAKER. If the gentleman from Michigan has any fault to find with the Clerk, he will make his complaint to the Chair.

Mr. CONGER. I am making it to the Chair. I make the point that this bill is not in order, coming from the gentleman from New York or from his committee at this time, and further that the motion to suspend the rules is of higher privilege; and I stand here asking the Chair to grant me the right to make the motion to suspend the rules on a matter of higher privilege affecting the liberty of a citizen.

The SPEAKER. The committee from which the gentleman from New York reports this bill is entitled to report at any time. But a motion to suspend the rules is in order; and the Chair, if compelled to rule strictly, would rule that the gentleman from Michigan had a right during these last six days of the session to rise and move to suspend the rules.

Mr. WILSON, of Iowa. That is right.

Mr. CONGER. Then I send to the desk a resolution——

Mr. SPRINGER. Can the gentleman from Michigan make this motion while another member has the floor? I make the point of order that while the gentleman from New York holds the floor he cannot be taken from it by another member who desires to move to suspend the rules.

Mr. HOOKER. I understood the Speaker to put the inquiry to the gentleman from New York whether he would yield the floor and the gentleman from New York declined to yield it. I submit that the motion of the gentleman from Michigan cannot be made so as to take the gentleman from New York off the floor.

Mr. CONGER. It has been decided too often in this House to make it necessary for me to argue the point, that a motion to suspend the rules may take a member off his feet.

Mr. HOOKER. As I understand, the gentleman from New York was on the floor, recognized by the Chair. He had presented his bill and it was in process of being read. The gentleman from Michigan now undertakes to take the gentleman from New York off the floor by proposing a resolution.

Mr. CONGER. That is the very proposition.

Mr HOOKER. The gentleman from New York had presented his bill, a bill reported from the committee on the powers and privileges of the House. He had asked the consideration of the bill, and the Chair had recognized him. The Chair under these circumstances, I submit, could not take the gentleman from New York off his feet to hear the motion made by the gentleman from Michigan.

Mr. SPRINGER. Further than that, Mr. Speaker, there is but one motion recognized in the Digest as entitling a member to take another from the floor; and that is a motion to reconsider. A member may take another from the floor to make this motion, but not to have it considered at that time.

The SPEAKER. A conference report can also take a member off the floor.

Mr. SPRINGER. That is true.

Mr. CONGER. The Chair will understand distinctly that, as I claim, the gentleman from New York held the floor if at all under the rules. If I hold the floor, I hold it under a motion to suspend the rules.

The SPEAKER. The Chair thinks that the practice of the House and his own practice during his occupancy of the Chair have been to allow gentlemen to take others off the floor upon a motion to suspend the rules. It has been done quite frequently upon appropriation bills; and once, as the Chair recollects, the gentleman from Iowa [Mr. KASSON] took the gentleman from New York [Mr. WOOD] off the floor under circumstances somewhat similar to the present.

Mr. SPRINGER. But the Chair will observe that if such a ruling were correct then we could do no business at all, because as soon as one member obtained the floor to move a suspension of the rules another member could take him off to move another suspension and so on *ad infinitum*.

The SPEAKER. While the Chair believes that the practice under the rules has been and should be what he has stated, yet, if he understands correctly the proposition of the gentleman from New York, he entertains it as a question of high constitutional privilege.

Mr. CONGER. I claim that my proposition is a question of high personal privilege concerning four citizens of the United States now imprisoned in these walls, in our dungeon.

The SPEAKER. The Chair has twice entertained resolutions today on this subject, and the House has failed to reach a conclusion in this respect.

Mr. CONGER. I offer one in which I presume all the members will unite.

The SPEAKER. The Chair will recognize the gentleman at the first opportunity. The bill of the gentleman from New York will be read.

The bill was read. Section 1 provides when any person usurps, intrudes into, or without due election holds or exercises the office of President or of Vice-President of the United States, his title to the office and the title of any claimant thereof may be tried and determined by action in the nature of a *quo warranto* as hereinafter provided.

The second section provides that the action may be brought in any circuit court of the United States against the person in office by any person claiming title thereto.

The third section provides that the action must be brought in the name of the United States and of the claimant, but the prosecution thereof shall be under the sole direction of the claimant; it must be brought by the service of a summons which the court shall issue on the filing of the complaint, and which may be served in any part of the United States, requiring the defendant to answer the complaint within a time fixed by the court, not exceeding forty days after the service of the summons; and the complaint must allege that the claimant was duly elected and is entitled to the office, that the defendant is in possession of the office without a just title thereto, and ask that the defendant may be excluded from the office and the claimant placed in possession thereof.

The fourth section provides that the defendant may answer the complaint by denying his own unlawful intrusion into the office or the title of the claimant or both, and the issue thus made shall be tried by a jury, or by the court, if a jury trial be waived; but if there be no answer the court shall receive such evidence of title as may be offered by the claimant and thereupon make a written finding of the facts.

The fifth section provides that the following rules must be observed in the conduct of the action:

(*a*) The finding of the facts if there be no answer and the trial of the issue upon an answer shall be had at any time and place within the United States, to be fixed by the court, having regard to the convenience of parties and witnesses, but it must be commenced within ninety days from the service of the summons.

(*b*) Subpœnas to attend and testify, with or without papers, may be served in any part of the United States; all process shall issue in the name of the United States, and the jury shall be drawn from the district where the trial is had.

(*c*) The court shall inquire whether the electoral votes purporting to come from a State were cast by persons duly appointed by that State in the manner directed by its Legislature, and whether any such person was at the time of his appointment ineligible, or at the time of casting this vote incapacitated by the laws of the State or of the United States, and for that purpose shall receive evidence tending to show the forgery, falsehood, or invalidity of any certificate of any governor, canvasser, or other officer whomsoever; it shall reject the votes of all persons ineligible at the time of their alleged appointment or incapacity at the time of casting their votes, and it must investigate any other fact necessary to a judgment upon the rights of the parties.

(*d*) Judgment shall be rendered within ten days after the verdict of the jury or the trial or finding by the court.

(*e*) The judgment may determine the right, both of the defendant and of the claimant, or only the right of the defendant, as justice shall require. If the defendant be adjudged not entitled to the office, he shall be excluded from it; and if the claimant shall be adjudged entitled to it, he may immediately, on taking the required oath, enter upon the execution of the office.

(*f*) In all other respects then, as herein prescribed, the proceedings in the action shall be conformable to the proceeding in other civil cases in the circuit court.

The sixth section provides that either party may appeal to the Supreme Court of the United States within ten days after notice of the judgment, and if such appeal be taken the judgment shall not be excluded until the decision upon the appeal.

The seventh section provides that the action, and all motions, argument, and other proceedings therein, shall have precedence over all other business in the Supreme Court and circuit court; and if the Supreme Court be not in session at the time of the appeal, it shall be immediately convened by the Chief-Justice upon ten days' notice to each of the judges.

The eighth section provides that the execution of the judgment may be enforced by any proper writ issued to any marshal of the United States.

Mr. FIELD. Mr. Speaker, in ten minutes I propose to explain the provisions of this bill and the reasons why it appears to me expedient to pass it, and gentlemen on the other side shall have fifteen minutes.

Mr. BURCHARD, of Illinois. I was going to say, if sufficient time is given for debate—I do not desire any length of time for myself, but other gentlemen may desire it—that the first and second reading of the bill may be dispensed with.

Mr. FIELD. Now, Mr. Speaker, the provisions of this bill are extremely simple. They provide that the title of President may be determined by an action in the nature of a *quo warranto* in any circuit court of the United States. In this respect I have to call the attention of the House to the fact that it follows the precedent of the bill passed by Congress some years ago, authorizing a suit in respect to the Union Pacific Railway and Credit Mobilier Company, which might be brought in any court in the country.

Then it authorizes a trial in any part of the country which the court may designate as most convenient to witnesses and parties; and it provides that the court shall go to the very root of the matter by inquiring whether the votes sent from a State are the true electoral votes of that State. The object is to get at the truth and the validity of the votes that purport to come from a State. The bill authorizes the court to inquire whether there be in them any falsehood or any invalidity, and whether the person appointed elector was inelibible when he was appointed or incapacitated when he cast his vote; and provides that all votes of persons ineligible when appearing to be elected or incapacitated when voting shall be rejected.

The court is authorized further to inquire into any fact necessary to determine the rights of the parties. The trial is to be begun within ninety days from the commencement of the suit; and upon the decision there is to be no execution of the judgment if either party appeals to the Supreme Court within ten days, and that court, if not in session, is to be immediately convened. And after its decision, the judgment is to be executed.

Those are the provisions of the bill. Is it expedient that the bill should pass? The first question, of course, is whether the bill is constitutional. That is to say, is it constitutional to vest in any court of the United States the right to try the title to the Presidency? In respect to that I have only to answer that the Constitution declares that the judicial power shall extend to all cases arising under this Constitution or the laws of the United States. Is not a disputed title to the Presidency a case that arises under the Constitution and laws?

Most unquestionably it is; it is clearly within that grant of power. Congress has already determined that question; because there is now upon the statute-book an authority for a *quo warranto*—and, for aught I see, a *quo warranto* to try the title to the Presidency—in cases arising under the fourteenth amendment. This is the language:

Jurisdiction is given to the circuit courts of all suits to recover possession of any office except that of elector of President and Vice-President, or Representative or Delegate in Congress, or member of a State Legislature, where the sole question arises out of the denial of the right to vote on account of race, color, or previous condition of servitude.

In short, I think there can be no question that the proposed bill is constitutional. Then is it expedient? This is a question which gentlemen on this floor can determine from their own observation. There are but two alternatives: a trial by law or a trial by force. And you know from your own experience that but for the electoral bill you would probably have had a conflict here this very month. The two Houses of Congress, assuming that they can count, are diametrically opposed to each other upon the question whether they both must agree to count or both must agree to reject. You cannot solve that except by legislation. The Anglo-Saxon mode, the mode which makes the Anglo-Saxon races the superior of the Latin races, and will always make them so, is that when they have a question to settle they are willing to try that question by the arbitrament of reason rather than by the arbitrament of force.

Therefore, I insist that this bill is not only constitutional but that it is expedient and of the very highest expediency. In the present emergency I appeal to gentlemen on the other side of the House. You have a President just counted in whose just claim to the office is disputed. I make no imputations against any one in regard to this matter. But there is a question about the title of the incoming President. You know there is a question. And you can best satisfy the conscience and relieve the doubts of the country by allowing that question to be settled as other questions in dispute are settled. Give us this bill and you have conciliation for the present and safety for the future.

Mr. BURCHARD, of Illinois. The object of this bill, as explained by the gentleman from New York, [Mr. FIELD,] is to prolong the controversy in which the two Houses have been engaged for the past three months and continue the excitement which has so disastrously agitated the country. It was claimed that the decision to be made by the commission would settle all of the disputed questions, and it was claimed on the other side of the House that the two Houses of Congress in making the count had power to investigate and decide all the questions referred by this bill to the courts. The members of the electoral commission have been criticised and censured because they decided that the commission could not assume judicial functions; objection was made to their decision because they have not gone behind the returns. The bill admits the action of the commission to be correct and proposes to invest the circuit courts of the United States with jurisdiction to decide these questions. Is this a proper and constitutional measure? I have no time to discuss the subject at length. I desire to point out some of its objectionable features and then yield the floor to other gentlemen who will discuss the bill more fully than I shall attempt to do.

The bill, in contravention of the uniform practice and universally recognized principle of law and equity which require suit to be brought in the district where the defendant resides, proposes to give the party bringing the action the choice of any district in the United States. He can go to California; to Georgia; to Maine, and select his judge anywhere among the circuit judges. He can go to any one of the fifty judicial districts in the United States, and the trial can be had at any other place in the United States. It establishes special rules for the trial of the suit, and does not follow the course of the common law or the statute laws in similar cases. If such a bill is to be passed by Congress, it should have been carefully considered by the Committee on the Judiciary. But this is a bill conceived in the brain of a single member of the committee of privileges, powers, and duties, presented to the committee in the absence of the minority of that committee. It has not been considered by the committee at any regular meeting. The constituents of the gentleman from New York, [Mr. FIELD,] the business men of that city and of the country, do not desire any such law to be passed or action now to be commenced after the count is finished and the declaration made as to who is elected and to be inaugurated as President of the United States. The proposition is to plunge the country into doubt and uncertainty, and to re-open a question already practically decided by Congress. I yield five minutes of my time to Mr. LAWRENCE, of Ohio.

MESSAGE FROM THE SENATE.

A message from the Senate by Mr. SYMPSON, one of its clerks, announced that the Senate had passed with amendments a bill of the following title; in which he was directed to ask the concurrence of the House:

A bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes.

CONTEST OF PRESIDENTIAL ELECTION.

The House resumed the consideration of the bill in regard to contesting the right to the office of President.

Mr. LAWRENCE. During our whole existence as a nation there have been but few bills ever presented in Congress of equal importance with this. For a century we have lived without it, and now instead of averting perils this is a measure to invite them. It is gravely proposed after a discussion of thirty minutes to pass a bill which is to determine the title to the highest office within the gift of the American people; to pass a bill which has not been perfected by any careful consideration of any committee; which has not yet been read by half a dozen members of the House; which has not been considered for thirty minutes by any member of the House except the gentleman who reports it, and which is even not yet printed. I submit to the House that we ought not to attempt at this late period of the session to legislate upon a matter of such vital importance. But if we must gravely consider this bill under the circumstances which have been stated, the objections urged to it by my friend from Illinois [Mr. BURCHARD] are such as to utterly condemn it.

Let me call attention to another objection. It is proposed that, if the court which tries the right to the presidential office shall find an elector who held an office of trust or profit under the Government of the United States, his vote shall be rejected, and if two such electoral votes can be found at the recent presidential election it may change the result which has already been declared. The people of the country may be deprived of their voice because incautiously they had elected two men who held offices of trust and profit under the Government of the United States. This would be a great wrong to the people and a sacrifice of their rights to which I can never consent.

It has been repeatedly declared by the courts that where an ineligible person has been elected to an office and entered upon its duties his acts are legal and valid; just as valid as though he were eligible to the office. It is not to be tolerated that whole communities are to be deprived of their political power because they incautiously select an elector who happens to be a postmaster or a United States commissioner. It may be wise to provide, as the Constitution does, that such officers shall not be chosen as electors. But if they shall nevertheless be chosen, the remedy should be applied before they vote for President. Let proper proceedings be instituted to remove from office the ineligible electors before they vote for President, so that the States may supply their place by a new election or by appointment by the Legislature, and thus let every State exert its full share of power in selecting a President. If the proper remedy be not applied in this way all objectors thereafter should be estopped from urging any objection.

But there are still more serious objections to this bill. I am not yet certain the Constitution permits Congress to pass any such bill.

The Constitution declares that the "person receiving the highest number of votes *shall be* President of the United States." This bill undertakes to say he *shall not* be President. The Constitution gives to the person chosen in the forms it requires a presidential term of four years. This bill undertakes to say his term may not continue so long. This bill undertakes to give to a single court the power to reverse the decision of the States as to who are their duly appointed electors. Even if their title had been duly tried in proper courts, this bill proposes to go back of all that and annul the decision, and place in the hands of a single court the power to decide who is President. It proposes to give to a single court the power to reverse the decision of the two Houses of Congress and of an electoral commission, created under an act of Congress, and to create a new canvassing board, alien to the Constitution, never suggested by its framers or sanctioned by the opinion of any great commentator.

It may well be doubted whether the Constitution gives any sanction to such a scheme as this. It does provide *one* mode of ascertaining and declaring who is elected President and so entitled to hold the office for four years. It may well be doubted whether any other or new mode can be added to this to revise the decision so made. The Constitution does not provide for revising this decision; it seems to regard it as *final* and *conclusive*. I suppose it must now be regarded as settled law that it belongs to the Houses of Congress *as a political question* or a political power to determine the result of a presidential election. This is the character of the power exercised by the Houses of Congress. It would destroy the efficacy and force of this political power if courts could revise and reverse it, as proposed, in ninety days, and dictate who should be President. When a power is given by positive words, in one form, this excludes all others in other forms over the same subject.

The writ of *quo warranto* in ordinary cases only reaches back of the officer to inquire as to the legality or regularity or sufficiency in numbers of the votes cast for him, but this bill proposes to go back in the second degree. It proposes to contest the right to the presidential office by contesting the right of the presidential electors themselves, and back of them to the right of the voters in a State. I cannot well conceive that the Constitution sanctions the exercise of such immense powers by a court; powers which are *ministerial, political, executive, administrative*, and in no sense *judicial*.

To concede this power to a court would make it supreme in and over all departments of the Government. It would blend and confuse and confound and destroy all other departments. The departments are co-ordinate, independent, and the Constitution does not permit one to absorb all others.

We are told by the gentleman from New York [Mr. FIELD] that we must have this bill or we must have war; that unless there be

some power to test the right to the office of President of the United States this Anglo-Saxon race will not submit to the decision of the question which has been made by the two Houses of Congress. I say that if the people of this country shall be so revolutionary in spirit or purpose that they will not abide by the judgment of the two Houses of Congress, they will not respect the decision of any single court upon this question.

This bill only invites new controversies, organizes fresh hostilities, and may give occasion to inaugurate rather than avert war.

I object to this bill, then, for several reasons.

1. There is no sufficient time now to consider it.

2. This bill is crude, imperfect, and objectionable in its provisions and details.

3. It is of doubtful constitutionality.

4. It is dangerous in its effects, and may be ruinous in its consequences.

It is an attack upon the power of the States, an attack upon the powers of the Houses of Congress, an attack upon the very foundation of the Republic. It comes to harrow up old controversies and create new ones. It is a veritable wooden horse, from whose sides may come forth enemies to destroy the Republic. My voice and my vote are against it. Rutherford B. Hayes is the legally and honestly chosen President of the United States, and no vote of mine shall rob the people of their choice or deprive them of the blessings to flow from his administration.

[Here the hammer fell.]

The SPEAKER. The time of the gentleman has expired.

Mr. FRYE. The time given for the discussion of this important bill is so short that I will waive my right to the floor and yield to the gentleman from New York, [Mr. TOWNSEND.]

Mr. TOWNSEND, of New York. I reiterate the remark made by the gentleman from Ohio, [Mr. LAWRENCE,] that the Constitution has declared that the man who is counted in shall be President of the United States. It is said by the gentleman from New York [Mr. FIELD] that the two Houses have differed as to who should make the count. But there is no difference of opinion, and there can be no difference of opinion upon the proposition that the man, when constitutionally counted in, shall be President of the United States for the next four years? In this case we have created a counting commission, and through the aid of that counting commission a man has been counted in as President, and it is proposed to deprive the people of his services by the quirks of this law.

I have another objection to this proposition. Under Anglo-Saxon legislation, of which the gentleman boasts so much, no private individual has ever been allowed to bring an action of *quo warranto*. That is an action brought by the government, in the name of the government, and for the interests of the governed. It is proposed in this case that the right to bring such an action shall be given for the benefit of any claimant, and that the man who has been declared by the proper authority of the country under the Constitution to be elected may be harassed by the wily trickery of any claimant, however dishonest and however unconscientious, who shall set up a claim to the office.

Such a man is to have the privilege of selecting his district, and in selecting the district of selecting his judge. Suppose that in this case the gentleman from New York [Mr. FIELD] should be employed outside of this House as the counsel of a claimant to this office and should select the district of California for the place of trial and his own brother for the judge. What would be the chance that Rutherford B. Hayes or any other man would have in any such court against such odds?

You have by law required that your President shall reside at the Capitol. Yet under this bill within ninety days' time he might be compelled to leave the Capitol and go three thousand miles to attend a trial upon the claim of any vagabond upon the face of the earth. Is this American legislation? Is this anything that an Anglo-Saxon can be proud of? Sir, this bill is not only a novelty but it is an abomination; the very proposition itself is a disgrace to the country and to the age in which we live.

The gentleman tells us that war would have been the consequence if somebody's views had not been followed. Sir, we have had one civil war, and if anybody wants another war, if the gentleman wants a war on New York City principles—that is, a war that men threaten about, and when it comes shrink from, if the gentleman wants such a war—let him begin it. I doubt whether anybody here wants another war. No good citizen of any party or from any portion of the country has threatened war.

I say that it ill becomes that gentleman, after having voted for Mr. Hayes for President, to take a seat in this House and come here and threaten war if the man that he voted for is counted in and held to be the lawful President of the United States.

Now, sir, I have tried to be as comfortable as I could under the taunts that have been thrown out against us on the other side of the House. We have been told that we were a guilty set here. We have been guilty of being run over! We have been guilty of being voted down, and when the scheme was formed to crush out the minority of this House, it was found to work like the musket which—

> Aimed at duck or plover,
> Bears wide, and kicks its owner over.

When this scheme failed, we have been accused of every crime that could blacken humanity. Why, sir, the majority of this House had the power of talking when our mouths were closed, and we had to sit still. The party who sits still and whose mouth is closed always seems to be in the wrong—always seems to be guilty of fraud, if those who can be allowed can control the public ear.

[Here the hammer fell.]

Mr. FIELD. To all that part of the gentleman's remarks which may be deemed personal, I have not a word of reply. I thought he, whom I have known so many years, knew me better; but it seems that he does not. I will show in a moment that in his argument he shows a great deal more zeal than discretion. He remarks that there never was such a case as a trial for the Chief Magistracy before in the world. Will he tell me where the Chief Magistrate is elective except in this country? That is an answer.

Mr. TOWNSEND, of New York. Will the gentleman allow me——

Mr. FIELD. No, sir; do not interrupt me; I do not allow it.

Mr. TOWNSEND, of New York. Then do not misstate my position.

Mr. FIELD. Then the gentleman tells us that the person counted in is the rightful President. Does not the Constitution carefully abstain from declaring that the count makes the title? This is its language: "The person having the highest number of votes shall be the President." He has the right to the Presidency under the Constitution whether the two Houses of Congress count him in or not. The gentleman should have known this.

Then, again, we are told that the idea of having the title to such an office tried in the courts is a new thing.

Mr. TOWNSEND, of New York, (in his seat.) I did not say so; I spoke of a *quo warranto* at the instance of an individual.

Mr. FIELD. If the gentleman can keep quiet——

The SPEAKER. The gentleman from New York [Mr. TOWNSEND] will please not interrupt; and if he does desire to speak he ought to rise to his feet.

Mr. FIELD. But this electoral bill contains the following provision:

> That nothing in this act shall be held to impair or affect any right now existing under the Constitution and laws to question the right or title of the person who shall be declared elected, or who shall claim to be President or Vice-President of the United States.

What does this mean? Did the men who drew the bill mean to deceive us? Did they hint that there was a remedy when there was none?

It is disputed whether there is at present a remedy or not. Mr. Justice Bradley, when I was arguing before the commission, intimated that there was a remedy under the old law of Maryland, still in force in this District; and Mr. Carpenter in arguing before the commission insisted that under a provision of the statutes which he drew the writ might be issued. But I answer these suggestions, that if the writ is issued under those laws, if it can be issued at all, it must be issued in the name of the United States, and the proceeding must be conducted by the Attorney-General. Do you imagine that an Attorney-General appointed by the incumbent of the office will carry on a lawsuit to oust his master? The bill which I offer provides that the prosecution shall be under the direction of the claimant, as it ought to be. I think I have now answered all the objections——

Mr. LAPHAM. Will the gentleman allow me a question?

Mr. FIELD. No, sir.

But the one urged by my friend from Ohio, [Mr. LAWRENCE.] If I understood him aright, he was in favor of providing by law for the determination of this question in the courts. He asked, "Will you require a vote given by an ineligible person to be rejected?" Why, sir, do gentlemen believe that when the Constitution of the United States declares that no person holding an office under the United States shall be appointed an elector, one may yet be appointed? It has indeed been decided by the commission that although the great charter of our Union, the highest authority in the land, declares that no person holding an office of profit or trust under the United States shall be appointed an elector, yet he may be appointed an elector, and his vote may make a President. The gentleman whom you are about to inaugurate will hold his office by no higher title than the votes of men who who are declared by the fundamental law to be incapable of exercising the functions of electors.

Now, Mr. Speaker, I call for the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER. If there be no objection the second reading of the bill will be dispensed with, and the question will be taken on the engrossment and third reading.

The bill was ordered to be engrossed and read a third time.

Mr. PAGE. I call for the reading of the engrossed bill.

The Clerk was proceeding to read the engrossed copy of the bill when

Mr. PAGE said: As the Clerk has the engrossed bill prepared, I withdraw the call. [Laughter.]

The bill was read the third time by its title.

Mr. LAWRENCE. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and there were—yeas 66, nays 99, not voting 125; as follows:

YEAS—Messrs. John H. Bagley, jr., Banning, Beebe, Bell, Boone, John Young Brown, William P. Caldwell, Candler, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Collins, Cox, Davis, De Bolt, Eden, Ellis, Field, Finley, Franklin, Fuller, Gause, Glover, Andrew H. Hamilton, Hardenbergh, John T. Harris, Hartzell, Hatcher, Hill, Holman, Hooker, Humphreys, Thomas L. Jones, Franklin Landers, Lane, Levy, Lord, Luttrell, Lynde, Meade, Morrison, Neal, Payne, Poppleton, Rice, John Robbins, Miles Ross, Scales, Schleicher, Sheakley, Siemons, Sparks, Springer, Teese, Terry, Thomas, Tucker, John L. Vance, Robert B. Vance, Gilbert C. Walker, Erastus Wells, Whitthorne, Wigginton, Benjamin Wilson, and Yeates—66.

NAYS—Messrs. Abbott, Adams, Ainsworth, John H. Baker, William H. Baker, Ballou, Banks, Belford, Blair, Bradford, Bradley, Brown, Buckner, Burleigh, Butts, John H. Caldwell, Cannon, Caswell, Chittenden, Conger, Crapo, Crounse, Culberson, Cutler, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Eames, Forney, Foster, Freeman, Frye, Garfield, Goodin, Haralson, Benjamin W. Harris, Hathorn, Hays, Hopkins, House, Hubbell, Hunter, Hurlbut, Jenks, Joyce, Kasson, Kehr, Kelley, Kimball, George M. Landers, Lapham, Lawrence, Le Moyne, Lynch, MacDougall, McDill, Mills, Monroe, New, Oliver, O'Neill, Packer, Page, William A. Phillips, Pierce, Pratt, Rainey, James B. Reilly, Riddle, Robinson, Sampson, Seelye, Sinnickson, Smalls, A. Herr Smith, Strait, Stevenson, Stowell, Tarbox, Thompson, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Wait, Waldron, Alexander S. Wallace, John W. Wallace, Warren, White, Whitehouse, Willard, Charles G. Williams, William B. Williams, Willis, James Wilson—99.

NOT VOTING.—Messrs. Anderson, Ashe, Atkins, Bagby, George A. Bagley, Bass, Blackburn, Bland, Bliss, Blount, Bright, Horatio C. Burchard, Samuel D. Burchard, Cabell, Campbell, Carr, Cason, Chapin, Clymer, Cochrane, Cook, Cowan, Dibrell, Douglas, Durand, Durham, Egbert, Evans, Faulkner, Felton, Flye, Fort, Gibson, Goode, Gunter, Hale, Robert Hamilton, Hancock, Henry R. Harris, Harrison, Hartrige, Haymond, Hendee, Henderson, Henkle, Abram S. Hewitt, Goldsmith W. Hewitt, Hoar, Hoge, Hoskins, Hunton, Hurd, Hyman, Frank Jones, King, Knott, Lamar, Lewis, Mackey, Magoon, Maish, McCrary, McFarland, McMahon, Metcalfe, Miller, Milliken, Money, Morgan, Mutchler, Nash, Norton, O'Brien, Odell, Phelps, John F. Philips, Piper, Plaisted, Platt, Potter, Powell, Purman, Rea, Reagan, John Reilly, William M. Robbins, Roberts, Ross, Rusk, Savage, Sayler, Schumaker, Singleton, William E. Smith, Southard, Stanton, Stenger, Stephens, Stone, Swann, Throckmorton, Turney, Van Vorhes, Charles C. B. Walker, Walling, Walsh, Ward, Warner, Watterson, G. Wiley Wells, Wheeler, Whiting, Wike, Andrew Williams, Alpheus S. Willams, James Williams, Jere N. Williams, Wilshire, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Young—125.

So the bill was rejected.

During the vote,

Mr. CALDWELL, of Alabama, stated that Mr. ATKINS was detained at his room by sickness.

Mr. ROSS, of Pennsylvania, stated that he was paired with his colleague, Mr. COCHRANE, who if present would vote in the affirmative, while he would vote in the negative.

Mr. MCCRARY stated that he was paired with Mr. HUNTON, who was detained at home by sickness, and who if present would vote in the affirmative, while he would vote in the negative.

Mr. FRYE stated that Mr. RUSK was compelled by sickness to leave the House.

Mr. WELLS, of Missouri, stated that his colleague, Mr. MORGAN, was absent on account of sickness.

The vote was then announced as above recorded.

DESERT LANDS.

The SPEAKER announced as the managers of the conference on the part of the House on the disagreeing votes of the two Houses on the bill (H. R. No. 4261) to provide for the sale of desert lands in certain States and Territories Mr. LUTTRELL, Mr. LANE, and Mr. CROUNSE.

COMMERCIAL RELATIONS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of State, with the accompanying documents, showing the commercial relations with foreign nations during the year 1876; which were referred to the Committee on Printing.

SAMOAN ISLANDS.

The SPEAKER also laid before the House a message from the President of the United States, transmitting information, in reply to a resolution of the House of the 25th of January, relating to the agency of A. B. Steinberger, of the Samoan Islands; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

POST-OFFICE DEPARTMENT.

The SPEAKER also laid before the House a letter from the Postmaster-General, giving information as required by the eighth section of an act relating to the Post-Office Department, approved June 8, 1872; which was laid on the table, and ordered to be printed.

POST-OFFICE APPROPRIATION BILL.

Mr. HOLMAN. Mr. Speaker, I present the following conference report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill from the House of Representatives No. 4187, entitled "An act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878," and for other purposes, after a full and free conference thereon, beg leave to report as follows:

The House recedes from its disagreement to the amendments of the Senate numbered 3, 4, 5, 8, 10, 20, 21, 22, 23, 24, 26, 28, 29, 30, and 31.

The Senate recedes from its amendments numbered 19 and 27.

The House recedes from its disagreement to amendment No. 1, and agrees to the same with an amendment making the amount $135,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 2, and agrees to the same with an amendment making the amount $25,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 6, and agrees to the same with an amendment making the amount $3,340,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 7, and agrees to the same with an amendment making the amount $1,825,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 9, and agrees to the same with an amendment making the amount $400,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 11, and agrees to the same with an amendment making the amount $80,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 14, and agrees to the same with an amendment making the amount $1,225,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 15, and agrees to the same with an amendment making the amount $1,000,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 16, and agrees to the same with an amendment making the amount $150,000; and the Senate agree to the same.

The House recedes from its disagreement to the amendment No. 17, and agrees to the same with an amendment making the amount $110,000; and the Senate agree to the same.

The House recedes from its disagreement to amendment No. 18, and agrees to the same with an amendment making the amount $670,000; and the Senate agree to the same.

The House recedes from its disagreement to the amendment No. 25, and agrees to the same with an amendment making the amount $14,150; and the Senate agree to the same.

Upon amendments Nos. 12, 13, 32, 33, 34, and 35 the conferees have been unable to agree, and so report to their respective Houses.

W. S. HOLMAN,
JAMES H. BLOUNT,
CHAS. FOSTER,
Managers on the part of the House.

J. R. WEST,
H. HAMLIN,
L. V. BOGY,
Managers on the part of the Senate.

Mr. HOLMAN. Mr. Speaker, it will be seen by the House that the committee of conference has not been able to agree upon four of the amendments made by this bill. I am anxious the House should understand the points of those agreements. Our conferees recommend in this report that the House recede from its disagreement to quite a number of amendments made by the Senate. They recommend concurrence in many other amendments of the Senate, with amendments reducing the amounts proposed by the Senate, and on the four points of disagreement I wish to say a word.

The first is the increase of the appropriation in the nature, as I think, of a subsidy to the railroads for the transportation of the mails. The increase is $600,000. The House appropriated $9,000,000 for this service for the next fiscal year. The expenditure for the present year on the basis of the appropriation bill of last session will not vary materially from $8,700,000. Under the circumstances the House felt that the appropriation of $9,000,000 for the railway postal service of the next year was very ample. The Senate increased that $600,000, and proposed that $250,000 of that sum shall be used by the Postmaster-General in increasing the facilities of the great trunk lines in the transportation of the mails. The House conferees were of the opinion that the appropriation of $9,000,000 was ample. They suggested, however, the increase of that amount $100,000, making the whole appropriation $9,100,000; while the Senate committee suggested reducing the amount from $9,600,000 to $9,300,000. The House conferees were unable to concur in that proposition. That comes, therefore, before the House as one of the points of disagreement.

The second point of disagreement is one of comparatively little moment. Mr. Speaker, there is so much disturbance in the House that I cannot be heard. I think a great deal of it comes from the lobby of the House.

The SPEAKER. The officers of the House will clear the lobbies.

Mr. CLYMER. That is right.

Mr. TOWNSEND, of Pennsylvania. I think the noise is on the floor.

The SPEAKER. The Chair thinks that the order he has just given to the officers of the House is in the interest of intelligent legislation. [After a pause.] The gentleman from Indiana will proceed.

Mr. HOLMAN. By the legislation of last session we provided for a postal commission, to consist of three gentlemen, to be appointed by the President, to inquire into the subject of the transportation of the mails, and appropriated for that service the sum of $10,000. It is proposed by the Senate to prolong the period of the service of that commission—one of whose members, General Palmer, of Chicago, has been recently appointed to the office of postmaster of that city—and to appropriate the additional sum of $10,000. The House conferees suggested $5,000; and the two committees have not agreed upon that. I would say, however, that this is a very subordinate item, and I have no doubt a further conference will readily reach a solution of that difficulty.

The SPEAKER. What motion does the gentleman intend to make?

Mr. HOLMAN. I will indicate it presently.

I come now to the important questions involved in this bill; the two subsidies of $500,000 each; the one for the transportation of the mails on the Pacific to China and Japan, the other for the transportation of the mails from New Orleans to Rio, in Brazil. The conferees upon the part of the House have not been able to concur with the Senate conferees upon the subject of those subsidies of a half million dollars each. The Senate conferees have suggested, as I

ought to state to the House and the Speaker, that perhaps they might consent to fix the amount of these subsidies at $300,000 each for the coming fiscal year. To that suggestion the confeeres on the part of the House have not been able to accede. So that the important disagreements are, first, the increase of the appropriation for the transportation of the mails by railroad from $9,000,000 to $9,600,000; and, secondly, the two subsidies of half a million dollars each for the line from New Orleans to Rio, in Brazil, and from San Francisco to the ports of China and Japan.

Having made this brief statement of the points of disagreement, I move that the House concur in the conference report which disposes of all the features of this bill except the four items named, and ask a further conference.

The motion was agreed to.

Mr. HOLMAN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The Chair appoints as managers of the further conference on the part of the House Mr. HOLMAN, Mr. CLYMER, and Mr. FOSTER.

Mr. SPRINGER. Would it be in order to instruct the conferees on the part of the House to insist upon the exclusion of the subsidies to the railroads and the steamship companies mentioned by the gentleman from Indiana, [Mr. HOLMAN?]

The SPEAKER. It would not. It would not be a free conference if instructed.

RETURNING BOARD OF LOUISIANA.

Mr. CONGER. I move that the rules be suspended and that the following resolution be adopted:

Ordered, That J. Madison Wells, Thomas C. Anderson, G. Casanave, and L. M. Kenner, witnesses now confined by order of the House, be discharged from further custody, and the Sergeant-at-Arms is hereby directed to carry this order into execution.

A *viva voce* vote being taken, the Speaker stated that in the opinion of the Chair two-thirds had not voted in the affirmative.

Mr. CONGER. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 77, nays 80, not voting 133; as follows:

YEAS—Messrs. John H. Baker, William H. Baker, Ballou, Banks, Blair, Bradley, Bright, William R. Brown, Horatio C. Burchard, Burleigh, Buttz, Cannon, Caswell, Chittenden, Conger, Crounse, Culberson, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Fort, Freeman, Frye, Garfield, Goodin, Haralson, Benjamin W. Harris, Hathorn, Hays, Hubbell, Hunter, Hurlbut, Joyce, Kasson, Kelley, Franklin Landers, Lapham, Lawrence, Lynch, Lynde, Mackey, MacDougall, McCrary, McDill, Monroe, Oliver, O'Neill, Packer, Page, Pratt, Rainey, John Robbins, Robinson, Sobieski Ross, Sampson, Seelye, Sinnickson, Smalls, A. Herr Smith, Stowell, Strait, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Wait, Alexander S. Wallace, John W. Wallace, White, Willard, Alpheus S. Williams, Charles G. Williams, William B. Williams, and James Wilson—77.

NAYS—Messrs. Ainsworth, John H. Bagley, jr., Banning, Beebe, Boone, Bradford, John Young Brown, Buckner, John H. Caldwell, William P. Caldwell, Candler, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clarke, jr., of Missouri, Clymer, Collins, Cowan, Cox, Davis, De Bolt, Eames, Ellis, Finley, Forney, Franklin, Fuller, Gause, Glover, Andrew H. Hamilton, Hardenbergh, John T. Harris, Hartzell, Hatcher, Humphreys, Jenks, Thomas L. Jones, Kehr, George M. Landers, Le Moyne, Levy, Meade, Money, Morrison, Mutchler, Neal, New, O'Brien, Payne, John F. Philips, Poppleton, Rea, James B. Reilly, Rice, Riddle, Sayler, Scales, Schleicher, Sheakley, Slemons, Sparks, Springer, Stenger, Tarbox, Terry, Throckmorton, Turney, John L. Vance, Robert B. Vance, Walsh, Erastus Wells, Whitehouse, Whitthorne, Wigginton, Wike, James Williams, Willis, Yeates, and Young—80.

NOT VOTING—Messrs. Abbott, Adams, Anderson, Ashe, Atkins, Bagby, George A. Bagley, Bass, Belford, Bell, Blackburn, Bland, Bliss, Blount, Samuel D. Burchard, Cabell, Campbell, Carr, Cason, Chapin, Cochrane, Cook, Crapo, Dibrell, Douglas, Durand, Durham, Eden, Egbert, Evans, Faulkner, Felton, Field, Flye, Foster, Gibson, Goode, Gunter, Hale, Robert Hamilton, Hancock, Henry R. Harris, Harrison, Hartridge, Haymond, Hendee, Henderson, Henkle, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Hoar, Hoge, Holman, Hooker, Hopkins, Hoskins, House, Hunton, Hurd, Hyman, Frank Jones, Kimball, King, Knott, Lamar, Lane, Leavenworth, Lewis, Lord, Luttrell, Magoon, Maish, McFarland, McMahon, Metcalfe, Miller, Milliken, Mills, Morgan, Nash, Norton, Odell, Phelps, William A. Phillips, Pierce, Piper, Plaisted, Platt, Potter, Powell, Purman, Reagan, John Reilly, William M. Robbins, Roberts, Miles Ross, Rusk, Savage, Schumaker, Singleton, William E. Smith, Southard, Stanton, Stephens, Stevenson, Stone, Swann, Teese, Thomas, Thompson, Tucker, Van Vorhes, Waddell, Waldron, Charles C. B. Walker, Gilbert C. Walker, Walling, Ward, Warner, Warren, Watterson, G. Wiley Wells, Wheeler, Whiting, Andrew Williams, Jere N. Williams, Wilshire, Benjamin Wilson, Alan Wood, jr., Fernando Wood, Woodburn, and Woodworth—133.

So (two-thirds not voting in favor thereof) the rules were not suspended.

During the roll-call the following announcements were made:

Mr. BOONE. My colleague, Mr. BLACKBURN, is absent on account of sickness.

Mr. EDEN. My colleague, Mr. HARRISON, is absent serving upon the Committee on Enrolled Bills.

Mr. POPPLETON. I state by request that Mr. ATKINS is so unwell that he could not attend the session to-night.

Mr. HOLMAN. Upon this subject I am paired with Mr. FOSTER; if here he would vote "ay," and I shouldvote "no."

The result of the vote was then announced as above recorded.

NAVAL APPROPRIATION BILL.

Mr. BLOUNT. I present a report from the committee of conference on the naval appropriation bill and I ask that it be read, and upon its adoption I ask the previous question.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R No. 4616) making appropriations for the naval service for the year ending June 30, 1878, and for other purposes, after full and free conference, report that they are unable to agree:

JAMES H. BLOUNT,
EUGENE HALE,
W. C. WHITTHORNE,
Managers on the part of the House.

AARON A. SARGENT,
AARON H. CRAGIN,
WM. A. WALLACE,
Managers on the part of the Senate.

The SPEAKER. The report is a mere report for the information of the House, and the question is, Will the House appoint a further conference?

The question was put, and it was decided in the affirmative.

The SPEAKER. The Chair appoints as new conferees Mr. BLOUNT, Mr. HARRIS of Virginia, and Mr. HALE.

NORTHERN PACIFIC RAILROAD.

Mr. LAMAR. I move to suspend the rules so as to take from the Speaker's table the bill (S. No. 14) to extend the time for the construction and completion of the Northern Pacific Railroad.

Mr. HOLMAN. I ask for the yeas and nays upon that motion. It involves the question of the restoration of thirty-six million acres of land to this company.

Mr. McCRARY. I rise to a parliamentary inquiry.

The SPEAKER. The Chair will hear the gentleman.

Mr. McCRARY. Is it in order now for the gentleman from Mississippi [Mr. LAMAR] to state what he proposes in regard to the conduct of this bill?

The SPEAKER. It is not. The motion of the gentleman is to suspend the rules, and that motion is not debatable.

Mr. McCRARY. I ask unanimous consent that we may understand how long a time will be allowed for the consideration of this bill if it shall be taken up.

Mr. GARFIELD. I hope unanimous consent will be given to allow the chairman of the Committee on the Pacific Railroad [Mr. LAMAR] to state what he proposes to do.

Mr. HOLMAN and others objected.

Mr. TOWNSEND, of New York. Is it in order to have this bill read?

The SPEAKER. That is in order.

Mr. TOWNSEND, of New York. Then I ask that it be read; I want to know what it is.

Mr. LAMAR. If the bill is not passed it will be a practical confiscation of the interests of a large number of meritorious stockholders, widows, orphans, and trustees. The bill passed the Senate with but a few dissenting votes, and is unanimously recommended by the Committee on the Pacific Railroad of this House.

Mr. HOLMAN. I object to debate.

The bill was then read.

Mr. BUCKNER. I desire to inquire if it is the object of the gentleman to suspend the rules for the purpose of bringing the bill before the House for consideration?

Mr. LAMAR. That is the proposition, simply to bring it before the House for consideration.

Mr. FENN. Will the bill then be open to amendment?

The SPEAKER. Undoubtedly, unless the previous question is called on it and the call is sustained by the House.

The question was taken upon ordering the yeas and nays, and they were ordered.

The question was then taken on the motion to suspend the rules; and there were—yeas 91, nays 71, not voting 128; as follows:

YEAS—Messrs. William H. Baker, Ballou, Banning, Belford, Blair, Bradley, Buckner, Buttz, Caswell, Caulfield, Chittenden, John B. Clark, jr., of Missouri, Conger, Crapo, Culberson, Denison, Dobbins, Dunnell, Eames, Ellis, Foster, Freeman, Garfield, Gause, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Hatcher, Hathorn, Haymond, Hays, Hubbell, Hurlbut, Thomas L. Jones, Joyce, Kasson, Kehr, Kelley, Lamar, George M. Landers, Lane, Le Moyne, Levy, Lynch, Lynde, Mackey, MacDougall, McCrary, McDill, Mutchler, O'Brien, Oliver, O'Neill, Packer, Payne, William A. Phillips, Pierce, Pratt, Purman, Rainey, John Reilly, James B. Reilly, Riddle, John Robbins, Sobieski Ross, Seelye, Sheakley, Sinnickson, Slemons, Smalls, A. Herr Smith, Strait, Stowell, Terry, Thompson, Throckmorton, Martin I. Townsend, Washington Townsend, Waldron, Charles C. B. Walker, Gilbert C. Walker, Alexander S. Wallace, John W. Wallace, Walsh, Erastus Wells, Whitehouse, Wigginton, Alpheus S. Williams, Charles G. Williams, William B. Williams—91.

NAYS—Messrs. Ainsworth, Baker, Blount, John H. Bradford, Bright, John Young Brown, Horatio C. Burchard, John H. Caldwell, William P. Caldwell, Campbell, Candler, Cannon, Cate, John B. Clark of Kentucky, Clymer, Collins, Cowan, Cox, Crounse, Cutler, Danford, Darrall, Davis, DeBolt, Eden, Field, Finley, Forney, Franklin, Glover, Goodin, Andrew H. Hamilton, Hartzell, Holman, Hopkins, House, Humphreys, Hunter, Franklin Landers, Lawrence, McMahon, Meade, Monroe, Morrison, Neal, New, Page, Poppleton, Rea, Rice, Robinson, Sampson, Scales, Schleicher, Sparks, Springer, Stenger, Stevenson, Thornburgh, Tufts, Turney, John L. Vance, Robert B. Vance, White, Whitthorne, Wike, James Williams, Willis, Benjamin Wilson, James Wilson, Yeates, and Young—71.

NOT VOTING—Messrs. Abbott, Adams, Anderson, Ashe, Atkins, Bagby, George A. Bagley, John H. Bagley, jr., Banks, Bass, Beebe, Bell, Blackburn, Bland, Bliss, Boone, William R. Brown, Samuel D. Burchard, Burleigh, Cabell, Carr, Cason, Chapin, Cochrane, Cook, Davy, Dibrell, Douglass, Durand, Durham, Egbert, Evans, Faulkner, Felton, Flye, Fort, Frye, Fuller, Gibson, Goode, Gunter, Hale, Robert Hamilton, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hendee, Henderson, Henkle, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Hoar, Hoge, Hooker, Hoskins, Hunton, Hurd, Hyman, Jenks, Frank Jones, Kimball, King, Knott, Lapham, Leavenworth, Lewis, Lord, Luttrell, Magoon, Maish, McFarland, Metcalfe, Miller, Milliken, Mills, Money, Morgan, Nash, Norton, Odell, Phelps, John F.

Phillips, Piper, Plaisted, Platt, Potter, Powell, Reagan, William M. Robbins, Roberts, Miles Ross, Rusk, Savage, Sayler, Schumaker, Singleton, William E. Smith, Southard, Stanton, Stephens, Stone, Swann, Tarbox, Teese, Thomas, Tucker, Van Vorhes, Waddell, Wait, Walling, Ward, Warner, Warren, Watterson, G. Wiley Wells, Wheeler, Whiting, Willard, Andrew Williams, Jere N. Williams, Wilshire, Alan Wood, jr., Fernando Wood, Woodburn, and Woodworth—128.

So (two-thirds not voting in favor thereof) the rules were not suspended.

During the call of the roll the following occurred:

Mr. FRYE. I would like to vote on this bill, but I am an unfortunate stockholder in this road, and do not feel at liberty to vote until the Chair has ruled upon my right to do so.

Mr. CLYMER. What will you take for your stock? [Laughter.]

Mr. LANE. I ask unanimous consent that the gentleman be allowed to vote.

The SPEAKER. Rule 29 reads:

No member shall vote on any question in the event of which he is immediately or particularly interested.

Having read this rule, it is for the gentleman himself to determine whether he shall vote, not for the Chair.

Mr. FRYE. I decline to vote.

Mr. MACDOUGALL. I lost quite a large amount of money once on a contract in the Northern Pacific Railroad. I desire to know if that ought to affect my vote? [Laughter.]

The SPEAKER. The Chair thinks not.

Mr. WELLS, of Missouri. I desire to state that my colleague, Mr. MORGAN, and the gentleman from Texas, Mr. REAGAN, have been compelled to leave the Hall on account of indisposition.

Mr. HAMILTON, of Indiana. The gentleman from Illinois, Mr. HARRISON, is absent on duty on the Committee on Enrolled Bills.

Mr. WILLIAMS, of Michigan. My colleague, Mr. RUSK, is absent an account of indisposition.

The result of the vote was announced as above recorded.

TAX BILL FOR THE DISTRICT OF COLUMBIA.

Mr. NEAL submitted the following; which was read:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4554) for the support of the government of the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes, having met, after a full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

The Senate recedes from its amendments numbered 2, 9, 10, 12, 13, 14, 17, and 19.

The House recedes from its disagreement to the amendments numbered 3, 4, 5, 6, 7, 11, and 16; and agree to the same.

The Senate recedes from its amendment numbered 1, and agree to the same with an amendment, as follows:

On page 1, line 5 of the bill strike out "$1" and insert "$1.25;" and the House agree to the same.

The Senate recedes from its amendment numbered 15, and agree to the same with an amendment as follows:

On page 8, line 18, of the bill after the words "United States," strike out the words "other than those for the government of the District of Columbia;" and the House agree to the same.

The Senate recedes from its amendment numbered 18, and agree to the same with an amendment as follows:

In line 10 of the said amendment strike out "five" and insert "four;" and the Senate agree to the same.

LAWRENCE T. NEAL,
WILLIAM W. CRAPO,
Managers on the part of the House.
GEORGE E. SPENCER,
S. W. DORSEY,
W. H. BARNUM,
Managers on the part of the Senate.

Mr. NEAL. Mr. Speaker, most of the amendments embraced in this report are immaterial. There are only two or three to which I think it necessary to call the attention of the House. The first amendment of any consequence is the one relating to the rate of taxation upon real estate in the county. The bill as passed by the House fixed the tax upon the realty in the county at 1 per cent. The Senate amendment increased the tax to 1¼ per cent. In this report we have split the difference and put it at 1⅛.

The next amendment considered of importance by the committee was the one inserted by the Senate authorizing the Commissioners of the District to use in the repair of streets and pavements any of the surplus revenues derived from the different sources of taxation. The House conferees insisted upon a disagreement to that amendment; and it has been finally abandoned, so that the amendment is striken out.

In regard to another amendment, that relating to the taxation of church property, the Senate conferees abandoned the amendment inserted by the Senate; and the bill as it now comes before the House corresponds precisely with the bill passed by the last Congress.

Mr. STEVENSON. Will the gentleman please state what that was?

Mr. NEAL. The clause as amended provides that churches and the grounds actually occupied by them should be exempt. It provides also, that all property exempt by the laws of the United States shall be exempt from taxation by the District. That includes, I believe, school-houses owned by colleges or academies, and the lands appurtenant thereto. I think the law was first passed in 1870.

Mr. STEVENSON. This amendment leaves the law precisely as it was last year?

Mr. NEAL. Yes, sir. Now, the remaining amendment to which I wish to call attention is a new section inserted by the Senate—section 17—which provided that the Secretary of the Treasury should advance to the commissioners, to defray the ordinary running expenses of the government, the sum of $500,000. We have reduced this amount to $400,000. Upon examination of all the facts it appears absolutely impossible for the government of the District of Columbia to be run during the coming year without this advance on the part of the United States Government. The sum now proposed is much less than has been advanced at former periods. In 1874 Congress appropriated $1,300,000 outright to aid in carrying on the government of this District. In 1875 $1,060,000 was appropriated for the same purpose, in addition to $185,000 for interest on 3.65 bonds. During the last year Congress provided that the commissioners should anticipate the taxes by a loan to the amount of $418,957. I think that in this advance of $400,000 there will be no risk upon the part of the Government of the United States, inasmuch as the Secretary of the Treasury is required to retain the moneys as they are paid in, so as to re-imburse the Treasury. I demand the previous question on agreeing to the report.

The previous question was seconded and the main question ordered; and under the operation thereof, the report was adopted.

Mr. NEAL moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate insisted on its amendments to the bill (H. R. No. 4261) to provide for the sale of desert lands in certain States and Territories, agreed to the conference asked by the House on the disagreeing votes of the two Houses, and had appointed as conferees on the part of the Senate Mr. SARGENT, Mr. OGLESBY, and Mr. KELLY.

The message further announced that the Senate had passed a bill of the following title, with an amendment in which the concurrence of the House is requested:

A bill (H. R. No. 2019) for the relief of Edwin Morgan, late captain of Company G, Seventy-seventh Regiment Pennsylvania Volunteer Infantry.

The message also announced that the Senate had passed, without amendment, bills of the following titles:

A bill (H. R. No. 2606) for the relief of Catherine Harris; and

A bill (H. R. No. 559) for the relief of Almeron E. Calkins, late a lieutenant in the Eighth Michigan Cavalry.

The message also announced that the Senate had passed a bill (S. No. 1255) for the relief of Henry Voelter; in which the concurrence of the House was requested.

ENROLLED BILLS.

Mr. HARRISON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 559) for the relief of Almeron E. Calkins, late a second lieutenant in the Eighth Michigan Cavalry;

An act (H. R. No. 1611) authorizing the changing of the name of the sloop Addie Parker, of New Bedford, Massachusetts;

An act (H. R. No. 1765) respecting the limits of reservations for town sites upon the public domain;

An act (H. R. No. 1824) to change the name of the pleasure-yacht Hiram B. to Iola;

An act (H. R. No. 2606) for the relief of Catherine Harris; and

An act (H. R. No. 3574) for the relief of Marshal P. Thatcher.

AMENDMENT TO THE RULES.

Mr. SAYLER. Mr. Speaker, I am instructed by the Committee on Rules to submit the following report.

The Clerk read as follows:

The Committee on Rules report the accompanying amendment to Rule 22; which is as follows, namely:

After the word "Speaker," where it first occurs in said rule, insert the following: "And pending the election of a Speaker, under the direction of the Clerk;" and recommend its adoption.

The necessity for this amendment can be briefly stated. This rule as originally adopted April 14, 1789, was as follows, namely:

"It shall be the duty of the Sergeant-at-Arms to attend the House during its sittings, to execute the commands of the House from time to time, together with all such process issued by authority thereof as shall be directed to him by the Speaker."

Experience had fully demonstrated, especially during the protracted struggles over the election of a Speaker in the Thirty-first, Thirty-fourth, and Thirty-sixth Congresses, respectively, that the rules for the preservation of order were defective, and the twenty-second rule was accordingly amended on the 16th of April, 1860, upon a report from the Select Committee on Rules, made by Mr. Washburn, of Maine, by the insertion of the following words after the word "sittings," namely: "To aid in the enforcement of order under the direction of the Speaker."

It has been found, however, in the organization of a new House, that this rule was still defective, in that it failed to direct and authorize the Sergeant-at-Arms to preserve order during the election of a Speaker.

Rule 146 requires the Clerk, pending the election of a Speaker, "to preserve order and decorum," but fails to provide means to execute his direction in that regard.

This proposed amendment supplies the defect in this particular by requiring the Sergeant-at-Arms to aid in the enforcement of order under the direction of the Clerk, the officer charged by law with the organization of a new House.

Mr. McPherson, the Clerk of the House for many years, stated during the organization of the House in the Forty-second Congress that he had no power to direct the Sergeant-at-Arms to enforce order, and could only appeal to members to preserve order and decorum.

The Committee on Rules believe the proposed amendment to be proper and necessary, and recommend its adoption.

Mr. COX rose.

Mr. GARFIELD. I should like to hear a statement from the gentleman from New York.

Mr. COX. I say as a member of the Committee on Rules that report as written was never submitted to me as one of its members. I do not know exactly what it means, and I hope it will be postponed until to-morrow morning, so I may have an opportunity to read it.

Mr. GARFIELD. I would like to make a suggestion on the subject.

Mr. SAYLER. Mr. Speaker, I will state to the House that the amendment as proposed in the report was discussed in the Committee on Rules at length, and, by a vote of four out of five of that committee, was adopted, and I was ordered to submit it to the House. The report contains nothing except a mere statement of the history of the rule, the original rule having been adopted in 1792, and the effect of the introduction of the clause to aid in the enforcement of order under the direction of the Speaker, which was adopted in 1860. I will state the only change in the rule, and will read the rule as it now stands, that members may understand it. The twenty-second rule provides that it shall be the duty of the Sergeant-at-Arms to attend the House during its sittings; to aid in the enforcement of order, under the direction of the Speaker. We propose to add at that point, "and during the election of a Speaker, under the Clerk of the House." It simply orders the Clerk of the House to command the Sergeant-at-Arms to preserve the order of the House during the time that the House is effecting its organization in the election of Speaker. That is the only change effected.

I will state when submitting the report I intended no discourtesy to the gentleman from New York, [Mr. COX,] and it was perhaps an inadvertence; but I have submitted the report as it is drawn to three members of the committee, and I do not know why I happened not to submit it to the gentleman from New York, and certainly he will not think it was an intentional discourtesy to him on my part. It certainly was not, Mr. Speaker. It only makes the change that I have stated. There has been trouble heretofore, and Mr. McPherson, as the report states, complained at one time when there was trouble in the organization of the House that he had no power except to appeal to members to preserve order.

Mr. CONGER. Was not that sufficient?

Mr. SAYLER. It only gives to the Clerk, during the time the House is effecting its organization in the election of Speaker, the power to preserve order in the House that belongs at all times to the Speaker. And as I stated, the amendment was concurred in by four out of five of the members of the Committee on Rules, and I understood the fifth member, General BANKS, to urge no special objection to it, but to state that he thought the Clerk was already possessed of that power. I do not know whether General BANKS is now in the House or not. I believe I state his position correctly. If not, the gentleman from Iowa, [Mr. WILSON,] who is also a member of that committee, can correct me. I think it very important that this amendment should be adopted.

Mr. CONGER. Will the gentleman from Ohio object to having this report go over until to-morrow that it may be printed in the RECORD and that we may have time to consider it?

Mr. GARFIELD. I hope it will go over until to-morrow. I wish now to suggest the objection whether this amendment does not carry with it the assumption that we have created for the new Congress a full corps of officers. It implies a Sergeant-at-Arms. It implies a Doorkeeper.

The SPEAKER. They remain until their successors are elected.

Mr. GARFIELD. Not certainly without the consent of the incoming House.

The SPEAKER. They are the officers of the new House by law until their successors are appointed.

Mr. SAYLER. The proposed amendment to the rule certainly carries with it this implication: that until the successors of these officers are elected they are still officers of the House.

Mr. GARFIELD. But if under the rules of the House as they now exist the Clerk has not this power, then he has no power to command any person called an officer of the House. And if this amendment clothes him with that power, it must also carry with it a declaration of existing officers over whom he is to have power. It therefore assumes an organization of officers in advance.

Mr. SAYLER. Does the gentleman pretend to say that the present Clerk is not the Clerk of the House until his successor is elected?

Mr. GARFIELD. I know that is the law.

Mr. SAYLER. And is not the present Sergeant-at-Arms the Sergeant-at-Arms of the House until his successor is elected?

Mr. GARFIELD. I want to make one other suggestion; for I consider this as a very important question. I hold that as far as the new House is concerned this House has, in strict law, no power to bind its successor. Each House is independent of the other House; and the new House may call any of its members to the Chair to preside temporarily until the organization of the House is effected; and no one Congress is entitled, if the new House asserts its right, to project over that House any officer of the old House to direct it. But, as a matter of convenience, as a matter of preventing disorder, by common consent it has been agreed for many years that the Clerk of the former House shall preside. But when we now propose to clothe him with power to command a corps of officers about the House, I think we are going a great way. It may be it is right; but before the House is called to act upon the report I think it will be well to have it in the RECORD that we may see it in print.

Mr. SAYLER. I do not understand the peculiar position which the gentleman from Ohio appears to assume in this case. He seems to overturn all the precedents in regard to organizing a new House.

Mr. GARFIELD. O, no.

Mr. SAYLER. From the beginning of the Government down to the present time. I am so much accustomed to seeing things overturned in these times that I am not much astonished at it. But I am willing to let this go over till to-morrow, more especially on account of the statement made by the gentleman from New York, [Mr. COX,] to whom I certainly wish to show no discourtesy.

COMMITTEE ON ENROLLED BILLS.

The SPEAKER. The Chair asks consent of the House to name three additional names on the Committee on Enrolled Bills, so that the bills may be properly examined. Is there objection?

There was no objection.

The SPEAKER. The Chair appoints as such additional members Mr. POPPLETON of Ohio, Mr. JAMES B. REILLY of Pennsylvania, and Mr. FORT of Illinois.

The Chair recognizes the gentleman from New York, [Mr. COX.]

REMOVAL OF DISABILITIES.

Mr. COX. I was about to say that I am entirely content with the arrangement made about the report of the Committee on Rules that it shall go over till to-morrow. I rise now for the purpose of offering a bill, and I move to suspend the rules if any objection be made to its passage.

The Clerk read the title of the bill, as follows:

A bill to remove the political disabilities imposed by the third section of the fourteenth article of the amendments of the Constitution of the United States.

The Clerk read the bill in full. It provides that (two-thirds of each House concurring therein) all disabilities imposed and remaining upon any persons by virtue of the third section of the fourteenth article of the amendments of the Constitution of the United States be removed, and each and every person is hereby and forever relieved therefrom. And that whenever any person from whom disabilities are removed shall be elected or appointed to any post of honor or trust under the Government of the United States he shall take the oath prescribed by section 1767, title 14, of the Revised Statutes of the United States, or such other official oath as may be hereafter prescribed in such case by any other act of Congress.

Mr. GARFIELD. I think the gentleman had better wait until there is a fuller House before pressing that motion.

The SPEAKER. The Chair thinks that time will be saved by appointing tellers on this question, and the gentleman from Ohio [Mr. GARFIELD] and the gentleman from New York [Mr. COX] will act as tellers.

The House divided; and the tellers reported—ayes 118, noes 37.

Mr. SAMPSON. I demand the yeas and nays.

The yeas and nays were not ordered, only 13 members voting therefor.

So (two-thirds voting in favor thereof) the rules were suspended, and the bill (H. R. No. 469) was passed.

JOHN J. ANDERSON.

Mr. BROWN, of Kentucky. I move that the Committee of the Whole on the Private Calendar be discharged from the further consideration of the bill (S. No. 628) for the relief of John J. Anderson, surviving copartner of the firm of Anderson & White, and that the same be put upon its passage. I wish to have a moment to make a statement in regard to this bill. It has passed the Senate twice, and has been considered by the Committee on War Claims of this House, and is reported with a favorable recommendation.

Mr. GARFIELD. I understand that this bill has been reported favorably by the Committee on War Claims?

Mr. BROWN, of Kentucky. Yes, sir.

Mr. HOLMAN. I ask that the report be read.

The SPEAKER. The motion is to suspend the rules, which motion suspends the right of the gentleman to call for the reading of the report.

The question was taken on the motion of Mr. BROWN, of Kentucky; and (two-thirds voting in favor thereof) the rules were suspended and the bill passed.

ORDER OF BUSINESS.

Mr. THROCKMORTON. I desire to move a suspension of the rules for a passage of the bill.

Mr. FORT. I move that the House adjourn.

The SPEAKER. The Chair desires to say that there are quite a number of gentlemen who have matters of trifling importance to the public but of great importance to individuals, which they desire to bring before the House.

Mr. GARFIELD. I would like to ask the Speaker to state what is the condition of the appropriation bills, and whether it would be safe to adjourn now.

The SPEAKER. The Chair is informed that the House should remain in session at least for half an hour more, so as to receive the re-

port of the committee of conference on the legislative, &c., appropriation bill. The Chair thinks it right to make this statement.

Mr. SPRINGER. I would suggest that the House take up from the Speaker's table the House bills which have been returned with Senate amendments, so that every gentleman may have any bills in which he is interested considered.

Mr. HOLMAN. I ask that by unanimous consent the bills on the Speaker's table be taken up in their order and reported to the House and, if there is no objection to them, passed.

Mr. SPRINGER. I hope that will be done; that is right.

The SPEAKER. The gentleman from Indiana asks unanimous consent that the Senate bills and the House bills with Senate amendments now on the Speaker's table be taken up in their order, subject to objection.

Mr. PAGE. Would it not be in order to move to suspend the rules and pass a bill if objection were made to it?

The SPEAKER. This is proposed to be done by unanimous consent, and if objection be made to any bills they will resume their place upon the Speaker's table.

Mr. CROUNSE. I would like to include in the order Senate bills now in committees, and which have the unanimous approval of the committees to which they have been referred.

The SPEAKER. The gentleman from Nebraska [Mr. CROUNSE] and the gentleman from Tennessee [Mr. BRIGHT] ask leave to report from the Committee on Public Lands and from the Committee on Invalid Pensions Senate bills which have the approval of their respective committees, so that they may go upon the Speaker's table to be considered under this order. The Chair hears no objection.

Mr. SPRINGER. I ask that House bills with Senate amendments be first taken up, because if the amendments of the Senate are concurred in that will secure the final passage of the bills.

The SPEAKER. House bills with Senate amendments will be first taken up.

RAILROAD LAND GRANT TO IOWA.

The first bill on the Speaker's table with Senate amendments was the bill (H. R. No. 4168) to amend section 1 of the act of May 12, 1864, for a grant of land in the State of Iowa to aid in the construction of a railroad in said State.

Mr. MORRISON. I object to that bill.

Mr. OLIVER. I hope the gentleman will withdraw his objection; it is a matter of merely local interest.

The SPEAKER. Objection being made, the bill will be passed over.

THOMAS J. SPENCER.

The next bill with a Senate amendment was the bill (H. R. No. 4198) to authorize the President to restore Thomas J. Spencer to his former rank in the Army.

Mr. FOSTER objected, but subsequently withdrew his objection.

Mr. GARFIELD. Let the amendment be read.

The amendment was to add to the bill the following:

And the law of promotion in the line is hereby suspended in this case for the purpose.

The amendment was concurred in.

Mr. THROCKMORTON moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SHORT-HAND REPORTERS FOR UNITED STATES COURTS.

The next bill with Senate amendments was the bill (H. R. No. 4476) to provide for the appointment of an official short-hand reporter for the United States courts in and for the district of California.

Mr. McCRARY. I ask unanimous consent that the House non-concur in the Senate amendments to this bill, and that a committee of conference be requested.

Mr. HOLMAN. Let the amendment of the Senate be reported.

The amendment was to strike out all after the enacting clause and insert the following:

That it shall be competent for any circuit or district court justice or judge, in any of the courts of the United States, to appoint a short-hand reporter of their respective courts, whose duty it shall be upon the request of the parties in any case and under the direction of said court, to take in short-hand full notes of the oral testimony and other oral proceedings in such case, upon the trial of issues of fact, not, however, including the arguments of counsel; which said notes shall be filed with the clerk of the court in which said cause is tried. Such notes, when written out in long-hand and authenticated by the certificate of such reporter, shall be deemed to be *prima facie* a correct record of such testimony and proceedings.

SEC. 2. That the reporter so appointed shall while engaged in the discharge of his duties be an officer of the court so appointing him, and shall be entitled to the same fees allowed by the law of the State in which said court is held to short-hand reporters in such State courts, or, where there is no such State law, to the fees which may be established by general rule of the court making the appointment, such fees to be chargeable and paid by the parties in like manner as other costs in the case. The court shall have power to make such rules and regulations as may be necessary to secure the said reporter his fees for the work so required at his hands.

Also amend the title so as to read: "A bill to provide for the appointment of official short-hand reporters for the courts of the United States."

Mr. CAULFIELD. This bill was originally reported from the Committee on the Judiciary of this House. What is the objection to the Senate amendments?

Mr. McCRARY. In the substitute adopted by the Senate there are some things which I think should be amended, and I therefore prefer that the amendments of the Senate be non-concurred in and a conference requested.

The motion of Mr. McCRARY was then agreed to.

The SPEAKER announced as the conferees on the part of the House Mr. McCRARY, Mr. WIGGINTON, and Mr. CAULFIELD.

ESTHER P. FOX.

The next bill with a Senate amendment was the following:

A bill (H. R. No. 1238) granting a pension to Esther P. Fox.

The amendment of the Senate was to strike out all after the word "from," in line 8, to the end of the bill, and to insert in lieu thereof the words "and after the passage of this act."

Mr. SPRINGER. That is in accordance with the practice of the House in regard to these bills, and changes the bill so that it shall take effect from and after the passage of the act, instead of dating back.

The amendment of the Senate was concurred in.

Mr. SPRINGER. I move to reconsider the vote by which the amendment of the Senate was concurred in; and also move that the motion to reconsider be laid on the table.

Mr. HOLMAN. I think that has not been the practice of the House in reference to private bills.

The SPEAKER. The Chair thinks that the practice of the House in reference to these private bills upon their passage is to leave them without laying on the table the motion to reconsider, so as to retain power to correct any error that may afterward be discovered.

Mr. SPRINGER. I withdraw the motion.

MRS. ANN ANNIS.

The next bill with Senate amendments was the bill (H. R. No. 3011) granting a pension to Mrs. Ann Annis.

The amendments were read, as follows:

Strike out "Henry" and insert "Harvey."

At the end of the bill insert "to take effect from and after the passage of this act."

There being no objection, the amendments were concurred in.

ROSETTA HERT AND OTHERS.

The next bill with Senate amendments was the bill (H. R. No. 534) for the relief of Rosetta Hert, (late Rosetta Scoville,) Charles C. Benoist, Emily Benoist, and Logan Fanfan, half-breed Indians.

The amendments were read, as follows:

In lines 1 and 2 strike out "proper accounting officers of the Treasury and Department of the Interior are," and insert "Secretary of the Treasury is."

In lines 3 and 4 strike out "money in the Treasury not otherwise appropriated," and insert "funds which may remain of the moneys arising from the sale of lands known as the Nemaha half-breed reserve on the Missouri River, in Nebraska, under an act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations, approved February 28, 1859, upon these parties satisfying the Secretary of the Treasury that they are entitled to the same."

There being no objection the amendments were concurred in.

EDWIN MORGAN.

The next bill with Senate amendments was the bill (H. R. No. 2019) for the relief of Edwin Morgan, late captain Company G Seventy-seventh Regiment Pennsylvania Volunteer Cavalry.

The amendment was read, as follows:

In line 6 strike out "19th day of June," and insert "7th day of July."

There being no objection the amendment was concurred in.

W. W. VAN ANTWERP.

The next bill with Senate amendments was the bill (H. R. No. 2694) for the relief of W. W. Van Antwerp, late major Fourth Michigan Cavalry.

The amendment was read, as follows:

Strike out "60" in line 4 and insert "50;" so as to read "the sum of $150."

The amendment was concurred in.

COMPENSATION TO CERTAIN LAND OWNERS.

The next bill with Senate amendments was the bill (H. R. No. 186) to provide for compensation to the owners of certain lands ceded by the United States to Great Britain in and by the treaty of Washington, July 9, 1849.

The amendments were read.

Mr. HOLMAN. I shall have to ask for the reading of that bill.

The SPEAKER. That is in the nature of an objection, and the bill will be passed over.

FRANCIS GUILBEAU.

The next business on the Speaker's table was the bill (S. No. 974) for the relief of Francis Guilbeau, of San Antonio, Texas; which was read a first and second time.

The bill was read. It directs the Secretary of the Treasury to pay to Francis Guilbeau $2,600, in full payment of his claim against the United States for the use of his buildings at San Antonio and Galveston, Texas, in the years 1865 and 1866.

Mr. SCHLEICHER. I hope there will be no objection to this bill. It provides merely for the payment of rent under a written contract. It is a perfectly plain case.

Mr. HOLMAN. I should like to hear the report. Of course there is a Senate report on the bill. I think we should have some information to determine whether an objection would be proper or not.

Mr. SCHLEICHER. This was a quartermaster's contract for the rent of a building.

Mr. HOLMAN. If it was a regular contract why has the party not been paid?

Mr. SCHLEICHER. Several bills to provide for cases of this kind have been passed.

Mr. HOLMAN. But all regular claims of this kind would be paid in a regular manner.

Mr. SCHLEICHER. No, sir; several bills of this kind have passed the Senate.

Mr. HOLMAN. I know nothing about the case. I would be glad to hear the report.

The SPEAKER. The report is not at the desk.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

H. E. WOODHOUSE & CO.

The next business on the Speaker's table was the bill (S. No. 1071) for the relief of H. E. Woodhouse & Co., of Brownsville, Texas; which was read a first and second time.

The bill was read. It directs the Secretary of the Treasury to pay to H. E. Woodhouse & Co., of Brownsville, Texas, $952, being the amount demanded of them by the collector of customs and by them paid on account of non-dutiable goods, October 30, 1872.

Mr. SCHLEICHER. I will state that this is a case where the customs were wrongfully collected. Mr. Morrill, Secretary of the Treasury, recommended that they should be refunded. On that recommendation the Senate committee reported the bill favorably.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

NICHOLAS WAX AND OTHERS.

The next business on the Speaker's table was an act (S. No. 907) for the relief of Nicholas Wax, Michael Granary, and Moline Lange.

The bill was read.

Mr. HOLMAN. I think there should be some information first to the House as to whether this is a proper claim or not.

The SPEAKER. Objection being made, the bill will be passed over.

H. H. MATTHEWS.

The next business on the Speaker's table was an act (S. No. 931) for the relief of H. H. Matthews.

The bill was read.

Mr. HOLMAN. We should have some report in that case, and I object.

Objection being made, the bill was passed over.

THOMAS M. SIMMONS.

The next business on the Speaker's table was an act (S. No. 948) for the relief of Thomas M. Simmons.

The bill was read.

Mr. HOLMAN. Is there a report in this case?

Mr. LEVY. I ask the report be read.

The report was read.

Mr. BAKER, of Indiana. I object to the consideration of the bill at this time.

Objection being made, the bill was passed over.

WILLIAM JASPER CORDILL.

The next business on the Speaker's table was an act (S. No. 734) for the relief of William Jasper Cordill; which was read a first and second time.

The preamble recites that William Jasper Cordill, of Faribault County, State of Minnesota, did, on or about the 11th of March, 1866, file with the clerk of the court for Fillmore County, in that State, his affidavit and application in proper form for entry, under the homestead laws of the United States, of the fractional northwest quarter of section No. 7, of township No. 101, of range No. 26, subject to entry at the district land office at Winnebago City, and did, on the 14th of June, 1866, remove with his family on said land, and did reside thereon for the full period of five years required by the homestead law, and still continues to reside thereon, as shown by his proofs now on file in the General Land Office; that he did, in the year 1872, make full proof of his settlement, residence, and cultivation on the tract as a *bona fide* claimant under the homestead law, and applied for his final certificate therefor under homestead application No. 4038, made at Winnebago City on the 31st of March, 1866, being, as he supposed, his original application filed with the clerk of Fillmore County, and was refused such certificate for the reason that the original application No. 4038 was not, in fact, made by William Jasper Cordill, but was made by and in the name of his brother, one James W. Cordill; that James W. Cordill and other witnesses all agree that the actual settlement, residence, cultivation, and improvement upon the quarter section were made by William Jasper Cordill, and not by James W. Cordill; and that it is incompetent for the Commissioner of the General Land Office, as he deems, now to correct said mistake, and the parties have failed to show, after repeated effort, to the satisfaction of the Commissioner, how it occurred, there being no papers on file of the date of the original entry in the name or handwriting of William Jasper Cordill, but all the papers appearing under the genuine signature of James W. Cordill.

The bill authorizes the Commissioner of the General Land Office, in his discretion, to permit the final proof of William Jasper Cordill to be filed, and the final certificate to be made in his name, for the entry No. 4038, and to issue patent thereon for the northwest fractional quarter of section No. 7, of township No. 101, of range No. 26, in the district of lands now subject to sale at Worthington, Minnesota, formerly Winnebago City, and late Jackson district, in said State.

The bill was ordered to a third reading, and it was accordingly read the third time, and passed.

ENROLLED BILL AND JOINT RESOLUTIONS.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled the following bill and joint resolutions; when the Speaker signed the same:

An act (S. No. 1271) to remove the political disabilities of W. F. Carrington, of Virginia;

Joint resolution (H. R. No. 175) authorizing the issue of clothing to Company A, Second Regiment United States Cavalry; and

Joint resolution (H. R. No. 176) authorizing the issue of clothing to private Francis Hegner, Company F, Seventh Cavalry, and private John C. Collins, Company G, Seventh Cavalry.

LOUIS ROSE.

The next business on the Speaker's table was a bill (S. No. 1034) for the relief of Louis Rose; which was read a first and second time.

The bill, which was read, provides that all claim of title of the United States to blocks 93 and 94 in the city of San Diego, California, as designated and described on the map made by Charles H. Poole, in or about the year 1856, for the authorities of the city, (being blocks numbered 54 and 56 on the map made in or about the year 1849 by Cave J. Couts, lieutenant United States Army,) is quitclaimed and released to Louis Rose, the equitable owner of those blocks.

The bill was ordered to a third reading, and it was accordingly read the third time, and passed.

BENJAMIN FENTON AND D. W. FENTON.

The next business on the Speaker's table was a bill (S. No. 855) making an appropriation to pay the claim of Benjamin Fenton and D. W. Fenton; which was read a first and second time.

The bill, which was read, appropriates $958.32 in full payment, satisfaction, and discharge of the claim of Benjamin Fenton and D. W. Fenton, for rent of lot No. 59 of the Memphis navy-yard, in Memphis, Tennessee, while the same was occupied by the United States.

The bill was ordered to a third reading, and it was accordingly read the third time; and passed.

PUBLIC ACCOUNTS AND CLAIMS.

The next business on the Speaker's table was a bill (S. No. 1109) relating to public accounts and claims.

Mr. WHITTHORNE. There is no necessity for the reading of that bill; I object.

COUNTERFEIT COIN.

The next business on the Speaker's table was an act (S. No. 1147) for the punishment of persons making or having in possession dies, molds, &c., for manufacturing counterfeit coin.

Mr. O'BRIEN. I think it is time for the House to adjourn; I object.

Mr. HOLMAN. No; wait till we get the conference report on the legislative appropriation bill.

Mr. CLYMER. It is necessary we should get it before the adjournment.

The SPEAKER. Objection being made, the bill is passed over.

FORT DALLES MILITARY RESERVATION.

The next business on the Speaker's table was an act (S. No. 1001) to provide for the disposition of Fort Dalles military reservation.

Mr. CONGER. I object.

Objection being made, the bill was passed over.

DENVER AND RIO GRANDE RAILWAY COMPANY.

The next business on the Speaker's table was an act (S. No. 1083) to amend an act entitled "An act granting the right of way through the public lands to the Denver and Rio Grande Railway Company," approved June 8, 1872.

Mr. O'BRIEN. I object.

Objection being made, the bill was passed over.

ISSUE OF ARMS.

The next business on the Speaker's table was a joint resolution (S. R. No. 30) to amend the joint resolution authorizing the Secretary of War to issue arms, approved July 3, 1876; which was read a first and second time.

The joint resolution, which was read, amends the joint resolution approved July 3, 1876, authorizing the Secretary of War to issue arms to the Territories and the States bordering thereon, by inserting after the words "each of said Territories" the words "and ammunition for the same, not to exceed fifty ball-cartridges for each arm."

The joint resolution was ordered to a third reading; and it was according read the third time, and passed.

RAILROAD LANDS IN KANSAS.

The next business on the Speaker's table was the bill (S. No. 1122) to secure the rights of settlers upon certain railroad lands, and to re-

peal the first five sections of an act entitled "An act granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley Railroad and its extension to Red River," approved July 25, 1866.

The bill was read, as follows:

Be it enacted, &c., That sections 1, 2, 3, 4, and 5 of the act entitled "An act granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley Railroad and its extension to Red River," approved July 25, 1876, be, and the same are hereby, repealed.

SEC. 2. That the Secretary of the Interior is hereby instructed to issue no more patents to said railroad company for the lands withdrawn from market in consequence of the enactment of the sections of said act hereby repealed, and to withhold from delivery any patents not yet delivered for the same.

SEC. 3. That upon said Kansas and Neosho Valley Railroad Company, its successor or successors or assigns, filing with the Secretary of the Interior its acceptance of the terms, conditions, and impositions of this act, as hereinafter provided, and its execution and delivery of the deeds hereinafter specified, all of said lands, so withdrawn and undisposed of shall be restored to market by proclamation of the President of the United States and opened to settlement and purchase under the homestead laws of the United States only.

SEC. 4. That said railroad company, its successor or assigns, shall reconvey, by deed or deeds duly executed, all unsold lands patented to it, in pursuance of the sections hereby repealed, and shall pay into the Treasury of the United States the proceeds of all such lands sold and conveyed prior to the passage of this act, and that if said company shall have any uncompleted contracts for the sale of any portion of such lands, the same shall be forthwith canceled, if the contracting party or parties consent thereto in writing filed with the Secretary of the Interior; and if any portion of the purchase-money has been paid thereon, the same shall be refunded to the contracting party or parties.

SEC. 5. That the acceptance of said company, or its successor or assigns, of the terms, conditions, and impositions of this act shall be signified in writing, under the corporate seal of said company duly executed, pursuant to the direction of its board of directors first had and obtained, which acceptance shall be made within ninety days from the passage of this act. And the deed or deeds hereinbefore referred to shall be executed and delivered within six months from the passage of this act, and both deeds and acceptance shall be deposited with the Secretary of the Interior. And the payment of the money and the cancellation of the contracts hereinbefore specified shall also be made within a like period of six months from the date of the approval of this act.

Mr. GOODIN. I ask that this bill may be put upon its passage. I desire to state that it simply transfers from the railroad company to the Government of the United States about thirty thousand acres of land.

Mr. CLYMER. I wish to ask the gentlemen from Kansas one question. Why is it that this railroad company desires to re-convey these thirty thousand acres of land?

Mr. GOODIN. I will say in reply to the gentleman from Pennsylvania that these lands all lie within my own district and nearly all of them are settled upon. This railroad company has had a great deal of difficulty with settlers along the line of the road but not with reference to any of these lands. The company itself, I think, has about come to the conclusion that as these settlers will not buy o. them their best course is to make peace with the settlers themselves So the company is disposed to surrender these lands to the Government of the United States and let them be opened up by the settlers under the provisions of the homestead law. The five sections repealed are simply the sections which granted the lands to the railroad company; and all we do for the railroad company is to relieve them from the obligation of carrying troops, &c.

Mr. GARFIELD. Does the United States thereby become involved in any obligation?

Mr. GOODIN. Not in the least. Every acre of this land is turned back to the Government of the United States without imposing any obligation whatever on the Government.

Mr. HOLMAN. I ask that the sections of the law proposed to be repealed be reported.

Mr. MACDOUGALL. If those sections are to be read, I must object to the bill.

Mr. HOLMAN. Then I will not insist upon the reading of the sections if this bill has been considered by the Committee on Public Lands of the House, and they say to the House that the bill ought to pass, and they are sure that we thereby surrender no right.

Mr. MACDOUGALL. I object to debate.

Mr. GOODIN. I will say to the gentleman from Indiana that the bill has passed our committee unanimously, and there is no objection to it whatever.

Mr. HOLMAN. The committee of the House?

Mr. GOODIN. Yes, sir, the Committee on the Public Lands of the House, of which the gentleman from Ohio [Mr. SAYLER] is chairman.

Mr. MACDOUGALL. I withdraw the objection.

There being no further objection, the bill was read three times, and passed.

DENVER AND RIO GRANDE RAILROAD COMPANY.

Mr. JOHN REILLY. The objection to the bill (S. No. 1083) is withdrawn.

There being no further objection, the bill (S. No. 1083) to amend an act entitled "An act granting the right of way through the public lands to the Denver and Rio Grande Railway Company," approved June 8, 1872, was read, as follows:

Be it enacted, &c., That an act entitled "An act granting the right of way through the public lands to the Denver and Rio Grande Railway Company," approved June 8, 1872, be, and the same is hereby, amended by making the second proviso in said act read as follows, to wit:

Provided, That said company shall complete its railway to a point on the Rio Grande as far south as Santa Fé within five years of the passage of this act, and and shall complete fifty miles additional south of said point in each year thereafter; and in default thereof the rights and privileges herein granted shall be rendered null and void so far as respects the unfinished portion of said road.

The bill was read three times, and passed.

FORT DALLES MILITARY RESERVATION.

Mr. CONGER. I withdraw my objection to the bill relating to the Fort Dalles military reservation.

Mr. POPPLETON. I renew it. I think it is time to adjourn.

Mr. GARFIELD. We cannot adjourn. We must wait for the report on the legislative appropriation bill.

Subsequently Mr. POPPLETON withdrew his objection.

There being no further objection, the bill (S. No. 1001) to provide for the disposition of the Fort Dalles military reservation was read three times, and passed.

ISRAEL YOUNT.

The next business on the Speaker's table was the bill (S. No. 481) for the relief of Israel Yount.

The bill was read.

(Objected to by Mr. MORRISON.)

EXPENSES OF ELECTORAL COMMISSION.

The next business on the Speaker's table was the bill (S. No. 1238) making an appropriation for expenses of the electoral commission.

The bill was read. It appropriates the sum of $7,000, or so much thereof as may be necessary, to pay the expenses of the electoral commission provided for by the act approved January 29, 1877, entitled "An act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," the sum to be disbursed upon the certificate of the president of the commission; provided that any person employed by said commission may receive such compensation as may be allowed by said commission in addition to any other compensation or salary he may be receiving as an officer of the Government.

Mr. HOLMAN. I trust there will be some explanation of that bill.

Mr. GARFIELD. I think the gentleman should allow that bill to pass. I hope he will not think of permitting the expenses that have been incurred to fall upon the president of the commission himself. I will state in a word or two what I know about this. The commission was authorized to appoint officers. The president of the commission was by the commission authorized to make the appointments himself. He appointed, I think, three clerks, a sergeant-at-arms or marshal, and two or three assistants about the room.

He was compelled also, in consequence of the appropriation for the printing having run out, to make arrangements for the printing at private offices to print the certificates as they came over from the House and to print the objections of the objectors as they came over, there being no power to get the printing done at the Government Printing Office. What the expenses have been I do not know, but I know that a committee was appointed to act with the President in reference to this matter, and I think Senator BAYARD and perhaps Mr. HOAR were on that committee. I was not on that committee myself. That committee, headed by the president of the commission, revised and examined all the accounts, and were directed to make up and send to the two Houses a statement of the amount required for the expenses of the commission. I happened not to be present when the report was presented, but I have no doubt that the report was drawn up in accordance with the decision of the committee to which I referred.

Mr. HOLMAN. Is that report before the House?

Mr. GARFIELD. I suppose it consisted in a letter merely.

Mr. HOLMAN. I have no doubt that these expenses ought to be paid, but I think we ought to have the report before us before appropriating the money.

Mr. MACDOUGALL. I must object to the bill if it is going to lead to debate.

Mr. THORNBURGH. It does not lead to debate, and therefore the objection does not apply.

No objection being made, the bill was passed.

H. H. MATHEWS.

The SPEAKER. As objection is withdrawn by the gentleman from Ohio [Mr. GARFIELD] to the bill (S. No. 931) for the relief of H. H. Mathews, of Arkansas, the bill will be read.

The bill was read. It provides that the Secretary of the Treasury shall pay to H. H. Mathews, of Saint Francis County, Arkansas, the sum of $6,628.50, in full compensation for twenty-seven bales of cotton, seized by order of Colonel Jacob Fry, commanding United States forces at the post of Trenton, Tennessee, which cotton was taken and placed in the fortifications at that post.

Mr. HOLMAN. I ask that the report in this case be read. I think I find a very interesting question presented here. I understand myself what the claim is very well.

Mr. BAKER. It ought to be examined by a committee of the House.

Mr. SMITH, of Pennsylvania. I object to that bill.

Objection being made the bill was passed over.

CHARLES E. BOGGS.

The next business on the Speaker's table was the bill (S. No. 457) authorizing the restoration of Charles E. Boggs to the active list of the Navy.

Mr. WHITTHORNE. I object to that bill.
Objection being made the bill was passed over.

NATIONAL MUSEUM.

The next business on the Speaker's table was the bill (S. No. 1252) for the erection of a fire-proof building for the national museum.

Mr. HOLMAN. O! I think that appropriation can be postponed for the present, and I must object to it.

Objection being made the bill was passed over.

AMENDMENT OF REVISED STATUTES.

The next business on the Speaker's table was the bill (H. R. No. 1225) to amend section 2291 of the Revised Statutes of the United States, in relation to proof required in homestead entries.

Mr. GARFIELD. If the Committee on Public Lands, or any member of that committee, has looked into this case, I will not object, but otherwise I must object.

Mr. OLIVER. This bill has been before the Committees on Public Lands of the two Houses and has been reported by them unanimously, and it has at different times passed both Houses of Congress.

Mr. GARFIELD. Then I withdraw the objection.

The Clerk read the bill. It provides that the proof of residence, occupation, or cultivation, the affidavit of non-alienation, and the oath of allegiance required to be made by section 2291 of the Revised Statutes may be made before the judge, or, in his absence, before the clerk of any court of record of the county and State or district and Territory in which the lands are situated; and if said lands are situated in any unorganized county, such proof may be made in a similar manner in any adjacent county in said State or Territory; and the proof, affidavit, and oath, when so made and duly subscribed, shall have the same force and effect as if made before the register or receiver of the proper land district; and the same shall be transmitted by such judge, or the clerk of his court, to the register and the receiver, with the fee and charges allowed by law to him; and the register and receiver shall be entitled to the same fees for examining and approving said testimony as are now allowed by law for taking the same.

The bill in its second section provides that if any witness making such proof, or the said applicant making such affidavit or oath, swears falsely as to any material matter contained in said proof, affidavits, or oaths, the said false swearing being willful and corrupt, he shall be deemed guilty of perjury, and shall be liable to the same pains and penalties as if he had sworn falsely before the register.

No objection being made, the bill was passed.

ORDER OF BUSINESS.

Mr. JAMES B. REILLY. I move that the House do now adjourn.

Mr. CLYMER. In the absence of the chairman of the Committee on Appropriations, allow me to say that if the House adjourns now we may endanger the passage of the legislative, executive, and judicial appropriation bill.

Mr. HOLMAN. There has been a little delay in the preparation of the report of the committee of conference on the legislative, &c., appropriation bill. There was a mistake made which it required several hours to detect, although it was apparent that there was a mistake somewhere in the report prepared by the conferees. The report has now gone to the Senate, and I think we may count with reasonable certainty on its coming to the House for action within half an hour.

The SPEAKER. The Chair will now, after the statement of the gentleman from Indiana, submit the question upon the motion to adjourn; but the Chair desires to state that it is very important and essential that the House should remain in session until the report of the committee of conference on the legislative bill is received and acted upon.

Mr. HOLMAN. I hope that the House will remain in session for at least half an hour longer.

Mr. JAMES B. REILLY. I am willing to remain here all night if it be necessary to pass the appropriation bills.

Mr. HAMILTON, of Indiana. I desire to state that the enrolling clerks have their hands full already, and that we cannot do anything except to enroll the appropriation bills.

The SPEAKER. The Chair would state that the practice has been to enroll the appropriation bills first.

Mr. HAMILTON, of Indiana. There is no use in passing other bills. We have not time enough to enroll anything but the appropriation bills.

Mr. STEELE. But these are Senate bills, and will be enrolled on the Senate side.

Mr. SPRINGER. We can employ additional enrolling clerks.

Mr. HAMILTON, of Indiana. It is utterly impossible to enroll any but appropriation bills.

The SPEAKER. That should not prevent the House from passing bills. Some of these bills are to be enrolled by the Senate enrolling clerks.

Mr. JAMES B. REILLY. I will withdraw the motion to adjourn, and hope members will take their seats and allow business to proceed in an orderly manner.

Mr. HAMILTON, of Indiana. I desire to say one word. There are now five clerks working at enrolling the bills we have already passed; and it is utterly impossible for us to enroll any bill——

The SPEAKER. These are Senate bills, and if passed will be enrolled in the Senate.

Mr. HAMILTON, of Indiana. I have no objection to passing them.

JOHN S. WOOD.

The next bill on the Speaker's table was the bill (S. No. 40) for the relief of John S. Wood, late first lieutenant in the Seventh Pennsylvania Cavalry.

The bill directs the Secretary of War to cause to be furnished to John S. Wood, late a first lieutenant in the Seventh Pennsylvania Cavalry Volunteers, an honorable discharge from the service, on account of wounds received in action, of the same date as the date of the discharge of his company, and the Paymaster-General to pay him a sum equal to emoluments of a first lieutenant of cavalry, from the date of his muster into the service as such until the muster out of Company I of the Seventh Pennsylvania Cavalry, deducting therefrom such sum or sums as he may have received on account of such services for the same period.

The second section provides that nothing contained in the thirteenth section of the act entitled "An act supplementary to the several acts relating to pensions," approved June 6, 1867, or any other act limiting the time for filing a claim for a pension shall operate to prevent the said John S. Wood from making a claim for a pension from the date of the muster out of service of Company I, Seventh Pennsylvania Cavalry.

There being no objection, the bill was read three times, and passed.

ELI TEEGARDEN.

The next business on the Speaker's table was the bill (S. No. 1197) for the relief of Eli Teegarden.

The bill directs the Secretary of the Treasury to pay to Eli Teegarden, of California, $50.34, being the amount of a balance due him March 31, 1875, on his account as receiver of public moneys at the land office at Marysville, California.

There being no objection, the bill was read three times, and passed.

ORDER OF BUSINESS.

Mr. HAMILTON, of Indiana. I desire to say that unless there is some prospect of the appropriation bills coming before the House I shall raise the question of a quorum.

The SPEAKER. The Chair appeals to the gentleman not to object to the transaction of the public business at this time.

Mr. HAMILTON, of Indiana. I want some assurance that the appropriation bills will come before the House.

The SPEAKER. It is the general practice on the last night and the last night but one of the session to proceed with business in this way by unanimous consent. There is no earthly danger of passing any bills that should not pass.

Mr. O'BRIEN. It seems to me——

The SPEAKER. The gentleman is not in order except by unanimous consent, unless he has some motion to make.

Mr. O'BRIEN. I have a motion to make.

The SPEAKER. The gentleman will submit it.

Mr. O'BRIEN. My motion is that these bills shall be considered as rejected when read, unless some member shall get up here and state upon his own authority that he knows something of the bill.

The SPEAKER. The Chair is watching carefully every bill as it is read.

Mr. O'BRIEN. If the Chair makes that reply to me, then I would inquire of the Chair whether he has personal knowledge that these bills are proper bills to be passed?

The SPEAKER. The Chair is watching them closely.

Mr. O'BRIEN. If the Chair will say so I will submit?

The SPEAKER. The gentleman's suggestion seemed to imply that proper consideration was not given to these bills——

Mr. O'BRIEN. Not at all.

The SPEAKER. And in reply to that suggestion the Chair stated that he was listening to every bill as it was read.

Mr. O'BRIEN. I understand that, and so are a number of other members in the House. But there are many of these bills that not one of us know anything about; no reports are being read. I call the attention of the House to the fact that during the whole session of Congress——

Mr. COX. I move that the House now adjourn.

Mr. HOLMAN. I trust not.

The SPEAKER. The Chair will submit the motion to the House.

Mr. O'BRIEN. I hope the gentleman from New York [Mr. COX] will not take me off the floor by such a motion.

The SPEAKER. Debate is not in order.

Mr. COX. The House can vote down the motion to adjourn.

The motion to adjourn was not agreed to.

Mr. O'BRIEN. I desire to say, Mr. Speaker——

Cries of "Regular order!"

Mr. O'BRIEN. The regular order is to hear what I have to say.

Many MEMBERS. "O, no."

Mr. MACDOUGALL. I think the gentleman must have been asleep and just waked up, for he does not seem to know anything about what has been going on.

Mr. O'BRIEN. That is not so.

The SPEAKER. The Chair appeals to the gentleman from Maryland [Mr. O'BRIEN] to let business proceed.

Mr. O'BRIEN. If any member will rise as these bills are read and say that they are proper bills and ought to be passed, I will not object; otherwise I think I must object to every bill.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the bill (H. R. No. 4554) for the support of the government of the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes.

SETTLERS ON THE PUBLIC LANDS.

The next business on the Speaker's table was the bill (S. No. 1063) for the relief of certain settlers on the public lands; which was read a first time and second time.

The bill was read. It provides that it shall be lawful for homestead and pre-emption settlers on the public lands, or pre-emption settlers on Indian reservations, where crops were destroyed or seriously injured by grasshoppers in the year 1877, to leave and be absent from said lands until the 1st day of July, 1878, under such rules and regulations as to proof of the same as the Commissioner of the General Land Office shall prescribe; and where such grasshoppers shall re-appear in 1878, with a like destruction or injury of crops, the right to leave and be absent shall continue to October 1, 1879; and during such absence no adverse rights shall attach to the lands, such settlers being allowed to resume and perfect their settlement as though no such absence had occurred.

The second section provides that the time for making final proof and payment by pre-emptors whose crops have been destroyed or injured as aforesaid be extended for one year after the expiration of the term of absence provided for in the first section of this act; and all the rights and privileges extended by this act to homestead and pre-emption settlers shall apply to and include the settlers under an act entitled "An act to encourage the growth of timber on western prairies," approved March 3, 1873, and the acts amendatory thereof.

Mr. SAYLER. A House bill similar to this has received the careful consideration of the Committee on Public Lands of the House and meets their hearty approval.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

FREDERICK HINKEL.

The next business on the Speaker's table was the joint resolution (S. No. 32) providing for the renunciation of the naturalization of Frederick Hinkel; which was read a first and second time.

The bill was read. It provides that an official notification from the government of the North German Empire of the employment of Mr. Frederick Hinkel in the consular or diplomatic service of that government, accompanied by a renunciation in writing by Hinkel of his naturalization in the United States, may be accepted by the President as evidence of a renunciation of such naturalization equivalent in effect to the residence of two years in his former country without intent to return to the United States, provided for in the fourth article of the treaty of February 22, 1868, between the United States and the North German Confederation.

Mr. BANKS. This bill has received the unanimous approval of the Committee on Foreign Affairs.

Mr. GARFIELD. I understand that a bill identical in terms with this was passed by the House not long ago. There can be no objection to passing this bill.

Mr. BANKS. If necessary, I could state the facts very briefly.

Several MEMBERS. It is all right.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

SARAH A. CHAMBERLAIN.

The next business on the Speaker's table was the bill (S. No. 1116) granting a pension to Sarah A. Chamberlain, guardian of the minor heirs of James Eagle, late private Company F, Second Regiment Kansas State Militia; which was read a first and second time.

The bill was read. It authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Sarah A. Chamberlain, guardian of the minor heirs of James Eagle, late private Company F, Second Regiment Kansas State Militia.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

HARRIET MOSS.

The next business on the Speaker's table was the bill (S. No. 1183) granting a pension to Harriet Moss; which was read a first and second time.

The bill was read. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension-laws, the name of Harriet Moss, widow of Samuel I. Moss, late private in Company E, Eighteenth Missouri Infantry Volunteers.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

MARGARET HUNTER HARDIE.

The next business on the Speaker's table was the bill (S. No. 1200) to grant a pension to Margaret Hunter Hardie, widow of James A. Hardie, Inspector-General in the United States Army; which was read a first and second time.

The bill was read. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret Hunter Hardie, widow of James A. Hardie, Inspector-General in the Army of the United States, and pay her a pension at the rate of $50 per month from and after the passage of this act.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

Mr. COX. I move that the House adjourn.

The motion was not agreed to.

DANIEL HOULIHAN.

The next business on the Speaker's table was a bill (S. No. 1259) granting a pension to Daniel Houlihan; which was read a first and second time.

The bill, which was read, authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Daniel Houlihan, late sergeant Company I, Eighty-second Regiment New York Volunteers.

There being no objection, the bill was ordered to a third reading; and it was accordingly read the third time, and passed.

EDMUND H. COBB.

The next business on the Speaker's table was a bill (S. No. 1260) granting a pension to Edmund H. Cobb; which was read a first and second time.

The bill, which was read, authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Edmund H. Cobb, private Company B, New Hampshire Heavy Artillery.

There being no objection, the bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

STAFF OF THE ARMY.

The next business on the Speaker's table was a bill (S. No. 1243) to repeal the statutes forbidding appointments and promotions in the staff of the Army; which was read a first and second time.

The bill, which was read, provides that section 1194 of the Revised Statutes, now applying only to grades in the Pay Department of the Army above the rank of major, is hereby repealed.

Mr. THORNBURGH. The Committee on Military Affairs of this House have acted on this bill favorably.

Mr. MACDOUGALL. And I hope it will be passed without objection.

Mr. HOLMAN. I think the bill ought to be referred to the Committee on Military Affairs.

Mr. A. S. WILLIAMS. That committee has already considered the subject and passed upon it unanimously.

Mr. WHITE. I move the House adjourn.

The House refused to adjourn.

Mr. HOLMAN. I think the original law is right. It has been repealed piece by piece.

Mr. MACDOUGALL. It is the unanimous report of the Committee on Military Affairs in both Houses.

Mr. HOLMAN. I withdraw my objection, but I hope the committee will provide for the re-enactment of the old law.

There being no objection, the bill was ordered to a third reading; and it was accordingly read the third time, and passed.

WILLIAM L. HICKAM.

The next business on the Speaker's table was a bill (S. No. 1284) for the relief of William L. Hickam, of Missouri.

The bill, which was read, directs the Secretary of the Interior to cause the pension agent at Saint Joseph, Missouri, to issue and deliver to William L. Hickam a duplicate check, No. 61872, for the sum of $1,616.33, in favor of William L. Hickam, for one lost in the mail November 30, 1876; provided that the Secretary of the Interior be satisfied that the same has not been paid, and that the said Hickam give bond and security, approved by the Secretary of the Interior, to hold the United States harmless against the payment of the original check.

There being no objection, the bill was ordered to a third reading; and it was accordingly read the third time, and passed.

P. J. QUATTLEBAUM.

The next business on the Speaker's table was a bill (S. No. 1188) to remove the political disabilities of P. J. Quattlebaum, of Georgia; which was read a first and second time.

The bill, which was read, provides, two-thirds voting in favor thereof, that the political disabilities of P. J. Quattlebaum, of Georgia, imposed by reason of his participation in the late war be, and the same are hereby, removed.

There being no objection, the bill was ordered to a third reading; and it was accordingly read the third time and passed, two-thirds voting in favor thereof.

CONTINENTAL CONGRESS.

The next business on the Speaker's table was a bill (S. No. 1019) to provide for a reprint of the resolves, ordinances, and acts passed by the Continental Congress and the Congress of the Confederation; which was read a first and second time.

The bill, which was read, in the first section provides that there be printed at the Government Printing Office, for the use of Congress, five thousand copies of the resolves, ordinances, and acts of the Continental Congress and the Congress of the Confederation of the United States, one thousand five hundred copies for the use of the Senate, three thousand copies for the use of the House of Representatives, and five hundred copies for the use of the Executive Departments.

The second section provides that said resolves, ordinances, and acts shall be taken from the journals, and printed with a proper index, under the supervision of the Librarian of Congress.

The third section provides that the sum of $1,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expenses of making such work and index; the same to be disbursed under the direction of the Joint Committee on the Library.

Mr. HOLMAN. I see the chairman of the Committee on Printing is present, and I ask him to explain the purpose of this bill.

Mr. VANCE, of Ohio. That bill received the approval of the Joint Committee on the Library in the Senate, and I do not myself see any objection to it. I think it should pass.

Mr. GARFIELD. It provides for the publication of a document precious to every man who wishes to know the early history of the country.

There being no objection, the bill was ordered to a third reading; and it was accordingly read the third time, and passed.

JULIUS S. BOHRER.

The next business on the Speaker's table was a bill (S. No. 1010) for the relief of Julius S. Bohrer, master of the United States Navy.

Mr. HARRIS, of Massachusetts. I object.

Mr. ROBERTS. That bill has been unanimously reported by the committee of this House.

Mr. HARRIS, of Massachusetts. I object.

Objection being made, the bill was passed over.

WESTERN AND ATLANTIC RAILROAD, GEORGIA.

The next business on the Speaker's table was a bill (S. No. 177) to authorize the Secretary of War to open and re-adjust the settlement made by the United States Government with the Western and Atlantic Railroad, of Georgia; which was read a first and second time.

The bill, which was read, authorizes the Secretary of War to reopen the settlement made by the United States Government with the Western and Atlantic Railroad Company of the State of Georgia, and to adjust the same upon the basis and plan of settlement which was adopted in the settlement made by the Secretary of War with the Nashville and Chattanooga Railroad Company of East Tennessee, and Georgia Railroad Company and the Nashville and Decatur Railroad Company under the authority of an act of Congress approved March 3, 1871.

The second section provides that when said claims have been adjusted in pursuance of the provisions of this act the Secretary of War shall be authorized to issue his warrant on the Treasury of the United States to the governor of Georgia or his order for the amount of money it is found ought to be refunded to said railroad on account of said settlement.

Mr. O'BRIEN. I object.

Mr. CANDLER. I hope the gentleman will not object to that bill.

Mr. O'BRIEN. I withdraw my objection.

Mr. HOLMAN. I hope there will be some explanation of it.

Mr. CANDLER. This bill was considered thoroughly by the Committee on Military Affairs of the Senate, and they reported unanimously in its favor. After discussion in the Senate it was passed by that body. It is a bill to open a settlement by the Western and Atlantic Railroad of the State of Georgia with the Government of the United States upon the same terms upon which settlements have been had with certain railroads in Tennessee on account of property sold by the United States to said railroads. It arises out of the sale of some property by the United States to the Western and Atlantic Railroad directly after the war. The amount paid by the Western and Atlantic Railroad to the Government of the United States was over $400,000, but there is nothing like that amount involved in this bill.

Mr. GARFIELD. I desire to ask the gentleman if this is a case similar to that of the Chattanooga Railroad?

Mr. CANDLER. Exactly the same.

Mr. GARFIELD. In that case the Government took possession of the railroad and ran it for some time during the war, and it was necessary after the war was over to make an adjustment with the road of the account between it and the United States. I am told that this is a case of the same kind. If it be, it is just that this settlement should be made.

Mr. STRAIT. I desire to say that this bill has been before the Committee on Military Affairs of this House and has received the sanction of that committee.

Mr. HOLMAN. What is the reason for re-opening this settlement?

Mr. CANDLER. There was an amount due from the United States for iron and other property taken from the Western and Atlantic Railroad, which was not included in the settlement made at the time the Western and Atlantic Railroad paid to the United States the amount due for rolling-stock and other property sold by the United States to that railroad.

Mr. GARFIELD. I will further say that the Senator from that State stated this case to me and requested me to give attention to it; and from his statement I believe that this bill is similar to the Tennessee bill, and a just settlement of the accounts between the Government and the State of Georgia, which ought to be made.

Mr. HOLMAN. Does the gentleman know anything of the reasons for re-opening the settlement?

Mr. GARFIELD. I know nothing of it except what I have been told by the gentleman representing the State.

Mr. CANDLER. This road is in the same position as the other roads with which settlements have been made. This amount was not included in the settlement and is now to be settled on precisely the same terms.

There being no objection, the bill was read three times, and passed.

JULIUS S. BOHRER.

Mr. TERRY. I understand the objection to the bill (S. No. 1010) is withdrawn.

Mr. WHITTHORNE. I renew it.

WILLIAM WHEELER HUBBELL.

The next business on the Speaker's table was the bill (S. No. 667) for the relief of William Wheeler Hubbell, and to make just compensation for the past making, or use, or vending of his patent explosive shell-fuse and percussion-exploders by the United States.

Mr. EDEN. I object.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate insisted on its amendments to the bill (H. R. No. 4476) to provide for the appointment of an official short-hand reporter in the United States court for the District of California, disagreed to by the House of Representatives, agreed to the conference asked by the House on the disagreeing votes of the two House thereon, and had appointed Mr. WRIGHT, Mr. HOWE, and Mr. COOPER as conferees on the part of the Senate.

THOMAS E. MALEY.

The next business on the Speaker's table was the bill (S. No. 1111) for the relief of Thomas E. Maley.

The bill was read.

Mr. A. S. WILLIAMS. That bill has passed the Committee on Military Affairs of the House unanimously, and they recommend its passage.

Mr. HOLMAN. It is a very complicated bill. I shall not object to its being considered to-morrow; but, in this confusion, I must object to its being passed now.

Mr. CONGER. I ask unanimous consent to take from the Private Calender a bill for the relief of a private soldier of the State of Michigan.

The SPEAKER. The Senate bills on the Speakers' table will soon be disposed of. The Chair will recognize the gentleman from Michigan hereafter.

GEORGE A. ARMES.

The next business on the Speaker's table was the bill (S. No. 407) to authorize the restoration of George A. Armes to the rank of captain.

The bill was read.

Mr. GARFIELD. I object.

HENRY VOELTER.

The next business on the Speaker's table was the bill (S. No. 1235) for the relief of Henry Voelter.

The bill was read.

(Objected to by Mr. SPRINGER.)

RICHMOND FEMALE INSTITUTE.

The next business on the Speaker's table was the bill (S. No. 780) for the relief of the Richmond Female Institute, in the city of Richmond, Virginia.

The bill was read. It directs the accounting officers of the Treasury to pay to the treasurer of the Richmond Female Institute of the city of Richmond, in the State of Virginia, the sum of $4,933.33 in full payment and satisfaction for the rent, use, and occcupation of its buildings by the Army of the United States from October 1, 1865, to October 10, 1866; all claim for injuries and damages being satisfied by the acceptance of said sum; and the bill appropriates the said sum to enable such payment to be made.

Mr. HOLMAN. What was the date of the occupation?

Mr. TUCKER. From October 1, 1865, to October 10, 1866; that is, after the war.

There being no objection, the bill was read three times, and passed.

LOUISVILLE ORPHANS' HOME.

Mr. WATTERSON. I move that the bill (S. No. 259) for the benefit of the Louisville Baptist Orphans' Home be taken from the Speaker's table and passed.

Mr. CONGER. I made objection to that bill when it was up before, but I have since examined it and I think ought to pass, and therefore I withdraw the objection.

No further objection being made, the bill was passed.

MOSES F. CARLTON.

Mr. CONGER. I ask unanimous consent to take from the Private Calendar the bill (H. R. No. 2386) for the relief of Moses F. Carlton, late second lieutenant Company I, Fourth Michigan Volunteers.

Mr. HOLMAN. I think we should proceed to execute the order of the House if it is not completed.

The SPEAKER. The order is completed.

Mr. CONGER. I ask the gentleman to give me the privilege of having that bill read.

Mr. HOLMAN. The Senate has adjourned, and there is no object now of continuing in session.

The SPEAKER. The Chair hopes that this bill will not be objected to unless it be wrong.

No objection being made, the bill was passed.

PENSION LAWS.

The SPEAKER. Unanimous consent was given for the reporting of the bill (S. No. 36) amending the pension law so as to remove the disability of those who, having participated in the rebellion, have, since its termination, enlisted in the Army of the United States, and become disabled. The bill will be read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the law prohibiting the payment of any money on account of pensions to any person, or to the widow, children, or heirs of any deceased person, who in any manner engaged in or aided or abetted the late rebellion against the authority of the United States, shall not be construed to apply to such persons as voluntarily left the forces of the rebellion, with the *bona fide* intent of aiding the United States in suppressing the same, and, in pursuance of such intent, afterward enlisted in the Army of the United States, and who, while in such service, incurred disability from a wound or injury received or disease contracted in the line of duty: *Provided, however*, That this act shall not be construed to include those who enlisted while they were prisoners of war.

No objection being made, the bill was passed.

SETTLERS UNDER THE PRE-EMPTION LAW.

The SPEAKER. The Chair now lays before the House the bill (S. No. 1163) for the relief of settlers on the public lands under the pre-emption laws.

Mr. CROUNSE. That bill has the unanimous approval of the Committee on Public Lands.

No objection being made, the bill was passed.

Mr. SPRINGER. I desire to withdraw my objection to the bill, (H. R. No. 555,) the patent being in the interest of the dissemination of knowledge.

Mr. HOLMAN. I move that the House take a recess until ten o'clock to-morrow. It is now past one o'clock, and the Senate has adjourned, and under such circumstances the House had better take a recess.

The SPEAKER. The Chair is informed that the Senate bills passed to-night have been enrolled in the Senate.

Mr. WILSON, of Iowa. There is evidently no quorum present.

Mr. WADDELL. I move that the House do now adjourn.

Mr. HOLMAN. I hope not; I hope we shall take a recess.

Mr. WADDELL. I will modify my motion so as to move that the House take a recess until ten o'clock.

Mr. BANNING. I move that the House adjourn, and I make that motion because I have been trying unsuccesfully to offer a bill all day.

The SPEAKER. The Chair will recognize the gentleman if he has been trying to offer a bill.

Mr. BANNING. I have been trying all day. I objected to bill No. 667, and I understand that the Committee on Naval Affairs fully considered the bill and recommended its passage.

Mr. HOLMAN. I had moved that there be a recess until ten o'clock.

Mr. BANNING. I will withdraw my motion if the gentleman from Indiana will treat me as fairly as I want to be treated.

Mr. THORNBURGH. I renew the motion that the House do now adjourn.

The question was taken on the motion, and the House refused to adjourn.

Mr. WHITE. I make the point of order that no quorum voted.

Mr. GLOVER. I ask the gentleman from Indiana [Mr. HOLMAN] to withdraw his motion for a recess to enable me to offer a resolution.

Mr. CAULFIELD. I object to that. Let us all have an opportunity to offer our resolutions, or cut them all off.

The question was then taken on the motion for a recess until to-morrow morning at ten o'clock; and upon a division there were—ayes 32, noes 22.

Mr. CAULFIELD. I call for the yeas and nays.

Mr. BANNING. I rise to make a parliamentary inquiry.

The SPEAKER. The gentleman will make it.

Mr. BANNING. Is it in order for less than a quorum to take a recess?

The SPEAKER. It is not, if the point is made.

Mr. HOLMAN. I trust that point will not be made.

Mr. CAULFIELD. I make it.

Mr. HOLMAN. I will state to gentlemen that if we take a recess to a later hour than ten o'clock to-morrow it may be fatal to some of the appropriation bills.

Mr. CAULFIELD. Let us all have an equal show here.

The SPEAKER. Does the gentleman from Indiana [Mr. HOLMAN] withdraw his motion for a recess?

Mr. HOLMAN. I do not. I desire to say that it will be impossible for me to remain here much longer to-night, and I know that is the case with many other members.

Mr. SAYLER. Our committees ought to have to-morrow morning from ten to eleven o'clock for their meetings. I know that the Committee on Public Lands want to have a meeting to-morrow morning, and I suggest to the gentleman to modify his motion so as to take a recess until eleven o'clock to-morrow.

Mr. HOLMAN. I think if we go beyond ten o'clock to-morrow morning it will be likely to prove fatal to some of the appropriation bills.

Mr. SAYLER. Very well. I will withdraw the suggestion.

The SPEAKER. The Chair will again submit the question upon the motion that the House now take a recess until ten o'clock to-morrow morning.

The motion was agreed to; and accordingly (at one o'clock and twenty-five minutes a. m.) the House took a recess until ten o'clock a. m.

AFTER THE RECESS.

The recess having expired, the House was called to order by the Speaker at ten o'clock a. m., (Saturday, March 3.)

THOMAS MORROW.

Mr. TARBOX. I ask unanimous consent to submit for adoption at this time a resolution which has the approval of the chairman of the Committee of Appropriations [Mr. HOLMAN] and the chairman of the Committee on Accounts, [Mr. ROBERTS.]

The Clerk read as follows:

Resolved, That the Clerk of the House be, and hereby is, authorized and directed to pay out of the contingent fund of the House to Thomas Morrow, for services rendered under the Doorkeeper of the House, the sum of $350.

There being no objection, the resolution was adopted.

Mr. TARBOX moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HARBORS OF REFUGE ON THE OHIO RIVER.

Mr. SAYLER, by unanimous consent, submitted the following resolution; which was read:

Resolved, That the Secretary of War be requested to report to Congress on the best method, by harbors of refuge or otherwise, of protecting the river commerce at Cincinnati from floes of ice in the Ohio.

Mr. SAYLER. I offer this resolution in accordance with the suggestion of Major Merrill, of the Engineer Corps, stationed at Cincinnati, and upon the recommendation of General Humphreys, Chief of Engineers of the United States Army. It is intended to cover all the ground of the resolutions heretofore adopted by the House, and which were offered by my colleague, [Mr. BANNING,] by the gentleman from Kentucky, [Mr. JONES,] and by myself.

The resolution was then adopted.

HENRY THOMAS.

Mr. WILSON, of Iowa. I want to get a few dollars for a little colored messenger of the Committee on War Claims, and I ask unanimous consent that the resolution which I send to the Clerk's desk be adopted.

The Clerk read as follows:

Resolved, That the Clerk of the House be directed to pay out of the contingent fund to Henry Thomas, for sixty days' services as messenger to the Committee on War Claims, at $2 per day, $120.

There being no objection, the resolution was adopted.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HENRY M. MEADE.

Mr. WHITTHORNE, by unanimous consent, from the Committee on Naval Affairs, reported back, with a favorable recommendation, House bill No. 1082, for the relief of Henry M. Meade, late paymaster in the United States Navy.

The bill authorizes the accounting officers of the Treasury to adjust the accounts of Henry M. Meade, late a paymaster in the United States Navy, and credit him with the sum of $2,545.22 for unavoidable losses and checkages sustained by him in the legitimate performance of his duties as paymaster in the United States Navy from 1862 to 1872, which sum stands charged against him in the United States Treasury Department.

There being no objection, the bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

MOLINE WATER POWER COMPANY.

Mr. HENDERSON, by unanimous consent, introduced a joint resolution (H. R. No. 194) to appoint a commission to examine into the matter of contracts made by and between the United States and the Moline Water Power Company as to the water power at Moline, Illinois, and to report to Congress as to the same; which was read a first and second time.

The preamble states that the Moline Water Power Company of Moline, in the State of Illinois, complains that certain contracts made with said company by the United States, through the Secretary of War acting under the authority of Congress, have not been carried out

in good faith in developing and maintaining the water power at said town of Moline, as required by said contracts, and that by reason of such failure said company has sustained and is sustaining large damages.

The joint resolution authorizes and requires the Secretary of War to appoint a commission, to consist of three competent engineers, one of whom shall be the Chief of Engineers of the United States Army, whose duty it shall be to examine into the subject-matter of said contracts made by and between the United States and the said water power company, as to said water power and the development and maintenance of the same, and to report to the Congress of the United States at its next session what if anything is necessary to be done by the United States to carry out in good faith said contract, and to relieve said water power company from its alleged grievances, said report to be submitted through the Secretary of War to the Congress of the United States at its next session, and to be directed to the Speaker of the House of Representatives.

Mr. HENDERSON. I desire to state that this is a mere resolution of inquiry, and I introduce it at the suggestion of the chairman of the Committee on Appropriations.

The joint resolution was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

FRUIT BRANDY.

Mr. LUTTRELL. I ask unanimous consent that the bill (H. R. No. 3925) in relation to the production of fruit brandy and to punish frauds connected with the same be taken from the Speaker's table in order that an amendment of the Senate may be concurred in. The bill passed the House unanimously.

There being no objection, the amendment was concurred in.

Mr. LUTTRELL moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FRANCIS A. PAGE.

Mr. JOYCE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Clerk of the House be, and he is hereby, authorized and directed to pay out of the contingent fund to Francis A. Page, a messenger on the soldiers' roll, the sum of $300, being the amount of salary due him as a disabled soldier from September 1, 1876, to December 1, 1876.

MRS. HELEN M. SLOCUM.

Mr. JOYCE, by unanimous consent, introduced a bill (H. R. No. 4700) to remove the political disabilities of Mrs. Helen M. Slocum, of New York City; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

REPORT OF THE COMMISSIONER OF EDUCATION.

Mr. CUTLER. I ask unanimous consent for the consideration at this time of the joint resolution (H. R. No. 192) for printing the Report of the Commissioner of Education for 1876. This bill has the unanimous approval of the Committee on Education and Labor, as well as the Committee on Printing.

The joint resolution was read. It provides for printing fifteen thousand copies of the Report of the Commissioner of Education for 1875 and 1876; five thousand for the use of the Commissioner, twenty-five hundred for the use of the Senate, and seventy-five hundred for the use of the House of Representatives.

Mr. HOLMAN. I think the number proposed to be printed is unnecessarily large.

Mr. VANCE, of Ohio. I suggest a reduction of the number from thirty thousand to fifteen thousand.

Mr. CUTLER. Fifteen thousand is the number named in the bill.

Mr. VANCE, of Ohio. This bill has never been before the Committee on Printing.

Mr. HOLMAN. I waive any objection to this bill; but I must object to the passage of any bills in such disorder that it is impossible for us to understand what we are doing.

PURCHASE OF FREEDMAN'S BANK BUILDING.

Mr. DOUGLAS. I am instructed by the Select Committee on the Freedman's Bank to report back a communication relative to the purchase by the Government of the Freedman's Bank building, and to ask its reference to the Committee on Public Buildings and Grounds.

There being no objection, the reference was changed accordingly.

JULIUS S. BOHRER.

Mr. ROBERTS. I ask unanimous consent to have taken from the Speaker's table and passed at this time the bill (S. No. 1010) for the relief of Julius S. Bohrer, master in United States Navy.

The bill was read. It directs the Secretary of the Treasury to pay to Julius S. Bohrer, retired master United States Navy, or his legal representatives, the pay and allowances of a retired master from December 30, 1865, to June 5, 1876, out of any moneys in the Treasury not otherwise appropriated.

Mr. ROBERTS. This bill has received the unanimous indorsement of a committee of this House; it has been passed by the Senate unanimously. I hope there will be no objection to passing it here.

Mr. HOLMAN. I wish to inquire how large a sum is to be expended under this extraordinary bill—a bill that proposes to pay an officer for a period of eleven years, during which he has not been in service.

Mr. ROBERTS. And during which time he has demanded his right under the Constitution to have a trial in order that the facts of his case might be inquired into and justice done to him.

Mr. HOLMAN. I hope my friend will state the amount the bill proposes to pay.

The SPEAKER. Does the gentleman from Indiana [Mr. HOLMAN] object to the bill?

Mr. HOLMAN. I do not wish to object, if it is proper the bill should pass. But this is the first hearing of the bill that I have had or any other member of the House.

Mr. ROBERTS. I yield to the gentleman from Massachusetts, [Mr. TARBOX,] who reported a House bill similar to this.

Mr. TARBOX. A bill precisely identical in terms with this has been reported unanimously by the Committee of Claims and is now upon the Private Calendar. I do not know the precise amount which will be paid to this officer under the bill. I only know that whatever the amount it is only a proper measure of justice.

Mr. FIELD. That is not satisfactory. What is the amount?

Mr. HOLMAN. About $15,000.

The SPEAKER. Is there objection?

Mr. HOLMAN. I should prefer not to act on this question without a regular report. This is a very extraordinary measure.

Mr. TARBOX. May not the report be read?

The SPEAKER. There is no report here; that is the difficulty.

Mr. TARBOX. I send to the desk and ask to have read the report of the Committee of Claims upon a House bill similar in terms to this.

The Clerk read as follows:

The Committee of Claims, to whom was referred the bill (H. R. No. 4035) for the relief of Julius S. Bohrer, United States Navy, having had the same under consideration, submit the following report:

Bohrer entered the naval service in 1839, and was retired as a master in 1855. In 1861, while on the retired list, at the commencement of the civil war, he volunteered into active service, and served through the war with the rank and pay of a retired master. On December 30, 1865, he was dismissed the service by order of Secretary Welles, in consequence of the findings of a naval court of inquiry. He immediately demanded a trial by court-martial, and renewed his demand often and persistently, but was unsuccessful in his application until May, 1876, when his trial by court-martial was had, and the findings of the court fully exonerated him from all charges and specifications and declared his dismissal null and void. He seems to have presented his demand for a trial with as much vigor and diligence as was possible under the conditions of his health, it appearing that for a great part of the time he was in a most critical state of bodily and mental health, such as disabled him for business affairs, due chiefly, if not wholly, to injuries sustained by him while in the service. This bill proposes payment to him, or his legal representative, of his pay as retired master from the date of his dismissal to the date of his restoration. The order restoring Bohrer to the retired list is as follows:

[General Order No. 210.]

NAVY DEPARTMENT,
Washington, June 5, 1876.

The order of December 30, 1865, dismissing Julius S. Bohrer, master in the United States Navy, from the naval service, is hereby declared void, and Mr. Bohrer, under and by virtue of the Revised Statutes of the United States, title 15, chapter 10, article 57, restored to the retired list as master.

GEO. M. ROBESON,
Secretary of the Navy.

By the act of March 3, 1865, it is provided:

"That in case any officer of the military or naval service who may hereafter be dismissed by authority of the President shall make an application in writing for a trial, setting forth under oath that he has been wrongfully and unjustly dismissed, the President shall, as soon as the necessities of the public service may permit, convene a court-martial to try such officer on the charges on which he was dismissed. And if such court-martial shall not award dismissal or death as the punishment of said officer, the order of dismissal shall be void; and if the court-martial aforesaid shall not be convened for the trial of such officer within six months from the presentation of his application for trial the sentence of dismissal shall be void."

Master Bohrer did in fact promptly make his application for a trial by court-martial, but no court was convened within six months, and so, it seems, by the operative force of the statute the order of dismissal was rendered void.

But the act of July 22, 1874, prohibits the accounting officers of the Treasury from making any allowance to any officer of the Navy dismissed from the service and restored under the provisions of the act of March 3, 1865, section 12, except to the extent of six months' leave pay, unless it shall appear that such officer has demanded and continued to demand in writing, as often as once in six months, a trial by court-martial. The officers of the Treasury decline to allow Bohrer his pay from December 30, 1865, to June 5, 1876, because of the prohibition of the last-named statute and the absence of any appropriation available for the purpose.

Without attempting to define the just legal effect of the statute of 1874 as touching vested rights and imposing conditions which the officer in the pursuit of his rights could not anticipate, the committee have no doubt that Mr. Bohrer is entitled to the relief the bill provides. He performed long and honorable service. He voluntarily left a retirement in which he might honorably have remained in safety to serve the country in a season of public peril. He was wrongfully subjected to the painful indignity of dismissal in disgrace, and the consequent loss of emoluments, fairly the meed of his public service, in his age and infirmity. The Government having admitted the injustice done him and restored him to this rank, cannot justly refuse him the pecuniary benefits of which he has been unjustly deprived.

The committee recommend that the bill pass, with amendments as follows, namely:

First. Strike out the preamble.

Second. Strike out all after the enacting clause and insert:

"That the Secretary of the Treasury be, and hereby is, authorized and directed to pay to Julius S. Bohrer, retired master United States Navy, or his legal representatives, the pay and allowances of a retired master from the 30th day of December, 1865, the date of his wrongful dismissal from the naval service, to the 5th day of June, 1876, the date of his restoration to the retired list, out of any moneys in the Treasury not otherwise appropriated."

Mr. SPRINGER. Let me ask the gentleman from Massachusetts whether the pay which this bill proposes to allow is the pay of a retired master.

Mr. TARBOX. Yes, sir; precisely the pay this officer would have received had he not been illegally dismissed from the service.

Mr. SPRINGER. The pay of a retired officer?

Mr. TARBOX. Yes, sir.

Mr. SPRINGER. Well, I think it ought to pass.

The SPEAKER. Is there objection?

Mr. HOLMAN. I insist it should come from a regular committee of the House.

Mr. ROBERTS. It has come from a regular committee of the House. This bill has passed the Senate, and the subject having already been acted on by a regular committee, I hope there will be no objection to passing it at this time.

Mr. HOLMAN. I must object.

The SPEAKER. The bill remains upon the Speaker's table.

COMMITTEE CLERKS.

Mr. KNOTT. Mr. Speaker, I send to the desk to have read a report I am instructed to make from the Committee on the Judiciary.

The Clerk read as follows:

The Judiciary Committee, to whom was referred a resolution of the 20th of December, 1876, instructing the committee "to inquire whether by the appropriation act of August 15, 1876, the twenty-one clerks to committees therein mentioned are entitled to receive as compensation during the fiscal year ending June 30, 1877, the amount per diem designated in said act for their actual services," have had the same under consideration and make the following report:

The bill begins with this provision:

"That the following sums be, and the same are hereby, appropriated out of any money in the Treasury not otherwise appropriated in full compensation for the service of the *fiscal year* ending June 30, 1877, for the objects hereinafter expressed." (Page 143.)

On page 146 the following provision occurs:

"For twenty-one clerks to committees at $6 per day during the session, $15,120."

Your committee believes that the construction of the last-named provision, in connection with the first, is that the twenty-one clerks named are entitled to $6 per diem from the 30th day of June, 1876, to the 30th day of June, 1877, for each day during the first and second sessions of this Forty-fourth Congress embraced within that fiscal year.

Your committee therefore report the following resolution, and recommend that it be adopted by the House:

Resolved, That the Clerk of the House be, and he is hereby, authorized and directed to pay out of the contingent fund of the House, at the rate of $6 per day from July 1st to August 31st, 1876, inclusive, to the clerks of the twenty-one committees designated by the Committee of Accounts as the committees for payment of clerks to which provision was made in the act of Congress approved August 15, 1876, entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1877, and for other purposes," deducting therefrom any amount which the clerks of said committees respectively may have heretofore received during the time named.

Mr. HOLMAN. Mr. Speaker, during the expensive period of 1871–'72–'73, under a policy which the country has condemned, we were in the habit of allowing to the employés of the House the balance of a month's pay whether we adjourned on the 4th of March or any other day. It was never done in the administration of this House at a period when the party now in power controlled the administration of the Government. I know of no reason why it should be done now. I know of no excuse for it. I do not see why the Government should pay gentlemen for the greater portion of a month when they render no service at all to the Government, and that, too, when we pay them beyond the compensation of other employés of the Government. It does not seem to be a proper thing, and I therefore must object.

Mr. KNOTT. I should like to make a remark. The gentleman from Indiana does not comprehend the nature of the resolution. I would like to explain to him that this resolution is simply the construction of an existing statute, which it is necessary should be done in order that the disbursing officers of the House may make up their accounts. And I wish further to state I have information that resolution was drawn at the request of the chairman of the Committee on Appropriations and met his approval. It does not give any clerk one solitary cent more than the law allows, but simply construes the law so the disbursing officers may make up their accounts.

Mr. HOLMAN. I should not hold myself severely responsible for suggestion made of what might be done in a given emergency. I have no recollection, though, of it.

Mr. KNOTT. I move to suspend the rules.

The SPEAKER. There is no quorum and the gentleman will interfere with every other member.

Mr. KNOTT. If the gentleman from Indiana is to run this House, why then we might as well adjourn.

C. G. FREUDENBERG.

Mr. HARDENBERGH. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. No. 189) placing the name of C. G. Freudenberg upon the retired list of the United States Army, and put it on its passage.

There was no objection, and the bill was taken up and read a first and second time.

The bill, which was read, directs the proper authorities to place the name of C. G. Freudenberg upon the retired list of Army officers, under the rank and grade of lieutenant-colonel, instead of captain, the rank now held by him on said retired list; and that said promotion take effect from the 15th day of December, 1870.

Mr. HOLMAN. I should like to have an explanation of that bill.

Mr. HARDENBERGH. I ask that the report of the committee in the Senate be read.

The report was read, as follows:

This bill is intended to place said Freudenberg upon the retired list with the rank of lieutenant-colonel instead of that of captain, as he now stands.

Charles G. Freudenberg was mustered as captain Fifty-second New York Volunteers, 1st November, 1861; promoted major 9th November, 1861, and lieutenant-colonel 24th November, 1862, same regiment, and resigned 11th December, 1863. He was appointed major Veteran Reserve Corps 10th December, 1863; promoted lieutenant-colonel 26th April, 1864, and was honorably discharged 9th March, 1866. He was appointed captain Forty-fifth United States Infantry (Veteran Reserve Corps) 28th July, 1866; transferred to Fourteenth United States Infantry 22d July, 1869, and retired with the rank of captain 15th July, 1870. He has been brevetted major and lieutenant-colonel United States Army and colonel of volunteers.

The records show that at the battle of Fair Oaks, Virginia, he received on June 1, 1862, "a gun-shot wound through the upper and outer part of his left thigh, which disabled him for two months to resume his duties; and also that he was severely wounded at the battle of Gettysburgh, Pennsylvania, July 2, 1863. He was examined by a retiring board in September, 1870. He was retired by a retiring board in September, 1870. The board reported him "incapacitated for active service by reason of wound in the left leg, received in the battle of Gettysburgh, July 2, 1863; and also incapacitated for active service in consequence of enlargement of the heart, which incapacitated him for any active exertion, and that it is impossible for the board to determine the cause of said incapacity." At the time he received the wound mentioned he was lieutenant-colonel Fifty-second Regiment, and in command of his regiment. As section 32 of the act of July 28, 1866, authorized retirement with the rank of command, &c., for disability resulting from wounds alone, Captain Freudenberg was, under the finding of the board, retired with the rank he held at the date of retirement, (that of captain.) He subsequently claimed that his disability is due to wounds alone; that he should have been retired with the rank of colonel, under section 32, act of July 28, 1866, and that under the act of March 3, 1875, (for the relief of General Crawford,) section 2, he should be given the rank of lieutenant-colonel.

The following certificates and letter bearing upon this case explain themselves:

NEW YORK, *November* 25, 1875.

Captain Charles Freudenberg, now on the retired list of the Army, served throughout the late war with distinction in the grades of captain, major, and lieutenant-colonel of the Fifty-second New York Volunteers. While major of that regiment he was severely wounded at the battle of Fair Oaks, Virginia; and again, while lieutenant-colonel commanding his regiment (in the Second Army Corps, Army of the Potomac) at Gettysburgh, under my command, he received three severe wounds while intrepidly leading his regiment against the enemy. These wounds disabled him for life, and compelled him to resign on account of disability, in December, 1863. He was afterward, in 1864, appointed a major and lieutenant-colonel in the Veteran Reserve Corps, and was subsequently commissioned as captain in the Forty-fifth United States Infantry.

During the whole period of his service under my command he was distinguished for good conduct and marked gallantry in battle, and I had frequent occasion to mention him for these qualities.

He received the brevets of major, lieutenant-colonel, and colonel for gallantry and meritorious service during the war.

WINF'D S. HANCOCK,
Major-General United States Army.

I hereby certify that Colonel C. G. Freudenberg was under my treatment while residing in Columbus, Ohio, for hypertrophy or enlargement of the heart, neuralgic pains, and lameness consequent upon wounds received in the service of the United States. Said wounds were one flesh-wound in the right arm, one through the left hip, and one through the upper part of the left leg, all from musket-balls, and a contusion or contused wound from a piece of shell on the spine and left side.

I further declare my belief that the consequences of said wounds are incurable, and that they totally disable the said officer for military duty.

STARLING LOVING, *M. D.*

COLUMBUS, O., *November* 8, 1875.

REMEDIAL INSTITUTE, SARATOGA SPRINGS, NEW YORK,
November 9, 1875.

We hereby certify that Colonel C. G. Freudenberg has been under our medical care between three and four months, a part of the time in the early summer, and the remainder during early fall. His wounds on the left side give him continual, and at times severe pain, and frequently make him so lame that he walks with difficulty. He also suffered from nervous palpitation of the heart, produced, as we believe, by an injury of his spinal cord by a piece of shell.

S. S. & S. E. STRONG.

DISTRICT OF COLUMBIA, BOARD OF HEALTH,
Office of Registrar, Washington, May 2, 1876.

I certify that C. G. Freudenberg, late lieutenant-colonel Fifty-second Regiment New York Volunteers, has been under my professional care for the last past eight months, and that, upon a most careful physical examination of his case, I find that he has received a gunshot wound in his hip, passing downward and inward and emerging on the inner surface of the upper third of the left thigh, producing lesion of important branches of the external cutaneous and anterior crural nerves, causing several neuroma of the nerves named; and also a gunshot wound passing through the anterior muscles of the left thigh. The present condition of the important branches of the external cutaneous and anterior crural nerves is such as to produce constant and severe neuralgic pains, and render the patient unable to perform either continuous physical or mental labor; in short, producing permanent disability.

D. W. BLISS, *M. D.*

HOBOKEN, NEW JERSEY, *December* 17, 1870.

This certifies that Colonel C. G. Freudenberg, United States Army, was under my treatment from July 21 to August 26, 1863, from wounds received in battles of the late war of the rebellion. Of these wounds, if I recollect right, one was in the elbow, another in the thigh, and when he left here they were healing; but a contusion of the spine, being the effect of a shell explosion, showed still alarming symptoms of impeded respiration and heart disorder, the real nature of which I had no opportunity of more closely observing, as the patient left the place.

C. J. LOEWENTHAL, *M. D.*

It will be seen by reference to these reports that if the retiring board had been in possession of all of the facts, they would have reported that the incapacity in consequence of an enlargement of the heart resulted from a wound or contusion of the spine, in which case he would have been retired under section 32, act of 28th July, 1866, as colonel, the command held by him when wounded, and would have

been reduced to the rank of lieutenant-colonel under the Crawford bill, section 2, act March 3, 1875.

Your committee therefore recommend that said C G. Freudenberg be placed upon the retired list with the rank of lieutenant-colonel.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. HARDENBERGH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADVERSE REPORTS OF COMMITTEES.

Mr. JOHN REILLY. I ask unanimous consent that adverse reports from committees may be handed to the Clerk at the desk and an order made that the bills adversely reported be laid on the table and the accompanying reports printed.

The SPEAKER. The bills embraced in this proposition, on which adverse reports are made, are practically killed; and the adverse reports accompanying the bills are printed so that they may be filed for reference. Is there objection to the proposition of the gentleman from Pennsylvania?

There was no objection and it was so ordered.

ROBERT C. BUCHANAN.

Mr. A. S. WILLIAMS, by unanimous consent from the Committee on Military Affairs, reported a bill (H. R. No. 4701) for the relief of Robert C. Buchanan, colonel (retired) and brevet major-general of the United States Army; which was read a first and second time, recommitted to the Committee on Military Affairs, and ordered to be printed.

FORT UNION MILITARY RESERVATION.

Mr. STRAIT. I ask unanimous consent to report back from the Committee on Military Affairs, with amendments, and to have put upon its passage at this time, as amended, the bill (H. R. No. 4304) to authorize the United States to secure a title to the Fort Union military and timber reservation in New Mexico.

The SPEAKER. The bill and the amendments will be read for information; after which objections, if any, will be in order.

The bill was read, as follows:

Be it enactedt &c., That upon the owner or owners of the lands embraced within the limits of the Fort Union military and timber reservation, situated in the county of Mora and Territory of New Mexico, as surveyed and platted by John Lambert, in March, 1868, and as declared and set apart by the President of the United States by proclamation, filing in the office of the Commissioner of the General Land Office good and sufficient deeds in law conveying to the United States all the right, title, and interest of such owner or owners in and to said land, such owner or owners, his or their legal representatives, thereupon, in lieu of the land so conveyed to the United States may select and shall be allowed patents for an equal quantity of the unappropriated public lands of the United States in tracts not less than the subdivision provided for in the United States land laws, and if surveyed when taken, to conform, when surveyed, to the general system of the United States land surveys; and the Commissioner of the General Land Office, under the direction of the Secretary of the Interior, is hereby authorized and directed, upon the filing of said deeds as aforesaid, to issue certificates of location, in legal subdivisions, to the grantor or grantors in said deed or deeds, his or their legal representatives, in accordance with the provisions of this act.

Add to the bill the following:

Provided, That the acceptance by the grantor or grantors of any certificate of location provided for in this act shall be taken and held as a full and complete relinquishment by such grantor or grantors, his or their legal representatives, of all right, claim, and demand of every kind, nature and description, he or they may have against the United States for the use and occupation of the premises conveyed by him or them and for any damages to said premises: *And provided*, That the certificates of location herein provided for shall not be located upon any lands known to the law as double-minimum land.

Mr. HOLMAN. I ask from the gentleman an explanation of the purpose of that bill.

Mr. STRAIT. Let the report of the committee be read.

Mr. HOLMAN. A few words of explanation may probably answer the purpose as well.

Mr. STRAIT. These lands on the Fort Union military reservation have been patented to the owners. They are situated in the Mora grant. The Government has about half a million dollars' worth of property there. The amendment reported by the committee provides that no double-minimum lands shall be taken by the parties in lieu of these lands.

Mr. TERRY. I think that is as good as the Government can do.

Mr. HOLMAN. The Government wishes to get possession of these lands?

Mr. STRAIT. Yes, sir.

Mr. HOLMAN. This is the recommendation of the Secretary of War?

Mr. STRAIT. Yes, sir; and of the Land Department.

Mr. HOLMAN. I think I begin to understand this matter. The Government wishes to get this land for the purpose of a fort and to give these parties other lands in lieu of them. Am I right?

Mr. STRAIT. Yes, sir; and it is provided that they shall have, in lieu of those, lands other than double-minimum lands.

Mr. HOLMAN. After that explanation I have no objection to the bill being passed.

The amendment of the committee was adopted.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

WITNESSES IN CONTEMPT.

Mr. TUCKER, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Whereas all the investigations that have been directed by this House have been virtually closed, and no more testimony can be taken by reason of the near adjournment of the House, and the further imprisonment of witnesses in contempt of the authority of this House cannot conduce to the truth sought by said investigations; Therefore.

Resolved, That the Sergeant-at-Arms be directed to discharge all persons held by him under order of this House for contempt of its authority.

SIGNAL-SERVICE.

Mr. SINGLETON. I ask unanimous consent to report back from the Committee on Appropriations, with amendments, the bill (S. No. 731) to limit and fix the Signal-Service, and that it be put upon its passage as amended.

The bill was read. It authorizes the President to appoint, as assistants to the Chief Signal Officer, two majors, six officers who shall have the rank and pay of captains of infantry, six who shall have the rank and pay of first lieutenants mounted, and six who shall have the rank and pay of second lieutenants of infantry, or to detail as such assistants the said number of officers who shall have respectively the said rank and pay while so serving.

The bill in its second section provides that the enlisted force shall be maintained as hitherto upon duty, and not to exceed one hundred and fifty sergeants, thirty corporals, and three hundred privates; and the enlisted men of the Signal Service shall receive pay at the rates formerly fixed for enlisted men of the Signal Corps of the Army of similar grades, provided that all acts or parts of acts relating to the duties of the Chief Signal Officer and the Signal Service shall remain in force.

The amendments of the Committee on Appropriations were read as follows:

Amend section 1 as follows:

In line 1 of the section strike out the word "appoint" and insert in lieu thereof "detail from the line of the Army."

In line 3 of the section strike out the words "who shall have" and insert the word "of."

In line 4 of the section strike out the words "of infantry," and strike out the words "who shall have" and insert the word "of."

In line 5 of the section strike out the words "of infantry."

In line 6 of the section strike out the words "who shall have" and insert the word "of."

Amend section 2 as follows:

In line 4 of the section strike out the word "three" and insert the word "two;" and after the words "one hundred," in the same line, insert the words "and twenty."

And strike out all after the words "privates," in the said line, down to and including the word "grades," in line 8.

Mr. KASSON. Will the gentleman from Mississippi state what force is left under the proposed amendments?

Mr. SINGLETON. This does not add one dollar of expense to the service as provided by the appropriation bill of last year, except that it details two majors of the Army.

Mr. HOLMAN. The effect of the bill as proposed to be amended by the gentleman from Mississppi, [Mr. SINGLETON]——

Mr. SINGLETON. By instructions of the Committee on Appropriations.

Mr. HOLMAN. The effect of the bill is this: As the law now stands there is one chief of the Signal Corps with the rank of colonel, six first lieutenants, and twelve second lieutenants; making nineteen officers, including the chiefs, employed in that service. The effect of this amendment is, first, to increase the number by two majors.

Mr. SINGLETON. It does not increase the expense.

Mr. HOLMAN. Then the effect is to increase the grade of the officers, and to increase the number so as to make twenty in all. The amendment provides for the detail of these officers, and not for their number being increased by appointment in civil life. The number of men engaged in the service remains as now at three hundred.

But the point I have to make is this: This bill as proposed to be amended is not specially objectionable, because it provides simply for a detail of these officers from the Army. As it came from the Senate it would allow appointments from civil life and the promotion of lieutenants in the Army to the rank of major. In the closing hours of this session, if it is the understanding that these amendments are to be made here and the subject sent to a committee of conference, and then the conferees on the part of the House are to yield to the plan of the Senate and pass the bill in its original form, then I must object to this increase of rank in this service.

Mr. KASSON. The object of my inquiry was to ascertain if it was intended to increase or diminish the efficiency of this service.

Mr. SINGLETON. There is not one dollar increase of expenditures.

Mr. KASSON. It is an object of great interest to me to see this service made more efficient, and whatever is proposed in that direction I should be in favor of.

Mr. SINGLETON. I am surprised at the objection of my friend from Indiana, [Mr. HOLMAN,] because he is a member of the committee that instructed me to report this bill.

Mr. HOLMAN. If my friend from Mississippi [Mr. SINGLETON] will say that he will not ask the House to recede from these amendments——

Mr. SINGLETON. I cannot say anything at all of that kind, because I do not know that I shall be upon the committee of conference,

if there be one, and for me to make a promise of that sort would be entirely nugatory.

Mr. HOLMAN. I understand that the Committee on Military Affairs is opposed to this bill.

Mr. SINGLETON. It does not add one single dollar of expense; it simply allows the detail of officers of higher rank in order to make this service more efficient.

Mr. HOLMAN. That is true of the bill as proposed to be amended, but it is not true of the original bill as it passed the Senate, for that increased the grade of officers from lieutenants to majors and provides for the appointment of officers from civil life. I hope the House will not consent to amend this bill further; I cannot object to these amendments being adopted, but I certainly will ask the House not to pass the bill in its original form.

Mr. SINGLETON. "Sufficient unto the day is the evil thereof." The gentleman is anticipating what he does not know will happen at all. The Senate may concur in these amendments; I think it likely they will. If it goes to a committee of conference, I cannot bind myself or any man here as to what our future action will be. All I can say is, that the only object is to make this service more efficient.

The amendments were adopted; and the bill, as amended, ordered to a third reading, read the third time, and passed.

BOARD OF COMMISSIONERS OF CLAIMS.

Mr. EDEN. I ask unanimous consent to report from the Committee on War Claims for present consideration Senate bill No. 1128, to extend for two years the act establishing a board of commissioners of claims, and the acts relating thereto, with an amendment.

The bill provides that sections 2, 3, 4, and 5 of the act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1872, and for other purposes," approved March 3, 1871; and the act entitled an act to authorize the commissioners of claims to appoint special commissioners to take testimony, and for other purposes," approved May 11, 1872, be, and the same are hereby, extended and continued in force for two years from March 10, 1877, provided that nothing herein contained shall be so construed as to extend the time for filing claims before said commission, or to enlarge its jurisdiction, or to authorize the filing of new claims.

The amendment reported from the Committee on War Claims was to add to the bill the following:

SEC. 2. That the commissioners of claims shall not receive any evidence on behalf of any claimant or claimants for the allowance of any claim or claims, unless such evidence shall have been taken and presented and filed by the 10th day of March, 1878, except in rebuttal of evidence introduced on behalf of the Government; and all claims wherein the evidence of claimant or claimants is not filed within the time herein limited shall be deemed barred forever thereafter.

Mr. HOLMAN. I did not understand the bill fully when it was read. I would inquire how long the time is extended.

Mr. EDEN. The Senate bill proposed to extend the commission for two years. The amendment proposed by the Committee on War Claims of the House goes upon the theory that this commission ought to be closed up as soon as the business now on hand before it can be disposed of. In order to facilitate that object we propose to amend so as to provide that the original evidence on the part of the claimants shall all be taken by the 10th of March, 1878.

There are now pending before the commission about two thousand five hundred claims in which the evidence has been taken in whole or in part. There are pending over eight thousand claims in which there has never been any evidence taken at all, although the time for filing claims expired on the 3d of March, 1876. It is necessary that this business should be disposed of, and the committee are of the opinion that it will take two years to do it. In order that it may be done we propose that all evidence shall be closed in one year, except testimony in rebuttal of evidence introduced on behalf of the Government.

Mr. GARFIELD. It may be said that we are presented with a choice between two evils, if we can call them evils. We must either continue this commission and finish its work, or we will have these nine thousand claims brought into this House to be acted upon in the uncertain way in which claims are frequently acted upon in this House, overburdening our records and really interfering with the current legislation of the country. I think the bill itself is eminently judicious, and, if passed, will protect Congress against a vast avalanche of claims.

The amendment was agreed to, and the bill, as amended, ordered to a third reading, read the third time, and passed.

Mr. EDEN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, with amendments, in which the concurrence of the House was requested, a bill of the following title:

A bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1878, and for other purposes.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. HOLMAN. I ask unanimous consent to take from the Speaker's table the sundry civil appropriation bill, just returned from the Senate, with amendments, with the view of non-concurring in the Senate amendments, and requesting a committee of conference thereon.

There was no objection, and it was so ordered.

The SPEAKER subsequently appointed as managers of the conference on the part of the House Mr. HOLMAN, Mr. EDEN, and Mr. WALDRON.

JOHN N. HALL.

Mr. DUNNELL. I move to suspend the rules so as to discharge the Committee of the Whole from the further consideration of the House bill No. 3833.

The SPEAKER. The Chair is now entertaining business by unanimous consent.

Mr. DUNNELL. Very well; then I ask unanimous consent for that purpose. I will state that the bill has the unanimous indorsement of the Committee on the Judiciary, and I hope there will be no objection to it.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to adjust and settle the claims of John N. Hall, late collector of internal revenue in and for the first district of Minnesota, for moneys paid to deputy collectors by him for services rendered during the months of July, August, September, and October, 1866, and for clerk hire in his office as such collector during the quarter ending September 30, 1866, and for moneys paid by him for hire of clerks in his office in making out the accounts and returns thereof between October 1, 1866, and June 30, 1867; said adjustment and settlement to be made upon the principles of equity; and whatever sums may be allowed thereon shall, together with interest from the date of disbursement, be credited upon two judgments obtained against said Hall and others by the district court of the United States for the district of Minnesota on the 6th day of June, 1872.

Mr. DUNNELL. I desire to say also that this is recommended by the Treasury Department.

There being no objection, the Committee of the Whole was discharged from the further consideration of the bill, and the same was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

JOSEPH W. PARISH.

Mr. BUCKNER. I ask unanimous consent that the Committee of the Whole on the Private Calendar be discharged from the further consideration of Senate bill No. 830, and that the same may now be put upon its passage. It is a bill for the relief of Joseph W. Parish.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, directed to pay to Joseph W. Parish, out of any money in the Treasury not otherwise appropriated, $4,280 and interest thereon at 6 per cent. per annum from the 22d day of July, in the year 1865, to the date of payment under this act, in full for that amount paid over by him in cash to the Commissary Department of the Army on the day aforesaid.

Mr. HOLMAN. We are getting into that noisy state when it is impossible to hear what is being read at the Clerk's desk.

The SPEAKER. Gentlemen will resume their seats, so that order may be restored in the House.

Mr. STEVENSON. If there is a report upon this bill I ask that it may be read.

Mr. BUCKNER. I send to the Clerk's desk and ask to have read a report made by the Committee of Claims of this House. It will show that there never was a more meritorious claim than this, and it ought to have been paid long ago.

The Clerk read as follows:

The Committee of Claims, to whom was referred the bill (S. No. 830) for the relief of Joseph W. Parish, submit the following report:

In December, 1863, Hadley & Co. had a transaction with the commissary of subsistence at Louisville, Kentucky, by which they agreed and undertook to deliver two thousand barrels of pork. This they failed to do.

In 1865, Joseph W. Parish, the party asking relief under this bill, had (for the firm of Parish & Co.) a large contract, which he was then engaged in fulfilling, to furnish ice to the medical department of the Army at New Orleans, was under heavy bonds, and this contract demanded his constant attention; any day's delay or neglect endangering its violation and rendering him liable to heavy penalties.

He was in Saint Louis, and an order was issued from Louisville for his arrest, because it was believed that he was interested in the Hadley & Co. bid, either as a silent partner or in some manner, and, as the Government had suffered a loss by such failure and such loss had not been made good otherwise, Parish should be held for the same. He protested against such liability, but was, nevertheless, taken before the proper authorities, and, after taking counsel, in view of his other engagement, (on his ice contract, the neglect of which would be most disastrous,) it was deemed advisable to pay the amount demanded, to wit, $4,280, which he accordingly paid under protest, and was thereupon released from the military arrest. The object of this bill is to refund this amount with interest.

The matter was long pending before the proper executive officers. On the 7th of April last, the Third Auditor held that there was no law under which the accounting officers of the Treasury could entertain such claim, and it was therefore disallowed for want of jurisdiction.

The Second Comptroller held and found, on the 12th of the same month, that Mr. Parish appeared, from the evidence, to have a just and meritorious claim against the United States to the amount of $4,280, but that settlement of such questions did not lie within the jurisdiction of the accounting officers of the Treasury, nor was there an implied assumpsit for the torts of its officers.

Under such circumstances, if Mr. Parish cannot be relieved by Congress he is without remedy.

It seems to be quite clear that the officer ordering the arrest acted upon a mere suspicion that Parish was interested in the bid of Hadley & Co., a suspicion quite unfounded. He is vouched for by several persons as a man of integrity and veracity, and in his petition and papers denies under oath most flatly such interest. In this he is corroborated by other witnesses.

Under such circumstances, we cannot doubt his right to relief, and we therefore report back the accompanying bill with the two amendments of the Senate, and recommend its passage.

Mr. BUCKNER. This bill is unanimously recommended by the

committee in each House. I hope there will be no objection to its passage.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

RECLAIMED LANDS IN ILLINOIS.

Mr. LE MOYNE. I ask unanimous consent that the Committee on Public Lands be discharged from the further consideration of the bill (S. No. 732) to dispose of the lands formerly covered by the water of Pistakee Lake, in the State of Illinois.

The bill was read.

Mr. WALLING. This bill has been considered in the Committee on Public Lands, and that committee, if it had been permitted to report, would have reported the bill favorably. I think it should be passed.

Mr. BAKER, of Indiana. Has the report actually been made?

Mr. WALLING. No, sir; the committee has not been called.

Mr. BAKER, of Indiana. Then I must object.

SHIP CANAL, LAKE GEORGE, FLORIDA.

Mr. JONES, of Kentucky. I move to suspend the rules and to pass the bill (H. R. No. 4456) to authorize William H. Dorner and others to construct a ship canal at the head of Lake George, Florida. This bill has received the unanimous approval of the Committee on Railways and Canals.

The bill was read.

Mr. CONGER. I object.

Mr. JONES, of Kentucky. I move to suspend the rules.

The SPEAKER. The Chair is now entertaining business for which unanimous consent is requested, with the understanding that if a motion to suspend the rules is entertained the gentleman from Mississippi [Mr. HOOKER] shall be recognized.

Mr. JONES, of Kentucky. My original motion was to suspend the rules.

The SPEAKER. The gentleman had not the floor for that purpose.

Mr. JONES, of Kentucky. I withdraw the bill for the present.

W. H. WOODWARD.

Mr. TERRY. I ask unanimous consent to have taken up and passed the bill (S. No. 845) for the relief of W. H. Woodward, of Indianola, Texas.

The bill was read. It directs the Secretary of the Treasury, out of any money not otherwise appropriated by law, to pay to W. H. Woodward, of Indianola, in the State of Texas, without interest, the sum of $588, the amount due him on account of property rented from him by the United States military authorities.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

TAX ON SAVINGS-BANK DEPOSITS.

Mr. HAYMOND. I ask unanimous consent to report from the Committee on Banking and Currency for action at the present time a bill relating to the tax upon deposits in savings banks. It is the unanimous report of the committee.

The bill was read. It provides that all deposits made in institutions which do business only as savings banks, and are recognized as such by the laws of their respective States or by Congress, shall be exempt from taxation in the same manner as deposits in associations or companies known as provident institutions, savings banks, savings funds, or savings institutions having no capital stock and doing no other business than receiving deposits to be loaned or invested for the sole benefit of the parties making such deposits, without profit or compensation to the association or company, although they have a reserve fund or capital, stock or bond, or both capital, stock or bond, and reserve fund, so long as no part of said reserve fund is disposed of for the benefit of other parties than those making the deposits; nor shall any tax be hereafter collected which may have been assessed or which shall have been liable to be assessed upon such deposits prior to the passage of this act.

Mr. MORRISON. I object.

Mr. HAYMOND. I move to suspend the rules and pass the bill.

The SPEAKER. The Chair cannot give the gentleman the floor for that purpose.

Mr. BLACKBURN. I ask unanimous consent to have taken up and passed the bill (S. No. 973) for the relief of Elizabeth Carson. This bill has been twice passed by the Senate, but has failed in the House for want of action. It has been unanimously reported by the appropriate committee in each House.

The bill was read. It directs the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, to pay to Elizabeth Carson, of Bourbon County, Kentucky, $2,630.40, in full satisfaction for subsistence, use of jail, fuel, fire, care, and attention furnished by her to conscripts, deserters, and rebel prisoners confined in the jail of Bourbon County, Kentucky, by the military authorities of the United States in the years 1862, 1863, 1864, and 1865.

Mr. BAKER, of Indiana. I desire to hear the report read, if there is one.

Mr. BLACKBURN. I call upon the chairman of the Committee on War Claims [Mr. EDEN] to state whether this bill has not received the unanimous sanction of his committee.

Mr. EDEN. It has been recommended by the Committee on War Claims.

Mr. BLACKBURN. Unanimously?

Mr. EDEN. I think there was no objection.

Mr. BAKER, of Indiana. I desire to hear the report read.

Mr. BLACKBURN. The report was with the papers in the case. This bill was reported to the House by my colleague, [Mr. MILLIKEN.]

Mr. WILSON, of Iowa. I recollect very distinctly when the bill was acted on by the committee. There was a full committee; we inquired carefully into the case, and I believe it is right. The gentleman from Kentucky [Mr. MILLIKEN] who was directed to report the bill has gone home by leave of the House. The committee think the bill all right.

There being no objection, the bill was ordered to a third reading, read the third time, and passed.

GEORGE FOSTER.

Mr. WILLIAMS, of New York, by unanimous consent, moved that the Committee on Revolutionary Pensions be discharged from the further consideration of the petition of George Foster, and that the same be referred to the Committee on Invalid Pensions; which motion was agreed to.

ENROLLED BILLS.

Mr. HARRISON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 534) for the relief of Rosetta Hert, (late Rosetta Scoville,) Charles C. Benoist, Emily Benoist, and Logan Fanfan, half-breed Indians;

An act (H. R. No. 1238) granting a pension to Esther P. Fox;

An act (H. R. No. 2019) for the relief of Edwin Morgan, late captain of Company G, Seventy-seventh Regiment, Pennsylvania Volunteer Infantry;

An act (H. R. No. 3011) granting a pension to Mrs. Ann Annis; and

An act (H. R. No. 4198) to authorize the President to restore Thomas J. Spencer to his former rank in the Army.

Mr. HAMILTON, of Indiana, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 2694) for the relief of W. W. Van Antwerp, late major of Fourth Michigan Cavalry; when the Speaker signed the same.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of of the following titles; when the Speaker signed the same:

An act (H. R. No. 4306) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1878, and for other purposes; and

An act (H. R. No. 4559) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1878, and for prior years, and for other purposes.

FRANCIS M. STRONG AND THOMAS ROSS.

Mr. J. H. BAGLEY. Mr. Speaker, I ask, by unanimous consent, that the bill (H. R. No. 4397) for the relief of Francis M. Strong and Thomas Ross, with an amendment which was pending in the morning hour, be taken up and passed.

Mr. HOLMAN. After this bill is reported, I give notice, in the interest of members of the House on conference committees, that I shall ask the House to take a recess for one hour.

The bill, which was read, provides that Francis M. Strong, of Vergennes, in the county of Addison and State of Vermont, and Thomas Ross, of Rutland, in the county of Rutland and State of Vermont, have leave to make application to the Commissioner of Patents for an extension of the letters-patent numbered 24161, granted to them for an improvement in weighing-scales, of date the 24th day of May, 1859, for the term of seven years from and after the expiration of the original term of fourteen years for which said letters-patent were granted; such application to be made in the same manner as if the same had been filed not less than ninety days before the expiration of the aforesaid original term of said patent; and upon such application so filed, the Commissioner of Patents shall be authorized to consider and determine the same in the same manner as if the original term of said patent had not expired; provided that no person shall be held liable for the infringement of said patent, if extended, for making use of said invention since the expiration of the original term of said patent, and prior to the date of its extension.

The amendment was read, as follows:

Strike out the words "the expiration of the original term of fourteen years for which said letters-patent were granted," and in lieu thereof insert the words "the date of such extension."

The amendment was agreed to.

Mr. BAKER, of Indiana. I ask that the report in this case be read, and I hope we will have order in the House so we can hear what it is.

The SPEAKER. The officers of the House will request gentlemen who are not entitled to the privilege of the floor to vacate the lobby, and for the rest of the session the Doorkeepers will not, in any particular, vary from the rules.

The report was read, as follows:

The Committee on Patents, to whom was referred the petition of Francis M. Strong and Thomas Ross, for an extension of letters patent for improvements in weighing-scales, submit the following report:

The evidence submitted in this case shows that Francis M. Strong, of Vergennes, and Thomas Ross, of Rutland, Vermont, are the joint inventors of certain improvements in weighing-scales, for which letters-patent were granted them May 24, 1859.

Within ample time, as prescribed by law, these inventors placed in the hands of the Brandon Manufacturing Company a signed petition for the extension of said letters-patent, that it might be forwarded and filed with the Commissioner of Patents. Fearing, however, that some mistake might occur they forwarded to their attorney at Washington a duplicate petition with instructions that he should file it in case it was not filed in time by other parties. This attorney made frequent inquiries at the Patent Office, and was at length assured that the petition had been filed. The event proved, however, that the clerk in charge was in error and that the petition was not filed, as stated. The mistake occurred through the filing of another application by the same parties for the extension of another patent of the same date. But the error was not discovered until too late to rectify it under the statute, and for this reason the petitioners pray for the passage of an act to enable them to make application, as they certainly would have done if not misled by the information given their attorney at the Patent Office. In view of these facts, the omission to act having arisen by no fault of the patentees, but by the inadvertence of a Government employé, this committee recommend the granting of the prayer and the passage of the accompanying bill.

Mr. J. H. BAGLEY, Mr. Speaker, this is one of the simplest matters presented to Congress. These applicants merely applied for the correction of an error by a clerk in the Patent Office. Under the statute they were entitled to a seven years' extension of their patent. Of this right they were deprived by the error of a clerk in the Patent Office. This bill does nothing more than correct that error.

Mr. BAKER, of Indiana. The discussion the other day in the House on this subject brought me to the conclusion that the passage of this bill might involve danger to innocent parties.

Mr. J. H. BAGLEY Not in the least. Mr. Speaker, is it in order to move to suspend the rules?

The SPEAKER. Not now.

Mr. J. H. BAGLEY. In my judgment it is gross injustice to these parties not to allow the correction of the error.

Subsequently, Mr. BAKER, of Indiana, withdrew his objection.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. J. H. BAGLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REAL ESTATE POOL.

Mr. GLOVER, by unanimous consent, from the Committee on the Real-Estate Pool and Jay Cooke & Co.'s Indebtedness, reported the following resolution.

The Clerk read as follows:

Resolved, That the Committee on the Real-Estate Pool and Jay Cooke & Co.'s Indebtedness be, and they are hereby, allowed the service of a clerk during the present session of Congress, commencing December 4, 1876, and such clerk be paid $4 per diem for his services.

The resolution was adopted.

Mr. GLOVER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SOLDIERS' AND SAILORS' RE-UNION AT MARIETTA.

Mr. BANNING. I ask unanimous consent to report back from the Committee on Military Affairs with a favorable recommendation the joint resolution (H. R. No. 179) granting the use of artillery, blankets, &c., at the national soldiers' and sailors' re-union, to be held at Marietta, Ohio. I ask that the resolution may now be put upon its passage.

I desire to say just one word in explanation of this resolution. It has been customary to pass this each year. It was passed last year. It costs the Government nothing; and the Committee on Military Affairs have unanimously agreed to report the resolution favorably.

There being no objection, the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

CATHARINE WINSLOW.

Mr. PIERCE. I ask unanimous consent to take from the Private Calendar and have put upon its passage at this time the bill (S. No. 599) granting a pension to Catharine Winslow, widow of the late Rear-Admiral John A. Winslow.

Mr. RUSK. If the pension-list is to be touched at all, I want it to be taken up as a whole. I have been struggling for two weeks to get the floor for the Pension Committee in order to have the whole pension-list passed.

Mr. PIERCE. I hope the gentleman will not object to the passage of this bill.

Mr. RUSK. They are all equally meritorious.

The SPEAKER. There will probably be time enough to get all these pension bills through.

Mr. PIERCE. This bill has passed the House heretofore, and the Senate also.

The SPEAKER. This is a Senate bill.

Mr. RUSK. I have in my desk a number of Senate bills granting pensions, and I have been struggling in vain for two weeks to get them before the House.

The SPEAKER. The gentleman from Wisconsin objects.

Mr. HOLMAN. I move that the House take a recess for one hour.

A *viva voce* vote being taken, the Speaker stated that in the opinion of the Chair the "noes" had it.

Mr. BAKER, of Indiana. I call for a division.

Mr. SAMPSON. I rise to a question of order. It is now twenty-five minutes to twelve o'clock, and if the House takes a recess we will be carried beyond the commencement of a new legislative day.

The SPEAKER. The Chair thanks the gentleman for his suggestion. The motion of the gentleman from Indiana [Mr. HOLMAN] would take us further into to-morrow than we desire to go.

Mr. HOLMAN. Then I move that we take a recess till twelve o'clock.

Mr. KNOTT. I move that the House do now adjourn.

The motion of Mr. KNOTT was agreed to; and accordingly (at eleven o'clock and thirty-five minutes a. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By the SPEAKER: The petition of citizens of Shingle Creek, Orange County, Florida, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. AINSWORTH: Two petitions, one from J. G. Stroble and 28 others, the other from Peter Klink and 125 others, citizens of Iowa, that the office of President of the United States be abolished and that the executive duties of the Government devolve upon a commission appointed by Congress, to the Committee on the Revision of the Laws.

By Mr. BAKER, of New York: The petition of citizens of New York, that all pensioners be paid from the date of their discharge from the Army and for the removal of the limitation upon the time in which to apply for pensions, to the Committee on Invalid Pensions.

By Mr. BALLOU: The petition of the quarterly conference of the Methodist Episcopal church, Marshalltown, Iowa, for a commission of inquiry concerning the alcoholic liquor traffic, to the Committee on the Judiciary.

By Mr. BLAIR: The petition of J. C. Armstrong and other citizens of Marshall County, Michigan, of similar import, to the same committee.

By Mr. BRADLEY: Resolution of the Legislature of Michigan, asking that a survey be made of Portage Lake with a view of constructing a harbor of refuge, to the Committee on Commerce.

By Mr. FRYE: The petition of citizens of Marshalltown, Iowa, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. GOODIN: Concurrent resolution of the Legislature of Kansas, favoring the passage of a law in aid of the construction of the Texas Pacific Railroad, to the Committee on the Pacific Railroad.

By Mr. HATCHER: The petition of citizens of Washington County, Missouri, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. JENKS: The petition of J. D. Fowler and 35 other citizens of Washington Territory, of similar import, to the same committee.

By Mr. LUTTRELL: Two petitions, one from J. C. Crigler and others, the other from John S. Hutchins and others, of Butler County, California, of similar import, to the same committee.

By Mr. RICE: The petition of the orphans of Captain Presley N. Guthrie, for an increase of their pension, to the Committee on Invalid Pensions.

By Mr. STRAIT: The petition of 120 citizens of Renville County, Minnesota, that Congress declare the lands granted to the State of Minnesota to aid in the construction of a railroad from Hastings to the western boundary of the State forfeited to the United States Government unless the construction of said road is proceeded with immediately, to the Committee on Public Lands.

IN SENATE.

SATURDAY, *March* 3, 1877.

The Senate met at eleven o'clock a. m.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

On motion of Mr. INGALLS, and by unanimous consent, the reading of the Journal of yesterday's proceedings was dispensed with.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of War, transmitting a report from the Second Comptroller of the Treasury, and accompanying papers, relative to the decision of the Supreme Court in the matter of land-grant railroads; and recommending such legislation as will remove the prohibition imposed by law upon any payment to such railroad companies; which, on motion of Mr. WEST, was referred to the Committee on Railroads, and ordered to be printed.

VISITORS TO WEST POINT.

The PRESIDENT *pro tempore* appointed Mr. BLAINE and Mr. MAXEY members of the board of visitors on the part of the Senate to attend the annual examination of the cadets at the United States Military Academy at West Point, New York.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Legislative Assembly of Montana Territory, in favor of Congress aiding the Northern Pacific Railroad by reducing the land-grant thereto and issuing United States bonds in lieu thereof; which was referred to the Committee on Railroads.

He also presented a memorial of the Legislative Assembly of Montana Territory, in favor of a donation by Congress of the alternate sections of land for a distance of twenty miles on each side of the line of the Northern Pacific Railroad in aid of said road; which was referred to the Committee on Railroads.

Mr. CHRISTIANCY presented a joint resolution of the Legislature of Michigan, in favor of a survey of Portage Lake in Manistee County, with a view to constructing a harbor of refuge; which was referred to the Committee on Commerce.

He also presented a joint resolution of the Legislature of Michigan, in favor of an appropriation to construct a light-house on the point of Little Traverse Harbor, in the county of Emmet, Michigan; which was referred to the Committee on Commerce.

Mr. McDONALD presented a joint resolution of the Legislature of Indiana, in favor of an amendment to the pension laws, so as to allow arrears of pension; which was referred to the Committee on Pensions.

Mr. COCKRELL presented concurrent resolutions of the Legislature of Missouri, protesting against the special tax imposed on leaf tobacco; which were read as follows, and referred to the Committee on Finance:

Whereas it is or should be one of the prime objects of our Government that the burden of taxation should rest equally and alike upon all classes; that there should be no distinction or unjust discrimination against any section, class, industry, or profession; that we, as one people, are entitled alike to all the enjoyments and benefits of our noble system of Government, and subject alike to all the burdens incident to the support of its institutions;

And whereas we regard the special tax imposed by act of Congress (as construed by the United States district courts of this State) on leaf tobacco as an unjust discrimination not only against one of the principal industries of our commonwealth, but against that class of its citizens, the producers, who are the very foundation of its past, present, and prospective greatness;

And whereas the effect of said law applies with equal force to the planter or producer, as to other parties dealing in tobacco, thereby working serious hardships not met with in other callings or pursuits;

And whereas in view of the peculiar adaptability of our soil and climate to the production of this crop, and of its commercial value as an article of export, it behooves us to foster, encourage, and extend its productions: Therefore,

Be it resolved by the House of Representatives, (the Senate concurring therein,) That our Senators be instructed and our Representatives in Congress be earnestly requested to use their utmost exertions to secure such a modification of said law as will relieve our people of the effects of this enactment, so onerous and oppressive in its operations upon producers.

Be it further resolved, That the secretary of state be instructed to transmit a copy of these resolutions to each of our Senators and Representatives in Congress.

Approved February 23, 1877.

MICH'L K. McGRATH,
Secretary of State.

Mr. DAVIS. I present the memorial of Hon. W. T. Willey, formerly a member of this body, and 100 other citizens of West Virginia, in regard to pensions, in favor of the removal of what they think an unjust limitation. I should like to have favorable consideration from the Committee on Pensions to this petition, which is signed by the leading men of West Virginia; but I understand they have already reported. I therefore move that the petition lie on the table.

The motion was agreed to.

Mr. BOGY presented concurrent resolutions of the Legislature of Missouri in favor of a modification of the law imposing a tax on leaf tobacco; which was referred to the Committee on Finance.

CREDENTIALS.

Mr. ALCORN presented the credentials of L. Q. C. LAMAR, elected by the Legislature of Mississippi a Senator from that State for the term commencing March 4, 1877; which were read and ordered to be filed.

REPORTS OF COMMITTEES.

Mr. KERNAN, from the Committee on Patents, to whom was referred the petition of Professor E. N. Horsford, praying for an extension of his patent, submitted a report thereon accompanied by a bill (S. No. 1289) for the relief of E. N. Horsford.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. BARNUM, from the Committee on Patents, to whom was referred the petition of George W. Hubbard and W. E. Conant, of Brooklyn, New York, praying for the extension of their patent for improvements in double-acting steam engines, submitted a report thereon accompanied by a bill (S. No. 1290) for the relief of George W. Hubbard and William E. Conant.

The bill was read twice by its title, and the report was ordered to be printed.

BILL INTRODUCED.

Mr. PADDOCK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1291) to establish certain post-roads in the State of Nebraska; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

ORDER OF BUSINESS.

Mr. CHAFFEE. I move that the Senate take up the bill (S. No. 1219) authorizing the Commissioner of Patents to extend the patent of Horace A. Stone for improvement in the manufacture of cheese.

The PRESIDENT *pro tempore*. Is there objection to the motion?

Mr. COCKRELL. I do not think we ought to proceed to the consideration of the bill with only a few Senators in their seats. There is not a quorum here.

The PRESIDENT *pro tempore*. Does the Senator from Missouri object?

Mr. COCKRELL. There is no quorum here, and we cannot transact business without a quorum.

The PRESIDENT *pro tempore*. The Chair accepts that as an objection and cannot entertain the motion.

Mr. SPENCER. Last night when we adjourned, the Senator from Nebraska, [Mr. HITCHCOCK,] who is not here now, called up the bill providing a territorial government for the Black Hills country, and I ask the Senate to resume its consideration. It is really the unfinished business.

Mr. COCKRELL. I say there is no quorum here, and we cannot consider a bill without a quorum. I have objected, and I will not withdraw my objection for any cause or consideration. There is no use to appeal to me.

The PRESIDENT *pro tempore*. The Senator from Missouri objects.

Mr. SPENCER. If the Senator does object I presume I have a right to say something. It would take some time to read the bill, ten or fifteen minutes perhaps, and by that time there may be a quorum present. The Senator from Missouri, I suppose, has no objection to the bill being read. It is quite a lengthy bill.

Mr. COCKRELL. What would be the use of reading the bill to the empty seats of the Senate? I do not think the seats can understand it.

Mr. SPENCER. The bill has to be read at some time or other.

Mr. COCKRELL. I do not think when Senators come back to their seats that they would be any wiser for having the bill read in their absence.

Mr. BLAINE. I wish to give notice that in a very few minutes I shall propose to call up the Army appropriation bill and I shall press it to the exclusion of all other orders before the Senate.

Mr. SPENCER. In the mean time this bill can be read.

Mr. BLAINE. I will not object to its reading.

The PRESIDENT *pro tempore*. Is there objection to the reading of the bill?

Mr. COCKRELL. If I have not sufficiently protested, I will again enter my protest against doing business without a quorum.

The PRESIDENT *pro tempore*. The Senator did it indirectly and he does it now pointedly, as the Chair understands.

Mr. SARGENT. There is no doubt about it now.

Mr. SPENCER. I think that the Senator from Missouri would not be so unkind and ungenerous and hard-hearted as to object to the reading of this bill.

Mr. COCKRELL. It is not an unkindness to prevent the doing of business when there is no quorum here, and it is useless for Senators to appeal to me, for I will not withdraw my objection.

Mr. SPENCER. How can the Senator tell that there is no quorum here?

The PRESIDENT *pro tempore*. The Senator from Missouri objects, and debate is out of order.

Mr. SPENCER. Does the Chair decide that there is no quorum present?

The PRESIDENT *pro tempore*. The attention of the Chair being called to it, there is no quorum. The Chair will order the roll of the Senate to be called, there being no quorum present.

The Secretary called the roll of the Senate, and twenty-two Senators answered to their names.

Mr. RANSOM. My colleague [Mr. MERRIMON] has been called home necessarily. If he were in the city he would be here. I am instructed to say that he is paired on all questions with the Senator from Alabama, [Mr. SPENCER.]

Mr. DAVIS. I wish to state that the Senator from Ohio [Mr. THURMAN] is confined to his house by sickness.

Mr. SARGENT. I am informed that that is the condition also of the Senator from Vermont, [Mr. EDMUNDS.]

Mr. SPENCER. A number of Senators have just come in, and I am quite satisfied that there is now a quorum here. I should like to have the unfinished business of last night read.

The PRESIDENT *pro tempore*. The Chair is not quite satisfied. It lacks ten of a quorum.

Mr. SARGENT. I move that the Sergeant-at-Arms be instructed to request the attendance of absent Senators.

The PRESIDENT *pro tempore*. That has already been done. The Chair anticipated that such a question might arise.

After a delay of a few minutes, the President *pro tempore* announced that a quorum was present.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. George M. ADAMS, its Clerk, announced that the House had concurred in the amendments of the Senate to the following bills:

A bill (H. R. No. 2019) for the relief of Edwin Morgan, late captain of Company G, Seventy-seventh Regiment Pennsylvania Volunteer Infantry;

A bill (H. R. No. 534) for the relief of Rosetta Hert, (late Rosetta

Scoville,) Charles C. Benoist, Emily Benoist, and Logan Fanfan, half-breed Indians;

A bill (H. R. No. 3011) granting a pension to Mrs. Ann Annis;

A bill (H. R. No. 1238) granting a pension to Esther P. Fox; and

A bill (H. R. No. 4198) to authorize the President to restore Thomas J. Spencer to his former rank in the Army.

The message also announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 4699) to remove the disabilities imposed by the third section of the fourteenth article of the amendments of the Constitution of the United States;

A bill (H. R. No. 2386) for the relief of Moses F. Carleton, late second lieutenant of Company I, Fourth Michigan Infantry Volunteers; and

A joint resolution (H. R. No. 194) to appoint a commission to examine into the matter of contracts made by and between the United States and the Moline Water Power Company as to the water power at Moline, Illinois, and to report to Congress as to same.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. WILLIAM S. HOLMAN of Indiana, Mr. JOHN R. EDEN of Illinois, and Mr. HENRY WALDRON of Michigan, managers at the conference on the part of the House.

The message also announced that the House had passed the following bills:

A bill (S. No. 177) to authorize the Secretary of War to open and re-adjust the settlement made by the United States Government with the Western and Atlantic Railroad of Georgia;

A bill (S. No. 259) for the benefit of the Louisville Baptist Orphans' Home;

A bill (S. No. 470) for the relief of John S. Wood, late a first lieutenant in the Seventh Pennsylvania Cavalry;

A bill (S. No. 734) for the relief of William Jasper Cordill;

A bill (S. No. 780) for the relief of the Richmond Female Institute of Richmond, Virginia;

A bill (S. No. 855) making an appropriation to pay the claim of Benjamin Fenton and D. W. Fenton;

A bill (S. No. 931) for the relief of H. H. Mathis, of Arkansas;

A bill (S. No. 974) for the relief of Francis Guilbeau, of San Antonio, Texas;

A bill (S. No. 1001) to provide for the disposition of Fort Dalles military reservation;

A bill (S. No. 1019) to provide for a reprint of the resolves, ordinances, and acts passed by the Continental Congress and the Congress of the Confederation;

A bill (S. No. 1034) for the relief of Louis Rose;

A bill (S. No. 1063) for the relief of certain settlers on the public lands;

A bill (S. No. 1071) for the relief of H. E. Woodhouse & Co., of Brownsville, Texas;

A bill (S. No. 1083) to amend an act entitled "An act granting the right of way through the public lands to the Denver and Rio Grande Railway Company," approved June 8, 1872;

A bill (S. No. 1116) granting a pension to Sarah A. Chamberlain, guardian of the minor heirs of James Eagle, Company F, Second Regiment Kansas State Militia;

A bill (S. No. 1122) to secure the rights of settlers upon certain railroad lands, and to repeal the first five sections of an act entitled "An act granting lands to the State of Kansas to aid in the construction of the Kansas and the Neosho Valley Railroad and its extension to Red River," approved July 25, 1866;

A bill (S. No. 1183) granting a pension to Harriet Moss;

A bill (S. No. 1197) for the relief of Eli Teegarden;

A bill (S. No. 1200) to grant a pension to Margaret Huntor Hardie, widow of James A. Hardie, Inspector-General in the United States Army;

A bill (S. No. 1136) for the relief of settlers on the public lands under the pre-emption laws;

A bill (S. No. 35) amending the pension law so as to remove the disability of those who, having participated in the rebellion, have since its termination enlisted in the Army of the United States and become disabled;

A bill (S. No. 1225) to amend section 2291 of the Revised Statutes of the United States in relation to proof required in homestead entries;

A bill (S. No. 1238) making an appropriation for the expenses of the electoral commission;

A bill (S. No. 1243) to repeal the statute forbidding appointments and promotions in the staff of the Army;

A bill (S. No. 1255) for the relief of Henry Voelter;

A bill (S. No. 1259) granting a pension to Daniel Houlihan;

A bill (S. No. 1230) granting a pension to Edmund H. Cobb;

A bill (S. No. 1284) for the relief of William L. Hickam, of Missouri; and

A bill (S. No. 1288) to remove the political disabilities of P. J. Quattlebaum, of Georgia.

A joint resolution (S. R. No. 30) to amend the joint resolution authorizing the Secretary of War to issue arms, approved July 3, 1876; and

A joint resolution (S. R. No. 32) providing for the renunciation of the naturalization of Frederick Hinkel.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 2019) for the relief of Edwin Morgan, late Company G, Seventy-seventh Regiment Pennsylvania Volunteer Infantry;

A bill (H. R. No. 3011) granting a pension to Mrs. Ann Annis;

A bill (H. R. No. 1238) granting a pension to Esther P. Fox;

A bill (H. R. No. 534) for the relief of Rosetta Hert, (late Rosetta Scoville,) Charles C. Benoist, Emily Benoist, and Logan Fanfan, half-breed Indians;

A bill (H. R. No. 4198) to authorize the President to restore Thomas J. Spencer to his former rank in the Army;

A bill (H. R. No. 2394) for the relief of W. W. Van Antwerp, late major of Fourth Michigan Cavalry;

A bill (H. R. No. 4559) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1877, and for prior years, and for other purposes; and

A bill (H. R. No. 4306) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1878, and for other purposes.

SUNDRY CIVIL APPROPRIATION BILL.

The PRESIDENT *pro tempore* laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes, and asking a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. WINDOM. I move that the Senate insist upon its amendments and agree to the conference asked by the House.

The motion was agreed to.

By unanimous consent the President *pro tempore* was authorized to appoint the conferees on the part of the Senate; and Mr. WINDOM, Mr. DORSEY, and Mr. WALLACE were appointed.

COPIES OF PAPERS.

On motion of Mr. CHRISTIANCY, it was

Ordered, That E. S. Smith, esq. upon payment of the fees therefor, have leave to take copies of journal of the commission who negotiated the treaty of the 26th and 27th of October, 1834, with the Pottawatomie Indians of Indiana and Michigan, together with the message of the President transmitting the same to the Senate and the report of the commission; also the letter of the Secretary of War of March 18, 1833, requesting the loan of the report to the commission.

PAPERS WITHDRAWN.

On motion of Mr. COOPER, it was

Ordered, That Michael W. Brock be permitted to withdraw his papers from the files of the Senate.

BILL RECOMMITTED.

On motion of Mr. HARVEY, it was

Ordered, That the vote postponing indefinitely the bill (S. No. 1092) for the relief of Jerome Kunkel be reconsidered, and that the bill be recommitted to the Committee on Military Affairs.

COWAN & DICKINSON.

Mr. COOPER. I move that the Senate proceed to the consideration of the bill (S. No. 811) for the relief of Perez Dickinson, the surviving partner of James Cowan, deceased, heretofore trading and doing business under the firm name and style of Cowan & Dickinson, of Knoxville, Tennessee.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It appropriates $38,476.80 to Perez Dickinson, the surviving partner of the firm of Cowan & Dickinson, of Knoxville, East Tennessee, in full compensation for two hundred and fifty-six bales of cotton belonging to them, and which was by them furnished and delivered to Major-General BURNSIDE, at his request, on the 17th and 18th days of November, 1863, and by him used in the fortifications for the defense of Knoxville, and the Army under his command at the time of the assault by the forces under the command of General Longstreet, and the subsequent attack by him upon that city, and for other subsequent purposes it was used; and for which cotton they have never been paid anything, or received compensation, directly or indirectly, for any part thereof.

Mr. INGALLS. Let us hear the report in that case read.

Mr. BLAINE. If there is not much time to be occupied in the pending matter I will not interrupt it, but the Senate I know is very anxious to proceed to the consideration of the Army bill, and having it in charge I shall feel bound to insist upon its consideration.

Mr. COOPER. I hope the Senator will at least let us have the morning hour.

The PRESIDENT *pro tempore*. Senators are entitled to the morning hour with other business. The report will be read.

The Secretary read the following report, submitted by Mr. WADLEIGH, from the Committee on Claims, May 3, 1876:

The Committee on Claims, to whom was referred the bill (S. No. 811) for the relief of Cowan & Dickinson, who pray compensation for the loss of two hundred an

fifty-six bales of cotton, seized by order of General BURNSIDE, on the 17th and 18th days of November, 1863, and used for strengthening the defenses of Knoxville, make the following report upon said claim:

At the second session of the Forty-third Congress, Mr. Pratt, from the Committee on Claims, made a report upon this claim as follows:

"The memorialists, Cowan & Dickinson, of Knoxville, Tennessee, present the following claim against the United States:

"'KNOXVILLE, TENNESSEE, *January* 1, 1864.

"'*The United States to Cowan & Dickinson, Dr.*

"'To two hundred and fifty-six bales cotton, taken by order of Major-General BURNSIDE, on the nights of the 17th and 18th of November, 1863, for the use of the fortifications of Knoxville during the siege by the rebel forces under Longstreet; average marketable weight, five hundred and one pounds per bale, (625 bales, 501 pounds) ..... 128,256 pounds.'

"Perez Dickinson, a member of the firm, appends to the account his affidavit that they have not been paid for the cotton; that its value is justly due them, and that the firm have severally always been and are loyal citizens of the Government. In a subsequent affidavit he swears the cotton belonged to them exclusively, and no other party had any interest in the same.

"In a letter to Major-General Schofield, commanding Department of Ohio, dated February 23, 1864, the firm gave a more circumstantial account of their claim; and as their statement cannot well be abridged the committee insert it at length:

"KNOXVILLE, TENNESSEE, *February* 23, 1864.

"SIR: On the nights of the 17th and 18th of November last, two hundred and fifty-six bales of cotton (average weight five hundred and twenty-six pounds) were taken from us by order of Major-General BURNSIDE, when here commanding, for use on the fortifications then erecting for the defence of Knoxville against the impending attack of the rebels under Longstreet.

"The cotton, we are gratified to know, was of great service, and a very valuable aid in the necessarily hasty preparations for a successful defense of the town. A portion of this has been taken, we learn, for sanitary purposes, &c., and the remainder is still in the works. Much of it has been wasted and all of it more or less injured by constant exposure, the breaking of ropes, and destruction of the baling. This cotton is of great pecuniary value to us, and we consider it due to us, old citizens of known, unswerving, and uncompromising loyalty, that our interests should be fully protected and feel entire confidence that is the wish and intention of the Government.

"We would therefore respectfully call your attention to this subject. We believe justice and equity to us under the circumstances would be that the Government should give us a voucher for this cotton at New York market value, deducting a liberal price of transportation and internal revenue.

"If this arrangement is not consistent with the policy of the Government in such cases, we would suggest that the cotton should be immediately collected and sent forward to Louisville or Cincinnati, and fair-ascertained damages for loss, &c., awarded us.

"We would also say that General BURNSIDE, the 20th of September last, agreed to furnish transportation for our cotton, with other produce we had on hand. He forwarded one hundred and one bales in pursuance of this arrangement, but owing to the military situation and demands upon him for transportation the balance was not forwarded. General BURNSIDE regretted the detention as well as ourselves.

"We herewith inclose General BURNSIDE'S receipt and certificate, which were given to our Mr. Dickinson, and he expressed an earnest wish that the matter might be satisfactorily adjusted.

"Hoping this matter may receive your early consideration,

"We are, very respectfully,

"COWAN & DICKINSON.

"Major-General SCHOFIELD,
"*Commanding Department Ohio, Headquarters, Knoxville.*"

"The receipt and certificate of General BURNSIDE referred to in the above letter are as follows:

"KNOXVILLE, *December* 12, 1863.

"Received of Messrs. Cowan & Dickinson eighty (80) bales of cotton, for use in the fortifications erected for the defense of the city during the siege.

"A. E. BURNSIDE,
"*Major-General.*"

"BOSTON, MASSACHUSETTS, *February* 4, 1864.

"This is to certify that during the siege of Knoxville, in East Tennessee, a quantity of cotton, say some two hundred and fifty-six bales, was taken from the store-house of Messrs. Cowan & Dickinson, in Knoxville, for the use of the fortifications around the city. This cotton was, as I believe, the property of Messrs Cowan & Dickinson, and was imperatively needed for the good of the public service. I had no time after the raising of the siege to take account of this property and to give the proper vouchers for the same. Captain Davis, of the Twenty-first Massachusetts Volunteers, and provost-marshal, has given a certificate for eighty (80) bales taken by him, by order, and for which the above receipt is a voucher, and I am satisfied that the remainder was taken and used as set forth in the affidavit of Messrs. Cowan & Dickinson.

"A. E. BURNSIDE,
"*Major-General.*"

"On the 26th of February, 1864, Major-General Schofield issued Special Orders No. 57, directing the chief quartermaster of that department to proceed to collect all the cotton that had been used in the construction of fortifications, and for other purposes, in the vicinity of Knoxville, not absolutely necessary for the public service, and ship the same to Louisville, to be turned over to the chief quartermaster there, to be disposed of for the benefit of the Government, according to existing regulations. He was directed to ascertain the parties to whom the cotton belonged, the amount taken from each party, their loyalty, and to give the proper vouchers therefor, according to the loyalty of each.

"In a subsequent order, dated March 8, 1864, directed to Colonel Ransom, chief quartermaster, General Schofield directed that the vouchers to be given for the cotton used on the fortifications about Knoxville should be qualified, to be paid only upon the order of the War Department.

"The execution of this order was committed by Colonel Ransom to Captain Whitman, assistant quartermaster, who, on the 28th day of April, 1864, two months after the order, made report to his chief, as follows:

"'I have the honor to report in regard to the claims for cotton alleged to have been taken by the military authorities for the defenses of Knoxville, and the disposition made by the same, as follows:

6 bales; weight, 2,269 pounds; claimant, I. L. Cain; (Exhibit A.)
7 bales; weight, 3,500 pounds; claimant, A. A Kyle; (Exhibit B.)
10 bales; weight unknown; claimant, A. Kennedy; (Exhibit C.)
34 bales; weight, 17,303 pounds; claimant, J. W. C. Hazen; (Exhibit D.)
256 bales; weight, 133,120 pounds; claimants, Cowan & Dickinson; (Exhibit E.)

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"'The above constitutes all the cotton for which claims are made. The following are the facts in relation to the disposition made of it, as far as known:

158 bales and parts of bales, weight not known, collected from fortifications by order of General Schofield in March, 1864.
20 bales and parts of bales, weight not known, collected from fortifications by order of General Schofield in April, 1864.
40 bales and parts of bales, weight 20,448 pounds, used by the Medical Department by order of General Foster.

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"'Ninety-five unaccounted for and locality unknown.

"'Of the above there are at present eight bales in the hands of the Medical Department unexpended, and twenty bales at the depot.

"'The one hundred and fifty-eight bales collected from the fortifications in March were ordered to be put into a building at the depot, but permission being refused by the railroad authorities, on the ground that it would be exposed to fire from the engines in passing, it was deposited in a secure place on the hill-side at a safe distance from the railroad, and was so packed and subjected to such oversight as to protect it from being pilfered, as it had been while at the fortifications. Soon after it was placed there, and while preparations and plans were being matured to put it in a condition to be shipped, it was set on fire by three truant boys at play in the neighborhood. By strenuous exertions for two days and nights a portion was saved, and still lies upon the ground, amounting, it may be, when properly secured, to from twelve to twenty bales. The frequent rains of the season have so washed and bleached it that, when dried, it will prove of tolerable quality. The great press of business in the Quartermaster's Department, the scarcity of help, and the frequent rains of the season have rendered it necessary and advisable to allow it to remain where it is for a while under proper watch. With a short period of steady dry weather it may be got into a condition to be sacked and sent away. At present there are no sacks to be obtained here. The twenty bales on hand have but recently been collected from the fortifications.

"'It is proper to add that the incendiaries were arrested, and, after a rigid examination before the post commander, were discharged on want of proof of anything more than a childish desire to see what they could do in their play by touching a lighted match to a bale of cotton.

"'Very respectfully, your obedient servant,

"'E. B. WHITMAN,
"'*Captain and Acting Quartermaster.*'

"This report was forwarded by Colonel Ransom to General Schofield, who forwarded the same to the War Department, and on the 14th day of June, 1864, the Secretary of War referred the same to General S. P. Carter, provost-marshal, East Tennessee, to cause an investigation to be made as to the facts respecting this cotton, to determine what had become of the ninety-five missing bales, through whose negligence or other fault the one hundred and thirty-eight bales were burned, and whether any part of that which was rescued from the conflagration had been restored to the claimants.

"On the 27th day of September, 1864, General Carter made report to the Secretary of War, in which he states, substantially, that reliance was to be placed in the statements of the claimants, under oath, as to the quantity of the cotton bales taken; that the officers connected with the taking of the cotton belonged to the Ninth Army Corps, then with the Army of the Potomac; that as to the ninety-five bales unaccounted for, he had made all possible efforts to learn what had become of them, and had come to the conclusion that they were partly used by the troops encamped around the fortifications, who were in want of clothing and blankets to fill their bunks with, and after they vacated their encampments the cotton was partly taken by poor people and partly scattered by the winds. It also appeared that some of the cotton was taken from the fortifications after the siege and during the night-time by the people of the neighborhood and sold or secreted. Search had been instituted by his orders, but nothing except two small lots was discovered, amounting to two hundred and fifty pounds. He proceeds to say that some cotton was taken from the fortifications by Lieutenant-Colonel Babcock, chief engineer, to calk a number of ponton-boats, but the amount so used could not be ascertained. In relation to the one hundred and fifty-eight bales collected by Captain Whitman and piled near the railroad depot, as above stated, General Carter, in his report, says:

"'The cotton near the railroad depot was piled up, exposed to the air, without any shelter whatever, and it seems also without a sufficient guard, but as to who should be held responsible for this neglect is left for the decision of the War Department. The cotton was not under the control of this office.'

"The report concludes as follows:

"'The cotton saved from the conflagration, and estimated as aforesaid at about eight thousand four hundred pounds, was used, according to the report of Captain E. B. Whitman, assistant quartermaster, for various purposes, except about six thousand pounds, which are still in the hands of the Quartermaster's Department; twenty bales, (weight not known,) collected from the fortification after the conflagration, were sent, in accordance with Special Orders No. 57, before mentioned, to Brigadier-General Allen, chief quartermaster at Louisville, Kentucky.

"'The disposition of all the cotton can be reduced to the following:

	Bales.
Amount collected from the fortifications previous to the conflagration	158
Amount collected after the conflagration	20
Amount collected for use of Medical Department	40
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Consumed by fire	138	bales.
Saved, about	20	"
Used by the Medical Department	40	"
Sent to Louisville, Kentucky	20	"
		218'

"Captain Whitman, as assistant quartermaster, in a report dated September 26, 1864, to Major Gratz, assistant adjutant-general, thus states the cotton account:

Amount saved from the fire, fifteen to twenty bales	8,400 lbs.
Amount used by the Medical Department	1,500
Amount furnished for stuffing cushions	500
Amount furnished for calking pontons	200
Amount furnished for packing ammunition	200
Amount on hand in gunny-sacks, smoked and singed, about	6,000
	8,400

"'Sent to Brigadier-General Allen, chief quartermaster, Louisville, Kentucky, twenty bales, (weight unknown.) This last lot was not collected from the fortifications until after the conflagration.'

"The general result may be thus summed up:

Number of bales taken for use in the fortifications	313
Of these there belonged to Cowan & Dickinson	256
Leaving belonging to others	57
Of the whole number, 313, there were consumed by fire	138
Unaccounted for	95
	233

"This left in the possession of the Government eighty bales, of which twenty were shipped to Louisville. What the quartermaster realized from this sale does not appear.

"It appears from the evidence that Cowan & Dickinson forwarded one hundred and eleven bales of cotton in October, 1863, which was sold, a part in Cincinnati, and a part in New York, in December, 1863, and January, 1864. The average to each bale was five hundred and one pounds. That sold in Cincinnati brought seventy-five cents per pound; that sold in New York, eighty cents. What were the expenses of transportation, commission, insurance, &c., does not appear.

"It appears in evidence that the claim of Cowan & Dickinson was, on the 15th December, 1866, referred to the military commission on claims for examination. They report that they have examined the account of that firm for cotton taken for the use of the fortifications, and that they are satisfied that the number of bales as specified (two hundred and fifty-six) were taken from them; that the average marketable weight of the same was five hundred and one pounds; that James H. Cowan and Perez Dickinson, composing the firm of Cowan & Dickinson, always have been and are consistent and strictly loyal citizens of the United States Government, and that they are entitled to payment for the cotton thus taken from them.

"At a subsequent date, however, Colonel Clinton, recorder of the claims commission, reports to the Secretary of War, in respect to this claim, that the claimants present ample proofs of loyalty, and under the ruling of the commission in similar cases they would be entitled to the return of the cotton, or if sold, to its net proceeds, but that under the ruling of the War Department, based on the opinion of the Judge-Advocate-General, in Elliott's case, it would seem the claim was barred by congressional legislation.

"Upon the reference of this case by the War Department to the Judge-Advocate General, Judge Holt indorses the following opinion:

"BUREAU MILITARY JUSTICE,
"*December* 4, 1867.

"Respectfully returned, and the opinion expressed that, under existing legislation, the executive department of the Government has no authority to allow this claim. The cotton was seized in the enemy's country, and on the theater of the war, and was appropriated to the strengthening of one of our forts then threatened with an attack by an advancing column of rebel forces. For this act of legitimate warfare the Government incurred no responsibility, and if the payment claimed is hereafter made, it will be a mere gratuity bestowed, and not the satisfaction of any legal liability. Under the extremely liberal proviso in favor of the State of Tennessee this claim might be rightfully adjusted, could the cotton seized be held to have been either *quartermaster* or *commissary stores*. Most clearly, however, under the circumstances, it was neither the one nor the other.

"J. HOLT,
"*Judge-Advocate-General.*

"The committee, in concluding the insertion of documentary proof in this report, call attention to the following letter of General BURNSIDE, by whose authority this cotton was taken, written on December 10, 1866, to General Canby:

"'I take great pleasure in representing to you the claim presented by Messrs. Cowan & Dickinson, of East Tennessee.

"'At the time the forces under my command were besieged at Knoxville by General Longstreet, it was necessary to fortify the place as rapidly as possible; and in the exigencies of the time a quantity of cotton—say some two hundred and fifty-six bales—belonging to Messrs. Cowan & Dickinson was taken and used by our forces for fortifications around the city. The necessity for this step was imperative, and the cotton was taken without waiting to give the usual and necessary vouchers for it, and after the raising of the siege my time was too much occupied to take the proper steps to secure the claims to Messrs. Cowan & Dickinson.

"'These gentlemen are, and have been, thoroughly loyal to the United States Government, and have yielded their property without complaint, and they only ask a just compensation for their loss. I hope they may receive from the United States Government a sufficient sum to make good the amount of property yielded to the public service.'

"It may be added, without quoting the proofs, that the loyalty and upright character of this firm are established beyond a doubt.

"What, then, are the rights of these claimants? Were they constructive enemies? Was the district where their property was seized 'enemy's country,' in the sense of that expression? Was the seizure a military capture of hostile property?

"Upon the solution of these questions, the actual loyalty of the claimants being conceded, their title to compensation must depend.

"The committee do not regard Knoxville, at the time of the seizure of this cotton, as enemy's country. If not, then the claimants were not constructive enemies. The historical facts of this period of the war are very clear. General BURNSIDE occupied Knoxville with the Union forces early in September, 1863. He was welcomed, says the historian, with such an outpouring of enthusiastic loyalty and gratitude as had rarely been equaled. East Tennessee, amid all the persecutions to which the friends of the Government had been subjected, had remained invincibly loyal throughout the war. The army was welcomed with cheers and fond greetings; the national flags which had been secreted for many months now waved from almost every house, and the people manifested the sincerest joy at the restoration of the national authority and protection, which, amid all the varying fortunes of the war subsequently, were never superseded in that locality. The city was beleaguered by Longstreet on the 17th day of November, but the assault upon the defenses was not made until the 28th of the month, which was directed upon an unfinished work known as Fort Sanders. In this assault, made by a picked storming party of three brigades, the loss of the assailants was about eight hundred, while on our side the entire loss was only about one hundred—only fifteen of these in the fort.

"The evidence shows that these cotton bales, so seized, were used on the works of defense for the purpose of making parapets and traverses. Says Captain Poe, who so skillfully engineered the defenses: 'In my opinion the emergency was very great and the use of the cotton necessary. It certainly answered an important end in Fort Sanders, at which point the assault of the enemy was repulsed with terrible slaughter, with very slight loss to ourselves. In the fort every traverse and bomb-proof was of cotton, as were also the cheeks of some of the embrasures.'

"The siege of the city was raised on the 5th day of December, and the enemy left that section of country.

"But the important fact to be noticed in this connection is that from the arrival of BURNSIDE's forces on the 3d day of December, 1863, the national authority was established and protection was extended over persons and property, and this authority was continued ever afterward. On the 17th and 18th days of November, when this cotton was seized, the military occupation by the national military forces had been continuous and uninterrupted for two months and a half. General BURNSIDE had entered East Tennessee with an army of 20,000 men, and maintained his position and authority there. His occupation and control of the country were actual and substantial, not illusory, imperfect, or transient. Being such, according to the decision in the Venice case, (2 Wallace Rep., 259,) his military occupation of the place drew after it the full measure of protection to persons and property consistent with a necessary subjection to military government.

"As Knoxville was not at this time enemy country, so the seizure of the cotton was not placed on the ground of a military capture of hostile property, but it was taken from acknowledged friends of the Government, for the sole purpose of being used in defending the city, and with the avowed purpose of the commanding officer under whose order it was seized of giving them a voucher for the same, which the committee interpret to mean an obligation binding the Government to return or account for the value of the cotton. In no just sense can this cotton be deemed captured or abandoned property. It is doubtful if the law requiring the Treasury agent to sell captured property extended to this cotton.

"If Knoxville was not enemy country at this time, its loyal inhabitants stood in the same relation to the Government as the citizens of Philadelphia or Washington. There is no intermediate condition of country between enemy and friendly. Knoxville was one or the other, and the committee are of opinion that the Supreme Court has decided its status. If upon the approach of Early's forces in July, 1863, when he menaced Washington, General Augur could have seized the cotton bales of loyal citizens of the latter city and used and destroyed them in the defenses without creating any liability on the part of the Government, then these claimants have no case. But the committee are of opinion that the claimants have a clear title to compensation, and the only doubt has been as to its extent. For all except one hundred and thirty-eight bales burned and ninety-five bales missing, the liability rests upon the ground that the United States have used the cotton in part and sold the residue. The commanding general had given a voucher for this amount. This disposes of eighty bales, of five hundred and one pounds each.

"How stands the case as to the remainder? Suppose that General BURNSIDE had given, as he purposed doing, a voucher for the whole two hundred and fifty-six bales, instead of the eighty, could there be any reasonable doubt that it would have created, according to the purpose of the maker of it, an obligation on the part of the Government to return the cotton or pay for its value? Is that the fair interpretation of the one he gave for eighty bales? If it does not mean that, what was the purpose of giving it? Had General BURNSIDE the power to bind the Government in a transaction of this nature in a friendly country? If he had not, who connected with that army had? His commission and assignment to the command of that military district gave him the immediate control of the military forces under his command and the power to employ all necessary means to expel the enemy and maintain there the authority of the Government. If a thousand laborers outside the army were necessary to work on the fortifications, could he not employ them and bind his Government to pay them their wages? Could he not purchase provisions and forage for the use of the army and tools to work on the fortifications? If not, why not? And if he could do this, why could he not bind his Government to return or pay for cotton bales used to defend the city and the army? If he could, then it is clear, from the evidence, that he intended to supply a voucher for the remaining one hundred and seventy-six bales.

"It is clear that General Schofield, the successor of General BURNSIDE, recognized the right of these claimants to the value of their cotton, when, three days subsequent to the letter of Cowan & Dickinson, he issued his order of February 26, 1864, to his quartermaster to collect all the cotton not absolutely necessary for the public service, with a view of having it sold and a voucher being given to them for the amount.

"The commission on claims was instituted for some purpose. They assumed jurisdiction of this case, examined it, and made their report. That report was not objected to on the ground that they had exceeded their authority. Of course, if they have any authority at all, their very name would import that their business was to ascertain facts and report their conclusions. It was organized, we suppose, in the interest of truth and justice. If it could report against a claim it could report in favor of it. Its decision was either entitled to respect or no respect. If entitled to no respect, why was it organized at all? Well, this commission has spoken in this matter and settled these facts:

"1. That the claimants are loyal men and ever have been.

"2. That two hundred and fifty-six bales of cotton, of five hundred and one pounds to each bale, were taken from them.

"3. That they are entitled to payment for the same.

"This commission has returned this verdict to the War Department, which recognizes its authority to speak in the matter by accepting the report and dissenting from its conclusions.

"The committee accept the facts as found by the commission, and concur in its conclusions. If there was such a public emergency as justified the military authority in seizing this friendly cotton for the public good, in a section of the country where the authority of the Government was established and ever afterward maintained, the committee think it was the duty of that authority to restore it as soon as the emergency passed. Pass it soon did, and Knoxville was not afterward in danger; and yet the military authorities allowed this cotton to remain in the defenses, exposed to the elements and to theft, until late in February, before any effort was made to collect it. A large body of troops during all this time had remained stationed at Knoxville, with little to do, and yet ninety-five bales of cotton have been abstracted from the fortifications under their very eyes, so negligently had it been guarded. When, more than three months after its seizure, upon the urgent application of the owners, what remained had been collected, one hundred and fifty-eight bales were placed in an exposed situation, without cover or guard to protect it, and it is scarce to be wondered at that such combustible material was ignited and nearly all consumed. It is a matter of regret that the United States should be made responsible for so great a loss in consequence of the sheer and unpardonable carelessness of their military representatives, and it were much to be desired that the officers in command, charged with the protection of this property, should be held responsible for their neglect of duty. Still, whether there be or be not a recourse, there can be little doubt of the duty of the Government to make the petitioners whole.

"The committee have fixed upon fifty cents a pound as the fair value of the cotton at Knoxville at the time of its seizure. Estimating the bales to average five hundred and one pounds each, the claimants are entitled, for the two hundred and fixty-six bales taken, to the sum of $64,123, and the committee now report back the bill granting that sum to them, and recommend its passage."

Your committee, though agreeing in the main with the conclusions of the foregoing report, believe that the same fixes too high a price upon the cotton. At the time it was taken it was in imminent danger of falling into the hands of the enemy and being lost to the owners. Your committee believe that under the circumstances thirty cents per pound was a fair price for the cotton, and accordingly report back a bill for the payment of the sum of $38,476.80, and recommend its passage.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

WATER POWER IN MOLINE, ILLINOIS.

Mr. LOGAN. I ask leave to take from the table a joint resolution of the House appointing a commission to investigate the question about the Moline water-works in Illinois.

By unanimous consent the Senate proceeded to consider the joint resolution (H. R. No. 194) to appoint a commission to examine into the matter of contracts made by and between the United States and the Moline Water Power Company, as to the water power at Moline, Illinois, and to report to Congress as to the same.

Mr. LOGAN. This is the mere appointment of a commission to make a report to Congress.

There being no objection, the joint resolution was read three times and passed.

REDICK M'KEE.

Mr. MORRILL. Some days ago I entered a motion to reconsider the vote passing the bill (H. R. No. 620) for the relief of Redick McKee, at the request of my colleague, [Mr. EDMUNDS,] who is now too ill to be present, and who thinks the bill a very bad one; but I do not myself feel authorized to stop the passage of the bill any longer. I therefore withdraw the motion to reconsider.

The PRESIDENT The motion to reconsider will be withdrawn if there be no objection. The Chair hears none.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WINDOM. Mr. President, I submit a report from the committee of conference on the legislative, executive, and judicial appropriation bill, and ask for its present consideration.

The Chief Clerk proceeded to read the report.

Mr. SARGENT. There seems to be no use in reading the report which consists of so many matters. It would be better to explain it.

Mr. WINDOM. It would be impossible to make an explanation of each of the four hundred and eighty-three amendments in detail. I will state in general terms the character of this report. The House bill undertook to revise and reduce a very large number of salaries which were fixed by the compromise act of last summer. The Senate committee restored all those salaries to the amounts agreed upon in the bill of last year. To this the House conferees have agreed. A very large number of the amendments made on which the House recedes are consequently of that character. There are no material changes made in salaries except in a dozen or perhaps twenty instances; I do not remember the exact number. In a few cases salaries have been slightly reduced, but very few. There is some change made in the clerical force of the Departments from the last year's bill. The increase in the Sixth Auditor's Office, in the Post-Office Department, and in the Treasurer's Office is one-half of the increase made by the Senate; that is, the conference committee agreed by taking one-half of the increase authorized by the Senate.

The conference committee have agreed upon every proposition with the exception of the amendments numbered 76 and 77, which are on the question of the reduction of the President's salary. The conference committee has disagreed upon that, and the motion that I propose to make is that the Senate agree to the conference report as presented, and insist upon its amendments numbered 76 and 77, which relate to the President's salary.

I think I shall be able to answer any questions that may be put with reference to any of these amendments, but time will not permit me to go into them in detail. I move that the Senate concur in the report of the conference committee; and if proper to add the additional motion now, I move also that the Senate insist upon its amendments relating to the President's salary, which are numbered 76 and 77, and request a new committee thereon.

The PRESIDENT *pro tempore*. The Senator from Minnesota moves that the Senate concur in the report of the conference committee and that the Senate insist upon its disagreement to the amendments relating to the President's salary.

Mr. ALLISON. I ask that the motion be divided.

The PRESIDENT *pro tempore*. A division of the question is called for. The question will be first on concurring in the report of the committee.

The report was concurred in.

Mr. ALLISON. On the question of insisting upon the disagreement of the Senate to the amendment relating to the President's salary, I ask for the yeas and nays.

Mr. BLAINE. What is the object of the Senator? For instructions? If the Senate insist *nem. con.*, why are the yeas and nays necessary?

Mr. MORRILL. A motion to recede takes precedence.

The PRESIDENT *pro tempore*. It does.

Mr. ALLISON. The object is to obtain the vote of the Senate upon the question of the President's salary.

Mr. BLAINE. If nobody objects to insisting upon the disagreement, it is not necessary to have the yeas and nays.

Mr. WINDOM. It is not necessary to have the yeas and nays.

Mr. ALLISON. If nobody objects to the motion, I shall withdraw my call.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Minnesota, that the Senate insist on its disagreement with the House on amendments Nos. 76 and 77.

The motion was agreed to.

Mr. WINDOM. I move that a new committee of conference be appointed.

The motion was agreed to.

By unanimous consent the President *pro tempore* was authorized to appoint the committee of conference on the part of the Senate, and Mr. WINDOM, Mr. ALLISON, and Mr. DAVIS were appointed.

HOUSE BILLS REFERRED.

The bill (H. R. No. 4699) to remove the disabilities imposed by the third section of the fourteenth article of the amendments of the Constitution of the United States, was read twice by its title and referred to the Committee on the Judiciary.

The bill (H. R. No. 2386) for the relief of Moses F. Carleton, late second lieutenant of Company I, Fourth Michigan Infantry Volunteers, was read twice by its title, and referred to the Committee on Military Affairs.

ARMY APPROPRIATION BILL.

Mr. BLAINE. I move that the Senate proceed to the consideration of the bill (H. R. No. 4691) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Appropriations with an amendment to strike out all after the enacting clause, and in lieu thereof to insert a substitute.

Mr. BLAINE. I do not know that it will be necessary to read the bill; it ought to be sufficient to read the matter which the Committee on Appropriations recommend as a substitute.

The PRESIDENT *pro tempore*. If there be no objection such will be the understanding.

Mr. DAVIS. The bill as it passed the House differs so widely from the substitute of the Senate committee that I think both should be read.

Mr. BLAINE. If the Senator from West Virginia will pardon me one moment, before the bill is read I will explain precisely what the Committee on Appropriations recommend. Will the Senator yield a moment?

Mr. DAVIS. Certainly, I will yield.

Mr. BLAINE. I may do that as well before the reading as after.

Mr. DAVIS. I have no objection, but my object is to have both bills read, the bill as it came from the House and the substitute.

Mr. BLAINE. Very well, if the Senator desires it I ask that both be read.

Mr. DAVIS. The bills are short, and they differ so widely that the Senate ought to know the difference between the two.

Mr. BLAINE. That is very proper.

The PRESIDENT *pro tempore*. The Senator has that right. The Secretary will read the original bill and then the substitute proposed.

The bill of the House was read, as follows:

Be it enacted, &c., That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Army, for the year ending June 30, 1878, as follows:

For expenses of the Commanding General's office, $1,000.

For expenses of recruiting and transportation of recruits, $20,000. And no money appropriated by this act shall be paid for recruiting the Army beyond the number of seventeen thousand enlisted men, including scouts and hospital-stewards.

For contingent expenses of the Adjutant-General's Department at the headquarters of military divisions and departments, $3,000.

For expenses of the Signal Service of the Army, purchase, equipment, and repair of electric field telegraphs and signal-equipments, $5,000.

Pay Department:

For pay of commissioned officers, enlisted men, contract-surgeons, veterinary surgeons, paymasters' clerks and messengers, two hundred hospital-stewards, and hospital-matrons; for mileage to officers, postage, and cost of telegrams on public service; compensation of citizen witnesses attending military courts, and traveling expenses of paymasters' clerks, $10,800,000.

And hereafter the following-named officers of the Army shall be entitled only to the pay herein stated after their respective designations:

The General, $11,000 a year.

The Lieutenant-General, $9,000 a year.

A major-general, $7,000 a year.

And in lieu of the forage now allowed, they shall each be entitled to forage in kind for three horses, if they are kept and used by them in the performance of their official duties; and so much of sections 1261 and 1271 of the Revised Statutes as conflicts with this provision is hereby repealed.

Subsistence Department:

For subsistence of regular troops, Indian scouts, civilian employés, and Indian prisoners, $1,854,754; and the rations for the troops and the supplies for sale to the officers shall in all cases, when practicable, be furnished by contract under proposals invited by advertisement, which advertisement shall be posted at the military post requiring such subsistence, and at the towns nearest to said post, for a period of three months before the opening of proposals; and whenever purchases of supplies of the same quality can be made at points adjacent to said post, delivered at the same rates and cost as similar supplies would cost delivered if purchased elsewhere, preference shall be given to, and the purchase made at, such adjacent points: *Provided*, That the advertisements for subsistence hereafter shall be approved by department commanders, instead of requiring the approval of the Secretary of War: *And provided*, That $300,000 of the money thus appropriated, or so much thereof as may be necessary, may be applied by the Commissary-General of Subsistence, prior to the 1st of July, 1877, to the purchase of subsistence supplies required for advance shipments to posts situated on the Upper Missouri and Yellowstone, and in other remote regions; and this amount is hereby made available for disbursement from the passage of this act.

Quartermaster's Department:

For the regular supplies of the Quartermaster's Department, consisting of stoves for heating and cooking, of fuel for officers, enlisted men, guards, hospitals, storehouses, and offices; of forage in kind for the horses, mules, and oxen of the Quartermaster's Department at the several posts and stations and with the armies in the field; for the horses of the several regiments of cavalry, the batteries of artillery, and such companies of infantry and scouts as may be mounted, and for the authorized number of officers' horses, including bedding for the animals; of straw for soldiers' bedding; and of stationery, including blank books for the Quartermaster's Department, certificates for discharged soldiers, blank forms for Pay and Quartermaster's Department, and for printing of division and department orders and reports, and for incidental expenses, such as postage and telegrams or dispatches; extra pay to soldiers employed under the the direction of the Quartermaster's Department, in the erection of barracks, quarters, store-houses, and hospitals, in the construction of roads, and other constant labor, for periods of not less than ten days, under the acts of March 2, 1819, and August 4, 1854, including those employed as clerks at division and department headquarters; expenses of expresses to and from the frontier posts and armies in the field; of escorts to paymasters and other disbursing officers, and to trains where military escorts cannot be furnished; expenses of the interment of officers killed in action, or who die when on duty in the field, or at posts on the frontiers, or when traveling on orders, and of non-commis-

sioned officers and soldiers; authorized office furniture; hire of laborers in the Quartermaster's Department, including the hire of interpreters, spies, and guides for the Army; compensation of clerks to officers of the Quartermaster's Department; compensation of forage and wagon masters authorized by the act of July 5, 1838; for the apprehension of deserters, and the expense incident to their pursuit; and for the following expenditures required for the several regiments of cavalry, the batteries of light artillery, and such companies of infantry and scouts as may be mounted, to wit: hire of veterinary surgeons, medicine for horses and mules, picket-ropes, and for shoeing the horses of the corps named; also generally, the proper and authorized expenses for the movement and operations of the Army not expressly assigned to any other department, and for transportation of the Army, including baggage of the troops, when moving either by land or water; of clothing and camp and garrison equipage from the depots of Philadelphia and Jeffersonville to the several posts and Army depots, and from those depots to the troops in the field; of horse equipments and of subsistence stores from the places of purchase and from the places of delivery, under contract, to such places as the circumstances of the service may require them to be sent; of ordnance, ordnance stores, and small-arms from the founderies and armories to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and ferriages; the purchase and hire of horses, mules, oxen, and harness, and the purchase and repair of wagons, carts, and drays, and of ships and other sea-going vessels and boats required for the transportation of supplies and for garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; for procuring water at such posts as, from their situation, require it to be brought from a distance; and for clearing roads, and for removing obstructions from roads, harbors, and rivers, to the extent which may be required for the actual operations of the troops in the field, and for hire of quarters for officers on military duty, hire of quarters for troops, of store-houses for the safe-keeping of military stores, of offices, and of grounds for camp and summer cantonments, and for temporary frontier stations; for the construction of temporary huts and stables; and for repairing public buildings at established posts; in all, $7,600,000: *Provided, however*, That no money appropriated by this act shall be paid to any railroad company for the transportation of any property or troops of the United States over that portion of any railroad which was constructed by the aid of a grant of public land on the condition that such railroad should be a public highway for the use of the Government of the United States, free from toll or other charge, or upon any other conditions, for the use of such road for such transportation; nor shall any allowance be made for the transportation of officers of the Army over any part of such road when on duty and under orders as military officers of the United States.

For purchase of horses for the cavalry and artillery, and for the Indian scouts, and for such infantry as may be mounted, $175,000: *Provided*, That cavalry regiments may be recruited to one hundred men in each company, and kept as nearly as practicable at that number; and a sufficient force of cavalry shall be employed in the defense of the Mexican and Indian frontier of Texas: *Provided*, That such assignment of recruits shall not increase the total aggregate of the Army beyond the number of seventeen thousand enlisted men, as provided in this act.

For construction and repair of hospitals, $75,000.

For purchase and manufacture of clothing and camp and garrison equipage, and for preserving and repacking the stock of clothing and camp and garrison equipage and materials on hand at the Philadelphia, Jeffersonville, and other depots of the Quartermaster's Department, $695,454.

For pay of seventy superintendents of national cemeteries, $57,750.

For maintaining and improving national military cemeteries, $100,000.

For all contingent expenses of the Army not provided for by other estimates, and embracing all branches of the military service, to be expended under the immediate orders of the Secretary of War, $40,000.

Medical Department:

For purchase of medical and hospital supplies, medical care and treatment of officers and soldiers on detached duty, expenses of purveying depots, advertising, and other miscellaneous expenses of the Medical Department, $150,000.

For the Army Medical Museum, and for medical and other works for the library of the Surgeon-General's Office, $8,000.

Engineer Department:

For engineer depot at Willet's Point, New York, namely: For purchase of engineering materials to continue the present course of instruction of the engineer battalion in field engineering, $1,000.

For incidental expenses of the depot, remodeling ponton-trains, repairing instruments, fuel, forage, stationery, chemicals, extra-duty pay, ordinary repairs, and other indispensable necessaries of like character, $3,000.

Ordnance Department:

For the ordnance service, required to defray the current expenses at the arsenals; of receiving stores and issuing arms and other ordnance supplies; of police and office duties; of rents, tolls, fuel, and lights; of stationery and office furniture; of tools and instruments for use; of public animals, forage and vehicles; incidental expenses of the ordnance service, including those attending practical trials and tests of ordnance, small-arms, and other ordnance supplies, $80,000: *Provided*, That none of the money hereby appropriated shall be expended, directly or indirectly, for any use not strictly necessary for, and directly connected with, the military service of the Government; and this restriction shall apply to the use of public animals, forage, and vehicles: *And provided further*, That none of the money hereby appropriated shall be expended for the construction or repair of buildings.

For manufacture of metallic ammunition for small-arms, $75,000.

For overhauling, cleansing, and preserving new ordnance stores on hand at the arsenals, $25,000.

For repairing ordnance and ordnance stores in the hands of troops and for issue at the arsenals and depots, $25,000.

For purchase and manufacture of ordnance stores, to fill requisitions of troops, and for alteration of carriages now in use in sea-coast forts, $70,000.

For infantry, cavalry, and artillery equipments, consisting of valises, haversacks, canteens, and great-coat straps, and for re-covering cavalry saddles with leather, and of manufacture of saddle-bags, and repairing horse equipments for cavalry troops, $60,000.

For manufacture, at national armories, of the new model, breech-loading musket and carbine, adopted for the military service on recommendation of the board of officers convened under act of June 6, 1872, $60,000: $20,000 of which may be used by the Secretary of War in the manufacture of magazine guns, should such a gun suitable for the military service be recommended by a board of ordnance officers.

SEC. 2. That now or hereafter no officer selected, detailed, or assigned to duty upon the staff of, or as aid to, any general officer, or upon any other duty whatsoever, shall be entitled to receive any additional rank, pay, or allowance by reason of such selection, detail, or assignment; and all laws or parts of laws in conflict with the provisions of this section are hereby repealed.

SEC. 3 That the number of cavalry regiments is hereby reduced to eight, and the number of artillery regiments to four, and the number of infantry regiments to sixteen: *Provided*, That the officers of the discontinued regiments may be assigned to other regiments of their respective arms, according to their dates of commission, as vacancies may occur; and any officer, on his own application, may be honorably discharged, with one year's pay for each and every term of eight years' service from the date of his commission; and sections 1104 and 1108 of the Revised Statutes are hereby repealed, and hereafter there shall be no distinction in the service on account of color.

And there shall not be any new enlistments in the Army until the number of enlisted men shall have been reduced to seventeen thousand, inclusive of Indian scouts, hospital-stewards, and the enlisted force authorized for the office of the Adjutant-General by the act approved March 3, 1875, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1876.

And that any portion of the cavalry or artillery force may be armed, drilled, and used as infantry, at the discretion of the President; and that an act to increase the cavalry force of the United States to aid in suppressing Indian hostilities, passed August 15, 1876, be and the same is hereby repealed, to take effect December 1, 1877.

SEC. 4. That the President is hereby authorized to assemble from time to time, as occasion may require, a board of not less than three nor more than five officers, such board being hereby invested with the powers of a court of inquiry and court-martial, whose duty it shall be to examine the propriety of conduct, capacity, qualifications, and efficiency of any commissioned officer of the Army, inclusive of retired officers, who may be reported to the board; and upon such report, if adverse to such officer, after revision of the proceedings like to that of a court of inquiry or court-martial, and approved by the President of the United States, the commission of such officer shall be vacated: *Provided always*, That no officer shall be eligible as a member of said board whose rank or promotion would in any way be affected by its proceedings; and two members at least, if practicable, shall be of equal rank with the officer to be examined; and the members of said board and the recorder shall be sworn to an honest and impartial discharge of their duties.

SEC. 5. That no part of the money appropriated by this act, nor any money heretofore appropriated, shall be applied to the pay, subsistence, or transportation of troops used, employed, or to be used or employed, in support of the claim of Francis T. Nicholls or of S. B. Packard to be governor of the State of Louisiana. Nor shall any of said money be applied in support of the claim of the two bodies claiming to be the Legislature of said State, presided over respectively by L. A. Wiltz and Louis Bush; nor of the two bodies claiming to be the Legislature of said State, presided over respectively by C. C. Antoine and Michael Hahn; nor in support of the claim of Thomas C. Manning and associates to be the supreme court of said State; nor in support of the claim of John T. Ludeling and associates to be the supreme court of said State; nor in aid of the execution of any process in the hands of the United States marshal in said State issued in aid of and for the support of any such claims. Nor shall the Army, or any portion of it, be used in support of the claims, or pretended claim or claims, of any State government, or officer thereof, in any State, until such government shall have been duly recognized by Congress. And any person offending against any of the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned at hard labor for not less than five nor more than ten years.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills and joint resolution:

A bill (H. R. No. 4304) to authorize the United States to secure a title to the Fort Union military and timber reservation in New Mexico;

A bill (H. R. No. 3833) for the relief of John N. Hall;

A bill (H. R. No. 4397) for the relief of Francis M. Strong and Thomas Ross;

A bill (H. R. No. 1082) for the relief of Henry M. Meade, late paymaster in the United States Navy; and

A joint resolution (H. R. No. 179) granting the use of artillery, blankets, &c., at the national soldiers' and sailors' reunion, to be held at Marietta, Ohio.

The message also announced that the House had passed the following bills:

A bill (S. No. 830) for the relief of Joseph W. Parish;

A bill (S. No. 845) for the relief of W. H. Woodward, of Indianola, Texas;

A bill (S. No. 189) placing the name of C. G. Freudenberg upon the retired list of the United States Army; and

A bill (S. No. 973) for the relief of Elizabeth Carson.

The message further announced that the House had passed the following bills, with amendments; in which it requested the concurrence of the Senate:

A bill (S. No. 731) to limit and fix the Signal-Service; and

A bill (S. No. 1128) to extend for two years the act establishing the board of commissioners of claims, and the acts relating thereto.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 3925) relating to the production of fruit brandy, and to punish frauds connected with the same.

POST-OFFICE APPROPRIATION BILL.

Mr. WEST submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

The House recedes from its disagreement to the amendment No. 32, and agrees to the same with an amendment making the amount $6,000.

Upon the amendments Nos. 12, 13, 34, and 35 the conferees have been unable to agree, and so report to their respective Houses.

J. R. WEST.
S. W. DORSEY,
L. V. BOGY,
Managers on the part of the Senate.
WM. S. HOLMAN,
HIESTER CLYMER,
CHAS. FOSTER,
Managers on the part of the House.

Mr. WEST. As this is the second conference on the post-office appropriation bill, I should like to submit to the Senate the points upon which the conference have found themselves unable to agree for such action as the Senate may see proper to take. The items numbered 12 and 13, upon which the two Houses have not been able to come to

an agreement, refer to the railroad transportation of the mails. The original amount appropriated by the House of Representatives was $9,000,000. The estimate made by the Post-Office Department was $10,288,000. The Senate committee finally agreed to make the amount $9,300,000, but really consenting in their judgment to impair the efficiency of the service rather than let the bill fail. The House of Representatives advanced their amount from $9,000,000 to $9,200,000, and on that point the conference committee has disagreed. I regret that the chairman of the Committee on Post-Offices and Post-Roads is not here. I will state that the Postmaster-General, in referring to the railroad mail service in his last annual report, calls the attention of Congress to the fact that really that service has within the past year retrograded in efficiency instead of at least keeping up with the spirit of the times. In speaking of the service, he takes occasion to say that—

> Serious embarrassments have resulted from a discontinuation of these fast lines' which have been augmented by the refusal of the railroad companies to re-establish the incomplete accommodations they had previously furnished. The mails are now conveyed between the Atlantic seaboard and points in the West and Southwest with less dispatch, and with smaller facilities for distribution, than were provided before the inauguration of the fast-mail system.

In other words, by the reduction of 10 per cent. that was made by Congress last year in the amount of compensation paid to railroad companies, the postal service between the Atlantic seaboard and the great West is in a condition of less efficiency than in the year 1875, prior to the establishment of the fast-mail system.

The chairman of the Committee on Post-Offices and Post-Roads when addressing the Senate last on this subject explained that the railroad companies were not compelled to furnish cars of over a certain length, inasmuch as all their carriage was done by weight. Owing to the fact that we have but forty-five-foot cars between New York, Boston, Chicago, and Saint Louis, the distribution of the mails *en route* is very much retarded. With a view of restoring the service to its proper condition the conferees on the part of the Senate have felt compelled to refer the question to the judgment of the Senate. I should like have some views expressed in regard to that matter, as to the sanction or otherwise that the Senate propose to give to the action of their committee.

Mr. COCKRELL. I understand that on particular points the conference committee has not agreed.

Mr. WEST. That is what I have been trying to state.

Mr. COCKRELL. What are those particular points?

Mr. WEST. That is what I have been trying to state, too.

Mr. COCKRELL. The Senator has been very unfortunate, I think, with his statement, with all due respect to him, and I should like to know what the particular points are.

Mr. WEST. I will repeat for the benefit of the Senator, although it perhaps may be a little tiresome, that on the question of mail transportation on the grand trunk lines——

Mr. COCKRELL. What is the amount of difference between the two committees?

Mr. WEST. In the judgment of our committee the amount, although only $100,000, means the total and absolute impairment of the service. We have yielded from estimates of $10,288,000 down to $9,300,000, and that is as far as we thought we ought to go. I should like to have some expression from the Senate either by a motion to recede or otherwise. I believe the motion to recede takes precedence.

Mr. WHYTE. Does the Senator from Louisiana make any proposition either to insist or not?

Mr. WEST. I believe it is the parliamentary usage to allow any Senator who would propose to recede to have that motion offered first. If I hear no proposition of that kind I shall move——

Mr. WHYTE. I will move to recede, then, from the proposition which relates to the fast-mail service.

Mr. WEST. It does not. The Senator misunderstands it entirely. There is no proposition to re-establish fast mails whatever.

Now, upon the motion of the Senator from Maryland, the Senate is called upon to decide just this: Will you have your mails carried by weight in forty-five-foot cars between Boston, New York, Chicago, Saint Louis, and Cincinnati, or will you provide sixty-foot cars without increasing the speed at all; the sixty-foot cars affording the facilities of such distribution *en route* as in the opinion of the Committee on Post-Offices and Post-Roads will accelerate the delivery of your mails twenty-four hours between your great centers East and West?

The PRESIDING OFFICER, (Mr. BOOTH in the chair.) The question is on the motion of the Senator from Maryland, that the Senate recede.

The question being put, a division was called for.

Mr. DAVIS. I was unfortunate enough not to be present when the Senator from Louisiana explained the difference between the two committees; but if I understand aright from those who heard him, they differ as regards the amount appropriated in the amendments the Senate put on as to subsidies for the Brazilian and Pacific mail lines.

Mr. WEST. The Senator is mistaken totally. I am not treating of the subsidy but treating of the railroad communications between the East and the West by the main trunk lines.

Mr. DAVIS. Is that the only question?

Mr. WEST. That is the only question before the Senate at the present time. We shall come to the other in due time.

Mr. DAVIS. I ask the Senator what was the difference between the committees? He says I am totally mistaken as to the questions pending, and then when I ask whether the only question is the railroad, he tells me "no, we shall come to the other after awhile." I should like to know what he means by "coming to it after awhile."

Mr. WEST. When a Senator rises in the middle of a division of the Senate and takes the floor and addresses the Senate on a different subject, I think it would be perhaps well and a courtesy to the Senator who has spent some time in trying to explain the matter to the Senate that he should know what he was voting upon. If my friend from West Virginia asks whether I am coming to that question soon or not, I will tell him that the Senate was dividing on the proposition of the Senator from Maryland [Mr. WHYTE] to recede on a certain amendment relating entirely to railroads. It has nothing to do with the steamship question at all. That will come up on a motion of some other Senator and such explanations as I shall be able to make. After having by the solicitation of Senators tired the ear of the Senate three times by repeating myself, I think I ought to be excused further.

Mr. DAVIS. When I rose I said that I was unfortunate enough to be absent and I asked the Senator, in as courteous language as I could use, what was the difference, and he then stated what I understood to be the difference. It would have been just as easy for the Senator to have said "we are voting on a particular amendment now but there are other differences." However, that is a personal matter; let it go.

Mr. WEST. The Senator will pardon me. I did do that.

Mr. DAVIS. Do I understand now that there are several differences between the committee of conference? One of these questions may depend upon the other. I think I have a right to know. Now I ask the Chair to have reported, not in detail, but the substance of the differences, if the Senator from Louisiana does not think proper to do it. That will probably give the Senate an opportunity of voting understandingly. It may be that it was noticed when the Chair put the vote that perhaps not ten Senators voted. Why was that? Because the majority of the body, as I supposed, did not fully understand the question and did not desire to vote until they did, and I was one of that class. Now I ask that the Senate be informed what the differences consist in. I do not want to take up time; but it is necessary for us, if we are to vote intelligently, to know what the differences between the committees are.

Mr. BOGY. I will state very briefly, as I was a member of the committee of conference, that the subject before the Senate is confined entirely to the question of railroad transportation. The motion of the Senator from Maryland is that we shall recede from our amendment on that point. The bill as passed by the House appropriated $9,000,000 for railroad transportation for the great trunk lines. The Senate increased the appropriation to $9,600,000; in other words, they added $600,000 to it. Of this increase of $600,000, $250,000 were to be used for the purpose of enabling the Postmaster-General to procure what have been called mail facilities. These mail facilities were not at all fast mails. The mail was to be transported at the same rate of speed; but the object was to increase the cars from forty-five-foot cars, which do not carry the mail by weight, to sixty-foot cars, so as to enable those cars to distribute the mails at all the towns from New York to Saint Louis and west of Saint Louis. It was to make these cars postal cars, moving post-offices.

I remember when it was first proposed by the Senator from Maine [Mr. HAMLIN] I opposed it. On further investigation of the matter I have become satisfied that the amendment was correct, and therefore I sustained in the committee of conference the $600,000 addition. With a view, however, to some compromise, I agreed with my colleagues on that committee to come down to $9,300,000; in other words, to increase the amount of the House bill only $300,000. The Senate wanted an increase of $600,000, but we were informed by the Postmaster-General that although with the $300,000 he could not get along very well, yet it was possible he might go through, at all events until the next session of Congress and of the $300,000, $250,000 were to be used for the procurement of mail facilities. The House was willing to increase the amount $200,000. We were willing to come down $300,000, and they to go up to $200,000, leaving a gap of $100,000, and that is the only gap now on that point. There are of course other points in the report of the committee of conference which are not now before the Senate, because those all depended one upon the other.

My idea is that the Senate ought not to recede at present. I am satisfied in my own mind that the amendment of the Senate is fair. I am reminded by the Senator from Texas [Mr. MAXEY] that this increase is necessary for new railroad facilities in Texas to a large degree. I think we had better not recede, but make another honest effort to come to an agreement.

Mr. WHYTE. I withdraw the motion in view of the statement of the Senator from Missouri.

The PRESIDENT *pro tempore*. The motion is withdrawn.

Mr. WEST. I move that the Senate insist on its disagreement and ask for a further conference on that amendment.

The motion was agreed to.

Mr. WEST. Now, as I stated to the Senator from West Virginia, we come to the other points of disagreement; but we can only deal with one at a time.

Upon the amendment numbered 34, which provided that the sum of $500,000 should be appropriated for the carriage of the mails be-

tween the United States and China and Japan, and upon the amendment numbered 35, which provided that the sum of $500,000 should be appropriated for the carriage of mails between New Orleans and the Brazilian Empire, the committee was unable to agree, the conferees on the part of the Senate proposing to the House committee that they would abate those respective sums to $300,000 each, and that if the House committee would submit that proposition to the House, and the House should sustain their action in disagreeing, then the Senate committee would withdraw from the position they had assumed. As it is, therefore, we failed to agree upon a proposition for $300,000 for each of these items. I ask for the sense of the Senate.

Mr. WITHERS. Do I understand the Senator to say that the understanding of the committee is that that proposition is to submit the result of their conclusion to the House to pass upon it before they have another conference?

Mr. WEST. I am not aware whether the House committee will act upon the suggestion made by the Senate committee or not, but the Senate committee propose to abate the amount to $300,000 in each case, leaving the House to act upon it if they see proper. We can stand upon that proposition, subject to their action, if the Senate so see proper.

Mr. BOGY. The Senate amended the House bill by adding two provisions for subsidies, one appropriating $500,000 for the mail service from San Francisco to Japan and China and the other service on the Pacific Ocean to Australia, and one $500,000 for a monthly mail from New Orleans to Rio Janeiro. The House committee disagreed to these amendments entirely. The Senate committee then proposed to reduce the amounts to $300,000 in each case. Some of the House committee, I think, favored that, but the majority did not. It was proposed that the subject should be referred to the two Houses without an indorsement by the committee and let the Houses pass upon it themselves. That was declined. The matter stands in that way now, the Senate conferees insisting on the matter being referred to both Houses respectively, and as one of the amendments has got to go to another conference committee, and the passage of the bill will not be delayed by letting the other amendments go also, I would suggest that the whole subject be referred again to a conference committee, and I would furthermore suggest that it should be a new committee. I have been on the committee twice, I think our minds are set on that subject, and I would prefer myself that a new committee entirely should be raised. I hope, therefore, the Senate will insist on these amendments; as we have insisted on one and the bill cannot pass at present, I hope we shall insist on the others and make another effort. I hope, therefore, the motion made by the Senator from Louisiana will be sustained by the Senate and a new committee appointed.

Mr. WEST. I move that the Senate insist on its position on the amendments named and ask for a further conference with the House.

Mr. WADLEIGH. Let me inquire of the Senator from Louisiana whether or not the disagreement is upon the mail subsidies of $500,000 each.

Mr. WEST. The disagreements have been fully stated and they are all understood.

Mr. WADLEIGH. I did not happen to be in and did not understand.

Mr. WEST. I call for the question on my motion that the Senate insist and ask for a further conference.

Mr. DAVIS. The Senate has already passed upon the amendments relating to the railroad mail service. The item now before the House is the one I tried to get the Senator having charge of the bill to state previously so that we should know exactly what we had to vote upon. One, in my judgment, has some bearing upon the other; but in order not to take up the time of the Senate I yielded and did not require the reading of the whole at the desk. Now if it is the intention of the Senate committee of conference to adhere to the subsidies, I think the Senate ought to let the committee know at once what the wish of the Senate is. But if, on the other hand, the conferees believe that it would be better to let the two questions go together and make another effort, with the understanding that they shall not hold out so as to defeat the whole bill, owing to either one of these amendments, I agree at once to have another conference; but we are running along toward the end of the session. This is one of the most important appropriation bills we have. Without its passage the whole mail service of this country has to stop; and neither of these amendments is of sufficient importance for that. Having expressed myself in that way I make no opposition to the request of the Senator having charge of the bill.

Mr. BOGY. It seems to me the Senator from West Virginia makes a very great mistake. This bill has not been delayed, and no word has been said to delay its passage by the question of subsidies. It has been delayed by the fact that the committees could not agree with regard to the amount to be allowed for the transportation of the mail on the trunk railroads, not by the other question at all. The main point has been the trunk railroads.

Mr. SAULSBURY. As a member of the Post-Office Committee I was not present when the provision of the bill was incorporated into it. I should certainly have opposed it, had I been present in the committee, as I should have opposed it here if I had been present in the Senate when it passed. I shall not let this occasion pass without here stating that I am unqualifiedly opposed to these subsidies whether for the Brazilian line or the Pacific mail line. I am perfectly willing to pay to each of these lines a fair and proper compensation for carrying the mails, based upon the services they render to the Government; but I shall not consent by any vote of mine to subsidize either of these companies. I say here and now, if it puts in jeopardy the post-office bill, if my vote can determine it, these subsidies shall not pass by my consent.

I am perfectly willing to pay the Pacific mail line, which has had a subsidy for ten years of half a million dollars, the full compensation to which it is entitled for the service it renders to the Post-Office Department, and I am willing to pay the Brazilian line whatever may be a fair compensation for carrying the mails between New Orleans and Brazil; but when they come here and ask us to subsidize these lines, to take the money which the people, by taxes, have paid into the Treasury of the United States, and give it to corporations, I enter my protest against it.

I hope, therefore, we shall recede from this proposition, and that we shall not encumber this bill with any measure whatever to subsidize either the Pacific mail line or the Brazilian line.

Mr. BOGY. A motion to recede would test the whole subject. I am willing to go into it at length. I am perfectly willing to go into the subject at great length right off, if the Senate desire it. I am entirely prepared.

Mr. WADLEIGH. The Senator from Missouri intimates that he will consume the whole time that remains of this session in discussion. I am opposed to these subsidies. The public believe that they are too large. The public believe, and I think with truth, that the service can be performed at a much less rate, and that this is not a fair and a just compensation for the services which are to be expected of these steamship companies. I propose to vote against it.

The PRESIDING OFFICER. The question is on the motion of the Senator from Louisiana, that the Senate insist on its amendments and ask for a further conference.

Mr. WITHERS. We have already determined that we shall have another committee of conference on this bill. As regards the subsidies, let the whole question go to the same committee of conference, and let them consider it. If they fail to agree, when they come back here, it will be time for us to yield to the House and give up the subject. We can gain no time by voting now on these various motions. We shall have to have another committee of conference anyhow.

Mr. WADLEIGH. It can do no harm to inform the committee what is the sense of the Senate on this question, and I hope there will be a vote so that they may know what it is.

Mr. SAULSBURY. I hope the committee of conference that may be formed may not be embarrassed by the consideration of the subsidy question. Let us now recede from that proposition. As the Senator from New Hampshire has said, I believe the judgment of the country is that it is too much to pay for the service that these companies propose to render to the Postal Department. Let us therefore not embarrass the conference committee with the consideration of this question at all. I move that the Senate recede.

Mr. BOGY. I do not believe that the judgment of the country is opposed to subsidies that are just and proper and clear of any fraud, and calculated to promote some great and necessary work or open some new and important channel of commerce. Politicians have used this question as a most popular one for declamation. It is the abuse of this system which the people condemn, and justly, but not its judicious application for the public good. I certainly would not favor extravagant and corrupt subsidies; but this I will say, that you cannot restore the prostrate commerce of this country unless you use means of this kind. You never can bring back to the ocean the vessels that were swept away from it during the last war unless you use the same means that are employed by all the commercial nations of the present day the world over.

To-day we have no commerce of any consequence with South America; and if you strike down the line that crosses the Pacific Ocean and carries the mail to Japan, China, and Australia, and to the numerous islands of that ocean, you will sweep from the bosom of that vast sea the only American line in that quarter, and you will force the immense commerce of that region to Europe, and mostly to England.

At this time England has upward of one hundred steam-vessels running to the ports of South America. The United States, boasting to be a great commercial nation, and in close proximity to that country, has but very few indeed, and not one regular line. A man in New York desiring to send a letter to Rio Janeiro has to send it to England so that it may find a vessel there to carry it to its destination. A person in New Orleans who desires to correspond with South America has to send his letter to New York, and from there it goes across the ocean to England to find the means of transmission, and any one in New York who wishes to write to any portion of Mexico has to avail himself of a British line to carry his letter from the island of Saint Thomas to the city of Vera Cruz. And yet we profess to legislate in favor of commerce so as to find markets for the vast and increasing productions of our country. So far from being liberal and wise in our policy, we are pursuing a narrow and miserable system, crippling our foreign commerce. True economy dictates a different and more enlightened system. If we wish to attain the position intended by nature for us, that of a great, first-class commercial power, we must resort to the means that other nations employ, and not go

back to the slow and sluggish instrumentalities used forty or fifty years ago, when we were only an agricultural, farming, and a rural population almost entirely.

I may disagree with a portion of the party leaders on this subject, but I think I am in accord with the sentiment of the people. I may disagree with the politicians who are willing to lead the people astray by crying out "subsidy" and "corruption" and "Credit Mobilier," and in this way obtain their confidence, at the expense, however, of the public good. I am opposed to corruption and to all Credit Mobiliers and to all jobs. In this I yield to no Senator; but, nevertheless, without fair and judicious subsidies to-day many of our great works would not exist. The West is covered with railroads, which would not now exist if the Government had not given to them millions of acres of public lands. The great road from the valley of the Missouri to the Pacific Ocean, once looked upon as a wild and visionary dream, would not exist without aid from the Government. There may have been very great frauds perpetrated in the management and the building of this road; nevertheless, its value to the commerce of the nation is beyond all calculation; and as a national work, binding the extremities of our country, it is equally impossible to estimate its importance.

Therefore, Mr. President, without detaining the Senate, I am willing to present that question to the mind of the country, that of reasonable subsidies as necessary to develop its resources. Subsidies, of course well guarded, are used by France, England, Germany, and indeed by the nations of Europe at the present day that are striving for the commerce of the world. We are holding back on this subject because, as I have already said, we are led by the demagogues throughout the country. The people are intelligent, and if allowed to act for themselves would regulate this, and keep all such things as subsidies within reasonable bounds; and it is within these bounds I am anxious to keep them. A line from New Orleans to South America would be of the greatest benefit to the section of country which I have the honor in part to represent upon this floor. I may say it is a part and parcel of that system which is destined some day to connect the southwestern country with the Pacific Ocean through what is called the Texas Pacific line of railroad, for which I am ready at this moment to vote a subsidy by guaranteeing the interest on its bonds. The southern man who does not see this, it seems to me, fails to appreciate the interest of his section.

The city of New Orleans is only sixteen hundred miles from the Pacific Ocean. The city of New York is three thousand miles from the same ocean. Hence, connect the city of New Orleans, which is a seaport, with the Pacific Ocean, and you bring to that city the commerce of Europe, which seeks the eastern world across our continent. To-day New Orleans, and all the Gulf States, are virtually cut off from any connection, commercial or otherwise, with the Pacific Ocean. A gentleman residing in New Orleans who desires to go to San Francisco has to make a long trip north before he can turn his way westward. Why should not this section be connected by railroad with the Pacific Ocean? This can only be done by Government help, and without that help it will be many years before the South can have any commercial relations with the Pacific.

South America is destined to be, if we are wise in our legislation, to this country what the East Indies have been to England, a source of inexhaustible wealth; inexhaustible because nature in that climate reproduces annually with boundless profusion. Shall we not have the wisdom and statesmanship to avail ourselves of our position so as to have some part and parcel in that trade, which is now all carried to England? A New York buyer of coffee in Rio Janeiro pays for his purchase by a bill on London; and so with the buyer from Baltimore. This should not be, and would not be if proper efforts were made to give direction to this trade. As it is now, no such effort is made, and none can be successfully made without a regular line of steamers; and New Orleans is the natural point for our trade with the republics of South America.

Therefore, Mr. President, I am in favor of a reasonable subsidy for this line. My section is immensely interested in the establishment of a line from New Orleans to Brazil. We have provided for an expenditure of $5,000,000 to $7,000,000 to open the mouth of the Mississippi; and what good will it do unless you encourage some trade from this point? I know it is said if the trade is profitable it will come of itself. That is true to a certain extent; but when competition is stimulated by the legislation of other countries you have to use the same means to accomplish the same object.

There is another point. The time will come when the appropriations for the Navy should be cut down to one-half what they are now; yet a Navy is not only of essential importance, but is indispensable to a nation. It is by building and maintaining a commercial navy that you will do away with one-half of the appropriations for the Government Navy. Train your seamen in the mercantile navy, let the merchant ships be so built that in the event of war they are ready at a moment's warning to be changed from merchant vessels to Government and war vessels, and those same seamen who have breasted the storms upon the mercantile vessels will be the seamen ready for war when it does come. It might be wise for us to spend $5,000,000 annually to encourage our merchant navy and spend that much less for the Government Navy. It would certainly be much wiser to spend some of this money in the way I have suggested, and encourage the commerce of the country by building a mercantile navy, than make the large appropriations which have been made from year to year. The men trained as sailors in the mercantile navy cost nothing, and all history proves their adaptation in times of war.

Mr. SAULSBURY. I never fail to listen with a great deal of pleasure to my distinguished friend from Missouri, [Mr. BOGY,] who always addresses the Senate ably and eloquently; but on this occasion I must be permitted to say, with all due deference to my friend, that he has but repeated the stereotyped arguments which have been used time and again on this floor and in these lobbies in favor of taking the money of the people out of the Treasury and giving it to these corporations.

My learned and honorable friend in the discussion of this question has seen proper to discuss the claims of the Southern Pacific Railroad and to enlighten us upon the question of the marine and the naval service of the country; but he has not, in my judgment, advanced one argument that ought to weigh in favor of the proposition now to subsidize these companies, the Pacific Mail Company and the Brazilian Mail Steamship Company. If it is put on the ground that it will build up commerce, I would enter into that argument. Our commerce to-day, notwithstanding for years past we have been expending the public money in the shape of subsidies to steam lines, is not what it was in former years, when the sturdy integrity and virtue of our fathers prohibited and restrained us from granting the public money to private corporations. No, sir, your commerce is not to-day in a waning condition because of the want of stimulus by the Government, but it is because the energies of the people have been directed in a different direction; and so long as men may look to the Government for aid, you will have no enterprise in the shape of commerce except such as the Government fosters. Let us alter our policy in this respect and again the sea will be whitened with the sails of our merchant ships. But while we adopt the policy of subsidizing one line we virtually exclude and drive from the sea all other lines. Let us pay these lines for the service they render the Government by carrying the mails, but let us not attempt to empty the coffers of the Government into the laps of these rich corporations. We have paid already for ten years a subsidy to the Pacific Mail Company, and if it is now not able to stand upon its feet the sooner it goes down the better for all concerned; the better for the corporation, the better for the men engaged in it. Let us at any rate guard the public Treasury, guard the taxes which the people have paid into the Treasury from depletion in favor of private corporations. For one, sir, I will not vote for this subsidy under any circumstances.

Mr. WINDOM. What is the question before the Senate?

The PRESIDENT *pro tempore*. The question is, Will the Senate insist on its amendments and ask for another conference?

Mr. WINDOM. Was there not a motion made by the Senator from Delaware to recede?

Mr. SAULSBURY. I did make that motion.

The PRESIDENT *pro tempore*. The Chair was not aware of that. The motion to recede has priority.

Mr. WINDOM. I move that the five-minute rule be applied to this bill, and I hope that the motion made by the Senator from Delaware will be agreed to.

The PRESIDENT *pro tempore*. The Senator from Minnesota moves that the five-minute rule be applied to this bill.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question is on the motion to recede from these amendments.

Mr. BOGY. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. DAVIS. Is there not an error? The Senator from Delaware does not mean to recede from all amendments. I understood him to move to recede from the amendments as to subsidies. There is also another amendment in the bill relating to railroads.

Mr. SAULSBURY. My motion was to recede from the Senate amendments in reference to the steamship subsidies.

The PRESIDENT *pro tempore*. Both of them?

Mr. SAULSBURY. Yes, sir.

The PRESIDENT *pro tempore*. There are only two amendments pending. The others have been disposed of.

Mr. WEST. I spent some time in stating the points of difference between the two committees. I stated that there were four amendments upon which the two committees failed to agree. The Senate has voted on two of those amendments relating to the railroad service. The question now embraced by the motion of the Senator from Delaware is, Will the Senate recede from its amendments providing for subsidies to the China mail and the Brazilian mail? and that is all the question. I believe the Senator from Missouri has called for the yeas and nays on that question.

The Secretary proceeded to call the roll.

Mr. SPENCER, (when his name was called.) Upon all political questions I am paired with the Senator from North Carolina, Mr. MERRIMON.

Mr. WEST. This is not a political question.

Mr. SPENCER. I do not regard this a political question; and as I suppose we should both vote the same way, I shall vote.

The roll-call having been concluded, the result was announced—yeas 29, nays 12; as follows:

YEAS—Messrs. Alcorn, Bailey, Bayard, Blaine, Chaffee, Christiancy, Clayton Cooper, Davis, Harvey, Hereford, Hitchcock, Johnston, Jones of Florida, Kernan, McDonald, Norwood, Ransom, Robertson, Saulsbury, Sherman, Spencer, Stevenson, Teller, Wadleigh, Wallace, Whyte, Windom, and Withers—29.

NAYS—Messrs. Bogy, Booth, Conover, Dawes, Ferry, Hamlin, Kelly, Mitchell, Morton, Paddock, Sharon, and West—12.

ABSENT—Messrs. Allison, Anthony, Barnum, Bontwell, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Cockrell, Conkling, Cragin, Dennis, Dorsey, Eaton, Edmunds, Frelinghuysen, Goldthwaite, Gordon, Hamilton, Howe, Ingalls, Jones of Nevada, Logan, McCreery, McMillan, Maxey, Merrimon, Morrill, Oglesby, Patterson, Randolph, Sargent, Thurman, and Wright—34.

So the motion to recede was agreed to.

Mr. WEST. I move that the House be informed of the action of the Senate on the other amendments and that a committee of conference be appointed.

The motion was agreed to.

By unanimous consent, the President *pro tempore* was authorized to appoint the committee; and Mr. ALLISON, Mr. DAWES, and Mr. DAVIS were appointed.

SIGNAL SERVICE.

Mr. SPENCER. I move that the Senate non-concur in the amendments of the House to the bill (S. No. 731) to limit and fix the signal service, and ask for a committee of conference on the disagreeing votes of the two Houses thereon.

The motion was agreed to.

By unanimous consent, the President *pro tempore* was authorized to appoint the committee; and Mr. SPENCER, Mr. CLAYTON, and Mr. RANDOLPH were appointed the conferees on the part of the Senate.

COURTS IN WEST VIRGINIA.

Mr. CONKLING. Some time ago the late Senator from West Virginia [Mr. Caperton] was appointed a member of the committee of conference on the bill (S. No. 472) changing the times of holding terms of the district court for the district of West Virginia. I move that the vacancy created by his death be filled by the Chair.

The motion was agreed to.

AFFAIRS IN ALABAMA.

Mr. BLAINE. I hope we shall go on with the Army appropriation bill now.

Mr. CAMERON, of Wisconsin. The subcommittee designated by the Committee on Privileges and Elections to investigate affairs in the State of Alabama are authorized by a majority to report, and I now present the report.

The report was ordered to be printed.

ELECTIONS IN SOUTH CAROLINA AND LOUISIANA.

Mr. CAMERON, of Wisconsin. I desire to make a request in behalf of the Committee on Privileges and Elections. A subcommittee of the Committee on Privileges and Elections was sent to South Carolina to investigate affairs in that State. On account of the delay in printing the testimony, the testimony taken by that subcommittee is not yet printed, and consequently the subcommittee has not yet been able to prepare a report. I am instructed by the Committee on Privileges and Elections to ask permission of the Senate to file a report after the 4th day of March. The report is partially prepared, and can be filed within a few days.

The PRESIDENT *pro tempore*. Is there objection to this permission?

Mr. STEVENSON. I object.

The PRESIDENT *pro tempore*. Does the Senator from Wisconsin make a motion?

Mr. CAMERON, of Wisconsin. I think the Senator from Kentucky will not object when the case is known. The Senator from North Carolina, who was a member of the subcommittee, [Mr. MERRIMON,] informed me yesterday that he would probably have to be absent to-day, and he requested me to make this request of the Senate.

Mr. WADLEIGH. I move to amend the motion of the Senator from Wisconsin so as to include the subcommittee that went to Louisiana. They have been unable to prepare their report for the same reason.

Mr. BLAINE. If this gives rise to debate, I shall not yield to it.

Mr. COOPER. Is the motion in order after objection?

The PRESIDENT *pro tempore*. It is.

Mr. COOPER. What is pending before the Senate?

The PRESIDENT *pro tempore*. The Army appropriation bill. The Senator from Maine yields for this purpose.

Mr. COOPER. Must not the Senator from Wisconsin move to postpone the Army bill?

The PRESIDENT *pro tempore*. Strictly.

Mr. COOPER. Does the Senator from Maine give way?

Mr. BLAINE. I do not. Let us go on with the bill.

The PRESIDENT *pro tempore*. The Army appropriation bill is before the Senate.

SALE OF DESERT LANDS.

Mr. SARGENT. I ask leave to make a report from a committee of conference.

Mr. BLAINE. I yield for that.

Mr. SARGENT submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4261) entitled "An act to provide for the sale of desert lands in certain States and Territories," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 5, 6, 9, 13, 14, and 16; that the House recede from its disagreement to the amendments of the Senate numbered 3, 4, 7, 10, 15, and 17, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same, with an amendment to strike out all of said amendment after the word "however," and insert in lieu thereof the following:

"That the right to the use of water by the person so conducting the same on or to any tract of desert land of six hundred and forty acres shall depend upon *bona fide* prior appropriation, and such right shall not exceed the amount of water actually appropriated and necessarily used for the purpose of irrigation and reclamation; and all surplus water over and above such actual appropriation and use, together with the water of all lakes, rivers, and other sources of water supply upon the public lands and not navigable, shall remain and be held free for the appropriation and use of the public for irrigation, mining, and manufacturing purposes, subject to existing rights."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same, with an amendment to insert before the word "sum," in line 13, on the first page of the bill, the word "additional;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same, with an amendment striking out all after the word "provided," in said amendment, and inserting in lieu thereof the following:

"That no person shall be permitted to enter more than one tract of land, and not to exceed six hundred and forty acres, which shall be in compact form."

And the Senate agree to the same.

A. A. SARGENT,
R. J. OGLESBY,
J. K. KELLY,
Managers on the part of the Senate.

J. K. LUTTRELL,
L. F. LANE,
L. CROUNSE,
Managers on the part of the House.

The report was concurred in.

WARREN MITCHELL.

Mr. DORSEY. I move to reconsider the vote by which the Senate yesterday recommitted to the Committee on Claims the bill (S. No. 1145) for the relief of Warren Mitchell. I do not wish the motion called up at the present time.

The PRESIDENT *pro tempore*. The motion will be entered.

ARMY APPROPRIATION BILL.

Mr. BLAINE. Let us go on with the Army bill.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 4691) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes.

The PRESIDENT *pro tempore*. If there be no objection, each paragraph of the committee's amendment will be considered by itself.

Mr. BLAINE. There is no necessity for reading the amendment by paragraphs, because the design is to take a vote of the Senate upon the substitution of that which is printed in italics for the bill that comes from the House, and I will state very briefly the reasons that governed the Committee on Appropriations in making this recommendation.

The bill comes to us very late in the session, and it is a bill that presents a great many points on which there would be sharp differences. There is a great deal of legislation in the bill that comes from the House. To begin with, there is a proposition to reduce the Army by eleven regiments, to reduce the aggregate of enlisted men from 25,000 to 17,000. There is a proposition in the bill to reduce the pay of all the leading officers in the Army, beginning with the General. There is a proposition also to entirely re-organize several of the departments; in effect, the different bureaus of the War Department; and there is a proposition at the end of it of a nature which undoubtedly would give rise to very prolonged and possibly animated discussion. So it seemed to the Committee on Appropriations that if they should recommend the traversing of this bill it would only be to invite a discussion which would inevitably end in having the bill go over and be lost. It does not seem to me, and I think in stating that I state what is the impression of a majority of the Committee on Appropriations, that it would be a possible thing to pass an Army appropriation bill at all if we assumed the basis of that bill to be the bill that comes from the House.

Now, in the absence of that consideration, I desire to say that the committee have agreed to take, and do recommend the Army bill of last session, which was a very thoroughly considered bill, after very great investigation and elaboration, probably one of the most thoroughly considered Army bills that has passed Congress for many years. The recommendation of the Committee on Appropriations is that we take that bill, merely leaving out of it the legislative provisions, which it is not necessary to repeat.

Coming to dollars and cents, I desire to state that the estimates of the War Department are $30,946,000; in round numbers, thirty-one millions. The bill of last session was $27,621,000. The pending bill is $21,992,000; in round numbers, twenty-two millions. The difference, therefore, between the bill that is recommended by the committee and the bill that comes from the House in the aggregate of money is about $5,700,000.

There is one other point very much in favor of the bill of last year. As I have already said, it was a carefully considered bill. It very minutely subdivided the heads and bases of expenditure. The bill that comes to us this year is very largely a lump bill, especially in the expenditures under the Quartermaster's Department, which was the most considerable, as every one knows, of the Army. It lumps them. It does not subdivide them. It is not nearly so well or so carefully drawn as the bill of last year, and the committee object to it on that account.

I therefore, without desiring to enter into a prolonged discussion, for it is my wish to have the five-minute rule applied to this bill, submit this brief explanation and ask that this bill may have the five-minute rule applied to it as in Committee of the Whole.

The PRESIDENT *pro tempore*. Is there objection?

Mr. DAVIS. I hope the Senator will not on so important a bill, and when there are but few provisions to be debated, ask for the five-minute rule, unless it should be seen that the time was going to be abused. The Senator well knows that this is probably the most important appropriation bill that we have before us; indeed, it is the only one now left. The five-minute rule, as a matter of course, sometime will have to be applied, but I think it too soon now.

Mr. BLAINE. The Senator from West Virginia cannot fail to see that if this bill be left open to general discussion, with all the points of difference in it, we might as well not spend time upon it at all, because it will be obviously impossible to pass it. We are now on the last legislative day of the session. To have this bill pass here and go back to the House, be reconsidered there, go to a conference on the points of difference, and have the bill as finally agreed on enrolled and presented to the President for his signature will certainly be all that we can hope to accomplish between now and to-morrow at twelve o'clock noon.

Mr. DAVIS. I believe this is the only appropriation bill left unacted upon. There are important, highly important, matters contained in the bill now before us; and, as I said a moment ago, unless the time appears to be abused, unless some Senator seems to be taking up all the evening, I hope the Senate will wait a little while at least before applying the five-minute rule.

Mr. BLAINE. I feel that I must insist that the Senate pass upon the question of considering the bill under the five-minute rule. I am very sure that to leave it open to discussion without limitation of the time would be simply to lose it, after a discussion which might itself be of no profit to either side of the Chamber. I believe that the bill can be passed satisfactorily to both sides under the five-minute rule, and that it can become a law; and therefore I insist on the motion that the five-minute rule be applied to the bill.

The PRESIDENT *pro tempore*. The Senator from Maine moves that the five-minute rule be applied to this bill during its consideration.

The motion was agreed to.

The PRESIDENT *pro tempore*. The words proposed by the Committee on Appropriations to be inserted will be read.

The CHIEF CLERK. It is proposed by the Committee on Appropriations to amend the bill by striking out all after the enacting clause, and in lieu thereof to insert the following:

That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Army for the year ending June 30, 1878, as follows:

For expenses of the Commanding-General's office, $3,000.

For expenses of recruiting and transportation of recruits, $90,000. And no money appropriated by this act shall be paid for recruiting the Army beyond the number of twenty-five thousand enlisted men, including Indian scouts and hospital stewards. Nothing, however, in this act shall be construed to prevent enlistments for the Signal Service, which shall hereafter be maintained as now organized, and as provided by law, with a force of enlisted men not exceeding four hundred after present terms of enlistment have expired.

For contingent expenses of the Adjutant-General's Department at the headquarters of military divisions and departments, $3,000.

For expenses of the Signal Service of the Army, purchase, equipment, and repair of electric field telegraphs and signal equipments, $10,500,

Pay Department:

For pay of commissioned and non-commissioned officers, privates, military storekeepers, medical storekeepers, musicians, and veterinary surgeons, artificers, farriers, saddlers, and wagoners, except as hereinafter enumerated, $9,918,574.50.

For the pay proper of three hundred privates employed as Indian scouts, $46,800.

Miscellaneous:

For the pay of contract surgeons, $161,637.

For the pay of fifty-two paymasters' clerks, $62,400.

For the pay of two hundred hospital stewards, $72,000.

For the pay of two hundred hospital matrons, $24,000.

For one hundred and forty-eight commissary sergeants, $60,384.

For messengers to paymasters, $15,000.

For extra-duty pay to enlisted men, $30,000.

For travel-pay and commutation of subsistence to discharged soldiers, $500,000.

For retained pay to discharged men, $703,860.

For pay to soldiers for clothing not drawn, $360,000.

For additional pay to enlisted men, $356,520.

For mileage of officers of the Army when traveling under orders, $230,000.

For postage on letters and packages received and sent by officers of the Army, on public service; cost of telegrams; compensation of citizen witnesses attending upon courts-martial, military commissions, courts of inquiry; traveling expenses of paymasters' clerks, $80,000: *Provided*, That the appropriations under the head of "Pay Department" in this act shall be accounted for by disbursing officers under the title of "Pay, &c., of the Army, 1878," so that the total amount appropriated for that purpose shall not be exceeded.

Subsistence Department:

For subsistence of regular troops, Indian scouts, and Indian prisoners, $2,200,000.

Quartermaster's Department:

For the regular supplies of the Quartermaster's Department, consisting of stoves for heating and cooking; of fuel for officers, enlisted men, guards, hospitals, storehouses, and offices; of forage in kind for the horses, mules, and oxen of the Quartermaster's Department at the several posts and stations and with the armies in the field; for the horses of the several regiments of cavalry, the batteries of artillery, and such companies of infantry and scouts as may be mounted, and for the authorized number of officers' horses, including bedding for the animals; of straw for soldiers' bedding; and of stationery, including blank books for the Quartermaster's Department, certificates for discharged soldiers, blank forms for the Pay and Quartermaster's Departments, and for printing of division and department orders and reports, $3,750,000.

For incidental expenses, to-wit: For postage and telegrams or dispatches; extra pay to soldiers employed, under the direction of the Quartermaster's Department, in the erection of barracks, quarters, storehouses, and hospitals, in the construction of roads, and other constant labor, for periods of not less than ten days, under the acts of March 2, 1819, and August 4, 1854, including those employed as clerks at division and department headquarters; expenses of expressage to and from the frontier posts and armies in the field; of escorts to paymasters and other disbursing officers, and to trains where military escorts cannot be furnished; expenses of the interment of officers killed in action, or who die when on duty in the field, or at posts on the frontiers, or when traveling on orders, and of non-commissioned officers and soldiers; authorized office furniture; hire of laborers in the Quartermaster's Department, including the hire of interpreters, spies, and guides for the Army; compensation to clerks to officers of the Quartermasters's Department; compensation of forage and wagon masters authorized by the act of July 5, 1838; for the apprehension of deserters, and the expenses incident to their pursuit; and for the following expenditures required for the several regiments of cavalry, the batteries of light artillery, and such companies of infantry and scouts as may be mounted, to-wit: hire of veterinary surgeons, medicine for horses and andmules, picket-ropes for shoeing the horses of the corps named; also, generally, the proper and authorized expenses for the movement and operations of the Army not expressly assigned to any other department, $450,000.

For purchase of horses for the cavalry and artillery, and for the Indian scouts, and for such infantry as may be mounted, $250,000: *Provided*, That cavalry regiments may be recruited to one hundred men in each company, and kept as near as practicable at that number; and a sufficient force of cavalry shall be employed in the defense of the Mexican and Indian frontier of Texas: *Provided*, That such assignment of recruits shall not increase the total aggregate of the Army beyond the number of twenty-five thousand enlisted men, as provided in this act.

For transportation of the Army, including baggage of the troops, when moving either by land or water; of clothing and camp and garrison equipage from the depots of Philadelphia and Jeffersonville to the several posts and Army depots, and from those depots to the troops in the field; of horse-equipments and of subsistence-stores from the places of purchase and from the places of delivery, under contract, to such places as the circumstances of the service may require them to be sent; of ordnance, ordnance stores, and small-arms from the founderies and armories to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and ferriages; the purchase and hire of horses, mules, oxen, and harness; and the purchase and repair of wagons, carts, and drays, and of ships and other sea-going vessels and boats required for the transportation of supplies and for garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; for procuring water at such posts as, from their situation, require it to be brought from a distance; and for clearing roads, and for removing obstructions from roads, harbors, and rivers, to the extent which may be required for the actual operations of the troops in the field, $3,500,000.

For hire of quarters for officers on military duty, hire of quarters for troops, of storehouses for the safe keeping of military stores, of offices, and of grounds for camp and summer cantonments, and for temporary frontier stations; for the construction of temporary huts and stables; and for repairing public buildings at established posts, $1,150,000.

For construction and repair of hospital, $100,000.

For purchase and manufacture of clothing and camp and garrison equipage, and for preserving and repacking stock of clothing and camp and garrison equipage and materials on hand at the Philadelphia, Jeffersonville, and other depots of the Quartermaster's Department, $695,454.

For the pay of seventy superintendents of national cemeteries, $57,750.

For maintaining and improving national military cemeteries, $125,000: *Provided*, That the Secretary of War shall provide for the care and maintenance of the national military cemeteries, and for this purpose shall submit an estimate with his annual estimates to Congress.

For all contingent expenses of the Army not provided for by other estimates, and embracing all branches of the military service, to be expended under the immediate orders of the Secretary of War, $50,000.

Medical Department:

For purchase of medical and hospital supplies, medical care and treatment of officers and soldiers on detached duty, expenses of purveying depots, advertising, and other miscellaneous expenses of the Medical Department, $175,000.

For the Army Medical Museum, and for medical and other works for the library of the Surgeon-General's Office, $10,000.

For providing surgical appliances for the relief of persons disabled in the military or naval service of the United States, and not included within the terms of any law granting artificial limbs or other special relief, $5,000.

Engineer Department:

For engineer depot at Willet's Point, New York, namely:

For necessary materials for properly drilling the engineer companies in field duties; for incidental expenses of the depot, fuel, forage, chemicals, stationery, extra-duty pay, purchase of animals, and ordinary repairs, $5,000.

Ordnance Department:

For the ordnance service, required to defray the current expenses at the arsenals; of receiving stores and issuing arms and other ordnance supplies; of police and office duties; of rents, tolls, fuel, and lights; of stationery and office furniture; of tools and instruments for use; of public animals, forage, and vehicles, incidental expenses of the ordnance service, including those attending practical trials and tests of ordnance, small-arms, and other ordnance supplies, $100,000: *Provided*, That none of the money hereby appropriated shall be expended, directly or indirectly, for any use not strictly necessary for, and directly connected with, the military service of the Government; and this restriction shall apply to the use of public animals, forage, and vehicles: *And provided further*, That none of the money hereby appropriated shall be expended for the construction or repair of buildings.

For manufacture of metallic ammunition for small-arms, $75,000.

For overhauling, cleaning, and preserving new ordnance stores on hand at the arsenals, $30,000.

For repairing ordnance and ordnance stores in the hands of troops and for issue at the arsenals and depots, $35,000.

For purchase and manufacture of ordnance stores, to fill requisitions of troops, and for alteration of carriages now in use in sea-coast forts, $100,000.

For infantry, cavalry, and artillery equipments, consisting of valises, haversacks, canteens, and great-coat straps, and for re-covering cavalry-saddles with leather, and of manufacture of saddle-bags, and repairing horse-equipments for cavalry troops, $90,000.

For manufacture, at national armories, of the new model breech-loading musket and carbine adopted for the military service on recommendation of the board of officers convened under act of June 6, 1872, $100,000.

Mr. WALLACE. It will be seen by an examination of the substitute that the Senate undertakes to occupy the field that has always heretofore been occupied by the House, by originating what is in effect an appropriation bill. The substitute is substantially a new bill. The Senate does not concede to the House the right to originate

this bill if it adopts the substitute. This is the first objection which will be urged on the part of those who sustain the House bill.

The bill as it came to us from the House reduced the number of men from 25,000 to 17,000 and it reduced the total aggregate appropriations over $5,000,000 from those of last year. It makes legislative changes in the management of the Army and in the control of the several departments thereof, many of which are undoubtedly of value, but the Senate committee by the substitute refuses even to consider them. The representatives of the people are refused the privilege on this floor of being heard upon these questions of what is in their opinion necessary legislative change. Whether they are proper or improper it seems to me should be considered by the Senate, and not stricken out without deliberation thereon.

Besides, the question of the use of the Army in Louisiana and of the misappropriation of money by the executive arm of the Government, has also been considered by the House and included in its bill. I have no doubt this question has been gravely and earnestly considered by the House, and they have sent to the Senate a bill which contains their views upon that subject. It is their right, I apprehend, their constitutional and clear right, in voting money to carry on the affairs of the Government to place conditions upon the expenditure of that money. The Senate committee by its report does not permit the Senate even to consider this important subject, but on the contrary simply substitutes, by a sweeping provision for that and all the other provisions of the House bill, the bill of last year. In other words, they take the bill of last year as an appropriation bill and say this is that upon which we shall stand.

It seems to me that the proper course would have been to have taken up these amendments of the House, examine them *seriatim*, ascertain whether they were or were not proper, correct them where the judgment of the Senate did not accord with that of the House, increase the amounts appropriated by the House if a just view and a proper regard for the interests of the service required it, and then to have discussed the question of the conditions imposed by the House upon the use of the Army which they have imposed, and thus made up the judgment of the Senate upon that, and then to have finally settled the bill by a conference committee. A majority of the committee of the Senate has taken a different view. For my part, Mr. President, and for those who act with me, we must vote against the substitute proposed by the Committee on Appropriations. I cannot go into a detailed argument of the provisions of the bill owing to the shortness of the period of time to which we are limited.

Mr. DAVIS. On page 19, in line 131, of the substitute before "thousand," I move to strike out "twenty-five" and insert "twenty;" so that the proviso will read:

Provided, That such assignment of recruits shall not increase the total aggregate of the Army beyond the number of 20,000 enlisted men as provided in this act.

As has been said the substitute, as now proposed, increases the appropriation from that of the bill as it came to us from the House between five and six million dollars. The amendment offered by myself would reduce that amount, or, in other words, be a saving of probably between three and four million dollars, and cause the Army to stand at 20,000 men instead of 25,000 men as the enlistments are now required. My impression is that 20,000 men are ample for an Army at any time, and that 20,000 men probably would be better employed on the western frontier than where many of the troops now are.

Mr. BLAINE. The Senator from West Virginia will observe that by the operation of this bill 2,500 cavalry authorized by the act of August 16, 1876, are disbanded. It reduces the Army 2,500, which I think is quite as much as it ought to be now reduced.

Mr. DAVIS. As I understand the provision for the 2,500 men, last year we passed a bill allowing that number of cavalry if necessary, if wanted for public use, for one year, for the year only, and this bill does not reduce the Army and does not refer to those troops at all.

Mr. BLAINE. But by not referring to them it allows them to drop out. It does not revive them; it does not continue those organizations; and therefore the Army, in consequence of this bill, *in propria vigore* becomes reduced 2,500 men.

Mr. DAVIS. As I understand it, the 2,500 men were allowed for a special purpose, in the event of there being service for them, and they do not belong to the regular service and cannot be considered a part of the Army. They were enlisted for a special service, for a special time, and a special appropriation was made for them. Therefore they cannot be considered in any sense as a part of the Regular Army; and on that point I think the Senator from Maine will agree with me.

Mr. BLAINE. Of course that is true, but the Senator will observe that whereas last year we appropriated for 27,500 men, this year we are only proposing to appropriate for 25,000 men, and the difference is at least $1,600,000. It is just as vital to the Treasury as though we took that number from the regulars. They were called into service for a specific duty. That duty is done, and they are disbanded, and a saving of course comes to the Treasury.

Mr. DAVIS. The Senator probably recollects that the 2,500 men were not provided for in the Army appropriation bill. It was a separate bill, according to my recollection, and a separate appropriation entirely from the regular appropriations for the Army.

Mr. BLAINE. It costs the Treasury just as much, however.

Mr. DAVIS. Of course, but that matter is not now before the Senate, and the question does not come up. I believe that 20,000 men are ample. Of course the number of 25,000 men would remain until the Army is decreased by the expiration of the terms of the enlisted men. They drop out in the ordinary way. The bill provides that no further enlistments shall take place. When the term of service of these 2,500 men who have been spoken of expires they will drop out. Probably there has never been any use for them, but whether that be so is another question. My judgment is that 20,000 men are ample. Probably 17,000 men would be ample. The popular branch of this Government believes that 17,000 men are ample, and they have provided for that number in the bill which they sent to us. The amendment offered by myself would make the Army in the course of time, not at once, come down to 20,000, which I hope and believe a majority of the Senate are in favor of doing. We no longer have the same disturbances on the western frontiers that we had last year when the Army appropriation bill was passed. When 25,000 men were designated as the number last year we well recollect that the country and Congress took into consideration that there were then disturbances on the western frontier, and disturbances that were likely to require all the Army there; but the result has been that a part of the Army has been used elsewhere, and I think very improperly. However, that I need not refer to in a discussion of this bill.

My belief is that the amendment offered by myself is proper and should be adopted. I indeed hoped that the Senator from Maine would find that it was right within itself, and that it would save this Government probably between three and four million dollars within the next fiscal year, and that therefore he would not object to the amendment. As the Senator will see, it is a number fixed between that of the bill as it came to us from the House and the substitute which the Senator from Maine has in charge. I am now almost persuaded to think (knowing as I do and as the Senator knows the wants of the country full well, and knowing that there are no troops wanted where now there are a good many in the southern country, and that there is much less necessity for them in the western territory than there was a year ago, when the number was put at 25,000,) that the amendment will not be opposed reducing the Army to 20,000 men, which would be a fair adjustment probably; for certainly it is a number between what the popular branch of the Government has fixed and the number provided in the substitute before the Senate.

Mr. LOGAN. I am opposed to this amendment, and I will briefly give my reasons. I believe since I have been in Congress I have never known a session to pass without some proposition on appropriation bills cutting at the Army. I ask the Senator from West Virginia to give me his attention for a moment.

Mr. DAVIS. I will try to do so.

Mr. LOGAN. I think I can give him good reasons why his amendment ought not to be adopted. I suppose from his argument that the adoption of the amendment is suggested on account of economy. I presume that is the reason for it.

Mr. DAVIS. That is one of the reasons.

Mr. LOGAN. And the other reason is on account of the number of the Army being more than is necessary for the service of the Government. Any gentleman who is well acquainted with the organization of an army knows that all the time striking at the private soldier in the Army is not an economical measure at all. If you want an army of 20,000 men, make your Army of that status, and let the men who serve as private soldiers correspond in number with the officers of the Army. On every Army appropriation bill some would provide that the Army shall not consist of more than so many enlisted men. Why not say of not more than so many officers also?

Mr. DAVIS. Will the Senator allow me to interrupt him?

Mr. LOGAN. I will, certainly.

Mr. DAVIS. The Senator is chairman of a committee that has that matter in charge. If the Committee on Appropriations should attempt to reduce the number of officers already in line, that Senator no doubt would think that the Appropriation Committee was getting on ground that belonged to his committee. I have been in hopes for several years that the Senator from Illinois would bring in some bill or other which would remedy the very evil that he now points out.

Mr. LOGAN. The Senator did not exactly understand the point I was getting at, which I will try to arrive at soon. When I ask why not strike at the officers as well as the soldiers, I do not mean that I am in favor of reducing the Army to 20,000 men, but I mean that whatever the number of the Army may be, the number of men and officers ought to correspond; the Army ought to have a certain status, and then it ought to be let alone. You ought to organize the Army either with 20,000 men, or 25,000 men, or 30,000 men, or whatever number you require, and fix it and then let it alone; but when you cut it down the whole force should be cut down correspondingly. The private soldier in the Army is the cheapest element in the Army, and costs less money than any other portion of the Army; but somehow or other there is an attempt made at every session of Congress to strike the private soldier out of the Army; in other words, to cut down the number of enlisted men and not to touch anybody else. I do not believe that our Army is large enough.

Mr. DAVIS. Will the Senator allow me to interrupt him again?

Mr. LOGAN. Yes, sir.

Mr. DAVIS. I know the Senator is very familiar with all things in regard to the Army. My idea is—and he will correct me if I am wrong—that a provision reducing the Army as the enlistments of the men expire is just what would take place in regard to the officers.

As the officers drop off from any cause, whether they die or resign, I ask him whether or not their places now are filled, or, in other words, whether there is an addition made if an Army officer resigns. I know the grade goes up, but whether the number is increased or not I do not know, and the Senator can inform me.

Mr. LOGAN. Certainly. The officers of the Army are not reduced at all. If an officer dies to-day his place is filled to-morrow, or if he resigns, or if he is put on the retired list. When he is placed on the retired list, instead of reducing the Army it is making a duplicate of officers, for his place is filled in the line and he occupies a place on the retired list and draws his pay just the same as he did in the line.

Mr. DAVIS. I ask the Senator whether or not that rule applies to the lowest officer?

Mr. LOGAN. It applies to all officers of the Army alike.

The PRESIDENT *pro tempore*. The time of the Senator from Illinois has expired.

Mr. LOGAN. I, of course, then have no further time, but I should like to explain further in reference to this matter.

Mr. DAVIS. Some Senator can yield five minutes.

The PRESIDENT *pro tempore*. Does the Senator from West Virginia yield his time to the Senator from Illinois?

Mr. DAVIS. Yes, sir; if I have it.

The PRESIDENT *pro tempore*. The Senator from Illinois has five minutes additional time.

Mr. LOGAN. I do not believe that 25,000 men are sufficient. I do not say that for the reason that I think the Army should be used in any particular locality, but my judgment has been for years that our Army ought to be established at about 30,000 men, and I will give my reasons for it. We have the capacity in the officers' department of the Army to-day for over 30,000 men. We have 30,000 private soldiers in the Army to-day, and about 25,000 effective men, and not more. If you reduce the Army to 25,000 soldiers, we should have perhaps 17,000 effective men and not more. The details in the Army, sickness, hospital service, and everything of that kind, reduce the Army to about that ratio. In my judgment 30,000 men is about such an Army as the Government ought to have in time of peace. We ought to have at least a sufficient Army to form a nucleus if the Government should get in trouble or in danger, so that a large Army might be established and organized; and, certainly, that would not be too small for any emergency that might arise. Now, I do not believe that it is correct in principle or correct economy to reduce the Army; but if there is a desire for the reduction of the Army let a commission be appointed for the purpose of a re-organization of the Army, and when it is re-organized, let the re-organization ramify and affect all parts of the Army alike. We had a re-organization of the Army a few years ago, and put it on a basis of about 30,000 men. We thought that would stand; but at every Congress since there has been a change, either an increase or a reduction, without affecting the officers or the frame-work of the Army in any way whatever. There was a commission appointed at the last session of Congress for this purpose. They have not completed their report. A portion of that commission belong to the Congress of the United States, and their terms expire on the 4th of March. Hence a new commission will have to be organized. I say to the Senate that that is the proper way to re-organize this Army and reduce its force, if any reduction is required whatever; and it is the only proper way. If you reduce your Army in the way proposed here, you will be legislating every Congress, either increasing the private soldiers in number or decreasing them. There is no economy in that method. Their muster-out and their muster-in, their enlistment and their re-enlistment, is a continuous expense. I say to the Senator from West Virginia there is no economy whatever in this proposition, and I will venture the assertion that if you will examine the records to-day you will find that by reducing and increasing the Army one Congress after another, counting the enlistment, the muster-out, and the marching from the place at which they are mustered out to their homes, you have not saved the Government five dollars.

Mr. DAVIS. Will the Senator allow me to ask him a question?

Mr. LOGAN. Certainly.

Mr. DAVIS. How is it, then, that when you reduce the number from 30,000 down to 25,000, which has been done, or to any other number, the Army appropriation bill has been reduced about a thousand dollars a man? In such cases of reduction the decrease of the amount appropriated for the support of the Army has been about a thousand dollars a man, or about $5,000,000 in a reduction of 5,000 men It does not quite average that sum, but is very near it. Do I understand the Senator to say that there is no economy in such a reduction? The bill before us reduces the Army to 17,000 men, and, as a consequence, the bill appropriates nearly $6,000,000 less than the substitute reported from the Committee on Appropriations. Therefore there must be a saving of $6,000,000.

Mr. LOGAN. Mr. President——

The PRESIDENT *pro tempore*. The time of the Senator from Illinois has expired.

Mr. BLAINE. Mr. President, aside from the general inexpediency of reducing the Army, or increasing it, for that matter, on an appropriation bill, I desire to invite the attention of the Senator from West Virginia to one or two facts connected with the Army. The proposition now, as it comes from the House, is to make the Army of the United States 17,000 men. Long prior to the war, thirty-five years ago, when the population of the country was about 17,000,000; when the area of the country was not one-half what it now is; when the Indian frontier was nothing compared to what it now is; when the warlike tendencies of the tribes were nothing to be feared as they now are, we had an army of twelve thousand men. Instead of the Army growing beyond the growth of the country, it has not at all kept pace with it. The Army is smaller now in proportion to the aggregate population, to the area of the country, to the lines of unsettled and savage frontier, to the great extent of coast, to all the points of defense at which an army may be called upon to act, than it has ever been in time of peace since the Government of the United States was organized; and when you compare it with the armies of other nations, it becomes infinitely small. There is not a little kingdom in Europe, not equal to one of our States in size, and some much less than one of our States in population, that does not have an army quadruple that of the United States. Our Army is absolutely inconsiderable in number to-day when you estimate the magnitude of the nation, the possible service it may be called upon to perform, the needs at any hour that may break out for its use. I should consider it extremely imprudent, without advice, without consultation with the authorities of the War Office, without any report, as the Senator from Illinois suggests, from the commission which has had the subject under consideration, right here in the rush and roar of the last twenty-four hours of the session to propose to reduce the Army of the United States upon an appropriation bill.

Every man in the country is interested in having the Army just as small as it can be with safety; every man in the country is interested in having the Army just as large as safety requires it to be. Whether that point is precisely where we now stand or not, I do not pretend to say. Whether the Army may not be somewhat smaller, I do not know; whether it might not be reduced with safety, I do not propose to say; but I do propose to say that neither the Senator from West Virginia nor any other Senator on this floor has the requisite data to form a judgment upon which legislative action should be based. Therefore I think it is safe and prudent and wise to stand by the military establishment as it is until it shall be changed with due consideration and on that evidence which should be before any legislative body before acting upon so important a subject. I hope the amendment of the Senator from West Virginia will not prevail.

Mr. BAYARD. Mr. President, in matters touching appropriations for the public service it has been my habit to seek instruction from the committee properly charged with the subject, and not undertake to interpose vague ideas of my own in respect to matters in relation to which their opportunities for information were so much better. Therefore it is that I have held myself in a great degree bound by the reports of the appropriate committees on this subject. There is not sufficient time left at the present session for a proper discussion of all the important questions involved in the present bill and the Senate amendments, and I shall briefly signify my position in regard to it, not desiring to delay the Senate and not desiring to make an extra session of Congress necessary.

Between the two Houses there exists a difference as to the amount of money to be expended under this bill, a very serious difference. The cost of the military establishment proposed by the House of Representatives is $6,000,000 less than is proposed by the Senate in round numbers. The difference as to numerical armed force is about eight thousand men, the House proposing an army of 17,000, rank and file, and the Senate of 25,000. Serious as may be the question of expenditure, it seems to me that a far graver question accompanies it for consideration. It is not the mere number of troops authorized; it is not merely the cost of the Army; it is the question of the *employment of the Army*. That is the cause of the deep feeling which pervades the people of this country to-day, and which forms the chief difference between the two Houses of Congress in respect to the present bill. It is not worth while to attempt to disguise it; the fact is that a widespread belief exists that the Army of the country has been employed and is still being used for purposes dangerous to the liberties of the country. That forms the objection to the increase of the military establishment and forms the reasons for the reduction proposed by the Representatives of the people. I only speak of that which we all know, which the whole country knows, of the improper uses to which the Army has been put in certain States of the Union during the last few years.

It is now apparent that the outgoing administration tardily admit this policy in the use of the Army to have been a serious mistake and it seems are taking steps to abandon it. We hear something of a similar suggestion, a faint adumbration of opinion, from the incoming administration that they are in accord with these last expressions of opinion on the part of the present administration. I sincerely hope this may be so. In my judgment it would have been wiser had the House of Representatives moved directly, not by way of lessening appropriations, but directly, for the repeal of all those war measures authorizing the use of the Army in the several States which have found place upon our statute-books in the last fifteen years. The use of military force of the nation for the execution of the laws should certainly be the very last resort, and not, as of late years, the very first. I hope the day is near at hand when we shall repeal all this military legislation which has sprung up under a semirevolutionary condition of affairs, and permit us to return where the Constitution intended our administration of government should be restricted, only

to enforce laws by the military power as a last resort, and even when the military power was called in in aid of the civil power it was to be the militia of the States, and not the Army of the nation.

Mr. President, I had rather meet these questions directly and speak of them candidly that they may be understood. Economy is essential; I have no question of that; and yet there may be a false economy in disproportionately small expenditure. It is the other question to which I refer that causes the feeling and real difference between the Houses, and therefore it is that I propose to give my vote in favor of the general line of action adopted by the House of Representatives in this bill.

After all, I do trust that our liberties have not reached that point that upon the difference between 10,000 and 25,000 men shall depend the safety of the American people, for then it would seem to me that a system of government so illy calculated to preserve itself against the aggressions of one arm of its own service would scarcely be worth preserving.

After all, the cure for such evils must be in the public opinion of an intelligent and courageous people, and that public opinion will practically enforce itself upon the exigencies of the occasion. We know there were emergencies, ten or twelve years ago, which, thank heaven, no longer exist, and there can be no doubt that laws for which there was a pretext or a real cause at that time are no longer the meet and proper laws for a peaceful establishment. It is not the size of the Army, it is the *use* to which the Army is applied; it is the extraordinary laws under which the Army can be unjustly used and has been used. It is the repeal of those laws that I seek, in order that the country may be put *in statu quo ante bellum*. It is that the use of the military as an aid to civil power should be the very last resort in a government of laws, and that, under our system, where the laws are to be enforced in aid of the State, the State militia, and not the Army of the United States, should be called upon.

Mr. BLAINE. Mr. President——

The PRESIDENT *pro tempore*. The Senator's five minutes have expired.

Mr. BLAINE. On this amendment?

The PRESIDENT *pro tempore*. On this amendment.

Mr. WHYTE. I yield the five minutes to which I would be entitled to the Senator from Maine.

Mr. BLAINE. I am very much obliged to the Senator from Maryland for his courtesy. I have great respect for the opinion of the Senator from Delaware on questions of law. I suppose he refers in his remarks to the sixth section of the House bill as the point of difference between the two branches.

Mr. BAYARD. As to number?

Mr. BLAINE. I understood the Senator to say that he did not make the issue so much upon numbers, but as upon the uses of the Army, and it is that to which the Senator objects rather than the numbers especially, if I understood him.

Mr. BAYARD. The question of numbers is to me quite secondary as compared with the use, or misuse rather, of the Army.

Mr. BLAINE. I suppose the Senator referred to the essential difference between the two branches as existing in the sixth section of the House bill.

Mr. BAYARD. There is where the idea appears.

Mr. BLAINE. As I remarked, I have great respect for the opinion of the Senator as a lawyer, however much I might differ with him on other points. Would he consider it to be quite within the scope of the constitutional powers of the President to say that, in a given instance, the President should command the Army in one way and in another way that he should not command it?

Mr. BAYARD. I have grave doubts upon the subject, but there is no time now given for due discussion. The language of the House bill is perhaps not such as I would have adopted. I think it may be open to criticism. I have stood here very often as a constructionist in favor of the rights and powers of each branch of the Government, and I am not disposed in the least to embarrass or hamper the Executive in the just exercise of any rightful power with which he is invested by the Constitution.

Mr. BLAINE. I have a very great desire that the Army bill should pass without any angry discussion or without any introduction of the controverted points that lie just in that section. I have very decided views upon the subject, but I do not know that the expression of them would do any good. I cannot believe that there is a lawyer on either side of this Chamber who will assert in his place that he believes that the Congress of the United States has the right to say to the President, who by the Constitution is the Commander-in-Chief of the Army and Navy, that in a particular exigency he shall not command the Army and in another exigency he shall command it in a certain way. If that does not constitute a clear invasion of the powers of the President, conferred upon him by the organic law of the land, then I cannot read it. The Senator from Delaware must know and himself see that with that provision in the bill, it would be simply impossible to get the Army appropriation bill passed.

Mr. BAYARD. And yet the Senator understands that the power of Congress to regulate the use of the Army is undoubted.

Mr. BLAINE. It is perfectly undoubted that the President of the United States must command the Army under the provisions of law, but that is a very different thing from saying that in a particular instance you shall command the Army in this way and in another particular instance you shall not command it in that way. I think the Senator from Delaware does not need to be reminded that there is a world-wide distinction just there, and one which I am very sure he would not cross.

I do not desire to go into a discussion on that point. I have offered on behalf of the Committee on Appropriations the bill that was matured, and say that to the Senator from Pennsylvania, [Mr. WALLACE,] who I regret is not in his seat, because he said that we had invaded the privileges of the House in proposing an amendment. We are taking the bill that was so elaborately matured last session by this identical House of Representatives with scarcely the dotting of an i or the crossing of a t. The changes are wholly immaterial. The changes in amount do not constitute $100,000 in the whole. It is conforming precisely to what last year was considered the standard of economy and of prudence. I have offered that on behalf of the Committee on Appropriations and I beg that we may have a vote upon it without prolonged discussion.

The PRESIDENT *pro tempore*. The Senator's time has expired.

Mr. DAVIS. Mr. President——

The PRESIDENT *pro tempore*. The Senator from West Virginia has exhausted his time.

Mr. COOPER. I take the floor and yield my time to the Senator from West Virginia.

Mr. DAVIS. The clause in the fifth section referred to by the Senator from Maine [Mr. BLAINE] a moment ago we have not reached yet. What we are discussing is the relative numbers and cost of the Army.

The Senator a moment ago spoke of the number in the Army, and said in substance that the proportion *per capita* of the Army to the population was less than in former years. That may or may not be so. If he recollects positively I have nothing to say about that. I have sent to get the numbers so as to test it. I have in my hand the report of the Secretary of the Treasury for the last fiscal year. As to cost you find a very different state of things formerly to that which prevails at present. If you take it by decades and commence in 1820 you find that our Army then cost $2,000,000. Probably we had 20,000,000 people then; I do not recollect the exact number. In 1830 the cost of the Army was $4,000,000. In 1840, if my recollection serves me right, we had about twenty-three million people——

Mr. BLAINE. Seventeen million.

Mr. DAVIS. In 1840 we had then only 17,000,000, and the cost of the Army that year was $7,000,000.

Mr. WEST. Let me ask the Senator if he has any data giving the number of men in the Army at the same time.

Mr. DAVIS. I have sent to the library for that; I have it not now. I am now taking the expenditures as reported by the Secretary of the Treasury in his report for the present year, by decades, so as to be fair and not select any particular years, and to show the difference in the cost.

That proportion was only about one-third of a dollar to each one of the population in 1840. We spent for military service about $7,000,000. In 1850 the expenditure was $9,000,000. We had, I believe, about thirty-one million people in 1850, and we expended for the Army in every way in connection with the military service $9,000,000, which was less than a third of a dollar *per capita*. In 1860 what do we find? We find that we had nearly forty million people, thirty-eight millions and a half, probably, and expended $16,000,000.

Mr. BLAINE. The Senator confuses the eighth and ninth censuses. In 1850 the population was only 23,000,000; in 1860, 31,000,000. He is just ten years ahead of time.

Mr. DAVIS. I must have miscalled the year, but I did not the amount. In 1860 the expenditure was $16,000,000. For the last fiscal year we expended $38,000,000, which shows that we expended in the neighborhood of $1 *per capita*.

Mr. ALLISON. How much?

Mr. DAVIS. Thirty-eight million dollars.

Mr. ALLISON. For the Army?

Mr. DAVIS. For the military service. I take the same service all the way through. I am not speaking of the Army bill, but of the military service of the Government. The year before, which was 1875, our military service cost $41,000,000; the year previous, 1874, $42,000,000.

Mr. ALLISON. The Senator knows that that includes the river and harbor expenditures and all the various items expended under the War Department.

Mr. DAVIS. I do not know any such thing. I know right the reverse, that it does not.

Mr. ALLISON. The Senator is mistaken.

Mr. DAVIS. No, I am not mistaken.

Mr. ALLISON. I should like to know when the Army cost $38,000,000.

The PRESIDENT *pro tempore*. The time of the Senator from West Virginia has expired.

Mr. DAVIS. I think I am right as to the amounts, at least the reports bear me out.

Mr. WEST. Some inquiries that I have had occasion to make on this subject, in connection with the duties assigned to me as a member of the Army commission, enable me to say that I disagree with the Senator from West Virginia when he states that the expenditures of the Army of the United States as aggregated in the report of

the Secretary of the Treasury do not include rivers and harbors and the signal service.

Another piece of information that I was enabled to acquire was this, that the expense *per capita* in the Army in the last five years is less than it was in the year 1850.

Mr. DAVIS. If the Senator will allow me, that is a strange statement in the face of the official report that in 1850 the expenditure for the military service—and if it includes rivers and harbors now it did then—was $16,000,000, and last year it was $38,000,000. There is in these tables a miscellaneous column which in my judgment includes the rivers and harbors and other things of that kind, which shows an expenditure under that head of $48,000,000 last year; and if it did not include such things as river and harbor appropriations, where did the $48,000,000 go? What was it for?

Mr. WEST. The Senator sustains his argument by giving the aggregate of the expenditures of the military establishment. I differ with him entirely in his view that the expenditures for rivers and harbors are not included in this aggregate.

Furthermore, he does not state how many men there were in the Army. I asked him that question awhile ago; and I venture to tell him that if he will extend his researches a little further he will find the fact I now mention, that the expenses of the Army of the United States *per capita* to-day are less than they were in 1850. Such is the fact. That the great increase of the aggregate should be presented we ought not to be surprised at. We know what it comes from. We know it comes from the extension of our frontiers and our contact with hostile Indian tribes, involving transportation of large bodies of men from one point to another, and therefore the greater expense has been entailed upon the country; but really, so far as my researches have enabled me to judge, the economy of the Army to-day and the application of every dollar of the money appropriated judiciously and economically exceed anything known in our history.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

Mr. DAVIS. I think this is probably the most important of all questions in this bill. If the number of the Army is not reduced, then of course we cannot reduce the amount of money to be expended, because one goes with the other. I think we ought to have the yeas and nays to know whether or not we shall keep the Army up to its present status or whether it will be reduced. I therefore ask for the yeas and nays on this question. It is not my desire to call the yeas and nays so as to delay on every matter as we go along; but this is a test question.

Mr. BLAINE. That is correct; it is a test question. Let us have the yeas and nays.

Mr. EATON. I suggest to the Senator from West Virginia that we can have the yeas and nays quite as well on the amendment of the committee. That will be a general vote which will test the question as well as the vote on this amendment.

Mr. DAVIS. I think we had better have the yeas and nays on this question.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 34; as follows:

YEAS—Messrs. Alcorn, Bailey, Barnum, Bayard, Bogy, Cooper, Davis, Dennis, Eaton, Goldthwaite, Gordon, Hereford, Johnston, Jones of Florida, Kelly, Kernan, McCreery, McDonald, Maxey, Norwood, Ransom, Saulsbury, Stevenson, Whyte, and Withers—25.

NAYS—Messrs. Allison, Anthony, Blaine, Booth, Boutwell, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Clayton, Conkling, Conover, Cragin, Dawes, Ferry, Frelinghuysen, Hamlin, Harvey, Ingalls, Logan, Mitchell, Morrill, Oglesby, Paddock, Patterson, Robertson, Sargent, Sherman, Teller, Wadleigh, West, and Wright—34.

ABSENT—Messrs. Cockrell, Dorsey, Edmunds, Hamilton, Hitchcock, Howe, Jones of Nevada, McMillan, Merrimon, Morton, Randolph, Sharon, Spencer, Thurman, Wallace, and Windom—16.

So the amendment to the amendment was rejected.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4476) to provide for the appointment of an official short-hand reporter of the United States courts in and for the district of California.

The message also announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 3628) establishing post-roads; asked a further conference with the Senate on the disagreeing votes of the two Houses on sections 2, 3, 4, and 6 of Senate amendment No. 604 to said bill; and that Mr. J. B. CLARK, jr., of Missouri, Mr. A. M. WADDELL of North Carolina, and Mr. J. G. CANNON of Illinois, had been appointed the conferees on the part of the House.

The message further announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes; and asked a further conference with the Senate on the disagreeing votes of the two Houses on the seventy-sixth and seventy-seventh amendments of the Senate; and that Mr. WILLIAM S. HOLMAN, of Indiana, Mr. HIESTER CLYMER of Pennsylvania, and Mr. HENRY WALDRON of Michigan, had been appointed managers at the conference on the part of the House.

The message also announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4188) making appropriations for fortifications and for other works of defense and for the armament thereof, for the fiscal year ending June 30, 1878, and for other purposes.

REPORTERS FOR UNITED STATES COURTS.

Mr. WRIGHT submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. No. 4476) to provide for the appointment of an official short-hand reporter of the United States courts in and for the district of California, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to said bill, and that the bill as thus amended be further amended by adding to the second section thereof the following:

"*Provided*, That it shall be competent for the circuit or district court justice or judge to appoint the same person to the office of reporter in their several courts."

And that the two Houses agree herein.

GEORGE G. WRIGHT,
T. O. HOWE,
HENRY COOPER,
Conferees on the part of the Senate.

GEO. W. McCRARY,
P. D. WIGGINTON,
Conferees on the part of the House.

The report was concurred in.

REPORTS OF COMMITTEES.

Mr. WRIGHT. I am directed by the Committee on Claims, to whom was referred the bill (H. R. No. 4433) making appropriations for the payment of claims reported allowed by the commissioners of claims, under the act of Congress of March 3, 1871, to report it with amendments, and I give notice that immediately upon the disposition of the pending bill I shall call it up and ask action upon it.

The PRESIDENT *pro tempore*. The bill will lie on the table for the present.

Mr. CRAGIN, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 335) authorizing a settlement of the claim of the estate of the late Rear-Admiral John A. Dahlgren, reported it without amendment.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. GEORGE M. ADAMS, its Clerk, announced that the House insisted on its amendments to the bill (S. No. 731) to limit and fix the Signal-Service, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. OTHO R. SINGLETON of Mississippi, Mr. JAMES BLOUNT of Georgia, and Mr. JAMES WILSON of Iowa, managers at the conference on the part of the House.

The message further announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4261) to provide for the sale of desert lands in certain States and Territories.

ARMY APPROPRIATION BILL.

The PRESIDENT *pro tempore*. The Army appropriation bill is before the Senate as in Committee of the Whole. The question is on the amendment of the Committee on Appropriations as a substitute for the bill.

Mr. KERNAN. Mr. President, I am opposed to striking out the entire original bill as it came from the House, and inserting this substitute. I concur in the views expressed by the Senator from Delaware, [Mr. BAYARD.] I understand the Senator from Maine [Mr. BLAINE] to question our authority under the Constitution to do what is proposed to be done by the fifth section of the bill as it came from the House. I think on more reflection he will admit that we have the constitutional power to say as we do by the House bill that the money appropriated by this act shall not be expended for certain purposes. It is clearly within the constitutional power of Congress to disband the Army entirely, to refuse to appropriate any money for its support. Indeed, Mr. Justice Story in discussing in his Commentaries the subject of the Army and the objections that were made on account of the danger that it might be used to overthrow liberty, says clearly Congress has a right to refuse to appropriate money to maintain an army. Nay, he says that Congress may by law disband the Army. His language is quite distinct. This is it:

Congress may indeed by an act for this purpose, disband a standing army at any time; or vote the supplies only for one year, or for a shorter period. * * * The Army cannot go without supplies; it may be disbanded at the pleasure of the legislature; and it would be absolutely impossible for any President, against the will of the nation, to keep up a standing army *in terrorem populi*.—*Story's Commentaries on the Constitution*, sections 1188, 1189.

The remedy is with Congress if it is believed there is danger that the Army will be used by the President for an improper purpose. The same power that authorizes Congress to disband the Army entirely would give it the power constitutionally in its discretion, for good cause, to do as it does in the fifth section of this bill, declare that the money appropriated in this act shall not be applied to sustaining troops to do certain things. Therefore I think there is power to restrict the use of the money appropriated to maintain the Army and

say that it shall not be expended to maintain it in doing certain things.

Mr. BLAINE. Does the Senator from New York maintain that the power of the Congress of the United States over the Army of the United States is absolute, or any more so than that of the Parliament of Great Britain over the British army?

Mr. KERNAN. Going back to the reign of William III, you will find an act of Parliament declaring that he should keep only a specified number of soldiers in Ireland.

Mr. BLAINE. There is no doubt about that; but did you ever find an act of Parliament that said the King should command the army in a certain way?

Mr. KERNAN. This act does not say that.

Mr. BLAINE. It says so precisely.

Mr. KERNAN. Story says, in so many words, that Congress can constitutionally disband the Army and refuse to appropriate any money for its support; and he says this is the safeguard of the people. Now, if you can disband it and refuse to appropriate money to maintain it to prevent its being used for an improper purpose, may you not appropriate money and declare that none of it *shall* be expended in employing the Army for certain purposes? This is a different thing entirely from attempting to regulate the exercise by the President of his constitutional power as Commander-in-Chief of the Army. There was a bill passed by the House in the days of the Kansas trouble in which it was provided that the Army should not be used in Kansas. Congress may refuse to appropriate any money to maintain the Army, fearing that it will be used for improper purposes, and certainly Congress may enact that money appropriated shall not be used to maintain the Army in doing certain things. It is a question of congressional discretion.

Mr. BLAINE. Will the Senator from New York, before he takes his seat, state what became of that restriction put on the Army bill in regard to Kansas?

Mr. KERNAN. I understand that the Houses differed about it and that it did not become law. I find the same power operated in other laws long ago. There is the law of 1812 which authorizes troops to be raised by the President, and it is provided that they shall act on the frontier as rangers, and they are to be disbanded if they are used for anything else. I believe there was a law during the Mexican war to raise certain troops to be used in that country, and it was provided they should not be brought back here and used.

But I am not seeking to discuss the matter except to say that Congress having the constitutional power to disband the Army, to refuse to appropriate a dollar for its support, may appropriate money for its support, and insert in the act a provision that none of the money shall be expended to maintain the Army in a particular service. This is all that is proposed by the fifth section of the bill as it was passed by the House.

Mr. WITHERS. I do not wish to discuss the bill under the five-minute rule. It would be impossible to do so, and for my part I wish simply to indicate my views by my vote against the proposition of the committee. I do not desire to delay the bill or consume the time of the Senate when it is now so precious. I have an opinion very decided and very strong, which I should like to express on a suitable occasion; but I do not think the occasion presents itself now.

Mr. DAVIS. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment reported from the Committee on Appropriations as a substitute.

The Secretary proceeded to call the roll.

Mr. SPENCER, (after having first voted in the affirmative.) As I see this is a party vote, I will withdraw my vote. I am paired on all party or political questions with the Senator from North Carolina, [Mr. MERRIMON.]

Mr. BOGY, (after having first voted in the negative.) I desire to withdraw my vote. I am paired with the Senator from Indiana, [Mr. MORTON.] I presume, if present, he would vote "yea," and I should vote "nay." I furthermore take this occasion to say that I ought not to have voted on the previous vote; but my vote made no difference on the result. I forgot at the time I voted that I was paired with the Senator from Indiana.

The roll-call having been concluded, the result was announced—yeas 31, nays 23; as follows:

YEAS—Messrs. Alcorn, Allison, Anthony, Blaine, Boutwell, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Clayton, Conkling, Conover, Dawes, Ferry, Hamlin, Harvey, Howe, Ingalls, Logan, McMillan, Mitchell, Morrill, Oglesby, Paddock, Patterson, Robertson, Teller, West, and Wright—31.

NAYS—Messrs. Bailey, Barnum, Bayard, Cockrell, Cooper, Davis, Dennis, Eaton, Goldthwaite, Gordon, Hereford, Johnston, Jones of Florida, Kelly, Kernan, McCreery, Maxey, Norwood, Ransom, Saulsbury, Stevenson, Whyte, and Withers—23.

ABSENT—Messrs. Bogy, Booth, Cragin, Dorsey, Edmunds, Frelinghuysen, Hamilton, Hitchcock, Jones of Nevada, McDonald, Merrimon, Morton, Randolph, Sargent, Sharon, Sherman, Spencer, Thurman, Wadleigh, Wallace, and Windom—21.

So the amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

FORT UNION MILITARY RESERVATION.

Mr. CHAFFEE. I move to take from the table House bill No. 4304. It is the same as Senate bill No. 1257.

The bill (H. R. No. 4304) to authorize the United States to secure a title to the Fort Union military and timber reservation in New Mexico was laid before the Senate and read twice.

Mr. COCKRELL. I move that that bill be referred to the Committee on Military Affairs, which has already had under consideration precisely such a bill, and if my recollection serves me right has reported adversely upon it, or has agreed to an adverse report.

Mr. CHAFFEE. The Senator is mistaken.

Mr. COCKRELL. The Senator from Rhode Island [Mr. BURNSIDE] had charge of the bill, and I know it was not the sentiment of the Committee on Military Affairs that a bill of that character should pass this body.

Mr. BURNSIDE. The Senator from Missouri is quite right in everything except that there was no adverse report ever made; but if a report had been made it would have been adverse.

Mr. CHAFFEE. The Senators are entirely wrong about it. This bill has received the careful consideration of the House committee and has passed the House without opposition. The facts of the case are these: Fort Union is located upon a grant of land which has been patented to individuals, and all that this bill provides is that the owners shall convey this land to the United States and receive therefor an equal amount of single minimum land elsewhere. The proposition is favored by General Sherman, General Pope, the War Department, and the Commissioner of the General Land Office, and the passage of this bill will save the United States a large amount of money. I hope the bill may be passed. There certainly can be no objection to it. I have the House report here if gentleman would like to hear that read.

Mr. COCKRELL. I rise to a point of order on that bill. I cannot consent to its passing in the present form as it comes from the House, even if it has passed the House by the unanimous consent of every member of it. It is to give to certain parties a roving patent for sixty-odd thousand acres of land situated in New Mexico; a right to take that patent and locate it on any of the public lands in the United States, when that land there to-day, or the greater portion of it, is not worth five cents an acre.

Mr. BOGY. My colleague's statement is incorrect. It seems to me that the whole of the bill is to enable parties who own a Spanish grant which has been confirmed and which is a perfect title to-day——

Mr. CHAFFEE. And patented.

Mr. BOGY. And patented, but upon which, by mistake, the United States located a military reservation, having therefore no title at all to the reservation, to locate their grant elsewhere. Now the owners of this land propose, to the extent of the occupation of the military and the appurtenances, a few thousand acres, to take certificates of float. I never heard of the bill before, but that I understand to be the bill. It does not give these parties an acre of land but what they own already and which they own by patent. They own not only that which is not covered by the military reservation but they own the reserve itself by patent, a fee-simple title absolute, or I misunderstood the reading of the bill.

Mr. GORDON. I think my friend from Missouri [Mr. COCKRELL] is entirely mistaken in his opinion as to the effect of this measure. I am satisfied from the examination I have made of it that it is a most judicious thing for Congress to do. This Government has no title whatever to this property and never has had any title. It occupies lands belonging to an old Spanish grant, has erected buildings upon it, costing the Government a million or more of dollars. It has remained upon this land for twenty-four years; it has cut all the timber and all the grass upon it, and has never paid the owners of this property one iota for the occupation of the property for twenty-four years and without any title to it. Why sir, the proposition is perfectly unsupportable in reason or in morals that the Government of the United States has the right to locate upon the land of private individuals and occupy it for a quarter of a century without rent, without having one iota of title to it, and then, when the owners of the property come to Congress and ask Congress to give them as many acres elsewhere, they are assailed here with the charge of having a fraudulent claim presented to Congress.

Sir, this bill only seeks to give to these owners of this property the number of acres which they have owned for this great length of time and for which they have had not one dollar of remuneration, although used by the Government for the space of a quarter of a century. This measure is recommended not only by the General of the Army, but by the Land Office and by the entire Military Committee of the House, and it has passed the House after thorough investigation without a dissenting vote. It strikes me as not only a judicious thing for the Government to accept this proposition, but it is a most liberal proposition on the part of the owners of this land; for were they to go before the courts there is not a shadow of doubt that they could secure very large damages from the Government if the courts could grant any citizen justice for the use of his property as against the Government.

Mr. COCKRELL. I did not propose to go into the discussion of this bill. With all due deference to the distinguished Senator from Georgia, I think I know as much about this bill as he does, and I think

I have examined it as fully, and I think I have as great admiration for the generosity and kindness of the owners of this reservation to the General Government, and I appreciate their sympathy for the General Government and their desire not to mulct the General Government in an enormous amount of damages for the use of these barren mountains in New Mexico. I object, and I appeal as a point of order, if that does not settle the matter now.

The PRESIDENT *pro tempore*. The Senator has sufficiently expressed his objection to send the bill to a committee.

Mr. CHAFFEE. Let it go to the committee.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on Military Affairs.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred as indicated below:

The bill (H. R. No. 3833) for the relief of John N. Hall, to the Committee on Claims.

The bill (H. R. No. 4397) for the relief of Francis M. Strong and Thomas Ross, to the Committee on Patents.

The bill (H. R. No. 1082) for the relief of Henry M. Meade, late paymaster in the United States Navy, to the Committee on Naval Affairs.

The joint resolution (H. R. No. 179) granting the use of artillery, blankets, &c., at the national soldiers' and sailors' re-union, to be held at Marietta, Ohio, to the Committee on Military Affairs.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. C. C. SNIFFIN, one of his Secretaries, announced that the President had, on the 1st instant, approved and signed the act (S. No. 805) relating to indemnity school selections in the State of California.

The message also announced that the President of the United States had, on the 2d instant, approved and signed the following acts:

An act (S. 1216) to provide for the preparation and publication of a new edition of the Revised Statutes of the United States;

An act (S. No. 1276) to remove the political disabilities of W. F. Carrington, of Virginia;

An act (S. No. 1272) to remove the political disabilities of William Butler, of South Carolina;

An act (S. No. 1096) to remove the political disabilities of R. G. Gatlin, of Arkansas;

An act (S. No. 1274) to remove the political disabilities of S. P. Moore, M. D., a citizen of Virginia;

An act (S. No. 915) to remove the political disabilities of D. H. Hill, of North Carolina;

An act (S. No. 1203) to remove the political disabilities of M. L. Bonham, of South Carolina;

An act (S. No. 1278) to remove the political disabilities of John S. Marmaduke;

An act (S. No. 1285) to remove the political disabilities of J. L. M. Curry, of Virginia;

An act (S. No. 1277) to remove the political disabilities of Catesby ap R. Jones, of Alabama;

An act (S. No. 1136) to remove the political disabilities of Wade H. Gibbes, of South Carolina; and

An act (S. No. 1273) to remove the political disabilities of William R. Jones, of Texas.

SOUTHERN CLAIMS COMMISSION.

Mr. WRIGHT. There is a little bill on the table, and I ask that the Chair lay it before the Senate.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 1128) to extend for two years the act establishing the board of commissioners of claims and the acts relating thereto.

The amendment was, at the end of the bill, to add:

SEC. 2. That the commissioners of claims shall not receive any evidence on behalf of any claimant or claimants for the allowance of any claim or claims unless such evidence shall have been taken, presented, and filed by the 10th day of March, 1878, except in rebuttal of evidence introduced on behalf of the Government, and all claims wherein the evidence of the claimant or claimants is not filed within the time herein limited shall be deemed to be barred forever thereafter.

Mr. WRIGHT. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

AWARDS OF CLAIMS COMMISSION.

Mr. WRIGHT. I now ask the Senate to proceed to the consideration of the bill (H. R. No. 4433) to make appropriations for claims reported by the commissioners of claims, and I will then yield to the Senator from Ohio, who wishes the floor.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill is before the Senate, as in Committee of the Whole.

Mr. WRIGHT. I now yield to the Senator from Ohio.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. G. M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 2803) to provide that all pensions on account of death, wounds received, or disease contracted in the service of the United States since March 4, 1861, which have been granted or which shall hereafter be granted, on application filed previous to January, 1880, shall commence from the date of death or discharge, and for the payment of the arrears of pension; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 177) to authorize the Secretary of War to open and re-adjust the settlement made by the United States Government with the Western and Atlantic Railroad, of Georgia;

A bill (S. No. 259) for the benefit of the Louisville Baptist Orphans' Home;

A bill (S. No. 470) for the relief of John S. Wood, late a first lieutenant in the Seventh Pennsylvania Cavalry;

A bill (S. No. 628) for the relief of John J. Anderson, surviving copartner of the firm of Anderson & White;

A bill (S. No. 830) for the relief of Joseph W. Parish;

A bill (S. No. 845) for the relief of W. H. Woodward, of Indianola, Texas;

A bill (S. No. 973) for the relief of Elizabeth Caron;

A bill (S. No. 189) placing the name of C. G. Freudenberg upon the retired list of the United States Army;

A bill (S. No. 734) for the relief of William Jasper Cordill;

A bill (S. No. 780) for the relief of the Richmond Female Institute, of Richmond, Virginia;

A bill (S. No. 855) making an appropriation to pay the claim of Benjamin Fenton and D. W. Fenton;

A bill (S. No. 931) for the relief of H. H. Mathis, of Arkansas;

A bill (S. No. 974) for the relief of Francis Guilbeau, of San Antonio, Texas;

A bill (S. No. 1001) to provide for the disposition of Fort Dalles military reservation;

A bill (S. No. 1019) to provide for a reprint of the resolves, ordinances, and acts passed by the Continental Congress and the Congress of the Confederation;

A bill (S. No. 1034) for the relief of Louis Rose;

A bill (S. No. 1063) for the relief of certain settlers on the public lands;

A bill (S. No. 1071) for the relief of H. E. Woodhouse & Co., of Brownsville, Texas;

A bill (S. No. 1083) to amend an act entitled "An act granting the right of way through the public lands to the Denver and Rio Grande Railway Company," approved June 8, 1872;

A bill (S. No. 1116) granting a pension to Sarah A. Chamberlain, guardian of the minor heirs of James Eagle, Company F, Second Regiment Kansas State Militia;

A bill (S. No. 1122) to secure the rights of settlers upon certain railroad lands, and to repeal the first five sections of an act entitled "An act granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley Railroad, and its extension to Red River," approved July 25, 1866;

A bill (S. No. 1183) granting a pension to Harriet Moss;

A bill (S. No. 1197) for the relief of Eli Teegarden;

A bill (S. No. 1200) to grant a pension to Margaret Hunter Hardie, widow of James A. Hardie, inspector-general in the United States Army;

A bill (S. No. 1163) for the relief of settlers on the public lands under the pre-emption laws;

A bill (S. No. 36) amending the pension law so as to remove the disability of those who having participated in the rebellion have since its termination enlisted in the Army of the United States and become disabled;

A bill (S. No. 1225) to amend section 2291 of the Revised Statutes of the United States, in relation to proof required in homestead entries;

A bill (S. No. 1238) making an appropriation for the expenses of the electoral commission;

A bill (S. No. 1243) to repeal the statute forbidding appointments and promotions in the staff of the Army;

A bill (S. No. 1255) for the relief of Henry Voelter;

A bill (S. No. 1259) granting a pension to Daniel Houlihan;

A bill (S. No. 1260) granting a pension to Edmund H. Cobb;

A bill (S. No. 1284) for the relief of William L. Hickam, of Missouri;

A bill (S. No. 1288) to remove the political disabilities of P. J. Quattlebaum, of Georgia;

A bill (H. R. No. 620) for the relief of Redick McKee;

A joint resolution (S. R. No. 30) to amend the joint resolution authorizing the Secretary of War to issue arms, approved July 2, 1876;

A joint resolution (S. R. No. 32) providing for the renunciation of the naturalization of Frederick Hinkel; and

A joint resolution (H. R. No. 194) to appoint a commission to examine into the matter of contracts made by and between the United States and the Moline Water Power Company as to the water-power at Moline, Illinois, and to report to Congress as to the same.

RESUMPTION OF SPECIE PAYMENTS.

Mr. SHERMAN. I ask the Senate to proceed to act upon a bill to aid in the resumption of specie payments; the bill reported from the

Committee on Finance some days ago containing but two simple provisions. I am requested by the Secretary of the Treasury, and by various telegrams from different parts of the country, to present this bill on the statement that if it be now passed it will pass the House of Representatives, and I trust meet with the general consent of both Houses and both parties, and become a law. I ask that the bill be read. I do not want to discuss it because I know if there is a real opposition to the bill it cannot pass, but I appeal to every Senotor to hear the provisions of the bill. They are very simple and plain, and I think it will be a very great thing for the public credit and public interests to have this bill passed.

The PRESIDENT *pro tempore*. The Senator asks for the reading of the bill. It will be read.

The Chief Clerk read the bill (S. No. 1267) to aid resumption of specie payments.

The PRESIDENT *pro tempore*. The bill is before the Senate by unanimous consent as in Committee of the Whole.

Mr. BOGY. I am not very well prepared to speak to the bill, so many gentlemen were speaking to me when the Clerk was reading it; but, if I understand the bill correctly, I have very great objections to it.

The PRESIDENT *pro tempore*. Does the Senator desire to have it read again?

Mr. BOGY. I am waiting for a copy of the bill. It seems to provide for an issue of 4 per cent. bonds to the amount of $100,000,000. I have not seen it before.

Mr. SHERMAN. While the Senator is looking over the bill I will explain it. This bill is in substance what was recommended by the President in his recent message. The first section, which is the main part of the bill, has passed the Senate at least four or five times within the last six or seven years. It authorizes the issue of bonds bearing 4 per cent. interest in exchange for United States notes, but not to exceed in the aggregate in any one year $25,000,000 a year, or in any one month $4,000,000. My own impression has been that the general features contained in this bill are also to be found in the resumption act; but capitalists and others who deal in public securities are very anxious to have the specific provision made in the law, so that there can be no question as to the terms of the law. That is all there is in the first section.

The second section of the bill provides that the aggregate amount of silver coin shall not exceed $80,000,000. Under the present law it cannot exceed $50,000,000. We have now $28,000,000 of silver coin out. It is feared that when we get to the limit of $50,000,000, by the absorption of our silver coin, probably by the exportation of some, there will not be enough out to answer the purposes of change, and that the people of this country may be inconvenienced in that way. This section provides for an enlargement of the limit from $50,000,000 to $80,000,000. That is all there is of it. This bill has been very carefully considered by the Committee on Finance, and we have recommended it nearly every year. I did not call it up sooner, simply because I was assured that the House of Representatives would not have time to act upon it, pending the presidential count. I am now assured by gentlemen of both political parties that the House will act upon it and accept it. If either House really is opposed to the bill, of course it cannot pass.

My own impression is that this bill will tend greatly to promote the public interest, and probably by the next session of Congress it will lead us nearer to the specie standard and aid in the ordinary resumption of specie payments by the time fixed by law.

I do not wish to discuss the bill, because the subject has been discussed so often.

Mr. BOGY. Mr. President, I regret that I have not had an opportunity to study this bill. I never saw it before; but it strikes me on hearing it read by the Clerk that it is very objectionable. It provides for an issue of $1,000,000 of 4 per cent. bonds. We have now on the market a loan of 4½ per cent. bonds and trying to dispose of them. According to my information, these 4½ per cent. bonds are worth in New York about 105 to 106 in greenbacks. If you issue this 4 per cent. loan, and authorize the exchange for greenbacks, you are absolutely disposing of your bonds at about ninety-five and a half to ninety-six cents on the dollar, gold being worth now a premium of from 4 to 5 per cent.; I think about 4½ per cent.

What will be the effect of this hasty loan on the market? It will destroy the other loan, which is now rated in the market at 106 cents in greenbacks, by virtually agreeing to take for these 4 per cents, 95 or 96 cents on the dollar in gold. It is a matter to be studied very seriously whether we should do this, and I have not the time now, nor has the Senate. I do not see that we can put upon the market a 4 per cent. loan in this way without affecting very seriously and detrimentally the 4½ per cent., which, as I have said, is now worth 106.

Another objection is that it is contraction, plain and simple, of $25,000,000 a year. It is nothing but contraction; not very rapid, but enough to be very destructive. The greenbacks will diminish annually $25,000,000. What will take the place of these greenbacks? No doubt it is contemplated that the same amount of paper will be issued by the national banks. Now we do know that the national banks have not been sufficiently profitable the last two or three years to invite capitalists to invest very largely in them. Something more has got to be done to make that system work as it ought to work, and I do not believe that the vacuum created by withdrawing the $25,000,000 a year of greenbacks would be filled by national-bank notes. If I am correct in this, this would be a measure of contraction extremely injurious to the whole country; and this at a time when the business of the country is very much prostrated. It certainly cannot be considered a measure of relief. It may lead to resumption, but it leads to this in a most painful and destructive manner. Of course if you cancel the greenbacks to the amount of $100,000,000 there will be that quantity less to redeem when resumption day comes; but you may cancel the greenbacks and put nothing in lieu of them. This the country is not in a condition to stand.

Then, with regard to the third section of the bill, which authorizes an issue of $80,000,000 of subsidiary coin, or $30,000,000 in addition to what is now authorized, I am entirely opposed to that. We have already provided for an issue of $50,000,000 of subsidiary coin. The amount is sufficient for the wants of this nation. It is true we have only issued $28,000,000 to $29,000,000 of what is provided for, but the whole amount will be issued some time during this year. Now, to gorge this country with $80,000,000 of subsidiary coin, debased in weight as this coin is, being only 12½ grams, or 192 grains per half dollar, and it not being a legal tender, if you increase the quantity beyond the wants of the country it will be depreciated. The fractional currency now of ten cents, fifteen cents, and fifty cents is a legal tender without limit; but the fractional currency is to be withdrawn and its place filled with a coin debased in weight, and which is not a legal tender. No man could pay his rent with it, no person could do anything with it, and the consequence would be, as already said, great depreciation. Therefore I object to this section.

Again, to authorize this additional issue of silver in this manner would have an effect upon the price of bullion, which should not be done at this time.

It seems to me (and I say it with all possible respect to my distinguished friend from Ohio, who by the bye I understand is very soon to be at the head of the Treasury Department) that this bill is crude, and has not been sufficiently thought of; and as he is to occupy that very high position, it appears to me that he may not do his fame full justice in placing before us a bill of this kind, a measure of contraction, and which will affect the value of the present loan, and which increases the quantity of silver coin of a debased character. It is objectionable in every way. A measure of contraction at this time is not desired by the country, slow though it may be. Nor do we need any more subsidiary coin. Sir, I think it would be better under the present condition of things to stop the coinage of the subsidiary coin and put the power of all our mints upon the coinage of silver dollars of 399.9 grains, the relation of 15½ to 1. That would be, in my judgment, the part of wisdom.

To resume, you have got to increase your coin basis, let that be gold or silver or gold and silver; and whenever you attempt to resume by a measure of contraction you go through a painful ordeal. It is not the history of other countries when they have attempted to resume to accomplish it by contraction. If you pass this bill, although I repeat you may resume, but in doing so you will have to pass over the dead carcasses of all the business men of the country.

We ought not to contract, because contraction will increase the business paralysis of the country, and we ought not to augment our subsidiary coin at this time. When we issue silver it should be the silver dollar of 399.9 grains. Issue silver and make it a legal tender, with free coinage, and the silver dollar will be equal to a gold dollar.

Now, I desire to say to my friend from Ohio that I am seeking information. The bill strikes me as being objectionable, without having had much time to reflect upon it.

Mr. MORRILL. Mr. President, of course this bill cannot pass if it is to encounter any long discussion. It is a bill that received almost the unanimous support of the Committee on Finance. I do not think that the objections presented by the Senator from Missouri are well founded. The first named by him is that this measure will interfere with the further negotiation of our 4½ per cent. loan. Why, the difference between this and the 4½ per cent. loan is a half per cent. annual interest in favor of the loan that remains to be issued, and of course that makes the difference in the value of the two, and nothing more is needed to preserve the public favor towards the 4½ per cents.

The next point presented by the Senator from Missouri is that this is to cause a contraction. The contraction already exists. These legal-tender notes are held as reserves in banks to a greater amount than can possibly be used at the present time, and have been since 1873 almost continuously. Therefore it will not be a contraction. Besides that, I hold to the doctrine that you cannot expect to issue coin without first displacing paper. We must first get rid of some portion of our paper before its place can be supplied and filled with coin. Therefore I do not apprehend that there is to be any contraction.

Again, the Senator from Missouri objects to the last clause, which provides that the Secretary of the Treasury may exchange subsidiary coin for United States notes. That will not be done the moment the supply necessary for the wants of the country has been supplied. You cannot induce men to part with paper for subsidiary coin that they do not want. It strikes me that the objections made by the Senator from Missouri are entirely untenable. This bill is merely to facilitate and bridge over the time between this and the day of resumption. I think it would greatly facilitate the resumption act,

although I confess that I am of the firm belief that the existing law is amply sufficient to enable any competent Secretary of the Treasury to bring about resumption, and that without distress to the country; but this certainly will not aggravate the toil and distress of bringing resumption about, but will greatly facilitate it.

So far as any expression that I have heard from members of both the Senate and the House, of all parties, it has been conceded that this measure would be a beneficent one. I hope that it may receive the favor of the Senate.

Mr. COCKRELL. I supposed from the remarks made by my colleague that the Senator from Ohio would give some explanation of the bill. Why the necessity of attempting to pass a bill of this importance just on the heel of the session, at the last and dying hours of the Forty-fourth Congress?

Mr. SHERMAN. I stated exactly the reasons. When this bill was reported, and reported with great unanimity, during the pendency of the electoral count, we felt that it was hardly worth while to try to pass it. Now I understand (and whether I am correct or not can soon be tested) from gentlemen of both political parties that there is an earnest desire on their part to pass the bill. It was recommended by the President of the United States sometime since, and was generally agreed to. In substance, the first section has passed the Senate four or five times and has been defeated in the House for fear of its operation in contracting the currency, and we have so modified it that I do not think it could possibly contract the currency to any considerable extent, because the banks can restore any currency needed, and it would greatly aid us in approaching to the par of specie.

I have received to-day a telegram from the Department calling attention to other telegrams from the State of New York, showing the condition of the money market to be so favorable that now we can probably sell a portion of these bonds at par in currency. It does not interfere at all with the 4½ per cent. loan for this reason: The 4½ per cent. loan is a fifteen-year loan, redeemable in thirty years. This is a thirty-year loan bearing 4 per cent. In the particular state of the money market now, with the large amount of money lying idle, it is probable that a long bond for thirty years at 4 per cent. will approach very near, within 5 or 6 per cent. at least, the value of 4½ per cent. fifteen-year bonds. My friend from Missouri [Mr. BOGY] knows the importance of time in the question of a loan. It is plainly manifest that it is the interest of the people of the United States to avail themselves of the present condition of the money market to pursue this funding system to such an extent as to enable us to resume specie payments. That is what is proposed to be done under this bill. Under the law for the resumption of specie payments the Secretary of the Treasury might to-day or to-morrow sell bonds bearing a higher rate of interest than these, but it would not be politic or wise for him to do it; and if he can sell 4 per cent. bonds to accomplish this purpose, how much better it is to save one-half of 1 per cent. I do not think there is in the country any general difference of opinion in regard to this bill. When the bill was reported, indeed when the message of the President was sent in and the bill was printed, it met with almost universal favor throughout the United States.

As for the second section, it is nothing but an enlargement of the amount of silver coin. The silver coin is largely being absorbed, so that we fear that the amount fixed last session, $50,000,000, will not be sufficient to supply change, because the silver is held and hoarded more, a good deal, than paper money. Some of it no doubt is melted down and destroyed and some exported, so that it requires a larger amount of silver coin to answer for change than it would of paper money.

It is proposed simply to allow the Secretary of the Treasury at his discretion to increase the amount, if demanded by the people, not to exceed $80,000,000. As a matter of course, if the people do not want this silver change they will not ask for it. They have to take it at par in greenbacks. If they ask for it they ought to have it, and we ought not to adjourn Congress leaving matters in such a condition that there may be a scarcity of change. The fractional currency is disappearing; probably the great body of that which existed has disappeared already; and if you are left now to rely and depend solely upon $50,000,000 of silver change, you might perchance have such a dearth of it as to create inconvenience among the people. This simply authorizes, on the demand of the people, for exchange of United States notes the issue of a larger amount of silver subsidiary coin.

There is nothing new about it, nothing that has not been discussed over and over and over again. I see no necessity for further discussion now. My friend from Missouri knows all about the bill. It simply revives and continues in operation to this extent the funding act of 1870, but provides for the issue of 4 per cent. instead of 4½ per cent bonds. In every stage of the operation of the law it must be for the benefit of the people of the United States.

Mr. BOGY. I cannot consent to the issuing of $80,000,000 of debased silver coin in this country which is not at the same time made a legal tender. My friend from Ohio says if the people do not want this money they will not take it. They will have no option. They will have no other but this debased silver coin. The greenbacks by the operation of this bill will disappear, the fractional currency will all have disappeared, and the people will have $80,000,000 of silver coin debased in weight and not a legal tender. How will the poor people get along in paying their rents or in complying with any obligation which is to be complied with under the forms of law? No man can pay an execution of $10; no person can pay anything with it. It would be perfectly disastrous to the country.

My friend speaks of change getting scarce unless the amount authorized be greater. We have already provided by an issue of $50,000,000, a sufficient amount for this country at the present time. Certainly I do not want to issue $80,000,000 of silver money and not make it a legal tender, and it ought not to be made a legal tender, because it is not of the proper weight.

Mr. EATON. Mr. President, on general principles I am in favor of a bill of this character; but this does not strike me very favorably. I do not like the bill introduced. In my judgment, bonds having thirty years to run, with interest payable in coin, sold in the open market, in the present condition of the money market to-day would save the United States from 3 to 5 per cent. I have no doubt about it; and if the Senator from Ohio would examine into this matter, it strikes me that he would make such amendments to this bill as would meet with the general approval of the Senate.

I admit that there is a plethora of money to-day. I say "plethora," because I know there are hundreds of millions of dollars seeking investment. This is the very best investment in the world; gold-interest-bearing bonds of the United States having not less than thirty years to run will be sought for; and the person who has $100,000 in greenbacks unoccupied and lying idle, will be glad to gobble up those bonds with his greenbacks at 96 or 97 per cent. Why not use the money thus saved for the benefit of the Government of the United States? It strikes me that that is what we ought to do. I have no fear of the contraction that so alarms the honorable Senator from Missouri.

Mr. HARVEY. Mr. President, I cannot give my vote for this bill, but I do not wish to detain the Senate by making a lengthy speech. I will only state in a few words some of the reasons why I cannot support it.

In the first place, it is, I think, a measure of contraction. The Senator from Ohio a few minutes ago said that the so-called resumption law made some provisions looking to this result. I see very plainly a feature in this bill that cannot be found in the resumption bill; I mean that clause in this providing for the cancellation and destruction of the legal-tender notes. Now, I understood the bill for the resumption of specie payments to have had for its object the making of the legal-tenders equal in value to coin, silver, and gold. With that view it was supported, not to destroy the greenback but to make it more valuable.

Now the value of legal-tender notes approaches already under that legislation and under the existing condition of things a value so nearly equivalent to the value of coin, that it must be evident to every gentleman that without any measure of contraction, without changing into bonds any portion of our non-interest-bearing debt by the 1st of January, 1879, the time fixed in the resumption act for the redemption, not the retiring and destruction, of the legal-tenders, their value will have so appreciated that there will be no necessity for any such legislation as that had in view in this bill.

Therefore, without continuing any further, I feel that I have given reason enough to justify my vote against the bill. I supported the resumption act and have sustained it to my cost; but I do not propose to support any legislation looking to a contraction of the currency or to changing in any manner the method provided in that act for the redemption of the legal-tender notes to make them equivalent in value to coin. I am ready to stand by that and I propose to do it, but not to do anything further in that direction than public interest and honor requires.

Mr. MAXEY. Mr. President, I am as decidedly in favor of the resumption of specie payments as any Senator on the floor or any gentleman in the country, but I am as earnestly opposed to any hasty legislation on a measure of so much consequence as this. A financial measure should be thoroughly discussed and thoroughly understood. We have been engaged here for weeks past, and our whole time occupied about other affairs, and this is the last day of the session, and it is impossible to discuss this bill so as to have it understandingly before the Senate. While I may not be opposed to its provisions, I do not understand it sufficiently to say affirmatively that it ought to pass. Therefore I think it would be better to have the matter deferred till the next session of Congress, when it can be thoroughly discussed and thoroughly understood. In the mean time the currency is not suffering; the condition of the greenback is every day getting better and better; gold is now less than 105; and therefore I can see now no special necessity for pressing a measure of this kind on the Senate at the very heel of this excited session, when the minds of Senators have been entirely occupied with other matters.

Mr. COCKRELL. I am unwilling to proceed with the consideration of this bill now. A great many Senators have had no time to make a thorough investigation of the bill, and it is not such a bill as we ought to vote upon without due consideration. I hope that by the meeting of the next Congress, the Forty-fifth Congress, in December, legislation may be unnecessary. Financial matters are regulating themselves very happily, and if we let them alone specie resumption will come of itself. The business interests of the country will bring about the resumption of specie payments.

Now I move that this bill be postponed until the first Wednesday in December next.

The PRESIDENT *pro tempore*. The Senator from Missouri moves that the bill be postponed until the first Wednesday in December.

Mr. BOGY and Mr. MORRILL called for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 24; as follows:

YEAS—Messrs. Alcorn, Bailey, Bogy, Booth, Cockrell, Conover, Davis, Dennis, Ferry, Goldthwaite, Gordon, Harvey, Hereford, Ingalls, Johnston, McCreery, Maxey, Norwood, Patterson, Ransom, Stevenson, Teller, Wallace, Withers, and Wright—25.

NAYS—Messrs. Anthony, Blaine, Boutwell, Burnside, Cameron of Wisconsin, Chaffee, Christiancy, Conkling, Cooper, Cragin, Dawes, Dorsey, Eaton, Hamlin, Howe, Jones of Florida, Kelly, Kernan, Mitchell, Morrill, Paddock, Sherman, Wadleigh, and West—24.

ABSENT—Messrs. Allison, Barnum, Bayard, Bruce, Cameron of Pennsylvania, Clayton, Edmunds, Frelinghuysen, Hamilton, Hitchcock, Jones of Nevada, Logan, McDonald, McMillan, Merrimon, Morton, Oglesby, Randolph, Robertson, Sargent, Saulsbury, Sharon, Spencer, Thurman, Whyte, and Windom—26.

So the motion to postpone was agreed to.

FORT UNION RESERVATION.

Mr. GORDON. The Committee on Military Affairs, to whom was referred the bill (H. R. No. 4304) to authorize the United States to secure a title to the Fort Union military and timber reservation in New Mexico, have had the same under consideration and instructed me to report that they adopt the report of the House Committee on Military Affairs on this bill, and recommend the passage of the bill as a measure of interest to the Government. I ask for the immediate consideration of the bill.

Mr. COCKRELL. I object, and move that the report and bill be printed and placed on the Calendar.

The PRESIDENT *pro tempore*. The bill goes over.

FORTIFICATION APPROPRIATION BILL.

Mr. WINDOM submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4188) making appropriations for fortifications and for other works of defense, and for the armament thereof, for the fiscal year ending ending June 30, 1878, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same, with an amendment striking out the words "machine guns" in line 9 of the bill and the Senate agree to the same.

That the Senate recede from its amendment numbered 2, and agree to an amendment as follows:

On line 12 of the bill, after the word "dollars," add the following: "And for Gatling or other machine guns, $25,000."

And the House agree to the same.

WM. WINDOM,
JOHN A. LOGAN,
H. G. DAVIS,
Managers on the part of the Senate.

EUGENE HALE,
O. R. SINGLETON,
HIESTER CLYMER,
Managers on the part of the House.

The report was concurred in.

NAVAL APPROPRIATION BILL.

Mr. SARGENT submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4616) making appropriations for the naval service for the year ending June 30, 1878, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6 and 10.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 8, and 11; and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same, with an amendment striking out the sum therein named and inserting in lieu thereof "$6,600,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same, with an amendment adding at the end of the paragraph the following:

Provided, That $100,000 of the above sum shall be available for and be expended by the Bureau of Provisions and Clothing, for provisions; which sum shall be immediately available.

And the Senate agree to the same.

That the House recede from its agreement to the amendment of the Senate numbered 4, and agree to the same, with an amendment striking out the sum named therein and inserting in lieu thereof "$65,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same, with an amendment striking out the sum named therein and inserting in lieu thereof "$20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same, with an amendment striking out the sum named therein and inserting in lieu thereof "$1,750,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same, with an amendment striking out the sum therein named and inserting in lieu thereof "$942,000;" and the Senate agree to the same.

A. A. SARGENT,
GEO. S. BOUTWELL,
R. E. WITHERS,
Managers on the part of the Senate.

JAMES H. BLOUNT,
JOHN T. HARRIS,
EUGENE HALE,
Managers on the part of the House.

Mr. SARGENT. The naval bill, as this report makes it, is substantially the same that it was last year, except that about $850,000 more is appropriated for all the Navy. I give notice that this, nevertheless, will leave a deficiency for the next fiscal year which will have to be supplied by a deficiency bill; but it being the amount, and all the amount, that the House conferees were willing to allow upon the principle which I stated yesterday with reference to the deficiency bill, I accept it.

I will state further in reference to some other items, and notably as to the appropriations for the Bureau of Construction and Repair and the Bureau of Steam-Engineering, that I am not satisfied with the report. The amount appropriated is entirely inadequate for the needs of the service. I move, however, the adoption of the report.

The motion was agreed to.

AWARDS OF CLAIMS COMMISSION.

Mr. WRIGHT. I now ask that House bill No. 4433, which was taken up and laid aside temporarily to give way to the Senator from Ohio, [Mr. SHERMAN,] be considered.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4433) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871.

Mr. WRIGHT. I suggest that we follow the same course with this bill that we have pursued with regard to other appropriation bills, and that the Clerk be only required to read the amendments. There are a few unimportant amendments.

The PRESIDENT *pro tempore*. The amendments will be read simply, if there be no objection.

The bill was reported from the Committee on Claims with amendments.

The first amendment of the Committee on Claims was in line 17, to strike out "Anstill" and insert "Austill."

The amendment was agreed to.

The next amendment was in line 96, in the name of "Jeremiah B. Jack," to strike out the letter "B" and insert "R;" so as to read "Jeremiah R. Jack."

The amendment was agreed to.

The next amendment was in line 113, to strike out "Lefau" and insert "Lefan."

The amendment was agreed to.

The next amendment was to strike out lines 147 to 151 inclusive, in the following words:

To George W. Ridge, $1,106.
To George W. Ridge, administrator of William Ridge, deceased, $1,086.25.

The amendment was agreed to.

The next amendment was in line 301, in the name of "John B. Nichols," to strike out the letter "B" and insert "R;" so as to read "John R. Nichols."

The amendment was agreed to.

The next amendment was in line 333, before the word "Watson" to strike out "Isham" and insert "Isom."

The amendment was agreed to.

The next amendment was in line 454, to strike out "Kautz" and insert "Kantz."

The amendment was agreed to.

The next amendment was in line 537, after the word "Metoyer" to insert a semicolon.

The amendment was agreed to.

The next amendment was in line 783, after the word "hundred" to insert "and;" so as to read "$968."

The amendment was agreed to.

The next amendment was in line 928, after the words "two hundred and" to fill the blank by inserting "forty dollars;" so as to read:

To James P. Dysart, $240.

The amendment was agreed to.

The next amendment was in line 4 of section 2, after the word "Hudnall" to strike out the word "and," and in the same line, to strike out the letter "J," in the name of "Mason J. Shipman," and after the word "Shipman" to insert:

George W. Ridge, George W. Ridge, administrator of William Ridge, deceased, Ambrose Kantz, sr., Ambrose Kantz, jr., and Lewis Bailey.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

RECESS.

Mr. WINDOM. I ask consent of the Senate to move that a recess be taken at five o'clock until half past seven.

Mr. SARGENT and others. You had better say eight.

Mr. WINDOM. Very well; I move that the Senate take a recess from five until eight o'clock this evening.

The motion was agreed to.

THEODORE MOSHER, JR.

Mr. BURNSIDE. I move that the Senate proceed to the consideration of the bill (H. R. No. 4296) to authorize the appointment of a sergeant in the Signal Corps as a second lieutenant in the Army.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to the consideration of the bill. It authorizes the President to appoint and, by and with the consent of the Senate, to commission Theodore Mosher, jr., sergeant in the Signal Service of

the United States, to be a second lieutenant in the Army, to fill any existing vacancy in any regiment, notwithstanding the provisions of section 1218, Revised Regulations; but he shall be duly found and deemed by the President to be otherwise qualified and eligible for such appointment.

The PRESIDENT *pro tempore*. The Chair is informed that this provision has been made in a conference report.

Mr. BURNSIDE. I understand it has not.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN N. HALL.

Mr. McMILLAN. I move that the Senate proceed to the consideration of the bill (H. R. No. 3833) for the relief of John N. Hall. The bill has passed the House of Representatives, and comes here with a report made by the House committee, stating the facts, and also a letter from the Secretary of the Treasury, which I will ask to have read if it is desired.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to adjust and settle the claims of John N. Hall, late collector of internal revenue in and for the first district of Minnesota, for moneys paid to deputy collectors by him for services rendered during the months of July, August, September, and October, 1866, and for clerk-hire in his office as such collector during the quarter ending September 30, 1866, and for moneys paid by him for hire of clerks in his office in making out the accounts and return thereof between October 1, 1866, and June 30, 1867.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DISABILITY BILLS.

Mr. HOWE. I have two bills here, and I ask the unanimous consent of the Senate to reconsider the vote by which they were postponed indefinitely. They were reported adversely by the chairman of the Judicary Committee some days since upon the understanding that the parties who are petitioners to have their disabilities removed were defaulters. It turns out that the committee were misinformed, and the chairman of the committee, who is now sick and is not here, authorized me to have this done.

Mr. STEVENSON. What are the bills?

Mr. HOWE. One is a bill to remove the political disabilities of George Watson Carr, of Virginia, and the other to remove the political disabilities of Joel S. Kennard, of Georgia. I ask the unanimous consent of the Senate to reconsider the vote by which those two bills were postponed indefinitely.

The motion to reconsider was agreed to.

Mr. HOWE. I move that the Senate proceed to the consideration of the bill (H. R. No. 3892) to remove the political disabilities of George Watson Carr, a citizen of the State of Virginia.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed; two-thirds of the Senators present voting in favor thereof.

Mr. HOWE. I now move that the Senate proceed to the consideration of the bill (H. R. No. 4475) removing the political disabilities of Joel S. Kennard, of Savannah, Georgia.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed; two-thirds of the Senators present voting in favor thereof.

Mr. HOWE. I now report from the Committee on the Judiciary, to whom was referred the petition of John M. Haden, of Galveston, Texas, praying for removal of political disabilities, a bill to remove his political disabilities. I should like to have the Senate act upon it at the present time if there is no objection.

By unanimous consent, the bill (S. No. 1292) to remove the political disabilities of John M. Haden, of Galveston, Texas, was read three times, and passed; two-thirds of the Senators present voting in favor thereof.

Mr. HOWE. I am also directed by the Committee on the Judiciary, to whom was referred the petition of Theophilus H. Holmes, of Fayetteville, North Carolina, praying for the removal of his political disabilities, to report a bill for his relief. I ask the present consideration of the bill.

By unanimous consent, the bill (S. No. 1293) to remove the political disabilities of Theophilus H. Holmes, of North Carolina, was read three times, and passed; two-thirds of the Senators present voting in favor thereof.

POST-ROUTE BILL.

Mr. HAMLIN. I now ask that the Senate take up the report of the committee of conference on the post-route bill.

The PRESIDENT *pro tempore*. The report will be read if there be no objection.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3628) establishing post-roads having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

The House agree to recede from their disagreement to section 8, and agree to the same, with an amendment that said section be amended by striking out the words "place and stead," and insert in place thereof "in the name;" and the Senate agree to the same.

The Senate recede from its disagreement to sections 5 and 7 of said amendments.

The House recede from its disagreement to sections 9, 10, 11, and 12.

The House recede from its disagreement to section 13, and agree to the same, with an amendment striking out all of the section after the word "mail" in the fifth line, and insert: "all public documents printed by order of Congress, and the name of each Senator, Representative, Delegate, Secretary of the Senate, and Clerk of the Houe shall be written theron, with the proper designation of the office he holds; and the provisions of this section shall apply to each of the persons named therein until the 1st day of December following the expiration of their respective terms of office;" and the Senate agree to the same.

The House recede from its disagreement to the amendment of the Senate amending the title of the bill.

The conferees of the two Houses, being unable to agree to sections 2, 3, 4, and 6, disagree to the same, and recommend to their respective Houses a separate vote upon the following proposition, to wit:

To strike out said sections and insert the following:

"The sum of $75,000 be, and the same is hereby, appropriated out of any unexpended balances made for the support of the Post-Office Department for the current year, to enable the Postmaster-General to obtain proper facilities from the great trunk lines of railroads for railway postal service during the fiscal year ending June 30, 1878."

Said conferees further agree and recommend that the bill be amended by adding an additional section establishing certain new post-routes according to schedule hereto attached marked "A."

H. HAMLIN,
H. G. DAVIS,
Conferees on the part of the Senate.
JOHN B. CLARK, JR.,
J. G. CANNON,
Conferees on the part of the House.

Mr. HAMLIN. I will say that this conference report enables the two Houses to agree upon the whole bill with the exception of the sections which are there named, to wit, 2, 3, 4, and 6, which sections provided for additional fast-mail service. Those sections were incorporated in the bill during the last session of Congress. A commission was subsequently organized to investigate the railway service, and while that commission was discharging its duty it was deemed unwise to make an appropriation for fast mails; but it was deemed wise on the part of the committee of the Senate to make appropriation for additional post-offices on the railroads, so that the mail could be distributed along the route, thus facilitating the delivery of the mails to regions beyond Saint Louis and beyond New York some twenty-four hours. However, the committee of conference on the part of the House would not agree with the Senate to make that amendment. Subsequently it was recommended that a separate vote be taken in each branch upon that proposition. The House have voted, and they have voted against the proposition to allow the Department $75,000 out of the moneys already appropriated and unexpended, for that purpose. It was the object of the committee of conference to get a vote of the House upon that distinct proposition. I think I may say it was the understanding of the committee of conference that if the House would not agree to the amendment then at a subsequent conference the Senate would agree to abandon it. Now, if we insist upon our former vote it would lead to an additional conference. If we follow the direct line recommended by the committee of conference it would require an additional conference to effect that, instead of which I ask the unanimous consent of the Senate to make a motion that the Senate recede from its vote on sections 2, 3, 4, and 6, the sections named, and agree to the passage of the bill. The motion that the Senate recede will supersede the motion to insist upon a new committee of conference, and so much time will be saved.

I want to say that I have labored long and hard to accomplish a result than which none can be more just to all the people of the country, and particularly to those who had most occasion to use the mail routes and who contributed most largely to its revenue. I regret to find myself in a position at this time to abandon that which I know is eminently just and right, but an additional conference would not save it, and the motion which I make is simply a saving of time. I therefore move that the Senate recede from its disagreement and concur in the passage of the bill with those sections omitted.

The PRESIDENT *pro tempore*. The Senator from Maine moves that the Senate recede from the amendments which he has stated and agree to the report of the committee of conference.

The motion was agreed to.

SARAH E. GARLAND AND FRANK M. HOPPIN.

Mr. OGLESBY. I ask the Senate to proceed to the consideration of a bill of very little importance to the Senate, but of a great deal of importance to Sarah E. Garland and Frank M. Hoppin. It directs $338 to be paid out of the Treasury to them. The Committee on Claims have passed upon it and recommend the passage of the bill. I simply ask that it be disposed of.

Mr. COCKRELL. I hope the bill will pass. It has been passed upon by the Committee on Claims.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 515) for the relief of Sarah E. Garland and Frank M. Hoppin. It authorizes the Secretary of the Treasury to pay to Austin M. Garland, for the use and benefit of Sarah E. Garland and Frank M. Hoppin, $337.82, being the amount of

succession tax erroneously paid by them to the collector of the eighth district of Illinois.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LAW OF DOWER.

Mr. WRIGHT submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill from the House of Representatives No. 2043 entitled "An act to improve the law in relation to dower in the District of Columbia," after a full and free conference, beg leave to report as follows:

That the House recede from its disagreement to the amendments of the Senate; and agree to the same.

GEORGE G. WRIGHT,
J. W. STEVENSON,
Managers on the part of the Senate.
WM. LAWRENCE,
WM. P. LYNDE,
SCOTT LORD,
Managers on the part of the House of Representatives.

The report was concurred in.

EXECUTIVE SESSION.

Mr. ANTHONY. I move that the time for taking the recess be extended ten minutes, and I will then move an executive session.

The motion was agreed to.

Mr. DAVIS. I wish to call up Senate bill No. 1072, in order to leave it as the unfinished business.

Mr. WITHERS. I object to the consideration of that bill.

Mr. ANTHONY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session the doors were re-opened, and (at five o'clock and two minutes p. m.) the Senate took a recess until eight o'clock p. m.

EVENING SESSION.

The Senate re-assembled at eight o'clock p. m.

HOUSE BILL REFERRED.

The bill (H. R. No. 2803) to provide that all pensions on account of death, wounds received, or disease contracted in the service of the United States since March 4, 1861, which have been granted, or which shall hereafter be granted on application filed previous to January, 1880, shall commence from the date of death or discharge, and for the payment of the arrears of pension, was read twice by its title.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on Pensions, if there be no objection.

Mr. INGALLS. The committee having reported on that subject, I move that the bill lie on the table.

The motion was agreed to.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. Immediately before the recess the Senator from West Virginia [Mr. DAVIS] moved the consideration of a bill, which will be read.

The Chief Clerk read the bill (S. No. 1072) making an appropriation for continuing the improvement of the Monongahela River, in the States of West Virginia and Pensylvania, by its title.

Mr. DAVIS. I see there is a very thin Senate and I will not ask the consideration of the bill until a few more Senators at least get here. Ithink it would be wrong to consider it now.

Mr. ANTHONY. I wish to call up the resolution to print additional copies of the report of the Committee on Privileges and Elections in the Oregon electoral case.

Mr. COCKRELL. It may be very painful to Senators, but I do not think the seven or eight who are here should undertake to do business for seventy-six.

If the business is not of sufficient importance to draw the presence of Senators here it is not of sufficient importance to pass this body. I protest against the transaction of any business until there is a quorum here.

The PRESIDENT *pro tempore*. The Secretary will call the roll of the Senate.

The Secretary called the roll of Senators; and twenty-two Senators answered to their names.

After some little delay, sixteen additional Senators having entered the Chamber, the President *pro tempore* announced that a quorum was present.

MONONGAHELA RIVER IMPROVEMENT.

Mr. DAVIS. I now move that the Senate proceed to the consideration of the bill (S. No. 1072) making an appropriation for continuing the improvement of the Monongahela River, in the States of West Virginia and Pennsylvania.

The motion was agreed to; and the Senate, as in Committee of the the Whole, proceeded to consider the bill. It appropriates $150,000, to be expended, under the direction of the Secretary of War, for continuing the improvement of the Monongahela River between Pittsburgh, in the State of Pennsylvania, and Fairmont, in the State of West Virginia.

The bill was reported from the Committee on Commerce, with an amendment to strike out "one hundred and fifty" and insert "ten" before "thousand;" so as to read:

That the sum of $10,000 be, and the same is hereby, appropriated, &c.

Mr. DAVIS. I desire to make a short statement to the Senate. I regret that the Senator from New York, [Mr. CONKLING,] who is chairman of the Committee on Commerce, is not in his seat. The reason of the present appropriation is because there is an unfinished lock and dam on the river, which will cost about $10,000, and no use whatever can be made of the money already expended until this additional sum of $10,000 is appropriated. It is manifest that the river and harbor bill will fail, or I should not have called up this bill, which I introduced some time ago. The bill appropriates $10,000 for the completion of this lock, and the object is, as is plainly seen, to have that lock constructed so that the appropriation heretofore made, which was large, can be used.

Mr. DAWES. I do not know that I heard the Senator distinctly; I am afraid I misunderstood him. Am I to understand that the Senator from West Virginia proposes to reduce the appropriation in the bill?

Mr. DAVIS. The fact is that there is an unfinished lock on the Monongahela River which empties into the Ohio, as we all know, at Pittsburgh. Ten thousand dollars, which is the sum reported by the engineer department, will finish that lock and dam and put it into use.

Mr. DAWES. What surprised me was that we should find anybody proposing to reduce an appropriation in a river and harbor bill. I do not know that I understood the Senator; but is that true?

Mr. DAVIS. For once the Senator has found a man who is willing to do that.

Mr. EATON. I should like to ask the Senator from West Virginia what has become of the river and harbor bill?

Mr. DAVIS. The river and harbor bill, as I understand—I am not fully aware of the facts—is still in the House. It certainly has not come to the Senate, and it is believed by those having charge of it that it will not reach here. The object of this bill is to complete an unfinished lock which it will need $10,000 to do.

Mr. EATON. I certainly am opposed to taking up and completing an unfinished lock in this river in West Virginia, if works of national moment are to go by. Here is the great work in New York Harbor, in which the whole commerce of the world is interested. Is that to go by and this little appropriation pass here specially? I am opposed to it. I hope it will not receive any favor at the hands of the Senate. If that entire bill is to go by let this go by.

Mr. McMILLAN. May I ask the Senator from West Virginia if there has been a report from the Committee on Commerce upon this bill.

Mr. DAVIS. A majority of the committee, I believe all the members except the Senator from Minnesota, [Mr. McMILLAN,] were consulted. The chairman was consulted; he did not finally give his full consent to it, but the other members of the committee did. At the time that I saw the members of the Committee on Commerce, which was this morning, the Senator from Minnesota was not in the Senate, or I should have asked him. It comes with the recommendation, I believe, of all the members of the committee except the Senator from Minnesota, who was not here at the time, and the Senator from New York, who said he would make no objection; but he did not give his consent.

Mr. MITCHELL. Mr. President, this is the most extraordinary river and harbor bill that I have ever seen yet in this body, and how in the name of common sense my friend from West Virginia succeeded in getting it reported from the Committee on Commerce is more than I can tell.

Mr. INGALLS. Was this bill reported from the Committee on Commerce?

Mr. MITCHELL. Yes; it appears to have been reported from the Committee on Commerce, and that, too, by the honorable Senator from West Virginia. The heading of the bill reads in this way:

[Senate bill No. 1072.]

IN THE SENATE OF THE UNITED STATES, *December* 12, 1876.

Mr. DAVIS asked, and by unanimous consent obtained, leave to bring in the following bill; which was read twice, referred to the Committee on Commerce, and ordered to be printed.

Mr. INGALLS. That does not state that the bill was reported.

Mr. MITCHELL. I do not know that it has been reported at all.

Mr. DAVIS. I see that the Senator from Oregon wants to have a little sport over this bill. I see from his eyes that that is what he means.

Mr. MITCHELL. I am in dead earnest.

Mr. DAVIS. I would say, for his advantage as well as of the Senate, that the Senator from Minnesota just interrogated me upon that point, and I thought I answered him as correctly as I knew how. The bill was reported by a majority of the committee; by all except two probably of that committee; not in the regular way, but I was authorized to report it.

Mr. MITCHELL. It may be a very meritorious river and harbor bill, but it occurs to me that it needs amendment.

Mr. DAVIS. O, certainly; I have offered an amendment to it myself, to strike out "one hundred and fifty" and to insert "ten," as

I understand that $10,000 will complete an unfinished lock and put in use a river in which Pittsburg, it is true, is more interested than the State I in part represent; but the lock happens to be located in the State of West Virginia.

Mr. MITCHELL. Then I understand from the Senator from West Virginia that the whole amount appropriated by this bill, as amended by him, is $10,000.

Mr. DAVIS. That is all. The amount of the appropriation is so small that I hope the Senator from Oregon will not talk further upon it, but will let the bill pass.

Mr. MITCHELL. I know my friend from West Virginia is a very modest man; but the fact that he has presented this bill at this time and seriously urges its passage leads me to believe that he is not so modest as I thought he was. Now, the idea of the Senator from West Virginia coming in here, at the eleventh hour, when no river and harbor bill has been reported from the House, or even from a committee of the House, I believe, and undertaking to slip through a little one-horse river and harbor bill for the benefit of a river in West Virginia, when great public improvements, as stated by the Senator from Connecticut, [Mr. EATON,] such as the Columbia River and others that I might refer to, are to have the go-by——

Mr. DAVIS. Mr. President——

The PRESIDENT *pro tempore*. The Senator from Oregon is entitled to the floor. Does he yield to the Senator from West Virginia?

Mr. MITCHELL. I yield to the Senator for a question.

Mr. DAVIS. Mr. President, I can stand almost any rub that the Senator chooses to give me, particularly when I want to accomplish my object, which in this case is to pass this little bill; but when the Senator talks about slipping through, I want to remind the Senator——

Mr. MITCHELL. I did not mean anything offensive to the Senator.

Mr. DAVIS. The Senator is so in the habit of slipping things through the Senate that he now thinks, after having got his matters through, this is also slipping through.

Mr. MITCHELL. No, this is not through yet; and if this river and harbor bill is to pass at all, I desire that the text should be perfected, and that it should be so amended as to be respectable, at least.

Mr. DAVIS. To include Oregon?

Mr. MITCHELL. And include some other great works as well as the one mentioned in this particular bill. The Senator from West Virginia talks about unfinished locks; he knows that there are unfinished locks on the Columbia River, and that an appropriation of $90,000 was made at the last session for the construction of these locks. That money has been expended, but the locks are not completed, and I scarcely think that the gentleman from West Virginia would, in seriousness, get up here and urge the passage of a special bill to improve his little one-horse river in West Virginia, and give the go-by to a great river like the Columbia, and all the other great rivers and harbors throughout the country.

I do not wish to amend the bill, but, if it is to be pressed, then I propose to offer an amendment something like this:

That the sum of $300,000 be, and the same is hereby, appropriated, to continue the construction of canals and locks at the cascades of the Columbia River.

Mr. CHRISTIANCY. Will the Senator from Oregon allow me to inquire whether it would be in order to add, by way of amendment, every other item of the river and harbor bill to the bill proposed by the Senator from West Virginia? If it will, perhaps that might be a practical mode of getting through with the bill.

Mr. MITCHELL. Certainly it will.

Mr. CHRISTIANCY. I only suggest that, if he will accept that I shall not oppose his motion.

Mr. DAVIS. If other Senators have forgotten or, from some cause best known to themselves, have not arranged or got their bills in a shape to come properly before the Senate, for the amounts they desire to have appropriated for rivers and harbors in their States, it is not my fault. I hope that Senators now will not object to this small appropriation. I do not want to take up the time of the Senate in discussing it. It is meritorious; and I hope that Senators will not object to it from this fact: that probably this is the only bill that can be now offered under the rules of the Senate. I take it that the Committee on Commerce has not reported any other. I have not heard of any other.

Now, sir, if, from any cause whatever, I have been a little more industrious than some of my friends, I hope they will not take offense of that and defeat the only small appropriation that everybody who knows anything about it knows is necessary. I was disposed to run along in a joking way to some extent with my friend from Oregon, but I know he is not serious when he wants to cause the small amount I have asked for to be defeated. I hope he will withdraw all opposition and let the bill pass.

Mr. EATON. I do not quite like the remark which fell from my friend from West Virginia. He seems to intimate that other Senators have forgotten their duty, or, if they have not forgotten it, that they have been less urgent in carrying out the views of their constituents than he. Now, I had supposed the true course was that, when great public improvements were necessary, the proper committee should entertain the views of all the various Senators and take into consideration all great matters pertaining to river and harbor improvements, and then report fully. My State is as deeply interested in such improvements as any State in this Union, small though it may be. From her waters into New York every day of the three hundred and sixty-five days of the year there go by steamers a tonnage of 20,000 tons burden. But a great work which belongs not to Connecticut and New York alone, not to Connecticut, Massachusetts, and Rhode Island alone, but to the entire commercial world, is forgotten, and $10,000 must go out of the people's money to take care of a little river in West Virginia. Upon my word, Mr. President, I admire the talent of my friend from West Virginia, and if we could get rid of a river and harbor bill for this entire country for $10,000, we should do very well.

Mr. DAVIS. I agree with my friend from Connecticut, and I hope we shall get rid of this bill as quick as we can.

Mr. EATON. I will try to get rid of it. If there is to be no river and harbor bill, I move the postponement of this bill until the first Monday in December.

Mr. MITCHELL. I second the motion.

Mr. DAVIS. I believe I have a right to say a word upon that motion. My two friends each talk of the Monongahela River as a little river. Neither of them means that it is a small stream when he refers to it as a little river. We know that the Monongahela River is one of the principal rivers in this country; of course it is not the principal river, but it is one of them; and it would be economy on the part of the Government to complete the lock and dam that is now partly completed, and it will have to go over another year if this small amount of $10,000 is not appropriated. I do not think it makes any difference to Senators, and I do not see why they specially object to this appropriation because other improvements are not in the same condition. If the river and harbor bill comes here, I say to my friends frankly that I am willing to join with them and help them, and I will withdraw this bill at once.

Mr. MORRILL. I do not know whether this $10,000 would do the Monongahela any good; but I am quite satisfied that it would do my friend from West Virginia at least ten thousand dollars' worth of good, and that, I think, would be a public benefit, and therefore I propose to vote for it.

Mr. DAVIS. I thank the Senator very much indeed; it encourages me, and I believe with that speech I will stop talking and that the bill will pass. Of course I hope that the motion to postpone until the first Monday in December will fail and that we shall then pass the bill.

The PRESIDENT *pro tempore*. The question is on the motion to postpone the bill until the first Monday in December.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. WRIGHT. I ask leave at this time to make a couple of reports. The Committee on the Judiciary, to whom was referred the joint resolution (S. R. No. 21) defining the meaning and intent of the act of June 11, 1870, entitled "An act in relation to the Hot Springs reservation in Arkansas," have had the same under consideration and have instructed me to report it back, with a recommendation that it lie on the table, the Senate having passed a bill in relation to the same subject.

The report was agreed to.

Mr. WRIGHT. The same committee, to whom was referred the joint resolution (S. R. No. 23) in relation to the Hot Springs reservation in the State of Arkansas, have instructed me to report it back with a recommendation that it lie on the table, there having been a bill reported and passed on the same subject.

The report was agreed to.

CAPTAIN SAMUEL ADAMS.

Mr. WRIGHT. The bill (H. R. No. 3489) for the relief of Captain Samuel Adams has been, as I remember now, indefinitely postponed. I move that the order indefinitely postponing the bill be reconsidered, and that the bill be recommitted to the Committee on Claims.

The motion was agreed to.

BENJAMIN P. RUNKLE.

Mr. CLAYTON. I move that the Senate proceed to the consideration of the bill (S. No. 1003) to restore Benjamin P. Runkle to the retired list of the Army.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Military Affairs with an amendment to strike out all after the enacting clause and in lieu thereof to insert:

That the Secretary of War be, and he is hereby, authorized and directed to convene a court of inquiry to investigate and report upon the proceedings of the court-martial before which Benjamin P. Runkle, late major United States Army, (retired,) was tried in 1872; that the court of inquiry shall be authorized to take new testimony, if the same shall be deemed necessary; that, upon a report by said court of inquiry acquitting the said Benjamin P. Runkle, the President shall be authorized to appoint said Benjamin P. Runkle a major in the Army of the United States, and to place him upon the retired list.

Mr. CLAYTON. There is a report accompanying the bill, but I will make a statement.

Mr. SARGENT. Is it the unanimous report of the Military Committee?

Mr. CLAYTON. Yes, it is a unanimous report.

Mr. INGALLS. I should like to hear the statement.

Mr. CLAYTON. This officer was tried in 1872 by court-martial. He had but a very short time to make his defense. He was put under arrest in Louisville, Kentucky, and was not allowed to visit Washington, where his papers were. He was detailed for service in the Freedmen's Bureau. His papers were all in Washington. He had not time to come here and get his papers, and therefore he could not make the defense which he now claims he can make and which the committee believes he can make. In fact the committee has seen testimony of a documentary character which would have had very great bearing on the case if produced before the court-martial. The bill is merely to authorize the Secretary of War to convene a court-martial to re-investigate the testimony in this case, and hear such additional testimony as he may bring, and then if he exonorates himself the President will re-appoint him.

Mr. SARGENT. Is that testimony newly discovered?

Mr. CLAYTON. He was held responsible for the act of a subagent, and the court-martial regarded that subagent as his subagent, when it turned out that this subagent was appointed by his superior officer. He had no control whatever over him, could not remove him, or anything of that kind, and therefore ought not to have been held responsible.

Mr. SARGENT. Why was he put upon the retired list?

Mr. CLAYTON. He was on the retired list and detailed to perform this service. I think the bill is all right. Out of abundant caution we thought it best to let the whole matter be re-investigated.

Mr. INGALLS. It appears to me the better plan would be, if injustice has been done this man, to authorize the Secretary of War to institute a court for the investigation of the offense for which he was tried.

Mr. CLAYTON. This bill does that.

Mr. INGALLS. And we should await the result of that investigation before providing that he shall be appointed a major if the result of that inquiry should happen to be favorable to the person named in the bill. It is an extraordinary proposition, and it seems to me to be one that ought not to be entertained. If any wrong has been done him, let us authorize a tribunal to try the case over again and not anticipate whether he will be found guilty or whether he will be acquitted.

Mr. CLAYTON. It is an extraordinary proceeding; but I think it is one that should be adopted in future. The proceeding heretofore has been for the Senate to restore to the Army; and I think that proceeding, very frequently, is not as thorough as it should be. This bill originally provided for restoration by an act of Congress. The Committee on Military Affairs thought it best and safest to require a board of officers to be convened, and ascertain whether this officer has been unjustly dealt with or not. If it so turns out that he has been unjustly dealt with, then it seems to me we should give the President authority to re-appoint him. The President is not compelled to do it, but he is merely given the power to re-appoint him.

Mr. INGALLS. It will be time enough to authorize the President to re-appoint him if he is found innocent.

Mr. CLAYTON. It ought to be done hastily. You cannot be too quick to do justice. If this officer has been unjustly treated, I do not think that justice can be too soon meted out to him. You can trust the Secretary of War to revise this proceeding; and you can trust the President, if the officer is found to be innocent, to re-appoint him.

Mr. SARGENT. Does the Secretary of War recommend the bill?

Mr. CLAYTON. I think the particular proposition was not referred to him.

Mr. SARGENT. Did not the committee ask the opinion of the De partment on this matter?

Mr. CLAYTON. We have all the papers here from the Department.

Mr. SARGENT. Does the Department recommend it?

Mr. CLAYTON. No; their recommendation was not asked for. We have the papers all here.

Mr. SARGENT. The committee did not ask the opinion of the Department about it?

Mr. CLAYTON. We had the report of the Judge-Advocate-General reviewing the case, and upon that report and the recommendation that this legislation should be had this bill is based. Before he was dismissed he was on the retired list.

The PRESIDENT *pro tempore*. The question is on the amendment of the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title of the bill was amended so as to read: "A bill for the relief of Benjamin P. Runkle, late a major on the retired list of the United States Army."

WILLIAM L. SCRUGGS.

Mr. HAMLIN. I move that the Senate proceed to the consideration of the bill (H. R. No. 4418) to pay William L. Scruggs, late minister at Bogota, from October 10 to November 21, 1876.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to pay to William L. Scruggs, late minister of the United States of America at Bogota, United States of Colombia, $854.17, the amount which would have been due him as minister from the United States of America from October 10, 1876, to November 21, 1876, the time actually and necessarily detained in Bogota after his recall, by reason of the siege of the city by the revolutionary troops.

Mr. HAMLIN. This bill received the approval of the House. It was referred to the Committee on Foreign Relations of this body, and has been unanimously reported back. The facts in the text of the bill state the case. The minister was detained there something I think over two months, owing to the insurrectionary condition of the country and could not leave at the time of the notice of the Government, and it is believed that he is fairly and justly entitled to this small sum as the compensation which would have been due him had he not been recalled.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

J. B. M'CULLOUGH.

Mr. WITHERS. I move that the Senate proceed to the consideration of the bill (S. No. 1127) for the relief of J. B. McCullough, Mrs. L. S. Fountain, administratrix of James Fountain, and John Howze, surviving partner of the firm of Howze & Hendricks.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Claims, with amendments, so as to read:

That the proper accounting officers of the Treasury be, and they are hereby, directed to pay to J. D. McCullough, of Petersburgh, Virginia, the sum of $328.87; the said sum being for the rent of property belonging to the aforesaid party, and occupied under contract by the United States, and for which vouchers were given to him; and an amount sufficient to pay the same is hereby appropriated from the Treasury.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of J. B. McCullough."

STEVEN V. BENÉT.

Mr. WADLEIGH. I move that the Senate proceed to the consideration of the bill (H. R. No. 2952) authorizing the Commissioner of Patents to rehear the application of Steven V. Benét for patents for cartridges.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. SARGENT. Mr. President——

Mr. WITHERS. I should like to hear an explanation from the chairman of the committee reporting the bill stating why it is that it is necessary to review this case.

Mr. SARGENT. The Senator from Virginia has made my speech.

Mr. WADLEIGH. The bill passed the House upon a report which I send to the Clerk.

The PRESIDENT *pro tempore*. If there be no amendment, the bill will be reported to the Senate.

Mr. WRIGHT. I understood the reading of the report to be called for.

The PRESIDENT *pro tempore*. The Secretary will read the report.

The Chief Clerk read the following report submitted by Mr. SAMPSON, from the Committee on Patents of the House of Representatives, March 31, 1876:

The Committee on Patents, to whom was referred the petition of S. V. Benét, praying the passage of an act authorizing the Commissioner of Patents to reconsider his rejected application for a patent on an improvement in the manufacture of metallic cartridges, beg leave to submit the following report:

In 1866 General Benét, then of the rank of brevet lieutenant-colonel United States Army, was in command of the United States arsenal at Frankford, near Philadelphia, Pennsylvania, and was charged in his official capacity with the manufacture, for the use of the military service, of metallic cartridges, and while thus employed designed an improvement therein, which he believed to be entirely novel and of sufficient importance to justify him in applying for a patent therefor, and, April 14, 1866, made such application in the manner prescribed by law.

On the 27th of the same month his application was rejected on the ground that there was no essential novelty in the invention. March 7, 1867, the specifications were amended as the law permitted, and again submitted for re-examination, and was, on the 14th of March, again rejected by the primary examiner for the same reason as before.

General Benét has long been in the Ordnance Department, is now Chief of Ordnance, United States Army, has had great experience and the best opportunities for acquiring information on the subject of the manufacture of cartridges, and with this knowledge, entitling his opinion to some consideration, expresses in his petition the belief "that in the start of the art in this country"—at the time of filing his application—"the importance of what appeared to be but slight alterations of form in his device was scarcely appreciated by practical experts and those skilled in the art, not to mention those by whose theoretical knowledge only the ministerial actions in the Patent Office in respect to his application for a patent were determined, and that, therefore, his application for a patent was mistakenly rejected," and your committee are not prepared to say that such was not the case.

If petitioner was in fact the inventor of an important and valuable improvement in this art, and has been mistakenly deprived of the honor and benefit of his invention—and on these points there is no doubt—a correct decision may be now obtained, if permitted a re-examination and to prosecute the appeals allowed by law, which before were not taken. Then assuredly he ought to have the privilege, at least, of making the attempt to have such mistake corrected, unless some valid reason can be urged against it.

If, in consequence of his official position, his relations to the Government or the public were such that a patent ought not to be granted; or from his own laches in failing to avail himself of the facilities which the law afforded him to secure a correct determination of his application he is not entitled to consideration; or the granting a patent now, if entitled to one, would work injustice to others, then the relief he is now seeking should not be given.

The fact that he was an officer in the Army will not of itself deprive him of the right to his invention. The law of Congress enacted in pursuance of the power given in the Constitution to secure to inventors, for a limited time, the exclusive right to their discoveries, provides that any person who has invented or discovered any new and useful art, machine, manufacture, &c., or improvement therein, may, by application in the manner prescribed by law, obtain a patent therefor, except officers and employés in the Patent Office. And this question has been decided by the Supreme Court in the case of The United States *vs.* Burns, (12 Wallace, 256.) Mr. Justice Field uses this language:

"If an officer in the military service not specially employed to make experiments with a view to suggest improvements in arms, tents, or any other kind of war material, he is entitled to the benefit of it, and to letters-patent for the improvement from the United States, equally with every other citizen not engaged in such service; and the Government cannot, after the patent is issued, make use of the improvement any more than a private individual, without license from the inventor or making compensation to him."

It is, therefore, settled that an officer of the Army may be entitled to a patent for the invention of an improvement in the materials of war, and even the Government liable for its use after patent is granted. But if the officer be assigned to the especial duty of experimenting and making improvements in the particular materials to which his invention relates, then it would seem a somewhat different rule should apply. In such case he is the servant of the Government, assigned by its command to do for the good of the service just what he has done, and the Government should not, because he has accomplished what he was assigned to do for its benefit, be deprived of that benefit; and this principle is recognized by the petitioner himself. He has offered in his petition to release to the Government all right to royalty or compensation for Government use of the invention.

But the further question is, Should an invention wrought out under such circumstances inure not only to the Government but to the benefit of all individual citizens of the entire country? True, he was the servant of the people, educated, perhaps, at their expense; was in their employ, and paid out of their Treasury; but what was the extent of that employment? It was only for governmental purposes. His duty was to make the improvement for the military service; and outside of that the products of his brain and his hands were as much his own property as the fruits of the labor of any other citizen, not in the service of the Government, would be his. But if it was all the Government's, should we not possess the grace to surrender to him so much of the right as we do not desire to use ourselves? He has well said, in his argument before the committee, he was employed to invent a cartridge for the military service of his own Government, not for individuals for sporting purposes, not for foreign governments or the world at large.

The next inquiry is, Has he reasonable excuse for not prosecuting his application to the court of last resort? When his claim had been rejected the second time by the primary examiner, he might have appealed to the board of examiners-in-chief, thence to the commissioner, thence to the supreme court of the District of Columbia, and on refusal there filed his bill in equity, had a hearing before a district or circuit court of the United States, and if error was committed, then gone to the Supreme Court. This he failed to attempt to do until too late. At the time of the rejection of his application there was no limitation, as now, by section 4894 of the revision, that upon failure for two years after any action therein, of which notice was given, to prosecute the application, it should be regarded as abandoned; but cases might be and were sometimes taken up again even eight or ten years after rejection. The rejection was in 1867, when there was no limitation. In 1869 he was ordered from Frankford arsenal to other important duties. July 8, 1870, this law of limitation was enacted, and gave only six months in which to resume the prosecution of rejected claims. In the engrossing cares of his official duties, this did not come under his observation until he undertook to renew the prosecution at the Patent Office, and was informed it was too late. In the judgment of the committee, these circumstances do show a reasonable excuse for failing to prosecute.

The remaining objection which might be urged is this: Several years have expired since the invention and application. The cartridge has been extensively manufactured and gone into quite general use. Should the public now be deprived of the use of that which it has long enjoyed, which it now supposed was public property, free and open alike to all, or pay a license or royalty therefor? If, through his misfortune, occasioned by change of the law, the public has enjoyed for several years, free, for what otherwise it would have had to pay a royalty, and all the present existing rights can be protected, then this can be no valid argument why he should not be permitted, for a limited time in the future, to enjoy some benefits from the fruits of his own invention; and these existing rights are carefully protected by the bill.

Your committee, therefore, submit the accompanying bill and recommend its passage.

The bill was reported to the Senate, ordered to a third reading, and was read the third time.

Mr. EATON. I ask for a division on the passage of the bill.

The question being put, there were on a division—ayes 19, noes 17; no quorum voting.

Mr. FRELINGHUYSEN. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. FRELINGHUYSEN. I trust that this bill will pass. I think it a meritorious bill. General Benét was in the employ of the Government making improvements in cartridges, and made a most valuable improvement. This bill carefully reserves to the Government, in whose employ he was, all the advantages for the future and for the past use of that improvement. The patent is inoperative as against the Government. There is no reason why foreign nations should have the benefit of his invention, and this is really only a protection against their use of it.

General Benét has an abundant excuse for suffering the limitation to expire before he took an appeal, inasmuch as the law was passed in 1870 and only six months was given in which he could take his appeal, and he was not informed of the change which had been made in the law. This only authorizes him to renew his application. If it is an invention worthy of being patented, it is to be patented; otherwise not. I think it is but justice to an American citizen to give him this protection against foreign nations.

Mr. LOGAN. Mr. President, I am not going to make any opposition to this bill; but I desire, in order that it may be understood, to call the attention of the chairman of the Committee on Patents to one fact, if he will listen to me. The language of the bill is that the Government shall have the free use of this cartridge. Now, I want to know whether that includes the right to fabricate the cartridge?

Mr. WADLEIGH. It does.

Mr. LOGAN. I want it understood, for the reason that this bill was brought to me some time ago and I objected to it on the ground that the Government was not authorized to fabricate the cartridge. If it gives the Government that right, I have no objection.

Mr. WADLEIGH. The Government is entitled to the free use of the invention. That includes the right to manufacture.

Mr. LOGAN. I merely wish that statement to be made so that it may be understood hereafter.

Mr. FRELINGHUYSEN. The language of this bill is this:

And the subsequent sale and use of those manufactured at the time of the issue shall not be held to be an infringement of said patent. And the Government shall be entitled to the free use thereof—

That is, the patent—

for the military or naval service.

The PRESIDENT *pro tempore*. The question is on the passage of the bill.

The question being taken by yeas and nays, resulted—yeas 32, nays 12; as follows:

YEAS—Messrs. Allison, Anthony, Barnum, Bayard, Blaine, Cameron of Wisconsin, Chaffee, Christiancy, Clayton, Conkling, Cragin, Dawes, Dennis, Dorsey, Ferry, Frelinghuysen, Harvey, Jones of Nevada, Kernan, McMillan, Maxey, Mitchell, Morrill, Morton, Oglesby, Paddock, Patterson, Sargent, Teller, Wadleigh, Windom, and Wright—32.

NAYS—Messrs. Alcorn, Bailey, Bogy, Davis, Eaton, Gordon, Hereford, Ingalls, Logan, Robertson, Saulsbury, and Withers—12.

ABSENT—Messrs. Booth, Boutwell, Bruce, Burnside, Cameron of Pennsylvania, Cockrell, Conover, Cooper, Edmunds, Goldthwaite, Hamilton, Hamlin, Hitchcock, Howe, Johnston, Jones of Florida, Kelly, McCreery, McDonald, Merrimon, Norwood, Randolph, Ransom, Sharon, Sherman, Spencer, Stevenson, Thurman, Wallace, West, and Whyte—31.

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 4691) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes, asked a conference on the disagreeing votes of the Houses thereon, and had appointed Mr. J. D. C. ATKINS of Tennessee, Mr. ERASTUS WELLS of Missouri, and Mr. CHARLES FOSTER of Ohio managers at the conference on the part of the House.

The message also announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4616) making appropriations for the naval service for the year ending June 30, 1878, and for other purposes.

The message further announced that the House had concurred in the resolution of the Senate that of a digest of the opinions of the Attorneys-General and of the decisions of the Federal courts with reference to international law and kindred subjects prepared at the Department of State, there be printed, in addition to the usual number, five hundred copies for the use of the House of Representatives and one thousand for the use of the Department of State.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 3925) relating to the production of fruit brandy, and to punish frauds connected with the same; and it was thereupon signed by the President *pro tempore*.

ARMY APPROPRIATION BILL.

The PRESIDENT *pro tempore* laid before the Senate the action of the House of Representatives, non-concurring in the amendment of the Senate to the bill (H. R. No. 4691) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes, and asking for a committee of conference thereon.

Mr. BLAINE. I move that the Senate insist on its amendment and agree to the conference asked for by the House.

The motion was agreed to.

By unanimous consent the President *pro tempore* was authorized to appoint the committee, and Mr. BLAINE, Mr. ALLISON, and Mr. WALLACE were appointed.

BOUNTIES TO SOLDIERS.

Mr. LOGAN. Mr. President——

Mr. STEVENSON. I ask the Senator from Illinois to yield to me for the purpose of calling up the bill (H. R. No. 4313) for the removal of the political disabilities of Charles L. Scott, of Alabama.

The PRESIDENT *pro tempore*. The bill referred to by the gentleman from Kentucky is not at the desk.

Mr. DORSEY. I would like to have a bill passed while the Clerk is looking for the bill of the Senator from Kentucky. If the Senator will yield to me a moment I can pass the bill to which I refer while his bill is being looked for. I ask unanimous consent to proceed to the consideration of the bill (H. R. No. 545) for the relief of James A. Jackson and others, securities of G. R. Horton, late postmaster at Monticello, Arkansas.

The PRESIDENT *pro tempore*. The gentleman from Arkansas asks

unanimous consent to proceed to the consideration of the bill named by him. Is there objection?

Mr. LOGAN. I do not know whether the Senator from Arkansas was recognized or not while another Senator had the floor. I was standing on the floor and I thought I was recognized before the Senator from Kentucky.

The PRESIDENT *pro tempore*. The Chair will state that the Senator from Illinois was to be recognized after the Senator from Kentucky, and pending the search for the bill called up by the Senator from Kentucky, the Senator from Arkansas, being near the Chair, asked to have a bill considered.

Mr. LOGAN. That is just what I should like to have myself.

Mr. DORSEY. I hope that the bill will be considered. It is a very brief matter.

Mr. LOGAN. I object.

The PRESIDENT *pro tempore*. The Senator from Illinois objects.

Mr. LOGAN. Mr. President, I have a bill that has been before the Senate, I think, for over a year now and I move that it be taken up. It is House bill No. 58.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 58) to equalize the bounties of soldiers who served in the late war for the Union.

Mr. DAVIS. Is there a report with the bill? If so, I should like to have it read.

The PRESIDENT *pro tempore*. There is no report accompanying the bill.

Mr. DAVIS. I desire to have the report, if there be one, read for the reason that it has been stated here by the chairman of the Committee on Finance, I think, that to carry out the provisions of this bill, if they could be carried out at all, would cost a hundred million dollars. I think that was the statement of the chairman of the Finance Committee, that he had in some way had it examined into and that, if its provisions could be carried out, that was his estimate; or perhaps he said it was the estimate of the Department. I would ask the Senator from Illinois, who I see is looking this way, whether or not that was the statement of the chairman of the Finance Committee?

Mr. LOGAN. I do not know what the statement of the chairman of the Finance Committee was, or anything about that statement, nor am I responsible for it. This bill has been discussed time and again in the Senate; it passed the House, I think, five times; it passed the Senate once, and was vetoed and is before the Senate again. It has been discussed here and statements have been made *pro* and *con* in reference to it. I suppose every Senator is conversant with the statements that have been made. I place no reliance in any statement that has been made in reference to the great cost of it. I do not know what it will cost. I have tried to compute the cost of it, but do not know what it may be, and it is immaterial to me, as far as that is concerned. It is just that these men should have their bounty and I am not making calculations about how much it may cost. I only desire that the law which asked the soldiers to go into the field and promised to give them a certain bounty shall be carried out. I ask for a vote on the bill.

Mr. KERNAN. I should like to inquire if there is any report or statement of the committee as to what amount this bill would require to be taken from the Treasury. I have seen it stated at a very large sum, between $100,000,000 and $200,000,000.

Mr. LOGAN. I call for the reading of the amendments reported by the Committee on Military Affairs.

The PRESIDENT *pro tempore*. The first amendment will be reported.

The CHIEF CLERK. It is proposed to insert in line 4, before the word "wagoner" the word "enlisted;" and in line 5, after the word "soldier" to strike out "sailor, and marine, including those borne upon the rolls as slaves and Indians;" so as to read:

That there shall be allowed and paid to each and every non-commissioned officer, musician, artificer, enlisted wagoner, and private soldier who faithfully served as such, &c.

Mr. MORTON. Is that amendment offered here?

The PRESIDENT *pro tempore*. It was reported from the Committee on Military Affairs.

Mr. LOGAN. That amendment was reported to the Senate from the Committee on Military Affairs. The word "enlisted" placed before "wagoner" is a proper amendment, but the words "those borne upon the rolls as slaves and Indians" should be stricken out for the reason that the bill includes all who were soldiers, no matter whether they were slaves, Indians, or what. That amendment was agreed to in the Senate committee. The words "those borne upon the rolls as slaves and Indians" should be stricken out of the bill and the other words that are crossed out in the bill should remain.

Mr. MORTON. Mr. President, this amendment may perhaps be a very proper one, but if any correction is needed it can be made hereafter. I regard the adoption of any amendment as fatal to this bill. It passed the House under peculiar circumstances, and if it is to go back there again it does not stand a ghost of a chance of going through. Any amendment that sends this bill back to the House destroys it; consequently I will vote for no amendment. I would rather take the chance of having any correction made hereafter in any proper manner than to have the bill go back into the House.

Mr. LOGAN. I agree with the Senator from Indiana in reference to these amendments. The amendments were reported by the committee, but I agree with the Senator that their adoption is almost a certain defeat of the bill; and for that reason I will ask the Senate to non-concur in the amendments made by the committee and pass the bill as it came from the House.

Mr. SARGENT. I think the amendments ought to be reported.

The PRESIDENT *pro tempore*. The first amendment has been reported. The Secretary will again read it.

The CHIEF CLERK. The first amendment is in line 4, before the word "wagoner" to insert "enlisted."

The PRESIDENT *pro tempore*. The question is on this amendment.

The question being put, it was declared that the noes appeared to prevail.

Mr. SARGENT. I ask for a division.

The question being put, there were on a division—ayes 20, noes 12; no quorum voting.

Mr. STEVENSON. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BURNSIDE. I should like to have the amendment stated.

The PRESIDENT *pro tempore*. The amendment will be reported.

The Chief Clerk again read the amendment.

The question being taken by yeas and nays, resulted—yeas 27, nays 17; as follows:

YEAS—Messrs. Alcorn, Allison, Anthony, Bailey, Barnum, Bayard, Bogy, Cockrell, Cooper, Cragin, Davis, Dawes, Dennis, Eaton, Gordon, Hereford, Howe, Kelly, Kernan, Maxey, Robertson, Sargent, Saulsbury, Stevenson, Teller, Wallace, and Withers—27.

NAYS—Messrs. Blaine, Bruce, Burnside, Cameron of Wisconsin, Chaffee, Christiancy, Clayton, Dorsey, Ferry, Harvey, Hitchcock, Ingalls, Logan, McMillan, Morton, Paddock, and Wright—17.

ABSENT—Messrs. Booth, Boutwell, Cameron of Pennsylvania, Conkling, Conover, Edmunds, Frelinghuysen, Goldthwaite, Hamilton, Hamlin, Johnston, Jones of Florida, Jones of Nevada, McCreery, McDonald, Merrimon, Mitchell, Morrill, Norwood, Oglesby, Patterson, Randolph, Ransom, Sharon, Sherman, Spencer, Thurman, Wadleigh, West, Whyte, and Windom—31.

So the amendment was agreed to.

The next amendment of the Committee on Military Affairs was in lines 5 and 6, to strike out the words "sailor and marine, including those borne upon the rolls as slaves and Indians."

The amendment was agreed to.

The next amendment was in line 10, before the word "wagoner," to insert the words "and enlisted."

The amendment was agreed to.

The next amendment was in line 11, after the word "soldier" to strike out the words "sailor and marine."

The amendment was agreed to.

The next amendment was in section 2, line 3, after the word "artificer," and before the word "wagoner" to insert the word "enlisted;" in the same line, after the word "soldier" to insert the words "sailor or marine;" in line 6, after the word "three" to strike out the word "minor;" in line 7, before the word "wagoner" to insert the word "enlisted;" and in line 8, after the word "soldier," to strike out the words "sailor or marine;" so as to make the section read:

SEC. 2. That in case of the death, either before or after the passage of this act, of any such non-commissioned officer, musician, artificer, enlisted wagoner, or private soldier, the allowance and payment shall be made to his widow, if she has not re-married, or, if there be no widow or she has re-married, then to the child or children of such deceased non-commissioned officer, musician, artificer, enlisted wagoner, or private soldier.

The amendment was agreed to.

The next amendmeut was in section 3, line 3, before the word "wagoner" to insert the word "enlisted;" in the same line, after the word "soldier;" to strike out the words "sailor or marine," and in line 6 after "United States;" to strike out the words "or State" so as to make the section read:

SEC. 3. That in computing and ascertaining the bounty to be be paid to any non-commissioned officer, musician, artificer, enlisted wagoner, or private soldier, or to his proper representatives, under the provisions of this act, there shall be deducted therefrom any and all bounties already paid under the provisions of ans United States laws.

The amendment was agreed to.

The next amendment was in section 5, after "United States" to strike out the words "or State;" in line 6, before the word "wagoner" to insert the word "enlisted;" in line 7, after the word "soldier" to strike out the words "sailor or marine;" and after line 8, to insert the words "except in case of the application of the widow, or child, or children;" so as to make the section read:

SEC. 5. That every petition or application for bounty made under the provisions of this act shall disclose and state specifically, under oath and under the pains and penalties of perjury, what amount of bounty has been paid under the provisions of any United States laws to the non-commissioned officer, musician, artificer, enlisted wagoner, or private soldier, by whom or by whose representative the claim is made, except in case of the application of the widow, or child, or children.

The amendment was agreed to.

The next amendment was in section 9, line 2, after the word "artificer" to insert the word "enlisted;" in line 3, after the word "soldier" to strike out the words "sailor or marine;" so as to read:

SEC. 9. That no adjustment or payment of any claim of any non-commissioned officer, musician, artificer, enlisted wagoner, or private soldier, or his proper representative, under the provisions of this act, shall be made, unless the application be filed within five years from the passage of the same.

The amendment was agreed to.

The PRESIDENT *pro tempore*. This concludes the amendments of the committee.

Mr. SARGENT. I offer the following as an additional section to the bill:

SEC. —. That to enable the Treasurer of the United States to meet the demand caused by the foregoing sections of this bill, a duty of three cents per pound upon all coffee and ten cents per pound upon all tea imported into the United States shall be imposed from and after the passage of this act.

Mr. MORTON and Mr. HITCHCOCK. I ask for the yeas and nays.

Mr. LOGAN. I hope the call for the yeas and nays will be withdrawn.

Mr. MORTON. I will withdraw it at the request of the Senator from Illinois.

Mr. HITCHCOCK. Very well.

The amendment was agreed to.

The PRESIDENT *pro tempore*. If there be no further amendment the bill will be reported to the Senate as amended.

Mr. DAVIS. I ask for the yeas and nays upon the passage of the bill.

Mr. LOGAN. I desire now, if the Senate will give me their attention one moment, before offering an amendment to say a word. I supposed that there was probably not a Senator present who would not be willing at any time to give a direct vote on this bill with a view of the bill becoming a law. I do not like to see a bill defeated by persons who ought to vote for it piling amendments on it, and I appeal to Senators on the other side of the Chamber who have appealed here for contracts made with men who had gone into the confederacy and secured the legislation which passed last night, amounting to hundreds of thousands of dollars, now to let the law of this land that was a contract with the poor soldier who suffered for his country to be executed. I offer now as a substitute to the bill as amended the original House bill, and I ask a vote on that directly, so that then we may see whether we can pass a bill of that kind or not.

Mr. SARGENT. Is that in order?

Mr. LOGAN. Certainly it is.

Mr. SARGENT. I raise the point of order on the reception of such an amendment.

The PRESIDENT *pro tempore*. The Senator cannot offer the one bill for the other.

Mr. LOGAN. I offer it as a substitute. I move to strike out all after the enacting clause and insert the words in the original bill.

The PRESIDENT *pro tempore*. This is the bill itself which is pending.

Mr. LOGAN. I know, but I move to strike out all after the enacting clause and offer the words that I send to the desk.

Mr. EATON. That cannot be done.

Mr. SAULSBURY. I ask if the Senate has not already expressed its judgment upon the amendments offered to this bill, which are now made part of the bill?

Mr. LOGAN. Very well, I am not offering a bill. I move to strike out all after the enacting clause of the bill, and insert what I send to the desk.

The PRESIDENT *pro tempore*. The Chair cannot entertain the amendment, it being the same bill on which the Senate has acted. The Chair cannot entertain a motion to strike out and insert the same matter. If the Senate desires, when the bill reaches the Senate, it can non-concur in the amendment, which would leave the bill as it stood originally.

Mr. SARGENT. I understand the amendments have been concurred in already.

The PRESIDENT *pro tempore*. No, they have not.

Mr. MORTON. Is this matter settled?

The PRESIDENT *pro tempore*. Not yet. If there be no further amendment, the bill will be reported to the Senate.

The bill was reported to the Senate as amended.

Mr. MORTON. I ask for the yeas and nays on the amendment in regard to taxing tea and coffee.

The PRESIDENT *pro tempore*. Then the amendments will be taken up separately. The question is on the first amendment of the committee.

Mr. PADDOCK. Was not the amendment in regard to taxing tea and coffee withdrawn?

Mr. MORTON. No, sir; it was adopted.

Mr. DAVIS. I raise the point of order that the amendments were announced from the Chair as having been concurred in.

The PRESIDENT *pro tempore*. The Chair asked if there was objection to concurring in the amendments, and then the Senator from Illinois rose to offer a further amendment. That was in the nature of an objection to the concurrence.

Mr. LOGAN. What amendment was adopted?

Mr. DAVIS. All the amendments were adopted.

Mr. LOGAN. What was the last amendment about an appropriation from the Treasury?

Mr. SARGENT. I should like to inquire whether the record of the Clerk shows that the Senate has concurred in the amendments made as in Committee of the Whole?

Mr. LOGAN. The Senate has done no such thing.

The PRESIDENT *pro tempore*. The Chair was correct. When the Chair stated the question on concurrence in the amendments made as in Committee of the Whole the objection was made, and the record shows that no vote for concurrence was taken. The question is now whether the Senate will concur or non-concur in gross or separately in the amendments?

Mr. LOGAN. Let us vote on the amendments separately. I did not understand the amendment of the Senator from California. I thought it was an amendment to pay money out of the Treasury for this bounty, but I understand it is an amendment in reference to a tax on tea and coffee.

Mr. MORTON. It is a tax on tea and coffee.

Mr. SARGENT. Certainly it is, because the operation of this bill, as I understand it, would take from the Treasury an amount equal to that which we have now there as a sinking fund. It would destroy our credit; and it seems to me that a measure of this kind should carry with it the means of preserving our credit and making the payment which would have to be made from the Treasury under this bill. Therefore I offer the amendment in perfect good faith. I should like to say, however, that upon the merits of the bill itself I am opposed to its passage. Let it be distinctly understood that that is my position in regard to the matter. There should be no doubt about it, for I have voted against this bill at previous sessions over and over again. I shall do it as long as I believe the beneficiaries of this bill will not be the soldiers, but claim agents, who particularly insist that Senators shall vote for it. I do not believe that the financial condition of the country at the present time is so flourishing that we can afford to take anywhere from ten to a hundred millions of dollars from the Treasury for this purpose. I believe that under the necessary operation of this bill the number of clerks that would be required and the amount of machinery which would be set at work in the Department would be something from two and a half to three millions of dollars. That is not a wild guess at all, but founded on figures which I myself have received from officers of the Treasury Department who have investigated the matter. In obedience to my request that they would give me the best information within their power, they never set the cost of this bill at less than $21,000,000; and it is a very grave question. For one I do not think the bill ought to pass unless there is coupled with it something that will fill up the gap that will be made by it in our resources. If Senators are in earnest in desiring that this money shall be paid, let them at the same time provide the means by which it shall be paid.

Mr. LOGAN. Mr. President, I intended when I called up this bill to-night to have a vote taken on it without any discussion, for the reason, as I stated, that it has been discussed so often in this Chamber that I thought there was no necessity for any further discussion. But I am very sorry to see the character of objections that are urged against it. If there is a debt known to man that ought to be paid, it is the debt that the Government owes the men who saved its life. These men have gone for twelve years unpaid, with the law upon our statute-book calling them into the service of this country and promising them a bounty for their enlistment in behalf of the Government. They were mustered out, some of them one day before the term expired, some of them two days, some of them a month before, merely sufficient time under the construction given by the Adjutant-General to the law to deprive them of receiving the least bounty that the Government had agreed to pay them. A bounty was to be paid annually to soldiers, and they received two years' allowance, but not the last year's, because they were mustered out one day before the expiration of the three years. It was construed that they were not entitled to bounty although they had performed service to the Government.

This claim has been presented from the year 1866 up to the present time and passed through the House of Representatives of every Congress of the United States since. My patriotic friend from California stated on this floor last night that he would vote to pay claims against the Government to men who went into the confederate service that were due for mail service to this Government, because the Government had contracted to pay them and because of the patriotic service within the last few days of his friends in voting the same way he did. Now, it does strike me as strange that he should object now to the little pittance that is to be given in many cases to poor widows or orphans, or a crippled or lame soldier that the Government agreed to pay, and solemnly enacted it into a law. I thought that no republican, if I may use the expression, would ever be found in Congress who would fail to support a bill which gave to the soldier that which the Government agreed to give him. I did not believe that a democrat could be found who would do it. I believed that there was patriotism enough left in this land to carry out the contract with the men who saved the Government.

Sir, in 1865, when 100,000 of these poor soldiers marched down Pennsylvania avenue, right on the walls of this Capitol where now their rights are denied was in grand, large, and magnificent letters the following language: "There is one debt the Government never can pay: that is the debt of gratitude it owes to the soldiers that saved this Republic." Sir, the Government doubtless has been grateful to these men; but the gratitude that these poor men ask now—and when I speak of poor men I mean the poor soldier, the man who is suffering and needs his money, or his widow, or his orphan—is not that you will give them office; it is not that you shall follow him with drum, and fife, and flag, but it is that you shall pay him the money that you owe him according to the law of the land. That is the gratitude that the soldiers ask; that is the gratitude they have appealed to Congress

for time and again; and I am sorry to say that only in this Senate Chamber has it ever been refused by any party or any set of men representing the people of this country. No House of Representatives of either politics has ever been found that refused to pass a bill paying these men what they are entitled to; but in the Senate of the United States it has time and again been defeated. It passed once and was vetoed. Again it is presented when the bill has passed by almost a unanimous vote of the House of Representatives, at the last session, voted for by democrats and by republicans alike, because it is just and honest.

An estimate in report after report has been made in reference to this bill. The estimate that I made myself was that it would cost probably $13,000,000; but in costing that the same estimate would show that it would take probably ten years to fulfill and comply with the law. It would pass along for a great while before these men would all be paid the little pittance due, before their applications could be made, examined, passed upon, and payment made, and in that way the country would not feel it, in that way the Government would certainly not be robbed and surely not bankrupted by carrying out its own obligation.

If the Congress of the United States shall fail to perform what I believe to be an honest duty toward these men, then I will say that the Government of the United States of America has not acted in good faith with the men who defended it in the time that it needed their strong arms in support of a rocking and trembling Republic.

Is there a man here that will put up the little plea of agent, and say that agents will get some of this money? God knows it is not a question in my mind whether some agents will receive $5 or $10. That has nothing to do with it. The question with me is whether this money is due to the crippled soldiers that come to our door day after day and appeal to us through committees from almost every State in this Union for the passage of a bounty bill that gives to them the pittance they were entitled to under the law. Have they not been cheated out of it by being mustered out one day or two days or three days prior to the expiration of their time? This bill gives them the eight and one-third dollars per month, so as to equalize the bounties—$100 a year—that they were entitled to had the whole year's service been exhausted; but, forsooth, one day was lacking, and therefore they could not receive the amount.

I know it is getting nowadays to be that if any one makes an appeal for the soldier you see a sneer or a kind of laugh on the faces of many. They say, "The soldier is played out." Well, perhaps he is; I shall not say. It certainly seems that he is, in Congress. It is very sure that he has never knocked at the door of Congress in reference to getting what the Government ought to pay him, that he has got it under a bill of this character. The same false plea is made that some claim agent will make $10 or that the Treasury will lose it. But, Mr. President, if the rich and the haughty and the proud come to your doors and ask you to pay large amounts on your appropriation bills for claims not well proven, in nine cases out of ten it is done. If the question is asked whether you will take up your currency and give bonds by the hundred million, drawing a rate of interest, to be substituted for a debt drawing none, nine times out of ten you find Congress ready to pass it for the benefit of the man who has money. But if the poor and humble ask you to do a kindly act for them, the Treasury is going to be robbed, and it cannot be done!

This, Mr. President, is perhaps the last appeal I shall ever make in the halls of legislation in behalf of the soldier of my country. I have stood here and tried to defend him for years and tried to see that he should have the rights at least that the laws of the country give him. I have failed. Now, sir, let me say that if your country again shall ever be in a disturbed condition, when it shall be tottering from its base, when it shall be rocking and careening, when enemies from foreign lands shall thunder at the gates of your Capitol, or when insurrection may occur at home and your flag is being trailed in the dust, these men that you deprive of that which the law gives them will be the men you will appeal to again to save your institutions; and poor and humble as they may be, decrepit perhaps as they may be, they are the first to respond and will be the first. It is the poor and the humble man that saves your country in time of trial. He is the man that carries the musket; he is the man that carries the flag; he is the man that does the work; he digs your trenches; he sleeps behind your fortifications; he stands up to be shot; he is the man that appeals to you now to do him justice. But, sir, if justice cannot be done, I for him in this Senate Chamber will say the time has never been and the time never will be when, if these men are called upon as the protectors of this land, they will not stretch out that strong arm again and steady the rocking pillars of the grandest Republic that man has ever known or was ever permitted to have an interest in. They have done it once; they will do it again; and for them now I appeal to this Senate to at least give an opportunity to these men to present their claims. If they are just, permit them to be allowed; if unjust, let them be rejected like the claim of any other man. They are certainly preferable to cotton claims; they are certainly preferable to claims for destroying property in preserving the nation; they are certainly preferable to the claim of the pardoned man for making war against his Government, when he asks you to pay him for the property lost while he was trying to destroy the Government that gave him protection. While this is being done I only ask that their claims may be made equal, for I believe it looks as if the time was approaching when these men would have to bow and beg pardon for having preserved the country. But before you force them to do that, pay them what you owe them. [Applause in the galleries.]

The PRESIDENT *pro tempore*. If the Chair hears applause a second time he will order the galleries cleared at once; and this he means.

Mr. SARGENT. Mr. President, I suppose it will be admitted in this Chamber or anywhere else where the question may be mooted, that the President of the United States, General Grant, is a republican. I suppose it will be further admitted that he has as warm and intelligent a sympathy for the soldiers as any man over this broad country. Any man who impeached either of these propositions would impeach his own honesty and good sense. This bill once passed both Houses of Congress and was vetoed by General Grant, the President of the United States, a republican without fear, without reproach; a soldier himself of most exalted service; a man the warmest impulses of whose heart are for the soldiers with whom he served; and I want to know what right any Senator has to impeach his republicanism, or impeach the motives of any other Senator who stands in the same position upon this matter as the present President of the United States. That is a sufficient answer to all aspersions of motives attempted upon this floor. That fact cannot be wiped out.

Mr. LOGAN. Nobody has aspersed the motives of any one.

Mr. SARGENT. Senators who oppose this bill are spoken of as if they turned with cold hearts away from the soldiers of the Republic, as if they had no appreciation of their valor upon the battle-field, no sympathy for their sufferings, no care for their rights. It is only those who favor the bill who are entitled to the respect and confidence of that class of the community. Now, sir, I dare do what I think right in the face of clamor from any class. I dare stand here and state that I believe that this bill is iniquitous in its provisions, instead of equitable. The claim is made here that this is the law, and we are violating right and law because we do not pass it to enforce the law. Why, if it was the law on the statute-book, all we need do would be to put an amount in an appropriation bill and the Department would apply that amount to carry out the provision of the law. It is because you have to come in now and make additional provision of law, causing great expenditure of the Departments, that I claim that we should carefully scrutinize this bill; and not, under the claim that there was a right springing out of previous contracts, pass it.

I have a respect and admiration for the present President of the United States, President a few hours longer, which is enhanced by the fact that he saw clearly and plainly the tendency of this bill and that it was an injustice to the Treasury and simply was enriching claim agents rather than the soldiers over whom so much sympathy is expressed. I have an admiration for him because his administration in nearly every direction has been a great success. He came into power with gold at 140, and to-day it stands in New York between 104 and 105. Under his administration and by economy, taxation being reduced, the public debt of the United States has been reduced by $400,000,000, and $30,000,000 payment off the annual interest charge; his foreign policy has vindicated the good name of America, ay, vindicated its power before all the nations of the earth, and not by war but by peaceful arbitration and moral means. However circumstances may have defeated the just application of his policy with reference to domestic matters, I believe that in all these things it will be conceded that he was patriotic and did that which he thought best for the country.

The past has not been ungrateful to the fame of General Grant, or the present, although both have come far short of rendering full justice to his purity of character, his patriotic purposes, and his great achievements in war and in peace. The future will make full compensation; our children and our children's children for countless generations will hold in admiration not only the brave and skillful warrior, directing during a period of a terrible conflict the forces and resources of the nation in an unerring path to triumph, but will appreciate and admire his equally great services in composing the warring elements lashed into confusion by civil war, and look back with loving veneration upon a record in every line of which is written dignity, honor, wisdom, and patriotism.

When such a man, whom even now the assaults of party malice fail to lessen in public love and esteem, comes forward and puts his seal of condemnation upon a bill like this, relating to the class of which he was an eminent member, it may be well for us civilians to inquire whether upon a matter so purely military in so many of its points we ought not to pause before overruling him.

I have here a document emanating from the Treasury showing that the expense of this bill will be at least $100,000,000. Is that an amount to be taken from the Treasury upon an appeal to sentiment?

Mr. LOGAN. Will the Senator allow me to say that any estimate of that character made by any man, I care not whether he is an official or not, is without any foundation whatever? I have made the calculation as carefully as anybody. That now referred to is based on the number of soldiers given, without calculating deaths or anything else. I made the estimate, as I stated, that it would not be over $13,000,000, and I know that statement is not out of the way. I have estimated it time and again, and the statement now cited by the Senator has been contradicted here and shown not to be correct time and again in this Senate Chamber.

Mr. SARGENT. I have no doubt the Senator conscientiously believes the statement that he makes. I think, however, that upon a mere financial proposition the statement of the Comptroller of the Treasury is entitled to great weight. I want to call the attention of the Senate to a careful statement made by the Comptroller showing the elements of his calculation; and I say that, after a careful examination made by myself of this statement, I fully believe the conclusions at which he arrives. This is dated Treasury Department, Second Comptroller's Office, February 17, 1874:

SIR: In compliance with the request contained in letter of Hon. POWELL CLAYTON, United States Senate, to the Second Auditor of the Treasury of date the 10th instant, referred by the Auditor to the Secretary of the Treasury, and by the Secretary to this office for preparation of reply, I have the honor to submit the following *estimate* of the *amount paid* for "bounty to soldiers who served in the late war for the Union, including those borne on the rolls as slaves," and the "*amount* which would be *necessary* to carry out the provisions of the bill herewith inclosed (H. R. 1910, Forty-first Congress, second session) should the same become a law."

He then goes on to give the date of the calls, the number of soldiers called for, the service in months, the number of men credited, the bounty paid, and the amount required to equalize, with explanatory remarks, and then shows the amount required under each item.

April 15, 1861, there were 75,000 called for who served three months; 93,326 were credited, and the amount to equalize them is $25 each. This item alone amounting to $2,333,150.

May 3, 1861, for the six months' service 2,715 men were credited and the amount required to equalize is $50, and that would amount to $135,750.

Under the calls of July 22, and July 25, 1861, 500,000 men were called for who served respectively for twelve, twenty-four, and thirty-six months. The number credited respectively was 9,056, 30,950, and 671,419. The bounty paid to part of them was $150, and part $200, and the amount required to equalize in the one case would be $50, and in the other $100. For part of them the total would be $1,547,500 and for the rest $67,141,900, in itself five times the amount of the estimate made by the Senator from Illinois.

In June, 1862, there were 15,000 more men credited. The amount required to equalize is $25 each, and the total required would be $375,175. July 2, 1862, there were 300,000 men called for who were in service thirty-six months, and 430,201 were credited who received $200 bounty, and $100 would be required to equalize them, and this amounts to $43,020,100.

And so, going through the table, he shows the amounts that were called for at different dates, the number who responded, the amount of bounty, the term of service, and the whole figures up $141,596,375. He then goes on to give credit for deductions. Deducting the number of men enlisted in 1861 and in 1862 who re-enlisted as veterans, 158,507, to whom a bounty of $200 was paid and $100 is required to equalize, making $15,850,700, and then for deserters and bounty-jumpers he deducts $10,000,000, and deducts for officers and soldiers dishonorably discharged or discharged at their own request as minors, enlistments from rebel prisoners, excess of credits over actual enlistments, and all other causes, $15,000,000 more, making deductions of $40,850,700, leaving a net result of $100,746,675.

Mr. LOGAN. How much does he allow for deaths in the Army?

Mr. SARGENT. I have stated the deductions that he gives. The letter continues:

January 15, 1872, the Paymaster-General submitted to Hon. John Coburn, chairman of House Committee on Military Affairs, an estimate of the amount required to carry out the provisions of H. R. 89, known as "Niblack's bill," the amount being $137,275,105.94; and that to carry out the provisions of H. R. 240, introduced by Hon. Mr. Holmes, would require $163,543,634.61.

He says:

My estimate on first-named bill (H. R. 89) was $101,947,825. From the foregoing data it is evident that the bill under consideration, (H. R. 1910,) should it become a law, would call for more than $100,000,000 to satisfy claims under it, and would necessitate the investigation and settlement of about one million five hundred thousand claims, requiring the labor of two hundred and fifty additional clerks in the office of the Second Auditor, and a corresponding increase in this office for four years to prepare for adjudication and payment the cases arising under the law.

This was directed to Hon. William A. Richardson, Secretary of the Treasury at that time.

Now, sir, I am not entirely familiar with all the elements of the calculation. The suggestion made by the Senator from Illinois that allowance is not made for deaths in the Army, which may be deducted under this bill, may have considerable bearing; but we are dealing with a sum of a hundred millions, and deduct one-fourth, and then you have seventy-five millions, and certainly that would be an extraordinary deduction, even under the suggestion that he makes.

Sir, I desire to repel for once and all the imputation upon Congress or any party in Congress, so far as that is concerned, or any party in the country, and especially for the republican party, that they have been ungrateful to the soldiers. We are paying now, annually, $30,000,000 in pensions to our soldiers and their widows and orphans. We have paid since the war closed $450,000,000 in the way of pensions to soldiers and their widows and orphans. The country has been most generous and most appreciative of this class of men; and it is no reason, because a claim is raised that the soldiers want the money or that we ought to have more sympathy for them, that we should put our hands into the Treasury and draw out $75,000,000 or $100,000,000, and such suggestions should have no value in legislation. If there is a contract with us let them show the contract and it will be upon the statute-book. The contract will speak for itself. If the accident of war, the abrupt termination of it is as was supposed, the mustering out of the regiments some weeks before the time they enlisted to serve expired, shortened the time during which they were paid or the amount of bounty to which they were entitled under existing laws, that was an incident of the service and does not raise an obligation in the nature of a contract. At most it is an equity; and putting it upon this ground, that this is a mere equity, then we should ask whether we ought for an equity of that kind, doubtful certainly in its character, and where we are making so much appropriation annually on a burdened Treasury for pensions to men paid so liberally, as ordinarily our soldiers are paid during war as compared with other soldiers, to put our hands into the Treasury and take out from seventy-five to one hundred million dollars.

I trust it will be very distinctly understood whether I am for or against this bill, and whether I offer amendments in order to perfect the bill or to defeat it. I think with the President of the United States that the bill ought to be defeated.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House still further insisted on its disagreement to the seventy-sixth and seventy-seventh amendments of the Senate to the bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes, asked a still further conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. WILLIAM S. HOLMAN of Indiana, Mr. HIESTER CLYMER of Pennsylvania, and Mr. CHARLES FOSTER of Ohio managers at the conference on the part of the House.

The message also announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes.

The message further announced that the House had passed a bill (H. R. No. 3349) granting a pension to Mrs. Rebecca C. Maxwell, widow of the late Colonel O. C. Maxwell, One hundred and ninety-fourth Ohio Volunteer Infantry.

Mr. LOGAN. Mr. President——

Mr. ALLISON. I ask the Senator from Illinois to yield, that I may make a conference report.

Mr. LOGAN. Yes; certainly, I yield for that.

POST-OFFICE APPROPRIATION BILL.

Mr. ALLISON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4187) entitled "An act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

The House recedes from its disagreement to the amendment of the Senate No. 12, and agrees to the same, with an amendment making the sum $9,250,000; and the Senate agrees to the same.

The House recedes from its disagreement to the amendment of the Senate No. 13, and agrees to the same, with an amendment making the sum $150,000; and the Senate agrees to the same.

The House recedes from its disagreement to the amendment of the Senate No. 33, and agrees to the same, with an amendment making the sum $2,939,725; and the Senate agrees to the same.

W. B. ALLISON.
H. G. DAVIS.
H. L. DAWES.
Managers on the part of the Senate.

WM. S. HOLMAN.
CHAS. FOSTER.
HIESTER CLYMER.
Managers on the part of the House.

The report was concurred in.

THE LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WINDOM submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes, having met, after full and free conference, have been unable to agree.

WM. WINDOM,
W. B. ALLISON,
H. G. DAVIS,
Managers on the part of the Senate.

WM. S. HOLMAN,
HIESTER CLYMER,
HENRY WALDRON,
Managers on the part of the House.

Mr. WINDOM. As it is known to the Senate, the only disagreeing vote, referred to the committee were those relating to the President's salary, the House bill reducing it from the present salary to $25,000. The committee have disagreed upon it, and I move that the Senate insist on its amendments and ask a further conference with the House.

The motion was agreed to.

By unanimous consent, the President *pro tempore* was authorized to appoint the conferees on the part of the Senate; and Mr. WINDOM, Mr. ALLISON, and Mr. DAVIS were appointed.

EQUALIZATION OF BOUNTIES.

The Senate resumed the consideration of the bill (H. R. No. 58) to equalize the bounties of soldiers who served in the late war for the Union.

Mr. LOGAN. I do not desire to detain the Senate in discussion; but I merely rise to ask their attention for a moment that they may see how men can be imposed on and how strange it is that an official under the Government should attempt to palm off a paper of this kind as an honest statement.

The whole number of enlisted men was 2,690,401. He gives the whole number of enlistments, and then shows that the bounty of that number of men would amount to so much, and deducts the bounty actually paid and includes the balance to make up this $100,000,000. I ask the Senator from California if he does not think that some of these soldiers died. Were not some of them killed? Did not some of them desert?

Mr. MORTON. Not many.

Mr. LOGAN. I suppose not.

Mr. SARGENT. Three million dollars are deducted in this statement for bounty-jumpers and deserters.

Mr. LOGAN. There were 80,000 deserters from our Army. The Senator knows the fact that out of the 2,000,000 men enlisted we never had over a million of men in the Army. Some men enlisted three times, and every enlistment is counted to make up the 2,690,401, and this statement calculates the bounty of 2,690,401 men. The statement is a fraud on its face and the Senator ought to know it. We had about a million of men in the Army and never more than that. Some enlisted twice; some enlisted three times; some jumped, as they called it, were bounty-jumpers; some deserted; some few absolutely died, strange to say; and this paper does not show that a solitary man died or that anybody ever was killed. It makes the calculation just as though we had to pay bounties to 2,690,000 soldiers. How this paper was gotten up I do not care to state, except that it was got up in order to prevent the passage of this bill. It is not a truthful statement; it is not an honest statement; it is not a fair statement; it is a fraud upon the Congress of the United States; and the man that made it up knows it, and the man who signed it knows it; I do not care who he was nor how high an official he was. I have made the calculation taking the estimate from the War Office of deaths and desertions, of bounty-jumpers, and of the number of soldiers now alive.

Mr. SARGENT. Will the Senator allow me a moment? In view of that statement will the Senator please explain to me section 2, which provides:

That in case of the death, either before or after the passage of this act, of any such non-commissioned officer, musician, artificer, enlisted wagoner, or private soldier, the allowance and payment shall be made to his widow, if she has not remarried, or if there be no widow, or she has remarried, then to the child or children of such deceased non-commissioned officer, musician, artificer, enlisted wagoner, or private soldier.

Now I should like to know how death figures in the case; if the amount which would be paid to a soldier if alive is to be paid to his widow or children.

Mr. LOGAN. The Senator is wrong again. He goes on the proposition that every man in the Army was a married man and had children. There were some few in the Army who were not married.

Mr. SARGENT. Will the Senator allow me?

Mr. LOGAN. Certainly.

Mr. SARGENT. I was simply carrying out his statement. Even he cannot say every one who went into the Army was not married.

Mr. LOGAN. No, I do not say that; some of them were. I only want to call attention to the unfairness of this statement. The majority of men in the Army were single men; everybody knows that; and a great many died. I have the figures, but I do not want to take up the time of the Senate. We did not get back home with two-thirds of the Army that enlisted. We never had over a million of men, and the majority of that million of men drew their bounty. You may take the amount required for bounty for a million of men, take off two-thirds, and the fair calculation would be to compute for only one-third, and it would make about $10,000,000. That is about a fair estimate. Thirteen millions I put it at, because I did not think it was unfair or unreasonable to go that far.

Mr. MORTON. Mr. President, I have supported the administration of General Grant with a reasonable fidelity, but I do not acknowledge myself bound by any veto message or other message that he may send to the Senate except for the reasons contained in it.

If the President vetoed this bill on a former occasion for good reasons, I should feel myself bound by it, not because of the veto but because of the reasons. I had the understanding that the former veto proceeded on a mistaken notion entertained by the President as to what this measure would cost, a notion growing out of the report or paper which has just been read by the Senator from California. I must say in regard to that estimate that I do not regard it as at all reliable. I think it was gotten up as a scarecrow. It proceeds upon a false basis. I do not believe that this bill will cost one-third, or more than that, of the estimate contained in that paper. But suppose it did; that is a mere calculation as to how much it will cost to be honest, how much it will cost to do simple, naked justice.

This is a bill "to equalize the bounties of soldiers who served in the late war for the Union;" a bill to place them all upon the same equality, a bill to pay one good soldier just as much as was paid to another, a bill to carry out the spirit of the contract and to do justice where the spirit was violated by the letter. A great many men lost their bounty because they failed to serve out the full term of the enlistment, where they were honorably discharged, discharged for wounds or for sickness or because the war came to an end before the term of their enlistment expired. It was held by a technical construction of the law that they could not receive their bounty or the proportion of it because they had not served out the full time. A man who enlisted for three years and who served two years and eleven months and was honorably discharged for a wound, or because the war was at an end, it was held could not receive his bounty, because he did not serve out the full three years.

At one time it was held in England that if a man hired himself to work for one year and worked three hundred and sixty days, and then was unable from sickness to complete the full term of one year, he was not entitled to receive a cent of the whole compensation. That was once the law; but it was afterward overruled and, the courts held otherwise. It was upon that principle that these bounty laws received the construction that unless a soldier served out the full term of his enlistment, no difference from what cause he was mustered out of the service, he could not receive his bounty. It was gross injustice, and it is an injustice that will cry aloud until it is remedied. You may put it off now; you may take the opprobrium of refusing to do justice now; but it will come some time, and the men who bring it about will get the credit for it, and the men who refuse it will get the credit for that.

Now, Mr. President, let me read a portion of the first section of this bill, and see what it says:

That there shall be allowed and paid to each and every non-commissioned officer, musician, artificer, enlisted wagoner, and private soldier who faithfully served as such in the military service of the United States, who have been honorably discharged from such service, the sum of eight and one-third dollars a month for all the time which such non-commissioned officer, musician, artificer, and enlisted wagoner, and private soldier, actually so served, between the 12th day of April, 1861, and the 9th day of May, 1865.

It is to pay them each eight and one-third dollars a month for the time they actually served, and that is all. The most of them have received it; but some, from misconstruction of the law and from other causes, have not received it; and the purpose of this bill is to make things equal, to do equal justice to all, to put all upon the same footing. On this demand for equal rights, equal justice to the soldiers who exposed their lives for their country, we are met by a question of cost. How much will it cost to carry out the contract in its spirit rather than in its naked letter? How much will it cost to do right, to do this simple justice to the soldiers that saved our Government, if it shall be saved? We are met by a cold calculation from some clerk in the Treasury Department that it will cost so much money, and that I believe proceeds upon a false basis. He takes the whole number of soldiers nominally mustered into the service over two millions, whereas we know there was no such number in the field.

Mr. LOGAN. Two million six hundred thousand.

Mr. MORTON. We all know that that is a false basis. The Senator from California, who is remarkably well informed, must himself understand that there was no such number in the field.

Mr. SARGENT. The bill includes wagoners and others.

Mr. MORTON. You may take mule-drivers and everybody.

Mr. LOGAN. And the mules, too, would not make that much. [Laughter.]

Mr. MORTON. The Senator from California has offered an amendment here to raise revenue to pay off these bounties by levying a tax of 3 cents a pound on coffee and 10 cents a pound on tea. I call that Senator's attention to the fact that such an amendment is unconstitutional. Every bill to raise revenue must originate in the House of Representatives. I thought that provision was pretty well understood, but lest it may have been forgotten I will read it:

All bills for raising revenue shall originate in the House of Representatives.

You cannot levy a tax upon tea and coffee by attaching a tax bill to a bill providing for paying soldiers' bounties, or providing for any other matter, in the Senate. It is in the nature of a bill to raise revenue, even if you put it on in the form of an amendment in the Senate to this or any other bill. Perhaps it is all wrong that the Constitution makes that requirement, but it does. That amendment has no business here. I suggest that it is out of order to receive it.

The Senator from California says that this is for the benefit of claim agents who are principally urging it. Section 7 provides:

That it shall not be lawful for any soldier to transfer, assign, barter, or sell his discharge, final statement, descriptive list, or other paper, for the purpose of transferring, assigning, bartering, or selling any interest in any bounty under the provisions of this act. And all such transfers, assignments, barters, or sales heretofore made are hereby declared null and void as to any rights intended to be so conveyed by any such soldier.

That is a very stringent provision, intended to guard the soldiers against the sale of this bounty for a trifle, against the schemes of claim agents, of tricksters, and of gamblers. It makes every transfer invalid. The money can only be collected by the soldier himself, and no transfer or sale of his claim can be made that will enable the person purchasing or obtaining it to draw the money.

Mr. President, the very genius of our Government is equal justice to all, equal rights, and we can never safely stop short of it. Because a portion of the soldiers were deprived of their bounty by a

technical construction of law or by misfortune or accident, where they were honorably discharged and were good soldiers, we cannot safely refuse to do those men justice. If we do, it will come back as a punishment to us; it will come back as a punishment to the party that does it.

My friend from California said the republican party could not safely be charged with ingratitude to the soldier. Not up to this time, perhaps; but whether we can be charged with it will depend not upon the declaration of my friend, but upon what we do. We cannot refuse this justice and then go to the soldiers and say, "We are your friends; we intend to do you justice." They will point you to your act, and I say there are thousands and tens of thousands of good soldiers all over the country who are now demanding the passage of this bill as an act of simple justice to them who feel that they are entitled to this money although it may be a small sum, and upon every principle of justice and of gratitude that the country can owe to a man. Those men will go to their graves feeling that way, and their children will believe that way after them. It is not a question of how much it will cost, but it is a question of right, of justice.

Mr. President, the Senator from California says he has always voted against this bill. I have always voted for it and I intend to vote for it whenever I get a chance. That it will yet be accorded, I have no sort of doubt. Justice lives; you may crush it but it rises again. This demand will forever come back to us until it has been complied with. It has been delayed a long time now, and I can say to my republican friends that they have suffered by the delay that this claim has received.

I do not present that as an argument, but I say that is the fact and that they will suffer for it. But that is not a legitimate argument. This claim should stand upon its own merits. If this money is due in the spirit of the law as a matter of absolute justice, it ought to be paid, no matter what party suffers or what party gains, no difference whether we have money in the Treasury or have to provide some means of collecting it.

I am going to say one thing further, and then I shall be done. I hope every amendment will be voted down. To adopt an amendment is to destroy the bill. I want the friends of the bill to understand that, and I want them to understand that nobody will be deceived, either, by the adoption of the amendments; it will be understood that every amendment that is adopted to this bill at this time is equivalent to its destruction. If the bill requires amendment in some small particulars, that can be corrected hereafter. When once the main proposition is adopted everybody will be willing to correct it afterward in order to make it what it ought to be and to relieve it from any error. The main proposition is now before us and it ought not to be defeated by any small thing. I hope, therefore, that the friends of this bill will vote down every amendment and let the bill pass.

Mr. HARVEY. I think it hardly fair for my friend the Senator from California to throw the great public services and good intentions of the President into the scale against this bill. If events should prove that he still entertains the view of this matter that he did on a former occasion, under different circumstances, there will be time enough then to consider any reason that he may have for vetoing it when it again reaches him. I do not think there is much in what has been urged as to the state of the Treasury in preventing the passage of this bill. The Treasury, under our Constitution, in this country is not a great institution to dominate and control the legislative action of the Government. The Treasury is the place where the money of the people is deposited for safe-keeping until it is required for the payment of the public debts, and if it should prove that there is not now a sufficiency of money in the Treasury to pay these claims and other demands, as has been justly stated, provision can be made in the proper quarter and at the proper time for raising the necessary money.

A great deal of stress has been placed upon the necessity of doing justice to public creditors. The Government has done justice to most of its public creditors, especially that portion of them who have accumulated sums of money, whether from the advantages given to them through shoddy contracts or otherwise, and who have invested in bonds. The Government has paid the bondholders promptly, and the interest even has been anticipated and paid before it was due, while the men who bared their bosoms to the storm of battle in defense of the country await tardy justice, and very tardy justice indeed. I think they have waited so long that we cannot justly ask them to wait longer. I care not what anyone else thinks of this measure, I shall take pleasure in voting for it as often as I shall have an opportunity to do so. I have voted for it upon every opportunity heretofore.

Mr. LOGAN. I hope the Senate will consent to vote upon the amendments in gross and let us take the yeas and nays on all the amendments together. Those who are in favor of the bill of course will vote against the amendments, and those who are not in favor of the bill of course will vote for the amendments. We might as well decide by one yea and nay vote upon the amendments in gross.

The PRESIDENT *pro tempore*. Shall the amendments be taken in gross?

Mr. SARGENT. To that I have no objection.

Mr. EATON. I hope not. I hope the amendments will be taken singly.

The PRESIDENT *pro tempore*. Objection is made, and the first amendment will be reported.

The CHIEF CLERK. In line 4, before the word "wagoner," the Senate as in Committee of the Whole inserted the word "enlisted;" so as to read:

That there shall be allowed and paid to each non-commissioned officer, musician, artificer, enlisted wagoner, &c.

Mr. SARGENT. It is so obvious that that amendment is right that it ought to be adopted. No one can question that the Committee on Military Affairs, of which my friend is the honored chairman—I only regret that he is not to be hereafter—reported the bill with amendments, obviously for a good purpose.

Mr. LOGAN. I will say to the Senator that it is immaterial whether the word "enlisted" is inserted in this section or not. The reason the word was put in was to make the language a little more clear.

Mr. SARGENT. I trust my friend will not weaken my confidence in the Military Committee.

Mr. LOGAN. I hope the Senator has confidence in the committee, his votes, however, do not show it.

Mr. SARGENT. Sometimes.

Mr. LOGAN. I will say that if a person being a wagoner was a soldier, he would get a bounty anyhow, although he could not get it simply as a wagoner. The amendment would include enlisted wagoners, those who were enlisted not as soldiers but as wagoners, but who became then a part of the Army. By not putting the word "enlisted" in, I will say to the Senator, it would give less money, and therefore to leave the word "enlisted" out is just on his line of economy. I hope the amendment will not be adopted, for the reason that I think it might cause the bill to be lost.

Mr. SARGENT. The committee were in favor of the largest amount, then, whether right or wrong.

Mr. LOGAN. No, sir; the committee were not in favor of the largest amount. The committee were willing to give every man who was enlisted in the Army, whether as a teamster or as a soldier, who took the chance of his life, the same right. That is the reason for the amendment; but for the purpose of getting the bill through I desire that the amendment shall not be adopted, although I think it is just. It is not a material amendment, however.

Mr. DAVIS. I think it right and proper if the bill is passed to provide for the collection of additional revenues. Why? The chairman of the Finance Committee, who is not now in his seat, has stated more than once, I think, that additional means must be provided if this bill should pass, and that it would cost about $100,000,000; and the figures presented by the Senator from California bear out that statement.

Mr. LOGAN. Let me ask the Senator a question, which I think he will consider pertinent. Suppose the bill should pass and the means were not at hand to pay this money; the Government certainly would not pay it until it got the means. Therefore, if the means are not provided, the Government would only delay the payment until the means were provided. We do not need to provide the means, because that would defeat the bill. Congress may convene shortly, and then it could provide means if necessary.

Mr. DAVIS. I will ask the Senator, in return for his question, whether or not he desires the Government to be dishonored on account of the very soldiers whom he proposes now to protect, having them come to the Treasury to be told that there is no money there to pay them; or does he want the payment of other matters to be delayed?

Mr. LOGAN. I do not mean that the Government should be dishonored any more than the Senator from West Virginia. I think I have stood up for the honor of the Government as much as the Senator from West Virginia, and perhaps if our records were compared it would be shown that I have been equal to him in that respect; but I want to put this question to the Senator: Did the Senator last night, when he was defending the payment of mail contractors who went into the confederate army, make an attempt to provide the means for paying them, or did he simply vote for the appropriation without any means being provided?

Mr. DAVIS. That money belonged to those men, and the Government has kept it in the vaults of the Treasury; it has been standing to their credit for sixteen years.

Mr. LOGAN. Just as the money in this case has belonged to the soldiers.

Mr. DAVIS. The Senator last night voted against paying those contractors.

Mr. LOGAN. Of course I did. I voted against it as I vote against every other fraud, or where I think there is a fraud.

Mr. DAVIS. Now, I will go on with what I was saying. The entire revenue of the country for last year from customs was $148,000,000, in round numbers; from internal revenue, $116,000,000. From those two sources nearly all the revenue comes. The two sums together, as you see, make about $260,000,000. According to the best estimates we have had, this bill will take $100,000,000 out of the Treasury.

Mr. LOGAN. Now I desire right here to say——

Mr. DAVIS. These figures seem to trouble my friend very much.

Mr. LOGAN. No, sir. I ask my friend to state whether an honest estimate ever given by any man makes this payment cost a hundred millions or one-fifth of a hundred millions?

Mr. DAVIS. We had an estimate read here this evening coming from the Department. More than once, when I was attacking the Treasury Department, showing that the figures were in the wrong, my friend said, "No, they are all right."

Mr. LOGAN. No, I never said any such thing.

Mr. DAVIS. Now the Senator comes and calls them in question.

Mr. LOGAN. The Senator puts words in my mouth.

Mr. DAVIS. The chairman of the Committee on Finance, who has these things especially in charge, has stated from his seat here several times that it would cost $100,000,000 to carry out this bill, and that whenever this bill passed additional provision must be made for the payment of the bounties to these soldiers.

Mr. LOGAN. I ask the Senator if he believes the statement which was read, immaterial from whence it came, to be true? Does he believe that there were over 2,640,000 soldiers in our Army? Does he believe that statement?

Mr. DAVIS. I have to take the official records that come from the Department. That is the only way we can get evidence. That evidence has come to us from an official source, from the Department of the Government and from the books of the Department, and I certainly would take that evidence as quick as I would take any statement that could come from any other source.

Mr. LOGAN. I ask the Senator if he believes any school-boy fifteen years old in the United States is ignorant enough not to know that there never were 2,640,000 soldiers in our Army?

Mr. DAVIS. Then the official records are mistaken. I suppose the Senator knows more than those in the Department know who sent the records here. I take it he knows more than they do. We must take the official figures and not the words of anybody.

Mr. LOGAN. I never take falsehoods.

Mr. DAVIS. I have said that additional means must be provided. When we take the revenue report of last year, which is the last official record we have, we find that while there ought to have been a sinking fund of about $34,000,000 in round numbers, there were only about eighteen or nineteen million dollars, so that there really was a deficiency last year in the Government; and if this additional amount is to be put upon them, of course there must be a larger deficiency. Something must go without being paid, or this appropriation must be provided for. If the Senator really means that these men shall have their money, and if the Government owes them any money, let him provide a way for paying them, not for having them rapping at the Treasury without being able to get money which we voted should be paid. We should not pass a bill here without providing means for payment. That is not the right way of doing business. We should go square to the mark and increase taxes and provide at once for raising revenue so as to get the money.

Something has been said about the soldiers and the republicans and the democrats. The Senator has said he did not believe there was a republican in this land who would oppose the bill that is now before the Senate. As was well said to him by the Senator from California, the President vetoed this precise bill, a bill perhaps in the same words, and it is not fair to presume that he did so before unless he would do so again. He knew that there was not money enough in the Treasury to pay it.

Mr. LOGAN. Will the Senator allow me to correct his language a little? I prefer to make my own speeches. I did not say that I did not believe there was a republican in this land who would oppose the bill, but I said I did not believe that there was a republican in this Senate Chamber who would oppose it, but I was mistaken. I did not say anything about a soldier not opposing it; I used no such loose language.

ARMY APPROPRIATION BILL.

Mr. BLAINE. I dislike to interfere with this discussion, but I have an important conference report which I should like to present.

Mr. DAVIS. That is always in order.

Mr. BLAINE. I know it is in order; but I do not like to interrupt a discussion where there is a probability of a vote being taken.

The PRESIDENT *pro tempore*. The report will be received.

Mr. BLAINE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4691) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes, having met, after full and free conference, report that they are unable to agree.

J. G. BLAINE,
W. B. ALLISON,
WM. A. WALLACE,
Managers on the part of the Senate.

J. D. C. ATKINS,
ERASTUS WELLS,
CHAS. FOSTER,
Managers on the part of the House.

Mr. BLAINE. It was left to the committee in each House to state the points of disagreement rather than to embody them in the report. There were two points of disagreement—the large points, as they may be termed, in the Army bill as it came from the House. The first was the reduction of the Army to 17,000 men. On that the committee disagreed, but not so absolutely and pointedly as upon the second point; and, disagreeing so entirely on that, we rather left the first point unsettled. The House conferees took the ground that they would not under any circumstances consent to an Army appropriation bill unless the fifth section were retained, which directs by Congress what the President shall and shall not do with the Army in a given case. The Senate conferees were unable to yield that point, and therefore report to the Senate that they have so acted. I have no hesitation in saying myself that I think the loss of the Army appropriation bill would be a very small evil compared with the assumption by Congress of the power to direct in cases of that kind what the President of the United States as Commander-in-Chief shall or shall not do. I do not know what might be done in a new conference—of course one will be in order—but differing on these two points, and failing to come to anything like an agreement on the second point, the disagreement being just as absolute as it could be, there was nothing left for us but to report to each branch the conclusions to which we had come, or to which we had failed to come; and there the matter stands.

Mr. CAMERON, of Wisconsin. What do you propose?

Mr. BLAINE. I do not want to shut the door to any further conference; but I should dislike to see any conference that would indicate the slightest disposition on the part of the Senate to yield that point.

Mr. LOGAN. I do not think that Congress can amend the Constitution by an appropriation bill.

Mr. BLAINE. That was the ground which the conferees on the part of the Senate took; they thought it was not exactly in order to do it, and declined to recommend it.

The PRESIDENT *pro tempore*. Does the Senator move to insist and ask for another conference?

Mr. BLAINE. I would rather the new conference should be asked by the House.

Mr. WEST. Let the report go over.

Mr. BLAINE. Let it go over at all events for the present; it is privileged, and may be called up at any time.

The PRESIDENT *pro tempore*. The report will lie on the table for the present.

HOUSE BILL REFERRED.

The bill (H. R. No. 3349) granting a pension to Mrs. Rebecca C. Maxwell, widow of the late Colonel O. C. Maxwell, One hundred and ninety-fourth Ohio Volunteer Infantry, was read twice by its title, and referred to the Committee on Pensions.

EQUALIZATION OF BOUNTIES.

The Senate resumed the consideration of the bill (H. R. No. 58) to equalize the bounties of soldiers who served in the late war for the Union.

Mr. ALCORN. Is an additional amendment to the bill now in order?

The PRESIDENT *pro tempore*. Not unless it is touching an amendment on which a concurrence is asked. If it pertains to any amendment on which the Senate is to concur or non-concur, it is in order.

Mr. ALCORN. I wish to offer an amendment as an additional section to the bill.

The PRESIDENT *pro tempore*. That would come last. The question is on concurring in the first amendment of the Committee of the Whole, which the Secretary will report.

The CHIEF CLERK. In line 4, before the word "wagoner" the Senate, as in Committee of the Whole, inserted the word "enlisted;" so as to read:

That there shall be allowed and paid to each and every non-commissioned officer, musician, artificer, enlisted wagoner, &c.

Mr. EATON and Mr. LOGAN called for the yeas and nays; and they were ordered.

The Secretary proceeded to call the roll.

Mr. WEST, (when his name was called.) I am paired with the Senator from Vermont, [Mr. EDMUNDS.] If he were here he would vote in favor of this amendment and I should vote against it.

The Secretary concluded the call of the roll.

Mr. MORTON, (who had voted in the negative.) I am just reminded that I am paired with my colleague [Mr. MCDONALD] upon all polit ical questions. He was called away on account of sickness in his family, and perhaps this may be regarded as a political question. If it can be regarded in that way, I shall withdraw my vote.

Mr. HARVEY. Republicans have voted both ways on the question and I do not see how it can be considered political.

Mr. PADDOCK. I should like to inquire in what sense this can be considered as a political question.

Mr. MORTON. It ought not to be.

Mr. EATON. I do not think it is. General Grant vetoed the bill.

Mr. PADDOCK. It would be drawing it very fine to call it a political question.

Mr. SARGENT. I hope this will not be considered a political question. I do not wish to separate from my friend from Indiana on this question. The President vetoed the bill.

Mr. LOGAN. I think it will be a political question before many years.

Mr. MORTON. I do not withdraw my vote.

The result was announced—yeas 31, nays 19; as follows:

YEAS—Messrs. Alcorn, Allison, Anthony, Bailey, Barnum, Bayard, Bogy, Booth, Cockrell, Cooper, Cragin, Davis, Dennis, Eaton, Gordon, Hereford, Johnston, Jones of Florida, Kelly, Kernan, McCreery, Maxey, Morrill, Norwood, Ransom, Robertson, Sargent, Saulsbury, Stevenson, Teller, and Withers—31.

NAYS—Messrs. Blaine, Bruce, Burnside, Cameron of Wisconsin, Chaffee, Clayton, Ferry, Harvey, Hitchcock, Ingalls, Logan, McMillan, Mitchell, Morton, Oglesby, Paddock, Patterson, Sharon, and Wright—19.

ABSENT—Messrs. Boutwell, Cameron of Pennsylvania, Christiancy, Conkling, Conover, Dawes, Dorsey, Edmunds, Frelinghuysen, Goldthwaite, Hamilton, Hamlin, Howe, Jones of Nevada, McDonald, Merrimon, Randolph, Sherman, Spencer, Thurman, Wadleigh, Wallace, West, Whyte, and Windom—25.

So the amendment was concurred in.

The PRESIDENT *pro tempore*. The next amendment will be reported.

The CHIEF CLERK. The Senate, as in Committee of the Whole, in the fifth line of the first section struck out the words:

Sailor and marine, including those borne upon the rolls as slaves and Indians.

The amendment was concurred in; there being on a division—ayes 29, noes 14.

The next amendment made as in Committee of the Whole was in section 1, line 10, before "wagoner" to insert the words "and enlisted," and in line 11 to strike out the words "sailor and marine."

The amendment was concurred in.

The next amendment was in section 2, line 3, before the word "wagoner" to insert the word "enlisted;" after the word "soldier," in the same line, to strike out the words "sailor or marine;" in line 6, before the word "child," to strike out the word "minor;" in line 7, after the word "artificer," to insert the word "enlisted," and in line 8, after the word "soldier," to strike out the words "sailor or marine;" so as to make the section read:

That in case of the death, either before or after the passage of this act, of any such non-commissioned officer, musician, artificer, enlisted wagoner, or private soldier, the allowance and payment shall be made to his widow, if she has not remarried, or if there be no widow, or she has remarried, then to the child or children of such deceased non-commissioned officer, musician, artificer, enlisted wagoner, or private soldier.

The amendment was concurred in.

The next amendment made as in Committee of the Whole was in section 3, line 3, before the word "wagoner" to insert the word "enlisted;" in the same line, after the word "soldier," to strike out the words "sailor or marine," and in line 6, before the word "laws," to strike out the words "or State;" so as to make the section read:

That in computing and ascertaining the bounty to be paid to any non-commissioned officer, musician, artificer, enlisted wagoner, or private soldier, or to his proper representatives, under the provisions of this act, there shall be deducted therefrom any and all bounties already paid under the provisions of any United States laws.

The amendment was concurred in.

The next amendment made as in Committee of the Whole was in section 5, line 5, before the word "laws" to strike out the words "or States;" in line 6, before the word "wagoner" to insert the word "enlisted;" in line 7, after the word "soldier" to strike out the words "sailor or marine;" and in line 8, after the word "made" to insert the words "except in case of the application of the widow or child or children;" so as to make the section read:

That every petition or application for bounty made under the provisions of this act shall disclose and state specifically, under oath and under the pains and penalties of perjury, what amount of bounty has been paid under the provisions of any United States laws to the non-commissioned officer, musician, artificer, enlisted wagoner, or private soldier, by whom or by whose representatives the claim is made, except in case of the application of the widow or child or children.

The amendment was concurred in.

The next amendment made as in Committee of the Whole was in section 9, line 2, after the word "artificer" to insert the word "enlisted;" and in line 3, after the word "soldier" to strike out the words "sailor or marine;" so as to make the section read:

That no adjustment or payment of any claim of any non-commissioned officer, musician, artificer, enlisted wagoner, or private soldier, or his proper representative, under the provisions of this act, shall be made, unless the application be filed within five years from the passage of the same.

The amendment was concurred in.

The next amendment made as in Committee of the Whole was to insert as an additional section the following:

SEC. —. That to enable the Treasury of the United States to meet the demand caused by the foregoing sections of this act, a duty of three cents per pound upon all coffee and ten cents per pound upon all tea imported into the United States shall be imposed from and after the passage of this act.

Mr. MORTON. In order to find out whether it is constitutional to originate a tax on tea and coffee in this body, I ask for the yeas and nays on concurrence in this amendment.

The yeas and nays were ordered.

Mr. SARGENT. I wish to say that I offered the amendment very well aware of the constitutional prohibition, and I would not vote for the amendment if I supposed it would pass finally in this Chamber; but I offered it in order to show, by the strongest argument which I could write, the tendency of this bill, that it was to bankrupt the credit of the United States, and that some extraordinary means should be taken by Congress, if Congress is to pass the bill, in order to prevent a depreciation of our credit. So far as I can—I suppose I cannot—I will withdraw the amendment.

Mr. LOGAN. I object. The yeas and nays have been ordered.

Mr. SARGENT. Very well; I shall vote against it. I have explained my motive.

Mr. MORRILL. Is an amendment in order?

The PRESIDENT *pro tempore*. It is to this amendment.

Mr. MORRILL. I offer a substitute for the amendment of the Senator from California. I move to strike out all after the word "that" of the amendment adopted as in Committee of the Whole and insert what I send to the Chair.

The words proposed to be inserted were read, as follows:

That the Secretary of the Treasury be, and he hereby is, authorized to issue United States bonds to the amount of $150,000,000, payable in thirty years from date, bearing interest at the rate of 4½ per cent. per annum, payable semi annually, or so much thereof as may be necessary to meet the expenditures authorized by this act.

Mr. MORRILL. Mr. President, I am about the last man who would advocate the killing of any bill that seemed to be for the purpose of doing justice to the soldiers of the late war, but this bill, instead of being a bill to equalize bounties, is wholly destructive of the theory of all bounties. It is a measure proposing increased pay; not bounties after the war has closed, and not in advance. It is undertaking to compute in money value the priceless services of our soldiers—an utter impossibility—and ignoring the honor and glory won. I suppose that if we are to pay this eight and a third dollars per month to every man who served in the late war, the amount of it would be easily computable, and it is vain for members here to represent that this is to involve only an insignificant sum.

Mr. LOGAN. Will the Senator allow me to interrupt him?

Mr. MORRILL. I prefer to get through.

Mr. LOGAN. The Senator is certainly mistaken. It does not pay every man eight and a third dollars, but it pays those who did not receive the bounty that sum.

Mr. MORRILL. I understand the bill.

Mr. LOGAN. But the Senator said it paid every man.

Mr. MORRILL. It pays every man the sum of eight and a third dollars for all the time they served, short or long, during the whole period of the war, and then whatever has been paid of bounty is to be deducted. If you figure the amount that has been paid out for the full pay of the soldiers, and then deduct from it any bounty received, you will see what the addition is to the vast sum which was properly paid out to our soldiers. It adds at least 50 per cent. to the amount that was originally paid to them; and if you look at the report from the Paymaster-General's Office, showing the amount required to pay whatever is now to be appropriated by this bill you will see that it could not be less than $150,000,000.

The bill is grossly unjust to the States, as it will be seen that bounties which have been paid by States, and bounties paid by the United States, are equally to be deducted from this new pay of the soldiers. The United States are to be credited with and receive the benefit of all State bounties and not the soldiers. Vermont paid its soldiers, over and above the United States pay, from the outset to the end, $7 per month. This would be deducted, as I read the bill, from the accounts of her soldiers and the pittance left of one and one-third dollars would not enable them to pay the taxes required to meet the sum due to soldiers less liberally treated by other States. I do not complain that Vermont is not to get the money, but that her soldiers are not to get it, although it is manifestly unjust.

Again, I submit that the bill is wrong in principle. When we have a war and offer bounties we expect to get volunteers in consequence of those bounties, but if it shall be understood that at the close of any war men who are drafted, or who by any means come into the service, are to be treated equally well with the earliest and swiftest volunteers, it seems to me that it is very wrong in policy and principle.

I offer the amendment which has been read, because it struck me that the amendment proposed by the Senator from California was not legitimate for the Senate of the United States where revenue bills cannot be originated. Therefore, I propose some means by which the Treasury would be enabled to pay the amount estimated to be required if this bill should pass. There is another amendment that ought to be adopted if the bill is to pass, and that is to give at least one hundred or one hundred and fifty more clerks to the War Department. If there were a hundred more clerks added to the War Department they could not get through.

Mr. DAVIS. I beg to state to the Senator that the estimate read here this evening was two hundred and fifty clerks and four years' time.

Mr. MORRILL. I was stating it then very much within bounds. I was going to say that these accounts could not all be settled in the space of four years. We must provide not only the money but the help necessary to do the work or the bill will be no better than so much blank paper. If the bill should pass it would not redound very much to the benefit of the soldier. It would all, or a very large share of it, go into the pockets of claim agents. They are vastly more interested in promoting the passage of this bill than the soldiers. I have never had a soldier in my State to ask for this bill. They understand its character perfectly, and never regretted that President Grant refused to sign it when it was once before, in the last hours of the session, hurried through the Senate.

The idea that this bill would come up to-night was certainly foreign to my expectations. I had no such thought and am by no means prepared to discuss the measure. If I had been advised that it was to come up, I would have had here the documents that I had last year, which were carefully prepared by officers whose evidence would not be disputed in this body or anywhere else, showing that the estimates which I have presented here are not in any degree exaggerated. I

hope if the bill is to be passed to-night that this amendment will be adopted, because the means should be promptly provided, if we are to pass a bill, to meet so heavy a draught upon the Treasury at once.

Mr. EATON. Mr. President, there seems to me a very considerable indifference to certain matters here. My friend, the Senator from California, has proposed an amendment to impose a tax upon tea and coffee in order to meet the demand of this bill. The senior Senator from Vermont has introduced a different amendment. Now, I apprehend at this hour, nearly half past eleven o'clock, and so near the close of the session, the best disposition that could be made of this bill would be to indefinitely postpone it, and therefore I make that motion.

Mr. LOGAN. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MORTON. Is that motion debatable?

The PRESIDENT *pro tempore*. It is.

Mr. MORTON. The amendment offered by the Senator from Vermont to authorize the issue of $150,000,000 of bonds is perhaps in the right direction. It is, however, about five times too large. Perhaps the Senator supposed that the amount would of itself result as an intimidation. Here is another form of intimidation now proposed. The question is not, as I said before, whether we are to give a new bounty, to make a new contract, but it is simply to do an equity. The most of this sum would be paid to soldiers who failed to receive their bounty because they had not served their time out. If they were mustered out of the service one day before their time was out, because of the end of the war, or because of an honorable wound, they lost the bounty. Can we afford as an honest people to insist upon the letter of the law? It is "the pound of flesh;" that and nothing more. As a matter of private contract between man and man we could stand on no such principle as that. The merchant, the manufacturer, the farmer who would undertake to deprive his hired help of pay for their labor because by no fault of theirs they failed to work the last day, would be regarded as dishonorable. I want the attention of the Senator from Vermont to that point. I want to say to him that the man in private life who would attempt to deprive his hired help of their pay because through sickness or some cause, no fault of theirs, they failed to work the last day, would be considered dishonest. You do not change the principle when you apply it to a nation. As has been shown, the most of this back pay or bounty would go to those who failed to receive it because they were mustered out before the time their enlistment expired.

Mr. MORRILL. Does not the Senator admit that the account of every soldier would have to be opened?

Mr. MORTON. What is there in that? No, sir; not every one, not one-fourth, not one-fifth. But suppose it was so, I ask what difference that makes about it. Let us come right down to the simple point, can this nation afford to withold from the soldiers, the most of them poor, their bounty because the Government mustered them out of service, without fault of theirs, before the full expiration of the time? Now, there is the question; there cannot be any evasion of it.

Mr. LOGAN. If the Senator will allow me, I will call his attention to section 5, which shows that the Senator from Vermont is wrong:

That every petition or application for bounty made under the provisions of this act shall disclose and state specifically, under oath and under the pains and penalties of perjury, what amount of bounty has been paid under provisions of any United States laws.

So that, if the man received his bounty, he cannot make an application under this law without subjecting himself to the penitentiary.

Mr. MORTON. If any soldier has received his bounty the Government has got his receipt. There has been no double payment.

Mr. LOGAN. If he has been paid, no application can be made under this bill.

Mr. MORTON. The whole matter is well guarded. It may take two hundred and fifty clerks, but I do not believe it will take one hundred more. I understand the Senator from West Virginia to say it will take two hundred and fifty clerks for four years. If it is to be distributed through four years, it will not fall very heavily in one year. If it will take four years to run it through, it will not come like an avalanche on the Government. There will be a vast amount of detail which will cost something in the way of clerk hire; but when my friend talks about economy, I want to say to him that his party have spent in the way of investigations for the sake of making political capital ten times the amount in the last year that it will cost in the way of clerk hire to make up these accounts.

Mr. WITHERS. What has the Senate spent in investigations?

Mr. MORTON. One investigation may force another. I am not saying we should refuse to investigate because of the cost. I shall not stop now to vindicate the propriety of the investigations made by the Senate; but I am saying that the investigations that have been made by the House of Representatives, the most of which have been utter failures, have cost ten times the amount that all the additional clerk hire will come to in order to carry out this bill.

This is perhaps the last time—it is certainly the last time this session, and it may be for a good while—that this claim can be presented; but, as I said before, it will not die; it will live in the hearts of the men to whom it is coming, and not only so, but in the hearts of the whole people. It is bound to come, and, as I said before, those who oppose it will get credit for the refusal, and those who finally pay will get the credit for that. It is a simple matter of justice, as plain as anything can be. Shall a man be deprived of his bounty, a small sum of money, because the war ended before his time was out, or because, on account of an honorable wound, he was mustered out of the service? As well deprive the hired man of his pay for a year because on the day before the year was out he received a fall and broke a limb and could not work his time out.

O, no, Mr. President, the objections to this bill will not bear daylight at all. I should like to see a vote taken on the motion made by the Senator from Connecticut, [Mr. EATON,] a fair and square vote. Let us not dodge this by amendments. Let us vote on the main question.

Mr. DAWES. Mr. President, if the simple purpose is to do equal and exact justice to all those who have exposed their lives in the defense of their country, I think that the Senators who are so earnest in the advocacy of this bill will not object to the amendment which I send up to the desk, which is to amend the law providing for the pensions of the soldiers of the war of 1812 as additional sections.

The PRESIDENT *pro tempore*. That amendment is not in order at this time. The question is on the motion to postpone the bill indefinitely, upon which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. BLAINE, (when his name was called.) The Senator from Georgia [Mr. GORDON] was called on important business to the House just now, and I agreed during the few minutes he might be absent to pair with him. If he were here he would vote "yea," and I should vote "nay" on this motion.

Mr. WEST, (when his name was called.) I am paired on this subject with the Senator from Vermont, [Mr. EDMUNDS.] If present he would vote to postpone, and I should vote against it.

Mr. WALLACE, (when his name was called. I am paired with my colleague if this is a party vote.

Several SENATORS. It is not a party vote.

Mr. WALLACE. Very well.

The roll-call having been concluded, the result was announced—yeas 31, nays 25; as follows:

YEAS—Messrs. Alcorn, Anthony, Bailey, Barnum, Bayard, Bogy, Booth, Christiancy, Cockrell, Cooper, Cragin, Davis, Dennis, Eaton, Hereford, Johnston, Jones of Florida, Kelly, Kernan, McCreery, Maxey, Morrill, Norwood, Ransom, Robertson, Sargent, Saulsbury, Stevenson, Teller, Wallace, and Withers—31.

NAYS—Messrs. Allison, Boutwell, Bruce, Burnside, Cameron of Wisconsin, Chaffee, Clayton, Conkling, Dawes, Dorsey, Ferry, Harvey, Hitchcock, Ingalls, Logan, McMillan, Mitchell, Morton, Oglesby, Paddock, Patterson, Sharon, Wadleigh, Windom, and Wright—25.

ABSENT—Messrs. Blaine, Cameron of Pennsylvania, Conover, Edmunds, Frelinghuysen, Goldthwaite, Gordon, Hamilton, Hamlin, Howe, Jones of Nevada, McDonald, Merrimon, Randolph, Sherman, Spencer, Thurman, West, and Whyte—19.

So the bill was postponed indefinitely.

CHARLES L. SCOTT.

Mr. STEVENSON. The Committee on the Judiciary, to whom was referred the bill (H. R. No. 4313) to remove the political disabilities of Charles L. Scott, of Alabama, have directed me to report it back without amendment, and I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed by a two-thirds vote.

REPORT OF MONETARY COMMISSION.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print 10,000 copies of the report of the monetary commission, created by the joint resolution of August 15, 1876, together with the evidence and accompanying documents, have instructed me to report it back with amendments. The amendments reduce the number from 10,000 to 5,000. I ask for the present consideration of the resolution.

By unanimous consent, the Senate proceeded to consider the resolution. The amendments of the Committee on Printing were to strike out "3,000" and insert "1,500," and to strike out "7,000" and insert "3,500;" so as to make the resolution read:

Resolved by the Senate, (the House of Representatives concurring,) That 1,500 copies of the report of the monetary commission created by the joint resolution of August 15, 1876, together with accompanying evidence and documents, be printed for the use of the Senate; and 3,500 for the use of the House of Representatives.

Mr. BOGY. The original resolution provided for the printing of three thousand copies for the use of the Senate and of seven thousand copies for the use of the House. The Committee on Printing has cut down these numbers one-half. I think the number should not be reduced for the reason that I have myself received many letters inquiring for this report. It may not be a very able report; I do not say that it is an able report; but it contains a great many very important facts.

A commission was appointed by the Senate and House at the last session to examine into the subject. This commission has devoted to it a long time, a vast amount of labor, and has sent abroad for a great deal of information from every part of the world pretty much. This report contains statistics and information of absolute necessity and of the very greatest importance. It contains the only correct returns ever obtained of the production of our own mines. I know, from the number of letters and telegrams that I have received, that there will be a very great anxiety to obtain the report. I know that it is a report of very great importance, although it may not be a very able

document. I do not pretend to say how that is; it must stand on its own merits in that regard.

I am very sorry to see the number cut down. We print every day here documents of little importance, by the thousand and the ten thousand.

Mr. SAULSBURY. We report enough.

Mr. BOGY. I know that my friend from Delaware if he could cut it down to five hundred or two hundred and fifty would do it. I do not deny that he may be a good judge of silver, and a good judge of many other things, but I do not know that my friend is a good judge of the quality or the quantity of the printing which this country requires. I think this is very small economy, and I do hope the original resolution will be sustained; that is, three thousand copies for the Senate and seven thousand for the House.

Mr. ANTHONY. It was almost impossible to make the estimate required by law in this case, and we were obliged to gather our data from the opinion of the members of the commission as to the length of the document, and we estimate that it will cost about a dollar and a half a copy; so that the cost under the original resolution would be about $15,000, while under this, as amended, it will be about $7,500. Of course there is a great demand for books that are given away; but anybody who desires this book can get it by sending the cost of it to the Public Printer in advance of its publication.

Mr. SAULSBURY. I am sure the Committee on Printing would have been very happy to have gratified the Senator from Missouri and all persons interested in this report. Our reason for cutting down the number of this report to be printed was not because the report did not contain valuable information, but because it is utterly impossible for the committee to report in favor of printing everything that is desired. We think we have been extremely liberal to the commission that made this report, and I am sure no member of the committee wished to do any injustice to the commission that made this report. We think we have been extremely liberal in granting them five thousand copies of a report which costs $1.50 a copy. I am sure I have no disposition to do injustice to any committee or commission, but as a member of the Committee of Printing, knowing the vast expenditure which will necessarily follow unless we do restrict this printing, I felt bound to concur in this report to cut down the number.

Mr. COCKRELL. I should like to ask the Senator from Rhode Island what will be the size of this publication?

Mr. ANTHONY. It will be in two volumes, about four hundred pages to a volume. That is as near as we can estimate it.

Mr. COCKRELL. About what is the estimated cost?

Mr. ANTHONY. A dollar and a half a copy.

Mr. LOGAN. How many thousand copies are provided for the Senate?

Mr. BOGY. Fifteen hundred; which will give to each Senator about twenty copies. I have had demands already for more than fifty copies.

Mr. LOGAN. How many for the House?

Mr. BOGY. Thirty-five hundred for the House.

Mr. LOGAN. Only five thousand altogether.

Mr. BOGY. It is perfectly ridiculous.

Mr. LOGAN. That would pay the bounty for several soldiers. Here is a report in two volumes without a bill.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on Printing.

Mr. BOGY. I hope the amendment will not be agreed to.

The CHIEF CLERK. The amendment is to strike out "3,000," where it first occurs, and insert "1,500," and to strike out "7,000," and insert "3,500."

The amendment was agreed to, there being on a division—ayes 25, noes 14.

The resolution, as amended, was agreed to.

OREGON ELECTORAL VOTE.

Mr. ANTHONY. I now move that the Senate proceed to the consideration of the resolution, reported yesterday, for printing additional copies of the report of the Committee on Privileges and Elections upon the Oregon electoral case.

Mr. LOGAN. I want to call the attention of the Senator from Rhode Island to one thing, and it is a matter in which I think the Senator is interested as well as others. Inasmuch as we have just agreed to print five thousand copies of the report of the silver commission—a report in two volumes, without a bill—in order to make the report complete, I desire to have the Senate take up the silver bill.

Mr. ANTHONY. I insist on my motion.

Mr. LOGAN. I ask that the Clerk read that bill, and I will then move to postpone all other orders to take up that bill, and I will ask a vote of the Senate upon it.

Mr. DORSEY. I ask the Senator from Illinois to yield to me a moment.

Mr. LOGAN. I cannot yield now.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Rhode Island, to take up the resolution which he has named.

Mr. KERNAN. That resolution refers to a very long report, a report made before all the evidence was taken, and I do not think it is such a report that it is necessary to have five thousand copies of it.

Mr. LOGAN. I think we ought to have as many reports printed on the Oregon question as on the silver question. Both are about alike. There is no bill in either case.

Mr. KERNAN. I suppose the silver question is the more important, certainly for the future. I voted for printing five thousand copies of that report. I suppose the ordinary number of copies has been printed of this report, and I think that ought to be enough.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Rhode Island.

Mr. KERNAN. If this report is to be printed, I desire, as part of my remarks, to ask the Clerk to read a portion of the testimony taken since the report was made.

The PRESIDENT *pro tempore*. The question now is on taking up. That does not open the merits to discussion.

The motion was agreed to; and the Senate proceeded to consider the resolution.

Mr. SAULSBURY. The usual number of this report has been printed. There are so many special committees of both Houses, that if we undertake to print five or ten thousand copies of all the reports that are made we might just as well appropriate two or three million dollars more than we have appropriated to carry on the Government Printing Office. If we do not put some restriction about this continual printing, we had better make very liberal appropriations to carry on the Printing Office. This report has been printed already in the RECORD; it has gone out in every RECORD that was printed at the Printing Office on the day on which it appeared; and now the proposition is, after printing the usual number, to print five thousand extra copies of this Oregon report. It has had its day; the report has accomplished all the purposes, I suppose, it was designed to accomplish; and now it is to become a precedent for printing an equal number of all the reports that have been made by all the committees. I think we ought to have some view to economy in reference to printing.

Mr. MITCHELL. The Senator from Delaware says this report has been printed in the RECORD and has gone out. The Senator is mistaken about that. If objection had not come from the other side of the House when it was proposed to print the report in the RECORD, it would have been printed in the RECORD, and the probabilities are that there would have been no resolution introduced for additional copies. But the Senator from Delaware will recollect, and the Senator from New York, my colleague on the committee, will remember, that when this report was made, a week or some ten days ago, from the Committee on Privileges and Elections, it was proposed by the member of the committee making the report to have it printed in the RECORD just as every such report made from different committees heretofore in both Houses at the present session had been printed. Objection was made by the Senator from New York and by other Senators against printing the report in the RECORD. A discussion ensued. I was compelled to leave the Senate Chamber to go before the electoral commission and had to abandon the discussion. The matter went over, and the report was not printed in the RECORD; while in the RECORD of the very next morning I found that a voluminous report made by a committee of this Congress in regard to the condition of affairs in South Carolina was printed at length. I say, too, that every political report made at the other end of this Capitol has been printed in the RECORD. If now this report could be printed in the RECORD, so far as I am concerned, I would abandon every effort to have additional copies. But I think it is unfair and unjust to have the reports of one branch of Congress, so to speak of one political party, inserted *in extenso* in the RECORD, while, when the other party propose to have their reports printed, objection is made. It is not right. I appeal to the Senator from New York, who is usually fair, whether that is proper or right.

This is not my resolution; it is a resolution reported from the Committee on Printing. They report in favor of five thousand additional copies of this report; and I appeal to my friend from New York to withdraw his objections and allow the extra numbers to be printed. I will state that I am in receipt of applications for it every day. Not a day has elapsed since that report was made that I have not been in receipt of from one to as many as ten or twelve letters asking for copies of the report. I have four copies of the report, all told. We had a long investigation; a great deal of testimony was taken; a report has been made, as my friend from New York knows, containing what the majority of the committee claim is a fair statement of the facts in the case. No minority report has been made. If the statement of the report in reference to the facts is not a correct one, then my friend from New York, representing the minority of the committee, had the right to put in the shape of a minority report his dissent. He has done so verbally by stating that he dissents, in general terms. But wherein or how?

I think it is no more than fair that a reasonable number of copies of the report and of the testimony—because the resolution includes both—should be printed, in order that they may go to the country and that it may judge of the merits of the controversy. The resolution only provides for five thousand, the Committee on Printing has reported in favor of it, and I insist that the resolution ought to be adopted.

Mr. KERNAN. Mr. President, now I am appealed to to be fair; and I always want to be fair. But first, with reference to reports being printed in the RECORD, I have not assented to any one being so printed. I understood that the reason why some reports did get printed in that way was because the appropriation for public printing in any other

form than the RECORD had run out, and some did on that account go into the RECORD. Why should this report now be printed in the RECORD? Judging from its length, I venture to say that no man can read it through in less than two hours. I do not say that in depreciation of it, but as a very good reason why it should not be put into the RECORD.

Again, I oppose the printing of any extraordinary number of this report in this form. It is certainly not intended to be used for any practical purpose, in the Senate or elsewhere, that I know of. It is a report that in my judgment is unjust in the imputations that it casts upon some gentlemen. My friend says that I might make a minority report. This evidence was closed on Wednesday night, and how could I make a minority report without sifting the evidence? Night and day since then we have been continuously occupied. I dissented from the report; I said frankly I thought it was a report that was unjust in its conclusions, and I cannot believe that the object in printing it is for aught else than, as my friend alluded to other matters in that connection, as a "political document."

Mr. MITCHELL. I will state to my friend from New York that the principal object I have in asking the additional number is to be able to answer to some reasonable extent the demands which are made upon me from all over the country.

Mr. KERNAN. I do not think we can spend the money of the Government properly in distributing reports which are not useful unless it be to throw imputations upon some persons. This report throws imputation upon a gentleman who sits here, and, as I understand it, unjustly. It throws imputations upon others in Oregon, as I think, unjustly. It throws aspersions upon certain parties without naming them, which I think are unjust. I, for one, in this matter, I trust, will act as I would if the effort was made on our side to print a political report; namely, be guided by the usefulness of it. When this investigation commenced, it was commenced, undoubtedly, in the expectation that it would bear upon the counting of the electoral vote. Before the report of my friend was made, the tribunal to which the question was to go had held, not only that it would not hear evidence which was taken by either of the committees, but that it would not hear witnesses brought before it. Therefore any usefulness of it was out of the question, so far as concerned the counting of the vote. Now, to say that we will make an appropriation to have it printed, without any public necessity for this large amount, I think, is a bad principle. I say it without the least feeling. I do not think it is a thing that ought to be done.

Mr. MITCHELL. The Senator from New York says that the report, in his judgment, casts unjust aspersions upon certain persons, some that are here and some that are elsewhere.

Mr. KERNAN. I understood that the question was on taking up, and I had no right to debate the merits of the report. I do not object to its being taken up. If it is taken up I want to say something.

Mr. MITCHELL. I do not wish to debate the merits, but simply to reply in a word. The Senator says in his judgment the report casts unjust aspersions. If that is true, it is only a matter of justice to the persons to whom my friend from New York refers that the testimony and all the testimony in the case, which as a matter of course could not be embodied in the report, should be puplished, in order that people may judge for themselves as to whether the report is unjust or not.

Mr. KERNAN. Allow me to say that I do not make objection to printing a reasonable number of copies of all the testimony. If there is included that which was placed in my hands yesterday morning, I make no objection.

Mr. MITCHELL. That is all that the resolution does: provide for printing five thousand copies of the report and testimony.

Mr. KERNAN. The resolution calls for the printing of your report made long before the testimony was closed. The printing of the evidence I do not object to. I think that it is just to print such number of copies as is deemed proper of the evidence taken.

Mr. MITCHELL. The Senator from New York says that my report, as he calls it, was made long before the testimony was closed.

Mr. KERNAN. Some ten days or two weeks.

Mr. MITCHELL. All there is in that is this: No witness was examined at all after the report was passed upon by the whole committee, with the exception of W. T. Pelton, and he had opportunity, time and again, to come upon the stand and close his examination before the report was made; but he kept back, I think I am justified in saying held back, until after the report was submitted. Then he comes into the Committee on Privileges and Elections and desires the privilege of submitting a carefully prepared written statement. That is the only statement that was taken by the committee after the report was submitted. That statement is here; that is published with the testimony and can go for what it is worth. If that statement of Colonel Pelton condemns the report, then I am willing it shall be condemned.

Mr. KERNAN. Allow me now one word. When that report was brought in here, William T. Pelton was not subpœnaed by you; I had no intimation that he was to be examined by you. He was then, however, under subpœna to appear. He came up one evening and we could not examine him; and then, when you told me you did not intend to examine him, I asked him to come before the committee, and then he did come at my solicitation.

Mr. MITCHELL. Yes, Mr. President, and after he was subpœnaed he was notified, day after day for one mortal week, to come up to the committee and be examined, and he did not come and kept away. Finally he did come up one night. He was notified to be here at half past seven o'clock, and he put in an appearance at half past nine o'clock, when the committee could not proceed with the examination. But prior to that time, let me state to the Senator from New York—and I did not wish to refer to it, and would not have mentioned it if he had not alluded to the fact that the report was made long before the testimony was closed—he had been notified, not only in the regular way, to appear at a certain time, but time and again a like notice was sent to him at his hotel by myself to come at certain hours and submit to the examination, and he failed to come until the time referred to by the Senator from New York, when, instead of coming at half past seven o'clock, the time for which he was notified, he came, as my friend from New York knows, at half past nine o'clock at night. That is all there is of that.

Mr. KERNAN. I do not wish to enter into any discussion of facts; but I will say to my friend now, in all candor, that I think he has allowed himself to get suspicious. We were running up to the committee-room when we could get an opportunity. Colonel Pelton was under subpœna. I understood he was ready to come in at any time. He did come here sometimes when we could not go to the committee-room or when we had some one else there on some other question. He was in the city and told me that at any time that he could be examined he would attend. I am sure the Senator cannot say that he sought to avoid examination, when he was not out of the city at all, was at his hotel here, and was ready to be examined. I am sure I rested on the idea that he had been examined by you, and only when you said you would not examine him was it that I had him examined.

Mr. MITCHELL. I do not care to pursue it further.

The CHIEF CLERK. The resolution as referred to the committee was in the following words:

Resolved, That 5,000 additional copies of the evidence and report in the case of the Oregon electoral vote be printed for the use of the Senate and House.

The Committee on Printing report to strike out the words "and House."

The amendment was agreed to.

Mr. SAULSBURY. As a member of the Committee on Printing, I did not agree to any portion whatever of the report. Now look at this matter in a practical light. This is but one subcommittee of the Committee on Privileges and Elections. The subcommittee of which I was a member went to New Orleans and took somewhere in the neighborhood of between three and four thousand pages of testimony. We have prepared a report and the views of the minority. We all think our babies pretty; there is no question about that, and I say to the Senator from Oregon that while he has prepared a report, and while I prepared to a certain extent the expression of the views of the minority, all which we may flatter ourselves will be read with great interest by every person, his report and the testimony which he has taken and the report which I have had the honor to help in part to make and the testimony which I have had the honor in part to help take will scarcely be read by anybody outside of the penitentiary in one week from to-day. What is the use, therefore, of incurring this expense? Another subcommittee, of which the Senator from Wisconsin [Mr. CAMERON] was chairman, went to South Carolina, and another subcommittee, of which the Senator from California [Mr. SARGENT] was chairman, went to Florida. All these subcommittees have made reports, and voluminous testimony has been taken. The cost of the publication of five thousand copies of this will be a very considerable tax upon the Government. Let the usual number be printed and I will venture to say that there are not as many men one week from to-day who will read the reports we have made as there will then be numbers of the copies of the reports made. There is no use in incurring this expense. I was very anxious to see the work in which I was engaged distributed through the country; but what advantage will it be?

Mr. MITCHELL. I do not think very much.

Mr. SAULSBURY. My impression is that neither the report of the Senator from Oregon nor the report which I have helped to get out will be read by a dozen men in a week from to-day, however important documents they may be, however well calculated to transmit our names to posterity. Perhaps if some man was shut up in a penitentiary he might do us the honor to read them; but I doubt very much whether he would do that.

Mr. KERNAN. Mr. President, this report was made before all the evidence was taken, and evidence has been subsequently taken. I ask leave, as part of my remarks, to read the testimony given by Mr. Pelton on pages 494, 495, and 496, as I have marked it.

Mr. MITCHELL. Had we not better have all the testimony read, so as to go into the RECORD?

Mr. KERNAN. I have no objection at all; but I want the part read that I have marked.

The Secretary read as follows:

WASHINGTON, *February* 28, 1877.

W. T. PELTON recalled.

By Mr. KERNAN:

Question. State what knowledge you have as to whether Governor Tilden did or did not know anything about or see the telegrams from Oregon in reference to money?

Answer. He did not know anything about them in any way whatever. He never saw one of them or knew anything about them at all.

Mr. LOGAN. Let it go in the RECORD, unless you desire to have it read.

Mr. MITCHELL. I have no objection, if the cross-examination goes in too.

The Secretary continued the reading, as follows:

Q. If you have a statement to make in regard to the matter, you can now make it.

A. I have prepared the following statement:

It has been stated that money has been used to purchase an elector in Oregon. It is due to myself, as well as to the democratic party, to state the facts in regard to that matter.

Telegrams addressed to me have been put in evidence; other telegrams, dated in New York, without any signature and without any proof that they came either from me or any person connected with the national committee, have also been put in evidence. These telegrams, without regard to dates, have been published, following each other in the order best suited to the purposes of those who had the examination of them.

Telegrams came every day following the election in large numbers from all parts of the country, addressed sometimes to myself and sometimes to members of the committee. Wherever they were addressed, they were delivered during the day at 59 Liberty street, and during the night at the Everett House, in accordance with directions given at the telegraph offices. These telegrams were opened by such officer or member of the committee as was present at the time; therefore these telegrams were not received at 15 Gramercy Park, even when directed there; nor were the answers sent from there. None of the Oregon cipher telegrams were delivered at 15 Gramercy Park, nor were the answers to them sent from there. Governor Tilden never saw or knew of any of the cipher telegrams received from or sent to Oregon. The famous "Gobble" dispatch was not received at 15 Gramercy Park, and was never seen by Governor Tilden, or its contents known to him.

Telegrams and letters addressed to me were often opened, read, and answered by others without my seeing them or knowing of them. Many of the telegrams put in evidence purporting to come from Oregon, and addressed to me, I do not recognize as having come to my knowledge, and they were never received by me. As my time was fully occupied, cipher telegrams were not usually translated by me, as it was very slow and tedious work. They were often defectively translated, and their meaning often imperfectly ascertained, and sometimes they could not be read at all. The telegram put in evidence dated Portland, Oregon, November 28, and purporting to be signed by Mr. Patrick and Senator KELLY, was never translated or read by me as translated before the Senate committee, and never understood by me to contain a proposition to purchase a republican elector or any other elector. I never sanctioned or encouraged the furnishing of money to purchase an elector in Oregon, or countenanced any such use of money, nor did any one else with my knowledge. My purpose was to supply to the democratic committee of Oregon, who claimed they were poor, sufficient funds to meet the just and legitimate expenses of sustaining their rights.

Whatever contingent arrangement there was suggested in the telegram from New York dated November 29, which seems to me to be very imperfectly translated, referred to payment of lawyers' fees. These fees seemed to be very large. Senator KELLY and Mr. Bellinger both testify that the answer to their requisition for money, dated November 28, was a distinct and definite refusal. That is my own recollection.

The three republicans who were candidates for electors were all fully examined before the Senate committee, and it is not pretended to be shown that there was a suggestion even made to either of them by any one to influence their action or the action of either one of them.

* * * * * * *

And Mr. Bellinger, the chairman of the democratic State committee, and Senator KELLY, have both testified that no money was applied for, proposed to be furnished, or intended to be used, or used for any such purpose.

Mr. Patrick was totally unknown to me at the time he went to Oregon. Dr. G. L. Miller, of Omaha, a member of the national democratic committee, had been telegraphed to go to Oregon. He not being able to go, found that Mr. Patrick was going to Salt Lake on his own business, and requested him to go on to Oregon, and he went. I have no recollection of the long telegram put in evidence, purporting to come from Portland, dated November 30.

Certainly it was never read by me as it is pretended to be now translated before the Senate committee. It does not appear, by the telegrams given in evidence, to have ever been replied to or any notice taken of its contents. It certainly never was assented to by me or by any one else to my knowledge.

The telegram from New York dated December 1, the next day, and put in evidence as if it were an answer to the telegram of the former day, treats all suggestions about money as if discarded, and inquires about convening the Legislature to provide for the vacancy in the office of elector.

I have never heard it intimated by any one that Governor Grover or any one else in office in Oregon was to be paid anything, or was to receive anything; and I never heard that Mr. Cronin was to be paid anything for expenses, loss of time, or for any other purpose, until long afterward, and never heard that any money was desired for such a purpose until I saw the evidence before the Senate committee.

If it be true that any improper use of money did in fact enter the mind of one man, it was utterly without authority, was never adopted or sanctioned by any one else, and was never acted upon by himself, and no suggestion of it was ever made to either of the parties to be influenced.

As I have before testified, so far as I am concerned, no money was ever furnished for any purpose whatever. The only transaction of which I am cognizant was for perfectly legitimate purposes, and even that credit was never used, and, as a matter of fact, the funds never left the city of New York.

By Mr. KERNAN:

Q. Now I want to ask you just a few questions. Had Governor Tilden in any way notice or knowledge, or had any suggestion been made to him, that they wanted money to buy up an elector or anybody else?

A. No, sir; he never knew anything in regard to any matter connected with these telegrams until he saw them in the newspapers.

Q. Was he ever consulted in any way about furnishing money for legitimate expenses?

A. No, sir.

Q. There was no consultation with him; he had no knowledge at all of that fact, so far as you know?

A. No, sir; none whatever.

Q. For any legitimate purpose, or for any other purpose whatever?

A. Not for any purpose.

Q. Where were the telegrams addressed to Gramercy Park delivered?

A. They were delivered at the Liberty-street office and at the Everett House. You, sir, know, of course, that we had two offices. We had the Liberty-street office, where we were during the day, and the Everett House, where we were at night. They were delivered at the Liberty-street office, perhaps between ten o'clock in the morning and five or six in the afternoon, and during the night at the Everett House.

Q. Was that done in pursuance of instructions left at the telegraph office?

A. In pursuance of instructions left at the telegraph office that was done—the telegraph office, the office that delivered the message to us, because that was where the business was all done.

Q. Did the committee keep any account there?

A. At the telegraph office? Yes, sir.

Q. And they were charged?

A. They were charged to the committee at the office.

Q. As to Governor Tilden himself, had he any knowledge that those telegrams came to him by means of a key or dictionary, so that he could decipher those cipher telegrams?

A. Not the least.

Q. He had no key?

A. He had no key; had no knowledge of it whatever.

Mr. MITCHELL. I do not insist on that being read.

Mr. KERNAN. Let it be read as far as I have marked.

Mr. MITCHELL. I want the balance put in.

Mr. KERNAN. You can have read whatever you want to put in.

Mr. MITCHELL. I desire the rest to go into the RECORD. ["Agreed."]

The testimony ordered to be printed in the RECORD is as follows:

WASHINGTON, *January* 16, 1877.

WILLIAM T. PELTON sworn and examined.

By Mr. MITCHELL:

Question. Where do you reside?

Answer. In New York City.

Q. How long have you lived there?

A. I think about ten years.

Q. What is your business?

A. I have always led a business life, but not a professional one. I have been engaged in different kinds of business, at one time manufacturing.

Q. What have you been engaged in in the last year principally?

A. I have been attending a portion of the time to my own business, and I have had something to do with politics.

Q. In what capacity have you taken part in politics?

A. During the campaign I have been acting secretary of the national committee.

Q. The national democratic committee?

A. Yes, sir.

Q. Are you now the secretary of the national democratic committee?

A. I am still acting in that capacity.

Q. You are the secretary?

A. Strictly not, because Mr. Prince, of Boston, is secretary.

Q. But you have been the acting secretary?

A. Yes, sir. I wish to make that distinction.

Q. You had charge of the campaign as secretary as far as a secretary would have charge of it?

A. I had charge of certain things.

Q. Are you acquainted with Mr. Scott, a member of the committee?

A. Yes, sir.

Q. What is his full name?

A. William L. Scott, of Erie, Pennsylvania.

Q. Are you acquainted with Messrs. Martin & Runyon, of Wall street?

A. I am not.

Q. Have you ever met Mr. Runyon?

A. I do not recollect ever having met him at all; I do not think I should know him if I were to see him; I do not know him at all.

Q. Do you remember calling at the office of Messrs. Martin & Runyon about the 5th or 6th of December last?

A. I do not.

Q. Do you remember telling Mr. Runyon that a person would call to see him that day?

A. No, sir. I never called at Martin & Runyon's office, to my knowledge.

Q. Did Mr. Martin ever call at your office?

A. Not that I know of.

Q. Do you know the firm of Martin & Runyon?

A. I know there is such a firm.

Q. Do you know where they are located?

A. I do not know where they are located. They are down town, I suppose, but I do not know their particular number.

Q. Do you state positively that you did not call at their office?

A. I state positively that I do not remember ever calling at their office.

Q. If you had called there you would be likely to remember it, would you not?

A. I should think so.

Q. Do you remember Mr. Runyon ever calling at your office or on you at any place in the city of New York, and having a talk with you about coming to Washington city to testify?

A. No, sir.

Q. You had no such conversation with him?

A. I had not.

Q. Were you at the meeting of the national democratic executive committee on the night of the 5th of December last, in New York, at their headquarters at the Everett House?

A. I was there nearly every evening about that time.

Q. Do you know Mr. Jordan, cashier of the Third National Bank?

A. I do.

Q. Did you see him that evening?

A. Yes, I think he was there. He was there frequently.

Q. Did you have any conversation with him?

A. I do not remember whether I had a conversation with him that evening or not. I frequently had conversations with him. He was frequently there, and we had conversations from time to time.

Q. Will you state positively that you do not know Mr. Enos Runyon, of the firm of Martin & Runyon, Wall street, New York?

A. Yes, sir; I state positively that if he was in this room I could not pick him out, from any knowledge I have of the man. I do not know the man at all, and never had any acquaintance with him.

Q. Do you not know that you had a conversation with Mr. Enos Runyon, of the firm of Martin & Runyon?

A. I do not.

Q. Will you say you did not?

A. I will say I do not remember any such conversation, positively. I have no recollection of ever seeing the man at all, or ever having any conversation with him.

Q. Do you know where his office is?

A. No, sir; I have said I do not.

Q. Have you seen in the prints recently a report of the fact that Mr. Runyon had testified here, and Mr. Martin, in regard to politics?

A. Yes, sir

Q. Do you now say you do not know where their office is?

A. I say I do not remember it at the moment. I might have seen it in the papers, and probably did, but I do not remember. I have a recollection that it is either in William or Wall street. That is all I know about it.

Q. Did you see a report in the papers that Mr. Runyon had testified that you called on him and told him a person would call to see him that day? Did you see any report of that in the newspapers?

A. No, sir; I did not see any thing of that kind.
Q. Did you see your name connected in any way with the testimony?
A. Yes, sir. If it is so it is not true.
Q. Do you know Mr. Scott?
A. Yes, sir.
Q. Did you see him on the night of the 5th of December?
A. Yes, sir; I saw Mr. Scott every night during that period when he was in town.
Q. Did you and Mr. Scott and Mr. Jordan have any talk that night?
A. I do not remember that we had any talk together, simply we three. I do not remember that.
Q. Do you know Mr. Burton Harrison?
A. I do.
Q. How long have you known him?
A. Several years; five years, perhaps. I am not certain. It may be longer; perhaps six or seven years.
Q. Did you call at his office on the 6th of December last?
A. I was at his office, or at the office where he was.
Q. For what purpose did you go to see him?
A. I wished to talk with him in regard to a certain matter. Of course it has all been brought out here.
Q. What was it, state?
A. I was informed by Mr. Jordon that Mr. Runyon had been subpœnaed to come here, and during the day before Mr. Runyon was subpœnaed to be here Mr. Harrison came to my office, as he very often does, every day or two, and in the course of the conversation said he was coming over to Washington that night on business of his own. I then told him what Mr. Jordan had told me in regard to Mr. Runyon being summoned.
Q. What had Mr. Jordan told you?
A. He simply told me the fact that Mr. Runyon had been subpœnaed. I simply told Mr. Harrison that.
Q. When did Mr. Jordan tell you that?
A. The night before, I think.
Q. Where?
A. At my house. My recollection is that the subpœna was for Saturday, but I am not sure of it; and it was during Friday that Mr. Harrison was at my office, and it was Thursday evening that Mr. Jordan told me the fact.
Q. Do you recollect the day of the month Mr. Jordan told you this?
A. I could tell by looking at an almanac. I cannot remember. It was, I should say, a week ago last Thursday. This is what I should think at the moment.

By the CHAIRMAN:

Q. Was it at your house that Mr. Jordan told you this?
A. Yes, sir.
Q. Your dwelling-house?
A. Yes, sir.
Q. In the evening?
A. At night.
Q. Did Mr. Jordan go to your house to communicate that fact?
A. He told me that while he was there. Whether he came there on purpose I do not know.
Q. Was that his business?
A. I do not know; I suppose not.
Q. Did you advise him to consult Mr. Harrison then?
A. No, sir; because at that time I did not know Mr. Harrison was coming to Washington.
Q. After you found out that Mr. Harrison was coming to Washington did you go and advise Mr. Runyon to consult Mr. Harrison?
A. I did suggest to Mr. Jordan that Mr. Runyon should call on Mr. Harrison.
Q. Then did you notify Mr. Harrison that somebody would call on him?
A. Yes, sir.
Q. What was your purpose in notifying Mr. Harrison?
A. Simply because I told him that if he did not wish to see him I would call on him and let him know.
Q. Did you procure Mr. Jordan to advance $8,000 to be sent to Oregon, or any other sum of money?
A. No, sir; I did not procure him to advance any money at all.
Q. Did you have any conversation with Mr. Jordan in regard to transmitting money to Oregon?
A. Yes, sir; I did.
Q. When was that?
A. That was, I think, on the 5th; the 4th or 5th. It was about that time.
Q. What did you tell Mr. Jordan in regard to it?
A. I told Mr. Jordan that it was desirable that certain gentlemen in Oregon should have a credit for $8,000.
Q. How did you come to fix on that amount; what was the way in which you fixed upon it?
A. I can hardly tell why any particular amount was fixed on. The reason of the thing was that there was likely to be in Oregon extensive litigation growing out of the ineligibility of one of the electors. The case was an important one. We had supplied Governor Grover with all the decisions and all the opinions that were possible on the case. We felt that it was important, as the other side did. We had supplied him with all those, and we had done everything in that way which should give him our view of the law, we having first satisfied ourselves on the best legal authorities that our view of the law was correct. We supposed the case was so important, and there being a difference of opinion, that actions of various kinds would be taken.

By Mr. KERNAN:

Q. In the courts there?
A. In the State courts there, and that it was proper that those gentlemen should be enabled to protect and maintain their rights in the courts. Five thousand dollars we thought was too little and $10,000 was too much.

By the CHAIRMAN:

Q. Had you had any demand from Oregon, from anybody there, for money?
A. No, sir; no demand.
Q. Had you had a request or suggestion?
A. For such purposes, yes, sir.
Q. For money?
A. My recollection is, not any specific amount.
Q. Whom did that come from? Who made that request or suggestion; what person in Oregon?
A. My impression is, the chairman of the State committee; I do not remember distinctly who it was, though.
Q. Do you remember his name?
A. Bellinger.
Q. Had that been done by telegraph or by letter?
A. I do not remember about that, which it was, whether by telegraph or letter.
Q. Had you received a request that very day, or the day before, for money, from Oregon? Did you not receive such a request by telegram?
A. I do not remember the time exactly.
Q. Did you receive it by letter or by telegram?
A. I should say by telegram.
Q. Did you receive more than one?
A. O, yes, sir, we had more than one. We had information from there in regard to the condition of things from time to time.
Q. Had you received any telegram that any suit had been commenced in court in Oregon?
A. No, sir.
Q. Or that there would be any? Had anybody telegraphed you that there would be a suit commenced?
A. I do not know that I can say they telegraphed that there would be; they apprehended it. I do not know they said there would be; nobody could tell what there would be.
Q. You had received no telegrams that there had been?
A. No, sir; I said that.
Q. Did you see Mr. Scott at the Everett House, at the democratic rooms, on the night of the 5th of December, the night before you made the arrangement with Mr. Jordan?
A. I think he was there.
Q. Did you have any conversation with him about this Oregon matter?
A. It was somewhat discussed with Mr. Scott and other gentlemen there.
Q. Did you ask Mr. Scott to endeavor to raise money for you?
A. I do not remember asking him to endeavor to raise the money. No, sir.
Q. Did you procure him then to give Mr. Jordan an assurance of repayment of money that might be advanced to the amount of $20,000?
A. Whatever assurance he gave him was the result of the talk we had; perhaps not a direct request for him to do it, but the result of the general talk which was had.
Q. Then whatever assurance he may have given was the result of the talk that you had there?
A. I do not say the talk we had alone there, but the talk we had had about these matters for days before. I do not know the first time Mr. Scott spoke to Mr. Jordan about it.
Q. When you spoke to Mr. Jordan about advancing this $8,000, did he say anything to you about giving security for it?
A. No.
Q. Was there any talk about that in any way?
A. Not on my part.
Q. Or on the part of the committee?
A. None. Mr. Scott, you are aware, is a member of the committee, and of the finance committee also, and had been, as I might explain to you, one of the active members of the committee. He was one of the active members, and was a gentleman who contributed money himself and who raised money from others, as is done by the few active men in every such committee.
Q. Had there been any money sent to Oregon before that?
A. Not that I know of.
Q. Had there been a draft sent?
A. Not that I know of.
Q. Had you heard of any such thing?
A. No, sir.
Q. By anybody?
A. No.
Q. Had you heard of any money being sent by express to Oregon?
A. No, sir.
Q. None at all?
A. None.
Q. Was this the first effort that was made on your part to send money there?
A. Yes, sir; it was the first thing I did about sending money.
Q. Was there any effort made afterward to send money there?
A. No, sir.
Q. In any other way?
A. No.
Q. There was not?
A. No, sir.
Q. Had you sent any person to Oregon before that time for the purpose of looking after that electoral matter?
A. No, sir; I never sent any one there.
Q. Did you know of any person being sent?
A. I knew of a gentleman going.
Q. Who was it?
A. Mr. Patrick was out there, and was in Oregon; I do not remember the exact day; but he had mining interests and mining business near there, part of the way, and went from there to Oregon.
Q. When did Mr. Patrick start there?
A. I do not remember exactly the time when he started.
Q. Was it along in November some time?
A. I should think it must have been in November.
Q. Who procured Mr. Patrick to go?
A. I can hardly say that any one procured him to go, because he was a man who was very much interested in politics himself, and was going near there, and thought he would go there.
Q. Was he not requested to go there by somebody?
A. I think that he had some conversation with one of our committee, who lives at Omaha, Mr. Miller.
Q. Did you correspond with Mr. Miller on the subject?
A. Mr. Miller wrote me that he had gone.
Q. Did he write you that he had gone to look after that matter?
A. That he had gone to Oregon to look after that matter; yes, sir. But all I wished to convey was that he did not go on purpose for that; that he has large interests at Salt Lake.
Q. Salt Lake is a long way this side of Oregon?
A. Yes; but not as far as New York is. He was partly on the way there.

By Mr. KERNAN:

Q. Was Salt Lake the place where he was going?
A. Yes, sir.
Q. And Miller wrote that he would go on to Oregon?
A. That is as far as I understand.

By the CHAIRMAN:

Q. Had you written to Mr. Miller before that to get Mr. Patrick or some one to go?
A. No, sir, I had not.
Q. Had anybody?
A. No, sir.
Q. Had you telegraphed him?
A. I had not telegraphed Mr. Miller to ask anybody to go to Oregon at all.
Q. Did Mr. Miller, then, act on his own motion, without any suggestion from New York?
A. It had been suggested to Dr. Miller that he should go himself.
Q. And he procured Mr. Patrick to go? Did you send any money to Dr. Miller to pay Mr. Patrick's expenses?
A. No, sir; not that I know of.
Q. Was anything advanced to Mr. Patrick in any way?

A. No, sir.
Q. Do you know of his ever being paid since then?
A. No, sir.
Q. You have no knowledge of his having been paid since then?
A. No, sir.
Q. Do you know of anything about Mr. Dimon's having paid Kountze & Bros., on account of Patrick, for Ladd & Bush, $1,039 on the 15th of December?
A. No, sir; I know nothing about it.
The CHAIRMAN, (to Mr. KERNAN.) I have that account which I spoke about yesterday. I want to show it to you.
Mr. KERNAN. You did not ask Dimon anything about it.
The CHAIRMAN. I did not know that entry was there then.
Mr. KERNAN. I did not see it. I supposed he was going to be examined before he went back. I see there is the charge in the account of Ladd & Bush, Salem, Oregon.

By the CHAIRMAN:

Q. What arrangement was made to repay Mr. Scott for this expenditure?
A. No arrangement.
Q. Was Mr. Scott going to advance this money out of his own pocket?
A. Mr. Scott was in the habit of collecting, as I said before, and disbursing money for purposes of the campaign, as a member of the executive and finance committees, and, if this had ever been paid, it would have been one of these items; but it was never paid, and, of course, no one had anything to pay, as the credit never was availed of.
Q. Do you know whether Ladd & Bush or Ladd & Tilton in Oregon paid Mr. Cronin $3,000?
A. I do not know anything about it.
Q. Do you know how Mr. Dimon came to pay $2,000 to Mr. Cronin in New York?
A. No, sir; I know nothing at all, about it.
Q. You do not know how Mr. Dimon came to pay Mr. Patrick $1,039?
A. I do not.
Q. You say that this credit was not availed of in Oregon?
A. I say that because I was informed by Mr. Jordan.
Q. How else were those expenses paid?
A. That I do not know.
Q. You know of no other money that was sent to Oregon, directly or indirectly, than this $8,000?
A. No, sir; I do not know of any.
Q Have you heard of any since that money had been placed there from New York?
A. I do not know of any being sent.
Q. When you spoke to Mr. Jordan that morning, did you tell Mr. Jordan you wanted the matter kept secret or make any suggestion of that kind to him?
A. I do not remember the language I used. I presume that he did understand from what I said to him that it was not a matter to be talked about generally. That is usual in such matters.
Q. Had you got Mr. Jordan to do any business of that kind before—send money for you?
A. No, sir.
Q. To any other portion of the country?
A. I think he has made remittances of small amounts; I do not remember distinctly what now.
Q. Where did the national committee keep their account; in what bank or banking-house?
Mr. KERNAN. Do you mean an account kept in the name of the committee or in the name of some officer?
The CHAIRMAN. The account of the committee.
Mr. KERNAN. If they had one. You assume that there was one?
The CHAIRMAN. I suppose they must have had one.
Mr. KERNAN. I do not know myself.
The WITNESS. My recollection is now that in the name of the committee there was no account.

By the CHAIRMAN:

Q. In whose name was it kept?
A. I think, as I said before, there was no account kept in the name of the committee, no general account. Different members of the committee paid out money.
Q. In whose name was the account kept?
A. Mr. Scott paid out some money. I paid out some money.
Q. Where did you keep your account?
A. I kept my account at the Hanover Bank.
Q. Was the account of the money that you paid out kept there?
A. For these purposes you mean?
Q. Yes, sir.
A. Yes, sir; at the Hanover Bank.
Q. Was the most of the account kept in your name?
A. No, sir; I should say not. As I said, different persons paid money.
Q. In whose name was the account kept?
A. Mr. Edward Cooper paid out some.

By Mr. KERNAN:

Q. Is he a member of the committee?
A. Not a member of the committee.

By the CHAIRMAN:

Q. Is Mr. Cooper the treasurer of the committee?
A. Mr. BARNUM is the treasurer.

By Mr. KERNAN:

Q. Senator BARNUM, of Connecticut?
A. Yes, sir; he is the treasurer.

By the CHAIRMAN:

Q. Where did he keep his account?
A. That I do not know.
Q. Did not the money then have to pass through his hands? Was it not done in a business-like way? Did not the money pass through the hands of the treasurer in some way, or how many treasurers did you have?
A. The fact was that money was advanced, as in this case, by Mr. Scott, or at least guaranteed, and he would collect it when he could get it. You know how these things are done. The sums were not large enough to keep a bank account.
Q. When money was paid in and paid out, was not an account kept of it? Was it not done in a business-like way?
A. That would depend on who received it.
Q. I ask you that question, if, when money was paid in and paid out, there was not an account kept of it?
A. The check-books would show that.
Q. Whose check-books—those of the treasurer of the committee?
A. I should think so. I also said that Mr. Cooper paid out some money.
Q. The question I am asking is, whether, when Mr. Cooper paid out money, or you paid out money, or Mr. Scott paid out money, there was not an account kept of the amount that was paid out, if it did not go on the books of the committee in some way?
A. No more than it would be on the check books.
Q. On whose check-book?
A. Whichever check-book it was paid out on. I mentioned three names.
Q. Was there no account of the money paid in and the money paid out given to the treasurer of the committee?
A. Yes; information was given to him whenever he desired it.
Q. Suppose he did not know anything about it, he could not desire it. I am asking you now if the money that was paid into the committee and the money that was paid out was not done in form through the treasurer of the committee. Did you not communicate to him, when you paid out money, that you had done so?
A. Sometimes I did.
Q. Did you not always do it?
A. I cannot say that I did it in every case.
Q. Have you received money that you did not give him an account of?
A. Our accounts are not closed and settled up.
Q. Was the money sometimes paid to you instead of being paid to the treasurer?
A. Sometimes.
Q. How much money was paid to you?
A. I cannot tell you that; I do not know.
Q. Did you make arrangements to send money to any other State besides Oregon after the election on the 7th of November?
Mr. KERNAN. Do you think it worth while to go into that, because it leads to endless inquiry perhaps? There is only one case under consideration.
The CHAIRMAN. I am not going before the 7th of November; I am not proposing to invade your campaign secrets.
Mr. KERNAN. I suppose not; but as to other States, why go into them?
The CHAIRMAN. I was going to ask in regard to South Carolina.
The WITNESS. What is the question?

By the CHAIRMAN:

Q. What do you know about money being sent after the 7th of November last to other States than Oregon?
A. Do you specify States?
Q. I will name South Carolina?
A. I do not know of any money being sent there.
Q. Directly or indirectly?
A. No, sir; I want to make one exception to that; that is, in regard to a few hundred dollars, perhaps, that have been paid on a little draft of one gentleman there, a draft of one hundred or two hundred or three hundred dollars.

By Mr. KERNAN:

Q. For what purpose was it drawn; do you know?
A. I do not know, except for his traveling expenses, &c., about the State.

By the CHAIRMAN:

Q. What was that man's name?
A. Kennedy.
Q. Do you know Colonel Haskell, of South Carolina?
A. I do.
Q. Did you have any correspondence with him since the 7th of November?
A. I should say there had been correspondence with him. I do not remember any special letter or telegram, but we are in communication with him. He is chairman of the South Carolina State committee.
Q Do you know of any money having been sent, directly or indirectly, to Louisiana since the 7th of November?
A. No, sir; I do not know of any being sent there, except, perhaps, a draft or two of a man who has been there, a clerk or somebody who happened to be down there; some small amount, I mean; a hundred-dollar draft, or two hundred dollars, for traveling expenses.
Q. Is that all your knowledge on the subject, one way or the other?
A. I do not remember anything else.
Q. You have heard of nothing else?
A. No, I do not know of anything being sent to Louisiana.
Q. How about Florida?
A. I do not know of any money being sent there at all, except what was for some expenses of the gentlemen who were down there visiting; the visiting committee, as they were called; and a small amount drawn for by those parties there for the traveling of their men in going about the State to examine the returns and that sort of business.
Q. That was after the election?
A. Yes, sir; you spoke of after the election.
Q. Certainly, I am inquiring as to after the election.
A. I want to say a word in regard to all those four States, including Oregon, that to my knowledge there has not been a dollar sent into either one of them for any purpose except for strictly legitimate purposes. I want to say that is my belief.
Q. Were there men down there traveling that you had sent down, agents of the committee, sent there since the election?
A. O, yes.
Q. Under the auspices of the committee, did gentlemen go to Louisiana?
A. Of course. There were a dozen or fifteen invited.
Q. Did the committee pay their expenses?
A. The committee did pay some of their expenses. I do not know whether they paid them all or not; but my impression is they paid only a part.
Q. Did they pay their expenses down there for witnesses' and attorneys' fees, and all that?
A. I think they did pay some of those.
Q. Do you know how much money they required in Louisiana?
A. I do not.
Q. Could you come within $10,000 of it?
A. I should think I could come within $10,000, because that is more money than we have had.
Q. I am asking you to come as near as you can to the amount.
A. I do not know how much the expenses were.
Q. There were fifteen or twenty gentlemen sent to Louisiana, were there not?
A. I do not remember how many there were. There were, I should think, about a dozen that went. There may have been fifteen; I do not remember. The number is a thing that has passed out of my mind.
Q. I am simply trying to get the aggregate of your expenses down there; I am not saying that they are not legitimate.
Mr. KERNAN, (to the Chairman.) Are you now speaking of the men called the visiting committee of the democrats and some additional ones too?
The CHAIRMAN. I suppose he refers to those gentlemen who went down there under the auspices or at the request of the committee after the election.
The WITNESS. I presume there were fifteen of them altogether.
Q. (By the Chairman.) In regard to Florida, how many were sent there?
A. I should think about seven or eight.
Q. Was the same arrangement made to pay their expenses and the expenses they incurred down there?
A. That is hardly fair to those gentlemen, because there was not any arrange-

ment made to pay their expenses at all when they went away. I mean there was no arrangement.

Q. Did you not expect to do it? You did not expect them to go there at their own expense?

A. I do not think there was much expectation about it, they were got off so quick.

Q. Did you not pay the expenses?

A. Some were paid. All the expenses were not paid. I know there were certain gentlemen who paid their own. There were certain other gentlemen whose expenses were paid.

Q. Did you pay their expenses for subpœnaing witnesses and traveling about the State in Florida and Louisiana?

A. I do not know. I do not remember anything about that, because I never saw any account from them.

Q. How many were sent to South Carolina?

A. I should suppose half a dozen. Mr. Randolph was one, you remember.

By Mr. MITCHELL:

Q. I understood you to say that Mr. Jordan told you that this $8,000 had been paid back?

A. Yes, sir. Perhaps that was not exactly the language, but that was the idea. It had not been used; the credit had not been availed of.

Q. You refer in that to the $8,000 that was transferred to Oregon, through Mr. Dimon, on the 6th?

A. Yes, sir.

Q. Do you not know that there were $8,000 sent to Oregon that were used, as a matter of fact?

A. No, sir; I do not.

Q. Do you not know that there were $8,000, aside from this $8,000 that you have referred to, transferred to a party in San Francisco for use in Oregon?

A. No; I know nothing about that.

Q. Have you not heard that there was from your committee?

A. No.

Q. Do you know a man by the name of W. C. Griswold?

A. No, sir.

Q. Have you not had dispatches from a man named Griswold?

A. I do not remember any such name Of course I might have had dispatches from such a man in the multitude of dispatches which have been received, but I do not remember the name.

Q. In your political arrangements and management of the campaign in Oregon—I speak more particularly about the matter before the governor since the election, in regard to the Watts-Cronin affair—did you not have correspondence by telegraph with a man by the name of Griswold?

A. Not that I know of. I do not remember such a name.

Q. Did you not receive dispatches, one or more, from Salem, Oregon, without any signature, urging that $8,000 must be provided there?

A. I do not remember anything about that. I stated awhile ago that there had been a request from there for some money.

Q. By telegraph?

A. Yes, sir; I stated that.

Q. You said your impression was that that request came from Mr. Bellinger, chairman of the committee?

A. I do not know definitely whom it did come from.

Q. Do you not know that you received a dispatch from Oregon urging or suggesting that $8,000 be telegraphed to Oregon, or placed to the credit of certain parties in Oregon, and that that dispatch had no signature?

A. I have stated that such a dispatch was received from Oregon.

Q. Was such a dispatch, without any signature, received?

A. That I do not remember. I do not remember whether there was a signature or not.

Q. Will you say that you did not receive a dispatch from Oregon, without any signature to it, suggesting that $8,000 be provided there at once?

A. No; I will not say that I did not, because in the multitude of dispatches we were getting from different persons it would be rather difficult to remember.

Q. Do you not know that $8,000 in money was transferred, in some way, from the political managers of your party in New York in the beginning of the month of December, about that time, to certain parties in San Francisco for use in Oregon?

A. No, sir; I do not know anything about it.

Q. Do you not know that that amount of money was placed in the London and San Francisco Bank, (limited,) in San Francisco, to the credit of Ladd & Bush, Oregon?

A. No, sir.

Q. You do not know that?

A. I do not.

Q. Were you not advised by some person or persons that that amount of money was placed in that bank, or in some bank in San Francisco, for the benefit of Ladd & Bush in Oregon?

A. No, sir.

Q. You do not know anything about that?

A. No, sir.

Q. You spoke about a Dr. Miller a little while ago?

A. Yes, sir.

Q. Where does he live?

A. Omaha, Nebraska. George L. Miller. He is one of the executive committee. He is a member of the national committee from Nebraska.

Q. Was not George L. Miller, of Omaha, Nebraska, instructed to telegraph to Oregon to postpone the counting of the vote until Mr. Patrick could get there?

A. No, sir; not to my knowledge.

Q. Did you have any communication with George L. Miller?

A. I have communication with him very frequently. I never told him anything of that kind.

Q. Did you have any communication with him by telegraph about the matter of the Oregon vote?

A. I asked him questions about the condition of the vote, and all that.

Q. What did you ask him?

A. When the condition of the vote immediately after the election was in doubt, as it was in the East——

Q. Did you request him to get a man to go to Oregon?

A. No, sir.

Q. Did you suggest that he get some person to go to Oregon?

A. No, sir.

Q. How did you find out about Mr. Patrick?

A. I did not find out that. I have given it exactly as it occurred. Do you wish it repeated?

Q. I do not wish you to repeat anything, but you have not answered this question: How did you first obtain knowledge of this man Patrick and when?

A. I stated that in this way: that Dr. Miller was requested to go himself, and knowing this gentleman was going part way there he asked him to go on, and it was arranged together that he should go on.

Q. Had Patrick left Omaha at that time, do you know?

A. No, sir; he had not left.

By Mr KERNAN:

Q. He was going to Salt Lake, and Miller got him to go on to Oregon?

A. Yes, sir.

By Mr. MITCHELL:

Q. Your understanding is that Mr. Patrick had no business west of Salt Lake?

A. I don't know that.

Q. You said that he had business part way, which was at Salt Lake?

A. I was so advised, and he might have had business in Oregon, for all I know.

Q. He was procured, then, to go on. What was he paid as expenses for going on?

A. I have no knowledge that he was ever paid anything; I do not think he was ever paid anything.

Q. Do you not know that the books of the managers, or some of them in New York, show that $8,000 were sent to Oregon and used for some purpose in connection with this controversy before the governor?

A. No, sir; I do not know any such thing. I have no knowledge that they show anything of the sort. If they do, they are wrong, in my judgment. I do not know that they show anything of the kind, and I never saw any such thing on them at all.

Mr. KERNAN. You know nothing about this transaction through Dimon?

The WITNESS. No, sir.

Mr. MITCHELL. I am not speaking of that transaction now. (To the witness.) Did Mr. Miller himself go west?

A. Not that I know of.

By Mr. MITCHELL:

Q. Do you know whether he went to San Francisco?

A. I know he did not, as well as I know anything that I do not see. I have no reason to suppose he did go.

Q. Had you any communication, by telegraph or otherwise, with parties in San Francisco in relation to this Oregon matter?

A. Yes, sir.

Q. With whom?

A. We had correspondence with Ex-Senator Casserly. Senator Casserly was asked to go to Oregon.

Q. For what purpose?

A. In regard to the legal aspects of the case. He is a lawyer, and he was asked to go there and present the case. For some reason he was unable to go; but I think he sent a brief up there.

Q. Who else was telegraphed to in San Francisco?

A. I do not remember. I rather think Governor Irwin was, but I am not sure about that. I have a recollection of that kind, although a dim one. I do not know that he was.

Q. Do you know of any money being paid by any of the managers of your party in New York to W. C. Griswold since the 7th of November?

A. No, sir.

Q. You do not know anything about that?

A. I never heard the name, to my recollection.

WASHINGTON, *January* 17, 1877.

WILLIAM T. PELTON'S examination continued.

By the CHAIRMAN:

Question. Do you know Mr. Smith Weed?

Answer. Yes, sir.

Q. Where does he live?

A. At Plattsburgh. He has an office in New York also, and does business as a lawyer in New York. He is a resident of Plattsburgh.

Q. Was he engaged in the active management of your campaign? Did he take an active part in it?

A. He was active in the campaign.

Q. Did he go to South Carolina after the election?

A. Yes, sir; he did.

Q. At what time?

A. I do not remember exactly the time; it was after the election.

Q. Did he go there at your suggestion or by your advice?

A. I do not remember who asked him to go, particularly.

Q. Did he go there at the instance of the committee?

A. I do not remember who asked him to go.

Q. But did he go there at the instance of the committee?

A. I do not remember who asked him. He was an active man in the campaign.

Q. I still ask you the question whether he went there at the instance of the committee or at the wish of the committee, without asking you who it was.

A. I do not think there was any action taken by the committee on it.

Q. Did you know he was going?

A. Yes, sir.

Q. Did you request him to go?

A. I do not remember whether I requested him to go or not. The matter was discussed, and he went.

Q. Do you know what his business was?

A. His business was the same there as that of other gentlemen who went down on both sides to witness the count.

Q. I ask if you know what his business was.

A. No more than that.

Q. What was "that?"

A. The same business that other gentlemen had who went there to see what the condition of the vote was there, and to see that there was a fair count and a fair return.

Q. Do you know what name he went under when he was in South Carolina.

A. No, sir. I do not think he went under any name but his own.

Q. You think he went under his own name?

A. I do.

Q. Was he registered under his own name at Columbia?

A. I have no reason to think he was not. I do not know.

Q. Did you get a dispatch from South Carolina along about the 4th or 5th of December?

A. I do not remember about that especially.

Q. Do you remember getting a dispatch from the president or manager of the Charlotte, Columbia and Augusta Railroad?

A. No, sir.

Q. Was a dispatch shown to you by anybody sent by the president of the Charlotte, Columbia and Augusta Railroad?

A. I think not. I do not remember any such.

Q. Was there a dispatch shown to you, or have you any knowledge of a dispatch, in which the question was asked by a man in South Carolina whether he was at liberty to pay $30,000 for an electoral vote?

A. I do not remember any such thing.

Q. Was there anything of that kind presented to you?

A. I do not remember any such thing.

Q. Do you think there was not?

A. I do not remember any such thing.

Q. If there was, would you remember it?

A. There were suggestions of that kind made in different ways.

Q. Whom were they made by?

A. I do not remember any particular person making them.

Q. Do you not remember whom those suggestions came from?

A. No, sir; I do not remember any particular one.

Q. You do not?

A. I do not.

Q. But you remember that there were suggestions of that kind?
A. Yes, sir.
Q. You cannot tell where they came from?
A. No, sir; I do not remember.
Q. Did they come from some one who lived there or some one who had been sent down there from New York?
A. I do not remember.
Q. When was that suggestion made?
A. I do not remember when.
Q. How long was it before the electoral votes were cast?
A. That I do not remember.
Q. Was it a week before, do you think?
A. I do not know. I do not remember.
Q. Do you think it was two weeks before?
A. I do not remember. I do not know the time.
Q. Have you not some idea of the time?
A. No, sir; I have no definite idea of the time.
Q. Was that suggestion made to you more than once?
A. I remember on one occasion a letter being received from some man, I do not remember who, suggesting that in a certain State an elector could be had for money. I do not remember where, and I do not remember the man's name; but I recollect the letter coming.
Q. Was that from South Carolina?
A. No, sir; another State.
Q. What State was that?
A. I do not remember. It was one of the Western States. I only speak of that as showing that there were propositions of that kind made.
Q. Was that from Oregon?
A. No, sir.
Q. From what Western State?
A. I cannot tell you now what State it was. It was one of the Western States. That is my impression.

By Mr. KERNAN:

Q. This side of the Rocky Mountains?
A. Yes, sir; one of the Northwestern States, I mean.

By the CHAIRMAN:

Q. I am asking you in regard to South Carolina; if there was not a suggestion of that kind from South Carolina?
A. I do not remember that there was any distinct proposition about South Carolina.
Q. "Any distinct proposition." What was the proposition?
A. I do not remember that there was a proposition.
Q. Do you say there was not?
A. I do not remember that there was.
Q. Have you got your letters that you received from Mr. Smith Weed while he was down there?
A. I do not know whether I have or not; I do not remember having any. Most of the correspondence of the committee on those things was destroyed from time to time. There was no necessity of keeping it.
Q. Did you get a letter from Mr. Smith Weed, while he was down there, in reference to procuring a vote in South Carolina from a colored elector?
A. I do not remember getting any such letter.
Q. Nor dispatch?
A. I do not remember it.
Q. Nor from any other person down there?
A. I do not remember it.
Q. Do you say there was none?
A. I do not remember any such thing.
Q. If there had been, would you remember it?
A. I should think I would.
Q. Are you, then, able to say that there was none such?
A. I say that I do not remember any such.

WASHINGTON, *January* 19, 1877.

WILLIAM T. PELTON'S examination continued.

The CHAIRMAN. I am not prepared to continue the examination of Mr. Pelton further at this time, except to ask a question or two this morning. [To the witness.] Did you send a dispatch to Oregon, Mr. Pelton, on the 8th of November—the day after the election?
A. I do not remember; I have no recollection of any dispatch to Oregon then.
Q. I will be specific. Did you send a dispatch to Senator KELLY on the 8th of November?
A. I have no recollection as to whether I did or did not.
Q. Did you send any dispatch to him about that time, or within a day or two after the election?
A. I do not remember.
Q. I am instructed to ask you this question; I give you the words of the dispatch which I ask you about—a dispatch from you to Senator KELLY, either on the 8th or 9th of November, in these words: "We rely upon you to give us Oregon; I will furnish all funds needed?"
A. No, sir; I have no recollection of ever sending such a dispatch at all.
Q. You have no recollection of sending any such dispatch?
A. No, sir.
Q. Do you say you did not send it?
A. I say that I do not remember sending any such one in any way.
Q. Either on the 8th or 9th of November, or any subsequent time?
A. Any of those days.
Q. Do you know of any one sending a dispatch to Senator KELLY on that day or the following day, or within three or four days?
A. I do not.
Q. You have no knowledge on the subject?
A. I do not know anything about any such dispatch.

WASHINGTON, *January* 31, 1877.

WILLIAM T. PELTON recalled.

By Mr. MITCHELL:

Question. I believe you stated, but I do not remember whether you did or not, when on the stand before, that you were acquainted with a Mr. J. N. H. Patrick?
Answer. I do not remember. I think I did. I am acquainted with him. I do not remember whether I stated it or not.
Q. Where does he make his home?
A. I think at Omaha. I am not sure about that.
Q. I want you to look at the following dispatch. It reads:

"N. Y., 29th *Nov.*, 1876.

"To J. N. PATRICK, *Portland, Oreg.:*

"Moral hasty sideral vizier gobble cramp by hemistic welcome licentiate muskeeter compassion neglectful recoverable hothouse live innovator brackish association dime afar idolator session hemistic mitre."

[No sig.]

Tell me if you know in whose handwriting it is:
A. (Examining.) No, sir; I do not.
Q. It is not your handwriting?
A. No, sir.
Q. You are certain about it?
A. It does not seem to be my handwriting.
Q. It is not your handwriting?
A. No, sir.
Q. Do you know who sent that dispatch?
A. No, sir.
Q. Do you remember some communication with Mr. Patrick in the month of November and the beginning of December through the telegraph?
A. Some communication through the headquarters; yes, sir.
Q. Did you receive dispatches from him personally?
A. I think there were some dispatches addressed to me.
Q. Did you receive them?
A. I cannot tell who did receive them. They were received by whoever happened to be at the headquarters at the time.
Q. I will ask you if you received the following dispatch:

"SALEM, *December* 5, 1876—4 p. m.

"To W. T. PELTON, 15 *Gramercy Park, New York:*

"Brazen welcome cuttle survivor doctrinal Charles Dimon squab taster niveous Ladd and Bush, Salem.

"Brazen fracture medicine grout minutegun graduation innovator venom summons lowringly Salem beer vizard moreless erratic."

[No signature.]

A. I do not know. I have no means of identifying it at all. I received great quantities of dispatches, and I have no means of identifying them.
Q. What is your best recollection?
A. I do not know.
Q. Have you any recollection on the subject?
A. I have not.
Q. Did you, in your correspondence by telegraph with J. N. H. Patrick, while Mr. Patrick was at Portland and Salem, Oregon, and at San Francisco, California, the latter part of November and the 1st of December, 1876, use a cipher dispatch?
A. There were cipher dispatches used from the headquarters.
Q. What do you mean by headquarters?
A. I mean our committee.
Q. What committee?
A. The democratic committee, the national committee. I do not know that I did.
Q. Were these dispatches from Mr. Patrick directed to you as a general thing?
A. I think some of them were. I do not remember about that, whether it was or not. I have no means of knowing.
Q. Had you in your possession a cipher used in sending dispatches?
A. There was one in possession of the headquarters.
Q. Was the cipher that was used by Mr. Patrick this same cipher?
A. I do not know whether it was the same or not.
Q. If he corresponded with you and your democratic headquarters in cipher, and you with him, it must have been the same cipher?
A. I presume he had the same cipher to use that we used; I do not know what cipher he used with other people.
Q. Did he not use the same cipher in correspondence with you?
A. Yes, sir.
Q. He used the cipher used by the democratic headquarters?
A. Yes, sir.
Q. You understood that cipher?
A. It was understood at the office.
Q. That is not the question. Did you understand it?
A. It was understood there.
Q. But did you understand it?
A. Well, I could read it.
Q. Now please translate that dispatch addressed to you, 15 Gramercy Park, dated December 5, Salem, Oregon. Take it and look at it and give the translation.
A. (Examining.) I have no means of giving the translation.
Q. This cipher was the same cipher, was it not, that was used by the committee generally in the campaign, whatever use was made of it?
A. No, sir; we had several different ciphers.
Q. When was the cipher that was used in your correspondence in reference to this Oregon matter obtained?
A. I think that that cipher, perhaps, was used some time in November.
Q. Was that a cipher gotten up after the election?
A. That cipher was not used before the election.
Q. The cipher, then, that was used in reference to the Oregon electoral matter was not a cipher that was used in the general campaign before the election?
A. No, sir; we had different ciphers.
Q. The one used in the Oregon matter was not used in the campaign until after the election?
A. I said that. I said it was used after the election.
Q. Who prepared that cipher, if you know?
A. I think Mr. Patrick did.
Q. When?
A. I do not know when.
Q. Did he send you a copy?
A. Yes, sir.
Q. Where from?
A. I do not know where it was sent from. He was in Omaha at the time, I think.
Q. That was in November some time?
A. Yes, sir.
Q. Was that an extensive cipher?
A. I do not know what you mean by an extensive cipher.
Q. I mean was it limited?
A. No, sir; it was capable of being used for any purpose.
Q. Was it a cipher embracing all the words in the dictionary?
A. Yes, sir; any number of words.
Q. Did you have that printed?
A. No, sir.
Q. Do you know whether Mr. Patrick had his cipher-book printed?
A. What do you mean by the question, whether it was printed or whether I had it printed?
Q. Whether it was printed?
A. Yes, sir; it was.
Q. It was a printed book?
A. Yes, sir.

By Mr. KERNAN:

Q. But you did not get it printed?
A. No, sir.

By Mr. MITCHELL:

Q. You say it was printed by somebody?
A. Yes, sir.
Q. In book form?
A. Yes, sir.
Q. Was that book printed?

A. I can answer your questions without your going through a regular list of questions as well one way as another. It was a dictionary; that is what it was.
Q. It was gotten up for this occasion?
A. No, sir; it was a dictionary.
Q. Did you have a dictionary? Just explain.
A. A very ordinary method of using a cipher is to use a dictionary and take one set of words for another.
Q. Explain in a few words how this dictionary cipher was made. You took a printed dictionary?
A. We had a printed dictionary, and used a certain number of words.
Q. Would you write down the words that represented a certain number of words?
A. We would write down the cipher word. I presume you are familiar with the use of that.
Q. I am familiar with it, but probably some of the rest are not. Did Mr. Patrick take a printed dictionary and write in the dictionary?
A. No, sir.
Q. How did he do it?
A. By using a dictionary. Suppose we two take any dictionary and agree that we will use a certain number of pages ahead, that is, a corresponding word ten, fifteen, or twenty pages ahead. If you want to send the word "doubt," you take the word which corresponds to that on the page the number you agree upon that is ahead. Do you understand that?
Q. I do not, I must confess. Here is Webster's Dictionary unabridged.
A. That is rather larger than what we used.
Q. Please take this dictionary and explain how this cipher was formed.
A. You agree upon taking the corresponding word ten pages ahead. Suppose you want to send the word "manicon." That is the last word on the second column of the eight hundred and eighth page. Taking ten pages ahead you turn over to the eight hundred and eighteenth page, and you take the corresponding word there, which is "mate."
Q. If you wanted to send "manicon," instead of sending that you would send the word "mate?"
A. Yes, sir.

By Mr. KERNAN:

Q. You would send ten pages ahead in the same place in the column?
A. Yes, sir.

By Mr. MITCHELL:

Q. It is a simple transition, then?
A. That is all; simply using one word for another. When you get the message you find the word "mate," and going back ten pages you find the word you want.
Q. Let me ask you, if in this cipher prepared by Mr. Patrick, which you say was used in this Oregon matter, there were words used in the cipher dispatches that are not English words?
A. I do not understand you.
Q. I mean words not found in the dictionary?
A. I should say not. I do not see any reason why there should be.

By Mr. KERNAN:

Q. Proper names, I suppose?
A. Proper names, of course.

By Mr. MITCHELL:

Q. Now explain to me what would be written out, if anything, so that you would understand this cipher?
A. There would not be anything written out; you and I would have that understood.
Q. Did you have this key written out?
A. No, sir; it was not written out at all.

By Mr. KERNAN:

Q. How would you remember?
A. You would have to have a memorandum given you.

By Mr. MITCHELL:

Q. Then there is either something written down in the dictionary, or else there is a written memorandum outside?
A. As to the key?
Q. Yes.
A. Certainly.
Q. Did Mr. Patrick, in the month of November, send to you or the democratic committee, or anybody connected with it in New York, a dictionary so arranged that you could use it as a cipher?
A. Yes, sir.

By Mr. KERNAN:

Q. He sent it with a memorandum how to use it?
A. He sent it with a memorandum how to use it.

By Mr. MITCHELL:

Q. He was directed to get up a cipher at that time?
A. I suppose Dr. Miller did that.
Q. Was Dr. Miller directed by you to get up a cipher?
A. No.
Q. Are you certain of that?
A. I do not remember whether he did it of his own volition or whether I directed him.
Q. You would not say that he was directed?
A. I have no recollection about it, whether I directed him to get it out or not.
Q. You used that cipher pretty extensively, did you not, in the months of November and December; you sent a great many dispatches, and received a great many?
A. There were a great many received and a great many sent in the office.

By Mr. KERNAN:

Q. Mr. MITCHELL means sent by this particular Patrick key?
A. O, a good many.

By Mr. MITCHELL:

Q. I am going to take up this dispatch dated Salem, December 5, 1876, sent to William T. Pelton, 15 Gramercy Park, to ask you what these different words mean. The first is word "brazen;" what did that mean?
A. I do not know.
Q. The next word is "welkin;" what did that mean?
A. I do not know.
Q. The next is "cuttle;" what did that mean?
A. I do not know.
Q. The next is "survivor;" what did that mean?
A. I do not know.
Q. The next is "doctrinal;" what did that mean?
A. I do not know.
Q. The next is "Charles Dimon;" what did that mean?
A. I do not know what that meant, except that there is a man of that name I know.
Q. Where does he live?
A. He lives in New York.
Q. The next word is "squab;" what does that mean?
A. I do not know.
Q. The next word is "taster;" what does that mean?
A. I do not know.
Q. The next word is "niveous;" what does that mean?
A. I do not know.
Q. Is there such a word as "niveous" in the English language?
A. I do not know; I think there is. Of course it is utterly impossible for anybody to remember the translation of those words.
Q. I see "niveous" is here. It means snowy, resembling snow, partaking of the quality of snow. The next four words are "Ladd and Bush, Salem;" what did that mean?
A. I do not know what it meant.
Q. The next word is "brazen;" what did that mean?
A. I do not know.
Q. The next word is "fracture;" what did that mean?
A. I do not know.
Q. The next word is "medicine;" what did that mean?
A. I do not know what any of them mean.
Q. Do you know what that word "medicine" in all these dispatches means?
A. I do not know.
Q. It is a word in almost all these dispatches?
A. I do not know what it means.
Q. Will you testify under oath that you do not know what "medicine" represents?
A. I will; I do not know.
Q. The next word is "grout;" what did that mean?
A. I do not know.
Q. The next word is "minute-gun;" what does that mean?
A. I do not know.
Q. The next word is "graduation;" what does that mean?
A. I do not know.
Q. The next word is "innovator;" what does that mean?
A. I do not know.
Q. The next word is "venom;" what does that mean?
A. I do not know.
Q. The next word is "summons;" what does that mean?
A. I do not know.
Q. The next word is "loweringly;" what does that mean?
A. I do not know.
Q. The next word is "Salem;" what did that mean?
A. I presume that means Salem; I do not know.
Q. In what State?
A. I should judge it meant Salem, Oregon, from the fact that the dispatch came from there.
Q. The next word is "beer;" what did that mean?
A. I do not know.
Q. The next word is "vizard;" what did that mean?
A. I do not know.
Q. The next word is "noiseless;" what does that mean?
A. I do not know.
Q. The next word is "erratic;" what does that mean?
A. I do not know.
Q. Then you do not know what any of these words mean in these dispatches directed to you?
A. I do not know.

By Mr. KERNAN:

Q. That is, you do not know what they signify in cipher?
A. No, I do not; of course, with the exception of the proper name there. I make that exception.

By Mr. MITCHELL:

Q. I have in my hand a dispatch dated November 28, 1876, Portland, Oregon, to W. T. Pelton, No. 15 Gramercy Park, New York:

By vizier association innocuous to negligence cunning minutely previously readmit doltish to purchase afar act with cunning afar sacristy unweighed afar pointer tigress cuttle superannuated syllabus dilatoriness misapprehension contraband Kountze bisulcous top spiniferous answer.

J. N. H. PATRICK.

I fully indorse this.

JAMES K. KELLY.

Did you receive that dispatch about the 28th or 29th November, 1876?
A. I cannot tell definitely whether I did. It seems to be addressed to me. I reckon it came about that time.
Q. Do you remember receiving a dispatch about that time indorsed by Senator KELLY?
A. There were some dispatches received about that time. I cannot remember the particular one.
Q. Do you remember the dispatch referring to Kountze Brothers, 12 Wall street?
A. Not specially.
Q. Do you know Kountze Brothers?
A. I do not know them at all; I know there is such a concern.
Q. Do you know a man named Erwin Davis?
A. I have seen him.
Q. When did you see him?
A. I have not seen him for a long time.
Q. Did you see him in the latter part of November?
A. I should think it was sometime in November that I saw him.
Q. Did you not have a conversation with Erwin Davis about depositing money with Kountze Brothers?
A. No, sir; I never had.

By Mr. KERNAN:

Q. Do you say you know him?
A. I cannot say that I have known him; I have seen him.

By Mr. MITCHELL:

Q. Under what circumstances did you see Erwin Davis, and when?
A. I do not remember when it was. I met him one day, and had just a few minutes' conversation with him. Somebody introduced me to him, and I had a little talk with him.
Q. Where was it?
A. I think it was at the Everett House; I am not sure.
Q. When was that?
A. I do not know when it was.
Q. Was it in November or December?
A. I think it was in November.

Q. In the latter part of November?
A. I should think it was after the election.
Q. It was after the election, in the latter part of the month?
A. I do not remember when it was.
Q. Who introduced you to him?
A. That I do not remember.
Q. Did you go to the Everett House to see him?
A. We were there. That was our headquarters.
Q. The headquarters of the committee?
A. Yes, sir.
Q. He came there?
A. Yes, sir; he came there.
Q. Did he bring a dispatch from somebody?
A. I do not remember that he did.
Q. What was his business there?
A. He came in there and was introduced to me, and we had some little talk about the election.
Q. Who introduced him?
A. That I do not remember.
Q. Did you talk about this Oregon matter?
A. I think not. I do not remember that we did.
Q. Do you know Mr. Patrick's handwriting?
A. No, sir; I do not. I do not think I ever saw it.
Q. I hold in my hand a dispatch which reads as follows:

"NEW YORK, *November* 29, 1876.

"To J. N. H. PATRICK, *Portland, Oreg.:*

"Moral hasty sidereal vizier gobble cramp by hemistic welcome licentiate musketeer compassion neglectful recoverable hothouse live innovator brackish association dime afar idolator session hemistic mitre."

[No signature]

I will ask you whose handwriting that is in, if you know?
A. (Examining.) No; I cannot tell.
Q. Did you ever see that?
A. It is not mine.
Q Do you not know whose it is?
A. No, sir; I do not.
Q Have you any of your handwriting about you now?
A. I do not know whether I have or not. Mr. KERNAN knows my handwriting.
Mr. KERNAN, (examining.) It is not like his at all. I know it well.
The WITNESS. Mr. KERNAN knows probably that is easier writing than mine.
Mr. KERNAN. I could swear that was not. I do not know whose it is; but it is not yours, unless you write entirely different from all the correspondence I have ever seen.
Q. Have you a copy of this cipher used with Mr. Patrick?
A. No, sir.
Q. Who has it?
A. I do not know who has it now.
Q. When did you see it last?
A. I have not seen it for a month and more. I cannot say exactly a month, but I have not seen it for a long time.
Q. Who had it when you saw it last?
A It was about our headquarters the last time I saw it.
Q. Have you seen Mr. W. C. Griswold?
A. No, sir; I do not know him. I have never seen him, to my knowledge.
Q. Had you anything to do with the deposit of $7,200 in the London and San Francisco Bank, San Francisco, on the 6th of December?
A. No, sir.
Q. And you did not know about that?
A. No; I think I said that to you the other day.
Q. Who is employed at the democratic headquarters, New York, to send cipher dispatches?
A. No one especially is employed to send cipher dispatches.
Q Did you have more than one copy in New York of this cipher with Patrick?
A. No, sir; only one book.
Q. Who kept that book?
A. That was kept at the headquarters.
Q. Who used it?
A. Different gentlemen who happened to be there connected with the committee.

By Mr. KERNAN:

Q. Any one who had a key, I suppose, could read dispatches and answer them?
A. Yes, sir.

By Mr. MITCHELL:

Q. I have in my hand a dispatch which reads as follows:

PORTLAND, *December* 3, 1876—6.20 p. m.

To W. T. PELTON, 15 *Gramercy Park, New York:*

P. vizard association at Grand Hotel San Francisco medicament association Salt Lake City sympathy countless swallow.

Graduation taster bedaub medicine neglectful misapprehension immixable recollection inextinguishable welcome brackish ratan innovator. K.

Did you receive that dispatch?
A. I do not remember.
Q. Did you write any of the dispatches that were sent to Oregon—either to C. B. Bellinger, James K. Kelly, or J. N. H. Patrick—in reference to this Oregon matter?
A. I do not remember whether I did or not. I think very likely I did write some of them. I do not remember, though, distinctly.

By Mr. KERNAN:

Q. There were dispatches sent from New York to Kelly and Bellinger in Oregon and received from them?
A. Yes, sir.
Q. In reference to the matter of that case there?
A. As to the eligibility of Watts: yes, sir.
Q. And also was there not in reference to the expenses of litigation, which they expected to pay?
A. Yes, sir.
Q. Those dispatches were in cipher?
A. Yes, sir.
Q. You cannot, from the nature of this cipher, give us the meaning of any of these telegrams unless you had the key to the dictionary?
A No, sir. It is impossible for anybody to do it. It is impossible for anybody to remember it.
Q To make it more clear, you take any dictionary and then make a memorandum?
A. You add ten pages ahead, for instance.
Q. For instance, you would first make a memorandum, and if you wanted to use the bottom word on page 888 you would go forward and take the bottom word on page 898.

By Mr. MITCHELL:

Q. You use the corresponding word up the whole column on the other page?
A. No; not that.

By Mr. KERNAN:

Q. Now, taking the last word on the first column of page 888, the corresponding word at the bottom of the same column on pages 898, is "nutriment," being ten pages ahead?
A. Yes, sir; that would be right if you had agreed on ten pages; assuming that.
Q. If you wanted to use the word "nutriment" in your communication in cipher, which is the last word on the first column of page 898, you would use the word "nobbler," which is the last word on the first column of page 888?
A. No, sir; you have that a little mixed.
Q. That is what I want to see.
A. Take the word "no," which is a common word. If you want to send the word "no," you turn over ten pages, and you take the corresponding word on the tenth page.
Q. That would be "nutrication?"
A. Yes; you send that in your telegram. When the man receives the telegram he deducts ten pages, goes back, and finds "no."
Q. So that in that case, if you wanted to say "no," you would say "nutrication," and then he would turn back ten pages, and it would be "no?"
A. Yes, sir.

By Mr. MITCHELL:

Q. So that in using this Patrick cipher there was no economy in words?
A. O, no.
Q. It took precisely the same number of words to send the dispatch as if you had employed the real words you wanted to use?
A. Exactly. There was no economy of words. It is a mere arbitrary thing; and therefore, no man in the world could remember what the words mean.
Q. Would any man remember any of it without having the key?
A. No, sir.
Q. The object is not economy but secrecy?
A. Secrecy, of course.

WASHINGTON, *February* 28, 1877.

W. T. PELTON recalled.

By Mr. KERNAN:

Question. State what knowledge you have as to whether Governor Tilden did or did not know anything about or see the telegrams from Oregon in reference to money.

Answer. He did not know anything about them in any way whatever. He never saw one of them nor knew anything about them at all.

Q. If you have a statement to make in regard to the matter, you can now make it.
A. I have prepared the following statement:

It has been stated that money has been used to purchase an elector in Oregon. It is due to myself, as well as to the democratic party, to state the facts in regard to that matter.

Telegrams addressed to me have been put in evidence; other telegrams, dated in New York, without any signature and without any proof that they came either from me or any person connected with the national committee, have also been put in evidence. These telegrams, without regard to dates, have been published, following each other in the order best suited to the purposes of those who had the examination of them.

Telegrams came every day following the election in large numbers from all parts of the country, addressed sometimes to myself and sometimes to members of the committee. Wherever they were addressed, they were delivered during the day at 59 Liberty street and during the night at the Everett House, in accordance with directions given at the telegraph offices. These telegrams were opened by such officer or member of the committee as was present at the time. Therefore these telegrams were not received at 15 Gramercy Park even when directed there; nor were the answers sent from there. None of the Oregon cipher telegrams were delivered at 15 Gramercy Park, nor were the answers to them sent from there. Governor Tilden never saw or knew of any of the cipher telegrams received from or sent to Oregon. The famous "Gobble" dispatch was not received at 15 Gramercy Park, and was never seen by Governor Tilden or its contents known to him.

Telegrams and letters addressed to me were often opened, read, and answered by others without my seeing them or knowing of them. Many of the telegrams put in evidence, purporting to come from Oregon and addressed to me, I do not recognize as having come to my knowledge, and they were never received by me. As my time was fully occupied, cipher telegrams were not usually translated by me, as it was very slow and tedious work. They were often defectively translated, and their meaning often imperfectly ascertained, and sometimes they could not be read at all. The telegram put in evidence dated Portland, Oregon, November 28, and purporting to be signed by Mr. Patrick and Senator KELLY, was never translated or read by me as translated before the Senate committee, and never understood by me to contain a proposition to purchase a republican elector or any other elector. I never sanctioned or encouraged the furnishing of money to purchase an elector in Oregon, or countenanced any such use of money, nor did any one else with my knowledge. My purpose was to supply to the democratic committee of Oregon, who claimed they were poor, sufficient funds to meet the just and legitimate expenses of sustaining their rights.

Whatever contingent arrangement there was suggested in the telegram from New York dated November 29, which seems to me to be very imperfectly translated, referred to payment of lawyers' fees. These fees seemed to be very large. Senator KELLY and Mr. Bellinger both testify that the answer to their requisition for money, dated November 28, was a distinct and definite refusal. That is my own recollection.

The three republicans who were candidates for electors were all fully examined before the Senate committee, and it is not pretended to be shown that there was a suggestion even made to either of them by any one to influence their action or the action of either one of them.

Mr. MITCHELL. Allow me to state in this connection that I have no objection to Mr. Pelton testifying, but I object to an argument on his part.

The WITNESS. I do not intend to make an argument, Mr. MITCHELL, but merely to state facts. I will go on with my statement.

And Mr. Bellinger, the chairman of the democratic State committee, and Senator KELLY have both testified that no money was applied for, proposed to be furnished, or intended to be used, or used for any such purpose.

Mr. Patrick was totally unknown to me at the time he went to Oregon. Dr. G. L. Miller, of Omaha, a member of the national democratic committee, had been telegraphed to to go to Oregon. He not being able to go, found that Mr. Patrick was going to Salt Lake on his own business, and requested him to go on to Oregon, and he went. I have no recollection of the long telegram put in evidence, purporting to come from Portland, dated November 30. Certainly it was never read by me as it is pretended to be now translated before the Senate committee. It does not appear, by the telegrams given in evidence, to have ever been replied to or any notice taken of its contents. It certainly never was assented to by me or by any one else, to my knowledge.

The telegram from New York dated December 1, the next day, and put in evidence as if it were an answer to the telegram of the former day, treats all suggestions about money as if discarded, and inquires about convening the Legislature to provide for the vacancy in the office of elector.

I have never heard it intimated by any one that Governor Grover or any one else in office in Oregon was to be paid anything, or was to receive anything; and I never heard that Mr. Cronin was to be paid anything for expenses, loss of time, or for any other purpose, until long afterward, and never heard that any money was desired for such a purpose until I saw the evidence before the Senate committee.

If it be true that any improper use of money did in fact enter the mind of one man, it was utterly without authority, was never adopted or sanctioned by any one else, and was never acted upon by himself, and no suggestion of it was ever made to either of the parties to be influenced.

As I have before testified, so far as I am concerned, no money was ever furnished for any purpose whatever. The only transaction of which I am cognizant was for perfectly legitimate purposes, and even that credit was never used, and, as a matter of fact, the funds never left the city of New York.

By Mr. KERNAN:

Q. Now I want to ask you just a few questions. Had Governor Tilden in any way notice or knowledge, or had any suggestion been made to him, that they wanted money to buy up an elector or anybody else?

A. No, sir; he never knew anything in regard to any matter connected with these telegrams until he saw them in the newspapers.

Q. Was he ever consulted in any way about furnishing money for legitimate expenses?

A. No, sir.

Q. There was no consultation with him; he had no knowledge at all of that fact, so far as you know?

A. No, sir; none whatever.

Q. For any legitimate purpose, or for any other purpose whatever?

A. Not for any purpose.

Q. Where were the telegrams addressed to Gramercy Park delivered?

A. They were delivered at the Liberty-street office and at the Everett House. You, sir, know, of course, that we had two offices. We had the Liberty-street office, where we were during the day, and the Everett House, where we were at night. They were delivered at the Liberty-street office, perhaps between ten o'clock in the morning and five or six in the afternoon, and during the night at the Everett House.

Q. Was that done in pursuance of instructions left at the telegraph office?

A. In pursuance of instructions left at the telegraph office that was done—the telegraph office, the office that delivered the message to us, because that was where the business was all done.

Q. Did the committee keep any account there?

A. At the telegraph office? Yes, sir.

Q. And they were charged?

A. They were charged to the committee at the office.

Q. As to Governor Tilden himself, had he any knowledge that those telegrams came to him by means of a key or dictionary, so that he could decipher those cipher telegrams?

A. Not the least.

Q. He had no key?

A. He had no key; had no knowledge of it whatever.

By Mr. MITCHELL:

Q. This long answer that you have given, Colonel Pelton, was prepared by you was written out, before you came here to-day?

A. Before I came into the room; yes, sir.

Q. Written out and prepared carefully. In preparing that statement did you examine the testimony heretofore taken in this case?

A. I have read the testimony; yes, sir.

Q. You had a book before you, I suppose, and compared it?

A. No, I do not know that I did.

Q. You examined it carefully, did you not?

A. I read the testimony; yes, sir.

Q. On the 6th of December, I believe it was, you went to the Third National Bank to see Mr. Jordan, did you not?

A. Well, I do not remember the day, sir. That is all in the other evidence.

Q. At about that time you went to the Third National Bank, New York, in order to get $8,000 transferred to Oregon, did you not?

A. That is all in the evidence.

Q. Well, I am asking about it now?

A. I do not remember on what day it was.

Q. Did you, on or about the 6th of December—I am not particular about the date—go to the Third National Bank for the purpose of having $8,000 transferred by telegraph to Oregon, to be used in some way in connection with the Oregon matter?

A. You have that all in the testimony; and I do not know whether you wish to go through all that testimony that you went into before or not.

Q. I am going to cross-examine you upon your statement. You have made a statement here in regard to money; that there was only a certain amount transferred; that Governor Tilden knew nothing about it at all, &c. Now I want to cross-examine you upon that. I consider this a very important question, in the first place, whether you did not go to the Third National Bank of New York, on or about the 6th day of December, for the purpose of having $8,000 transferred to Oregon for use in some way in connection with the Oregon election controversy?

A. That is all in my testimony that was given before.

Mr. KERNAN, (to the witness.) Mr. MITCHELL desires you to answer again.

The WITNESS. Well, that depends on the way in which the question is put. He asked me if I went to the Third National Bank. I testified, when on the stand before, just exactly how that thing was done. Mr. MITCHELL knows exactly as much about that as I do; and when you ask me if I went to the Third National Bank, of course the purpose of that is something beyond what is apparent.

Q. (By Mr. MITCHELL.) The question is preliminary to something else that I am going to ask you, I admit; but I certainly mean no disrespect and think it a proper question.

A. I do not say that I went to the Third National Bank. I say I saw Mr. Jordan, as I said before. Mr. Jordan and the Third National Bank are two different things; but if you will turn to my evidence, as I said before, you will see just what I did say.

Q. I will ask you this question: Did you not, on the 6th day of December, go to the Third National Bank and there see one of the tellers of the bank; and did you not there produce a check drawn by Samuel J. Tilden for $8,000?

A. No, sir.

Q. You are positive about it, are you?

A. Yes, sir.

Q. Do you know the tellers of the Third National Bank?

A. I do know them very well.

Q. What are their names?

A. I cannot tell you their names; I know them by sight.

Q. Do you know Mr. P. A. Vincent, a teller in that bank?

A. No; I do not remember the names of either one of them; I said that distinctly. We often know men in a bank by sight, but not their names. I know them by sight.

Q. Do you not know Mr. Vincent?

A. I may or may not.

Q. Do you not know that there is a Mr. Vincent?

A. I am not sure of that. I know there is a receiving teller and a paying teller; I know their faces very well. If I would see them in this room I could point them out in a moment.

Q. Did you not exhibit to Mr. Vincent, on or about the 6th day of December, a check drawn by Samuel J. Tilden for $8,000?

A. No, sir.

Q. You are positive about that?

A. Yes, sir.

Q. Did you say anything to Mr. Vincent or to any teller of the bank about a check drawn by Mr. Tilden for $8,000?

A. I do not remember ever having a check drawn by him for $8,000; I have no recollection about it at all.

Q. Well, where was it that you first saw Mr. Jordan? I disremember now the testimony of that day.

A. I do not remember at this time. The evidence is all in there and it is perfectly true. It is now six weeks and more past, and I do not remember where I saw him, whether it was in the bank or outside.

Q. You do not remember where it was that you first spoke to him?

A. Wherever it was, I stated in my evidence at that time. Then it was fresh, and I remembered perfectly well what the circumstance was. But I would say this, Mr. MITCHELL, if the object of your question is to find whether I had a check from Mr. Tilden to provide for this $8,000 for Oregon, there is nothing in it, there is not a word of truth in it. I had no check from him in regard to it at all, either presented to Mr. Vincent or anybody else. If that is the object of your question, I will state that, as it is a matter of fact; and when I have stated that, it is hardly worth your time or mine to pursue that line, because there is nothing you can find in regard to it; because there was no such check. Mr. Tilden gave no such check, furnished no money, knew nothing about it.

Q. Well, you became responsible to Mr. Jordan for the amount, I believe, as you stated before?

A. The facts are all stated in the evidence about that, what Mr. Scott did.

Q. Well, Mr. Scott did not speak to him?

A. It is shown in the evidence that Mr. Scott did see him the night before.

Mr. KERNAN, (to Mr. MITCHELL.) You have in the evidence just what Mr. Scott did. They walked from the Everett House, and so forth.

Q. (By Mr. MITCHELL.) Well, the only assurance you had then that justified you in becoming responsible to Jordan for the $8,000 was from Mr. Scott, or had you any assurance from Mr. Scott at all?

A. O, the matter was discussed; but that is all in the other evidence.

Q. I know what is in the other evidence, but you have come on the stand again, and I want to know about it now further, for some other reasons, because the matter was not then gone into fully.

A. It was all gone into fully then.

Q. Well, I put the question to you directly, What assurance had you to cause you to feel justified in becoming responsible to Jordan for the $8,000?

A. Well, I had Mr. Scott's assurance. Mr. Scott and I had discussed that.

Q. And became responsible?

A. Mr. Scott and I had discussed that whole matter; Mr. Scott, Mr. Jordan, and I had.

Q. Mr. Scott was one of the members of the national committee?

A. Yes; and of the executive committee. And, as I stated to you before here, he was one of the men who had been active in the campaign, had raised money, paid out money, and one of the few men who did that.

Q. Do you know how it came that all these dispatches were directed to No. 15 Gramercy Park?

A. Well, I suppose that came from Dr. Miller giving to this man when he left him that address. I suppose that was the way that came. Dr. Miller knew that I lived at 15 Gramercy Park.

Q. Before or about that time that Mr. Patrick left Omaha a dispatch dictionary was prepared and a copy sent to you. Did you say anything about that in your testimony?

A. No; I said nothing about that in my testimony. That was all shown before.

Q. Did you receive that dictionary?

A. That came to headquarters.

Q. Well, you received it?

A. That came to headquarters. I do not know whether I received it or not.

Q. You had it.

A. The people had it at headquarters. There never has been a denial that it was there.

Q. You translated these dispatches, or some of them at least, by that dictionary?

A. They were translated there; yes, sir.

Q. What was the title of that dictionary?

A. I do not know.

Q. Can you tell?

A. I do not know what the title was.

Q. You would recognize a copy of it if you were to see one?

A. I do not know whether I should or not.

Q. Look at the book I now show you, and state whether that is a copy?

A. I have no means of identifying it. I do not know whether it is or not. There are a great many kinds of dictionaries. I have no means of identifying that one.

Q. The dictionary I now show you is entitled—

The Household English Dictionary

* * * * *

With two hundred and thirty illustrations,
London:
T. Nelson and Sons, Paternoster Row;
Edinburgh; and New York.
1872.

Now, do you not know that that is the dictionary?

A. No, sir; I do not know it. I have no means of identifying it.

Q. What is your best judgment?

A. I do not know whether it is or not.

Q. Have you any information about it?

A. No; I have not. There are a great many kinds of those books, and I have nothing in my mind that would make me identify it.

Q. What is your best judgment?

A. I have no judgment about it; I do not know.

Q. Would you say it was not the dictionary?

A. I would not say either way. I have no means of knowing anything about it.

Q. Did you receive a letter from any person at the time the dictionary was sent to you?

A. I did not; I do not remember whether any letter came with it or not. There were a number of letters received, and it is very difficult to remember them.

Q. In translating these Oregon dispatches, what was the key that was applied to the dictionary?

A. I do not remember now. I stated to you all I knew about that when I was examined before. I explained to you the method of using the dictionary; but I do not remember the particular key.

Q. Well, you took the word, and then moved back or forward to get the translation?

A. What particular key they used there I do not know.
Q. You do not know whether you went forward one page or eight?
A. No, I do not remember. I do not know the particular key; I have no means of telling. I have no memorandum of it.
Q. Did you see this "Gobble" dispatch when it was received in New York?
A. I think I did see it. I have not a very clear recollection about it, but I have a notion that I saw it about headquarters.
Q. Did you translate it?
A. I do not remember that I did. I do not remember anything about it.
Q. Well, you saw the translation?
A. I do not remember that. I remember seeing such a dispatch around there with that signature, but whether it was translated or what it meant I do not know. I cannot tell now anything about it. The reason for my saying that is, as I have stated in the statement I have made, that these dispatches were received by different persons, they were translated by different persons.
Q. Were they answered by different persons?
A. Yes, sir.
Q. Can you name any person that answered an Oregon dispatch except this one?
A. As the dispatches came in they were answered by different persons in the office.
Q. By whom?—name any particular person who answered one.
A. Well, I do not know of any one person in particular. I speak of that as to the general business of the office. When you ask me who answered a particular dispatch, that I cannot tell you, for I do not know.
Q. These Oregon dispatches appear to have been directed to you?
A. They were directed to me; they show that; but that does not prove that the answers were sent by me at all, and, in fact, many of them were not.
Q. Did you receive this dispatch of November 28, signed by J. N. H. Patrick and indorsed by JAMES K. KELLY, directed to you at No. 15 Gramercy Park, New York?
A. I have explained to you in my previous testimony in regard to that.
Q. I do not remember what you stated about that particular dispatch. Did you not receive that dispatch?
A. I do not remember whether I did or not. As I said there, I do not remember about that particular one, because I do not recognize it.
Q. Well, now, colonel, do you say that you do not remember whether you received that dispatch or not?
A. I do not say either way, whether I received it or not, because I do not know what particular dispatch you refer to.
Q. You say you do not know to what particular dispatch I refer. I will state the question distinctly. The dispatch was:

"PORTLAND, *November* 28, 1876.

"W. T. PELTON, 15 *Gramercy Park:*

"By viser association innocuous to negligence cunning mutely previously readmit doltish to purchase afar act with cunning afar sacristy unweighed afar pointed tigress cuttle superannuated syllabus dilatoriness misapprehension contraband Kountze bisulcous top usher spiniferous answer."

The WITNESS. Excuse me a moment. I certainly do not remember it by those words.
Q. The dispatch is signed, "J. N. H. Patrick," and then follows this: "I fully indorse this. JAMES K. KELLY." And the translation of the dispatch is as follows:

PORTLAND, OREGON, *November* 28.

W. T. PELTON, 15 *Gramercy Park:*

Certificate will be issued to one democrat. Must purchase a republican elector to recognize and act with democrats and secure the vote to prevent trouble. Deposit $10,000 to my credit with Kountze Brothers, Wall street. Answer.

J. N. H. PATRICK.

I fully indorse this.

JAMES K. KELLY.

Did you receive that dispatch?
A. I do not know whether I did or not.
Q. Did you hear anything about a dispatch of that kind having been received?
A. I do not remember about that. There were dispatches of that character received. I do not remember ever seeing a dispatch translated in that way.
Q. Did you receive a dispatch from Mr. J. N. H. Patrick asking for $10,000?
A. My recollection is that there was a dispatch of some sort asking for $10,000. I think I stated that in my former testimony.
Q. You do not appear to know very much about this matter.
A. Well, I know something about it—not quite as much as you think I do, however.
Q. I do not know about that. Do you know Kountze Brothers?
A. No; I do not know them. I know there is such a concern.
Q. Do you know Erwin Davis?
A. I stated to you before, sir, that I had met him and had seen him. I cannot say that I know him. I know there is such a man. I have met him.
Q. Do you know where he is now?
A. No; I do not.
Q. Do you know where J. N. H. Patrick is now?
A. No; I do not. I saw him in New York, as I stated to you before, a while after election, I suppose in the early part of January. I have not seen him since.
Q. Did you not send a cipher dispatch, on the 20th day of November, to J. N. H. Patrick, at Portland, Oregon, the translation of which is as follows:

"NEW YORK, *November* 29, 1876.

"To J. N. H. PATRICK, *Portland, Oregon:*

"No. How soon will governor decide certificate? If you make application contingent on the result in March it can be done incremable slightly if necessary."

A. I do not remember of sending any such dispatch.
Q. Do you know of a dispatch of that kind being sent?
A. Not like that; no, sir.
Q. What was sent?
A. Well, there were several. Of course, there were dispatches sent, but I do not remember a dispatch that reads in that way.
Q. Just tell me what was received and what was sent, according to your recollection?
A. Well, I cannot remember that, sir.
Q. Tell me any part.
A. I cannot remember; I have not any copies here.
Q. Tell me the substance of anything that was telegraphed to Portland in regard to this matter by anybody.
A. Well, there were telegrams sent from our headquarters insisting upon their preserving their legal rights, and giving them all the authorities we could give in regard to the disqualification of Watts, the elector.
Q. What else?
A. And insisting that a certificate should not be given to Watts.
Q. Anything about money?
A. That they could have money for legitimate expenses, counsel fees, &c.
Q. How much? How much did they want?
A. Well, that was stated before; $10,000.
Q. Ten thousand dollars they wanted. Now, then, I will ask you if that dispatch asking for $10,000 is not the dispatch indorsed by JAMES K. KELLY, and if that was not the only dispatch asking for $10,000?
A. I do not remember about that, sir.
Q. Was not the dispatch of November 29, the next day, the first word of which is "no," an answer to that dispatch?
A. Well, that I cannot tell, from this distance, whether it was or not.
Q. And then the dispatch goes on: "How soon will governor decide certificate? If you make obligation contingent on result in March."
A. I think there was one dispatch sent out there—my recollection is now there was one dispatch sent out there—to convene the Legislature, and offering to pay the necessary expense of doing that; they, of course, to elect an elector, as they did in Vermont.
Q. Did you not get a dispatch from Mr. Patrick, while he was at Portland, in which he stated, among other things, as a reason why they wanted money, that they had employed a firm of three lawyers, one member of which was the editor of a leading republican paper?
A. Well, I said that there was one dispatch received there asking for money for legal expenses and for employing lawyers. As to what particular lawyers they were I do not know.
Q. Did not the dispatch say that one of the firm employed was the editor of a leading republican paper?
A. Well, I do not remember about that. It may have said so.
Q. Did you get a dispatch from Mr. Patrick about the 30th of November, while he was in Portland, saying the governor was all right without reward?
A. I do not remember. I never had any idea that the governor was any other way.
Q. Did you not get a dispatch of that kind?
A. There was some dispatch of that kind received; I do not remember the details. I know perfectly well I never had any idea that the governor of Oregon could be purchased.
Q. Did you not get a dispatch from Patrick in which he said the governor was all right without reward, and that he would issue certificate?
A. I do not remember the details of those dispatches.
Q. You certainly can remember the substance, whether you received information from Mr. Patrick by dispatch informing you the governor would issue a certificate to Cronin?
A. I do not remember. I think there was a dispatch that the governor would issue certificate, but do not remember as to "the reward," because that was a question that never entered into anybody's head, of Governor Grover taking money for doing what was right.
Q. I am not asking you as to what entered into anybody's head.
A. I would just as soon think of any other honest man taking money for doing what was right as to think of Governor Grover taking it.
Mr. MITCHELL. The tribunal did not appear to think it was right.
The WITNESS. That was where we differed.
Mr. MITCHELL. Well, they voted unanimously that they did not approve of anything of the kind.
Mr. KERNAN. The tribunal did not know anything about it. The question before them was one of law.

By Mr. MITCHELL:

Q. Did you not get a dispatch from Patrick, in which it was stated that one republican elector must be purchased?
A. I do not remember about the language of his dispatches at all. I have not copies of them.
Q. Well, do you not remember that Patrick did send a dispatch like that?
A. I have no remembrance about it at all. His dispatches came there, and, as I said two or three times before, they were translated, and imperfectly translated. Sometimes you would find out what they meant and sometimes you could not. Very often you could not find out anything about it. But, as I have said six times before, there was not any attempt to purchase a republican elector. So far as we are concerned in New York, there never was any such attempt; and even if Mr. Patrick did suggest that, it does not prove anything. The fact is, so far as concerned us in New York, that nobody would sanction any such thing.
Q. What did you mean in your dispatch to Patrick by making fee contingent?
A. Why, the lawyer's expenses out there. The proposed fees were large, and it was proper they should be contingent.
Q. Did you not send a dispatch of this kind to Mr. Patrick on the 29th of November, a cipher dispatch, the translation of which was as follows?

"NEW YORK, *November* 29, 1876.

"To J. N. H. PATRICK, *Portland, Oreg.:*

"No. How soon will governor decide certificate? If you make obligation contingent on result in March, it can be done and incremable if necessary."

[No signature.]

A. I do not remember about that dispatch. I remember there was something said to them about making their fees contingent. Whether that was the one or not I do not remember. I do not think, Mr. MITCHELL, if you had received as many telegrams as we did through November and December, you would remember the details of all of them as you do these Oregon matters.
Q. Probably not. Did you receive a dispatch in cipher on the 1st of December from Mr. Patrick, dated Portland, Oregon, the translation of which was as follows?

To W. T. PELTON,
15 *Gramercy Park, New York:*

No time to convene Legislature. Can manage with $4,000 at present. This will secure democrat vote. All are at work here. Can't fail. Answer.

KELLY.

A. Well, I do not know whether there was or not. There was some dispatch received at the office, I believe, in regard to the Legislature.
Q. Stating that there was not time to convene the Legislature?
A. I do not remember what it said.
Q. That was the substance of it, was it not?
A. I do not remember the words of the dispatch.
Q. I will not ask you about the words. You admit that it was telegraphed out whether the Legislature could be convened. Now, what was the answer; that the Legislature could be convened or could not?
A. I said, I think, a telegraph came that it could not.
Q. Now, I ask you whether, in that same dispatch, the following language does not appear: "Can manage with $4,000 at present. This will secure democrat vote. All are at work." Did not that all appear in the same dispatch that informed you that the Legislature could not be convened?
A. I do not remember now about that. I do not remember what those dispatches were.
Mr. KERNAN. The witness says he simply learned at headquarters that they could not convene the Legislature, and does not remember receiving the dispatch.

By Mr. MITCHELL:

Q. I will ask you if you did not, on the 6th of December, telegraph to Hon. JAMES K. KELLY, Portland, Oregon, a cipher dispatch, the translation of which is as follows?

"NEW YORK, *December* 6.

"Hon. JAS. K. KELLY:

"Is your matter certain? There must be no mistake. All depends on you. Place no reliance on any favorable report from the three southward. Answer quick."

A. I do not remember sending any such dispatch as that.
Q. You might have sent it, might you not?
A. Well, I do not know. I do not remember sending any such dispatch.
Q. You would not say you did not send it?
A. I would not say that I did not send it, because I do not remember. I would not say that I did not send a thing when I cannot state distinctly. I do not remember the dispatch, however.
Q. Are you familiar with Slater's Telegraph Code?
A. I have seen it; yes, sir.
Q. The book I now hand you is entitled, "Telegraphic Code to Insure Secrecy in the Transmission of Telegrams. By Robert Slater, secretary of the Société du câble transatlantique français—limited. (French Atlantic Telegraph Company.) London. Printed and published by W. R. Gray, 194 Change Alley, Cornhill, 1870." Look at that book, of which I have just read the title-page, and state whether that book was used by you in connection with political telegraphic messages.
A. Well, I have used such a book. I have such a book as that, from the looks of it.
Q. I will ask whether you have made any attemp to purchase up all those books recently?
A. No, sir; I purchased all I wanted; that was all.
Q. Have you purchased any recently?
A. I do not know how long since.
Q. Since the election?
A. Yes, sir; since the election.
Q. How many have you bought?
A. I do not remember. I have bought them or sent for them just as I needed them.
Q. Now, how many have you bought since the election?
A. I do not remember.
Q. Well, one or two or a dozen?
A. I do not remember exactly. I cannot tell that.
Q. What use did you want to make of them? For what purpose did you wish them?
A. Well, I wished to use them in telegraphing. It is sometimes convenient to have them in private business of any kind.
Mr. KERNAN. You refer to business correspondence?
A. Why, of course. It is done by every man in business who uses the telegraph and desires to have his business confidential. It is not an unusual thing for a man in business to use a cipher.

By Mr. MITCHELL:

Q. You have had some telegraphic correspondence with Mr. Patrick since you were on the stand here before, have you not?
A. No, sir; I have not. I do not know where he is and have not known. I do not know where he is to-day.
Q. Who prepared the statement you read to-day?
A. I did.
Q. When?
A. Most of it to-day, probably, and part of it before; most of it to-day.
Q. Explain this Slater's Telegraphic Code, so that the reporter may get it down.
A. Well, there are about a million ways, perhaps, in which to explain it. If you look in front of the book, you will see that there is a key which explains the whole thing. That can be used in a million ways. It is an arbitrary thing, and there is a key in the front part.
Q. This book, Slater's Telegraphic Code, appears to be a book with two columns of words on each page, and opposite each word certain figures.
A. The words are numbered right through the book. There is not any certain number; but whatever word it is, it is numbered. The explanation is right on the fourth or fifth page there, in the front of the book.
Q. The words are numbered, commencing with letter A on the first page, in this manner:

A	00001
Aback	00002
Abacus	00003
Abaft	00004
Abalienate	00005

And so on, to the last word in the book, which is "Zürich," No. 25,000. Is that the kind of book it is?
A. Well, you have read it there.

By Mr. KERNAN:

Q. That is the way in which the words are numbered?
A. That is the way they are numbered. I have not looked at the numbers in that book, though.

By Mr. MITCHELL:

Q. In telegraphing, then, you use the numbers to represent words?
A. You use it just as you choose. There are many different ways.
Q. You use figures instead of words?
A. Well, I should not, if I was going to use it.
Q. You should not? But you can use the figures instead of the words?
A. Well, the explanation is in the front of the book there
Q. I find that explanations are given in the front of the book as to the manner of using it For instance, example 1 is as follows:
"*The queen is the supreme power in the realm.*"
"Add any number below 25,000—say, for instance, 5,555—to the numbers opposite to those words it is desired to transmit. Where the result exceeds 25,000 deduct that number, or, in other words, commence the alphabet again."
Words to be transmitted will be placed then one word below the other, commencing with the first word of the dispatch:

The	22,313
queen	18,093
is	12,370
the	22,313
supreme	21,953
power	17,056
in	11,426
the	22,313
realm	18,419

I believe I have given that example or statement correctly, have I not?
A. You can read that just as well as I can. You do not want that I should read it.
Q. I read it directly from the book.
A. It is a mere matter of copy.
Q. Well, inasmuch as you have had very little to do with this Oregon transaction, I will not ask you more questions. You do not appear to remember.

By Mr. KERNAN:

Q. As to this written statement which you have read, did you ever read it to me before you read it here?
A. No, sir.
Q. I have not seen you for three or four days?
A. I have not seen you since Saturday. I simply sent you word that I had it, and I thought it was due to myself and my friends and my party that I should be put right.
Q. Now, one other question: Had Governor Tilden any sort of intimation in any way that there was money proposed to be used in Oregon for any purpose?
A. No, sir; nothing at all.

By Mr. MITCHELL:

Q. You mean to say by that, so far as you know?
A. So far as I know. I would not say as to what you know, but I say as to what I know myself.
Q. You say that quite a number of these dispatches came and were answered by other parties?
A. Yes, sir.

By Mr. KERNAN:

Q. Did Governor Tilden receive or answer any?
A. Not that I know of.
Q. When, so far as you know, did he first learn that there had ever been any such telegrams from Oregon?
A. When the thing appeared in the newspapers, as I told Mr. MITCHELL privately just now. That was the first thing about it—about the time that I came over here.
Q. The time when they appeared in the newspapers in cipher?
A. Yes, sir.
Q. And, so far as you know, he never had heard anything before that?
A. So far as I know, he never had. I know he expressed great surprise about it.

Mr. MORTON. The Senator from New York [Mr. KERNAN] has secured the insertion in the RECORD of a portion of this evidence while that which it is intended to rebut is not in the RECORD, evidence submitted to the committee after the report had been made by a witness who had been reluctant, to say the least, and whose memory on his cross-examination, as I personally know, was very defective indeed. Now in view of the fact that this evidence has gone into the RECORD, I think the resolution ought to be adopted and I shall vote for the adoption of the resolution reported by the Committee on Printing.

Mr. KERNAN. I do not think that is any reason we should print these volumes. You have in the RECORD these conclusions of the committee. They were in before the evidence was taken. I did not seek to get an opportunity to put this matter in the RECORD. I was entirely content to let it go with the evidence in the ordinary way. Now I say to the Senator that in my judgment when the people read the testimony they will say that the Senate did not set a good precedent in ordering to be published extra copies of this report.

Mr. MORTON. The answer is this: My friend from New York while opposing the publication of this evidence and of this report makes his position the occasion and the opportunity for procuring the insertion in the RECORD of a certain part of the evidence that he desires. That is certainly ingenious; I do not say it is not fair, but it is well done, exceedingly well done.

Mr. KERNAN. It is not ingenious. It is not doing injustice to any one. The report does say that men in New York, in California, and in Oregon conspired. The men in Oregon who acted about this subject were brought here. Gentlemen from Oregon were brought here on the other side. Mr. KELLY, Mr. Bellinger, and Mr. Bush were examined and each one of them testified before the report was made; each one testified that he never heard a suggestion of any improper influence. Mr. HEWITT was one of the men that seemed to be reflected upon, and Mr. HEWITT appeared before the committee and testified fully that he never saw a telegram suggesting improper influences, and never heard such a suggestion. This report being in, it was a simple act of justice to have this statement at least go in the RECORD that the people might see, as far as Colonel Pelton was concerned, what the case really is. It is not wise to set a precedent allowing you to attack anybody by suspicion. That is the precedent set by printing a document like this at public expense in large extra numbers. I leave it with the Senate to say whether they think it is a wise precedent or not. The whole point of it passed away when the electoral vote was counted; and this had no weight on that count one way or the other.

Mr. ANTHONY. This resolution requires an amendment. I did not understand that the evidence was to be printed with the report.

Mr. KERNAN. The evidence is the most important part. There are over five hundred pages of it.

Mr. ANTHONY. Then I move to strike out "five" and insert "one;" so as to make the number one thousand copies. That is as many as we can print on a Senate resolution.

Mr. MITCHELL. I have no objection to the amendment.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on the resolution as amended.

The resolution, as amended, was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills:

A bill (S. No. 35) equalizing pensions of certain officers in the Navy;

A bill (S. No. 407) to authorize the restoration of George A. Armes to the rank of captain;

A bill (S. No. 539) to provide for an increase of pension in favor of Martin Kelly;

A bill (S. No. 599) granting a pension to Catharine A. Winslow widow of late Rear-Admiral John A. Winslow;

A bill (S. No. 737) granting a pension to Harrison H. Dodds;
A bill (S. No. 767) granting a pension to Theodore Gardner;
A bill (S. No. 803) to repeal an act granting a pension to Mary H. Bartlett, approved January 28, 1873;
A bill (S. No. 813) granting an increase of pension to Laurence P. N. Landrum;
A bill (S. No. 832) to increase the pension of Helen M. Stansbury;
A bill (S. No. 882) granting a pension to Stillman E. Dix, of Hampton, Virginia;
A bill (S. No. 735) granting a pension to Martha Irwin, widow of John Irwin;
A bill (S. No. 535) granting a pension to Armstead Goodlow;
A bill (S. No. 1118) granting a pension to Mrs. Amy King;
A bill (S. No. 210) granting a pension to Austin R. Mills;
A bill (S. No. 750) granting a pension to T. B. Murdock;
A bill (S. No. 792) granting a pension to Peter Harder;
A. bill (S. No. 816) granting a pension to Laura M. Knowlton;
A bill (S. No. 883) granting a pension to William H. Oliver, of Sweetwater, Tennessee;
A bill (S. No. 980) granting a pension to Irena Garrett;
A bill (S. No. 1152) granting a pension to Amasa J. Finch; and
A bill (S. No. 1123) granting a pension to Marsilvia F. Woodard, mother of George R. Woodard.

The message also announced that the House had passed a joint resolution (H. R. No. 192) for printing the report of the Commissioner of Education for 1876; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 4276) to authorize the appointment of a sergeant in Signal Corps as a second lieutenant in the Army;
A bill (H. R. No. 4475) removing the political disabilities of Joel S. Kennard, of Savannah, Georgia;
A bill (H. R. No. 515) for the relief of Sarah E. Garland and Frank M. Hoppin;
A bill (H. R. No. 3892) to remove the political disabilities of George Watson Carr, a citizen of the State of Virginia;
A bill (H. R. No. 4261) to provide for the sale of desert lands in certain States and Territories;
A bill (H. R. No. 4188) making appropriations for fortifications and for other works of defense and for the armament thereof for the fiscal year ending June 30, 1878, and for other purposes;
A bill (H. R. No. 4418) to pay William L. Scruggs, late minister at Bogota, from October 10 to November 21, 1876;
A bill (S. No. 4616) making appropriations for the naval service for the year ending June 30, 1878, and for other purposes;
A bill (S. No. 4476) to provide for the appointment of official shorthand reporters for the courts of the United States;
A bill (H. R. No 4554) for the support of the government of the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes.
A bill (H. R. No. 3833) for the relief of John N. Hall; and
A bill (S. No. 1128) to extend for two years the act establishing the board of commissioners of claims and the acts relating thereto.

WILLIAM K. SEBASTIAN.

Mr. CAMERON, of Wisconsin, obtained the floor.

Mr. LOGAN. I desire to ask a favor of the Senate, as we have but very little more time. I should like to have an executive session for about fifteen minutes; there are five or six appointments to be acted upon.

Mr. CAMERON, of Wisconsin. There is time enough for that. I have something to present now.

Mr. LOGAN. Why not have it now?

Mr. CAMERON, of Wisconsin. Because we shall continue in session nearly twelve hours more and the galleries are full at this time.

Mr. LOGAN. The galleries must be cleared whenever we have the executive session; and we shall come back in a few minutes.

Mr. CAMERON, of Wisconsin. I presume most of them will go home in an hour or two.

Mr. LOGAN. I do not think they will. They are as much interested as we are.

Mr. CAMERON, of Wisconsin. I think they are, some of them. I move to take up the resolution reported by the Committee on Privileges and Elections, which proposes to annul so much of a resolution adopted by the Senate in 1861 as refers to the expulsion of the late William K. Sebastian, of Arkansas.

Mr. COCKRELL. I hope that will not be taken up. I do hope we shall not take up questions that will involve so much controversy and so much time. I do not think it will be possible to pass that resolution at this time, and I do not think Senators ought to urge those matters at this late hour of the session where there will evidently be controversy over them. That matter was called up once before and laid over.

Mr. BLAINE. Is the Senator from Missouri opposed to the resolution?

Mr. COCKRELL. I am opposed to it *in toto.*

The PRESIDENT *pro tempore.* The Senator from Wisconsin moves the present consideration of the resolution which he has stated.

The motion was agreed to.

ARMY APPROPRIATION BILL.

Mr. BLAINE. Before this matter is proceeded with, as there is some reason to hope that there may be at least a possibility of agreement on the Army appropriation bill, I feel it my duty to move that another conference be asked of the House. I move that the Senate insist on its amendment and ask for another conference.

The motion was agreed to.

By unanimous consent, the President *pro tempore* was authorized to appoint the committee on the part of the Senate; and Mr. BLAINE, Mr. ALLISON, and Mr. WITHERS were appointed.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WINDOM submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes, having met, after full and free conference, report that they are unable to agree thereon.

WM. WINDOM,
W. B. ALLISON,
H. G. DAVIS,
Managers on the part of the Senate.
W. S. HOLMAN,
HIESTER CLYMER,
CHAS. FOSTER,
Managers on the part of the House.

Mr. WINDOM. The same question which I have already explained to the Senate, the question of the reduction of the salary of the President, is that which prevents an agreement. I move that the Senate insist on its amendments and ask another conference.

Mr. STEVENSON. Why have another committee of conference? I should like to hear some reason for that. I do not suppose the Senate is going to recede, and I do not suppose the House is. It is the same committee and the same thing, and we are kept here all night on reports that they cannot agree. If they are earnest in their disagreement and the two Houses cannot agree, let the Senate recede or the House recede, and not continue to make futile efforts.

Mr. WINDOM. I think it is hardly time yet to adhere to our amendment. I am willing to make one more effort, although I should otherwise move to adhere.

Mr. STEVENSON. I hope after one more effort the Senator will move to adhere.

Mr. WINDOM. I do not think it is advisable to do so now. I insist on the motion.

Mr. STEVENSON. Of course I do not wish to interpose anything against the chairman; but I think it looks very much like child's play to be going on in this way. If the two Houses are in earnest, the sooner one House adheres the better.

Mr. WINDOM. It may look so to a casual observer on the outside; and yet we hope, I will say to the Senator from Kentucky, that we may yet reach some kind of agreement.

The PRESIDING OFFICER. The Senator from Minnesota moves that the Senate insist on its amendments, and ask for another committee of conference.

The motion was agreed to.

By unanimous consent, the President *pro tempore* was authorized to appoint the committee; and Mr. WINDOM, Mr. ALLISON, and Mr. DAVIS were appointed.

REPORT OF THE COMMISSIONERS OF EDUCATION FOR 1876.

The joint resolution (H. R. No. 192) for printing the Report of the Commissioner of Education for 1876 was read twice by its title.

Mr. ANTHONY. I ask for the present consideration of the joint resolution.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It directs the printing of fifteen thousand copies of the Report of the Commissioner of Education for 1876, five thousand for the use of the Commissioner, twenty-five hundred for the use of the Senate, and seventy-five hundred for the use of the House of Representatives.

Mr. ANTHONY. I move to amend the joint resolution by striking out "fifteen" before "thousand" and inserting "nine," and striking out "2,500" and inserting "1,000," and striking out "7,500" and inserting "3,000;" so as to read:

That there shall be printed 9,000 copies of the Report of the Commissioner of Education for the year 1876, 5,000 for the use of the Commissioner, 1,000 for the use of the Senate, and 3,000 for the use of the House of Representatives.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

WILLIAM K. SEBASTIAN.

Mr. CAMERON, of Wisconsin. I ask that the Senate proceed with the resolution taken up on my motion.

The Senate proceeded to consider the following resolution:

Resolved by the Senate of the United States, That the preamble and resolution of this body of July 11, 1861, wherein and whereby the late William K. Sebastian, of

Arkansas, an honorable and loyal Senator and member at the time of this body, was expelled for supposed disloyalty to the Government of the United States, be, and the same is hereby, revoked and annulled, as of the day and date of its passage, in so far as the said Senator William K. Sebastian is concerned, and no further. And that, without detriment on account of duties or rights of the Senator, obstructed or prevented by said act of expulsion, the Secretary or other proper officer of the Senate be, and he is hereby, authorized and directed to settle the unpaid accounts of the said Senator at the rates provided by the laws existing at the time, (the same to be certified by the President of the Senate,) and to be paid to the heirs of said Senator, or to their legal representatives, out of the contingent fund of the Senate.

Mr. INGALLS. Let us hear the report.

The Chief Clerk read the following report, submitted by Mr. CAMERON, of Wisconsin, from the Committee on Privileges and Elections, on the 2d of August, 1876:

The Committee on Privileges and Elections, to whom was referred the petition of Charles P. Sebastian, Edward L. Sebastian, Clara, (the widow of W. P. Walker,) and Lizzie, (the wife of West Harris,) the children and only surviving heirs of Hon. William K. Sebastian, deceased, late a Senator of the United States from the State of Arkansas, report that the petitioners respectfully represent that on the 11th day of July, 1861, ten Senators of the United States, of whom Senator Sebastian was one, were expelled from the Senate of the United States, by a solemn resolution, on charges of disloyalty and conspiracy against the Government of the United States; that so far as Senator Sebastian was concerned, the said charges were matters of inference and suspicion, wholly unfounded in fact, (except as to absence, which was unavoidable, and not of itself an expulsory offense;) that the resolution was offered, considered, and adopted hastily, within the first seven days of the session, during his absence, without notice, or effort to notify, and without hearing or explanation before the Senate, and without knowledge by Senator Sebastian of the pendency of any such proceeding, and that the conviction and expulsion, as to said Senator Sebastian, was illegal, unjust, and oppressive in the last degree, denying him the rightful countenance of Government, depriving him of his just rank, pay, and support, subjecting him to outlawry and persecution, and entailing upon him and his family want, misery, and distress difficult to express.

For relief in the premises, the heirs appeal now to the justice of the Senate; alleging that the Senate has exclusive jurisdiction of the subject-matters of complaint, together with full power to grant adequate relief.

Your committee recognize that by the Constitution (article 1, section 5) the "Senate shall be the judge of the elections, returns, and qualifications of its own members;" and "with the concurrence of two-thirds [may] expel a member;" and that it "shall keep a journal of its proceedings."

They also recognize that in the exercise of these exclusive powers, the Senate may, from inadvertence, want of accurate knowledge, passion, prejudice, excitement, or other causes equally influential, commit grave errors, or do great wrong to its own members.

They recognize also that expulsion is a severe penalty, and that its exercise under free institutions is the offspring of a judicial and not of an arbitrary and tyrannical power; and yet, if in any case of expulsion of a Senator, great injury should be done to his use, name, and fame, it is indisputable that there will have been no power or tribunal in the Government that could have arrested or prevented it.

When the Senate has the sole and exclusive power to work an injury, it assimilates with a court of the highest jurisdiction in the exercise of its discretion, and must always maintain its right of review.

If the Constitution has conferred this exclusive power to work such an injury, upon what tribunal has it conferred an equal or superior power to adequately rectify it?

There is no such tribunal. There is no power in Government that can reverse or annul the separate judicial action of the Senate herein, or that can add to, change, alter, or amend its record, save the Senate itself. There may be some power that makes amends for the wrong and injury; but there can be no power to rectify a recorded wrong inflicted by the Senate upon the name, fame, and official and personal rights of a Senator but the Senate itself.

It necessarily follows that there attends upon these exclusive powers that distinct right of the Senate to revoke and annul, *ab initio*, any illegal, defamatory, or unjustifiable expulsion of any honorable Senator, (if such shall have occurred,) and to re-instate him in his good name, and in his office if his term shall not have already expired, and in his rights to his pay and emoluments thus withheld, if he still be alive, and, if not alive, then to revoke and annul *ab initio* the oppressive act, and to make restitution of the pay and emoluments of which, for the time, he had been unjustly deprived, to his family, or the survivors of them.

Your committee find the following to be, in brief, the facts of the case, to wit:

The official records of the Senate show that Senator Sebastian was elected and qualified as Senator from Arkansas in 1848; was re-elected for a full term in 1852, and for a third term in 1858; and continued without reproach a long service as such Senator, respected and esteemed, until July 11, 1861, when he was expelled "for grave offenses."

The Congress of the United States assembled, by proclamation of the President, on the 4th day of July, 1861, and it appearing that many of the southern Senators were absent, among whom was Senator Sebastian, and it being personally known to Senators that many of the absentees were avowed advocates of the secession of the States they represented, and that those States had already seceded, and that a great war between them and the Union was actually progressing, the following resolution, introduced by Mr. Clarke, of New Hampshire, was reported by a committee and passed by the Senate on the seventh day of the session, to wit, on the 11th day of July, 1861, as follows, (see Senate proceedings, July 11, 1861—Congressional Globe, volume 56, pages 62 and 63:)

"Whereas a conspiracy has been formed against the peace, union, and liberties of the people and Government of the United States; and in furtherance of such conspiracy a portion of the people of the States of Virginia, North Carolina, South Carolina, Tennessee, Arkansas, and Texas have attempted to withdraw those States from the Union, and are now in arms against the Government;

"And whereas James M. Mason and Robert M. T. Hunter, Senators from Virginia; Thomas L. Clingman and Thomas Bragg, Senators from North Carolina; James Chestnut, jr., a Senator from South Carolina; A. O. P. Nicholson, a Senator from Tennessee; William K. Sebastian and Charles B. Mitchell, Senators from Arkansas; and John Hemphill and Lewis T. Wigfall, Senators from Texas, have failed to appear in their seats in the Senate, and to aid the Government in this important crisis, and it is apparent to the Senate that the said Senators are engaged in said conspiracy for the destruction of the Union and Government, or, with full knowledge of such conspiracy, have failed to advise the Government of its progress or aid in its suppression: Therefore,

"*Resolved*, That the said Mason, Hunter, Clingman, Bragg, Chestnut, Nicholson, Sebastian, Mitchell, Hemphill, and Wigfall be, and they hereby are, each and all of them, expelled from the Senate of the United States."

By the public record it appears that Senator Sebastian was absent from the 4th to the 11th day of July, 1861, and that neither before nor during the consideration of this act of expulsion did he have notice, hearing, or trial upon the same. The records show that no evidence was taken; his guilt was assumed to be self-evident, and he was expelled.

The petition of his heirs states fully his case, and controverts this assumption; and as to the allegations in the resolution of expulsion, severally and collectively, to wit:

First. "That a conspiracy had been formed against the peace, union, and liberties of the people and Government of the United States, and that, in furtherance of said conspiracy, a portion of the people of Arkansas (and other States) had attempted to withdraw those States from the Union, and that they were then in arms against the Government," it is denied absolutely that the Senator had lot, part, or sympathy in or with any such conspiracy, or that he ever was one of any portion of the people of Arkansas, or of any other people, that attempted to withdraw the State of Arkansas or any other State from the Union, or that he was then, or ever was, either before or afterward, in arms against the Government of the United States; but, on the contrary, it is as positively averred, and the proof offered, that he had always been before, and ever continued after said act of expulsion, to be opposed to disunion; denying the existence, under the Constitution, of any right of secession by any State of the Union; and further, that he did, at home in the State of Arkansas, *actively* oppose the act of secession, and that, even after it passed, he refused to recognize or serve under it, or any other secession government, in any capacity whatsoever, civil or military; and

Second. That whereas "William K. Sebastian, Senator from the State of Arkansas, and many other Senators from Southern States, had failed to appear in their seats in the Senate, and to aid the Government in that important crisis:" it is denied that an absence of seven days, or any other length of time, unaccompanied with any warning or special notice to appear, or some other indisputable evidence of offense, is or ever was held to be just, competent, or legal cause or ground for expulsion under parliamentary law; and it further appears, by public history, that war was raging before July, 1861, and the Union lines extended no farther south at the time than Kentucky and Missouri, and *it is proven* that the Senator was then at home, in Helena, Arkansas, three hundred miles within confederate lines, and could only escape from them at the risk of life to himself and family and the total loss and destruction of his property—all of which they aver to be ample justification for his temporary absence from the Senate; and

Third. That whereas "it is apparent to the Senate that said Senators are engaged in said conspiracy for the destruction of the Union and the Government," it is denied that any such alleged fact was true as to Senator Sebastian, however apparent its truth as to others, and it is re-asserted that he was, in principle and fact, always faithful to the Union; and

Fourth. "Or with full knowledge of said conspiracy, have failed to advise the Government of its progress or aid in its suppression." It is submitted that in his situation, up to the date of his expulsion, as appears by the proofs, it is difficult to see how the Senator could have advised the Government of the progress of the conspiracy, or could have communicated with it all; and as to aiding in its suppression, it is proven satisfactorily that he did openly and actively resist the secession, taking upon himself the full responsibility of an active opponent of the policy of secession, and of a leading advocate of the Union cause.

The facts recited as of public record, as well as those relating to the history of the times and to the geography of the country, (of which the Senate will take judicial notice wherever truth and justice may require,) are indisputable; and the averments of facts, the answers and explanations made by the heirs, and interwoven in this condensed narrative, are equally well and conclusively sustained by the witnesses in the testimony before us, and the witnesses themselves are of unexceptionable credibility. (See list of witnesses:)

Major-General C. C. Washburn, commanding at Helena throughout the war.

Hon. James M. Hanks, citizen, native of Helena, Union man, judge of circuit court, and member of the Forty-second Congress.

Hon. R. W. Johnson, ex-confederate, Ex-Senator, and colleague of Senator Sebastian before the war.

Dr. William F. Wallace, citizen of the District of Columbia, and clerk for years of Senator Sebastian's committee.

Hon. A. O. P. Nicholson, now deceased, Senator from Tennessee, expelled under same resolution.

Henry D. Hulbert, intimate friend of Senator Sebastian, then citizen of Helena.

T. M. Jacks, old citizen of Helena, attorney at law.

Colonel James H. O'Conor, officer in Union Army all the war, attorney at law, and citizen of Helena, Arkansas.

Hon. A. C. Dodge, of Iowa, Ex-Senator of the United States, and serving for years with Senator Sebastian.

Loyalty to the Government and to the Union of the States was the true and real issue presented before the Senate by the preamble and resolution of expulsion. Without elaboration, your committee report that the loyalty of Senator William K. Sebastian, both before and at the date of the said act of expulsion, is indisputably established; and that he continued ever after to be faithful to the Government and Constitution and the Union of the States, notwithstanding every suffering, loss, and adverse circumstance, to the day of his death, in May, 1865; and they find that the expulsion of Senator Sebastian was an error of the Senate, occasioned by want of information, and by the overruling excitements of a period of great public danger; and that it becomes the dignity of the Senate openly to declare the facts, and to render to the name of the Senator and to his survivors every amend and reparation within the powers of the Senate, and not inconsistent with law.

Wherefore, and in view of all the facts, affirmative and negative, as they appear from the public records, and as established by the unquestioned testimony of the witnesses now and hereby referred to, your committee recommend to the Senate the resolution herewith submitted:

Resolved by the Senate of the United States, That the preamble and resolution of this body of July 11, 1861, wherein and whereby the late William K. Sebastian, of Arkansas, an honorable and loyal Senator and member at the time of this body, was expelled for supposed disloyalty to the Government of the United States, be and the same is hereby, revoked and annulled, as of the day and date of its passage, in so far as the said Senator William K. Sebastian is concerned, and no further. And that, without detriment on account of duties or rights of the Senator, obstructed or prevented by said act of expulsion, the Secretary, or other proper officer of the Senate, be, and he is hereby, authorized and directed to settle the unpaid accounts of the said Senator at the rates provided by the laws existing at the time, (the same to be certified by the President of the Senate,) and to be paid to the heirs of said Senator, or to their legal representatives, out of the contingent fund of the Senate.

Mr. INGALLS. Mr. President, it is a somewhat noticeable fact that this aplication for relief does not come from Ex-Senator Sebastian himself, but from his surviving children. It appears from the report of the committee that he died in May, 1865, after the close of the war; and at the period of his death, if the dates given by the committee in their report are true, he was still, so far as the period of his service was concerned, a member of the Senate of the United States. I do not remember the precise period at which the United States forces took possession of the State of Arkansas, but I think it was some time in 1863.

Mr. COCKRELL. They ran me out of there in 1862.

Mr. INGALLS. The resolution of expulsion was adopted on the 11th day of July, 1861, and from that date until the date of his death, in May, 1865, it appears that he was a citizen and resident of the

State of Arkansas. The military possession of the State of Arkansas occurred some time not later than 1862 or 1863.

Mr. CLAYTON. July, 1862.

Mr. INGALLS. So that there was no obstacle whatever between July, 1862, and May, 1865, to the appearance of Senator Sebastian in Washington and to his preferring an application in due form for the removal of this sentence and for the arrangement of all his accounts and the reception of whatever might be due him from the Government for his services. But some twelve years after his death the application is made by his heirs upon the ground that his expulsion was "illegal, unjust, and oppressive;" that it subjected him to outlawry and persecution, and entailed upon him and his family "want, misery, and distress difficult to express."

There is another fact that is not wholly without significance in connection with this subject, and that is that in the early part of 1864 the State government of Arkansas was practically reconstructed under the governorship of Mr. Murphy and that two United States Senators appeared here claiming the seats, one of which at that time under the claim that is now set up for Sebastian must have belonged to him. In February, 1864, the State government of Arkansas was practically reconstructed and two Senators appeared here from that State, one of them claiming the very seat that Mr. Sebastian or his heirs now allege belonged to him rightfully. It certainly is very singular that after this protracted opportunity, extending over a period of three years, when there was no possible objection to his appearance here in Washington and presenting his claim, he preferred to die in silence and now leaves his surviving heirs to come here and claim that he was outraged, and wronged, and distressed by the sentence of the Senate. It seems to me, with all due respect to the memory of one who once held a seat on this floor, that he must have valued his reputation for loyalty at a very low rate when by his appearance here, the opportunity for which existed, he could have wiped out this stain and established his claim.

It may be that this resolution is right. It is possible that the committee had incontrovertible and satisfactory evidence that Mr. Sebastian was a loyal man, and that he was devoted to the welfare of the United States Government; but it looks to me very much, under all the circumstances, as if this was an effort on the part of the survivors to obtain a very considerable sum out of the Treasury of the United States, to which there is not, in my judgment, any very tangible claim.

Mr. CLAYTON. I think it is due in the interest of justice and fair-dealing that I should state to the Senate what I know about the late Senator Sebastian. In July, 1862, the Federal Army, under the command of General Curtis, occupied the city of Helena, the then home of Senator Sebastian. It was my fortune to serve in that command at that time and for some time afterward, and there for the first time I met Senator Sebastian. I served in Arkansas during the rest of the war, and frequently during my period of service I had occasion to meet him. I know that the commanding officers there, from the time they first occupied Helena until the war closed, or about the time he died, soon after the close of the war, regarded him as a loyal citizen, and they treated him as such. I know that General Curtis consulted him. I frequently myself heard Mr. Sebastian give utterance to the most patriotic sentiments. He was a quiet and unobtrusive man. He felt very much the injustice that had been done him by this resolution of expulsion.

Mr. INGALLS. Why did he not apply then to have it revoked?

Mr. CLAYTON. He did not apply because party spirit ran very high at that time. That was during the hot period of the war when men did not stop to reflect. This body never stopped to reflect when they expelled him; they did it without reflection. It was only necessary then for some one to cry "mad dog" and everybody else would cry "mad dog." Mr. Sebastian knew very well, and his friends knew, that at that time, during the period of the war, while everything was red hot, he could not come here and get justice. I do not believe he could, and I do not think the Senator from Kansas believes he could. He always felt the injustice of this action. I heard him speak of it over and over again. I heard him say that if he thought he could be reseated he would come and demand his seat. I believe that that man was as good a citizen as ever lived in this country and as good as any one in this Chamber. I knew him personally. I knew him during the war. I know him at a time when, if he had entertained the disloyal sentiments that we hear of, the fact would have been known. I know that the confederates in Arkansas regarded him as a Union man through all the struggle, and that he was put to great inconvenience by reason of that reputation.

So far as the argument which my friend from Kansas makes about what he calls the practical reconstruction of the State government in Arkansas in 1864 is concerned, I will state that there was no reconstruction in 1864. What was called the Murphy government then sprang from military authority and from no other authority. It was the creature of the military. It had not the dignity of a reconstructed civil government. It was so treated here. It is true that they did elect Senators who came here and asked for seats, but they were at once told that they had no civil government there, that they had no State government in operation, and were not entitled to seats. Senator Sebastian knew that. He knew very well in that condition of affairs in the State, without any government, that it was not in his place to protest against the gentlemen who were seeking seats here under the Murphy government of Arkansas. There was no reconstruction about that matter at all. It was merely a government having the forms of civil government, put in operation by the military, and it had no other authority whatever. It never was recognized as a State government from the time of its inception until it was displaced by the reconstruction measures of Congress.

I believe that this act of justice ought to be done by the Senate even at this late day. It can do Mr. Sebastian personally no good, for he is dead and has been in his grave for many years. He died poverty-stricken, as I understand. But it may do his children some good, and I think it is due to them that the resolution should pass.

Mr. WADLEIGH. I move to amend the resolution by adding to it the following:

Resolved, That Joseph Segar, late claimant for a seat in the Senate, be allowed an amount equal to the compensation and mileage of a Senator from the date of the death of Hon. Lemuel J. Bowden up to the expiration of the term for which said Segar was elected.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New Hampshire.

Mr. CAMERON, of Wisconsin. I hope the Senator from New Hampshire will not insist on this amendment. Let each case stand upon its own merits or fall upon its demerits. I am perfectly willing to vote upon the resolution which he has just introduced as an independent proposition, but I can see no good reason why the resolution from the Committee on Privileges and Elections should be encumbered with this matter which he now introduces.

Mr. WADLEIGH. I supposed that the resolutions would be voted upon separately, and this is the only way of getting the subject before the Senate at this time. I have examined the matter.

Mr. INGALLS. I know nothing about the merits of either of these cases personally, and particularly I am ignorant in regard to the facts touching the gentleman whose name is mentioned in the amendment offered by the Senator from New Hampshire; but it seems to me that the objection made is pertinent and just, that these cases should stand or fall separately and not together.

I only desire to add in regard to the original resolution that of course I know nothing whatever against the character or reputation of Senator Sebastian, of Arkansas. From all that ever I have heard, he was a man of high integrity and in every way qualified for the seat he occupied here; but I felt it to be my duty to say that there were circumstances which, in my judgment, rendered it very doubtful whether this precedent should be established.

Mr. WADLEIGH. I suppose, of course, that the resolutions will be acted upon separately, and I propose to make a short statement of the facts upon which the claim of Mr. Segar depends.

In February, 1863, Lemuel J. Bowden was elected United States Senator for Virginia, by what was known as the Wheeling Legislature, for six years and died on the 2d of January, 1864. His term would have expired March 4, 1869. On the 19th day of June, 1863, West Virginia was made an independent State, chose her own Legislature, and elected Mr. Van Winkle and Mr. Willey United States Senators.

About the time that West Virginia became a State the counties outside of that State which had been represented in the Wheeling Legislature, being loyal to the Government, held elections on the day and at the places prescribed by the code of Virginia, and elected a governor and Legislature which were known as the Alexandria government.

Mr. Bowden, who lived in one of the counties not included in the State of West Virginia, held his seat and was paid as Senator for Virginia after the admission of the State of West Virginia.

After the decease of Mr. Bowden, Mr. Segar, the claimant, was elected by the Alexandria Legislature to take his place, and duly presented his credentials, but was not admitted to a seat in the Senate.

The evidence presented by the claimant shows clearly his election by the Alexandria Legislature. The right of that Legislature to elect a Senator of the United States seems to be the only question in the case.

The counties which were represented in the Alexandria Legislature comprised the cities of Norfolk and Alexandria, and had an aggregate population of 137,661. They were loyal districts, and had mostly been declared to be such by presidential proclamation.

At the first session of that Legislature a law was passed providing for a constitutional convention, which convened at Alexandria on the 13th day of February, 1864, and framed a new constitution for the State of Virginia. This government existed from May, 1863, till it was supplanted by military government in 1867 under the reconstruction acts, with the proper executive, legislative, and judicial departments. Its Legislature adopted the thirteenth amendment to the Federal Constitution, by which slavery was prohibited throughout the United States, and that act was regarded and has always been regarded as the act of the State of Virginia. (See Proclamation of President Johnson, 13 United States Statutes, 774.)

President Lincoln also by his amnesty proclamation of December 8, 1863, recognized the Alexandria government as lawful by enumerating Virginia among the States wherein "a loyal State government had been all the while maintained."

The conclusion seems irresistible that if the Alexandria government had power to adopt the thirteenth amendment to the Constitu-

tion it had power to elect a Senator of the United States, and that the claimant was entitled to his seat as such, as his loyalty was unquestionable and conspicuous.

The claim of this claimant, Mr. Segar, rests upon the lawfulness of the Alexandria government, so called, and that government was the government of the State of Virginia, which for the State of Virginia and in its behalf adopted the thirteenth amendment to the Constitution. If that adoption was not lawful and constitutional, then that amendment was never constitutionally adopted, because it required twenty-seven States to adopt it, and this State made the twenty-seven. Therefore the right of Mr. Segar to this payment as United States Senator is precisely the same right that the thirteenth amendment has to be considered an amendment to the Constitution.

Mr. PADDOCK. I should like to inquire of the Senator from New Hampshire if this matter has been considered and determined upon by the proper committee or if it is new matter interjected here into another subject which has been properly and duly considered by a committee and reported favorably?

Mr. WADLEIGH. The Senator from Nebraska will probably recollect that this matter came before the Senate and was discussed at the last session of Congress.

Mr. SARGENT. And defeated.

Mr. WADLEIGH. At this session the matter was submitted to the Committee on Privileges and Elections, and that committee referred it to me as a subcommittee. On account of my absence in Louisiana, and on account of my engagements on my return and the absence of the papers, which I left at home upon my coming here, expecting to return during the holidays, I have not been able up to this time to make a report upon the case. I have consulted the chairman of the Committee on Privileges and Elections, and it is with his consent that I offer this resolution. I think the resolution should be adopted, that it is only just to Mr. Segar, and that it is not becoming in the Congress of the United States to say that Mr. Segar is not entitled to his seat as Senator and to payment as such on account of the unlawfulness of that State government upon whose lawfulness depends the validity of the thirteenth constitutional amendment.

Mr. SARGENT. I move that the Senate proceed to the consideration of executive business.

Mr. PADDOCK. I think this measure ought to be considered and disposed of.

Mr. CAMERON, of Wisconsin. I hope the Senator from California will permit a vote on the resolution.

Mr. SARGENT. An executive session will only be temporary, and we can resume legislation afterward. There are some matters that ought to be acted upon in executive session.

Several SENATORS. O, no; withdraw the motion.

Mr. SARGENT. I will withdraw it for the present.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New Hampshire, [Mr. WADLEIGH.]

The amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the resolution reported from the Committee on Privileges and Elections by the Senator from Wisconsin, [Mr. CAMERON.]

Mr. COCKRELL. This, as was stated when the case was before the Senate a few days ago, although ostensibly a resolution to expunge from the record of the Senate, made on the 11th day of July, 1861, the taint of a certain resolution, is nevertheless a bill to pay the heirs of William K. Sebastian the salary of a Senator, from the 4th day of March, 1861, to the 4th day of March, 1865. That is the beginning and the end of the proposition. His term of service began on the 4th day of March, 1859, and expired on the 4th of March, 1865. Now, this bill is for the sole purpose, not of wiping out any stain which may have been cast upon his name, but of wiping out a record to enable his heirs to come in and claim the salary which would have been due him. A salary for what? For services he never performed; a gratuity out of the pockets of the tax-payers of this country to the heirs of William K. Sebastian, and for what? For nothing. Not that he served his country. When the gloom of rebellion spread all over this land his voice was not heard here in the Senate Chamber. He was at home down in Arkansas; and what evidence have we here in reference to his loyalty?

I assert that it has been the uniform rule of the Senate to require proof of active, actual loyalty before paying the claim of any claimant. When a claim comes before the Committee on Claims, the Committee on Military Affairs, the Committee on Finance, or any other committee the party is required to prove, not Union sentiments, but loyalty to the Government, and not loyalty only, but active loyalty to the Government. Every republican Senator knows that they have established the rule that the claimant must prove active loyalty. The distinguished chairman of the Committee on Claims knows that a number of reports made by him to his committee have contained the express words, "active loyalty."

Now, let us see if William K. Sebastian can come up to the standard of "active loyalty." He was a member of the United States Senate. He lived in the State of Arkansas. The Congress of the United States was convened on the 4th day of July, 1861. This resolution of expulsion was passed on the 11th day of July, 1861. It has been intimated here that the reason why it was passed was because he had not gotten here, but that he had made some effort to get here. I assert that there is not one word, not one particle of evidence before the committee that reported this claim, or before the Senate, that William K. Sebastian ever did one solitary act in an effort to get to Washington City. He was expelled on the 11th of July, 1861. He died in May, 1865. The distinguished Senator from Arkansas, [Mr. CLAYTON,] then a soldier in the Federal Army, occupied the town and county where he lived in 1862, less than a year from the time he was expelled. Did the cause of the Union, the integrity of the States, call for the services of Union men in 1862? If so, where was William K. Sebastian when you were bearing your musket upon your shoulder in defense of what you believed to be right, in the preservation of the Union and the integrity of the States? Was William K. Sebastian with you? Did he come up to the United States Senate and take his stand and take the consequences? Did he stand up and take the risks of his devotion to the Union?

Mr. CLAYTON. Does the Senator ask me a question?

The PRESIDENT *pro tempore*. Does the Senator from Missouri yield to the Senator from Arkansas?

Mr. COCKRELL. Certainly.

Mr. CLAYTON. Does the Senator believe that at the time Senator Sebastian was absent from this city he could have come here if it had been known that he was coming from Arkansas to take his seat in the Senate of the United States as a loyal Senator? Does the Senator believe, from the knowledge which he has of the condition of that country at that time, that he could have come here then from Helena, Arkansas, and taken his seat?

Mr. COCKRELL. Yes, Mr. President, I have known thousands of confederate soldiers who left the northern part of Missouri and made their way to the confederate lines in Arkansas and Texas and Louisiana, through tenfold the dangers that Mr. Sebastian would have had to undergo in order to reach the capital of this country; and they did that to fight for "the stars and bars."

Mr. CLAYTON. I should like to make a suggestion, if the Senator will permit me.

Mr. COCKRELL. Certainly.

Mr. CLAYTON. An obscure confederate soldier might work his way through the lines, but you must remember that William K. Sebastian was a Senator of the United States; he was not an obscure man, and every move that he would make was watched. I ask the Senator from Missouri, who was serving at that time in the cause which he thought was right, and serving gallantly, whether he would not have stopped William K. Sebastian if he had known that he was at that time on his way from Arkansas to take his seat in the Senate here in Washington?

Mr. COCKRELL. Trusten Polk, a Senator from the State of Missouri in the United States Senate, was here on the 11th day of July, 1861; I afterward saw him inside the confederate lines serving in the confederate army; and I should think that Mr. Sebastian could have gotten away from Arkansas and come to Washington City just as easily as Mr. Trusten Polk went from Washington City inside the confederate lines.

Mr. CLAYTON. The Senator did not answer my question.

Mr. COCKRELL. The question is, could Mr. Sebastian, on the 4th day of July, 1861, have been here? I say he could. I should have done it under the circumstances had I been in his place.

Mr. CLAYTON. Would not the Senator have stopped him if he had known he was on his way here?

Mr. COCKRELL. Yes, if he had come through my portion of the State, and if I had known that he was on his way to Washington, I would have stopped him, or else I would have had him signify that he would fight me in a regular way in the Union Army, and then I would have given him leave to go into the Union lines, as I have done in many instances.

Mr. President, it is a question of loyalty, and I say there have been hundreds and thousands of claims rejected by the commissioners of claims, and rejected by Congress, since 1862, where the claimants were infinitely more loyal than William K. Sebastian. I am not in favor of making fish of one and flesh or fowl of another. If Mr. Sebastian was a Union man, an active Union man, I am willing to tax myself to pay him whatever he was entitled to.

The Senator from Arkansas makes the point that he could not have left Arkansas on the 4th of July, 1861, to come to Washington. I ask the Senator why Mr. Sebastian could not have left Arkansas in 1862, in 1863, in 1864, in 1865, and come here and taken his seat?

Mr. PADDOCK. Probably he had not money enough to come here.

Mr. CLAYTON. He could have left Arkansas, but Mr. Sebastian was a very honorable man, and a man very sensitive of wrong. Having been expelled from this body without any opportunity to be heard, being, as it were, kicked out, I expect, as an honorable, high-toned man, he did not feel that he was called upon to come sneaking around here and begging his way back. I expect that the Senator from Missouri under the same circumstances would have said, "I will wait until these troubles are over, until men have time to reflect, until they become cool," as we are now, I hope, although I am afraid my friend from Missouri has not yet quite become cool, judging from the way in which he speaks. Under such circumstances the Senator from Missouri would have waited until these things cooled down, when justice could be had and he could be heard; and that Mr. Sebastian had not an opportunity to do because he died before the opportunity occurred.

Mr. COCKRELL. In other words, Mr. Sebastian did not have

confidence enough in his Union brethren to come and risk his cause with them. I never would have been afraid at any time to go to Richmond, into the confederate cabinet, or to any place inside the confederate lines, believing that I could satisfy them that I was true to the cause. Do you not know, Mr. Senator, that if Mr. William K. Sebastian had known and felt that he was loyal to his country, he would not have been afraid to come among loyal men? "Birds of a feather flock together."

Mr. CLAYTON. I should have had no fear.

Mr. COCKRELL. Why did he not come here? There is the fact staring this body in the face that from 1862 to 1865 Mr. Sebastian could have come here, and if he did not come, why not? It was because he did not have confidence in the Senators occupying these seats, Union men, men who were doing everything that they could to preserve the integrity of the States. Why did he not have confidence in them? It was not because he was afraid to leave Arkansas after the Senator from Arkansas [Mr. CLAYTON] got there, for he could have sent an escort with him. Mr. Sebastian could have come to Washington City and the Senator from Arkansas could have given testimony as to his loyalty. Other officers of the Army could have sent him. Do you think that your own party, holding the entire ascendency here, was in such a condition that it would not have done justice to a Union man? Will the Senator from Arkansas confess that the great Union party then was not willing to do justice to Union men, and that from 1861 to 1865 they cast a stain upon a Union man's character and did not have the honor and the manhood to wipe it out? I have a higher opinion of the republican party myself than that.

Mr. CLAYTON. Does the Senator want an answer?

Mr. COCKRELL. Certainly.

Mr. CLAYTON. I will give it.

Mr. PADDOCK. Mr. President——

The PRESIDENT *pro tempore*. The Senator from Arkansas holds the floor. Does he yield to the Senator from Nebraska?

Mr. CLAYTON. Yes, sir.

Mr. PADDOCK. I should like simply to inquire of the Senator from Missouri if he can state the exact evidence upon which Senator Sebastian, of Arkansas, was expelled from the Senate?

Mr. COCKRELL. Yes. As we have only about eleven hours yet left I intend to have the record read before I get through.

Mr. PADDOCK. It would take the Senator but a few moments to state it, if he knows what it is.

Mr. COCKRELL. I have the record here containing a great many documents that I expect to have read.

Mr. PADDOCK. Had he committed any overt act of treason at that time?

Mr. COCKRELL. I will read for the edification of the Senator——

Mr. PADDOCK. If he had been expelled in 1861 was it not a sufficient excuse why in 1863 he did not come here?

Mr. COCKRELL. Then why should his heirs come here in 1876 and ask that we shall pass this resolution?

Mr. PADDOCK. Why should he have come here in 1862 if he had been expelled in 1861? Having been expelled would it not have been necessary for him to come with some warrant of authority?

Mr. COCKRELL. Why did he not come with the warrant of authority of the Senator from Arkansas, who was there in the Federal Army, or other officers who occupied that country, who knew his character and standing then as well as they do now? That is the question.

Mr. PADDOCK. For what purpose should he come if he was not a Senator, having been expelled?

Mr. COCKRELL. Then why do his heirs come now? Could he not have come then and asked that this record should be expunged?

Mr. PADDOCK. His heirs come to get justice because he was improperly, unlawfully, and unjustly expelled from the United States Senate, as I understand.

Mr. COCKRELL. Why did he not come for justice then? Why has there been this delay? I assert positively, and every republican Senator here will bear me witness, (and I desire now to talk to the republicans a little on this question,) that you never yet have passed a claim on such doubtful evidence of loyalty. You cannot find one upon your record. You have required stronger proof of loyalty in every case than has been made here. Here is a man who, in 1861, was expelled from the Senate, and he lived till 1865. From 1862 up to his death he was inside of the Federal lines. He never came near Washington City to have this great wrong undone; and yet he was in full sympathy and co-operation with those who had done the wrong! He did not have the manhood, the courage, to ask his own friends and brethren to undo the wrong; but when he has passed away his children wait a number of years and then come here, and what for? To wipe away the stain, apparently, but really, to draw the salary. There is the point. It is not to wipe out any stain that may be cast upon Mr. Sebastian that this resolution is introduced here; it is to draw the pay from 1861 to 1875, four years' pay.

Now, for the edification and gratification of my republican friends I want to exhibit a little document which I hold in my hand, entitled: "The New Conspiracy; What is Meant by the Restoration of the Confederate Democracy to Power. The Vital Issues of 1876 Considered."

This is a very precious document, which furnished the Sunday literature of the entire republican party during the late canvass. On every stump from one end of this land to the other we heard the cry that the democratic party was trying to pay the rebels for the property that had been taken during the war, that it was going to pay the confederates pensions, that it was going to pay for the colored people who had been slaves. In Missouri it was charged that the democracy would pay the price of a cord of wood for every rail that the Federal soldiers burned during the war in the South. In the sixth congressional district in Missouri it was published, and all over that State it was charged, that C. H. MORGAN had been trying to get a rebel claim paid; and what was that rebel claim? It was a claim of Mr. Henderson, of Iowa, a constituent of the Senators from that State, [Messrs. ALLISON and WRIGHT,] a man who had served in the Federal Army from the beginning to the close of the war, and who moved down into Missouri within the last year or two. The Government was indebted to him, and Mr. MORGAN introduced a bill for his relief, and it was sent broadcast all over his congressional district that MORGAN—he, too, an officer in the Federal Army—was trying to get rebels paid for their claims. When I got into the district, that was the first charge I heard made. I inquired something about Mr. Henderson. He was in the convention that nominated the candidate who tried to defeat Mr. MORGAN. My friend the Senator from Iowa [Mr. ALLISON] will recollect Mr. Henderson, a bill for whose relief I worked so hard to get through, and for that I was denounced, and my friend Mr. MORGAN, a member of the other House, was denounced, as trying to get rebels paid for their property. I have no doubt but what the Senator who made this report, in his canvass in his own State, talked about these rebel claims and about the danger to the country from "the new conspiracy." I have in my hand a list of the claims referred to in it, and they were published all over this country, and sent out broadcast. They were published in the Republic here, a monthly magazine; and they were published in this form and sent all over the land. It was stated that the democracy were trying to pay these claims; and even a claim that my distinguished friend from Illinois had gotten through this Congress was published in Missouri as a rebel claim.

Mr. PADDOCK. Which Senator from Illinois?

Mr. COCKRELL. The distinguished soldier-Senator from Illinois. They were both soldiers, but I refer to the chairman of the Committee on Military Affairs, [Mr. LOGAN.]

Mr. PADDOCK. The most distinguished.

Mr. COCKRELL. The most distinguished, as the Senator from Nebraska says. A bill that he had gotten through for some person was sent broadcast over the land as a rebel claim. I have not the Republic here, which is a monthly magazine published in this city; but if my recollection is right, this is one of the claims which was charged in the issue of August, 1876, as a rebel claim which the rebel democracy were trying to get through and make Union people pay for. Here is a list of this new conspiracy and what is meant. [Exhibiting a pamphlet.] You see it is tolerably long.

Mr. ROBERTSON. Read it.

Mr. COCKRELL. It would be very edifying, but I shall only read a few sentences.

The surrender at Appomattox closed the war and yielded the dominion of the confederacy to the undisputed authority of the National Government; but in the transfer of the conflict from the field to the forum the nation was confronted with consequences of the struggle as grave and momentous as the war itself. Eleven States were found in social and political chaos and all form of civil government therein destroyed. The highest considerations of statesmanship and sound policy dictated that they should be speedily reconstructed and restored to their constitutional relations in the Union; but how was this to be accomplished? Four millions of emancipated slaves and five millions of disloyal citizens may be said to have comprised the entire population—

"Five millions of disloyal citizens!" I do not see any room, then, for Union citizens and loyal men—

Out of which the proposed governments were to be formed. In the nature of things the conduct of the late confederate in this new and wholly changed relation of citizenship became a subject of anxious inquiry. He had surrendered the sword of rebellion at home and the arts of diplomacy abroad, and sworn to renew his allegiance; but could he be trusted to found free and loyal governments on the basis of a complete and veritable freedom for all, and to aid in securing within those States the result of the nation's victory?

FALSE TEACHINGS.

Unfortunately there was little in his antecedents to inspire confidence. The education that made secession and rebellion easy had imbued his mind with the most pernicious heresies. The disciple of Calhoun, or the devotee of Davis, Slidell, and Yancey, he was indoctrinated with a measure of political poison which the fire of battle intensified and consecrated rather than destroyed.

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THE VITAL ISSUE.

But there were national considerations quite as vital as those peculiarly local to the South. In 1861 the Representatives in Congress from the slave States numbered seventy-four against one hundred and fifty-nine from the States then free, while under the present apportionment they have one hundred and six to one hundred and eighty-five from the North. Thus, a solid southern vote—

Of which we we heard so much during the last year—

which the democracy have determined to secure in the election next November at all hazards, with only forty representatives from the North, will give the South undisputed control of that body, while it will require only 10 votes from the North to also give it control of the Senate. According to this basis it will be seen furthermore that with the addition of only 47 electoral votes to the 138 belonging to the South that section will be enabled to elect a President and Vice-President.

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SLAVERY VS. FREEDOM.

It is well known that two distinct sets of ideas have long divided the North and the South. The North has ever been jealous of her institutions of freedom, and protected all her citizens alike in their enjoyment.

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BOURBONISM ALIVE AND DEFIANT. * * * A WAR OF INVASION AND VANDALISM.

Kindred to this feeling, and to add to its intensity, is a deep sense of the imagined injuries inflicted by the North.

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HOW THE SITUATION IS ACCEPTED.

If the modifying influences of time have perceptibly improved this well-known temper, it is difficult to discover the character or extent of the change.

Then the document goes on to speak of the different amendments, and then come—

A FEW IMPORTANT FACTS.

Some idea of the magnitude of the proposed raid on the Treasury may be formed by examining a few of the proposed "measures of relief."

A joint resolution "for the relief of William K. Sebastian." That is one of the measures of relief here referred to and criticised. Then the paper goes on to speak of the various causes of complaint on the part of the South for remunerations, and then gives a long list: "The cotton-tax job. * * * How it would work? * * * Southern claims."

Now listen. I have no doubt this is very familiar to most of my republican friends who took part in the canvass:

SOUTHERN CLAIMS.

That was the alpha and omega; it was the introduction and the close of every political speech that I read or heard of during the canvas:

But there is another class of demands compared with which the forgegoing might be regarded as real luxuries. These comprise the rebel losses during the war.

Under an act of Congress approved March 3, 1871, the southern claims commission was created and empowered to receive, examine, and consider the justice and validity of such claims as should be brought to them of those citizens who remained loyal adherents to the cause and the Government of the United States—

Loyal adherents to the cause and the Government of the United States—

in States proclaimed as in insurrection against the United States during the rebellion.

It will be observed that this law confines claims exclusively to "loyal adherents," &c., signifying that the Government holds itself responsible to no others for losses sustained by the war.

Then it gives the question here:

But what becomes of the tens of thousands of other rebel claimants who have not dared to venture before an "iron-clad commission."

That is, the claims commission.

Mr. President, it is well known that the republican party made this an issue, and now the republican party come in and claim quasi-loyalty as a ground for allowing a claim. Quasi-loyalty! Loyalty of such a character that if the confederacy had succeeded the claimant could have proved his loyalty to that government, but as the Union succeeded he can prove his loyalty to that tolerably well. My distinguished friend from Arkansas knows, and I dare him to bear personal testimony to the fact, that there were in the State which he represents, and in many other places, men who when the confederate army was there were all right for the confederate government, they opened their doors and fed and clothed us; and when you got there with your army they were the most loyal men that had ever been known. Where a man was actually and really loyal, I am willing to pay him; but I am not willing to pay those men who come in here and merely swear to their loyalty, as the distinguished Senator from California [Mr. SARGENT] knows, and who sometimes prove it when their records show the reverse. I think this is one of those claims, precisely. There is no active act of loyalty. It is said that Mr. Sebastian was at home. Any man could have staid at home. That was no test of loyalty. Had he loved the Union and the old flag, would he not have been willing to have risked something for it? Is it any excuse to say that he staid at home to take care of his property? Is that an excuse? Is he to be paid because he thought more of his property than he did either of the old Government or of that young government that was struggling for existence as a separate nationality? If he did think more of his property than he did of either of the governments, I do not think either government ought to pay him anything for it.

I say to my republican friends that if they pass this bill with this want of evidence of loyalty, I hope I shall not hear in any coming canvass hereafter any talk about a "new conspiracy" and what the rebel democracy will do about paying southern claims. The confederates acknowledge that they are not entitled to pay for the property they lost, and they are not here whining and asking to be paid for it at all. We are willing to do justice to the Union men, to those who were active for the Union, but not willing to do justice to those who were just as big rebels as we were, but who did not happen to have the moral courage to risk their lives in defense of their principles or to make any sacrifice, but who were loyal to whoever occupied the post for the time being.

I have made these remarks in all kindness. I want the republican party to understand that if they pass this bill they are forever hereafter barred, estopped, and precluded from bringing any charge against the democratic party for wanting to pay southern claims. If I believed that Mr. Sebastian had been truly and actively a loyal man I would be willing to wipe away this stain, as it would be a stain in the eyes of a Union man, if he were actually a Union man; but that would still involve another question, whether he should be paid for services not done and performed. That is the foundation of this resolution, and if we pass it we pass a bill to pay the heirs of William K. Sebastian the salary of a Senator from the 4th of March, 1861, to the 4th of March, 1865; for that is the bill, the whole meaning, intent, and object of the bill.

Mr. STEVENSON. Mr. President, I knew Mr. Sebastian well. I served with with him in Congress; I in the House and he in the Senate. I believe him to have been a loyal man. I do not think he sympathized with secession when it took place.

I have listened to my friend from Missouri whom we know to be a generous man, but who has allowed his prejudice against claims to run away with the innate desire which he always has, as a brave man, to do justice. He cannot produce evidence of disloyalty against Mr. Sebastian, and his own sense of justice would be shocked if he fully understood the course which was pursued by the Senate toward Mr. Sebastian. He was a Senator here. He did not go out. He was known when secession took place to be opposed to it. Congress met on the 4th of July, and on the 11th he was expelled. Expelled for disloyalty? By no means. When a motion was made to refer to a committee to inquire as to the fact whether he was disloyal, was that done? No, it was not. I ask my friend from Missouri would he be willing to see any Senator in this Chamber, who had openly expressed Union sentiments, expelled without the benefit of an inquiry? Mr. McDougall proposed to refer the resolution. The able Senator from Delaware, the elder Mr. Bayard, rose and protested against the resolution as an act of injustice. He said no Senator should be condemned without a hearing by a committee. And yet it was done, and done on the motion of a Senator from New Hampshire, upon the ground that the only evidence of his disloyalty was his absence. That is the record. He was condemned without a hearing and condemned upon the mere fact that he was absent. That I say is the record. My friend will not dispute it. What did he do? Could he have come here? Did he not see Jesse D. Bright expelled for writing a letter? Do you suppose he did not see that? Was there ever a more honorable and loyal man than Garret Davis, and because he expressed his opinion was there not a resolution to expel him? Was there not a resolution introduced to expel Powell? What man, if he could have gotten here, would have come when he felt himself expelled without a trial, and in the open face of the fact that he had been a Union man?

I say that is the record of this man, and would any man want to allow such a record to stand? If he was the direst enemy I ever had I would be willing to expunge a record so made up. It is not a matter of dollars and cents, it is to wipe out a record that is unjust in itself, that is false upon its face, that in a moment of high excitement the Senate passed without a trial and without letting it go to a committee to find out whether the man ever did a single act which would justify it. I say that, when the resolution for his expulsion was offered, McDougall, Bayard, and other Senators asked that it should go to a committee, but they were told, "No, he is away." Mr. Clark offered a resolution, and he coupled the name of Mr. Sebastian with various names of Senators who had seceded with their States, and the only reason he said why he did it was that Mr. Sebastian was not here. It was done within seven days after Congress met. Suppose every man were expelled in high party times who happened to be away ten or twelve days after the commencement of the session. The Senator from Missouri said himself, being on an opposite side during the war in a high trust—and all who know the Senator from Missouri at all know his magnanimity and fidelity—that he would have arrested Mr. Sebastian if he had attempted to go through Missouri on his way to Washington if he believed he were a Union man. Of course I cannot see into Mr. Sebastian's heart. I honor him that he did not come here. I believe it was in 1862 that Mr. Bright was expelled, and I say if that record was to be gone over again Mr. Bright would not be expelled. I believe it was in 1862 or 1863 that a resolution was offered to expel Mr. Garret Davis and another to expel L. W. Powell, and if such a resolution had been adopted there is no man who voted for it who would not have regretted it afterward.

Mr. Sebastian felt that he had never sympathized with secession; that he had not gone out with secession; and yet with his known Union sentiments he was expelled without a trial. He went to his grave with a sentence inflicted upon him without a trial; inflicted upon him without an indictment; inflicted upon him without his having had his day in court; but he was simply expelled because he was not here. Is it not natural that his infant children and his wife should desire to see that injustice remedied? Can there be a Senator here, I do not care whether they claim $10,000 or $20,000, who would not say, if he was expelled unjustly, his heirs are entitled to this money?

The Senator from Missouri says that Sebastian rendered no service. Sir, he was prevented not only from rendering service, but from giving his moral influence from a southern State that had gone out, he standing alone. The honorable Senator from Arkansas says that in 1862 he found him there on the Union side, and that the Union generals conferred and consulted with him and asked his advice. What more proof of loyalty does the Senator from Missouri want? This resolution comes from a committee which has investigated it. It seems to me that it was an act of injustice for the American Senate to condemn a man without letting his case go to a committee to be satisfied that they did him no injustice; and now to wipe it out you have stronger evidence. I was here when secession took place. I did not

go out. I saw many States go out, and I saw them go out with regret, and tried to prevent their going out. I believe that William K. Sebastian used his moral influence to keep his colleague from going out, and I believe that he would have returned here if he could have gotten here. The highest proof that I know of his loyalty is that a gallant Union officer tells us that he found him when he went there in 1862 battling for the Union, with no spot of disloyalty upon his escutcheon. I ask, can the Senate hesitate to wipe out this stain?

Mr. BLAINE I rather inferred from a remark, which I heard as I came into the Chamber, made by the honorable Senator from Kentucky, that some great injustice at some time had been done, or attempted to be done, to Hon. Garret Davis by a resolution of expulsion. I think the honorable Senaor from Kentucky—and I only wish to correct the record in connection with his speech—will recall the fact that the expulsion of Jesse D. Bright was moved by Garret Davis himself.

Mr. STEVENSON. Certainly.

Mr. BLAINE. And that all the force that ever was brought to bear to expel Lazarus W. Powell came also from Mr. Davis.

Mr. STEVENSON. I understand that he drew the resolution.

Mr. BLAINE. And got Mr. Wilkinson, of Minnesota, to offer it.

Mr. STEVENSON. I remember it.

Mr. BLAINE. And he sustained it, I might say, apparently.

Mr. STEVENSON. And he afterward said that he felt that if that act had been consummated he would have done the rankest injustice that could have been done to a fellow-man.

Mr. BLAINE. That I do not doubt; but whatever responsibility there might have been at that time for excesses I think should go to the right quarter, and not inferentially even go to the wrong quarter.

In regard to the case now in hand I think it can be said of Mr. Sebastian, to put the worst phase on it, that he is entitled, as the living are, to the benefit of a doubt. He is dead. He cannot speak for himself. I had the pleasure of his acquaintance. I knew him well pending the outbreak of the war. He struck me always as being a southern Union man at that day, and not a pretender; and out of honorable regard for the dead, as he cannot speak for himself, and out of tender regard for those who are interested in his memory and in his fame, I should hope that this resolution might pass the Senate unanimously. I shall cordially vote for it.

Mr. MAXEY. Mr. President, I had the honor of knowing William K. Sebastian for more than twenty-five years. I know something of those who were secessionists in the State of Arkansas in 1861 and 1862; and I know the fact that William K. Sebastian was not regarded as a secessionist, but as a Union man, and I undertake to say that you cannot find a secessionist in the limits of the State of Arkansas who would come here and swear that William K. Sebastian was with them; not one. I will challenge the Senator from Missouri or anybody else who knows anything about Arkansas politics, to find one man who did not regard William K. Sebastian as a Union man. He was the soul of honor; he was a pure man; he was a poor man at the time of his death, and a man of large family. It does seem to me that when a man is dead and gone, when even if he had been tried for treason and convicted and a forfeiture of his property had been made part of the sentence, it could only have lasted during his lifetime, this pursuing of a man upon a doubtful claim of disloyalty into the very grave and robbing his children after him is not fair, is not just, is not such conduct as should be expected from an American Senator. Sir, the Apostle Paul when he was once tried said that he was a Roman citizen and demanded to be heard. I say William K. Sebastian was an American citizen and he had a right to be heard, and no sentence can be sustained upon principles of justice or fair dealing that condemns a man without a hearing.

During the four years of the war many things were done here, many things were done everywhere, that we all regret, and I undertake to say that now in the Senate of the United States, in time of profound peace, no one would lift his voice and say that a man should be condemned without a hearing. We have the decision of the highest judicial tribunal of this land declaring in words of living light that the Constitution of the United States is the panoply and the shield protecting the citizen in war as well as in peace. Knowing no difference between war and peace, and the Constitution of our common country demanded that, Mr. Sebastian should have had a fair and impartial trial. The Senator from Kentucky testifies to the fact that such was not granted. I do not now blame those—it is not for me to do that—who, in times of high excitement and when a spirit was aroused in one portion of the country against another, thought it was right to do what now in cooler moments they would think was wrong. Mr. Sebastian was expelled doubtless by those who at the time thought they were justified in doing it; but when "the sober second thought" comes, when we have got to review this record, I ask can we say that it was right to condemn a man without a hearing, and not only condemn him without a hearing but when his children stand here with that stain upon the character of their father, is it right that the record should stand, erroneous though it be?

Mr. WEST. I desire to offer an amendment to this resolution by way of addition:

Resolved, That John Ray, claimant for the seat in the Senate vacated by the resignation of William P. Kellogg, late Senator of Louisiana, be paid the sum of $1,329.14 out of the contingent fund of the Senate.

Mr. CLAYTON and others. Don't put that on.

Mr. WEST. I hear "Don't put that on." It is very well known to the Senate that at the last session an allowance was made to Mr. Pinchback for the succession of Mr. Kellogg. This is the claim of his predecessor, who came here with his credentials, and the only reason that the case was not acted upon at the time was that by an error the case was referred to the Committee on Contingent Expenses, who reported in favor of its payment, and the Senate refused to act on the report of the Committee on Contingent Expenses, and referred the case, last session, to the Committee on Privileges and Elections. I have the authority of the chairman of that committee for saying that had he had the opportunity, had the committee not been so embarrassed with other and much more important matters, he would have pressed it upon the consideration of his committee, and no doubt it would have been acted upon favorably. I regret that he is not here to-night.

I will admit that it is not exactly germane, but it is always germane to pay your honest debts; and the Senate having established the fact of recognition of a claimant to this seat in the person of Mr. Pinchback by paying him some $17,000, you might certainly do the gentleman who preceded him as a claimant here the justice of paying him for the short time embraced by this amendment. In order that the Senate may understand what it means, I will say that it is paying Mr. Ray from the 14th day of January, 1873, the day Mr. Kellogg vacated his seat in this body, until the 4th day of March, the concluding term of the Forty-third Congress, with mileage one way only.

Mr. CLAYTON. I should like to ask the Senator from Louisiana whether this case has been considered by any committee of this body?

Mr. WEST. It has been considered by the Committee on Contingent Expenses.

Mr. CLAYTON. This session?

Mr. WEST. No, sir; in the Forty-third Congress and reported back, and it ought to be paid. The Senator from Indiana, the chairman of the Committee on Privileges and Elections, [Mr. MORTON,] told me to-night that the only reason it has not been reported from that committee was that the committee had overlooked it; that it is an eminently just and proper claim, but they have been so overwhelmed with business concerning the Southern States that they had forgotten to take this up.

Mr. CLAYTON. Why not bring it up as a separate measure and let it stand on its own merits?

Mr. WEST. I shall be perfectly willing to do that, and hope I shall be recognized by the Chair to do that. I do not wish to embarrass this case, because I admit there is no analogy between the two; but I cannot consent to sit here, as I did last session, and see men paid, when a Senator from my own State has claims which are equally just and which are entitled to the same consideration. It being understood that I shall have the opportunity to offer it separate from this case, I withdraw it for the moment.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. COCKRELL. I am a party to no such agreement.

Mr. ALCORN. I rise, Mr. President, for the purpose of bearing my humble testimony to the character, standing, and integrity of the person whose name is involved in this resolution. I was a near neighbor to Senator Sebastian for a great many years; I might say that I was upon intimate terms with him, and I never heard him express a disunion sentiment in my life. I knew him before the war began; I happened to be a prisoner in the town in which he lived while the war was going on, and I had frequent interviews with him and I never heard him express what I conceived to be a disloyal sentiment. This is just about as much as I propose to say about him.

But there are some reflections suggested to me by what has been said here that I desire to utter. When the war closed there was a sacrifice of $2,000,000,000 of slave property to which the southern people considered themselves as much entitled as you consider yourselves entitled to your property, however good your title may be. The southern people thought that a grave hardship. It was nevertheless one of those things that come as results of rebellion, and they were compelled to bear it, notwithstanding the fact that the ukase, or the amendment to the Constitution, went to the home of the widow whose property was taken, to the orphan who sat by weeping in desolation, who on account of its tender years could not exercise a judgment upon the question of loyalty or disloyalty, union or disunion. No odds how much the parties owning this character of property in the South may have been devoted to the Government, no odds how loyal they may have been, notwithstanding the father may have had his sons, as was often the case, fighting the battles of the country in the Federal Army, yet when the war was ended his property was destroyed and no compensation was made to him; but on the other hand, an amendment to the Constitution was enacted whereby he was forbidden ever to look for any compensation for the property that has been thus taken from him. No people have paid more dearly for the consequences of rebellion than the southern people, and certainly they who paid the most dearly of all were they who stood loyal to the Government of the United States notwithstanding the action of their State governments.

Senator Sebastian was opposed to secession. He never gave an utterance in disloyalty to the Government of the United States, at least up to the time that secession was a consummated fact. He strove as well as he could strive; he plead as well as he could plead; he voted

as well and as strongly as he could vote to ward off that danger to his country. He warned his countrymen of the danger that was impending, of the consequences that would result to them; but they went madly into secession. Sebastian suffered the consequences; his property was destroyed; he died with a full knowledge of the poverty that surrounded him, of the beggared condition of his family, and beggared from no fault of his own.

When, Mr. President, at the close of the war that was done to which I have referred, the southern people felt it a hardship; they felt it a grievance; they felt it a wrong; but it was a consequence of the rebellion. They had no power to resist, even if they had been disposed to resist, because they had been conquered and they sat weeping in desolation over the destruction of their hopes of government. After the war had ceased and the slaves had been freed, then there was another act of the Government of which the southern people complained and justly complained, as they thought. The slave had been made free; but he was freed with the fetters upon his body. He had no land upon which he could plant himself as his own; he had no house to cover his head. He was a beggar in the land, a pariah in the country of his birth and of his residence.

The Government of the United States imposed a cotton tax on the the southern people, and under the operation of that statute they were beggared even more than they supposed they ever could be. They were absolutely almost starved to death. Fortunes were destroyed. The colored people were in some districts of the country almost starved. The Government of the United States gathered to itself from those poor, down-trodden, poverty-stricken people $60,000,000 that now lies in the Treasury of the United States, and, as they believe, wrongfully taken from them. They appealed to the courts under the patronage of these claim agents, of whom we have heard so much, for the claim agents were the only men who had any money by means of which they could prosecute their claims, and by a divided court they lost their case.

After the war closed, too, some of them had cotton at home, their own property, and that cotton was taken from them by soldiers contrary to the law of the case and the proclamation of the President. It was sold and placed to the credit of those parties in the Treasury of the United States; and now there are $12,000,000 that the Government of the United States does not claim as its own, but holds according to the decisions of the courts in trust for the owners whose property was taken, as I say, in violation of law. They appealed to the courts. The military authorities, in defiance of the proclamation and of the law, set the courts at defiance and the property was taken and confiscated by the commissions that the confiscating parties could get to sit upon it, sold, and the proceeds returned to the Treasury, and now $12,000,000 of that money is in the Treasury not belonging to the Government of the United States, and the Government in truth not claiming it, but holding it in trust, as the courts have decided, for the owners. The southern people have appealed to Congress and asked relief. They have been denied it, and they have been denied it by the republican party, as they hold.

But now comes the unkindest cut of all. The southern people supposed they had some sympathizers among the democratic party. They did suppose that the men who fought the battles of the southern confederacy, that the men who had worn the gray, who had unsheathed the sword, and who had fought for them, would not at least turn upon them in their poverty and their desolation and strike them down, as they have been stricken down to-night. Samuel J. Tilden was the man who slapped the southern people in the face, and when the republican party had voted them down he it was who over his own hand published to the southern people an affront, an insult to their faces, that he stood ready to veto all bills that might be passed by Congress for the relief of the southern people. The southern people had to stand this. They had been impoverished; they had been destroyed; but here came an insult from a source that they did not expect; but they had to bear it. Upon this to-night comes the honorable Senator from Missouri, [Mr. COCKRELL,] the champion of the Tilden idea, and he gives notice to "all the world and the rest of mankind" that from and after this time, if there is anything voted to the southern people, right or wrong, he will hold up the republican party as responsible for robbery. What does he say? "You can vote to the northern people what you please;" that is all right, according to his theory; but "Vote a dollar, you republicans, to the southern people and I hold you responsible before the people of my State, Missouri, for having committed an outrage and thus having ravished the Treasury of the Government of the United States." My God, Mr. President, the sufferings of the southern people, the tribulations of the southern people, the wrongs of the southern people, the desolation of the southern people exceed anything of which we read in history. They cannot be equaled. But the Senator from Missouri has suffered by reason of the payment of these claims. They have haunted him in Missouri when he was going on his canvass, and it was held up to him "You will have robbed the Treasury, you men who have supported these southern claims," and he will never vote for another one! He has been blistered in Missouri on this subject, and he will never vote for another! I undertake to say there is another bill that he will never vote for, and that is you will never get him to vote for another electoral commission, [laughter,] though he may sit here until he is as old as Methuselah. These are two things that the Senator from Missouri will never do any more, [laughter;] I will go his security for that.

Mr. COCKRELL. Mr. President, I have been gratified at the oration of one of the leaders of the republican party and the reprimand which he has delivered to his own party; but when I stood on this floor to arraign him and the republican party for their false charges made against the democratic party it does not lie well in his mouth to say that I am taking a part against the southern people. You and your party have established the doctrine that nobody in the South but actively loyal men shall be paid. You have established it and now because I want to hold you to it, because I want to hold you to the rule you have established, you begin to protest——

Mr. ALCORN. Did you think it was right?

Mr. COCKRELL. That is not the question.

Mr. ALCORN. Ah! that is the question.

Mr. COCKRELL. I am carrying out a law which you here enforce against every other man; and I do not propose that your pets and favorites shall come in and draw money from the Treasury, while other men better than they shall be turned away from the Treasury Department empty because they were not distinguished citizens and have not distinguished friends who can say that they were loyal up to the act of secession. That is the time that my friend testifies about this gentleman. I was loyal up to that time, too, [laughter,] and there were thousands of us who were. The bravest men that ever I saw under the "stars and bars," were men who were Union men until after the battles of the war began. It is no test to say that a man cherished Union sentiments in those days prior to the beginning of hostilities. Why nearly every man through the length and breadth of the Union was loyal in that sense. It was not that they loved the Union less, but that they loved the confederacy more. It was not because we hated the old flag; we had no hate at all against it; but it was because we loved the young "stars and bars" of the confederacy better.

Now, Mr. President, it comes unkindly from the distinguished Senator from Mississippi to say that I am casting any reflection upon southern men. He knows that every man in Mississippi who was in the confederate army or who showed his devotion to the confederacy, is precluded by your own party from getting a dollar's compensation for anything. Now I am asked whether I justify your party in what they are doing. It is a little presumptuous question. I am a loyal man now, and I am not revolutionizing the laws of the country. You have made these laws. You have now the power to undo them; you have the power to change and modify them, and do justice to those persons whom you are entering complaints in favor of. You belong to the republican party. The republican party has passed the law which I say bars this claim. It is on the statute-book. I was simply bringing to bear the rule which you have enforced all the time. If the rule is wrong, help repeal it; if it is tight stick to it and do not avoid it, do not evade it, do not dodge it in exceptional cases because a certain distinguished gentleman may have been the friend of this man or may have been the friend of the other.

I just want to tell the Senator from Mississippi a little incident that occurred here last summer. There was a bill reported from the Committee on Naval Affairs by the distinguished Senator from California [Mr. SARGENT] allowing a certain distinguished citizen of the State of Missouri $50,000 for a steamer. It was reported favorably. I took the report and examined it very thoroughly and carefully, and there was the best proof of loyalty in the world, the case of a man loyal all the time. He had happened to be down in Mississippi, though he had gone to the Lauderdale Springs down there and some other springs over the river in Alabama for his health and remained there an invalid during the war. The case was called up here. The distinguished Senator from Vermont [Mr. EDMUNDS] objected to the bill, and it was laid over. The Adjutant-General when he examined the confederate archives—the rebel archives, as my friend would say—found there a receipt to this gentleman from the confederate government for the purchase of the vessel. He had sold it to the confederate government. I went home and inquired about his loyalty. I met with two gentlemen living in his town, one of whom had been a Confederate States senator during the war. I asked him if he was a loyal man. The rebel spoke up and said: "He was as big a rebel as I was; why ask the question?" I told him he had a claim of $50,000 against the Government. The other man, who was loyal, his neighbor, said: "Well, I should suppose he was loyal; he was supporting Hayes and Wheeler." There is a little too much of that to suit me. The fact that a man may be a republican now, or may be supporting republican politics now, does not wipe away any disloyalty which he may have cherished or felt or acted in 1861, 1864, or 1865.

I am astonished at my good friend from Texas [Mr. MAXEY] rising to vindicate the character of Mr. Sebastian. I do not suppose there is a man in the Senate who has ever thought aught against Mr. Sebastian. We are not dealing with his character; we are not assailing his character; we are casting no aspersion upon it. I hope my friend would not consider it an aspersion upon him, if he had been here in the Unied States Senate and had gone down South and fought as he did during the war, if the Senate had introduced and passed a resolution of expulsion. I am sure I would not. It was a voluntary expulsion, an expatriation on my part; and I do not think any resolution that the General Government might have passed could have added anything to it in any way that I would have cared a cent for. It is a question of fact. You have enacted a law; you say you will pay loyal citizens, those who were actively loyal; you say you will not pay anybody else. Now you come in to make exceptions, and the question is

when you bring up a case, was that man a loyal man? not whether he was a good man. Why just as good men as there were in the South were in the confederate army, and I am willing to vindicate them that far. I say that just as brave and honorable and true men as there were in Mississippi or any other place went into the confederate army, and it is no aspersion to them to say that they went into the confederate army. They do not feel so, and I do not feel so at all. We were honest, sincere, and conscientious in what we did; but as to whether we were wrong or not, the Great Jehovah alone will decide that question. That is not in controversy now at all.

Here you say Mr. Sebastian was loyal. What is your evidence of it? My distinguished friend from Kentucky says that he was a Union man in 1861; and so were, as I said before, nearly all the men in the confederate army. I can show you some of the most gallant officers in the confederate army who were Unionists up to July, 1861, and some even later than that.

I want to bring this down to the republican party. You have charged that it is the democrats who are trying to pay rebel claims. The very claims which you voted to pay as loyal claims you have charged us all over the broad land, from the Atlantic to the Pacific, in every Northern State where it would have any force and effect, with trying to pay as to rebels, not Union men, for their property destroyed. You have established the rule that we cannot get pay for it. We are not asking you to repeal that rule; nothing of the kind. You say you will pay Union men and you turn round and pay them and then charge it upon us and say we are paying rebels, and if there should be another such campaign again as the campaign of 1876, this very claim will be paraded all over the country and it will be told at every country school-house by the country orators throughout the length and breadth of the land, "See what these rebels are doing, taxing the country to pay rebels for property taken during the war." Every claim paid belonging to a man living in the Southern States is charged to be a rebel claim. I want the republican party to place themselves upon record and prove that that is the fact. I want you to place yourselves upon record in this case. It is nothing to me whether you pay Mr. Sebastian's heirs or not; it is a question of principle, and I want you to assert what that principle is to-night and to say there were Union men and loyal men in the Southern States; and when you offer to pay them and when you do pay them any of their claims, do not turn around and charge it upon the rebel democracy; take the responsibility upon yourselves and say to your people, "There were loyal men down there and we are paying them; we are not charging the rebels with doing it."

What committee does this come from? The Committee on Privileges and Elections. Who is chairman of that committee? The great Senator from Indiana, [Mr. MORTON,] the distinguished leader of the republican party. That is the point that I am making in this case, and I desire to make it to the republicans here, and I desire the issue made, so that if another canvass comes on, and these charges are brought up, I can read before the American people the record of the republican Senators here testifying to the loyalty of citizens of the Southern States, and that it is not the rebels paying other rebels for property taken, used, and destroyed by the Federal Army. That is the point I make exactly, and I have been saving this precious document, The New Conspiracy, just for an opportunity of having it here to show it to the country, and to show it in the face of the republican Senate, and to show the charges that were made from one end of this land to the other, and to ask the republican Senate whether they will indorse the charges which were made during the canvass or not. These charges were made, and I want to see whether they will repeat them here and stand by them, and say that every bill for the relief of any man from a Southern State is for the payment of rebel claims.

Mr. ALCORN. Mr. President, I will not weary the Senate by detaining them a great while. The Senator from Missouri states the fact that he had been voting heretofore as I understand him and that the party to which he belongs had been sympathizing and voting for the payment of just rebel claims. I thought it was commendable of him to do so. He complains, however, that the republican party made a point against him before the masses of the people, and that because they did make the point he was likely to lose some political strength on that account and hence he feels justified now in opposing them.

The southern people, as I said awhile ago, were left in a most deplorable condition. For a long time after the war they were denied representation here. This was one of the penalties of disunion; and it was imposed that all people who go into disunion or revolution might know the fact that the penalties are terrible; patriots if they succeed, traitors if they fail. But when the southern people were allowed to send representatives here, and chose those representatives from the body of the confederate army, they did have a right to expect and they did hold that all just and proper claims of the southern people against the Government of the United States would at least be fairly treated by their own representatives. But now here to-night the champion of the principle that I have complained of in the republican party rises up, and, with the letter of Samuel J. Tilden, he comes panoplied in all his power and eloquence to declare that from this time henceforward he will hold the republican party responsible for each and every vote they may give for the purpose of allowing to the southern people that which they may under the law of nations and war justly claim. He comes here and stands by the grave of Senator Sebastian, of Arkansas; he makes his speech over his dead body. After denouncing the pretensions of his heirs, he comes here and declares that he has said nothing whatever that reflects upon this man, and that in truth and fact he holds him to have been a most honorable man. I do pray God that I may be saved from the eulogy to be pronounced over my grave by the Senator from Missouri if he calls this speaking kindly of a dead Senator, whose heirs come here now and ask that the Congress of the United States shall wipe out a judgment that was recovered in this court without notice, without giving him a day, without summoning him to appear; a judgment that was recovered against him in his absence and to which he was not permitted to plead.

The Senator from Missouri talks about what the democratic party suffered on account of their having voted for the payment of these claims.

Mr. COCKRELL. I hope the Senator does not intend to willfully misrepresent me.

Mr. ALCORN. I certainly do not.

Mr. COCKRELL. I said no such thing. I did not say that the democratic party had voted for these claims, or had suffered because they had so voted. I said that you and your party charged us with trying to get these claims through.

Mr. ALCORN. When the gentleman said that I had charged it, he said that which is not so, for I have never charged it; and each and every Senator knows that since I have been upon this floor I have stood and voted with the democrats of this House upon this question, and my heart has gone out to the democrats upon this subject. I have stood before the southern people and have claimed that the republican party to which I belonged had turned up to this time a deaf ear to their pleadings for their rights, as they hold them to be, or their equities, under the law; but I have told them that the time would come when justice would be done them, and I have asked them to wait. But now, when the Senator from Wisconsin, in his report, so generously put forth, expresses a willingness to do justice to the dead Senator from a southern State, when the Senator from Wisconsin comes here with his words of sympathy for the Senator who has now gone to his long resting place, and speaks a kind word to the orphan who weeps over his grave, we find the Senator from Missouri tearing up the sod from over the resting place of Sebastian, and declaring that he was neither fish nor fowl, and was not entitled to any consideration on the part of the Senate of the United States. He said that he wanted him either fish or fowl; he was nobody, according to the construction of the language of the honorable Senator from Missouri. That Senator from Missouri, in my humble judgment, whose heart I know to be kind, has done himself injustice to-night, I trust he has not done the memory of the deceased Senator in the judgment of the Senate an injustice; but he has done himself and his own heart an injustice in his pleadings on this occasion.

He speaks about fraudulent claims that have been presented here. I know the fact that there have been fraudulent claims presented from the Southern States, and I know the fact that combinations have been formed, and that bills have passed through the Senate and Congress, and adjudications have been recognized that were unjust, and that the Government of the United States has been robbed of its money. I have voted against all such claims; I have done as well as I could to distinguish between just and equitable claims and those that were fraudulent; but because fraudulent claims have been passed by the Senate, is that a reason why a just claim should be voted down?

The Senator from Missouri says that it must be proved, before he can recover judgment in this case, that the claimant was actively loyal. The proof does not devolve on him or on his heirs. He was ejected from the Senate without a day in court, without notice. He was turned out in his absence. Congress had a called session, met on the 4th of July, and on the 11th he was expelled from the Senate without a hearing. Now, it is upon the Senate to prove that he was disloyal, and in the absence of proof of disloyalty he is entitled to a judgment at the hands of the Senate. There has not been an effort to show that he was disloyal. The proof shows all the way through that he was loyal. I testify in my humble way that I saw him when I was a prisoner; yes, sir, I was a prisoner, for I stood by the Senator from Missouri in that dark and trying hour. I have never pleaded that I was loyal to the Government of the United States then; I have never intimated that; I have asked for no compensation for any property that was taken from me; I stand by the side of the Senator from Missouri on that point; but Sebastian was a loyal man. If words made him loyal, if sentiments expressed to me when he visited me as a prisoner could be taken, he was a loyal man. In my judgment, he was a loyal man; and I shall vote to wipe out, not the stain—it was not a disgrace, according to our view of the case, to be a confederate; we hold it to be no disgrace, but it is an imputation that is false, and I would expunge the falsehood from the records, and I would do no more.

Mr. HOWE. Mr. President, I do not wish to displace this resolution, but I ask unanimous consent to interrupt the debate for a moment to report and put upon its passage a House resolution.

Mr. CLAYTON. We can pass this now.

Mr. DORSEY. I hope the Senator from Wisconsin will allow us to take a vote; I think we can get a vote now.

Several SENATORS. Let us have a vote.

Mr. DORSEY. I hope we shall now have a vote on the question.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

Mr. CAMERON, of Wisconsin. I desire to say one word before the vote is taken on this resolution. The memorial was referred to the Committee on Privileges and Elections, and it was assigned by that committee to me, together with the accompanying evidence, to examine and report upon the case. I examined the case fully and very carefully. The testimony of nine witnesses was submitted in support of the memorial. The memorial itself is verified. The testimony of eight of these witnesses was in the shape of affidavits, and the ninth was a letter. Each one of these witnesses testifies to the loyalty of Senator Sebastian. Instead of being a weak case, as the Senator from Missouri intimated, it is a very strong case. The loyalty of Sebastian is established beyond all controversy. In any court of law in the world if the issue was whether he was loyal or disloyal, it could not fail upon the testimony presented to the committee to be found in favor of his loyalty.

The Senator says that we have established a rule that a person who is required to make out his loyalty must show that he was actively loyal; this case comes fully up to that standard. The testimony of half a dozen of these witnesses shows that prior to the war, during the war, and after the war Mr. Sebastian was actively loyal. One of these witnesses testifies that after he left Washington in March, 1861, and returned to his home in Arkansas, he made a speech in Helena, where I believe he resided, opposing secession. That I believe was before the ordinance of secession was adopted by that State.

Quite a number of witnesses are gentlemen who are known to the country. A. O. P. Nicholson testifies to his loyalty prior to the breaking out of the war. Ex-Senator Dodge, of Iowa, also testifies to his loyalty prior to the breaking out of the war. His colleague in the Senate prior to that time, R. W. Johnson, testifies very fully to facts showing his loyalty, showing his devotion to the Union, showing that at all times he was opposed to the principle of secession.

Without desiring to detain the Senate I will ask the Clerk to read a short letter from Governor Washburn, of my own State, who commanded in Arkansas as early as 1862.

The Secretary read as follows:

WASHINGTON, D. C., *March* 12, 1875.

DEAR SIR: On arriving in Washington this morning I saw and read in the Chronicle a memorial from the sons of the late Hon. W. K. Sebastian, formerly Senator from Arkansas, the original of which, it was said, had been placed in your hands to be laid before the Senate, asking for the rescinding of a resolution adopted by the Senate in 1861 expelling him and other Senators from the Senate for being engaged in a "conspiracy to destroy the Union and Government."

Having some personal knowledge of the facts stated in the petition, it is due to truth, justice, and the memory of Mr. Sebastian that I should state them for the consideration of the Senate.

I knew Mr. Sebastian while he was a member of the Senate, and before the breaking out of the war. On the 12th day of July, 1862, I occupied Helena, Arkansas, with the advance of the Army of the Southwest. One of the first gentlemen to call upon me at my headquarters was Mr. Sebastian, and he called very often afterward, and so long as I remained at Helena I had many conversations with him. He always expressed himself as deeply solicitous for the restoration and preservation of the Union, and as having no sympathy with the efforts to destroy it. He claimed that Arkansas had been dragooned into the rebellion, and that a large majority of the people of the State were satisfied with the Union as it was. He always manifested a great deal of feeling in the matter. He often spoke of the Senate resolution expelling him, declaring that he had done nothing in thought, word, or act to justify it, and he had it in contemplation then to return to Washington and claim his seat in the Senate, which I frequently urged him to do, believing that it would have a great influence in Arkansas at that time, as the conscription in that State was then just commencing. We discussed the matter often, and I believe that he was only deterred from a feeling of doubt as to how he would be received by the Senate.

Subsequently he left Helena and went to Memphis to reside, and I found him there on assuming command of the district of West Tennessee, in April, 1864. And from that time he was a frequent visitor at my headquarters, until he was prostrated by the illness that resulted in his death. I called upon him often during his last illness, and saw him only a day or two before he died, and never heard him utter a word that was not of a loyal and friendly character toward the Government.

I state these facts for what they are worth, and request that you will place this before the committee to whom this memorial is referred.

I have the honor to be your obedient servant,

C. C. WASHBURN.

Hon. T. W. FERRY,
President of the Senate.

Mr. CLAYTON. I ask for the yeas and nays on the resolution.

Mr. WEST, and Mr. CAMERON of Wisconsin. There is no necessity for the yeas and nays.

The yeas and nays were ordered.

Mr. HOWE. As the yeas and nays are to be called, I want to know one or two things about this matter that I do not know, and one is this: If a Senator from Massachusetts or Wisconsin—I believe the two most loyal States in the world—had been absent from the Senate, not by sickness of himself or his family, would he be entitled to pay as the law stood at the time of this absence?

Mr. CAMERON, of Wisconsin. I will say to my colleague that I do not think the question is pertinent at all.

Mr. HOWE. Why not?

Mr. CAMERON, of Wisconsin. I will tell you why not. My colleague will remember that early in July, 1861, Senator Sebastian was expelled. One reason for his absence afterward was the fact that he had been expelled. My colleague will remember that only the other day, two or three days ago, a bill was reported from the Committee on Naval Affairs the substance of which was to pay a man who had been improperly, and, as it turned out, illegally, dismissed from the naval service. He was out of the naval service eight or ten or twelve years, and it turned out upon final investigation that he was illegally dismissed, and we passed a bill paying him his salary during all those years that he was out, because he had been illegally dismissed. Senator Sebastian, we claim, was out because he had been illegally dismissed, and consequently was entitled to his pay; and if a Senator from Massachusetts or from Wisconsin had been illegally expelled from the Senate, and the Senate afterward became convinced that he had been so illegally expelled, I answer the question of my colleague by saying that he would be entitled to his pay.

Mr. HOWE. What was the illegality in the expulsion of Senator Sebastian?

Mr. CAMERON, of Wisconsin. He was expelled upon two grounds, first, that he was disloyal. The Committee on Privileges and Elections find as a fact that he was not disloyal. The Senate at that time took no evidence whatever upon the question. The other point was that he was not present in the Senate at that time. He was expelled at the called session of Congress in 1861. That called session convened on the 4th day of July, and he was expelled on the 11th day of July, only seven days after the commencement of the session. Now, although my colleague is generally here, I think it quite likely that he has sometimes not appeared in his seat within seven days from the commencement of a session of Congress. No one will claim that absence for seven days was a ground or reason for expulsion. So that the only reason for expulsion was that he was disloyal. Now, we find as a fact that he was not.

Mr. HOWE. Was Senator Sebastian in his seat during the executive session which commenced the 4th of March, 1861?

Mr. CAMERON, of Wisconsin. I am not able to tell whether he was or not.

Mr. HOWE. Was not that a fact found in the case, one way or the other?

Mr. CAMERON, of Wisconsin. It is not, one way or the other.

Mr. HOWE. It would be very easy to determine whether he was or not.

Mr. CAMERON, of Wisconsin. I do not know whether he was or was not.

Mr. HOWE. Would it not be an important fact in the case?

Mr. CAMERON, of Wisconsin. I do not think it would be of any importance whatever.

Mr. HOWE. But if he was absent during the five or six weeks, which I think was about the length of that session, and did not appear at the next session, then it would not be a mere absence of seven days.

Mr. CAMERON, of Wisconsin. It is recited in the resolution that he had not appeared in his seat during the extra session in July. There is no reference whatever to any prior session.

Mr. HOWE. And there was no defense made of Mr. Sebastian's loyalty at the time of the expulsion?

Mr. CAMERON, of Wisconsin. He had no notice whatever of the charge that was made against him.

Mr. HOWE. It was not convenient to serve notice upon him, I suppose.

Mr. CAMERON, of Wisconsin. I understand as a fact, although I do not know that that appears in the testimony, that he had no notice whatever that the session had been called. It was not convenient for him to get here at that time; he was over three hundred miles within the confederate lines; and the testimony shows that it was an actual impossibility for him to get out of the confederate lines at that time.

Mr. HOWE. When did he go into those lines?

Mr. CAMERON, of Wisconsin. He lived there. He went there before the secession of the State of Arkansas.

Mr. HOWE. How long before?

Mr. CLAYTON. He was there opposing secession. That was part of his business there.

Mr. HOWE. How long before the secession of Arkansas?

Mr. DORSEY. I hope we shall have a vote on this question.

Mr. HOWE. Will you vote now?

Mr. DORSEY. Now, if we can.

Mr. CAMERON, of Wisconsin. Let us have it now.

Mr. HOWE. I think I will accept the advice of my friends; and besides I suspect that I have got all the information I can get.

Mr. INGALLS. Can the resolution be amended?

The PRESIDENT *pro tempore*. It can be.

Mr. INGALLS. I move to strike out the last eight lines.

Mr. HOWE. I think I have got information enough to warrant me in voting "no."

Mr. INGALLS. The evidence being undoubted that Sebastian remained in Arkansas and saved all his property, so far as his personal presence could contribute to that result, and that he performed no service whatever for the Government, it seems to me that we shall do enough if we remove what some Senators have been pleased to advert to as the stain upon his reputation, leaving the question of the compensation that is to be paid for the services he did not render to some subsequent time. I hope that inasmuch as the sole argument upon which this has been based has been the wrong that has been done to his reputation, to his fair name, and to the memory of one

who has passed away from us, that the Senate will content itself to-night with simply removing that imputation and not burden the Treasury by compelling the payment of a large sum of money for services which he could not have rendered, and for which he certainly would not have received pay if he had died, and that would have been no worse than being expelled.

Mr. BLAINE. If I do not interrupt the Senator from Kansas.

Mr. INGALLS. Not at all, for I have got through.

Mr. BLAINE. I was going to call attention when the Senator from Wisconsin [Mr. HOWE] was on the floor to the fact that this very session, so far as I know without contradiction by any one here, Congress has voted $10,000 to JOHN YOUNG BROWN, of Kentucky, in full pay for the Fortieth Congress in which he was not allowed to serve, but in which in the judgment of the House now he ought to have been allowed to serve.

Mr. INGALLS. Did the Senate vote that?

Mr. BLAINE. The Senate did that. This session, I think, that bill went through.

Mr. INGALLS. I have no recollection of it.

Mr. BLAINE. If I am wrong some Senator here will know it.

Mr. INGALLS. He was personally seeking his seat all the time.

Mr. BLAINE. But the House refused to seat him because he was considered disloyal. The analogy is very striking.

Mr. INGALLS. He always demanded admission.

Mr. BLAINE. The House refused to seat JOHN YOUNG BROWN in the Fortieth Congress because of disloyalty. Now, the House ten years afterward says on a review of the case that he was not disloyal. It was the action of the House that prevented him serving. They have put in one of the bills—I am looking for the chairman of the Appropriation Committee to tell me on what bill——

Mr. STEVENSON. The legislative bill.

Mr. BLAINE. In the legislative bill they put in full pay for that Congress. I think the analogy is very striking. Mr. Sebastian was prevented serving. When he was expelled he could not serve afterward. Of course, after that he would not serve here, surely.

Mr. INGALLS. The extra session of Congress that assembled on the 4th of July, if I remember correctly, was called in April.

Mr. BLAINE. He could not have served after he was expelled, could he?

Mr. INGALLS. He could have served before.

Mr. BLAINE. That is not the point in dispute. JOHN BROWN YOUNG tried to serve before he was by the vote of the House deprived of the right to serve, and now, ten years afterward, we have voted him pay for that Congress.

Mr. INGALLS. I doubt the fact.

Mr. BLAINE. I think the fact will appear by reference to the legislative appropriation bill, and you voted for it.

Mr. INGALLS. I doubt it.

Mr. McCREERY. Twenty-five hundred dollars were deducted.

Mr. BLAINE. Twenty-five hundred dollars was deducted because it had been paid before, and he got $7,500; so that he got the full $10,000 that was adjudicated to be due him, and every member of this Senate voted for or at least was consenting thereunto. I am not making any criticism against it. I am only indorsing the justice of this claim of Mr. Sebastian by this analogy.

Mr. SAULSBURY. I had intended to say something about the merits of this proposition. I had occasion some year or two ago to examine this claim, and I became fully satisfied that it was an act of justice demanded at the hand of the Senate of the United States that had expelled this gentleman without a hearing, without notice, and had left in the minds of some at least of his countrymen a stain upon his reputation. After the remarks of the Senator from Maine [Mr. BLAINE] this evening I had hoped that this act of justice would have been done with that unanimity which I think would have been honorable to the Senate. I hope now that the amendment of the Senator from Kansas will not prevail. I shall be glad to see him withdraw it. It will be a slight tribute to the memory of the gentleman whose memory has been tarnished by the act of the Senate to pass this resolution as it has been reported by the Senator from Wisconsin. I hope that therefore, without further delay and without further debate, the amendment of the Senator from Kansas will be voted down and this resolution passed.

Mr. HOWE. Mr. President, I do not mean to detain the Senate a moment, but I must say to my distinguished friend from Maine that the analogies between the case now before the Senate and that to which he has called the attention of the Senate are not so very striking to my mind as they seem to be to his own.

The claim of JOHN YOUNG BROWN rested upon the fact that he was here trying to serve the United States and giving his time in the vain endeavor to be permitted to serve the United States as a Representative, and was refused the right which the law devolved upon him. But Mr. Sebastian was not here in any such character. He did not ask to serve. I shrewdly suspect, although my colleague does not seem to be informed upon that point, that he not only did not put in an appearance at the special session called in July, 1861, but that he was not here during the executive session which succeeded the 4th of March, 1861, and it appears that he never afterward put in an appearance here during his life-time for any purpose, either claiming the right or assenting to the duty of serving the United States as a Senator or complaining of that act which is pleaded here as the reason why he did not serve—the act of expulsion. It does not appear that he ever complained of that to the Senate. There is a distinction, in my mind, very broad between the case of Mr. Sebastian and the case of Mr. BROWN.

Mr. BLAINE. I think probably the Senator from Wisconsin does not know yet all the facts in the JOHN YOUNG BROWN case. JOHN YOUNG BROWN was elected to the Fortieth Congress and appeared to take his seat. He was refused, on the ground, that he was a disloyal man and had never had his disabilities removed, and the House refused to remove them in order to qualify him. Before he ran for Congress again, by application from him and by interposition of his friends, his alleged disabilities were removed, and after becoming thereby qualified he finally took his seat. Now, at this very session of Congress, in a bill which is now undergoing enrollment, the Senator from Wisconsin consented to go back and pay JOHN YOUNG BROWN $10,000 for that Congress, and I think there is a little more analogy there than he is disposed to admit. He was refused because he was disloyal. Mr. Sebastian was expelled because he was disloyal. The House said afterward that it was a mistake; that he was not disloyal, and ought not to have been deprived of his seat, and now vote him his money. The Senate is called upon, on the report of its committee, to say now that Mr. Sebastian was not disloyal, and therefore his money should be given to his heirs. It seems to me there is a good deal more analogy than my friend admits.

Mr. HOWE. I confess that on this second statement of the JOHN YOUNG BROWN case there is more analogy than I discovered upon the Senator's first statement of it. I think very likely, if my friend should state it the third time, I could see still more.

Mr. BLAINE. If you keep prodding I will get the facts of it all out.

Mr. HOWE. I propose to get the whole of them before I let my friend alone. I cannot venture at this moment to plead not guilty of having assented to the payment of Mr. BROWN upon the statement last made. I doubt if I should have assented consciously to the payment of such a claim as that, but still as the case is presented there is a Sabbath day's journey between the principle involved in that case and the principle involved in this. That difference is, I say again, that in BROWN'S case he wanted to serve and tried to serve, and was obstinately refused permission to serve. Mr. Sebastian discovered no such disposition; he neither tried to serve nor offered to serve. He had his time to himself. BROWN spent his time in trying to get permission to work for the United States.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas, [Mr. INGALLS,] which will be read.

The CHIEF CLERK. The amendment is to strike out—

And that, without detriment on account of duties or rights of the Senator obstructed or prevented by said act of expulsion, the Secretary, or other proper officer of the Senate, be, and he is hereby, authorized and directed to settle the unpaid accounts of the said Senator at the rates provided by the laws existing at the time, (the same to be certified by the President of the Senate,) and to be paid to the heirs of said Senator, or to their legal representatives, out of the contingent fund of the Senate.

Mr. DORSEY. I hope the amendment will be voted down.

Mr. HOWE. Let us have the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. CONKLING. The Senator from Maine [Mr. HAMLIN] not feeling well was obliged to leave the Chamber early in the evening and asked me to announce that he and the Senator from Maryland [Mr. WHYTE] are paired upon political questions. Whether this be a political question or not, I do not know, but I announce his absence because of his indisposition.

The roll-call having been concluded, the result was announced—yeas 10, nays 34; as follows:

YEAS—Messrs. Booth, Conkling, Howe, Ingalls, Kernan, McMillan, Oglesby, Teller, Wadleigh, and Wright—10.

NAYS—Messrs. Alcorn, Anthony, Bailey, Barnum, Blaine, Bogy, Burnside, Cameron of Wisconsin, Clayton, Conover, Cooper, Davis, Dennis, Dorsey, Eaton, Ferry, Gordon, Hereford, Johnston, Jones of Florida, Jones of Nevada, Kelly, McCreery, Maxey, Norwood, Paddock, Patterson, Ransom, Robertson, Saulsbury, Spencer, Stevenson, West, and Windom—34.

ABSENT—Messrs. Allison, Bayard, Boutwell, Bruce, Cameron of Pennsylvania, Chaffee, Christiancy, Cockrell, Cragin, Dawes, Edmunds, Frelinghuysen, Goldthwaite, Hamilton, Hamlin, Harvey, Hitchcock, Logan, McDonald, Merrimon, Mitchell, Morrill, Morton, Randolph, Sargent, Sharon, Sherman, Thurman, Wallace, Whyte, and Withers—31.

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the resolution.

The resolution was agreed to.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. C. C. SNIFFEN, one of his secretaries, announced that the President had this day approved and signed the following acts:

An act (S. No. 1243) to repeal the statute forbidding appointments and promotions in the staff of the Army;

An act (S. No. 286) for the relief of W. S. McComb, of the State of Georgia;

An act (S. No. 1019) to provide for a reprint of the resolves, ordinances, and acts passed by the Continental Congress and the Congress of the Confederation;

An act (S. No. 1238) making an appropriation for the expenses of the electoral commission;

An act (S. No. 259) for the benefit of the Louisville Baptist Orphans' Home;

An act (S. No. 470) for the relief of John S. Wood, late a first lieutenant in the Seventh Pennsylvania Cavalry;

An act (S. No. 1001) to provide for the disposition of Fort Dalles military reservation;

An act (S. No. 36) amending the pension law so as to remove the disability of those who, having participated in the rebellion, have, since its termination, enlisted in the Army of the United States and become disabled;

An act (S. No. 1288) to remove the political disabilities of P. J. Quattlebaum, of Georgia;

An act (S. No. 1260) granting a pension to Edmund H. Cobb;

An act (S. No. 1259) granting a pension to Daniel Houlihan;

An act (S. No. 734) for the relief of William Jasper Cordill;

An act (S. No. 177) to authorize the Secretary of War to open and re-adjust the settlement made by the United States Government with the Western and Atlantic Railroad of Georgia;

An act (S. No. 1163) for the relief of settlers on the public lands under the pre-emption laws;

An act (S. No. 855) making appropriation to pay the claim of Benjamin Fenton and D. W. Fenton;

An act (S. No. 1255) for the relief of Henry Voelter;

An act (S. No. 1200) to grant a pension to Margaret Hunter Hardie, widow of James A. Hardie, inspector-general in the United States Army;

An act (S. No. 1197) for the relief of Eli Teegarden;

An act (S. No. 1183) granting a pension to Harriet Moss;

An act (S. No. 1122) to secure the rights of settlers upon certain railroad lands and to repeal the first five sections of an act entitled "An act granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley Railroad and its extension to Red River," approved July 25, 1866;

An act (S. No. 1116) granting a pension to Sarah A. Chamberlain, guardian of the minor heirs of James Eagle, Company F, Second Regiment Kansas State Militia;

An act (S. No. 1083) to amend an act entitled "An act granting the right of way through the public lands to the Denver and Rio Grande Railway Company," approved June 8, 1872;

An act (S. No. 1225) to amend section 2291 of the Revised Statutes of the United States in relation to proof required in homestead entries;

An act (S. No. 1034) for the relief of Louis Rose;

An act (S. No. 1063) for the relief of certain settlers on the public lands;

An act (S. No. 830) for the relief of Joseph W. Parish;

An act (S. No. 1071) for the relief of H. E. Woodhouse & Co., of Brownsville, Texas;

An act (S. No. 1128) to extend for two years the act establishing the board of commissioners of claims, and the acts relating thereto;

A joint resolution (S. R. No. 32) providing for the renunciation of the naturalization of Frederick Hinkel; and

A joint resolution (S. R. No. 30) to amend the joint resolution authorizing the Secretary of War to issue arms, approved July 3, 1876.

NATHANIEL P. HARBIN.

Mr. GORDON. I move that the Senate proceed to the consideration of the bill (S. No. 844) for the relief of Nathaniel P. Harbin, of Georgia.

Mr. LOGAN. I ask the Senator if he will not yield for an executive session that will not last over ten or fifteen minutes.

Mr. GORDON. We can pass the bill in a moment.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Georgia.

The motion was agreed to, and the bill (H. R. No. 844) for the relief of Nathaniel P. Harbin, of Georgia, was read the second time and considered as in Committee of the Whole. It appropriates $8,733 to Nathaniel P. Harbin, of Whitfield County, Georgia, in full for all claims which he has against the Government of the United States on account of the seizure and use of three hundred and forty-two boxes of chewing tobacco by the Army of the United States at Covington and Oxford, Georgia, in the month of July, 1864.

The bill was reported to the Senate, and ordered to be engrossed for a third reading.

Mr. HOWE. Is there a report in that case?

The PRESIDENT *pro tempore*. There is.

Mr. GORDON. The bill was reported by the Senator from New Hampshire, [Mr. WADLEIGH.] It is all right.

The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 4433) making appropriations for the payment of claims reported allowed by the commissioners of claims, under the act of Congress of March 3, 1871.

The message also announced that the House receded from its disagreement to the seventy-sixth and seventy-seventh amendments of the Senate to the bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes.

The message also announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 2043) to improve the law in relation to dower in the District of Columbia.

The message further announced that the House further insisted upon its disagreement to the amendment of the Senate to the bill (H. R. No. 4691) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes, agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. D. C. ATKINS of Tennessee, Mr. J. G. ABBOTT of Massachusetts, and Mr. CHARLES FOSTER of Ohio managers at the conference on the part of the House.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 3321) to amend the act entitled "An act granting pensions to the widows, children, dependent mothers and fathers, or orphan brothers and sisters of those soldiers who were murdered by guerrillas at Centralia, Missouri, in 1864;"

A bill (H. R. No. 4340) granting a pension to Isabella Cassidy;

A bill (H. R. No. 4703) granting a pension to Harriet E. Edwards;

A bill (H. R. No. 4704) granting a pension to George McCoy;

A bill (H. R. No. 4705) granting an increase of pension to Mrs. Louisa Merrill;

A bill (H. R. No. 4706) to increase the pension of Mrs. Maria B. Craig.

The message further announced that the House had passed the following bills:

A bill (S. No. 667) for the relief of William Wheeler Hubbell, and to make just compensation for the past making, or use, or vending of his patent explosive shell, fuses, and percussion exploders by the United States;

A bill (S. No. 920) to authorize Louis Petoskey, of Michigan, to enter a certain tract of land which embraces his home and improvements.

A bill (S. No. 949) for the relief of A. M. Garoutte, late captain and assistant quartermaster, United States Army;

A bill (S. No. 1127) for the relief of J. B. McCullough;

A bill (S. No. 1293) to remove the political disabilities of Theophilus H. Holmes, of North Carolina; and

A bill (S. No. 1292) to remove the political disabilities of John M. Haden of Galveston, Texas.

COURTS IN WEST VIRGINIA.

The PRESIDENT *pro tempore* appointed Mr. HEREFORD to fill the vacancy upon the committee of conference on the bill (S. No. 472) changing the times of holding terms of the district court for the district of West Virginia occasioned by the death of Allen T. Caperton.

EXECUTIVE BUSINESS.

Mr. LOGAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to.

GEORGE R. HORTON'S SURETIES.

Mr. DORSEY. I ask the consideration, while the galleries are being cleared, of the bill (H. R. No. 545) for the relief of James A. Jackson, and others, securities of G. R. Horton, late postmaster at Monticello, Arkansas.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It releases James A. Jackson, John Hussy, Eli Rogers, Iverson L. Brooks, and William F. Slemons, securities of George R. Horton, late postmaster at Monticello, Arkansas, from all liability as such securities on account of post-office money, stamps, and money-order funds stolen from the office on the 6th of June, 1874, amounting to the sum of $1,078.48, without any fault of the securities or the postmaster.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

E. N. HORSFORD.

Mr. CONKLING. The Senator from Illinois is good enough to yield to me for a moment, that I may ask to take up the bill (S. No. 1289) for the relief of E. N. Horsford, a very brief bill, which will take but a moment, I think.

The bill was read. It authorizes the Commissioner of Patents to hear and grant the application of E. N. Horsford for the extension of his re-issued patent, No. 14722, for the term of seven years, if it shall appear to the satisfaction of the Commissioner that Horsford has not been adequately remunerated for the time, ingenuity, and expense bestowed by him in originating, perfecting, and introducing his invention to public use.

Mr. COCKRELL. Has that case been taken up? I thought the bill was read for information.

Mr. CONKLING. Consider it as so read, if there is any objection to it.

The PRESIDENT *pro tempore*. The bill has not been taken up. The question is on proceeding to its consideration.

Mr. CONKLING. This is a bill reported from the Committee on Patents; and my colleague who is here made the report. It is a bill to allow Professor Horsford to apply for an extension of his patent,

which covers a chemical production that I believe he thinks, if he can introduce it, will take the place of yeast and be an improvement on yeast. So far he has had little or nothing out of it, and he wants an opportunity, if he can, to see whether he can make anything out of his patent. That is all of it.

Mr. LOGAN. All right; if he can improve bread, very well.

The bill was considered as in Committee of the Whole, reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business. After seven minutes spent in executive session, the doors were reopened.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. No. 3321) to amend the act entitled "An act granting pensions to the widows, children, dependent mothers and fathers or orphan brothers and sisters of those soldiers who were murdered by guerrillas at Centralia, Missouri, in 1864;"

A bill (H. R. No. 4340) granting a pension to Isabella Cassidy;

A bill (H. R. No. 4703) granting a pension to Harriet E. Edwards;

A bill (H. R. No. 4704) granting a pension to George McCay;

A bill (H. R. No. 4705) granting an increase of pension to Mrs. Louisa Merrill; and

A bill (H. R. No. 4706) to increase the pension of Mrs. Maria B. Craig.

HISTORY OF SURVEYS AND SCIENTIFIC EXPEDITIONS.

Mr. HOWE. I move to take up House joint resolution No. 161.

The motion was agreed to; and the joint resolution (H. R. No. 161) authorizing the Secretary of State to publish a history of the several surveys and scientific expeditions by the United States during the present century was considered as in Committee of the Whole. It directs the Secretary of State to cause to be prepared and published a brief history of the several surveys and scientific expeditions ordered and prosecuted by the United States during the century just closed, including the various foreign and oceanic expeditions, the surveys of the coast and of the lakes, and the several topographical, scientific, and military surveys of the interior. It is to be reported to Congress as soon as practicable, and not to exceed eight hundred pages octavo. To enable the Secretary to carry into effect the resolution the sum of $7,500 is appropriated.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

JOHN RAY.

Mr. WEST. I call up the resolution I offered a few minutes ago, and ask to have it read.

The resolution was read, as follows:

Resolved, That John Ray, claimant for the seat in the Senate vacated by the resignation of William P. Kellogg, late Senator of Louisiana, be paid the sum of $1,329.14 out of the contingent fund of the Senate.

Mr. COCKRELL. I move that that go on the Calendar.

The PRESIDENT *pro tempore*. The resolution is before the Senate.

Mr. COCKRELL. How is it before the Senate?

Mr. INGALLS. It must lie over one day.

Mr. COCKRELL. It is reported to-day.

Mr. WEST. It is not reported at all.

Mr. COCKRELL. Then it cannot be considered.

Mr. WEST. I suppose the Senator can make a parliamentary objection to it.

Mr. COCKRELL. That is what I do now.

Mr. WEST. I thank him for his courtesy at the close of my term. This is the only personal favor I have asked of the Senate in six years. I thank the Senator from Missouri for the courtesy he shows me.

Mr. COCKRELL. You are entitled to it, sir.

FRANCIS M. STRONG AND THOMAS ROSS.

Mr. WADLEIGH. I move that the Senate proceed to the consideration of the bill (H. R. No. 4397) for the relief of Francis M. Strong and Thomas Ross.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It grants leave to Francis M. Strong, of Vergennes, in the county of Addison and State of Vermont, and Thomas Ross, of Rutland, in the county of Rutland and State of Vermont, to make application to the Commissioner of Patents for an extension of the letters-patent granted to them for an improvement in weighing-scales, of date the 24th day of May, 1859, for the term of seven years; but no person shall be held liable for the infringement of the patent, if extended, for making use of said invention since the expiration of the original term of the patent, and prior to the date of its extension.

Mr. SARGENT. I do not know that it is, but it seems to me somewhat strange that many of these patent cases are coming up to-night. Extensions of patents are very suspicious, very questionable, except in extremely exceptional cases. The general tendency of my mind is against the renewal of patents.

Mr. WADLEIGH. This is an extremely exceptional case. I ask for the reading of the House report, which I indorsed after an examination of the facts in the case.

The Secretary read the following report submitted from the Committee on Patents of the House of Representatives:

The Committee on Patents, to whom was referred the petition of Francis M. Strong and Thomas Ross, for an extension of letters-patent for improvements in weighing-scales, submit the following report:

The evidence submitted in this case shows that Francis M. Strong, of Vergennes, and Thomas Ross, of Rutland, Vermont, are the joint inventors of certain improvements in weighing-scales, for which letters-patent were granted them May 24, 1859. Within ample time, as prescribed by law, these inventors placed in the hands of the Brandon Manufacturing Company a signed petition for the extension of said letters-patent, that it might be forwarded and filed with the Commissioner of Patents. Fearing, however, that some mistake might occur they forwarded to their attorney at Washington a duplicate petition, with instructions that he should file it in case it was not filed in time by other parties. This attorney made frequent inquiries at the Patent Office, and was at length assured that the petition had been filed. The event proved, however, that the clerk in charge was in error and that the petition was not filed as stated. The mistake occurred through the filing of another application by the same parties for the extension of another patent of the same date. But the error was not discovered until too late to rectify it under the statute, and for this reason the petitioners pray for the passage of an act to enable them to make application, as they certainly would have done if not misled by the information given their attorney at the Patent Office. In view of these facts the omission to act having arisen by no fault of the patentees, but by the inadvertence of a Government employé, this committee recommend the granting of the prayer and the passage of the accompanying bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS.

Mr. PATTERSON. I move that the Senate proceed to the consideration of House bill No. 4699.

The PRESIDENT *pro tempore*. The Chair is informed that the Clerk has not a copy of the bill at his desk.

Mr. INGALLS. While the Clerk is hunting for that bill, I ask leave to call up several bills reported from the Committee on Pensions.

Mr. SPENCER. If the Senator from South Carolina asks to take up the general amnesty bill, I shall object to it.

PENSION BILLS.

Mr. INGALLS. I move that the Senate proceed to the consideration of the bill (H. R. No. 1288) granting a pension to Jonathan Roberts, of Marietta, Iowa.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. DAVIS. Has that bill been considered by the Committee on Pensions?

Mr. INGALLS. It has been reported from the Pension Committee.

Mr. DAVIS. I suppose it will go over to-day.

Mr. INGALLS. It has been on the Calendar for some time.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. INGALLS. I move that the Senate proceed to the consideration of the bill (H. R. No. 1245) granting a pension to James W. Thompson, late of Company H, Forty-seventh Illinois Volunteers.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. INGALLS. I move that the Senate proceed to the consideration of the bill (H. R. No. 1566) granting a pension to Elizabeth D. Stone.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth D. Stone, widow of Brinton Stone, late an acting assistant surgeon in the United States Navy.

The bill was reported to the Senate, ordered to a third reading, and read the third time.

Mr. SAULSBURY. I think it is very improper legislation for us to be voting upon what we really do not understand. We are placing persons upon the pension-list without any Senators except the members of the committee knowing anything about the case. I believe in voting for all proper pensions, but I am not willing to vote blindly to place pensioners on the rolls without knowing anything about the case.

Mr. INGALLS. If the Senator from Delaware will ask me any question, I shall be glad to enlighten him.

Mr. SAULSBURY. I do not know anything about the case.

The bill was passed.

Mr. INGALLS. I move that the Senate proceed to the consideration of the bill (H. R. No. 183) granting an increase of pension to John E. Wunderlin, late a private in the Thirty-third Regiment of New York Volunteer Infantry.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which authorizes the Secretary of the Interior to place on the pension-rolls the name of John E. Wunderlin, late a private in the Thirty-third Regiment of New York Volunteer Infantry, at the rate of $24 per month, in lieu of that now drawn by him.

Mr. SAULSBURY. I should like to have an explanation as to the merits of this bill.

Mr. INGALLS. This man Wunderlin had a leg shot off below the knee, and his pension is $18 a month. Had his leg been shot off above the knee, his pension would have been $24 a month. On account of the condition of the stump he is entirely unable to wear a wooden leg, and the committee, after examining all the evidence, believe that he ought to have the same pension as if his leg had been shot off above the knee; and if it had been shot off above the knee he would have been entitled to $24 a month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. INGALLS. I move that the Senate proceed to the consideration of the bill (H. R. No. 3277) granting a pension to Kate Louise Roy.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension-laws, the name of Kate Louise Roy, widow of James P. Roy, late lieutenant-colonel Fifteenth Regiment United States Infantry, and to pay her a pension for the rank held at the date of his death, in lieu of the pension now received.

Mr. DAVIS. I should like to know the date of that pension, how far back it goes.

Mr. INGALLS. It dates from the passage of the act.

Mr. DAVIS. I thought I heard something about the date of the husband's death. I ask the Clerk to read the bill again.

The Chief Clerk read the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS.

Mr. PATTERSON. I ask the Senate to proceed to the consideration of the bill (H. R. No. 4699) to remove the disabilities imposed by the third section of the fourteenth article of amendment to the Constitution of the United States.

Mr. SPENCER. I object to that bill.

Mr. PATTERSON. Then I move that the Senate proceed to the consideration of the bill.

Mr. SPENCER. I object.

The PRESIDENT *pro tempore*. One objection carries the bill over.

Mr. PATTERSON. Allow me to state that this bill has been read the first and second times, and one objection cannot carry it over; it can be taken up by a vote of the Senate. I ask the Clerk to look at the record of the bill. One objection will not carry it over.

Mr. SPENCER. If one objection will not carry it over, I will send up the report on the Mississippi case and have it read.

Mr. PATTERSON. I appeal to the Senator to let the bill be considered.

The PRESIDENT *pro tempore*. One objection rules the bill out. It came over to-day, and was read the first and second time, and referred to the Committee on the Judiciary.

Mr. WEST. I suggest to the Senator from South Carolina to move that the committee be discharged.

Mr. PATTERSON. I move that the Committee on the Judiciary be discharged from the further consideration of the bill.

The PRESIDENT *pro tempore*. That makes no difference, because the rule says that a bill cannot be acted upon on the same day on which it is reported except by unanimous consent.

Mr. PATTERSON. There is no objection to the bill.

The PRESIDENT *pro tempore*. The Senator from South Carolina states that there is no objection to the bill.

Mr. SPENCER. I do object.

Mr. PATTERSON. The Senator from Alabama is only in fun; he is not in earnest.

The PRESIDENT *pro tempore*. The bill is before the Senate, if there is no objection. The bill will be read.

The Chief Clerk proceeded to read the bill.

Mr. SPENCER. I object to the bill.

The PRESIDENT *pro tempore*. The Chair thinks the Senator's objection is too late.

Mr. PATTERSON. I know it is too late. The Senator from Alabame was only objecting in fun.

Mr. SARGENT. I rise to a point of order. This is not legislation. I understood the Senator from Alabama to object to the bill.

Mr. SPENCER. I do object to it.

Mr. MORRILL. And he has not withdrawn his objection.

Mr. SARGENT. I am in favor of the bill and I should like to have it passed; but I do not admire this kind of action. A Senator rises in his place and objects; and because another Senator says he is only in fun and insists that he is not in earnest, the bill is to be taken up.

Mr. PATTERSON. When I said the Senator from Alabama was in fun he said nothing and I thought he withdrew his objection.

Mr. SPENCER. I did not withdraw the objection.

The PRESIDENT *pro tempore*. Does the Senator from Alabama object?

Mr. SPENCER. I do object.

The PRESIDENT *pro tempore*. Then the bill is ruled out.

REPORT OF A COMMITTEE.

Mr. WADLEIGH, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1110) for the relief of Captain Edwin R. Clarke, reported it with an amendment.

RECESS.

Mr. WINDOM. We had expected to have the conference report on the sundry civil bill ready, and have kept the Senate waiting for it. It is, we learn, impossible to get the report signed to-night, as several members of the committee of conference seem to have gone home, and if the Senate will meet promptly to-morrow morning at nine o'clock, I think the business can be completed.

Mr. OGLESBY. I ask the Senate to proceed to the consideration of House bill No. 1545, declaring lands heretofore granted to certain railroad companies subject to State taxation.

Mr. WINDOM. I move, if I have the floor, that the Senate take a recess until nine o'clock to-morrow morning.

Mr. HARVEY. I hope the motion will not prevail. Let us act on the bill referred to by the Senator from Illinois.

The motion was agreed to; and (at three o'clock and forty-seven minutes a. m., Sunday, March 4) the Senate took a recess until nine o'clock a. m.

MORNING SESSION, (SUNDAY.)

The recess having expired, the Senate resumed its session at nine o'clock a. m., (Sunday, March 4.)

PETITIONS AND MEMORIALS.

Mr. BARNUM presented the petition of Chester N. Case and the widow and heirs of John N. Bull, deceased, praying compensation for the destruction of their property at Orangeburgh, South Carolina; which was referred to the Committee on Claims.

Mr. HARVEY presented a resolution of the Legislature of Kansas, in favor of donating to the Kansas State Agricultural College a full set of the self-registering instruments for giving data for the meteorological reports required to be made by that institution; which was ordered to lie on the table.

He also presented a resolution of the Legislature of Kansas in favor of the passage of a law allowing arrears of pension; which was ordered to lie on the table.

He also presented a resolution of the Legislature of Kansas, in favor of an amendment to the Constitution of the United States, providing for the election of United States Senators by the people; which was ordered to lie on the table.

He also presented a resolution of the Legislature of Kansas, remonstrating against the removal of the Sioux Indians to the Indian Territory; which was ordered to lie on the table.

He also presented a resolution of the Legislature of Kansas, in favor of the passage of a law allowing settlers on the Osage trust lands to pay for their lands in four annual installments; which was ordered to lie on the table.

LOUISIANA ELECTION.

Mr. WADLEIGH. I present the memorial of Hugh J. Campbell and others, citizens of Louisiana, with reference to the late election in that State, which I ask may be printed in the RECORD.

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none.

The memorial is as follows:

WASHINGTON, D. C., *February* 27, 1877.

To the honorable the Senate of the United States:

Your memorialists with respect represent the following facts in regard to the late election in Louisiana:

After the arguments before the electoral commission on the Louisiana case had begun, the counsel for the democrats, without notice to the republicans, interpolated in the midst of the discussion a statement of alleged facts, which they asserted they were prepared to prove. This procedure, although rather closely resembling sharp practice in a jury case, was calculated to affect public opinion. To counteract this effect we have drawn up the following statement. There is this difference between it and the democratic statement. The democratic counsel have stated what they proposed to prove and alleged they could prove. We have stated what has already been proven, and refer to the testimony.

HISTORY OF FORMER ELECTIONS IN LOUISIANA.

For ten years violence, bloodshed, and murder have been habitually resorted to in Louisiana by the democrats as a means of influencing elections.

In that time there have been ten great butcheries or massacres for political reasons. We will enumerate them and give the proof:

First. In 1866, the massacre at Mechanics' Institute, in which over two hundred republicans were killed in the streets and in that building. (See the Shellabarger report to the House.)

Second. In 1868, the Saint Landry Parish massacre, during which from two to three hundred colored people were killed.

Third. The Bossier Parish massacre, during which over two hundred colored people were killed.

Fourth. The Caddo Parish massacre, in which over forty colored people were killed.

Fifth. The Saint Bernard Parish massacre, in which over one hundred colored people were killed.

Sixth. The Orleans Parish massacres, in which over sixty persons were killed

Seventh. The Saint Mary Parish massacre, in which the sheriff and parish judge, both republicans, were publicly assassinated. (See the Stevenson report to the House.)

Eighth. In 1873, the Grant Parish massacre, in which over one hundred colored persons were killed. (See the Hoar report to the House.)

Ninth. In 1874, the Coushatta massacre, in which four persons were killed. (See the Hoar report to the House.)

IN 1876.

Tenth. In 1876, the Mount Pleasant massacre, in which over twenty persons were killed and wounded. (See testimony before Senator HOWE's committee.)

Besides these massacres the following prominent and active republicans were assassinated during the same year and immediately prior to it:

In East Feliciana, John Gair, ex-member of the house of representatives, shot to death.

In Ouachita, Dr. B. H. Dinkgrave, Eaton Logwood, and Henry Pinkston, shot to death.

In Baton Rouge, William Y. Payne, dragged by horses and shot to death.

In West Feliciana, Gilbert Carter and Isaac Mitchell, shot to death.

In Red River, Senator Twitchell shot and mutilated, and his brother-in-law, Mr. King, shot to death.

These murders have invariably been perpetrated immediately or almost immediately before a political campaign, or in the midst of it. Their result has also invariably been, by the fear, insecurity, and terror occasioned thereby among republicans, to largely decrease the republican vote, and as largely increase the democratic vote. In 1868 the result was to drive from the polls about 50,000 republican voters.

This systematic resort to violence and murder for political ends by the democrats was the occasion of the enactment of the election law of 1870.

ELECTION LAW.

The object of that law was to create a tribunal which should have the authority, whenever an election in any precincts or parishes of the State had been rendered null by such violence and intimidation, to ascertain and declare that nullity, and to reject and refuse to count the so-called votes polled under the reign of such terror.

By this law five persons are made the returning officers for all elections in the State, a majority of whom constitute a quorum with power to act. There are no returns and can be none of any election in Louisiana but the returns which these officers make. The statements made by the commissioners of election who preside at the polls are not returns, nor are the statements of the parish supervisor, who consolidates the statements of the commissioner, returns. These statements are simply the official and sworn evidence of the officers conducting the elections, which are sent up to the returning officers. These returning officers receive them, count them, compile them, and canvass them, and make the final and only official count of the vote, and the final and only certificate of the result of that vote, which is called the return. In cases where violence and intimidation have rendered the election null, these returning officers are empowered by the law to inquire into and determine the results of such violence and intimidation, and if the same have nullified the election at any poll or precinct, to ascertain and declare that nullity; and when such nullity has been ascertained, the law commands them to reject and refuse to count the votes so made null and void.

THE CONSPIRACY.

It is true, and it is proven, that at the last election there was, in the seventeen parishes hereinafter named, a conspiracy to suppress by force and violence the republican vote; that the means used for that end were night-riding, patrolings, whippings, shootings, hangings, burnings, mutilations, assassinations, murder, and massacre.

That by this conspiracy from twelve to fifteen thousand republican voters, who were desirous of voting, and who made earnest efforts to vote the republican ticket, were put in fear of their lives and driven from the polls and prevented from voting; and that by the same means from three to five thousand Republican voters were forced, against their will and from fear, to vote the democratic ticket.

This conspiracy was carried out by armed bodies of men, known by the name given them by themselves, as bull-dozers.

The proofs of this conspiracy, as in evidence before the Senate committee, are:

First. The secret Patton letter.

Second. The result of the vote, as shown by the tables of registration and election.

Third. The fact that the persons composing the bull-dozers were all democrats and white men, and the parties bull-dozed were all black men and republicans.

Fourth. The sudden and simultaneous outbreaks of this violence and murder before and near the election.

Fifth. The conduct of the white communities where they occurred, in this:

These outrages were connived at and concealed by them.

They were secretly encouraged.

They made no attempt to discover and punish the criminals.

There has been no condemnation of these outrages by the press, by public meetings, or by the clergy, and the citizens who have ventured to denounce them have been menaced with proscription and persecution, and thus silenced.

The democratic managers have falsely pretended that these outrages were not perpetrated, or when they have been compelled to admit them they have falsely attributed them to the laxity of the local governments, although well knowing that the same terrorism which rendered these outrages possible rendered the local governments powerless.

Sixth. The fact that the effects of these outrages in intimidating the colored people were not confined to the parishes in which they were perpetrated, but spread to great distances in surrounding and neighboring parishes.

Seventh. The fact that in the parish of East Feliciana, John Gair, an ex-representative, and the ablest and most influential leader of the colored people, was kidnapped at night in the town of Baton Rouge, forty miles from his home, by a sheriff's posse, upon a false charge, wrung by torture from a poor and defenseless colored woman, of complicity in the poisoning of a man who was not poisoned, but is now alive and well, and who, while on his way in the custody of his captors, was forcibly taken from them by an armed company of bull-dozers, under the command of one Joe Norwood and Dr. Saunders, and tied to a tree by the road-side and shot to death. And that this horrible and dastardly crime was committed by the democrats from political animosities and to achieve political ends. And that all investigation into and inquiry after the perpetrators of this crime have been continuously and systematically discouraged and prevented by the white community of East Feliciana; and the only investigation made has been that made by the Senate committee, and the Hon. CHARLES H. JOYCE, Representative, upon the House committee. (See testimony before Senator HOWE'S committee, and minority report of House committee, and speech of Hon. CHARLES H. JOYCE.)

Eighth. The fact that in the parish of Ouachita, shortly before the election, Dr. D. H. Dinkgrave, a white gentleman of high standing, irreproachable character, and great ability and influence among republicans, who was the leader of the republicans in that parish and their main dependence, was deliberately shot and killed in open daylight in the town of Monroe by an assassin, who then rode deliberately away. The assassin has never been discovered, and it is in evidence before the Senate committee that this assassination was a political crime, committed for political reasons, and by democrats, and was connived at and investigation stifled by the democrats of that parish. And that the effect produced was to cause a thorough and wide-spread feeling of terror among all the republicans of that parish, and to completely break up all political organizations among them.

Ninth. The fact that in the parish of Red River the shooting of Senator Twitchell and the murder of his brother-in-law, Mr. King, were crimes committed with like objects, by the connivance of the democrats, and followed by like results among republicans as the assassination of Dr. Dinkgrave.

Tenth. The fact that in the parish of Ouachita the horrible murders of Eaton Logwood, James Jackson, Primus Johnson, Merrimon Rhodes, and Henry Pinkston were political assassinations of a like character with that of Dr. Dinkgrave, and followed by like political results, and were also accompanied by atrocities such as were calculated to and did spread a terrible fear and feeling of danger and insecurity among all republicans in that and neighboring parishes, which lasts to this day.

Eleventh. The fact that in the parish of East Baton Rouge the horrible murder of William Y. Payne, who had a rope placed around his neck and was dragged with horses until he was dead, and that of Jerry and Samuel Myers, were also political assassinations of leading colored people of a like character and with like effects to those above enumerated.

Twelfth. The fact that in the parish of West Feliciana the murder of Gilbert Carter, Isaac Mitchell, and Edward Armstrong were also political murders of the same character and with like political results.

Thirteenth. The fact that in the parish of East Baton Rouge, the massacre at Mount Pleasant, and the dispersal of a colored colony of industrious, sober, and honest farmers, who were working the Triplett place, who were accumulating property, and who formed a social and political center for the colored people of that part of the parish, was a hideous and dastardly crime, committed by white democrats for political purposes. One revolting and hideous feature of this massacre, which distinguishes it from all others, is the fact in evidence before the Howe committee, that the sanguinary perpetrators of the crime pursued their victims even after death, and concocted and published a malicious lie, charging the negroes with having organized for the purpose of killing whites. (For proof of all the above-enumerated facts see testimony before Senator Howe's committee.)

LIST OF POLITICAL MURDERS AND OUTRAGES BEFORE THE RECENT ELECTION.

The following is a partial list of the murders and outrages, and the names of the parties by whom committed, in four parishes only, as taken from the testimony before the Howe committee. Similar crimes were perpetrated in fourteen parishes. Want of time prevented the committee from taking testimony in more than six parishes, we believe. In these it was not possible to obtain proof of all the murders and outrages, and out of this testimony we have only had the time to collate the facts relating to four parishes.

NUMBER OF MURDERS.

West Feliciana.—Gilbert Carter, Isaac Mitchell.

East Feliciana.—Jerry Norman, Joseph Johnson, Samuel Smith, colored man name unknown, Full Nelson, colored man name unknown, John Gair, Catharine Matthews, P. Branch, three colored men names not given, Marshal Ryer, Webster Dyer, two colored girls, colored boy, dragged to death at horses' tail.

NUMBER OF SHOOTINGS, WHIPPINGS, AND OTHER OUTRAGES.

West Feliciana.—Five men discharged by William Ball; Primus Pickett and Jupiter Jones shot at; Brent Lawns and Marth Gray whipped; one colored man whipped, name unknown; William Butler, Andrew Jackson, Harrison Douglass, Alfred Morgan, James Williams, Daniel Perry, Kelly Martin, discharged for voting republican ticket; sixty negroes discharged for voting the republican ticket; Tom Rice and John Green, shot at; hung up, Riley Norfless; Isaac Bissell, shot at; John Harrison, assaulted with pistols; L. H. Lewis, shot at; Washington Spooner, threatened with death and driven from home; Woodford Root, Jupiter Hunt, Demas Williams, whipped; J. R. Watson, shot at and house burned; William Jones and Aaron Cummings, driven into swamp; James Smith, beaten over the head; Valentine Emery, prevented by pistols from distributing republican tickets; Andrew Young, driven from home; L. T. Cotton, house broken open and driven from home.

East Feliciana.—Two hundred colored men fled parish; Ezekiel Glover, whipped; colored woman, whipped nearly to death; Jared M. Harrill, planter, threatened with hanging if he exposed perpetrators; James Law, store set on fire; colored men driven to woods in large numbers; Henry Smith, sheriff, shot at and forced to resign; Bob Keeler, Ellis Green, Jim Langston, Aaron Carey; woman, whipped; Tucker hung up; Henry Lawson whipped, two hundred lashes; William Chancey, hung up till he promised not to vote republican ticket; Charles Wilson and Aaron McKenzie, whipped; Monroe Miles, taken out and threatened with death; Austin Sloan, Henry Lawson, Dangerfield Sloan, Charley Williams, Allen Myers, whipped; George Rielly, assaulted and beaten; Judge Dewing, court broken up and compelled to leave parish; Mrs. Perry, Joe Winham, James Lawson, Jack Dyer, William Glasper, whipped.

NAMES OF MEN PROVED TO HAVE COMMITTED OUTRAGES.

West Feliciana.—Court Smith, Charles Barrow, Joseph Stewart, Napoleon Riddle, Nelson Ball, Joseph Edwards, Robert Wilson, Thomas West, Robe t Phillips, George Towns, Calhoun Hamilton, Herman Barrow, Page Barrow, Matthew Gilmore, William Gilmore, Hugh Connello, —— McDunner, and W. J. Ford.

East Feliciana.—Joseph Norwood, Robert McClellan, J. W. Smith, Rufus Breton, William Mapes, Stanhope Cone, Augustus Cane, Frank Wood, Dr. Saunders, Lewis Moore, Alexander Skipwith, Henry D'Armont, George Anderson, William Nulon, James Jackson, Aleck Zuggs, and John Zuggs.

MURDERS.

East Baton Rouge.—Jerry Myers, rope put around his neck, dragged a mile by horse, then hung; Samuel Myers, Taylor Hawkins, George Washington, Johnson Stewart, Hugh Fugua, Magee Selves, Charley Robinson, Bristow Harrison, Henderson Pointer, John Jackson, William Y. Paine, Sanford Smith, Paul Johnson, Archie Stewart, Joe Johnson, L. Foster, Bill Kidd, Wilson Rhodes, Henry Martin, Monroe Beachman; Lizzie Richmond, hung; Andrew Isham, George Wortryton, Hudson Puritas, and Mrs. Spriggs.

WHIPPINGS AND OTHER OUTRAGES.

East Baton Rouge.—Alice Gilbert, rope put around neck, dragged on ground, house robbed, and driven from home. (Page 1591, Howe's report;) Benjamin Morgan, coroner, warned to hold no more inquests on pain of death; Julius Williams, driven from home; Jacob Shields, driven into swamps; Laten Williams, house broken open, rope put around neck, dragged, beaten, and shot at; Perry Jones, Abraham Straughter, Matthew Washington, shot at; George P. Davis, parish judge, driven from parish; Isadore Herron, whipped, rope around neck, and dragged; Lewis Brown, whipped; Alexander S. Gilbert, driven from home; Paul Johnson, dragged by rope; eight persons and others, unarmed, compelled by force to vote democratic ticket; Reuben Delcomb, whipped and shot; Ripley Williams, Matthew Dawson, George Simms, Alfred Abel, James Johnson, Wilby Bradford, and numerous others, driven from home; Charley Wilson, Lewis Chapin, whipped; Monroe Smith, whipped, one hundred lashes; three others driven from home; five named and others, forced to vote against wishes; Coleman Brown, shot; Felix Jones, crop destroyed; Harriet Bertain and —— Bertain, shot at and house fired; Lafayette McMurray and Richard McMurray, threatened and assaulted with pistols; Lewis Morgan, shot at; William Duplessis, driven to woods; Phœbe Ann Wade, house broken open; Peter Simms, driven to woods; Lewis Gibson, whipped; Gilbert Huston, John Lewis, driven from home; Miranda Smith, wife of Sanford Smith, house broken open and whipped.

PERSONS PROVED TO HAVE COMMITTED OUTRAGES.

East Baton Rouge.—Henry Kerr, —— Watts, A. L. Duncan, Manny Carmina, Henry Badley, Shook Badley, Joe Brown, W. Dougherty, S. Dougherty, Charley Booth, Charley Griffith, Randall White, John W. Smith, R. H. McClellan, Kerrys Catolic, Venter Jones, Hiram Carmina, Ed. Davis, George Kerr, Luke Carpenter, Henry Carpenter, Pat Hood, John Paine, Thomas Brown, Joe Monser, Oliver Hubbs, Phil. Brashears, Eugene Offord, William Peake, Joseph Edwards, Buck Morgan, George Jorr, Gilbert Thomas, Barney Williams, and Nathan Piper.

OUACHITA CASE.

Killed.

1. Dr. B. H. Dinkgrave, white, August 30, on public highway.
2. James Jackson, colored, September 15, on public highway.
3. Marriman Rhodes, colored, body found in Ouachita River.

4. Ferdinand Bynum, colored, body found in Ouachita River.
5. Henry Pinkston, colored, November 4, Island.
6. Infant child of Mr. and Mrs. Pinkston, colored, Island.
7. Primus Johnston, colored, October 10.
8. William Claret, colored, in Cottonport.

Wounded by shooting.

1. Eaton Logwood, colored, October 10, in his own yard. Since died from his wounds.
2. Andrew McCloud, colored, September 4, near Morehouse Parish line.
3. Henry W. Burrell, colored, public highway.
4. Spencer Dickerson, colored, public highway.
5. William Lewis, colored, public highway.
6. George Shelton, colored, public highway.
7. Eliza Pinkston, colored, November 4, at her home.
8. Benjamin James, colored, November 7, public highway.
9. Hawkins Jones, colored.
10. Solomon Mathews, colored.
11. Henry Forster, colored, (see hung.)

Hung.

1. Emanuel Richards, colored, Island.
2. Henry Forster, colored, Island.

Whipped.

1. Randall Driver, colored, November 4, his place.
2. James H. Coleman, colored, November 4, Island.
3. Willis Fraizier, colored, reported, Island.
4. Abraham Williams, colored, November 4, Island.
5. Bryant Simms, colored, Colony.
6. Cora Williams, colored, November 4, Island.

Driven from home.

1. Robert Long, colored, officer at Trenton.
2. Aaron Turner, colored, September 23, Island.
3. Ned Mitchell, colored, Island.
4. Andrew Harrison, colored, Island.
5. Frank May, colored, reported, Island.
6. Lee Poll, colored, Island.
7. Andrew McCloud, colored, Island.
8. George Robertson, colored, Trenton.
9. Mahala Robertson, colored, Trenton.
10. Manual Richards, colored, September 22, Island.
11. Giles Roberts, colored, Island.
12. Jack Davis, colored, September 22, Island.
13. Oliver Dickerson, colored, Island.

House shot into.

1. J. W. Hudson, colored, member of police jury, near Monroe.
2. Nat Blanchard, colored, I. P. Claibornerow.

House broken into.

1. Randall Driver, colored, November 4, Island.
2. Eldridge Lockspur, colored, November 4, Island.
3. Solomon Mathews, colored, November 4, Island.
4. Henry Pinkston, colored, November 4, Island.
5. William Logwood, colored, November 4, Island.
6. Sebrum Robinson, colored, November 4, Island.

House searched.

1. Eaton Logwood, colored, September 2 and 4, Island.
2. William Logwood, colored, November 4, Island.
3. Eldridge Lockspur, colored, November 4, Island.
4. Samuel Simms, colored, constable, Colony.
5. O. H. Brewster, white, November 6, Monroe.
6. Wally Moore, colored, November 4, Island.
7. Anthony Overton, colored, November 6, Monroe.

Threatened with violence.

1. John McWilliams, colored, October 21, 22, and 23, Island.
2. Charles Hudson, colored, October 21, 22, and 23, Island.
3. Mark Moore, colored, October 21, 22, and 23, Island.
4. Aaron Jackson, colored, October 21.
5. Hawkins Jones, colored.
6. Nat Blanchard, colored, I. P. Claibournerow.
7. John Hill, colored.
8. Jack Clay, colored.
9. Lem Jackson, colored, November 7, Monroe.
10. George H. Denton, colored.
11. John Toran, colored.
12. Frank Lushington, colored.
13. Eaton Logwood, colored.
14. B. H. Dinkgrave, white, corporate limit of Monroe.
15. Randall Driver, colored.

Compelled to take democratic affidavits.

1. Felix McCloe, colored, I. P, Munroe.
2. I. R. Hall, white, I. P. C. Colony.

Interfered with and molested on public highway.

1. Henry W. Burrell, colored, November 3, Cuba.
2. Elisha Moore, colored, November 3, Cuba.
3. R. J. Caldwell, white, November 6, near Chauran Bridge.
4. W. R. Hardy, white, November 6, near Chauran Bridge.
5. Simon Medlock, colored, November 6.
6. Steph. Wood, colored, November 7, officer, near Monroe.
7. Hermon Bell, colored, November 7, officer, near Monroe.
8. Dan. Hill, colored, November 7, officer, near Monroe.
9. Sam. Simms, colored, November 6, officer, Monroe.
10. Sam. Whitehead, colored, November 6, officer, Monroe.
11. Jessie Briggs, colored, November 6, officer, near Monroe.
12. Ben. James, November 7, near Monroe.

Raped.

1. Cora Williams, colored, November 4, Island.
2. Eliza Pinkston, colored, November 4, Island.

Persons shot at.

1. Henry Clay, colored, public highway.
2. Solomon Mathews, colored, Island.

Persons proved to have committed outrages or to have participated in organizations that committed them.

Ouachita Parish.—Samuel McEnery, William Theobalds, Dr. Cosby, James Logan, Robert Logan, Walter Logan, Dr. Young, Frank Durham, Thomas Lyons, (colored,) George C. Phillips, Thomas T. Aby, Buck Boker, Joseph T. Sevan, John Collins, Dave Tidwell, Bill Rhodes, Joe Mitchell, Bob Endom, John Mills, Jerry Mills, Alex. Hamilton, George Russell, Bill Collins, Robert Wilson, Joe Turner, Bill Barr, Mr. Steele, Dr. Kennedy, Wyatt Brandon, Joe Herron, Isaiah Garrett, P. Miller, Captain McLeod, Captain Cuffington, Mr. McLane, Bill Scriber, F. Dunn, D. T. Head, Captain Fred Cann, Harry Wilson, John Scarborough, Fennel McEnery, James Mitchell, Henry McEnery, Will Howard, H. M. Ball, Jim Tombs, Steve Grayson, Frank Bryham, Colonel Brown, Millard Parker, Dan Whitfield, —— Fitzgerald, Captain Renwick, John Falk, Pink Faust, John Harvey, Billy Pace, Captain Murphy.

These outrages were proved before the Sherman committee, and afterward fully corroborated before the congressional committees, with cross-examination. Democrats charged with these crimes failed to appear in any case before the Senate committee and deny them. Democratic Senators and Representatives in Congress have not pretended to deny these outrages nor their effect. The law of Louisiana allows proof, not only of violence on the day of election or during registration, but also of intimidation on those days resulting from previous violence.

Extent of the conspiracy.

It is true, and is proved by testimony taken before the Sherman committee and Howe committee, that the following are the bull-dozed parishes, in which all or most of the republican voters were by violence, outrage, murder, and massacre either driven from the polls and prevented from voting at all or forced to vote the democratic ticket: East Baton Rouge, East Feliciana, West Feliciana, Ouachita, Morehouse, Richland, Grant, Livingston, Franklin, Caldwell, La Fayette, Claiborne, De Soto, and Natchitoches.

It is true, and it is proved by the official records in evidence before the HOWE committee, that the foregoing parishes had the following registration and cast the following vote in 1876:

	Registration.		Vote.	
	Colored.	White.	Rep.	Dem.
East Baton Rouge	3,400	1,867	1,476	1,102
East Feliciana	2,127	1,004	.....	1,736
West Feliciana	2,213	399	778	1,248
Ouachita	2,392	992	793	1,869
Morehouse	1,830	938	782	1,379
Richland	852	812	277	963
Grant	608	603	395	518
Livingston	197	800	121	769
Franklin	439	587	129	789
Caldwell	489	589	285	631
La Fayette	928	1,351	658	721
Claiborne	1,314	1,602	432	1,577
De Soto	1,694	1,253	898	1,304
Natchitoches	2,955	1,782	2,099	1,761
	21,438	14,579	9,122	16,367

These same parishes in the election of 1872 gave the following vote:

	Rep.	Dem.
East Baton Rouge	2,459	917
East Feliciana	1,690	653
West Feliciana	1,309	273
Ouachita	1,441	606
Morehouse	1,262	625
Richland	218	646
Grant	779	165
Livingston	146	553
Franklin	268	535
Caldwell	369	486
La Fayette	482	884
Claiborne	942	1,357
De Soto	1,022	790
Natchitoches	1,256	828
	13,593	9,318

These same parishes in the election held in them in 1870 gave the following vote:

Paaishes.	Republican.	Democratic.
East Baton Rouge	2,440	958
East Feliciana	1,273	803
West Feliciana	1,174	303
Ouachita	1,299	501
Morehouse	516	493
Richland, thrown out for violence	556	296
Grant	55	452
Livingston	226	381
Franklin	340	370
Caldwell	145	754
La Fayette	523	1,407
Claiborne	1,032	713
De Soto	2,075	828
Natchitoches	11,654	8,259

In forty parishes where no crimes are alleged the registration of 1876 was as follows:

Colored	87,999
White	72,034
Colored majority	15,965

In the same parishes the vote of 1876 was:

Republican	65,747
Democratic	59,392
Republican majority	6,355

So that in the comparatively peaceful parishes a registered colored majority of 15,965 yielded a republican majority of 6,355.

Now, in fourteen bull-dozed parishes in the same year the registration was:

Colored	21,638
White	14,579
Colored majority	7,059

While the vote as cast and counted by the bull-dozers was:

Democratic	16,367
Republican	9,123
Democratic majority	7,244

That is, in the parishes where there were no murders or massacres, the republican majority was nearly one-half of the registered colored majority, but in the bull-dozed parishes, whose record of whippings, shootings, hangings, burnings, murders, and massacres we have given above, a colored registered majority of 7,059 is converted into a democratic voting majority of 7,244, making a total of over 14,000 votes converted by these means from the republicans to the democrats in these parishes.

NATIVITY OF STATE, PARISH, AND OTHER OFFICERS, AND MEMBERS OF THE LEGISLATURE SINCE 1868.

It is untrue that carpet-baggers have governed Louisiana

In the State government of 1868 there were three men of northern birth and three native southerners—two white and one colored. In the State government of 1872 there was one northern man and five southern men. In the present State government, of which Governor Packard is the head, there is one northern man and five southern men.

In all the Legislatures since reconstruction the proportion of northern men to southern men has never been more than *one to six*, and for the last four years has not been more than *one to twenty*. In the parochial and municipal offices throughout the State the disproportion is still greater. It will not average more than *one in one hundred*.

PROPOSED COMMITTEE ON POLITICAL CONDITION OF LOUISIANA.

A committee of Congress, that should examine carefully the condition of affairs in Louisiana, not after an election, and in haste, and during the heat and excitement of a political contest, but during an interval of quiet, carefully and deliberately, and thoroughly going over the State from point to point, would be of great service to Louisiana and to the country.

Such an investigation is indeed a necessity precedent to a wise and just settlement of the Louisiana difficulties. Nothing but mischief will follow the adoption of any new policy toward Louisiana, based upon crude and hap-hazard conclusions, without the aid of such an investigation.

LIST OF ACCESSIONS TO THE REPUBLICAN PARTY FROM THE WHITE CONFEDERATE RANKS SINCE 1872.

There have been accessions to the republican party in large numbers since 1872 of the best people of Louisiana, including lawyers, planters, and merchants of the highest reputation and character. If left to peaceful influences these gentlemen are in a fair way of solving the Louisiana problem, by bringing to the leadership of the party a large and influential white element. This once accomplished, both races will divide in political matters peacefully and without wrong or injustice; should these men be abandoned by the National Administration and delivered over to the tender mercies of a State government, put in power not by votes but by murder and massacre, the result will be personal ruin to these people, who have put themselves in the breach, and a solid and terrible reign of caste and of terror which will for an indefinite period virtually prohibit the existence of any but political party in that State.

TAXATION, ASSESSMENTS, AND EXPENSES UNDER REPUBLICAN RULE.

State taxes are not high in Louisiana. The State tax is fourteen and a half mills on the dollar. The assessment of farming lands is lower than the average in other States, being for the valuable tillable lands not over 25 per cent. of the actual cash value of the lands. The parish taxes are, except in half a dozen parishes, reasonable.

Ordinarily, improvements are not assessed in the country; when assessed, they are not assessed high or uniformly. The taxes in the city of New Orleans are high, and the management of its finances has been bad. It has been under democratic government since 1868, with the exception of two years.

JUDICIAL CONSTRUCTION OF ARTICLE 117, CONSTITUTION OF LOUISIANA.

This article prohibits any person from holding more than one office of profit or trust at one time.

The supreme court of Louisiana in the case of State *ex rel.* Gorham, 25 Annual, 138, held that, "The inhibition of the constitution applied to constitutional officers only. It did not prevent a constitutional officer from holding a municipal office."

Revised Statutes, section 2826, quoted by democrats, is no longer law, but was repealed by the act of 1870, and was omitted from the digest of statutes published in 1870.

FALSE STATEMENTS IN DEMOCRATIC BRIEF.

There is no evidence, and it is untrue, that the returning officers willfully and fraudulently counted, as votes in favor of Kellogg, any votes not shown to have been given for him at any poll or voting-place of said State.

There is no evidence, and it is untrue, that the returning officers did not receive from any poll, voting-place, or parish, or have before them any statement of any supervisor of registration or commissioner of election, as required by law.

There is no evidence, and it is untrue, that any returns of election show that William P. Kellogg received less votes than the democratic electors.

There is no evidence, and it is untrue, that the returning officers failed to compile or canvass the statements of votes from the commissioners of election at any poll or voting-place. It is true that, as commanded by law, they rejected and refused to count the statements of votes from certain polls and precincts at which violence, riot, and tumult made the election invalid in law.

The assertion that William P. Kellogg, when he made certificate for the duly appointed electors, knew that said certificate was untrue, is simple vituperation and abuse, and false in law and in fact.

The assertion that Kellogg, Burch, Joseph, and others entered into an unlawful and criminal combination and conspiracy to and with each other to procure the certificate and return of the duly appointed electors, is untrue and silly; and the charge, so far as there are any facts to support it, might as well have included every republican voter in the State.

There is no evidence, and it is untrue, that the statements and affidavits with regard to violence and intimidation were fabricated and forged, and it is true that the same were corroborated by testimony taken under cross-examination before the Senate subcommittee of Privileges and Elections, composed of Senators HOWE, WADLEIGH, OGLESBY, MCMILLAN, SAULSBURY, and MCDONALD.

There is no evidence, and it is untrue, that any of the returning officers offered to receive a bribe from the friends of Mr. Tilden, but it is true that such a bribe was offered by Duncan F. Kenner and other prominent democrats, friends of Mr. Tilden.

There is no evidence, and it is untrue, that the returning officers counted any votes which had not been returned and certified to them according to law.

There is no evidence, and it is untrue, that the returning officers altered, changed, and forged, or caused to be altered, changed, and forged, any statements of votes from the parish of Vernon. The alteration made in the returns of Vernon Parish were made by a clerk of the returning officers, who first stole the return and then altered it for the purpose of selling it to prominent democrats to aid Mr. Tilden.

There is no evidence, and it is untrue, that the returning officers, contrary to law, knowingly, will fully, and fraudulently refused to compile and canvass any votes.

It is untrue that *ex parte* evidence was received by the returning officers. All testimony taken before the returning officers was taken contradictorily upon interrogatories and cross-interrogatories. The *ex parte* affidavits received by the returning officers were not received as testimony, but as sworn statements, corroborating and connected with the statements of the supervisors and commissioners.

The charge that the returning officers refused to fill the vacancy with a democrat is untrue, the facts being that they formally offered to fill the vacancy with a democrat, but could not obtain the consent of any democrat to fill the vacancy, for the reason that the democrats demanded two appointments or none.

The returning officers held no secret meetings except for final consultation and determination, but their regular sessions for opening and considering the returns, and the protests against the same, were held openly and in presence of witnesses from all parties.

There is no evidence and it is untrue that J. H. Burch was ineligible as an elector under the constitution of Louisiana.

There is no evidence and it is untrue that Morris Marks was ineligible as an elector under the constitution of Louisiana.

There is no evidence and it is untrue that O. H. Brewster was a United States officer at the time of his election to fill a vacancy in the electoral college and at the time that he cast his vote for Hayes and Wheeler.

There is no evidence and it is untrue that A. B. Levissee was a court commissioner of the United States at the time of his election to fill a vacancy in the electoral college and at the time that he cast his vote for Hayes and Wheeler.

There is no evidence and it is untrue that Oscar Joffrion was ineligible as an elector under the constitution of Louisiana.

There is no evidence and it is untrue that Judge Davis is a man of notoriously bad character.

There is no evidence and it is untrue that Jewett is under indictment in one of the courts for obtaining money under false pretenses.

There is no evidence and it is untrue that Isadore McCormick was under indictment for murder.

In justice to Mr. McCormick I insert his reply to the very unjust and unfair assault upon his reputation in the democratic brief:

WASHINGTON, D. C., *February* 19, 1877.

To the Editor of the National Republican:

SIR: During the joint session of Congress to-day a protest was read and signed by a number of democratic Senators and Representatives giving reasons why the decision of the electoral commission on Louisiana should not stand, among others, that the returning board employed "Isadore McCormick, who was then under indictment in a criminal court of said State charged with murder." I now charge that every Senator and member of Congress who subscribed to that document placed his name either maliciously or ignorantly to an unmitigated falsehood. There is not now, nor has there ever been, in Louisiana or any other State, for that or any other offense, an indictment against me. Meeting this evening at Willard's Hon. Mr. MORRISON, chairman of the House investigating committee on Louisiana affairs, he stated to myself and a friend that no such evidence came before his committee; that he did not know when signing it that such a statement was embodied in the protest; that Hon. RANDALL L. GIBSON was probably the member who had it inserted, and advised me to see him. I called, but did not find General GIBSON at home. I cannot believe that either General GIBSON, or Mr. MORRISON, or Senator MCDONALD, or any other honest man, will adhere, even for political effect, to a charge so unjust and serious in its nature, and so far-reaching in its effect, in a document of such import, when they learn that there is no evidence before any of their committees to sustain it, that the court records of Orleans Parish will refute it, and that there are journalists and public men now in Washington who can prove the utter falsity of the charge.

Trusting that these gentlemen will undo as far as possible this injustice to me, I remain, &c.

ISADORE MCCORMICK.

It is true that the fabricators of the democratic charges well knew that every one of those charges which we have herein above traversed were false, and their allegation of the same has been made willfully, knowingly, and maliciously.

It is also true that the same men who have not hesitated to destroy lives by the hundreds as a means of democratic electioneering have also systematically used slander and lies for the destruction of private character for the same purpose.

It is also true that the democratic candidates for State officers and for electors, and the democratic State central committee, were knowing of, consenting to, and partaking in the guilt of all the whippings, shootings, hangings, burnings, mutilations, assassinations, murders, and massacres hereinbefore enumerated.

It is also true that the democratic people of Louisiana knew of them, connived at and concealed them, secretly encouraged them, made no attempts to discover and punish the perpetrators, and by the denials and sneers of their representative men and newspapers have condoned and approved them.

From 1866 to 1876 no democratic press, no democratic public meeting, no democratic clergy have ever discountenanced or condemned these outrages.

I ask especial attention to the testimony of General John R. Brooke, a United States officer of distinction and high standing, and of Captain Clayton Hale, whose statements will carry great and deserved weight with all classes and parties.

It is true and in evidence before Senator HOWE'S committee that the usual republican majority in Louisiana is in fair and peaceable elections from 15,000 to 20,000 votes, and that the true and lawful returns of the last election, as honestly canvassed and compiled, and lawfully and truly counted and returned by the returning officers, show that Hayes and Wheeler and Packard received a majority of all the votes lawfully cast and counted.

It is also true and in evidence before the same committee that the pretended majorities claimed by the democrats in the seventeen bull-dozed parishes, upon which their claim to have carried the State alone depended, was falsely, fraudulently, wickedly, and criminally procured, by robbery, violence, and murder.

The election law which rendered pretended votes thus obtained null and void is righteous, just, and necessary.

The returning officers honestly, justly, and lawfully executed that law, and excluded the pretended votes procured by murder and massacre.

PERSONAL CHARACTER OF GOVERNOR PACKARD AND THE STATE OFFICERS.

The personal character of republicans has been traduced in wholesale. To show how falsely, we give this account of the *personnel* of the present Packard administration:

Governor Packard has lived in Louisiana fourteen years. He has been United States marshal for eight years. His character, public and private, is above reproach. His official record is unassailable, even by the democrats. In every respect, as to integrity, ability, and moral and social standing, he is the peer of either of the democratic candidates at the last election.

Colonel George Johnson, State auditor, is of southern birth, and was a confederate soldier. In honesty, competency, and fitness for his office he is fully equal to any of the gentlemen who have ever filled that office.

Hon. William H. Hunt, attorney-general, is a native southerner, a gentleman of fortune, of fine scholarship, and of the highest social and moral standing. He has stood at the head of the bar in his State for years, and his occupancy of this position will be both an honor and an ornament to his State.

Mr. Dubuclet, treasurer, is a colored creole gentleman of good family. His honesty and ability have never been questioned.

Mr. Honoré, secretary of state, is also a colored creole gentleman, fully qualified for his office.

Mr. Brown, superintendent of public education, is a colored gentleman against whose honesty and capacity no charges have been brought.

To the reckless and wholesale charges of fraud, forgery, and bribery which have been made by the democrats against the republican officers of election in Louisiana, I oppose the sworn confessions of Duncan F. Kenner, of John M. Palmer, of Maddox and Littlefield, and the testimony of Ira N. Gifford.

That the peculiar ferocity and bloodthirstiness which have characterized the democratic campaign of 1876 in Louisiana have not ceased, I adduce "as proof" the late attempt to assassinate Governor Packard, and the following extract from the New Orleans Democrat, February 3, 1877:

"If Mr. Packard forces this conflict we appeal to our friends to spare, as much and as far as final and complete victory will permit, the lives of the metropolitan and negro dupes. We advise them to let the full weight of their vengeance fall upon the leaders of this iniquitous, murderous, and most damnable scheme, and to follow Packard into the hotel, and, if need be, into the custom-house itself, and hang him from its highest window."

Your memorialists respectfully pray that this, their memorial, may be printed, and that, the premises considered, your honorable body may take such steps as to you may seem proper to insure to the people of Louisiana, and to Governor Packard and the lawful State government, as speedily as possible, such support from the General Government as the Constitution provides and as will enforce the laws, restore order, put down insurrection, and bring relief to all the interests of the State; and your memorialists will ever pray, &c.

HUGH J. CAMPBELL,
Of Counsel for Louisiana before the Electoral Commission.

JOHN RAY,
J. R. G. PITKIN,
FRANK MOREY,
Of Counsel before the Senate Committee on Privileges and Elections.

REPORTS OF COMMITTEES.

Mr. COOPER, from the Committee on Finance, to whom was referred the bill (S. No. 1214) to amend an act amending section 5457 of the Revised Statutes, relating to counterfeiting, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1209) for the relief of Walter N. Haldeman, reported adversely thereon; and the bill was postponed indefinitely.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 1183) for the relief of David W. Stockstill, of Sidney, Ohio, reported adversely thereon.

Mr. WRIGHT, from the Committee on Revolutionary Claims, to whom was referred the petition of Susan Sampson, praying for the passage of a special act to pay to her all sums of money due to her as the only heir of Simon Randall for amount due to him for services in the revolutionary war, asked to be discharged from its further consideration; which was agreed to.

PERSONAL EXPLANATION.

Mr. WRIGHT. While I have the floor I wish to make one remark. It will be remembered that a few days since a bill being before the Senate touching the Klamath reservation, I had read at the desk an article from an Oregon paper making some strictures upon the House report touching that measure and setting forth what was claimed to be a history of the entire transaction. At the time I vouched for the article as having been forwarded to me by a gentleman in whom I had confidence. It has been brought to my attention that there are some things in the article which reflect improperly and unjustly upon the member of the House from Oregon. My relations with that gentleman are such that I certainly would not have done a thing of that kind, having known him for some time, and also his father, and I know his reputation. I therefore take this occasion to say that it was not in my mind at all to reflect upon the person referred to as having made that report. I would be the last person to do a thing of that kind, and especially upon a newspaper article of which I knew nothing more than that it was sent to me as I have stated.

I deem it proper to myself and to that gentleman to make this explanation at this time.

COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS.

Mr. MORRILL. As is usual for the Committee on Public Buildings and Grounds, I ask unanimous consent that the committee have leave to sit during any recess that may take place, although I must say they have not much expectation of any heavy business during a recess.

The motion was agreed to.

COMMITTEE ON PATENTS.

Mr. WADLEIGH. The Commissioner of Patents and also the United States Patent Association have signified a wish for considerable changes and revision to be made of the patent laws, and inasmuch as experience has proved that it is impossible during the session to devote to the subject the time that is absolutely necessary, I am requested to move that the Committee on Patents have leave to sit during the recess of Congress. I therefore offer the following resolution:

Resolved, That the Committee on Patents or a subcommittee thereof have leave to sit during the recess of the Senate, for the purpose of revising the patent laws, and that the necessary expenses be paid out of the contingent fund of the Senate.

The Senate proceeded to consider the resolution.

Mr. DAVIS. I hope the Senator will be kind enough to explain the necessity for this resolution.

Mr. WADLEIGH. As I have just said, it is absolutely impossible for the Committee on Patents during the session of Congress to consider this subject, and consequently we shall be obliged to devote our time during the recess to it. The intention is to thoroughly examine and revise the patent laws in order to obviate some objections which are generally made to them, and to report at the opening of the next fession of Congress such changes as the committee may deem proper.

The resolution was agreed to.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. WINDOM submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4380) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1878, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 5, 8, 9, 19, 13, 17, 19, 20, 21, 22, 23, 28, 36, 41, 43, 46, 47, 48, 49, 51, 53, 56, 59, 68, 73, 75, 79, 84, 85, 96, 110, and 118.

That the House recede from its disagreement to the amendments numbered 3, 4, 6, 12, 14, 15, 16, 24, 25, 26, 27, 31, 32, 33, 34, 35, 37, 40, 44, 57, 65, 69, 70, 71, 76, 78, 80, 81, 82, 83, 86, 87, 89, 90, 91, 93, 94, 95, 97, 99, 100, 104, 113, 114, 116, 120, 124, 125, 127, 128, and 129; and agree to the same.

That the House recede from its disagreement to the amendment numbered 1, and agree to the same, with an amendment as follows: In lieu of the sum proposed insert "$1,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 7, and agree to the same, with an amendment as follows: in lieu of the sum proposed by said amendment insert "$2,650,000;" and in line 22, page 4 of the bill, after the word "engineers" insert "cadets;" and in line 1, page 5, after the word "department" insert "instruction of cadets;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 11, and agree to the same, with an amendment as follows: Strike out all of the paragraph proposed to be inserted and insert in lieu thereof:

For the general purposes of the District of Columbia, to be expended by the commissioners of said District, $250,000.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 18, and agree to the same, with an amendment as follows: Strike out "nineteen" and insert in lieu "eighteen," and strike out "five hundred;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 29 and 30, and agree to the same, with amendments respectively as follows: In lieu of the sum proposed by 29 insert "$300,000;" and in amendment 30 strike out in line 9, page 11 of the bill, the word "thirteen," and insert in lieu thereof the word "sixteen;" and in the same line, after the word "timbered," insert "and mountainous;" and after the word "mile," in line 10, add "and for township lines not exceeding $14, and for section lines not exceeding $10;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 38, and agree to the same, with an amendment as follows: Strike out all inserted by said amendment, and strike out all the amended paragraphs and substitute therefor the following:

For the Freedman's Hospital and Asylum in Washington, District of Columbia, namely: For subsistence, $18,000; salary and compensation, as follows: Of surgeon, $1,400; of one surgeon and dispensary-clerk, $1,200; of engineer, $720; matron, $216; nurses and cooks, $1,800; fuel and light, $3,000; clothing, $3,500; rent of hospital buildings, $2,000; medicines and medical supplies, $2,500; and miscellaneous expenses, $5,164; in all, $40,000; and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 39, and agree to the same, with an amendment as follows: Strike out "twenty-five" and insert "eighteen;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 42, and agree to the same, with an amendment as follows: Strike out "two" and insert in lieu thereof "one;" and strike out "five hundred;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 45, and agree to the same, with an amendment as follows: Strike out "one hundred" and insert in lieu thereof "fifty;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 50, and agree to the same, with an amendment as follows: Strike out "one hundred" and insert in lieu thereof "seventy-five;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 52, 54, 55, and 58, and agree to the same, with amendments respectively as follows: In 52 strike out "fifty" and insert "thirty;" and in 54 strike out "fifty" and insert "thirty;" and in 55 strike out "one hundred" and insert "fifty;" and in 58 strike out "one hundred" and insert "fifty;" and the Senate agreed to the same.

That the House recede from its disagreement to the amendments numbered 60, 61, 62, and 63, and agree to the same, with amendments respectively as follows: In 60 strike out "fifty" and insert "thirty;" in 61 strike out "eighty" and insert "sixty;" in 62 strike out "fifty" and insert "forty;" and 63 add at the end of the paragraph, "to be immediately available;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 64, and agree to the same, with an amendment as follows: Restore that portion of the paragraph proposed to be stricken out; and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 66 and 67, and agree to the same, with amendments respectively as follows: In lieu of the sum proposed by 66 insert "$250,000;" in lieu of the sum proposed by 67 insert "$150,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 72 and 74, and agree to the same, with amendments respectively as follows: In 72 strike out the word "two," and strike out "five hundred," and in 74 strike out "one hundred" and insert "seventy-five;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 77, and agree to the same, with an amendment as follows: Strike out "Daniel" and insert "Darrall;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 88, 92, and 98, and agree to the same, with amendments respectively as follows: Strike out in 88, line 5, "1877," and insert in lieu thereof, "at the present session of Congress;" and in 92, in line 1, strike out "five" and insert "three," and in lines 8 and 9 strike out "twenty-five" and insert "eighteen;" and in 98 strike out in line 7 "two" and insert "one;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 101 and 102, and agree to the same, with amendments respectively as follows: In 101 add at the end of the amendment, "and the Chicago, Rock Island and Pacific Railway Company is required to refund to the Treasury of the United States one-half of the said sum, and the Secretary of the Treasury is hereby directed to enforce this condition;" and in lieu of the sum proposed by 102 insert "$65,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 103, 105, and 106, and agree to the same, with amendments respectively as follows: In

103 strike out "eighty" and insert "fifty;" in 105 strike out "twenty-five" and insert "ten;" and in 106 strike out in line 3 "hereafter," and at the end of the paragraph insert "prior to the 1st of February, 1878;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 107, 108, 109, 111, and 112, and agree to the same, with amendments respectively as follows: In 107 strike out "five" and insert "four;" in 108, in lieu of the sum proposed, substitute "one thousand five hundred," and in 109, in lieu of the sum proposed, insert "one thousand five hundred," and in 111 strike out "three" and insert "two;" and in 112 strike out "six" and insert "four;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 115, 117 and 119, and agree to the same, with amendments respectively as follows: In 115 strike out "thirty" and insert "twenty;" in 117 strike out "five" and insert "four;" and in lieu of the sum proposed by 119, substitute "22,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 121 and 122, and agree to the same, with amendments respectively as follows: In 121 strike out "twenty" and insert "fifteen;" and in 122 strike out "forty" and insert "twenty;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 123, and agree to the same, with amendments as follows: Strike out "three hundred" and insert "two hundred and fifty;" and strike out "two hundred" and insert "one hundred;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 126 and agree to the same, with amendment as follows: In lieu of the sum proposed insert "$2,500;" and the Senate agree to the same.

WM. WINDOM,
WILLIAM A. WALLACE,
Managers on the part of the Senate.
WM. S. HOLMAN,
JOHN R. EDEN,
HENRY WALDRON,
Managers on the part of the House.

The Chief Clerk having commenced the reading of the report,

Mr. WINDOM. If entirely agreeable to Senators to dispense with the reading, which would save time, I will answer any question that any Senator may desire to put to me in reference to the bill.

Mr. DAVIS. I hope the request of the Senator from Minnesota will be granted, as time is very important. A messenger from the House is here who says that it is important that we should get through with this bill at once.

Mr. SARGENT. I move to dispense with the reading of the report.

Mr. CHRISTIANCY. In as thin a Senate as this I must object until more Senators are present.

Mr. HARVEY. I should like to have some information in regard to this report.

Mr. WINDOM. I should be glad to give the Senator any information on any point which he desires, so far as I can, if he will call my attention to any particular item.

Mr. DAVIS. I submit to the Senator from Kansas that the whole object is for the committee to agree and unless the report gets to the House soon the danger is that the bill cannot be enrolled.

The PRESIDENT *pro tempore*. Is there objection to dispensing with the reading?

Mr. HARVEY. There is objection. I want some information concerning at least one provision.

Mr. WINDOM. I can give the information the Senator desires as well without the report as with it.

Mr. HARVEY. I do not object to dispensing with the reading, but I want information.

Mr. WINDOM. Very well.

The PRESIDENT *pro tempore*. The reading of the report will be dispensed with, if there be no objection.

Mr. HARVEY. I want to know why the provision made by the Senate commencing in line 621, page 26, is not still a part of the bill according to the recommendation of the committee of conference?

Mr. WINDOM. I ask the Senator to please state what it is?

Mr. HARVEY. The clause inserted in the bill by the Senate is as follows:

For a suitable building, with fire-proof vault extending to each story, at the city of Topeka, Kansas, for the accommodation of the United States circuit and district courts, post-office, pension agency, land offices, and other Government offices, in said city, to be erected upon the site purchased by the United States under the act of March 3, 1875, the sum of $50,000; to be expended under the direction of the Secretary of the Treasury, who shall cause proper plans and estimates to made, so that no expenditure shall be made or authorized for the full completion of said building beyond the amount of $225,000.

Mr. WINDOM. I will state that the committee of conference on the part of the Senate did everything in their power to retain the provision to which the Senator refers, because they believed it to be a proper thing to do, and a public necessity, but they were unable to retain it; and I will also say to the Senator that one reason was that their own delegation were not entirely united upon that subject, and it furnished an answer to any argument that we could make to insist upon it.

Mr. HARVEY. As to that I do not know any member of the delegation who openly avows any opposition to this provision. I do know there is a great necessity for this building. I do know that its erection has been recommended by the Committee on Public Buildings and Grounds, by the Committee on Appropriations, and by the Senate, and I can see no reason why, if there should be a number of the delegation who might not be in favor of it, that for that reason it should be rejected.

Mr. DAVIS. I ask the Senator if he has any objection to letting the report be concurred in and go to the House. There is danger of not being able to enroll the bill before twelve o'clock unless it gets there soon, and the Senator can afterward discuss this item as long as he thinks proper.

Mr. HARVEY. I can say something about it now, and I understand something about it.

Mr. DAVIS. Let the report be concurred in, and then the Senator can talk as long as he chooses. I ask the Senator whether he objects to letting the conference report go to the House?

Mr. HARVEY. I do object, until I understand something more about it.

Mr. SARGENT. If the Senator will allow me a moment, I suppose he is entirely aware that this report is not amendable, and that he cannot accomplish his object by getting the appropriation into this conference report. Of course he can defeat the bill by occupying the floor, as he has a perfect right to do, and compel us to have an extra session, which he will not have the trouble of attending. Certainly the Senator cannot get the provision restored to the bill now unless it should be sent back to another committee of conference for a new report to be brought in, in which case the bill is lost.

Mr. HARVEY. So far as that is concerned, I am not very clear whether it is not my duty to occupy the floor for the remainder of the session; I will, at any rate, long enough to show that we understand how these things are done. I think I understand it myself, but I do not know whether I should not let the public and the people of my State understand it. I want to say that the State of Kansas has never had one dollar applied to the construction of any public building within her borders. I want to say further, that the circuit and district courts of the United States are held in the State-house, a building constructed by the people of the State for their own use at great expense to themselves. The court at times is enabled to have the use of the county court-house, except when the State district courts are in session. Then it becomes necessary to apply to the State authorities, and the use of the State-house has been conceded to the United States courts, though the State officers have no authority to do so properly. I think it is a great tax upon the generosity of the people that under the circumstances such should be the case.

There are appropriations in this bill having no better ground in right, as will be conceded by the members of this conference committee and by the Committee on Appropriations and the Committee on Public Buildings and Grounds and the Senate, and yet we are told that the reason why this appropriation is stricken out is because it is understood that the delegation from Kansas were not entirely unanimous. I think the committee was furnished with proof that there was at least substantial unanimity on the part of the delegation, both in the present Congress and in the House and Senate of the next Congress.

In seeking for the reasons of the loss of this appropriation I further learn that there was a lack on our part of democratic leverage. I understand what this means. At other places where appropriations of the same kind were sought under the same circumstances they had democratic influences at work for them, and in that way they were enabled to conciliate the democratic member of the House who seems to dominate action in such matters; while the State of Kansas being constantly and reliably republican, and having no democratic influence at work in their behalf, must suffer for it.

It seems to be the fate of those States taking such position to have but little effort made to conciliate them or to do them simple justice. I shall not attempt to conceal the fact that I feel very much the manner in which my State has been treated in the matter of public buildings not only at this time but from the very beginning.

As I said early in my remarks, the State of Kansas has never been given a single dollar for the purposes of construction of any public building within its boundaries; and so long as concessions are made of the rights of that State, and bills that have been passed in derogation of such rights are permitted to pass without protest, it will probably continue to be the case.

While I do not feel justified in consuming the whole of the time that is left of this session in talking upon this matter—though if I gave way to my feelings and impulses, I would do so—yet I do feel entirely justified in saying what I have said upon this matter, and under other circumstances would say much more.

The PRESIDENT *pro tempore*. The question is on concurring in the report.

The report was concurred in.

WILLIS L. FOULK.

Mr. CAMERON, of Pennsylvania. I move that the Senate proceed to the consideration of the bill (H. R. No. 1250) for the relief of Willis L. Foulk. It will take but a moment or two to pass the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It suspends the provisions of law regulating appointments in the Army by promotion in the line so far as they affect Willis L. Foulk; and the President can, if he so desire, in the exercise of his own discretion and judgment, nominate and by and with the advice and consent of the Senate appoint him to the same grade and rank of captain held by him on January 4, 1874, in any vacancy occurring.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 473) for the relief of Henry S. French, of Nashville, Tennessee; in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills:

A bill (S. No. 917) to enable Erastus T. Bussell, of Indianapolis, Indiana, to make application to the Commissioner of Patents for extension of letters-patent for a combined rubber and spiral steel spring;

A bill (S. No. 1010) for the relief of Julius S. Bohrer, master in the United States Navy; and

A bill (S. No. 709) for the relief of Hans C. Peterson.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes; and it was thereupon signed by the President *pro tempore*.

ORDER OF BUSINESS.

Mr. CLAYTON. I have a couple of joint resolutions here to relieve several soldiers who had some clothing lost in the destruction of barracks, amounting to $1,900 I think in all, reported from the Committee on Military Affairs, which I should like to have passed. I do not think there can be any objection to them at all. They are House resolutions and have passed that body upon the recommendation of the Secretary of War. The resolutions are *verbatim et literatim* the resolutions recommended by the Secretary of War.

The PRESIDENT *pro tempore*. If there be no objection the first joint resolution sent to the desk will be read.

Mr. COCKRELL. There are a number of cases of equal merit, and if we take up one we must take up all. There are two or three bills which I have reported now on the Calendar, and I never heard in my life of cases more meritorious than they are. If we are to go to the Calendar for one bill, we must go there for others. I appreciate the kindness of the Senator in desiring to get his measures through, but he places others in an awkward position, and I must insist that particularly on this holy Sabbath day we shall have a constitutional quorum here to transact business before we act on bills.

Mr. CLAYTON. I will make no further effort. These joint resolutions passed the House, and I merely wanted to get them off the Calendar.

EXECUTIVE SESSION.

Mr. CAMERON, of Pennsylvania. I move that the Senate proceed to the consideration of executive business for a few minutes for the purpose of making a report.

Mr. MORRILL. Had we not better wait and go into executive session later?

Mr. CAMERON, of Pennsylvania. It will take but a minute now. I make that motion.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were re-opened.

ALMONT BARNES.

Mr. WADLEIGH. I ask the Senate to take up a bill which has passed the House for relief in a case which I have examined and in which I have drawn up a report. It is simply to pay to Almont Barnes the sum of $150 for money advanced by him for the benefit of his battery in the service of the United States, and which could have been paid from the company's savings if it had been attendedto at the proper time, but it was too late for that and the amount could not be drawn from the Treasury. I ask that the bill be taken up and passed.

There being no objection, the bill (H. R. No. 1200) for the relief of Almont Barnes was considered as in Committee of the Whole. It provides for the payment to Almont Barnes, late captain of Battery C, First New York Light Artillery, of $150, the amount of his claim for money advanced for the benefit of members of his battery while in the service of the United States, upon the security of vouchers for company savings, now unpaid and on file in the office of the Commissary-General of the Army, such vouchers having been presented at too late a date for their payment from any fund authorized for such purposes.

Mr. MORRILL. I believe that little claim is all right.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

DALTON HINCHMAN.

Mr. INGALLS. I ask the present consideration of two small meritorious pension bills which have been passed by the House of Representatives. One is House bill No. 1479.

There being no objection, the bill (H. R. No. 1479) granting a pension to Dalton Hinchman was considered as in Committee of the Whole. It provides for placing on the pension-roll Dalton Hinchman, late a private in Company G, Second Michigan Cavalry.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

SARAH M'COOEY.

Mr. INGALLS. I now ask for the consideration of House bill No. 3282.

There being no objection, the bill (H. R. No. 3282) granting a pension to Sarah McCooey was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Sarah McCooey, mother of John McCooey, late private in Company F, Fourteenth Regiment United States Infantry.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JOHN PULFORD.

Mr. CAMERON, of Wisconsin. I move to take up House bill No. 3483.

The motion was agreed to; and the bill (H. R. No. 3481) to restore John Pulford, lieutenant-colonel United States Army, (retired,) to his former rank on the retired list, was considered as in Committee of the Whole.

The Committee on Military Affairs reported the bill with an amendment to strike out all after the enacting clause, and in lieu thereof to insert:

That John Pulford, who was, on December 15, 1870, duly retired from the active service and placed upon the list of retired officers of the United States Army, with the full rank of colonel, on account of wounds received in battle while performing the duties of colonel in command of his regiment, be, and hereby is, excepted and relieved from the operation of the act of Congress entitled "An act for the relief of General Samuel W. Crawford, and to fix the rank and pay of retired officers of the Army," approved March 3, 1875, solely because the injuries received by him in battle are more severe, dangerous, and disabling, and more fully incapacitate and disqualify him for any service, than the loss of an arm or leg, or the permanent disability of an arm or leg by resection, and is hereby restored upon the list of retired officers of the Army to the full rank of colonel, held by him from the date of his retirement up to March 3, 1875, with the pay of such rank from the date of the passage of this act, and shall hereafter hold and receive the rank and pay of colonel upon the list of retired officers of the Army.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed. Its title was amended so as to read: "A bill for the relief of John Pulford."

CATHERINE AND SOPHIA GERMAIN.

Mr. ALLISON. I ask to have passed House bill No. 3989, to which, I am sure, there will be no objection.

By unanimous consent, the bill (H. R. No. 3989) for the relief of Catherine and Sophia Germain was considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to reserve from that portion of annuities due or to become due, to the Cheyenne Indians, $2,500 for Catherine Germain, aged eighteen years, and $2,500 for Sophia Germain, aged thirteen years, two white children who were captured in Kansas by the Cheyennes while *en route* from Georgia to Colorado, and cause the same to be placed to their credit on the books of the Treasury, to bear interest at the rate of 5 per cent. per annum, and use from time to time the income from the same in such manner as he may deem expedient for their maintenance, education, and support until they attain the age of twenty-one years, when the principal and all unexpended interest shall be paid to them.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

SOUTHERN MARYLAND RAILROAD.

Mr. MORRILL. I ask unanimous consent to call up House bill No. 3012. I will state the purpose of it. It is to authorize the Southern Maryland Railroad Company to extend a railroad into and within the District of Columbia. When the bill was before called up, it was objected to by me. Since then an agreement has been made with the chairman of the Committee on the District of Columbia in relation to an amendment. The chairman of the District Committee is not present, but I think it right for me to offer the amendment and ask for the passage of the bill. There can be no objection to the main purpose and I think what was intended to be the whole purpose of the bill; and that was to allow the road to connect on the Eastern Branch of the Potomac River with the Baltimore and Potomac road, between Anacostia bridge and Benning's bridge; but as the bill came here it not only authorized the road to connect, but to come into the District, and to have all the powers of all the other roads that come into the District. It is proposed in the amendment to strike that out and leave only power to connect, to which I think there will be no objection on the part of any Senator.

By unanimous consent the bill (H. R. No. 3012) to authorize the Southern Maryland Railroad Company to extend a railroad into and within the District of Columbia was considered as in Committee of the Whole.

Mr. MORRILL. I move to amend by striking out, beginning in line 9, after the word "railroad" to the end of the bill, in the following words:

And the Baltimore and Ohio Railroad, within the District of Columbia, as may be determined on by said companies; and the said Southern Maryland Railroad Company is hereby authorized to exercise the same powers, rights, and privileges, and be subject to the same restrictions in the extension, construction, and operation of their said railroad into and within said District, as are extended to like corporations under the existing laws of the District of Columbia.

And in lieu thereof to insert:

Within the District of Columbia, but not within the limits of the city of Washington, as may be determined on by said companies, and for this purpose only.

Mr. DAVIS. I was not in when the bill was read. I understand

it is a bill relating to railroads. I would ask for information where the bill comes from.

Mr. DORSEY. I wanted to ask that question myself. I should like to inquire of the Senator from Vermont where this bill comes from.

Mr. MORRILL. I understand it was reported by the Committee on the District of Columbia, and in the absence of the chairman of that committee I called it up. It was reported by the chairman of the Committee on the District of Columbia, and he has tried several times to get it up. He is not here this morning. The amendment was agreed to between him and myself and by the parties interested in the railroad. As the bill came here, it allowed connection with both roads, and it would allow a road to be run across in front of the Capitol.

Mr. DORSEY. That bill as originally introduced provided for permitting a railway to be constructed across the front of this city from end to end.

Mr. MORRILL. If the Senator had listened to the amendment, he would have seen that the bill as proposed to be amended by me only permits them to have connection here at one single point between the Anacostia bridge and Benning's bridge.

Mr. DORSEY. I should like to have the Senator explain through what streets they get here.

Mr. MORRILL. They do not come into the city at all under my amendment.

Mr. DAVIS. I ask that the bill be read as now proposed to be amended. This is a very unusual time to call up such an important bill, and I should like to have some information about it.

Mr. MORRILL. I will say that I have no interest in the bill, but I am endeavoring to protect this city from the further introduction of these railroads, that would interfere with the streets, and especially with the Capitol grounds. With the amendment proposed by me, the bill will only permit a connection outside of the limits of the city of Washington.

The PRESIDENT *pro tempore*. The bill will be read as proposed to be amended.

The Chief Clerk read the bill as it would read if amended as proposed.

Mr. DAVIS. I am not familiar with the bill. I would inquire when the bill was reported, and from what committee?

Mr. MORRILL. From the Committee on the District of Columbia.

Mr. DAVIS. When?

The PRESIDENT *pro tempore*. It seems to have been reported on the 7th of June last.

Mr. DAVIS. Last session. It may be proper; I know not; but this is not, in my judgment, the time to take up a bill of so much importance, if it be of importance. As it has been here since June last, and there has been ample opportunity to take it up when there would have been full time for the Senate to have considered it, I ask the Senator from Vermont if he thinks in his judgment this is a proper time to take up a railroad bill and pass it. Would it not be better for all interested not at this time to press its consideration?

Mr. MORRILL. I have no interest in this bill. All I can say is, that it is not a very important railroad bill; it is a very little one; it merely allows this road to build a short branch to connect, so as to have some connection with the business of this District. I discharge my whole duty when I bring the bill forward, because I obstructed it three or four weeks ago on one or two occasions when the chairman of the Committee on the District of Columbia tried to bring it before the Senate. I objected to it that it was too comprehensive altogether, and I said if that was the sole purpose that they wanted they had obtained much too large grants. The amendment proposed by me and adopted this morning will limit the bill to the minimum amount. I cannot think there is much objection to it, but if there is, it is for the Senate to dispose of it.

Mr. WADLEIGH. Will my friend the Senator from Vermont yield to me a moment while I call up a pension bill?

Mr. MORRILL. Let this be disposed of.

Mr. WADLEIGH. It is for a Vermont volunteer.

Mr. MORRILL. Well, I will informally give way.

CHARLES H. BUGBEE.

Mr. WADLEIGH. I ask leave to call up the bill (H. R. No. 1995) granting a pension to Charles H. Bugbee, late private in Company A, Third Vermont Volunteers.

Mr. DAVIS. Is that bill recommended by the Pension Committee?

Mr. WADLEIGH. Yes, sir; and reported by the Senator from Indiana.

Mr. McDONALD. It is all right; the case has been examined.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ANSON K. YOUNG.

Mr. ALLISON. I ask the Senate to take up House bill No. 2237.

By unanimous consent, the bill (H. R. No. 2237) granting a pension to Anson K. Young was considered as in Committee of the Whole. It proposes to place upon the pension-roll the name of Anson K. Young, of Grant County, Wisconsin, late a private in Company I, Forty-third Regiment of Wisconsin Volunteers.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HENRY M. MEADE.

Mr. BURNSIDE. I ask for the consideration of the bill (H. R. No. 1082) for the relief of Henry M. Meade, late paymaster in the United States Navy. I move that the Committee on Naval Affairs be discharged from its consideration, and that the bill be put on its passage.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It provides for adjusting the accounts of Henry M. Meade, late a paymaster in the United States Navy, and crediting him with the sum of $2,545.22 for unavoidable losses sustained by him in the legitimate performance of his duties as paymaster in the United States Navy, from 1862 to 1872, which sum stands charged against him at the Treasury Department.

Mr. DAVIS. Of course the bill is subject to objection; but I do not wish to object unless after explanation I find that I ought to do so. I ask the Senator to explain what the reason for the bill is.

Mr. BURNSIDE. This man was a paymaster in the Navy and rendered ten years' continuous and excellent service. He was unfortunate in the latter portion of his service, ran behind in the settlement of his accounts. He became so beside himself that he had to be placed in an insane asylum, where he remained six months and died. He had more than vouchers enough to cover this loss, as is stated by Judge Tabor, the Fourth Auditor, but they were in an irregular shape, and could not be allowed by the accounting officers. There is a report from the House committee. The Fourth Auditor says:

> In view of the good record as paymaster of Mr. Meade prior, * * * and the fact that he has numerous vouchers showing expenditures and losses amounting to a little more than he is charged with as a deficit, and for which the accounting officers have no authority to credit him, I have to state that I see no impropriety in passing the bill in his favor.

That is the statement of the Fourth Auditor.

Mr. DAVIS. Does the bill come from a committee?

Mr. BURNSIDE. The Committee on Naval Affairs had it in charge, and I understand that the members of the committee have no objection to its passage, but for some reason or other it was not reported upon.

Mr. CRAGIN. This matter was before the Committee on Naval Affairs and attention was given to it; but the papers were somewhat voluminous, and the member of the committee to whom the subject was referred delayed making any report. This is a House bill. From the examination I have given the matter, I am satisfied there is much in the claim of Paymaster Meade that ought to be considered. The letter just read from the Fourth Auditor, who has examined it thoroughly and fully recommends the passage of this bill, satisfies me that it clearly ought to pass.

Mr. HEREFORD. I will say to my colleague with regard to this bill that a similar bill was introduced into the Senate and referred to the Committee on Claims, and by that committee referred to myself as a subcommittee. I examined the papers pretty carefully, read the report of the Naval Committee of the Senate and the report of the House committee. While all the testimony that is referred to in the report made by the House committee was not before our committee, for the reason that it had to be withdrawn to be taken before the United States court, in which the trial was pending, from the papers that were in my hands as a subcommittee I believe there is merit in the bill. I think that it ought to pass, and that Mr. Meade ought to be relieved; that the losses which may have occurred were through no negligence or culpability on his part whatever. An officer occupying his position through so many years and on different vessels, and performing his duty in the manner that he did, should not be held to a strict accountability for losses such as these.

The shortness of the time left before this measure will be brought to a close admonishes me that it will be improper for me to go into any lengthy explanation of the merits of the bill. I simply content myself with saying that from the examination I gave the Senate bill which was before me as a subcommittee of the committee to which it was referred, I think there is merit in the bill, and that the relief ought to be granted.

The bill was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House further insisted on its disagreement to the amendment of the Senate to the bill (H. R. No. 4691) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes, asked a further conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. D. C. ATKINS of Tennessee, Mr. WILLIAM R. MORRISON of Illinois, and Mr. CHARLES FOSTER of Ohio, managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (S. No. 35) equalizing pensions of certain officers in the Navy;

A bill (S. No. 210) granting a pension to Austin R. Mills;
A bill (S. No. 407) to authorize the restoration of George A. Armes to the rank of captain;
A bill (S. No. 535) granting a pension to Armstead Goodlow;
A bill (S. No. 539) to provide for an increase of pension in favor of Martin Kelly;
A bill (S. No. 599) granting a pension to Catharine A. Winslow, widow of late Rear-Admiral John A. Winslow;
A bill (S. No. 737) granting a pension to Harrison H. Dodds;
A bill (S. No. 750) granting a pension to T. B. Murdock;
A bill (S. No. 767) granting a pension to Theodore Gardner;
A bill (S. No. 792) granting a pension to Peter Harder:
A bill (S. No. 803) to repeal an act granting a pension to Mary H. Bartlett, approved January 28, 1873;
A bill (S. No. 813) granting an increase of pension to Laurence P. N. Landrum;
A bill (S. No. 816) granting a pension to Laura M. Knowlton.
A bill (S. No. 832) to increase the pension of Helen M. Stansbury;
A bill (S. No. 735) granting a pension to Martha Irwin, widow of John Irwin;
A bill (S. No. 882) granting a pension to Stillman E. Dix, of Hampton, Virginia;
A bill (S. No. 883) granting a pension to William H. Oliver, of Sweetwater, Tennessee.
A bill (S. No. 980) granting a pension to Irena Garrett;
A bill (S. No. 1118) granting a pension to Mrs. Amy King;
A bill (S. No. 1152) granting a pension to Amasa J. Finch;
A bill (S. No. 1123) granting a pension to Marsilvia F. Woodard, mother of George R. Woodard.
A bill (S. No. 667) for the relief of William Wheeler Hubbell, and to make just compensation for the past making or use, or vending of his patent explosive shell, fuses, and percussion-exploders by the United States;
A bill (S. No. 950) to authorize Louis Petoskey, of Michigan, to enter a certain tract of land which embraces his home and improvements.
A bill (S. No. 949) for the relief of A. M. Garoutte, late captain and assistant quartermaster, United States Army;
A bill (S. No. 1127) for the relief of J. B. McCullough;
A bill (S. No. 1293) to remove the political disabilities of Theophilus H. Holmes, of North Carolina;
A bill (S. No. 1292) to remove the political disabilities of John M. Haden, of Galveston, Texas;
A bill (S. No. 917) to enable Erastus T. Bussel, of Indianapolis, Indiana, to make application to the Commissioner of Patents for extension of letters-patent for a combined rubber and spiral steel spring;
A bill (S. No. 1010) for the relief of Julius S. Bohrer, master in the United States Navy;
A bill (S. No. 709) for the relief of Hans C. Peterson;
A bill (H. R. No. 545) for the relief of James A. Jackson and others, securities of G. R. Horton, late postmaster at Monticello, Arkansas;
A bill (H. R. No. 3628) establishing post-roads, and for other purposes;
A bill (H. R. No. 4433) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871; and
A bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1878, and for other purposes.

ARMY APPROPRIATION BILL.

The PRESIDENT *pro tempore* laid before the Senate the action of the House of Representatives further disagreeing to the amendment of the Senate insisted on by the Senate to the bill (H. R. No. 4691) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes, and asking a further conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BLAINE. I move that the Senate further insist on its amendments, and agree to the new conference asked by the House.

The motion was agreed to.

By unanimous consent, the President *pro tempore* was authorized to appoint the committee on the part of the Senate; and Mr. BLAINE, Mr. ALLISON, and Mr. WALLACE were appointed.

THE SIGNAL SERVICE.

Mr. SPENCER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. No. 731) to limit and fix the signal service, having met after full and free conference, have been unable so agree.

GEO. E. SPENCER,
POWELL CLAYTON,
Managers on the part of the Senate.
OTHO R. SINGLETON,
JAMES WILSON,
Managers on the part of the House.

MOSES F. CARLETON.

Mr. CHRISTIANCY. I move to take up for present consideration House bill No. 2386.

There being no objection, the bill (H. R. No. 2386) for the relief of Moses F. Carleton, late second lieutenant of Company I, Fourth Michigan Infantry Volunteers, was considered as in Committee of the Whole. It provides for the payment to Moses F. Carleton, late second lieutenant of Company I, Fourth Michigan Infantry Volunteers, the regular pay of second lieutenant of volunteers in the war of the rebellion, from the 20th of October, 1865, until June 12, 1866, after deducting therefrom the pay he received as sergeant of the company.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

PRACTICE OF PHARMACY IN THE DISTRICT OF COLUMBIA.

Mr. SPENCER. I move to proceed to the consideration of the bill (H. R. No. 1398) to regulate the practice of pharmacy in the District of Columbia.

Mr. DORSEY. I object to the consideration of that bill. It is a long bill, and cannot possibly pass.

The PRESIDENT *pro tempore*. The Senator from Arkansas objects.

Mr. SPENCER. I hope the Senator will withdraw the objection.

Mr. DORSEY. I cannot withdraw the objection to that bill. I think it is a very vicious measure, and ought not to be considered at all.

Mr. SPENCER. I am very sorry. I thought the Senator from Arkansas had consented to it in the Committee on the District of Columbia. I withdraw my motion.

The PRESIDENT *pro tempore*. The motion is withdrawn.

CITIZENS' RAILROAD.

Mr. SPENCER. I ask that the Senate proceed to the consideration of the bill (H. R. No. 1652) giving the approval and sanction of Congress to the route and termini of the Citizens' Railroad, and to regulate its construction and operation.

Mr. MORRILL. I most emphatically object to that bill. If the Senator desires me to use time in giving my reasons I will do so, but if he will not press it I will not do so at the present time.

Mr. SPENCER. If the Senator is going to insist on objecting I shall not press the bill at this late hour of the session.

Mr. MORRILL. Most assuredly I shall object. We have already more railroads in the city than are required if they were properly located, and now to have all the streets given up I for one shall object to.

Mr. SPENCER. I am very sorry that the Senator from Vermont objects.

The PRESIDENT *pro tempore*. The Senator from Alabama withdraws his motion.

JOHN GOWERS.

Mr. SPENCER. I ask consent to proceed to the consideration of the bill (H. R. 1581) for the relief of John Gowers, late of Company C, One hundred and eleventh Regiment New York Volunteers.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. COCKRELL. Has that been acted upon by the Committee?

Mr. SPENCER. The bill was acted upon by the Committee, and passed both Houses at the last session of Congress. It is now passed again, because it passed too late then to receive the President's signature. I will send up the RECORD to be read, that the fact may appear.

Mr. COCKRELL. Unless it has come from the committee, I move that it be postponed.

Mr. SPENCER. This bill has come from the Committee on Military Affairs and been favorably acted upon by the committee. I ask that the extract from the RECORD of August 16, 1876, which I send to the desk, be read.

The Chief Clerk read as follows:

Mr. SPENCER. I move that the Senate proceed to the consideration of the bill (H. R. No. 1581) for the relief of John Gowers, late of Company C, One hundred and eleventh Regiment New York Volunteers.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of War to so correct the record of John Gowers, late of Company C, One hundred and eleventh Regiment of New York Volunteer Infantry, as to remove the charge of desertion now standing against his name.

Mr. SPENCER. There is a printed report upon which the bill passed the House. There can be no objection to it.

Mr. DAVIS. I should like to hear the report read.

The Chief Clerk read the following report, submitted by Mr. BANNING, from the Committee on Military Affairs of the House of Representatives, March 17:

"The Committee on Military Affairs, having had under consideration House bill No. 1581, submit the following report:

"John Gowers, late of Company C, One hundred and eleventh Regiment New York Volunteers, enlisted at Auburn, New York, and served faithfully until he was captured, with his regiment, at Harper's Ferry, Virginia, September 14, 1862. He, with others, seems to have held the idea that, being paroled, they had a right to go to their homes and remain until exchanged. Gowers went to his home, at Montezuma, New York, and remained there until he was arrested. It appears from the evidence that his wife was very ill, being near her confinement; that he did not attempt to go beyond his home, and returned willingly to his regiment; was there tried by an illegal court, and sentenced to pay expense of arrest, to wear what was called by the sentence of the court the wooden overcoat, and to be confined in the guard-house. He served out his sentence, and afterward did good service until he was captured, in 1864, and died at Andersonville prison. The evidence also shows that his wife was confined, and gave birth to a child, two days after his arrest. The committee think the case one of peculiar hardship, and one in which great injustice has been done to the heirs of the soldier, who did good

service, and had no intention of deserting, and would, therefore, recommend that the bill be passed."

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. COCKRELL. I understand this bill passed this Congress and not last Congress.

Mr. SPENCER. This Congress.

Mr. COCKRELL. The first session of the Forty-fourth Congress, after having been considered by the Committee on Military Affairs.

Mr. SPENCER. Yes, sir.

Mr. COCKRELL. I misunderstood the Senator. I thought he said the last Congress instead of the present Congress.

Mr. SPENCER. There is no objection to the bill.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MARBLE BLOCKS IN BOND.

Mr. BOUTWELL. I move that the Senate take up House bill No. 2867.

There being no objection, the bill (H. R. No. 2867) to amend section 2958 of the Revised Statutes was considered as in Committee of the Whole. It proposes to amend section 2958 of the Revised Statutes by adding in the sixth line, after the words "other merchandise," the words "and marble in blocks may, in the discretion of the Secretary of the Treasury, be bonded in open yards, under the care of an officer of customs, at the expense of the owner or importer."

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

SOUTHERN MARYLAND RAILROAD.

Mr. SPENCER. I move that the Senate adopt the amendment of the Senator from Vermont to House bill No. 3012, that was up for discussion a few moments ago.

The PRESIDENT *pro tempore*. The bill (H. R. No. 3012) to authorize the Southern Maryland Railroad Company to extend a railroad into and within the District of Columbia is before the Senate as in Committee of the Whole, having been laid aside temporarily. The question is on the amendment of the Senator from Vermont, [Mr. MORRILL.]

The amendment was agreed to.

Mr. DAVIS. I have a very decided objection, unless I know more about the bill, to its passage, and I say to the Senator from Alabama and the Senator from Vermont that it cannot pass unless it is properly explained.

Mr. SPENCER. There is no explanation needed in this case. The bill is [illegible] allow the Southern Maryland Railroad to form a connection with the Baltimore and Potomac Railroad outside of the city limits. I cannot see any objection to it. It is a road that is in process of completion.

Mr. DAVIS. I ask that the latter part of the bill be read as it stands amended. It is a very short bill.

The PRESIDENT *pro tempore*. The bill as amended will be read.

The Chief Clerk read the bill as amended.

Mr. SPENCER. It should include connections with the Baltimore and Ohio as well as the Baltimore and Potomac road.

Mr. DAVIS. The Baltimore and Ohio was in the bill, but for some cause has been stricken out.

Mr. MORRILL. I have objection to saying "Baltimore and Ohio," because it cannot make the connection with the Baltimore and Ohio without coming right through the city, in front of the Capitol.

Mr. DAVIS. Then I would say to my friend with all due respect that the bill cannot pass.

Mr. DAWES. I should like to inquire of the chairman of the committee how near the Government buildings at the Insane Asylum this road goes.

Mr. SPENCER. This will not go within half a mile of the Government Insane Asylum.

Mr. DAWES. On which side of it?

Mr. SPENCER. North of it.

Mr. DAWES. That is, the Government property will be between the Potomac and this railroad?

Mr. SPENCER. Between the Potomac and this railroad.

Mr. DAWES. And not within half a mile of it?

Mr. SPENCER. Not within half a mile of it.

Mr. COCKRELL. I do not think the Senate ought to consider this bill at this time in view of the facts stated by the Senator from Vermont and the Senator from West Virginia. We are now in the last hour of the session. To take up and undertake to consider measures of the importance of this, and which may affect the rights and involve the interests that this bill may touch, is not proper. I therefore move that this bill be postponed until the first Wednesday in December, in the year of our Lord 1877.

Mr. SPENCER. I hope that will not be done.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Missouri.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. N. S. BROWN, one of its clerks, announced that the House had passed the bill (S. No. 1111) for the relief of Thomas E. Maley.

The message also announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1878, and for other purposes.

JOSEPH SEGAR.

Mr. WADLEIGH. I am authorized by the Committee on Privileges and Elections to report the following resolution, upon which I ask the action of the Senate:

Resolved, That the Secretary of the Senate be, and is hereby, authorized and directed to pay to Joseph Segar compensation and mileage as a Senator of the United States from the date of the death of Hon. Lemuel J. Bowden to the end of the term for which said Segar was elected.

Mr. SARGENT. I object.

The PRESIDENT *pro tempore*. The resolution cannot be considered, objection being made.

ARMY APPROPRIATION BILL.

Mr. BLAINE. I desire to make a statement to the Senate in regard to the Army appropriation bill, on which there has been a third conference without an agreement, and I want the Senate to correctly understand the points of difference, so that if there be any instructions the Senate may desire to give to the conference committee they may take action now. We reduced to writing the statement made by the House conferees, in order that the Senate might exactly apprehend it. It is this:

The conferees on the part of the House, while not insisting on the very letter of the fifth section of the Army bill, finally maintained that they would consent to the passage of no appropriation bill for the Army that shall not contain such restriction upon the President in regard to the use of United States troops in Louisiana as will prevent him from installing and maintaining the Packard government.

The Senate conferees have simply asked that the Army bill may pass as it was last year, or that there may be a modified form of that, merely giving enough money to carry on the Army on the basis of last year's appropriation, until Congress shall meet again in December; but the Senate conferees felt compelled, from a sense of their duty to the Constitution and the laws of the country, to risk the failure of the bill rather than consent to insert that provision in it. If they have misrepresented the Senate in taking that position it is for the Senate to say so.

There has been no ground whatever taken on the part of the Senate conferees—and I say that lest there should be some misunderstanding—that troops were expected to be used or desired to be used in Louisiana or elsewhere, but here is an invasion of the constitutional rights of the Executive which we were not ready to concede. There are not to-day between the Potomac and the borders of Texas a thousand Federal troops, and I make this statement on the authority of General Sherman. The whole idea of any liberty being endangered by them is a nightmare, a mere dream. But if there was not one soldier there, if there was a corporal there without his guard, and only that one there, I would not consent to this amendment for myself on behalf of the Senate. If I and the conferees with whom I have had the honor to be associated, have misrepresented the Senate on that point, we ask your instructions. If we receive no instruction, we may meet again with the conferees of the House, but we will not consent to pass the Army bill with that provision in it.

Several SENATORS. That is right. [Applause in the galleries.]

The PRESIDENT *pro tempore*. The Chair will remind the occupants of the galleries that if any demonstration is made again, he will order the galleries cleared.

Mr. DAWES. Does the Senator from Maine understand that it is competent for the Senate to instruct its conferees?

Mr. BLAINE. Competent for the Senate to instruct by receding only; not to instruct directly of course. You cannot properly instruct conferees; but I used the language simply to convey the idea that the Senate could if it chose reverse the position of its conferees.

Mr. DAWES. I have confidence in the conferees themselves without any instructions whatever.

Mr. BLAINE. We felt it our duty of course at so critical a time in the session as this not to keep the whole subject within the narrow limits of the conference room; and if the Senate desires to make expression in the shape of receding or modifying in any way we felt that the subject should be before them. If there is nothing done the Senate conferees propose to stand upon that as the point of honor, of constitutional right, and resist a most dangerous innovation on the part of Congress on the rights of the Executive.

Mr. DAWES. Mr. President, the Senator from Maine has exactly expressed my own views. I did not make the inquiry with any idea of weakening the force of the Senator's remarks, but I have often read of conferees coming into one House and the other and asking instructions. I understand, according to the parliamentary rule, that the fundamental rule at the bottom of a conference is that the conferees shall be free from all instructions. So long as our conferees, as in this instance, have so exactly carried out the views of the majority of the Senate, it does seem to me not quite worth our while to trench upon established parliamentary law.

Mr. MORRILL. I hope that no further time will be consumed. If these conferees are to meet again, it is obviously proper that they should have every moment that is left. Therefore I hope no time will be consumed on this matter.

Mr. WALLACE. As one of the conferees on the part of the Senate on the Army bill I have to state that I was ready to agree in the bill under the instructions of the Senate as it passed this body, but we met difficulty from the conferees of the House, as is usual in these conferences. I thought it was our duty to concede on the one side and on the other.

With this view I submitted a proposition to my colleagues from the Senate, to which they did not agree, but which I thought would cover the ground, and to which I believed the House would agree. It is in these words:

That if armed collision, or such imminent danger of armed collision as shall require the President to change the present attitude of the troops of the United States now in the States of Louisiana and South Carolina shall occur during one year hereafter, that then, in the opinion of Congress, an extraordinary occasion has arisen, as provided for in the Constitution, under which the President is authorized to convene both Houses of Congress.

I submitted this and urged it, but it seemed as though it was impossible to get the two committees of conference together, but the special objection came from my colleagues. The statement of the Senator from Maine is what the committee separated upon.

Mr. BLAINE. The Senator from Pennsylvania undoubtedly made that proposition; and as long as that is spoken of, I may say that the Senate conferees on the republican side made the proposition in order to bring the two branches together upon the question of the reduction of the Army, that the President of the United States should be empowered, if in his discretion the public safety would permit it, to reduce the Army to 20,000 men within the next fiscal year, and if his discretion was against it, that he should report his reasons therefor at the ensuing session of Congress.

I state that because the honorable Senator from Pennsylvania has stated his position, and to show also that the other is the vital point on which we disagree.

Mr. ALLISON. I will state also that the Senate conferees proposed, as a settlement of this question, that an appropriation should be made upon the basis of last year's bill for one-half the ensuing year, without reference to any other question, so as to avoid the necessity for an extra session, which was not acceded to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 4076) granting a pension to Apolime A. Blair; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 1111) for the relief of Thomas E. Maley; and

A bill (H. R. No. 1200) for the relief of Almont Barnes.

PAPERS WITHDRAWN.

On motion of Mr. SPENCER, it was

Ordered, That James Atkins have leave to withdraw his papers from the files of the Senate.

On motion of Mr. KERNAN, it was

Ordered, That Mrs. A. P. Miles have leave to withdraw her papers from the files of the Senate.

APOLIME A. BLAIR.

Mr. SPENCER. I move that the Senate proceed to the consideration of the bill granting a pension to the widow of the late General Francis P. Blair, just received from the House of Representatives.

By unanimous consent, the bill (H. R. No. 4076) granting a pension to Apolime A. Blair was read three times, and passed. It proposes to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Apolime A. Blair, widow of Frank P. Blair, jr., a major-general during the war of the rebellion, who died July 9, 1875, of paralysis, superinduced by exposure and mental unrest during such service, and to pay her a pension at the rate of $50 per month.

THANKS TO THE PRESIDENT PRO TEMPORE.

Mr. McCREERY. Mr. President, it affords me pleasure to present the following brief testimonial to the distinguished merits of our presiding officer, who is about to retire from his high position, but he bears with him the respect and the personal esteem of each and every member of the Senate.

The PRESIDING OFFICER, (Mr. WRIGHT in the chair.)

The Senator from Kentucky offers a resolution, which will be read.

The Chief Clerk read the resolution, as follows:

Resolved, That the thanks of the Senate are due to Hon. THOMAS W. FERRY for the dignity, ability, and impartiality with which he has presided over its deliberations.

The resolution was adopted unanimously.

AWARDS OF MEXICAN CLAIMS COMMISSION.

Mr. CAMERON, of Pennsylvania. There is on our table a bill which has passed the House of Representatives unanimously, and passed the Judiciary Committee of this House, for the purpose of disposing of the funds under the commission with Mexico. It is very important to the interests of the country and these claimants especially that that bill should pass before Congress adjourns.

Mr. GORDON. I agree with the Senator from Pennsylvania. This matter ought to be called up at once. It has been acted on by the committee and is ready for action by the Senate.

Mr. CAMERON, of Pennsylvania. To fail to pass it would be doing great injustice to many individuals. I move to take up the bill (H. R. No. 4629) to provide for the distribution of the awards made under the convention between the United States of America and the Republic of Mexico, concluded on the 4th day of July, 1868.

Mr. COOPER. Is not that the bill that the Senator from Kentucky [Mr. STEVENSON] called the attention of the Senate to frauds in connection with? I see that the Senator is absent. I know nothing about it; but in view of the statement that he made before the Senate the other day, I should rather not have the bill passed.

Mr. CAMERON, of Pennsylvania. The Senator from Georgia [Mr. GORDON] understands the bill.

Mr. WALLACE. This bill has been called up once or twice in the Senate and it has been objected to on each occasion, because it was alleged that there was one claim included in and to be paid under the bill that was an improper, unjust, and fraudulent claim. With the facts in regard to that claim, I believe the Judiciary Committee of this body have been made acquainted. The bill as a whole, with an amendment excepting that claim from present payment, it seems to me ought to pass the Senate; and surely when it has come to the notice of Senators that such a charge is made, we ought not to pass the bill until we examine into the truth of the facts alleged. I believe the Senator from Iowa knows something of the facts in his capacity as a member of the Judiciary Committee.

Mr. CAMERON, of Pennsylvania. In regard to the alleged fraud I think it is only an assertion made by a claim agent here, in the hope that he may get some legislation on the subject. The truth is that the claim to which reference is made is a claim which the party has been notified will not be acted upon by the State Department, and no other will be acted upon by that Department to which objection is made. But the money has been paid under the treaty by the Mexican government, and we should treat them as a creditor which has long been looking for his reluctant debtor to be just. Let us take this money and hold it in the State Department until the proper claimants come there for it.

Mr. GORDON. The Senator from Pennsylvania is mistaken in reference to my having knowledge of the facts. I had a brief conversation with him in reference to this matter; and I requested him to call up the bill, thinking that it was the award, as I believed it was, of a proper court; but as to these charges I never heard of them before. I do not know anything about them. I had supposed this was a final award of the court, and that Congress ought to take action on the matter. I know nothing, however, with reference to the charges.

Mr. WRIGHT. I ask the attention of the Senate for a moment to this case. This bill was reported from the Committee on the Judiciary by the Senator from New York, [Mr. CONKLING.] At the time it was reported there was no suggestion to the committee that there was anything wrong in any matter connected with this award. Subsequent to that time information was brought to us making it reasonably clear that with reference to one claim of some $500,000 there was an unquestioned fraud. It will be remembered that the Senator from New York called up the bill at one time, and this fact being made known and objection made to the consideration of the bill, it was passed over. It was called up again, and again objection was made and this matter was made still, if possible, more apparent. It was passed over again. Subsequent to that time the chairman of the Committee on the Judiciary, who is detained at home by sickness now, called my attention to the bill and said that he was satisfied that we could not at this time afford to press the consideration of the bill, and that if its consideration was pressed it should be recommitted to the committee. I had a conference also with the Senator from New York who reported the bill, and he agrees that under all the circumstances there ought to be a recommittal. I think then that at this time in the session it would hardly be just or fair to press the consideration of the bill, and I therefore move that the bill be recommitted to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. The Senator from Iowa moves that the bill be recommitted to the Committee on the Judiciary.

The motion was agreed to.

HENRY S. FRENCH.

Mr. BAILEY. I ask the Senate to take up House bill No. 473, authorizing Henry S. French to bring an action in the Court of Claims.

There being no objection, the bill (H. R. No. 473) for the relief of Henry S. French, of Nashville, Tennessee, was read three times and passed. It refers to the Court of Claims the claim of Henry S. French, of Nashville, Tennessee, against the United States, for re-imbursement for certain cotton alleged by him to have been taken by agents of the United States in the year 1864 at or near Jonesborough.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a resolution to print ten thousand copies of the proceedings of the Electoral Commission.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 4076) granting a pension to Apolime E. Blair;

A bill (H. R. No. 186) to provide for compensation to the owners of certain lands ceded by the United States to Great Britain in and by the treaty of Washington of July 9, 1842; and

A bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. U. S. GRANT, jr., his Secretary, announced that the President had this day approved and signed the following acts:

An act (S. No. 1010) for the relief of Julius S. Bohrer, master in the United States Navy;

An act (S. No. 539) to provide for an increase of pension in favor of Martin Kelly;

An act (S. No. 735) granting a pension to Martha Irwin, widow of John Irwin;

An act (S. No. 920) to authorize Louis Petoskey, of Michigan, to enter a certain tract of land which embraces his home and improvements;

An act (S. No. 949) for the relief of A. M. Garoutte, late captain and assistant quartermaster United States Army;

An act (S. No. 750) granting a pension to T. B. Murdock;

An act (S. No. 35) equalizing pensions of certain officers in the Navy;

An act (S. No. 599) granting a pension to Catharine A. Winslow, widow of the late Rear-Admiral John A. Winslow;

An act (S. No. 709) for the relief of Hans C. Peterson;

An act (S. No. 210) granting a pension to Austin R. Mills;

An act (S. No. 535) granting a pension to Arms'ead Goodlow;

An act (S. No. 1152) granting a pension to Amasa J. Finch;

An act (S. No. 816) granting a pension to Laura M. Knowlton;

An act (S. No. 767) granting a pension to Theodore Gardner;

An act (S. No. 833) granting a pension to William H. Oliver, of Sweetwater, Tennessee;

An act (S. No. 792) granting a pension to Peter Harder;

An act (S. No. 813) granting an increase of pension to Laurence P. N. Landram;

An act (S. No. 1292) to remove the political disabilities of John M. Haden, of Galveston, Texas;

An act (S. No. 882) granting a pension to Stillman E. Dix, of Hampton, Virginia;

An act (S. No. 832) to increase the pension of Helen M. Stansbury;

An act (S. No. 737) granting a pension to Harrison H. Dodds;

An act (S. No. 980) granting a pension to Irena Garrett;

An act (S. No. 803) to repeal an act granting a pension to Mary H. Bartlett, approved January 28, 1873;

An act (S. No. 1123) granting a pension to Marsilvia F. Woodard, mother of George R. Woodard;

An act (S. No. 628) for the relief of John J. Anderson, surviving copartner of the firm of Anderson & White;

An act (S. No. 931) for the relief of H. H. Mathis, of Arkansas;

An act (S. No. 1111) for the relief of Thomas E. Maley;

An act (S. No. 917) to enable Erastus T. Bussell, of Indianapolis, Indiana, to make application to the Commissioner of Patents for extension of letters-patent for a combined rubber and spiral steel spring;

An act (S. No. 189) placing the name of C. G. Freudenberg upon the retired list of the United States Army;

An act (S. No. 1118) granting a pension to Mrs. Amy King;

An act (S. No. 667) for the relief of William Wheeler Hubbell, and to make just compensation for the past making, or use, or vending of his patent explosive shell, fuses, and percussion exploders by the United States;

A bill (S. No. 1293) to remove the political disabilities of Theophilus H. Holmes, of North Carolina;

A bill (S. No. 1127) for the relief of J. B. McCullough; and

A bill (S. No. 875) for the relief of W. H. Woodward, of Indianola, Texas.

CLOSE OF THE SESSION.

Mr. SARGENT submitted the following resolution; which was considered by unanimous consent, and agreed to;

Resolved, That a committee of two members be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States, and inform him that, unless he may have some further communication to make, the two Houses of Congress having finished the business before them are ready to adjourn.

The PRESIDENT *pro tempore* was authorized to appoint the committee, and Mr. SARGENT and Mr. KERNAN were appointed.

ELECTORAL COMMISSION PROCEEDINGS.

The PRESIDENT *pro tempore* laid before the Senate the following concurrent resolution from the House of Representatives:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed 10,000 copies of the proceedings of the electoral commission, embracing all of the said proceedings and arguments and briefs of counsel, together with the proceedings of the joint convention regarding all States the returns from which were submitted to said commission, 7,500 copies for the use of the House of Representatives and 2,500 copies for the use of the Senate.

The resolution was concurred in.

THE PACIFIC RAILROAD ACTS.

Mr. STEVENSON. I am directed by the Committee on the Judiciary, to whom was referred the bill (S. No. 1192) to construe section 12 of an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and the several amendments of said section, and to determine the relation of the main line and branches, to make a report thereon, and move that the report be printed.

The motion was agreed to.

Mr. WRIGHT. That report having been made, and the order made for its printing, I now move that the bill be recommitted to the Committee on the Judiciary.

The motion was agreed to.

FINAL ADJOURNMENT.

The hour of twelve o'clock, noon, now having arrived,

The PRESIDENT *pro tempore*. Before declaring the order of adjournment, I cannot forego the privilege of expressing my deep sense of obligation to this body for its formal and expressive terms just submitted of unimpaired confidence and support during a short but most trying session, now about to close. For the many individual expressions of trust tendered, I can only say my heart is full of appreciation.

The responsibilities which have rested, and perplexities attended, upon the Senate during this ending session have been unexampled in its annals. A presidential election relying for its ascertainment and declaration upon a single electoral vote has been the great solution taxing the wisdom, patience, and patriotism of Congress. Party spirit has been by doubt and hope intensified to such a degree that the whole country has been for three months in such a state of excitement that the life of the Republic has been despaired of. Every industrial interest was paralyzed by the painful pressure of uncertainty. Anarchy menaced the nation. To that dire peril and necessity you, Senators, with your coadjutors, addressed yourselves, and rising to the altitude of the occasion mastered the situation. The nation still lives, and upon this perilous divide, which will ever mark the centennial, you have held and saved the Republic with all its fortunes. The source of power is again proven, not by simple recognition, but by signal demonstration, illustrating the fact that the people do not exist for the state, but the state is framed for the people. It was a sublime spectacle of delegated will determining a perilous incident in national progress.

The crisis has not come without its great service. It has at least broadened the ideas of the country and exemplified the truth that in great crises American representatives are less subjects of party than citizens of the Republic. The nation has likewise undergone a new baptism of patriotism, and its representatives have illustrated the highest honor to be that of usefulness to country. The occasion not only assured the existence of the Government, but revealed the unpurchasable independence of the American citizen. The method of this solution of a threatening presidential event was the suggestion of no individual opinion, but the resultant concessions of many. In the storm of adjustment doubts and reflections were rife, but these have disappeared in the calm of declaration. Variant convictions of duty may have questioned the wisdom of respective opponents, but upon the integrity of all the tranquil result invokes national praise. That party ardor, intensified by the closeness of the election, and the doubt as to which presidential candidate was to be declared chosen, and this uncertainty alternating between candidates daily for months, should move individuals to partisan words, is less strange than wonderful that freedom from acrimony and renewal of cordiality should follow so soon such an exciting contest. Verily, the statesman in this Chamber rises above the politician. The country will gratefully note this illustrious example of patriotic devotion to its life and institutions.

During the exciting session it would be vain to hope that in the administration of this Chair some of you Senators have not had occasion to criticise and, it may be, to except to rulings. Your generosity, however, has only been equal to your cordiality of support. Of one thing be assured, that howsoever the Chair may have swerved, it has been solely the error of unripened judgment, upheld by a purity of motive and impartiality of purpose which it is hoped are not questioned. Senators, the closing moment brings me to the painful reflection of our separation.

The changes incident to political strife will make inroads upon our number. Though we gain new as we lose old associates, the breach comes not without a pang. Responsible, laborious, exciting, and conflicting as are the duties of this august body, cordiality, friendship, and attachment are the cords wound around our senatorial bond. With those who leave the Senate, our highest hopes and best wishes follow. To those who are here to join us, our salutations of welcome are tendered. Thus parting and thus bidding, while not omitting the officers of the Senate, whose fidelity words cannot adequately acknowledge, and commending all to the care of that Providence which has kindly kept our number unbroken during the session, I now pronounce the closing session of the Forty-fourth Congress adjourned without day.

HOUSE OF REPRESENTATIVES.

SATURDAY, *March* 3, 1877.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. I. L. TOWNSEND.

READING OF JOURNAL DISPENSED WITH.

The SPEAKER. If there be no objection, the reading of the Journal will be dispensed with.

There was no objection; and the reading was dispensed with.

Mr. DURHAM. I desire to make a statement to the House. I desire to have it go on the record that I was detained last night from the House by indisposition.

Mr. SAVAGE. I rise to correct the RECORD and the Journal. I am recorded as having voted "nay" on the motion of Mr. WADDELL to discharge the Louisiana returning board, whereas I was unavoidably absent, and should be recorded as not voting.

The SPEAKER. The correction will be made.

CHOCTAW CLAIMS.

Mr. HOOKER. I move the adoption of the resolution which I send to the desk. I desire to say that I make this motion simply to carry out the wish of the Committee on Indian Affairs, to whom was referred the subject-matter of the bill to which the resolution relates. It is the wish of that committee that the bill shall now be considered by the House.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Resolved, That the rules be suspended so as to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill (H. R. No. 3798) for the relief of the Choctaw Nation of Indians and bring the same before the House for consideration at this time.

Mr. HOLMAN. I think, in justice to the House, on account of the great importance of this measure, it should be read at length.

The SPEAKER. The bill will be read.

The bill was read as follows:

Be it enacted, &c., That the Choctaw Nation of Indians be, and hereby is, authorized to commence an action in the United States Court of Claims to recover whatever is due, if anything, to said nation from the United States under the eleventh and twelfth articles of the treaty between the United States and the Choctaw and Chickasaw Indians, of the 22d day of June, A. D. 1855; and said court is hereby clothed with jurisdiction to hear and determine said action, and shall render judgment for the amount which may be found due, if anything, with interest thereon at the rate of five per centum per annum from the 9th day of March, 1859; and said court shall be authorized, in the determination of such action, to go behind the treaty of 1855, and inquire into the merits of the Choctaw claim, so far as the same may be affected by fraud or mistake in the making of any treaty with said tribe or ratifying the same, or in any negotiation or official correspondence relating to the same, or by any act of Congress or reports of Departments touching Indian affairs, or any previous settlements with or receipts executed by the duly constituted authorities of said tribe; and either party may prosecute an appeal to the Supreme Court of the United States from such judgment, if such appeal be prayed within thirty days from the rendition thereof; and in the hearing and determination of said suit the said courts, or either of them, shall give said action precedence over other cases.

SEC. 2. That said action shall be commenced by a petition stating the facts on which said nation claims to recover, and the amount of its claim; and said petition may be verified by either of the authorized delegates of said nation as to the existence of such facts; and no other statements need be contained in said petition or verification.

SEC. 3. That if final judgment be rendered in favor of said nation the Secretary of the Treasury, upon the same being certified to him under the seal of the court rendering the same, shall pay out of any money in the Treasury not otherwise appropriated to the proper authorities of said nation, upon their requisition, so much of said judgment as they shall ascertain and determine to be necessary for the payment of the just liabilities of the tribe to its individual members referred to in said treaty, such costs of suit and attorneys' fees as may be allowed by the court, and shall retain the balance, if any, in trust for said nation, as provided in the thirteenth article of said treaty; or said Secretary of the Treasury may, in his discretion, make such payment aforesaid to the proper authorities aforesaid, by delivering to them any bonds of the United States which have been or may be authorized by law, sufficient in amount at their market value to satisfy said judgment. And the payment of the judgment recovered under this act shall be held to be a full satisfaction of all claims arising under said eleventh and twelfth articles of said treaty; and in the event of a final decision in said courts against the Choctaws, such decision shall be a bar to the further prosecution of said claims.

Mr. HOLMAN. I rise to a question of order. Is there any rule of the House that prevents a second motion to suspend the rules and pass the bill where a motion for that purpose has already been defeated? The House declined some time since to pass this bill under a suspension of the rules.

Mr. HOOKER. I am not aware of that.

Mr. HOLMAN. The former proposition was to suspend the rules and pass the bill; the same bill.

Mr. FORT. It is exactly the same bill. This bill has been beaten here many times, and if it is proposed to pass it there ought to be at least an hour's debate on each side.

Mr. HOOKER. It will be time enough to arrange about the debate when the rules are suspended.

Mr. FORT. I want debate, in order to show what is the character of this bill. I hold in my hand a letter from the chief of the Choctaw Nation, which I desire to submit to the House, and I insist on debate if this thing is to be brought here again. It has been before Congress ever since I have been a member of this House, and has been defeated many times.

Mr. HOOKER. I object to debate at this point. If my resolution be adopted there will be an opportunity for debate. The proposition is to suspend the rules and bring the bill before the House for consideration.

The SPEAKER. The Chair will suggest that he listened to the gentleman from Mississippi [Mr. HOOKER] himself for a moment.

Mr. HOOKER. Yes, sir; but I simply stated in one word what was the object of the resolution.

Mr. FORT. I insist that it is out of order to consider this bill a second time.

The SPEAKER. This bill has been before the House on a motion to suspend the rules once before during this session and the motion to suspend the rules was lost. But the Chair does not know of any rule which would prevent the repetition of the motion at this time.

Mr. WILSON, of Iowa. There is none.

The SPEAKER. If the resolution is not a proper one the remedy is in the House, not in the Chair.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate insisted upon its amendment to the bill (H. R. No. 4680) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1878, &c., disagreed to by the House of Representatives, agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and that Mr. WINDOM, Mr. DORSEY, and Mr. WALLACE had been appointed as conferees on the part of the Senate.

ORDER OF BUSINESS.

Mr. HOLMAN. I ask for the yeas and nays on this vote.

Mr. FORT. I suggest that by unanimous consent we have an hour's debate on this question prior to the submission of the motion to suspend the rules.

Mr. HOOKER. If the rules are suspended the bill will be before the House for consideration.

Mr. SPARKS. I ask that the letter which I hold in my hand may be read.

Mr. HOLMAN. I will, for the present, withdraw the call for the yeas and nays.

Mr. HOOKER. I renew the call for the yeas and nays.

REGULAR ORDER.

Mr. KNOTT. I rise to a parliamentary inquiry. I desire to know what would be the effect of the adoption of this resolution.

The SPEAKER. The effect of the adoption of this resolution would be to bring the bill before the House for consideration, so that a majority vote could pass it.

Mr. WALLING. But it does not cut off debate.

Mr. KNOTT. But leaves the bill open to unlimited debate until the previous question is called for.

Mr. FORT. There are millions in this bill.

Mr. HOLMAN. The gentleman from Mississippi can call the previous question on it whenever he pleases.

The SPEAKER. The yeas and nays are called for, and the House can take the responsibility of bringing up the bill if they desire to do so; but they cannot put that responsibility upon the Chair.

The yeas and nays were ordered.

The question was taken; and there were—yeas 92, nays 107, not voting 95; as follows:

YEAS—Messrs. Abbott, Adams, Ainsworth, Ashe, Bagby, George A. Bagley, John H. Bagley, jr., Ballou, Banks, Banning, Blackburn, Boone, William R. Brown, Buckner, Burleigh, Buttz, Carr, Darrall, Dibrell, Dobbins, Douglas, Dunnell, Ellis, Evans, Field, Flye, Franklin, Garfield, Gause, Goodin, Gunter, Benjamin W. Harris, John T. Harris, Hartzell, Hatcher, Hendee, Henkle, Hoar, Hoge, Hooker, Hurd, Hyman, Thomas L. Jones, Joyce, Kasson, Kelley, Knott, Lamar, George M. Landers, Lane, Levy, Luttrell, MacDougall, Meade, Morgan, Odell, William A. Phillips, Platt, Poppleton, Powell, Pratt, Rainey, Reagan, Robinson, Rusk, Sayler, Seelye, Sheakley, Singleton, Smalls, Stone, Stowell, Strait, Swann, Throckmorton, Robert B. Vance, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Walling, Ward, G. Wiley Wells, Whitehouse, Whitthorne, Wike, Andrew Williams, Alpheus S. Williams, James Williams, Wilshire, Alan Wood, jr., Fernando Wood, and Young—92.

NAYS—Messrs. Atkins, John H. Baker, Bell, Blount, Bradford, Bradley, Bright, John Young Brown, Horatio C. Burchard, John H. Caldwell, William P. Caldwell, Campbell, Candler, Cannon, Caulfield, Chittenden, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Conger, Cook, Cowan, Cox, Crapo, Culberson, Cutler, Danford, Davis, Denison, Durham, Eames, Faulkner, Finley, Forney, Fort, Foster, Frye, Fuller, Goode, Andrew H. Hamilton, Robert Hamilton, Haralson, Hardenbergh, Henry R. Harris, Hartridge, Holman, Hopkins, Hoskins, Jenks, Kehr, Kimball, Lapham, Lawrence, Mackey, Magoon, McDill, McFarland, McMahon, Miller, Monroe, Nash, Neal, New, Norton, Oliver, Packer, Payne, Phelps, John F. Philips, Pierce, Plaisted, Potter, Rea, James B. Reilly, Riddle, William M. Robbins, Sampson, Savage, Schleicher, A. Herr Smith, William E. Smith, Southard, Sparks, Stanton, Stenger, Stevenson, Teese, Terry, Thompson, Thornburgh, Martin I. Townsend, Turney, John L. Vance, Walsh, Erastus Wells, White, Whiting, Willard, Jere N. Williams, William B. Williams, Benjamin Wilson, James Wilson, Woodburn, Woodworth, and Yeates—107.

NOT VOTING—Messrs. Anderson, William H. Baker, Bass, Beebe, Belford, Blair, Bland, Bliss, Samuel D. Burchard, Cabell, Cason, Caswell, Cate, Chapin, Crounse, Davy, De Bolt, Durand, Eden, Egbert, Felton, Freeman, Gibson, Glover, Hale, Hancock, Harrison, Hathorn, Haymond, Hays, Henderson, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, House, Hubbell, Humphreys, Hunter, Hunton, Hurlbut, Frank Jones, King, Franklin Landers, Leavenworth, Le Moyne, Lewis, Lord, Lynch, Lynde, Maish, McCrary, Metcalfe, Milliken, Mills, Money, Morrison, Mutchler, O'Brien, O'Neill, Page, Piper, Purman, John Reilly, Rice, John Robbins, Roberts, Miles Ross, Sobieski Ross, Scales, Schumaker, Sinnickson, Slemons, Springer, Stephens, Tarbox, Thomas, Washington Townsend, Tucker, Tufts, Van Vorhes, Waddell, Wait, Waldron, Gilbert C. Walker, Warner, Warren, Watterson, Wheeler, Wigginton, Charles G. Williams, and Willis—91.

So (two-thirds not voting in favor thereof) the rules were not suspended.

During the roll-call the following announcements were made:

Mr. TUFTS. Upon this question I am paired with Mr. KING; if he were here he would vote "yea" and I should vote "nay."

Mr. COCHRANE. I desire to state that my colleague, Mr. MAISH, is detained from the House on account of sickness.

The result of the vote was then announced as above recorded.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed a bill and joint resolution of the House of the following titles:

A bill (H. R. No. 620) for the relief of Redick McKee; and

A joint resolution (H. R. No. 194) to appoint a commission to examine into the matter of contracts made by and between the United States and the Moline Water Power Company, as to the water power at Moline, Illinois, and to report to Congress as to the same.

The message further announced that the Senate had passed a bill (S. No. 811) for the relief of Perez Dickinson, the surviving partner of James Cowan, deceased, heretofore trading and doing business under the firm name and style of Cowan & Dickinson, of Nashville, Tennessee, in which he was directed to ask the concurrence of the House.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. HOLMAN. I submit a report from the committee of conference on the disagreeing votes of the two Houses on the legislative, &c., appropriation bill.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 51, 52, 63, 67, 68, 74, 75, 107, 146, 162, 174, 175, 177, 183, 190, 191, 221, 226, 253, 276, 290, 293, 300, 305, 311, 341, 342, 344, 345, 346, 348, 351, 354, 358, 361, 364, 367, 370, 385, 397, 458, 459, 462, 465, 466, 467, 468, 470, 471, 472, 478, 479, 481, 483, 485, 486, 495, 497, 506, 517, 521, 532, and 543.

That the House recede from its disagreements to the amendments numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 53, 54, 56, 57, 60, 62, 64, 65, 71, 72, 73, 81, 82, 84, 85, 86, 87, 88, 89, 93, 96, 98, 99, 100, 101, 102, 103, 104, 105, 106, 108, 109, 110, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 161, 163, 165, 166, 167, 168, 169, 170, 171, 173, 178, 179, 182, 184, 185, 187, 188, 189, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 267, 268, 269, 270, 271, 272, 273, 274, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 291, 292, 293, 296, 297, 298, 301, 302, 303, 306, 307, 308, 312, 313, 315, 316, 317, 319, 320, 321, 322, 323, 324, 327, 328, 331, 332, 333, 336, 337, 338, 343, 356, 372, 373, 375, 376, 378, 380, 381, 382, 383, 384, 386, 388, 389, 390, 391, 393, 394, 395, 397, 398, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 412, 413, 414, 415, 416, 417, 419, 420, 421, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 451, 454, 456, 457, 461, 463, 474, 475, 476, 480, 488, 498, 500, 501, 504, 507, 508, 509, 514, 518, 520, 522, 523, 524, 525, 526, 527, 528, 529, 530, 536, 537, 539, 541, 542, and 544; and agree to the same.

That the House recede from its disagreement to the amendment numbered 55, and agree to the same, with an amendment as follows:

In line 4, page 7, of the bill strike out the words "six hundred" and insert in lieu thereof "one thousand;" and that the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 58, and agree to the same, with an amendment as follows:

In lines 15 and 16 on page 7 of the bill, and in line 17 on the same page, strike out in each place the words "eighteen hundred" and insert in lieu thereof respectively "two thousand;" and that the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 59, and agree to the same, with an amendment as follows:

In lieu of the words proposed insert "107,650;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 61, and agree to the same with an amendment as follows:

In line 17, page 8 of the bill, strike out "seventeen" and insert "ten," and in line 18, same page, strike out "500," and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 66, 69, and 70, and agree to the same, with amendments as follows:

From 66 strike out "500;" in 69 strike out "15,456" and insert "14,000;" and in 70 strike out from the bill the whole paragraph and the amendment; and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 90, 92, 94, and 95, with an amendment substituting for the amounts proposed as follows: by amendment 92, $2,000; by 94, $2,000; by 90, $3,500, and by 95, $18,500; and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 91, and agree to the same, with an amendment as follows: in lieu of the sum proposed insert "$8,000;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 97, with an amendment striking out of the bill, as follows:

On page 10 strike out all of line 7; on page 12 strike out all of line 23; on page 38 strike out all of lines 18 and 19; on page 42 strike out all of lines 25 and 26; on page 45 strike out all of lines 16, 17, 18, and 19; on page 58 strike out all of lines 13 and 14; on page 60 strike out all of lines 23 and 24; and at the end of the bill insert, as section 2, the following:

SEC. 2. That the Secretaries respectively of the Departments of State, Treasury, War, Navy, and Interior, and the Attorney-General are authorized to make requisitions upon the Postmaster-General for the necessary amount of postage-stamps for the use of their Departments not exceeding the amount stated in the estimates submitted to Congress; and upon presentation of proper vouchers therefor at the Treasury the amount thereof shall be credited to the appropriation for the service of the Post-Office Department for the same fiscal year.

And the House agree to the same.

That the House recede from its disagreement to the amendment numbered 111 and agree to the same, with an amendment as follows:

Strike out of said amendment the words "7,070" and insert "1,310."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 147 and agree to the same, with an amendment as follows:

Strike out "7510" and insert "5,350."

And the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 159, 160, and 164, and agree to the same, with amendments respectively as follows:

In 159, in lieu of "8" insert "7;" in line 160, in lieu of "54" insert "52;" in 164, in lieu of "311,800" insert "310,470;" and in line 8, page 18, of the bill, strike out the word "18" where it occurs the second time and insert in lieu thereof "20."

And the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 172 and 176 and agree to the same, with amendments respectively as follows: By 172, in lieu of "17" insert "16;" and by 176, in lieu of "72,600" insert "66,500."

In line 27, page 18, of the bill strike out "100" and insert "95;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 180 and 181 and agree to the same, with amendments respectively, as follows:

By 180, in lieu of "15," insert "13;" by 181, in lieu of "23,336," insert "17,736."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 186 and agree to the same, with an amendment, as follows:

Strike out "60,450" and insert "58,850."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 192 and agree to the same, with an amendment as follows:

Insert after the word "hundred" in said amendment the word "twenty."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 217 and agree to the same, with an amendment as follows:

From amendment 217 strike out "and forty."

And the Senate agree to the same.

That the Senate recede from its amendment numbered 218, with an amendment as follows:

After the word "twenty," in line 23, page 21, of the bill, insert the word "six."

And the House agree to the same.

That the House recede from its disagreement to the amendment numbered 219, and agree to the same, with an amendment substituting "55" in lieu of "60."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 220, and agree to the same, with an amendment as follows: In line 18, page 22, of the bill, strike out "60" and insert "50."

And the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 222, 223, 224, 225, and 227, and agree to the same, with amendments respectively as follows:

In lieu of the sum proposed by 223 insert $5,500;

In lieu of the sum proposed by 224 insert $9,000;

In lieu of the sum proposed by 225 insert $12,500; and

In lieu of the sum proposed by 227 insert $12,500.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 254 and agree to the same, with an amendment as follows:

Strike out "7" and insert "5."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 265 and agree to the same, with an amendment as follows:

In lieu of the sum proposed insert "$33,560."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 266 and agree to the same, with an amendment substituting "$5,500" for the sum proposed by said amendment; and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 275, and agree to the same, with an amendment as follows: Strike out "$24,260" and insert "$23,760;" and the Senate agree to the same.

That the House recede from its disagreement to amendments numbered 277 and 289, and agree to the same, with amendments respectively as follows: In 277 strike out "7" and insert "5," and in 289 strike out "9,500" and insert "8,800;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 294, and agree to the same, with an amendment as follows: Strike out "9" and insert "4;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 299, and agree to the same, with an amendment as follows: Strike out "8" and insert "3;" and the Senate agree to the same.

That the House recede from its disagreement to amendments numbered 304 and 309, and agree to the same, with amendments respectively as follows: In lieu of the sum proposed by 304 insert "$14,560," and in lieu of the sum proposed by 309 insert "$14,760;" and the Senate agree to the same.

That the House recede from its disagreement to amendments numbered 310 and 314, and agree to the same, with amendments respectively as follows: In lieu of the sum proposed by 310 insert "$4,500," and in lieu of the sum proposed by 314 insert "$13,530;" and the Senate agree to the same.

That the House recede from its disagreement to amendments numbered 318, 325, 326, 329, and 330, and insert respectively as follows: In lieu of the sum proposed by 318 insert "$25,000;" in lieu of the sum proposed by 325 insert "$285,000;" in lieu of the sum proposed by 326 insert "$72,500;" in lieu of the sum proposed by 329 insert "$275,000;" and in lieu of the sum proposed by 330 insert "$87,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 334, 335, 339, and 340, and agree to the same, with amendments respectively as follows: In lieu of the sum proposed by 334 insert "$80,000;" in lieu of the sum proposed by 335 insert "$42,200;" in lieu of the sum proposed by 339 insert "$22,500," and in 340 strike out "ten" and insert "nine;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 347, 350, 353, 357, 360, 363, 366, and 369, and agree to the same, with amendment substituting in each case in lieu of the sums proposed by said amendments the sum of "$2,600;" and the Senate agree to the same.

That the House recede from its disagreements to the amendments numbered 374 and 379, and agree to the same, with amendments respectively as follows: In lieu of the sum proposed by 374 strike out "600," and in 379, at the end of the paragraph, add the following:

"*Provided, however,* That hereafter the records of regimental, garrison, and field officers, and courts-martial shall, after having been acted on, be retained and filed in the judge-advocate's office, at the headquarters of the department commander in whose department the courts were held, for two years; at the end of which time they may be destroyed."

And the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 387, 392, and 396, and agree to the same, with amendments respectively as follows: In lieu of the sum proposed by 387, insert "$18,560;" in lieu of the sum proposed by 392 insert "$2,500," and in lieu of the sum proposed by 396 insert "$2,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 410 and 411, and agree to the same, with amendments respectively as follows: In line 9, page 45, of the bill, strike out "four" and insert "two," and in lieu of the sum proposed by 411 insert "$59,300;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 349, 352, 355, 359, 362, 365, 368, and 371, and agree to the same, with amendments re-

spectively as follows: In lieu of the sum proposed by 349 insert "$12,700;" in lieu of the sum proposed by 352 insert "$12,200;" in lieu of the sum proposed by 355 insert "$12,200;" in lieu of the sum proposed by 359 insert "$12,200;" in lieu of the sum proposed by 362 insert "$12,700;" in lieu of the sum proposed by 365 insert "$12,200;" in lieu of the sum proposed by 368 insert "$12,200," and in lieu of the sum proposed by 371 insert "$12,200;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 377 and agree to the same, with an amendment striking out "ten" and inserting in lieu thereof "nine;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 418 and 422, and agree to the same, with amendments respectively as follows:

In lieu of the sum proposed by 418 insert "$25,000;" and in lieu of the sum proposed by 422, insert "$4,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 450, 452, 453, and 455, and agree to the same, with amendments respectively as follows:

In lieu of the sum proposed by 450 insert "$32,500;" in lieu of the sum proposed by 452 insert "$25,000;" in lieu of the sum proposed by 453 insert "$27,500," and in lieu of the sum proposed by 455 insert "$20,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 462, 464, 469, 473, 477, 482, 484, and agree to the same, with amendments respectively as follows:

In lieu of the sum proposed by 462 insert "$5,000;" in lieu of the sum proposed by 464 insert "$3,500;" in lieu of the sum proposed by 469 insert "$10,000;" in lieu of the sum proposed by 473 insert "$3,000;" in lieu of the sum proposed by 477 insert "$4,000;" in lieu of the sum proposed by 482 insert "$3,000;" in lieu of the sum proposed by 484 insert "$3,500."

And the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 489, 490, 491, 492, 493, 494, and 496, and agree to the same, with amendments respectively as follows:

In lieu of the number proposed by 489 insert "67;" in lieu of the number proposed by 490 insert "50;" in lieu of the number proposed by 491 insert "70;" in lieu of the number proposed by 492 insert "54;" in lieu of the number proposed by 493 insert "9;" in lieu of the number proposed by 494 insert "11;" and in lieu of the sum proposed by 496 insert "$58,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 499, 502, and 503, and agree to the same, with amendments respectively as follows:

In lieu of the sum proposed by 499, insert "$6,000;" in lieu of the sum proposed by 502 insert "$69,400;" in lieu of the sum proposed by 503 insert "$10,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 505, and agree to the same, with amendments as follows:

In lieu of the sum proposed insert "$1,900;" and in line 5, page 56, of the bill, strike out the words "$2,000" where they twice occur, and insert in each case the words "$1,900;" in line 7, page 56, strike out "eight" and insert "nine."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 510 and agree to the same, with an amendment substituting in lieu of the sum proposed "$65,340," and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 513, 515, and 516, and agree to the same, with amendments respectively as follows:

In lieu of the sum proposed by 513 insert "$20,000;" in lieu of the sum proposed by 515 insert "$4,000;" in lieu of the sum proposed by 516 insert "$1,500."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 519 and agree to the same, with an amendment as follows:

In lieu of the sum proposed insert "$3,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 531, 533, 534, 535, 538, 540, and agree to the same, with amendments respectively as follows:

"In lieu of the sum proposed by 531 insert "$1,500;" in lieu of the sum proposed by 533 insert "$6,500;" in lieu of the sum proposed by 534 insert "$13,200," and in lieu of the sum proposed by 535 insert "$750;" in lieu of the number proposed by 538 insert "three;" in lieu of the sum proposed by 540 insert "$24,800."

And the Senate agree to the same.

That upon the amendments numbered 76 and 77 they are unable to agree.

WILLIAM S. HOLMAN,
HIESTER CLYMER,
HENRY WALDRON,
Managers on the part of the House.

WILLIAM WINDOM,
WILLIAM B. ALLISON,
HENRY G. DAVIS,
Managers on the part of the Senate.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate disagreed to the amendments of the House to the bill (S. No. 731) to limit and fix the Signal-Service, asked a conference upon the disagreeing votes of the two Houses, and had appointed Mr. SPENCER, Mr. CLAYTON, and Mr. RANDOLPH as managers of the conference on the part of the Senate.

LEGISLATIVE APPROPRIATION BILL.

Mr. HOLMAN. I wish to state, Mr. Speaker, that this report is the result of a conference on the legislative appropriation bill in which the House managers in their anxiety to get these bills through have made almost all the concessions. The House has yielded three hundred and sixty amendments made by the Senate. The Senate recedes from sixty-six of its amendments. The House has agreed to amendments with amendments to the number of one hundred and eighteen. While the salaries in the Territories and some of the salaries connected with the subtreasury system are diminished, the other salaries as fixed by the law of the last Congress remain about the same.

This report covers all the subject that went to the conference except the President's salary. The House having fixed that salary at $25,000, the Senate amended the House appropriation by fixing the salary at the present rate, $50,000. All other matters of disagreement are disposed of. I therefore move that the House concur in this report of the conference committee, that it insist on its disagreement to the two amendments connected with the President's salary, and ask for a further conference upon that point.

I ought to state that I would like to submit the motion to the House that the House adhere to its disagreement as to the salary of the President of the United States. But, inasmuch as there has been but one conference on this bill, I think it is only treating the Senate with proper courtesy to ask a further conference on the disagreement in regard to the President's salary; and I hope that when the vote shall be taken on insisting on our disagreement to the Senate amendment increasing the salary as fixed by the bill, the vote will be made a test of the judgment of the House and of what the House proposes to do.

I call for the previous question.

Mr. SAYLER. I hope the gentleman from Indiana will allow me to call his attention to one clause in the bill and to ask a question in regard to it. In the confusion during the reading of the report of the committee of conference, I was unable to understand what had been done with the Senate amendment No. 543, which provides for the payment of judgments of the Court of Claims, which have been confirmed by the Supreme Court of the United States. I desire to ask the gentleman from Indiana what was done with that amendment.

Mr. HOLMAN. The judgments of the Court of Claims which are now unpaid amount in the aggregate to something over $1,100,000, embracing two judgments for very large amounts, one for $500,000, in favor of the Union Pacific Railroad Company. In view of the heavy indebtedness of that company to the United States, I believe that neither House desires that any payment of that claim shall be made this year. The next Congress will doubtless provide for the proper adjustment of the indebtedness of the Union Pacific Railroad Company to the United States, in which adjustment this judgment will be taken into account. There is another judgment, in favor of Marshall O. Roberts and Mr. Dickerson, for something over a million dollars. For reasons which I do not wish to enter upon at this time, the Committee on Appropriations of the House, having been informed of that judgment, which was rendered last June, and having no time during the remainder of this session to inquire into that judgment, and the political controversy in the country occupying so much of the time of all the members of the House during the present session, they have not been enabled to give that patient investigation to this case which the interests of the Government as well as the rights of the parties absolutely require. The claim now amounts to $600,000, the Treasury Department having during the last year paid $400,000, and that leaves a balance of $600,000. The legislative, &c., bill has not usually been the vehicle through which appropriations of this kind were made. The sundry civil bill is the proper one to embrace a proposition of that character, and the House having provided in the sundry civil bill for the payment of judgments of the Court of Claims which are not the subject of dispute, the conferees agree to strike out from this bill the provision in regard to the payment of these judgments, leaving the sundry civil bill to provide for such judgments as should be paid.

I trust the gentleman from Ohio will not, at this late moment of the session, ask me to give the reasons for an investigation into this judgment. I can assure him that it is a subject which Congress should carefully inquire into, not only as a proper construction of the resolution passed by the House, but as to the merrits of the claim based on that resolution. But the gentleman from Ohio can scarcely object to the action of the committee of conference as this amendment was improperly in the legislative, &c., bill anyhow, and should properly have been in the sundry civil bill, which has not yet finally passed the House. I do not wish to discuss the question at this time.

Mr. HOOKER. I would ask the gentleman whether the judgments of the Court of Claims have not been confirmed by the Supreme Court?

Mr. HOLMAN. They have been confirmed by a majority of the court. I must add further that the Court of Claims on the merits rejected the claim of the Union Pacific Railroad Company, and that the opinion of the Supreme Court, as I understand the matter, was based upon the resolution passed by this House, which was intended to be a mere restriction, and yet, as I understand the matter, it has received the construction that it was a concession on the part of the Government in favor of the claim.

Mr. SAYLER. I ask the gentleman to yield to me for a moment.

Mr. HOLMAN. I yield to the gentleman for five minutes.

Mr. SAYLER. As to the impropriety of putting this matter into the legislative, executive, and judicial bill, I confess that I cannot see it. It seems to me that it comes very properly under the head of "Court of Claims." The claim of the Union Pacific Railroad Company referred to by the gentleman from Indiana was not provided for or attempted to be provided for by either the Senate or the House in this bill upon the ground that we had claims against the road. But other claims were provided for by the Senate amendments, amounting to $635,410.59. For the payment of what? For the payment of claims against the Government of the United States on the part of its citizens which Congress authorized its citizens to prosecute in the Court of Claims, and which claims were appealed to the Supreme Court of the United States, where the judgments of the Court of Claims were solemnly and finally affirmed. That, Mr. Speaker, is the end of all litigation, and there is no attempt, no effort, no proposition, even, to impeach that judgment for fraud. Nothing of the kind has

ever been done. Now I undertake to say that the Government of the United States should be as honest as it requires the citizen to be, and should pay its debts upon final judgment by a court of its own creation just as readily as it requires the citizen to pay his debts under like circumstances; else we might as well have no courts at all, and else the citizen has no remedy as against the Government.

I may not have as profound a respect for the judgment of the Supreme Court as I had a few days ago. Nevertheless it is the Supreme Court, the court of final adjudication in the United States, and we as a people must be bound by its decisions. I undertake to say that, that court having given its decision, neither the Congress of the United States in general nor the Committee on Appropriations of this House in particular, nor the gentleman from Indiana, [Mr. HOLMAN,] the chairman of that committee, more especially, can sit as a returning board upon its final judgment. The gentleman says there has been no time to consider these claims.

Mr. HOLMAN. O, no, O, no; the gentleman misstates me.

Mr. SAYLER. I understood the gentleman to say——

Mr. HOLMAN. O, no.

Mr. SAYLER. Very well, I will take it back rather than be interrupted.

Mr. HOLMAN. I stated there had been no time to investigate this particular claim.

Mr. SAYLER. I am glad the gentleman makes the correction. There are several claims involved, and as to the particular claim to which I suppose the gentleman refers, I have here a transcript of the judgment. I know nothing of its merits or of the merits of any one of these claims. I only know they have been prosecuted to final judgment. The particular claim referred to is not in favor of Marshall O. Roberts and Mr. Dickerson, but is in favor of them as trustees of Mr. Sloo. The judgment was given in 1876, and should have gone before the Committee on Appropriations of the Forty-third Congress. There was some excuse for the committee in that Congress not taking up the matter, because the judgment had been so recently given; but there is no possible reason why this Congress should not pay these judgments.

Another word. The gentleman commented upon the manner in which this judgment was given. He says it was given upon a mere accidental wording of an act of Congress. Now I know nothing of the facts; but I cannot believe that the judges of either the Court of Claims or the Supreme Court of the United States are such miserable idiots or such outrageous rascals, as the charge necessarily would imply, as to have given a judgment for this large amount upon any such basis. More than one-half of this judgment has already been paid, and it seems to me that men who have received the judgment of the highest court of the country should have the benefit of it.

Mr. HOLMAN. Yes, sir, part of this judgment has been paid; $400,000 of it has been paid without any precedent of the kind in our history to sustain it. In other words, the Treasury Department never before has paid such judgments unless they could be paid in full out of appropriations made by Congress. But in this instance, as the gentleman from Ohio [Mr. SAYLER] must know, the gentleman who had been the counsel for these trustees, having close relations with the administration of the Government, was enabled by some influence to induce this extraordinary deviation from the uniform rule, and to secure the payment of a part of this judgment, when Congress had failed to appropriate the sum necessary for its entire payment.

I say this: from the investigation we have made and the fact that Congress has declined to make appropriations for the payment of all the judgments of the Court of Claims, reserving the right to inquire into those judgments, which it has a right to do, if that right is not reserved, then there is no need for the action of Congress. On the contrary, we appropriate for the payment of each specific judgment; and if the proper case arises Congress is expected to look into the circumstances connected with the rendering of the judgment.

Mr. SAYLER. Allow me a question.

Mr. HOLMAN. Permit me to finish my sentence. I say that Congress will come short of its duties, judging from the facts we have disclosed, if it fails to look into this judgment and to determine the question whether or not the judgment was procured through fraudulent influences.

Mr. SAYLER. I want to know from the gentleman from Indiana [Mr. HOLMAN] if he claims that Congress has power at its will to inquire into a final judgment of the Supreme Court of the United States and to interfere with the execution of such judgment?

Mr. HOLMAN. Ah, the gentleman is now taking the ground that there is no going behind the judgment.

Mr. SAYLER. There is not, except upon impeachment for fraud, which is not proposed.

Mr. HOLMAN. That is what I do propose.

Mr. SAYLER. That can only be done in the court; not in Congress.

Mr. HOLMAN. I propose that the facts shall be inquired into.

The SPEAKER. Will the gentleman from Indiana [Mr. HOLMAN] indicate the motion he desires to have submitted to the House?

Mr. HOLMAN. My motion is that the House agree to the report of the committee of conference, and further that it insist on its disagreement to the Senate amendment increasing the President's salary beyond the amount proposed in the bill as passed by the House, and to ask a further conference. I do not think it proper at this time to move that the House adhere to its disagreement, inasmuch as there has been but one conference on the bill. But I do think it proper that the House should insist on its disagreement to the amendment of the Senate in regard to the President's salary.

The SPEAKER. Would it not be better for the gentleman to frame his motion in this wise, that the House agree to the report of the committee of conference, and then that a vote of the House be taken whether it will recede from or insist upon its disagreement to the Senate amendment in relation to the salary of the President?

Mr. HOLMAN. I will accept the suggestion of the Chair and pursue that course.

Mr. HARRISON. It is proposed to have a further conference on this question.

The SPEAKER. On the question of the President's salary.

Mr. HARRISON. This is the second time that this House has determined that the salary of the President of the United States shall be but $25,000 a year. We have already, in answer to the demand of the country, fixed that salary at $25,000. Last session the Senate refused to concur with us and forced us to accede to its own idea. At this time we should stand up in the name of the people and show them that we are ready to carry out their wishes. I submit to the House that we should adhere to our action on this subject.

Mr. SAYLER. I want to move an amendment to the proposition of the gentleman from Indiana. He has already excepted from this report one section of the bill. Now I desire to except another section.

The SPEAKER. The conference committee has directed the chairman of the committee on the part of the House to permit an expression of the opinion of the House on the President's salary; but the conference committee has not allowed any other item to be reserved. The only course open to the gentleman from Ohio [Mr. SAYLER] is to induce the House to vote down the conference report.

The report of the committee of conference was adopted.

Mr. HOLMAN moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. HOLMAN. I now move that the House now insist on its disagreement with the Senate as to the presidential salary.

Mr. GARFIELD. I ask the attention of the House upon this question for a single moment. This conference report is now adopted, and the bill passed except with regard to a single point.

Mr. HOLMAN. Yes, sir.

Mr. GARFIELD. And on that point I understand the two Houses disagree.

Mr. HOLMAN. Yes, sir.

Mr. GARFIELD. That single point is the proposition to reduce the salary of the President of the United States. The House will remember that not long ago a bill for this special object was passed by both Houses but was vetoed by the President. If we now insist upon the form of disagreement proposed by the gentleman from Indiana, we necessarily force this same issue upon the outgoing President at a moment when it would hardly be manly for him to sign a bill cutting down the salary of his successor. I do not believe that this House, whatever may be the political feeling of members, will think that a proper thing to do. I hope the House will not insist upon its disagreement on this subject.

Mr. HARRISON. This House voted $25,000 as the salary of the President. We did so at a time when we knew Mr. Tilden had been elected President, and when we believed that he would be inaugurated as the President of the people and before the returning boards had decided for Mr. Hayes, and before we thought it possible for them so to decide.

Mr. HOLMAN. I hope the gentleman from Ohio [Mr. GARFIELD] will bear in mind that we fixed this salary at $25,000 when both parties in this House were equally confident of having control of the presidential office during the next four years.

Mr. GARFIELD. If this bill fails, we shall in the first place have an extra session, and in the second place, it will then be impossible to cut down this salary as regards the presidential term now about to commence. Thus the object of the gentleman's motion will fail.

Mr. HOLMAN. I do not think it will fail.

Mr. GARFIELD. There can be no success in this movement. The only result of the vote proposed must be an extra session.

Mr. HARRISON. Will you take the responsibility of an extra session on account of this question? If so, we shall meet you squarely before the country on the issue.

Mr. GARFIELD. We are willing to take our proper share of every responsibility.

Mr. HOLMAN. I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion of Mr. HOLMAN, that the House insist on its disagreement to the amendment of the Senate concerning the presidential salary, was agreed to, there being—ayes 118, noes 41.

Mr. HOLMAN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FORTIFICATION BILL.

Mr. HALE submitted a report; which was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4188) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1878, having met, after a full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment striking out the words "machine-guns," in line 9 of the bill; and the Senate agree to the same.

That the Senate recede from its amendment numbered 2, and agree to an amendment as follows:

In line 12 of the bill, after the word "dollars," add the following: "and for Gatling or machine-guns, $25,000."

And the House agree to the same.

EUGENE HALE,
O. R. SINGLETON,
HIESTER CLYMER,
Managers on the part of the House.
WILLIAM WINDOM,
JOHN A. LOGAN,
N. G. DAVIS,
Managers on the part of the Senate.

Mr. HALE called for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the committee of conference was adopted.

Mr. HALE moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SIGNAL SERVICE.

Mr. SINGLETON. I ask unanimous consent that the bill (S. No. 731) to limit and fix the Signal Service be taken from the Speaker's table, and that the House insist on its amendments and ask a conference with the Senate.

There being no objection, it was ordered accordingly.

PENSIONS—WHEN TO BEGIN.

Mr. RICE. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. No. 2803) to provide that all pensions on account of death, wounds received, or disease contracted in the service of the United States since March 4, 1861, which have been granted, or which shall hereafter be granted, on application filed previous to January 1, 1880, shall commence from the date of death or discharge, and for the payment of the arrears of pensions.

The bill, which was read, provides that all pensions which have been, or may hereafter be, granted in consequence of death occurring from a cause which originated in the service of the United States since the 4th day of March, 1861, or in consequence of wounds or injuries received or disease contracted since said date, shall commence from the date of the death or discharge from the United States service of the person on whose account the claim has been, or shall hereafter be granted, or from the termination of the right of the party having prior title to such pension; provided that applications for pensions growing out of the war of 1861 have been, or shall hereafter be, filed with the Commissioner of Pensions on or before the 1st day of January, 1880. In all other cases, unless the application shall be filed within five years from the accruing of the right, the pension shall commence from the date of the filing of the application; provided further that the limitation herein prescribed shall not apply to claims by or in behalf of insane persons or minor children of deceased soldiers.

The second section provides that immediately upon the passage of this act the Commissioner of Pensions shall cause a copy of the same to be furnished each pension agent, whose duty it shall be to notify each pensioner upon his roll who shall be entitled to arrears of pension under this act, and it shall be the further duty of the Commissioner of Pensions to pay, or cause to be paid, to such pensioners, or if the pensioner shall have died to the person or persons entitled to the same, all such arrears of pension as the pensioner may be entitled to or if dead would have been entitled to under the provisions of the first section of this act had he or she survived.

Section 3 repeals all acts and parts of acts in conflict with these provisions.

The House divided and there were ayes 110, noes not counted.

So (two-thirds having voted in the affirmative) the rules were suspended and the bill was passed.

Mr. RICE, by unanimous consent, was granted leave to print as part of the proceedings some remarks he had prepared on the foregoing bill.

BLACK BOB LANDS.

Mr. CROUNSE, by unanimous consent, from the Committee on Public Lands, submitted a report on bills (H. R. No. 543 and H. R. No. 640) relating to certain Indian lands in the State of Kansas; which was ordered to be printed and recommitted.

T. A. M'LAUGHLIN.

On motion of Mr. ROSS, of Pennsylvania, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the claim of T. A. McLaughlin, (H. R. No. 1567,) no adverse report having been made thereon.

LAND-GRANT RAILROADS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a decision of the Supreme Court of the United States in the matter of land-grant railroads; which was referred to the Committee on Public Lands.

COLONEL J. G. HEALY.

Mr. BANNING. I move, by unanimous consent, that leave be granted for the withdrawal from the files of the House of the papers in the case of Colonel J. G. Healy.

Mr. BAKER, of Indiana. I object to that until I can ask the gentleman a question, whether there has been an adverse report in the case or not?

Mr. BANNING. The papers asked to be withdrawn are the discharge and pension papers of this officer.

Mr. BAKER, of Indiana. Has there been an adverse report in the case?

Mr. BANNING. I do not make any report, but merely ask for the withdrawal of those papers.

Mr. BAKER, of Indiana. If there is no adverse report I have no objection.

Mr. CONGER. The officer ought to have those papers whether there is an adverse report or not.

Mr. BANKS. The rule is to leave copies on file when such copies are withdrawn.

The SPEAKER. And that rule is uniformly adhered to by the clerks.

Mr. BAKER, of Indiana. I move those words be added.

The SPEAKER. There being no objection the leave will be granted on condition no adverse report has been made.

There was no objection, and it was ordered accordingly.

JAMES ATKINS.

On motion of Mr. CANDLER, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers pertaining to the claim of James Atkins, no adverse report having been made thereon.

FRANK A. PAGE.

On motion of Mr. JOHN REILLY, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of Frank A. Page, no adverse report having been made thereon.

WOLFF & BROWN, ETC.

On motion of Mr. LAWRENCE, by unanimous consent, (on behalf of John B. Wolff,) leave was granted for the withdrawal from the files of the Committee on War Claims of the papers of Wolff & Brown and Mary Dezevalos.

ENROLLED BILL AND JOINT RESOLUTION.

Mr. POPPLETON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 620) for the relief of Redick McKee.

Joint resolution (H. R. No. 194) to appoint a commission to examine into the matter of contracts made by and between the United States and the Moline Water-Power Company as to the water-power at Moline, Illinois, and to report to Congress as to the same.

MONTANA LAND GRANT.

The SPEAKER, by unanimous consent, laid before the House a memorial of the Legislature of Montana, asking aid in the construction of a railroad; which was referred to the Committee on Railways and Canals, and ordered to be printed.

NORTHERN PACIFIC RAILROAD.

The SPEAKER also, by unanimous consent, laid before the House a memorial of the Legislature of Montana, asking Congress to aid the Northern Pacific Railroad by reducing the land grants and issuing United States bonds instead; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

FORT IN COLORADO.

Mr. BELFORD, by unanimous consent, laid before the House a memorial of the Legislature of the State of Colorado, praying for the establishment of a military fort between Forts Lyon and Union, and near the line between Colorado and New Mexico; which was referred to the Committee on Military Affairs, and ordered to be printed.

GRASSHOPPER PLAGUE.

Mr. BELFORD also, by unanimous consent, laid before the House a memorial of the State of Colorado praying Congress to appropriate the proceeds of the sales of public lands in the several States afflicted with grasshoppers to those States, to be used in the payment of bounties for the destruction of grasshoppers; which was referred to the Committee on Public Lands, and ordered to be printed.

POST-ROUTE BILL.

Mr. CLARK, of Missouri. I rise to a privileged question. I present the report of a committee of conference, which I send to the desk.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 3628, establishing post-roads,

having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses, as follows:

The House agree to recede from its disagreement to section 8 and agree to the same with an amendment that said section be amended by striking out the words "place and stead" and insert instead thereof "in the name;" and the Senate agree to the same.

The Senate recede from its disagreement to sections 5 and 7 of said amendments.

The House recede from its disagreement to sections 9, 10, 11, 12.

The House recede from its disagreement to section 13 and agree to the same with an amendment to strike out all of the section after the word "mail" in the third line, and insert: "all public documents printed by order of Congress, and the name of each Senator, Representative, Delegate, Secretary of the Senate, and Clerk of the House shall be written thereon with the proper designation of the office he holds; and the provisions of this section shall apply to each of the persons named therein until the 1st day of December following the expiration of their respective terms of office;" and the Senate agree to the same.

The House recede from its disagreement to the amendment of the Senate amending the title of the bill.

The conferees of the two Houses, being unable to agree to sections 2, 3, 4, and 6, disagree to the same and recommend to their respective Houses a separate vote upon the following proposition, to-wit:

To strike out said sections and insert the following:

"The sum of $75,000 be and the same is hereby appropriated out of any unexpended balances made for the support of the Post-Office Department for the current year, to enable the Postmaster-General to obtain proper facilities from the great trunk lines of railroad for railway postal service during the fiscal year ending June 30, 1878."

The conferees further agree and recommend that the bill be amended by adding an additional section establishing certain new post-routes, according to schedule hereto attached marked "A."

JOHN B. CLARK, JR.,
JOSEPH G. CANNON,
Managers on the part of the House.
HANNIBAL HAMLIN,
H. G. DAVIS,
Managers on the part of the Senate.

Mr. CLARK, of Missouri. I ask unanimous consent of the House that the Clerk shall omit the reading of the schedule attached to the report, being an amendment merely establishing the new post-routes that have been sent in by members of the House and Senators during the latter part of this session of Congress.

The SPEAKER. The gentleman from Missouri asks that the reading of that portion of the report relating to the establishment of additional post-routes be omitted.

There was no objection.

Mr. CLARK, of Missouri. In the way of explanation to the House of the agreement come to by the conferees, I will state that a conclusion has been arrived at in regard to all the amendments which were offered by the Senate, with the exception of sections 2, 3, 4, and 6, which related to an appropriation for the purpose of re-establishing a fast mail. It was found impossible for the conferees to agree to a proposition on the amendments of the Senate to the bill relating to that subject; and they agreed to disagree so far as those sections were concerned, and report to the respective Houses the proposition in the report which has been read by the Clerk, and to appropriate $75,000 out of any unexpended balances made for the support of the Post-Office Department for the current year, to enable the Postmaster-General to obtain proper facilities from the great trunk lines of railroad for railway postal services. The House part of the conference committee disagreed to the proposition to appropriate $75,000 for this purpose, and the Senate part of the committee insisted upon it. The agreement between the conferees on the part of the House and the conferees on the part of the Senate is that the House shall act upon this proposition separately.

I deem it, however, a matter of justice to state on behalf of the Senate conferees that they desire this appropriation of $75,000 for the purpose, as they allege, of increasing the postal-car facilities of the great trunk lines of railroad leading West. It is asserted by them that the facilities as they exist at present, the large postal cars having been withdrawn from the service after the withdrawal of the fast-mail train, are insufficient for the requirements of the postal-railway service; and they insist that this $75,000 shall be appropriated for the purpose of increasing those facilities during this fiscal year.

On the other hand, Mr. Speaker, it is believed by myself, at least, as a member of the committee, that the appropriation made by the post-office appropriation bill for the purposes of railroad transportation, is sufficient. I do not agree in the view that we have not already made a sufficient appropriation for the purpose of having every facility that is necessary and required by the wants of the country.

Mr. Speaker, I will ask that the report of the conference committee be adopted, and that a separate vote be had by the House on the proposition submitted in the report making the appropriation $75,000 for postal-car facilities.

I am reminded by some gentlemen around me that some explanation is necessary in relation to the section of the bill in regard to the franking privilege. The original section as placed in the bill by the Senate revived the old franking privilege, giving each Senator and each member of the House, and the Secretary of the Senate and the Clerk of the House, the right to frank letters as well as documents. The committee of conference have agreed to an amendment giving them the right to frank all public documents printed by order of Congress. It gives that privilege to each Senator and member of Congress, and the Secretary of the Senate and the Clerk of the House, and it also gives to outgoing members this right until the December following the expiration of their term of office.

ENROLLED BILLS SIGNED.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (S. No. 36) amending the pension law so as to remove the disability of those who, having participated in the rebellion, have since its termination enlisted in the Army of the United States and become disabled;

An act (S. No. 177) to authorize the Secretary of War to open and re-adjust the settlement made by the United States Government with the Western and Atlantic Railroad of Georgia;

An act (S. No. 189) placing the name of C. G. Freudenberg upon the retired list of the United States Army;

An act (S. No. 259) for the benefit of the Louisville Baptist Orphans' Home;

An act (S. No. 470) for the relief of John S. Wood, late a first lieutenant in the Seventh Pennsylvania Cavalry;

An act (S. No. 628) for the relief of John Anderson, surviving copartner of the firm of Anderson & White;

An act (S. No. 734) for the relief of William Jasper Cordill;

An act (S. No. 780) for the relief of the Richmond Female Institute, of Richmond, Virginia;

An act (S. No. 830) for the relief of Joseph W. Parish;

An act (S. No. 845) for the relief of W. H. Woodward, of Indianola, Texas;

An act (S. No. 855) making an appropriation to pay the claim of Benjamin Fenton and D. W. Fenton;

An act (S. No. 931) for the relief of H. H. Mathis, of Arkansas;

An act (S. No. 973) for the relief of Elizabeth Carson;

An act (S. No. 974) for the relief of Francis Gilbeau, of San Antonio, Texas;

An act (S. No. 1001) to provide for the disposition of Fort Dalles military reservation;

An act (S. No. 1019) to provide for a reprint of the resolves, ordinances, and acts passed by the Continental Congress and the Congress of the Confederation;

An act (S. No. 1063) for the relief of certain settlers on the public lands;

An act (S. No. 1071) for the relief of H. E. Woodhouse & Co., of Brownsville, Texas;

An act to amend an act (S. No. 1083) entitled "An act granting the right of way through the public lands to the Denver and Rio Grande Railway Company," approved June 8, 1872;

An act (S. No. 1116) granting a pension to Sarah A. Chamberlain, guardian of the minor heirs of James Eagle, Company F, Second Regiment Kansas State Militia;

An act (S. No. 1122) to secure the rights of settlers upon certain railroad lands, and to repeal the first five sections of an act entitled "An act granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley Railroad and its extension to Red River," approved July 25, 1866;

An act (S. No. 1163) for the relief of settlers on the public lands under the pre-emption laws;

An act (S. No. 1183) granting a pension to Harriet Moss;

An act (S. No. 1197) for the relief of Eli Teegarden;

An act (S. No. 1200) to grant a pension to Margaret Hunter Hardie, widow of James A. Hardie, inspector-general in the United States Army;

An act (S. No. 1225) to amend section 2291 of the Revised Statutes of the United States in relation to proof required in homestead entries;

An act (S. No. 1238) making an appropriation for the expenses of the electoral commission;

An act (S. No. 1243) to repeal the statute forbidding appointments and promotions in the staff of the Army;

An act (S. No. 1259) granting a pension to Daniel Houlihan;

An act (S. No. 1260) granting a pension to Edmund H. Cobb;

An act (S. No. 1284) for the relief of William L. Hickam, of Missouri;

An act (S. No. 1288) to remove the political disabilities of H. J. Quattlebaum, of Georgia; and

An act (S. No. 1304) for the relief of Louis Rose;

Joint resolution (S. R. No. 30) to amend the joint resolution authorizing the Secretary of War to issue arms, approved July 3, 1876; and

Joint resolution (S. R. No. 32) providing for the renunciation of the naturalization of Frederick Hinkel.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the bill (H. R. No. 4261) to provide for the sale of desert lands in certain States and Territories.

The message further announced that the Senate had agreed to the report of the committee of conference on the bill (H. R. No. 4472) making appropriations for the legislative, &c., departments of the Government, and further insisted on the amendments numbered 76 and 77, and asked a further conference with the House on the disa-

greeing votes of the two Houses thereon, and had appointed Mr. WINDOM, Mr. ALLISON, and Mr. DAVIS as managers of the conference on the part of the Senate.

POST-ROUTE BILL.

Mr. CANNON, of Illinois. Perhaps I should state in the commencement of my remarks that the post-routes established by this bill embrace those contained in the bill that passed the House at the last session of this Congress, and also those contained in the bill that passed this House about a week ago.

The gentleman from Missouri [Mr. CLARK] has already stated that this bill contains a provision to restore the franking privilege so far as relates to public documents. So far as he and I are concerned, we agree upon all the amendments embraced in the report of the committee of conference with the exception of one: the one upon which a separate vote is asked. And I may perhaps say that he and I substantially agree upon that.

The members of the committee of conference on the part of the Senate, however, strenuously contend that as this bill establishes a large number of post routes, service upon which will entail great expense to the Department and the Government—there are fifteen hundred of these new routes which will not yield any considerable revenue to the Post-Office Department—the Senate conferees contend that it would be eminently just and proper that the sum of $75,000 should be taken from the unexpended balances of appropriations for this year, not a new appropriation, and applied to obtaining additional mail service on the great trunk lines, but not to re-establish what is known as the fast trains.

It is proper that I should state to the House that when the fast mail train was taken off the great trunk lines the Department contended that there were not sufficient facilities afforded by these great trunk lines to carry and distribute the mails while the trains were in progress. It is true that a forty-five foot car, with less room for distribution, would carry as great a weight of mail as a sixty-foot car, and the running of a forty-five-foot car is less expensive to the railroad company than the running of a sixty-foot car; but the sixty-foot car affords greater facilities to the Government for the distribution of mails in transit. The Postmaster-General says that if this sum of $75,000 is appropriated he will be enabled to have these sixty-foot cars run and the mail distributed upon the trains without going to the distributing offices, thus saving the expense of clerks in the distributing offices, and gaining from twelve to twenty-four hours' time in the transportation of the mails between the seaboard and the cities of the great West.

The gentleman from Missouri was not inclined to agree to this proposition, I think it is well enough, and my judgment is that probably the amendment ought to pass. Still I thought that as this whole matter had been referred to a commission we could afford to wait until next session of Congress, when that commission will report, and then we can have full time to consider the proper legislation upon the subject. But the Senate conferees insist upon this appropriation, and I submit that when we establish these additional routes, and it is but a spirit of fair compromise and substantial justice and right that this proposition to take $75,000 from the unexpended balances of appropriation for this year, to be used for this purpose, should be agreed to by the House. And if it should turn out that the Senate conferees are right in their view of the matter, perhaps nearly that amount would be saved by enabling the Department to dispense with a large force of clerks in the distributing offices, because this mail matter could be distributed upon the cars as they run.

If this amendment is voted down, then of course this bill will go back to a conference committee, provided the House sees fit to ask for another conference, and will involve the question whether or not there shall be established these fifteen hundred additional post routes, in which almost every one of us on this floor is interested, as well as the other propositions which are contained in the bill.

Mr. CLARK, of Missouri. I will ask the gentleman to state as a part of his remarks that this appropriation of $75,000 which it is proposed to take out of the unexpended balances of appropriations for the Post-Office Department will in all probability come out of the appropriation already made for the star service, and not out of the appropriation for the railroad service.

Mr. CANNON, of Illinois. I suppose that in fact it will come out of the appropriation for the star service; but the truth is that there was appropriated for that service nearly $500,000 more than has been required.

Mr. CLARK, of Missouri. The gentleman should bear in mind that there are fifteen hundred additional post-routes established by this bill.

Mr. CANNON, of Illinois. That is true, but I submit to the gentleman that it will be almost impossible between now and the 1st of July next to establish the service upon these fifteen hundred additional routes. I suppose the service could be established upon some of them, but certainly it could not be upon all of them in that time.

There is one strange thing about this $500,000 surplus to the star service. Most of us are interested in the star service. It is a service that does not yield much and is a very expensive service to the Government, while the revenues of the Department are principally yielded by those sections of the country through which the trunk lines run, and they are cut short in appropriations for the wotk done, yet the policy of the Government has been to reach out its arm everywhere and promote the growth of this star service.

Mr. GOODIN. Will the gentleman state what is the extent of the franking privilege which is provided for in this bill?

Mr. CANNON, of Illinois. The franking privilege is extended to all public documents, and given to outgoing Members and Delegates until the 1st of December after their term of office expires.

Mr. KASSON. I would like to inquire of the gentleman from Illinois whether the effect of discontinuing the fast-mail service has not been to throw back the service where it existed some twelve or fifteen years ago. In other words, if I understand rightly, the first great step in our progress was to have the distribution made in mail-cars instead of in post-offices. That was determined upon about fifteen years ago and was a great advantage to us in the West. It diminished the force requisite for the distributing post-offices. When the fast mail was put on, that point was preserved in connection with the fast mail. In discontinuing the fast mail the distribution in cars was also discontinued; and thus we were thrown back to the old system of mail transit in bulk and to the old system of distributing offices. That at least is my understanding. The effect of the present proposition, as I understand, is to take only one step backward instead of two, to preserve to us the benefit of distribution in the cars, saving generally one day in the delivery of letters by obviating the necessity of sending the mails for distribution to the distributing offices. Am I correct?

Mr. CANNON, of Illinois. The gentleman is only partially correct. That the mail service since the discontinuance of the fast-mail trains is not so thorough as it was is true; but at the same time this service is much superior to what it was fifteen years ago.

I wish to call attention to the fact that this is not a proposition to give $75,000 to restore the fast mail. It is a proposition to enable the Department upon the great trunk lines to get additional facilities in car lengths—sixty-foot cars instead of forty-five-foot cars for the distribution of the mails. The effect of this, as I am informed, with reference to a very large portion of the mails will be to expedite them from twelve to twenty-four hours between New York and Saint Louis and other cities.

Mr. BAKER, of Indiana. I wish to inquire of the gentleman whether this $75,000 additional is required in consequence of the anticipated loading down of the mails with public documents by reason of the restoration of the franking privilege.

Mr. CANNON, of Illinois. If my friend from Indiana had as much knowledge about the amount of matter carried in the mails as he has about almost everything else, he never would have asked that question. He would have known that the abolition of the frank made no perceptible difference in the amount of mail matter carried or in the revenues of the Department. He would have known that Postmaster-General Jewell, when there was a restoration of the frank for nine months, about two years ago, reported that it made no perceptible difference. In the large amount of matter passing through the mails of the country, the quantity that would be franked and distributed to the people for their benefit would not amount in the general bulk of mail matter to more than a pin-head in a hay-stack.

Mr. JOHN REILLY. Is it not a fact that public documents printed for the use of the people are now, for want of the franking privilege, allowed to lie here in the document-room without being sent out?

Mr. CANNON, of Illinois. A great many documents, I am informed, are lying in the document-room because many members feel that they cannot afford to pay the postage upon them. Some members, I understand, pay at the rate of hundreds of dollars a year to distribute these documents.

Mr. PAGE. The amendment in regard to the free distribution is agreed to, is it not?

Mr. CANNON, of Illinois. Yes, sir; there is no controversy about that.

The SPEAKER. What course does the gentleman from Missouri [Mr. CLARK] propose in reference to this matter?

Mr. CLARK, of Missouri. I desire, in the first place, that the House shall agree to the conference report, and that then the sense of the House be taken upon the matter excluded from the report—the appropriation of $75,000 for the postal-car service.

The report of the committee of conference was agreed to.

Mr. CLARK, of Missouri, moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CLARK, of Missouri. I now ask a separate vote on the appropriation of $75,000 for postal-car facilities. I ask the Clerk to read that part of the report touching this subject.

The SPEAKER. The Clerk will read, after which the question will be on the motion that the House insist.

The Clerk read as follows:

The conferees of the two Houses, being unable to agree to sections 2, 3, 4, and 6, disagree to the same and recommend to their respective Houses a separate vote upon the following proposition, to wit: To strike out said sections and insert the following:

The sum of $75,000 be, and the same is hereby, appropriated, out of any unexpended balances made for the support of the Post-Office Department for the current year, to enable the Postmaster General to obtain proper facilities from the great trunk lines of railroads for railway post-office service during the fiscal year ending June 30, 1878.

Mr. CLARK, of Missouri. I move the House insist on its disagreement with the Senate on the amendment which has just been read, and afterward I shall ask for a committee of conference on the disagreeing votes of the two Houses.

Mr. CONGER. As I understand it, the committee agreed to report this proposition to the House for a vote.

Mr. CLARK, of Missouri. And that is what we are voting on.

Mr. CANNON, of Illinois. I rise to a parliamentary inquiry, and that is, to ask the Chair the effect of the vote now to be taken; if the House insists, then will not the bill fail unless it go to another conference?

The SPEAKER. The Chair presumes the gentleman from Missouri would ask for another conference. If the motion to insist is voted down, then the bill is passed as the Senate desire to have it.

Mr. CONGER. Why may not we vote on the proposition recommended by the committee?

Mr. CLARK, of Missouri. My motion is the same thing precisely.

The SPEAKER. If the motion of the gentleman from Missouri is voted down, the effect will be to pass the bill in the manner the Senate desire.

Mr. FORT. But if it is not voted down?

The SPEAKER. Then the Chair presumes the gentleman from Missouri will ask for another conference on the disagreeing votes of the two Houses.

Mr. CLARK, of Missouri. That was the intention and understanding of the conference committee, that another conference would be asked on the disagreeing votes of the two Houses.

The SPEAKER. The question recurs on the amendment which has just been read.

The House divided; and there were—ayes 80, noes 65.

So the House insisted on its amendment.

Mr. CLARK, of Missouri, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CLARK, of Missouri. I now ask for a further conference on the disagreement between the two Houses on that bill.

The motion was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The SPEAKER announced as managers of the conference on the part of the House on the disagreeing votes of the two Houses on the legislative appropriation bill, Mr. HOLMAN, Mr. CLYMER, and Mr. WALDRON.

SIGNAL SERVICE.

The SPEAKER also announced as managers of the conference on the part of the House on the disagreeing votes of the two Houses on the Signal Service bill, Mr. SINGLETON, Mr. BLOUNT, and Mr. WILSON, of Iowa.

POST-ROUTE BILL.

The SPEAKER also announced as managers of the conference on the part of the House on the disagreeing votes of the two Houses on the post-route bill, Mr. CLARK of Missouri, Mr. WADDELL, and Mr. CANNON of Illinois.

DESERT LANDS.

Mr. LUTTRELL. I submit the following report from a conference committee, and on its adoption demand the previous question.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill entitled "An act to provide for the sale of desert lands in certain States and Territories," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from the amendments numbered 1, 2, 5, 6, 9, 13, 14, and 16.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 4, 7, 10, 15, and 17; and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment to strike out all of said amendment after the word "however" and insert in lieu thereof the following:

That the right to the use of water by the person so conducting the same on or to any tract of desert land of six hundred and forty acres shall depend upon *bona fide* prior appropriation, and such rights shall not exceed the amount of water actually appropriated and necessarily used for the purpose of irrigation and reclamation, and all surplus water over and above such actual appropriation and use, together with the water of all lakes, rivers, and other sources of water supply upon the public lands, not navigable, shall remain and be held free for the appropriation and use of the public for irrigation, mining, and manufacturing purposes, subject to existing rights

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment to insert before the word "sum," in line 13, on the first page of the bill, the word "additional;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment striking out all after the word "provided," in said amendment, and inserting in lieu thereof the following:

"That no person shall be permitted to enter more than one tract of land and not to exceed six hundred and forty acres, which shall be in compact form."

And the Senate agree to the same.

JOHN K. LUTTRELL,
LA FAYETTE LANE,
LORENZO CROUNSE,
Managers on the part of the House.

A. A. SARGENT,
R. J. OGLESBY,
J. K. KELLY,
Managers on the part of the Senate.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the conference committee was adopted.

Mr. LUTTRELL moved to reconsider the vote by which the conference report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. KNOTT. I rise to make a privileged report.

Mr. McCRARY. I rise to make a report from a conference committee.

Mr. KNOTT. Am I not entitled to the floor?

The SPEAKER. The gentleman from Iowa makes a report from a conference committee, which has a prior right over everything, even a motion to adjourn.

SHORT-HAND REPORTER FOR CALIFORNIA COURTS.

Mr. McCRARY. I send the report of the committee of conference to the desk.

The Clerk read as follows:

The conference committee on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. No. 4476) to provide for the appointment of an official short-hand reporter for the United States courts in and for the district of California, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to said bill, and that the bill, as thus amended, be further amended by adding to the second section thereof the following:

"*Provided*, That it shall be competent for the circuit or district court justice or judge to appoint the same person to the office of reporter in their several courts."

And that the House agree to the same.

GEORGE W. McCRARY,
PETER D. WIGGINTON,
Managers on the part of the House.

GEORGE G. WRIGHT,
T. O. HOWE,
HENRY COOPER,
Managers on the part of the Senate.

The conference report was adopted.

Mr. McCRARY moved to reconsider the vote by which the conference report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTION FRAUDS IN NEW YORK, ETC.

Mr. COX. On behalf of the committee as to election frauds in New York, Brooklyn, Jersey City, and Philadelphia, I ask leave to make their report and that the same, with the views of the minority, be printed in the RECORD.

The SPEAKER. If there be no objection, they will be printed in the RECORD.

Mr. MacDOUGALL. It is understood that the report of the majority will not be printed until the report of the minority is read.

Mr. COX. It is understood that the two reports shall be printed together. The views of the minority were included in my proposition.

The SPEAKER. If there be no objection, that order will be made, and the report of the committee, together with the views of the minority, will be printed in the RECORD.

[They will be printed hereafter.]

THE ELECTORAL VOTE.

Mr. KNOTT. I am directed by the committee on the privileges, powers, and duties of the House to submit the preamble and resolution which I send to the desk and to ask that they be adopted.

The Clerk proceeded to read the preamble and resolution.

Mr. SAMPSON. I desire to ask the Chair whether this comes in by unanimous consent or under a motion to suspend the rules.

The SPEAKER. It comes in by the right the committee have to report at any time.

The Clerk proceeded to read the preamble and resolution, as follows:

Whereas it is not disputed that the electoral votes of the following-named States, to wit, Alabama, Arkansas, Connecticut, Delaware, Georgia, Indiana, Kentucky, Maryland, Mississippi, Missouri, New Jersey, New York, North Carolina, Tennessee, Texas, Virginia, and West Virginia, amounting in all to 184, were in conformity to the Constitution and laws of the United States cast for Samuel J. Tilden, of the State of New York, for President, and for Thomas A. Hendricks, of the State of Indiana, for Vice-President of the United States, by legally qualified electors appointed by said States, and severally in the manner directed by the Legislatures of said States, lists of which said votes were duly signed, certified, and transmitted sealed by said electors respectively to the seat of Government, directed to the President of the Senate, and by him opened in the presence of the Senate and House of Representatives, as required by the Constitution of the United States;

And whereas the evidence taken and reported to this House in pursuance of the orders thereof shows conclusively that on the 7th day of November, in the year of our Lord 1876, the following-named persons, to wit, Wilkinson Call, J. E. Yonge, R. B. Hilton, and Robert Bullock, each of whom was in all respects legally eligible and qualified to be appointed elector for President and Vice-President of the United States, were duly appointed electors by the State of Florida in the manner directed by the Legislature of said State;

And whereas the said Wilkinson Call, J. E. Yonge, R. B. Hilton, and Robert Bullock, after having been so appointed electors for President and Vice-President of the United States by said State of Florida, in the manner directed by the Legislature thereof, did on the 6th day of December, in the year of our Lord 1876, meet in the City of Tallahassee, in the said State of Florida, that being the time and place fixed by the Constitution and laws of the United States and of the State of Florida, at which the electors appointed by said State should meet, and, having so met as the electors duly appointed by the State of Florida as aforesaid, did then and there, in pursuance of the Constitution and laws of the United States, cast by ballot 4 votes

for Samuel J. Tilden, of the State of New York, for President of the United States, and in like manner 4 votes for said Thomas A. Hendricks, of the State of Indiana, for Vice-President of the United States, naming in separate and distinct ballots the person voted for by them for President and the person voted for by them for Vice-President, and then and there made distinct lists of the persons voted for by them for President and Vice-President of the United States and of the number of votes cast for each, which lists were by said electors signed, certified, and transmitted by them sealed to the seat of Government, directed to the President of the Senate and by him opened in the presence of the Senate and House of Representatives, as required by the Constitution of the United States.

Mr. CONGER, (interrupting.) I rise to a question of privilege. I move to suspend the rules and that the House proceed to consider the bills on the Private Calendar.

The SPEAKER. The gentleman cannot make that motion now.

Mr. CONGER. Why not? I believe we are not acting under a suspension of the rules.

The SPEAKER. The Chair is informed that we are. The Chair will ascertain the fact.

Mr. CONGER. The privilege of the gentleman from Kentucky, as I understand, is a privilege under the rules, and I move to suspend the rules.

Mr. ATKINS. Is it in order, Mr. Speaker, to stop the reading of the report?

The SPEAKER. The gentleman from Kentucky [Mr. KNOTT] made this report from a committee which had the right to report at any time under unanimous consent, which was equivalent to a suspension of the rules.

Mr. CONGER. That is a point which was never so decided before.

The SPEAKER. O, yes; it was never decided otherwise.

Mr. CONGER. Not that unanimous consent was equivalent to a suspension of the rules, for unanimous consent is given under the rules.

The SPEAKER. Special orders are made under a suspension of the rules, and, of course, if unanimous consent is given, it is equivalent to a suspension of the rules.

Mr. CONGER. I do not see that it covers that ground.

The SPEAKER. It covers it exactly.

The Clerk resumed the reading of the bill, and read as follows:

And whereas the evidence taken and reported to this House in pursuance of the order thereof conclusively shows that on the 7th day of November, in the year of our Lord, 1876, the following-named persons, to wit, John McEnery, R. C. Wickliffe, L. St. Martin, E. P. Poché, A. De Blanc, W. Seay, R. G. Cobb, K. A. Cross, each of whom was in all respects legally eligible and qualified to be appointed electors for President and Vice-President of the United States, were duly appointed electors by the State of Louisiana in the manner provided by the Legislature of said State;

And whereas the said John McEnery, R. C. Wickliffe, L. St. Martin, E. P. Poché, A. De Blanc, W. A. Seay, R. G. Cobb, K. A. Cross, after having been so appointed electors for President and Vice-President of the United States by the State of Louisiana in the manner directed by the Legislature thereof, did, on the 6th day of December, in the year of our Lord 1876, meet in the city of New Orleans, in the said State of Louisiana, it being the time and place fixed by the Constitution and laws of the United States and of the said State of Louisiana, at which the electors appointed by the said State should meet, and having so met did then and there as the electors duly appointed for the State of Louisiana as aforesaid in pursuance of the laws and Constitution of the United States, cast by ballot 8 votes for Samuel J. Tilden of New York for President of the United States, and in like manner cast 8 votes for Thomas A. Hendricks of the State of Indiana for Vice-President of the United States, naming in separate and distinct ballots the person voted for by them for President, and the person voted for by them for Vice-President of the United States, and then and there made distinct lists of the persons voted for for President and Vice-President of the United States and the number of votes cast for each, which lists were by said electors signed, certified, and transmitted by said electors, sealed, to the seat of Government, directed to the President of the Senate, and by him opened in the presence of the Senate and House of Representatives, as required by the Constitution of the United States.

Mr. CONGER, (interrupting.) I desire to call the attention of the Chair to the record, which shows that this committee was appointed under a demand for the previous question, which was seconded, and by a vote of the House. The record shows that, and that it was not done, as the Speaker stated, by unanimous consent.

The SPEAKER. The force and effect of the previous question on that question was simply to cut off debate.

Mr. CONGER. It was under the operation of the previous question that the resolution, appointing this committee and authorizing them to report at any time, was passed. The Chair has stated to the House that it was done by unanimous consent. I denied it because I found on an examination of the Journal that it was done under the operation of the previous question, and was done by a vote of the House.

The SPEAKER. The original proposition was offered by unanimous consent, which was equivalent to a suspension of the rules, and so far as the operation of the previous question was concerned it was merely to cut off debate.

Mr. CONGER. But it was by a vote of the House that the resolution was adopted, and I desire to make that point.

The SPEAKER. Well, the Chair overrules the point of order.

Mr. CONGER. I desired to make the point because the Chair had made an assertion different from my statement of what was the action of the House.

The Clerk resumed and concluded the reading of the report, as follows:

And whereas the evidence taken and reported to the House, in pursuance of the orders thereof, shows conclusively that certain persons who pretended to have been appointed electors by the State of Florida, and who pretended as such to cast 4 votes for Rutherford B. Hayes, of Ohio, for President of the United States, and 4 votes for William A. Wheeler, of New York, for Vice-President of the United States, to wit: F. C. Humphreys, C. H. Pearce, W. H. Holden, and T. W. Long, who were not appointed by the State of Florida, but were falsely and fraudulently declared to have been elected, when in truth they had each and every one of them been defeated by a clear majority, as was well known by the then governor of Florida and the other canvassing officers of that State, who falsely and fraudulently made such declaration;

And whereas the evidence taken and reported to this House in pursuance of its orders further shows conclusively that certain persons, namely, William Pitt Kellogg, J. H. Burch, Peter Joseph, Lionel A. Sheldon, Morris Marks, A. B. Levissee, O. H. Brewster, and Oscar Joffrion were falsely, fraudulently, and corruptly declared to have been appointed electors by the State of Louisiana, and did falsely, fraudulently, and corruptly pretend to cast 8 votes for Rutherford B. Hayes for President, and 8 votes for William A. Wheeler for Vice-President of the United States, when in truth and in fact they had never been appointed electors by the said State of Louisiana, but had been defeated by a majority of several thousand of the legally qualified voters of said State, at a fair, peaceful, and legally conducted election, held in pursuance of the law of said State, all of which was well known to the board of returning officers who made the false, fraudulent, and corrupt declaration of their pretended appointment as electors, and who under the constitution and laws of the said State of Louisiana had no jurisdiction or authority to make any such declaration or statement;

And whereas the pretended votes given by F. C. Humphreys, Charles H. Pearce, William H. Holden, T. W. Long, William Pitt Kellogg, J. H. Burch, Peter Joseph, Lionel A. Sheldon, Morris Marks, Aaron B. Levissee, O. H. Brewster, and Oscar Joffrion were cast without any authority of law and by persons who had not been appointed electors: Now, therefore, in view of the foregoing facts, the truth of which is attested by an overwhelming array of sworn testimony, as well as the intelligence of the American people,

Resolved by the House of Representatives of the United States of America, That it is the duty of the House to declare, and this House does hereby solemnly declare, that Samuel J. Tilden, of the State of New York, received 196 electoral votes for the office of President of the United States, all of which votes were cast and lists thereof signed, certified, and transmitted to the seat of Government, directed to the President of the Senate, in conformity with the Constitution and laws of the United States, by electors legally eligible and qualified as such an elector, each of whom had been duly appointed and elected, in the manner directed by the Legislature of the State in and for which he cast his vote as aforesaid; and that said Samuel J. Tilden, having thus received the votes of a majority of the electors appointed as aforesaid, he was thereby duly elected President of the United States of America for the term of four years, commencing on the 4th day of March, A. D., 1877; and this House further declare that Thomas A. Hendricks, having received the same number of the electoral votes for the office of Vice-President of the United States that were cast for Samuel J. Tilden for President, as aforesaid, the said votes having been cast for him by the same persons who voted for the said Tilden for President, as aforesaid, and at the same time and in the same manner, it is the opinion of this House that said Thomas A. Hendricks, of the State of Indiana, was duly elected Vice-President of the United States for a term of four years, commencing on the 4th day of March, A. D., 1877.

Mr. WILSON, of Iowa. I rise to offer an amendment to this resolution.

Mr. KASSON. I raise the question of consideration under Rule 41.

Mr. BURCHARD, of Illinois. I raise the question of order at this time that the committee has no authority to report such a resolution.

The SPEAKER. The gentleman from Kentucky [Mr. KNOTT] is recognized as entitled to the floor.

Mr. KNOTT. According to agreement with my colleagues on the committee, I yield to the gentleman from Ohio [Mr. LAWRENCE] that he may ask that the views of the minority be printed; and thereupon I will demand the previous question upon the adoption of the preamble and resolution.

Mr. KASSON. I want to save all rights.

Mr. GARFIELD. All points of order are reserved.

The SPEAKER. Certainly.

Mr. WILSON, of Iowa. I rose to offer an amendment before the previous question was called.

The SPEAKER. The gentleman from Iowa [Mr. WILSON] asked consent, before the previous question is called, to submit an amendment.

Mr. WILSON, of Iowa. Let it be read.

Mr. KNOTT. I will hear it read.

Mr. BURCHARD, of Illinois. The point of order is reserved, whether it is in order for this resolution to be acted upon by the House.

The SPEAKER. The reporting of a resolution or a bill from a committee carries with it the right of the House to consider it.

Mr. BURCHARD, of Illinois. I do not desire to raise the question as to the right of the committee to report to the House upon this matter.

The SPEAKER. If that is not disputed, the other right attaches.

Mr. BURCHARD, of Illinois. I raise the point of the right of the committee to report this particular proposition, a proposition to declare the number of votes cast for President and Vice-President after the count has been had in the presence of the two Houses, and the joint meeting which by law was required to make the count has been dissolved.

The SPEAKER. That is a question for the House to determine. The fact is that this House as a House has never said that the votes to which allusion is made in the preamble and resolution should be counted.

Mr. KASSON. I raise the question under Rule 41, will the House now consider this resolution?

The SPEAKER. It is in order to raise the question of consideration.

Mr. WHITE. On that question I call for the yeas and nays. This report is revolutionary, treasonable, and damnable.

The yeas and nays were ordered.

The question was taken; and there were—yeas 146, nays 82, not voting 62; as follows:

YEAS—Messrs. Abbott, Ainsworth, Ashe, Atkins, Bagby, John H. Bagley, jr., Beebe, Blackburn, Bland, Bliss, Boone, Bradford, Bright, John Young Brown, Buckner, Samuel D. Burchard, John H. Caldwell, William P. Caldwell, Candler, Carr, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Culberson, Cutler, Davis, De Bolt, Dibrell, Douglas, Durham, Ellis, Faulkner, Field, Finley, Forney, Franklin, Fuller, Gause,

Gibson, Glover, Goode, Gunter, Andrew H. Hamilton, Robert Hamilton, Hardenbergh, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hartzell, Hatcher, Haymond, Henkle, Abram S. Hewitt, Hooker, Hopkins, House, Humphreys, Hunton, Hurd, Jenks, Thomas L. Jones, Knott, Lamar, Franklin Landers, Lane, Le Moyne, Levy, Lord, Luttrell, Lynde, Mackey, McFarland, McMahon, Meade, Mills, Money, Morrison, Mutchler, Neal, New, O'Brien, Odell, Payne, Phelps, John F. Philips, Poppleton, Powell, Purman, Rea, John Reilly, James B. Reilly, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Savage, Sayler, Scales, Schleicher, Sheakley, Singleton, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stevenson, Stone, Swann, Tarbox, Teese, Terry, Thomas, Thompson, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Charles C. B. Walker, Walling, Walsh, Ward, Warner, Erastus Wells, Whitehouse, Whitthorne, Wigginton, Wike, James Williams, Jere N. Williams, Willis, Benjamin Wilson, Fernando Wood, Yeates, and Young—146.

NAYS—Messrs. Adams, George A. Bagley, William H. Baker, Ballou, Banks, Blair, Bradley, William R. Brown, Horatio C. Burchard, Buttz, Cannon, Chittenden, Conger, Crapo, Counse, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Eames, Evans, Flye, Fort, Frye, Garfield, Hale, Haralson, Benjamin W. Harris, Hathorn, Hays, Hendee, Henderson, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Lapham, Lawrence, Leavenworth, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Nash, Norton, Oliver, Page, William A. Phillips, Pierce, Plaisted, Platt, Rainey, Robinson, Rusk, Sampson, Seelye, Sinnickson, Strait, Thornburgh, Washington Townsend, Tufts, Wait, Alexander S. Wallace, G. Wiley Wells, White, Whiting, Willard, Andrew Williams, Charles G. Williams, William B. Williams, James Wilson, Woodburn, and Woodworth—82.

NOT VOTING—Messrs. Anderson, John H. Baker, Banning, Bass, Belford, Bell, Blount, Burleigh, Cabell, Campbell, Cason, Caswell, Cate, Chapin, Cox, Durand, Eden, Egbert, Felton, Foster, Freeman, Goodin, Hancock, Goldsmith W. Hewitt, Hill, Hoar, Holman, Frank Jones, Kehr, Kelley, Kimball, King, George M. Landers, Lewis, Maish, Metcalfe, Milliken, Morgan, O'Neill, Packer, Piper, Potter, Pratt, Reagan, John Robbins, Sobieski Ross, Schumaker, Smalls, A. Herr Smith, Stephens, Stowell, Martin I. Townsend, Van Vorhes, Waldron, Gilbert C. Walker, John W. Wallace, Warren, Watterson, Wheeler, Alpheus S. Williams, Wilshire, and Alan Wood, jr.—62.

So the House agreed to consider the report.

During the roll-call the following announcements were made:

Mr. HUNTON. My colleague, Mr. CABELL, is detained from his seat by sickness. If present he would vote "ay."

Mr. COCHRANE. My colleague, Mr. MAISH, is absent from the House on account of sickness. If here he would vote "ay."

Mr. LAMAR. The gentleman from California, Mr. PIPER, is absent on account of sickness.

The result of the vote was announced as above stated.

Mr. GARFIELD. I desire to put a question to the gentleman from Kentucky, [Mr. KNOTT.] If this resolution is in terms the expression of the opinion of the House, it is one thing; if it is a declaration that becomes the legal finding of this body, it is another. One of the resolutions (for, as I understand, there are two) says that "in the opinion of the House" a certain thing is a fact. If the gentleman will put a similar clause in the other resolution——

Mr. KNOTT. I cannot yield. I have agreed to yield to the gentleman's colleague, [Mr. LAWRENCE,] one of the minority of the committee.

Mr. GARFIELD. Very well; then we cannot allow any action on this until the gentleman will hear what we have to say.

Mr. KNOTT. In pursuance of an agreement between the majority and the minority of the committee, I now yield to the gentleman from Ohio, [Mr. LAWRENCE,] that he may ask leave to have printed the views of the minority. I shall then move the previous question upon the resolution.

Mr. BURCHARD, of Illinois. The gentleman from Ohio [Mr. LAWRENCE] is not in his seat.

Mr. KNOTT. Then I will yield to the gentleman from Illinois to make the same request.

Mr. BURCHARD, of Illinois. On behalf of the minority of the committee I desire to present the report of Mr. LAWRENCE, and also to offer a resolution as a substitute for the resolution reported by the gentleman from Kentucky.

Mr. LAWRENCE, (having just entered the Hall.) I submit the views of the minority and ask that they may be printed. They do not propose any action by the House, so that there is nothing to be done except to order them to be printed.

The SPEAKER. The Chair hears no objection, and the order will be made.

Mr. KNOTT. I now move the previous question on the adoption of the report and resolution submitted by me.

Mr. BURCHARD, of Illinois. And the substitute?

The SPEAKER. The gentleman from Ohio [Mr. LAWRENCE] presented no substitute. As the Chair understood, he presented the views of the minority, and asked that the same be printed, to which there was no objection.

Mr. WILSON, of Iowa. Will the gentleman from Kentucky hear my amendment read?

Mr. KNOTT. I move the previous question.

Mr. LAWRENCE. My colleague on the committee, the gentleman from Illinois, [Mr. BURCHARD,] offered a substitute on behalf of the minority.

The previous question was seconded and the main question ordered.

The SPEAKER. The Chair desires to know from the gentleman from Kentucky whether he is willing to allow the proposition of the gentleman from Iowa [Mr. WILSON] to be read for information.

Mr. KNOTT. I have no objection to its being read for information.

The Clerk read as follows:

Resolved, That the electoral votes of the States have been counted in accordance with law, and that Rutherford B. Hayes and William A. Wheeler have been legally declared elected President and Vice-President of the United States, and that it is the duty of all law-abiding citizens to obey the law of the land.

Mr. WILSON, of Iowa. The minority of the committee, as I understand, desire to submit that as a substitute.

Mr. KNOTT. I do not yield for that.

Mr. PAGE. How can the gentleman decline to yield when this comes up as a minority report?

The SPEAKER. The Chair does not so understand.

Mr. PAGE. It was offered by the gentleman from Illinois, [Mr. BURCHARD.]

The SPEAKER. There was an arrangement between the majority and the minority of the committee as stated by the gentleman from Kentucky, [Mr. KNOTT.]

Mr. OLIVER. I ask that the resolutions of the majority be read.

Several members objected.

The SPEAKER. They have been read at this stage, and there is objection to their being read again. The question is on the adoption of the report and accompanying resolutions.

Mr. PAGE. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 136, nays 88, not voting 66; as follows:

YEAS—Messrs. Abbott, Ainsworth, Ashe, Atkins, Bagby, John H. Bagley, jr., Banning, Beebe, Blackburn, Bland, Bliss, Blount, Boone, Bradford, Bright, John Young Brown, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Carr, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Culberson, Davis, De Bolt, Dibrell, Douglas, Durham, Ellis, Faulkner, Field, Finley, Forney, Franklin, Fuller, Gause, Gibson, Glover, Goode, Andrew H. Hamilton, Robert Hamilton, Hardenbergh, Henry R. Harris, John T. Harris, Hartridge, Hartzell, Hatcher, Henkle, Abram S. Hewitt, Hooker, Hopkins, House, Humphreys, Hunton, Hurd, Jenks, Thomas L. Jones, Knott, Lamar, Franklin Landers, George M. Landers, Levy, Lord, Luttrell, Lynde, Mackey, McFarland, McMahon, Meade, Mills, Money, Morrison, Mutchler, Neal, New, O'Brien, Odell, Payne, Phelps, John F. Philips, Poppleton, Purman, Rea, John Reilly, James B. Reilly, Rice, Riddle, John Robbins, William M. Robbins, Roberts, Miles Ross, Sayler, Scales, Schleicher, Sheakley, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Swann, Tarbox, Teese, Terry, Thomas, Thompson, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Walling, Walsh, Ward, Warner, Erastus Wells, Whitthorne, Wigginton, Wike, James Williams, Jere N. Williams, Willis, Wilshire, Benjamin Wilson, and Yeates—136.

NAYS—Messrs. Adams, George A. Bagley, William H. Baker, Ballou, Banks, Blair, Bradley, William R. Brown, Horatio C. Burchard, Buttz, Cannon, Caswell, Chittenden, Conger, Crounse, Danford, Darrall, Denison, Dobbins, Dunnell, Eames, Evans, Flye, Fort, Foster, Freeman, Frye, Garfield, Hale, Benjamin W. Harris, Hathorn, Haymond, Hays, Hendee, Henderson, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kelley, Lapham, Lawrence, Leavenworth, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Nash, Norton, Oliver, O'Neill, Page, William A. Phillips, Plaisted, Platt, Rainey, Robinson, Sobieski Ross, Rusk, Sampson, Seelye, Sinnickson, A. Herr Smith, Stowell, Strait, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Wait, Alexander S. Wallace, John W. Wallace, G. Wiley Wells, White, Whiting, Willard, Andrew Williams, Charles G. Williams, James Wilson, Alan Wood, jr., Woodburn, and Woodworth—88.

NOT VOTING—Messrs. Anderson, John H. Baker, Bass, Belford, Bell, Buckner, Burleigh, Campbell, Candler, Cason, Cate, Chapin, Cox, Crapo, Cutler, Davy, Durand, Eden, Egbert, Felton, Goodin, Gunter, Hancock, Haralson, Harrison, Goldsmith W. Hewitt, Hill, Hoar, Holman, Frank Jones, Kehr, Kimball, King, Lane, Le Moyne, Lewis, Lynch, Maish, Metcalfe, Milliken, Morgan, Packer, Pierce, Piper, Potter, Powell, Pratt, Reagan, Savage, Schumaker, Singleton, Smalls, Stephens, Stevenson, Van Vorhes, Waldron, Charles C. B. Walker, Gilbert C. Walker, Warren, Watterson, Wheeler, Whitehouse, Alpheus S. Williams, William B. Williams, Fernando Wood, and Young—66.

So the resolution was adopted.

During the roll-call the following announcements were made:

Mr. COCHRANE. My colleague from Pennsylvania, Mr. MAISH, is absent on account of sickness. If present he would vote "ay."

Mr. NORTON. The gentleman from Ohio, Mr. VAN VORHES, is confined to his room by sickness.

The result of the vote was then announced as above recorded.

Mr. KNOTT moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its Clerks, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4476) to provide for the appointment of an official short-hand reporter for the United States courts in and for the district of California.

WITHDRAWAL OF PAPERS.

Mr. LANDERS, of Indiana, by unanimous consent, obtained leave to withdraw from the files of the House the papers in the case of J. E. Robinson.

Mr. HOOKER, by unanimous consent, obtained leave to withdraw from the files of the Committee on Pensions the papers of Mrs. Nettie M. Voelain.

ORGANIZATION OF INDIAN TERRITORY.

The SPEAKER. The Chair desires to present to the House a report of the Committee on Indian Affairs on the organization of the Indian Territory. It is requested that the report be printed and recommitted.

There was no objection; and it was so ordered.

COUNTING OF THE ELECTORAL VOTE.

Mr. FIELD. I am directed by the committee on the privileges, powers, and duties of the House in counting the electoral vote to make a further report in part, and upon its adoption I demand the previous question.

The Clerk read the report of the committee, as follows:

The committee on the privileges, powers, and duties of the House of Representatives in counting the vote for President and Vice-President of the United States report in part, that since their partial report of certain resolutions, made to this House on the — day of January last, the passage of the act entitled "An act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," and the proceedings under it, have interrupted the discussion of the said resolutions and the action of the House thereon; but that the refusal of the electoral commission constituted by the said act to hear any evidence touching the frauds and want of jurisdiction of the canvassing and returning boards of Florida and Louisiana, has made it so much the more important to affirm the said resolutions and the authority of this House over the counting of the electoral votes, and especially the right of Congress and of the House to inquire whether any votes purporting to come from a State have been cast by persons duly appointed by that State electors of President and Vice-President in the manner directed by its Legislature, and for that purpose to receive evidence of the forgery, falsehood, or invalidity of any certificate of any governor or canvasser whomsoever. The committee therefore recommend the passage of the following additional resolution:

"*Resolved*, That in the counting of the electoral votes of any State it is the right and duty of Congress and of this House to inquire whether any votes purporting to come from a State have been cast by persons duly appointed by that State electors of President and Vice-President in the manner directed by its Legislature, and for that purpose to receive evidence of the forgery, falsehood, or invalidity of any certificate of any governor or canvasser whomsoever."

Mr. FIELD. The arrangement between the majority and the minority of the committee was that an amendment to be proposed by the gentleman from Kentucky [Mr. KNOTT] shall be received or accepted, and that the minority of the committee may propose a substitute or an amendment.

Mr. KNOTT. I offer the amendment which I send to the desk.

The Clerk read as follows:

Amend the preamble by adding the following:

Whereas, on the 1st day of March instant, this House refused to pass the following resolution:

"*Resolved*, That this House requires that the package tendered by the member from New York [Mr. HEWITT] to the President of the United States Senate in the presence of the two Houses on yesterday, and purporting to be a certificate of electoral votes for President and Vice-President in the State of Vermont, shall be opened by the President of the Senate in the presence of the two Houses, and if found to be such a certificate, the same shall be submitted, together with the certificate read in the presence of the two Houses, to the electoral commission for its judgment and decision; and that the Senate be requested to make a like order requiring the President of the Senate to open such package in the presence of the two Houses, and that until such order be made the House will not be ready to meet the Senate and proceed with the count of the electoral vote."

And whereas the rejection of said resolution may hereafter be construed as a precedent recognizing the right of the President of the Senate, when presiding at the joint meeting of the two Houses assembled for counting the electoral vote, to decide what returns or certificates he will lay before the two Houses: Therefore,

Mr. KNOTT. I also offer the following as an additional resolution.

The SPEAKER. The Chair desires to ask whether the proposition which has just been read is accepted as part of the original proposition of the gentleman from New York, [Mr. FIELD.]

Mr. FIELD. Yes, sir.

Mr. BURCHARD, of Illinois. As a member of the committee I desire to say that it is not. It has never been before the committee. It is merely offered by the gentleman from Kentucky, [Mr. KNOTT.]

The SPEAKER. The gentleman from New York [Mr. FIELD] holds the floor and has the right——

Mr. BURCHARD, of Illinois. The right merely to yield to the gentleman from Kentucky to allow him to offer his proposition.

The SPEAKER. The gentleman from New York has the right to yield to allow it to be offered, but not to accept it as part of the committee's report.

Mr. KNOTT. I call for the reading of the resolution.

The Clerk read as follows:

Resolved, (1) That the Constitution of the United States does not confer upon the President of the Senate the power to examine and ascertain the votes to be counted as the electoral votes for President and Vice-President of the United States; (2) that the only power which the Constitution of the United States confers upon the President of the Senate in respect to the electoral vote for President and Vice-President of the United States is to receive the sealed lists transmitted to him by the several electoral colleges, to keep the same safely, and to open all the certificates, or those purporting to be such, in the presence of the Senate and the House of Representatives; (3) that the Constitution of the United States does confer upon the Senate and the House of Representatives the power to examine and ascertain the votes to be counted as the electoral votes; (4) that, in the execution of their power in respect to the counting of the electoral votes, the House of Representatives is at least equal with the Senate; (5) that in the counting of the electoral votes no vote can be counted against the judgment and determination of the House of Representatives.

Mr. BURCHARD, of Illinois. On behalf of the minority of the committee, I offer an amendment to the resolution reported by the gentleman from New York [Mr. FIELD] from the committee.

The SPEAKER. Is it an amendment to the original text?

Mr. BURCHARD, of Illinois. Yes, sir.

The SPEAKER. The amendment will be read.

The Clerk read the amendment, as follows:

Amend the resolution by adding:

"Affecting the genuineness or proper authentication of such certificates, but not for the purpose of questioning the number of votes by which, as shown from the certificates of duly authorized canvassing officers of the State, the electors may have been appointed."

Mr. FIELD. I now demand the previous question on the original resolution and the amendment of the gentleman from Illinois, and upon the proposition offered by the gentleman from Kentucky in the nature of a substitute.

Mr. KASSON. I wish to call for a division of the amendment offered by the gentleman from Kentucky.

Mr. BURCHARD, of Illinois. If the gentleman from New York insists on the motion for the previous question before the original proposition, as it will read if amended as I propose, is read, I must modify it so as to make it a substitute for the entire proposition. I ask that the resolution as it will read if amended be read.

The SPEAKER. The Chair suggests to the gentleman from New York [Mr. FIELD] that he will expedite the matter by allowing the resolution, as it will read, if amended, to be read.

Mr. FIELD. I have no objection to that.

Mr. WALLING. I rise to a parliamentary inquiry. I do not understand that the proposition of the gentlemen from Kentucky [Mr. KNOTT] was offered as a substitute but as an addition to the proposition offered by the gentleman from New York, and that it was accepted by him.

The SPEAKER. The gentleman from New York has no right as a member of the committee to accept the amendment; it comes in in the nature of an amendment.

Mr. WALLING. Then, that being the fact, I make a further inquiry whether or not the proposition of the gentleman from Kentucky is the first proposition before the House?

The SPEAKER. The first amendment to be voted on is the amendment of the gentleman from Illinois [Mr. BURCHARD] to the original proposition; after which the question will be upon the substitute of the gentleman from Kentucky. Then the House will be able to vote upon all three propositions. The Clerk will now read the resolution as it will stand if the amendment of the gentleman from Illinois be adopted.

The Clerk read as follows:

Resolved, That in the counting of the electoral votes of any State it is the right and duty of Congress and of this House to inquire whether any votes purporting to come from a State have been cast by persons duly appointed by that State as electors for President and Vice-President, in the manner directed by its Legislature; and for that purpose to receive evidence of any forgery, falsehood, or invalidity of any certificate of any governor or canvasser whatever affecting the genuineness or proper authentication of such certificate, but not for the purpose of questioning the number of votes by which, as shown by the certificate of duly authorized canvassers of the State, the electors may have been appointed.

Mr. BANKS. I desire to state one of the reasons why this side of the House voted against the resolution of the gentleman from Kentucky, [Mr. KNOTT.] The credit of the House requires that this statement should be made.

Mr. FIELD. I will yield, certainly, with the understanding that the same privilege shall not be asked by any other gentleman.

Mr. BANKS. I voted and other gentlemen on this side of the House voted against the resolution of the gentleman from Kentucky [Mr. KNOTT] because it made a demand and contained a threat which the Senate of the United States could not receive.

Mr. BURCHARD, of Illinois. Allow me to say one word in explanation of my amendment. I find that upon this side of the House gentlemen do not understand it, and I appeal to the gentleman from New York to allow me a moment to explain the effect of the amendment which I propose to this proposition, so that it may be intelligible to the House.

Mr. FIELD. I do not propose to say anything myself, and therefore I cannot yield. I must insist on the demand for the previous question.

The previous question was seconded and the main question ordered, being upon the amendment offered by the gentleman from Illinois [Mr. BURCHARD] to the resolution of the gentleman from New York, [Mr. FIELD.]

Mr. BURCHARD, of Illinois. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 84, nays 122, not voting 84; as follows:

YEAS—Messrs. Adams, George A. Bagley, William H. Baker, Ballou, Banks, Bell, Bradley, William R. Brown, Horatio C. Burchard, Burleigh, Buttz, Cannon, Caswell, Chittenden, Conger, Crapo, Crounse, Danford, Darrall, Denison, Dobbins, Eames, Evans, Flye, Foster, Freeman, Frye, Garfield, Hale, Haralson, Benjamin W. Harris, Hathorn, Hays, Hendee, Henderson, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kelley, Lapham, Lawrence, Leavenworth, Magoon, MacDougall, McCrary, McDill, Monroe, Nash, Norton, Oliver, O'Neill, Packer, Page, William A. Phillips, Plaisted, Platt, Rainey, Robinson, Sobieski Ross, Sampson, Scelye, Sinnickson, Smalls, A. Herr Smith, Stowell, Strait, Thornburgh, Tufts, Wait, Alexander S. Wallace, John W. Wallace, G. Wiley Wells, White, Whiting, Andrew Williams, Charles G. Williams, James Wilson, Alan Wood, jr., Woodburn, and Woodworth—84.

NAYS—Messrs. Ainsworth, Ashe, Atkins, Bagby, John H. Bagley, jr., Banning, Blackburn, Bland, Bliss, Blount, Boone, Bradford, Bright, John Young Brown, John H. Caldwell, William P. Caldwell, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Davis, De Bolt, Durham, Ellis, Faulkner, Field, Finley, Forney, Franklin, Fuller, Gause, Gibson, Glover, Goode, Gunter, Andrew H. Hamilton, Robert Hamilton, Hardenbergh, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hartzell, Hatcher, Henkle, Hooker, Hopkins, House, Hunton, Hurd, Jenks, Thomas L. Jones, Knott, Franklin Landers, George M. Landers, Le Moyne, Levy, Lord, Luttrell, Lynde, Mackey, McFarland, McMahon, Meade, Mills, Money, Mutchler, Neal, New, Odell, Payne, Phelps, John F. Philips, Poppleton, Rea, James B. Reilly, John Reilly, Rice, Riddle, John Robbins, William M. Robbins, Roberts, Savage, Sayler, Scales, Sheakley, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Swann, Tarbox, Teese, Terry, Thomas, Thompson, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Walling, Walsh, Warner, Erastus Wells, Whitthorne, Wigginton, Wike, James Williams, Jere N. Williams, Willis, Benjamin Wilson, and Yeates—122.

NOT VOTING—Messrs. Abbott, Anderson, John H. Baker, Bass, Beebe, Bel-

ford, Blair, Buckner, Samuel D. Burchard, Cabell, Campbell, Candler, Carr, Cason, Cate, Caulfield, Chapin, Culberson, Cutler, Davy, Dibrell, Douglas, Dunnell, Durand, Eden, Egbert, Felton, Fort, Goodin, Hancock, Haymond, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Hoar, Hoge, Holman, Humphreys, Frank Jones, Kehr, Kimball, King, Lamar, Lane, Lewis, Lynch, Maish, Metcalfe, Miller, Milliken, Morgan, Morrison, O'Brien, Pierce, Piper, Potter, Powell, Pratt, Purman, Reagan, Miles Ross, Rusk, Schleicher, Schumaker, Singleton, Stephens, Stevenson, Martin I. Townsend, Washington Townsend, Van Vorhes, Waldron, Charles C. B. Walker, Gilbert C. Walker, Ward, Warren, Watterson, Wheeler, Whitehouse, Willard, Alpheus S. Williams, William B. Williams, Wilshire, Fernando Wood, and Young—84.

So the amendment was not agreed to.

During the call of the roll the following announcements were made:

Mr. COCHRANE. I desire to state that my colleague, Mr. MAISH, is absent from the House on account of sickness.

Mr. HARRIS, of Massachusetts. My colleague, Mr. HOAR, is absent from the House on account of indisposition; if present he would vote "ay."

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4616) making appropriations for the naval service for the fiscal year ending June 30, 1878, and for other purposes.

The message further announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4188) making appropriations for fortifications and for other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1878.

The message further announced that the Senate had passed, with amendments, in which the concurrence of the House was requested, the bill (H. R. No. 4691) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes.

ENROLLED BILL SIGNED.

Mr. POPPLETON, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 3925) relating to the production of fruit brandy, and to punish frauds connected with the same.

COUNTING THE ELECTORAL VOTE.

The House resumed the consideration of the preamble and resolution reported by Mr. FIELD.

The SPEAKER. The question recurs upon the proposition of the gentleman from Kentucky, [Mr. KNOTT,] to add to the original proposition what has been read.

Mr. KASSON. I would inquire whether, if the amendment of the gentleman from Kentucky [Mr. KNOTT] should be adopted, there would still remain the right, at the next stage of the proceedings, to call for separate votes upon the several propositions?

The SPEAKER. There would be that right.

Mr. YOUNG. I ask for a separate vote upon the first three propositions.

Mr. KEHR. I desire a separate vote on the original preamble and resolution.

The SPEAKER. That will be in order.

Mr. BLAND. Is it in order for me to ask for a separate vote on the original preamble and resolution?

The SPEAKER. It is.

Mr. KNOTT. Is it in order now for me to withdraw the amendments I have offered?

The SPEAKER. It would not be in order, except by unanimous consent, as the previous question is now operating.

Mr. KNOTT. Then I ask unanimous consent to withdraw both the amendments I have offered.

Mr. CONGER. I believe I must object.

Many members on both sides of the House. "O, no!" "Let them be withdrawn."

Mr. CONGER. At the request of my democratic friends, I will withdraw my objection.

The SPEAKER. The gentleman has many such. [Laughter.]

Mr. CONGER. I think I must ask the Chair to withdraw his remark.

The SPEAKER. And the Chair declines to do so. [Laughter.]

Mr. CONGER. Then I shall have to appeal from the statement made by the Chair, which I understood to be that I had not "any such."

The SPEAKER. The gentleman misunderstood the Chair; the remark was that the gentleman had "many such."

Mr. CONGER. I still think the Chair is mistaken, [laughter,] but I will not appeal from his statement.

The SPEAKER. The Chair is certain as to one.

No objection being made, the amendments of Mr. KNOTT were withdrawn.

Mr. FIELD. I call for a vote on the original proposition.

Mr. BURCHARD, of Illinois. I ask that the resolution accompanying the report be read.

The resolution was read as follows:

Resolved, That in the count of the electoral votes of any State, it is the right and duty of Congress and of this House to inquire whether any votes purporting to come from a State have been cast by persons duly appointed by that State electors of President and Vice-President, in the manner directed by its Legislature; and for that purpose to receive evidence of the forgery, falsehood, or invalidity of any certificate of any governor or canvasser whomsoever.

The report and accompanying resolution were adopted.

Mr. FIELD moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NAVAL APPROPRIATION BILL.

Mr. BLOUNT submitted a report; which was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4616) making appropriations for the naval service for the year ending June 30, 1878, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6 and 10.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 8, and 11, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment striking out the sum therein named, and inserting in lieu thereof "$6,600,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same, with an amendment adding at the end of the paragraph the following:

Provided, That $100,000 of the above sum shall be available for and be expended by the Bureau of Provisions and Clothing for provisions; which sum shall be immediately available.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same, with an amendment striking out the sum named therein and inserting in lieu thereof "$65,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same, with an amendment striking out the sum named therein and inserting in lieu thereof "$20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same, with an amendment striking out the sum named therein and inserting in lieu thereof "$1,750,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same, with an amendment striking out the sum therein named and inserting in lieu thereof "$942,000;" and the Senate agree to the same.

JAMES H. BLOUNT,
JOHN T. HARRIS,
EUGENE HALE,
Managers on the part of the House.

A. A. SARGENT,
GEORGE S. BOUTWELL,
R. E. WITHERS,
Managers on the part of the Senate.

Mr. BLOUNT. I desire to say that this bill, as agreed upon by the conference committee, differs very little from the corresponding bill as agreed upon by the two Houses at the last session. As a matter of course there have been points of difference, and the conclusions reached have not been entirely in accordance with the views of the House as expressed in its bill; but the results approach very nearly to that bill. The chief difference is in reference to the pay of the Navy. The Secretary of the Navy, supported by the Senate and the Senate committee, insisted upon $7,250,000 for the pay of the Navy. The House and its committee thought $6,250,000 a proper sum. The conference committee has agreed upon $6,600,000.

Under the Bureau of Construction and Repair the House bill provided for an appropriation of $1,500,000. The Senate insisted upon $3,300,000. The conference committee has agreed upon $1,750,000, being exactly the sum appropriated in the bill of last year.

Under the Bureau of Steam Engineering the House appropriated $800,000. The Senate insisted upon $2,000,000. The conference committee has agreed upon $942,000.

These are the large items upon which differences arose. The others are minor items. The bill, I repeat, is, except as to the pay of the Navy, substantially the bill passed at the last session.

Unless some gentleman desires to say something on this report, I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the report was adopted.

Mr. BLOUNT moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMERCIAL RELATIONS.

Mr. BALLOU. The Committee on Printing have directed me to report back the annual report of the Secretary of State on the commercial relations of the United States with foreign nations during 1876, and to move that it be referred to the Committee on Commerce, and that the usual number of copies be ordered to be printed.

The motion was agreed to.

DIGEST OF INTERNATIONAL LAW.

Mr. BALLOU, from the Committee on Printing, reported back the following resolution, with a recommendation that it be concurred in:

Resolved by the Senate, (the House of Representatives concurring,) That of a digest of the opinions of the Attorneys-General and of the decisions of the Federal courts with reference to international law and kindred subjects, prepared at the Department of State, there be printed, in addition to the usual number, 500 copies for the use of the Senate, 1,500 copies for the use of the House of Representatives, and 1,000 copies for the use of the Department of State.

The resolution was concurred in.

ARMY APPROPRIATION BILL.

Mr. ATKINS. I move that the amendments of the Senate to the Army appropriation bill be taken from the Speaker's table and non-concurred in, and that a conference with the Senate be asked.

There being no objection, it was ordered accordingly.

The Speaker announced as the conferees on the part of the House Mr. ATKINS, Mr. WELLS of Missouri, and Mr. FOSTER.

RECESS.

Mr. HURD. I move that the House take a recess till nine o'clock this evening.

The SPEAKER. The Chair will state that in all human probability it will be necessary for the House to sit during the entire night; and the clerks desire time to have the bills enrolled.

The motion of Mr. HURD was agreed to; and accordingly (at five o'clock p. m.) the House took a recess till nine o'clock p. m.

AFTER THE RECESS.

The House resumed its session at nine o'clock p. m.

REAL-ESTATE POOL.

Mr. GLOVER. Mr. Speaker, I desire to introduce the testimony taken before the Committee on the Real-Estate Pool and the Jay Cooke & Co.'s Indebtedness and now ask that it be printed. I wish to say that I have omitted from the testimony that part of the investigation which has reference to Mr. GARFIELD. The order to print only applies to the investigation we took last year, finishing what we then had not time to complete.

Mr. WILSON, of Iowa. I object.

Mr. GARFIELD. I wish to make a single remark if the House will indulge me. As I said yesterday, excepting a single deposition which I have seen, I do not know the contents of the testimony the gentleman desires to have printed; but I understand it relates to a subject five years old, and perfectly well known. I ask nothing—no exception as to myself; let nothing be suppressed which relates to me.

The SPEAKER. The gentleman from Missouri states there is an omission of that testimony.

Mr. GARFIELD. I desire no exception or omission.

Mr. GLOVER. The omission of this testimony does not come from any application on the part of General GARFIELD, but inasmuch as there are other witnesses who think they have been implicated and have not had an opportunity to be heard, I have concluded to withdraw that testimony, and the order to print does not embrace it.

Mr. GARFIELD. I am glad to hear the gentleman say that, but I do not wish anything suppressed on my account.

Mr. GLOVER. Not at all. I wish to have printed testimony received on other matters, and there is no objection from the committee.

Mr. WILSON, of Iowa. I do not think more of General GARFIELD than I do of other citizens. In my judgment we have had too much of this thing already, and I object.

Mr. GLOVER. I do not know what the gentleman means by that remark. I do not know why there is objection on his part, especially to the printing of this testimony—why there is any objection to printing this more than any other testimony which has been reported from committees.

Mr. WILSON, of Iowa. I have done it repeatedly.

Mr. GLOVER. What is the ground of objection?

Mr. WILSON, of Iowa. I will tell the gentleman the ground of my objection. I object to the system by which we have investigated citizens, in their absence taking hearsay evidence. I would just as readily agree to have a new sort of rattlesnake brought into this country as to have such a system further carried on.

Mr. GLOVER. Does the gentleman say there is any such thing contained in this testimony?

Mr. WILSON, of Iowa. Will you say on your responsibility as a member that no hearsay testimony has been taken by your committee which is now asked to be printed?

Mr. GLOVER. This has been taken in open day. I do not know there is anything there which I can call to mind reflecting upon anybody who has not had opportunity to be heard.

Mr. BANKS. If there is anything affecting the reputation of any man in the House, and he has not had an opportunity to rebut it, I do not think any such hearsay testimony should be printed.

Mr. GLOVER. There is nothing, I think, in this testimony which relates to any member.

Mr. WILSON, of Iowa. If anything relates to any member he should have notice of it. Or anything relating to any ex-member of the House.

The SPEAKER. The Chair desires gentlemen to be seated, so the House may know what is going on.

Mr. BANKS. It is not the right of this House——.

The SPEAKER. Gentlemen must be seated or business will be suspended.

Mr. WELLS, of Mississippi. I rise to object to the printing of this testimony.

Mr. GLOVER. Do I understand there is any objection?

Mr. WILSON, of Iowa. Yes; I must object.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the passage of a bill (H. R. No. 4433) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, with an amendment in which concurrence was requested.

It further announced that the Senate had agreed to the report of the committee of conference on the bill (H. R. No. 3628) to establish post-roads, and had receded from sections 2, 3, 4, and 6, of the Senate amendment numbered 604, disagreed to by the House of Representatives.

It further announced the passage of the following bills without amendment:

An act (H. R. No. 4418) to pay William L. Scruggs, late minister to Bogota, from October 10 to November 21, 1876;

An act (H. R. No. 3833) for the relief of John W. Hall;

An act (H. R. No. 4276) to authorize the appointment of a sergeant in the Signal Corps as second lieutenant in the Army;

An act (H. R. No. 515) for the relief Samuel E. Garland and Frank M. Hoppin;

An act (H. R. No. 4475) to remove the political disabilities of Joel S. Kennard, of Savannah, Georgia; and

An act (H. R. No. 3892) to remove the political disabilities of George Watson Carr, a citizen of the State of Georgia.

It further announced the passage of the following bills; in which concurrence was requested:

An act (S. No. 1293) to remove the political disabilities of Theophilus H. Holmes, of North Carolina; and

An act (S. No. 1292) to remove the political disabilities of John M. Haden, of Galveston, Texas.

MRS. REBECCA MAXWELL.

Mr. BANNING. I ask that by unanimous consent the Committee of the Whole be discharged from the further consideration of the bill (H. R. No. 3349) granting a pension to Mrs. Rebecca Maxwell, widow of the late Colonel O. C. Maxwell, One hundred and ninety-fourth Ohio Volunteer Infantry, and that the same be now put upon its passage. This bill has been recommended by the Committee on Invalid Pensions. It has been in the Committee of the Whole on the Private Calendar for some time, and I ask unanimous consent that it be now passed.

The bill was read. It authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Rebecca Maxwell, widow of the late Colonel O. C. Maxwell, One hundred and ninety-fourth Ohio Volunteers.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. RUSK. Has that bill been before the Committee on Invalid Pensions?

Mr. BANNING. I stated a moment ago that the bill has been before the Committee on Invalid Pensions, and by that committee has been reported to the House with a favorable recommendation.

There being no objection, the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

MISSISSIPPI LEVEES.

The SPEAKER. The gentleman from Louisiana [Mr. ELLIS] is recognized for a motion to suspend the rules.

Mr. ELLIS. I move that the rules be suspended, and that the bill (H. R. No. 3430) to repair and rebuild the levees of the Mississippi River and to reclaim the alluvial lands thereof, to improve it navigation, and promote and protect its commerce, be passed.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. HOLMAN. I rise to make a privileged report. I submit the report of the committee of conference on the legislative, executive, and judicial appropriation bill.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 4472, making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes, having met, after full and free conference have been unable to agree.

WILLIAM S. HOLMAN,
HIESTER CLYMER,
HENRY WALDRON,
Managers on the part of the House.

WILLIAM WINDOM,
W. B. ALLISON,
H. G. DAVIS,
Managers on the part of the Senate.

Mr. HOLMAN. In the course of the proceedings between the two Houses this bill is now in the custody of the House, and the House will have occasion to act prior to the action of the Senate. The managers upon the part of the two Houses are not able to agree. The managers on the part of the Senate still insist upon their amendment to the pending bill fixing the salary of the President at $50,000 per annum, while the managers on the part of the House still adhere to the views which have been expressed by the House in favor of fixing the salary of the President at $25,000.

In this emergency, this being a report of inability on the part of the conference committee to agree, it is for the House to determine whether it will recede from its disagreement, or whether it will insist upon its disagreement to the amendment of the Senate and ask a further conference, or whether the House will adhere. If the House recedes, that passes the bill. If the House insists upon its disagreement and asks a further conference, the probabilities are that the conferees on the part of the two bodies will be compelled to make the same report again, that they are not able to agree. If the House, on the other hand, shall adhere to its disagreement, that is the end of this bill. In the event of the House determining to adhere then the bill fails.

I think, sir, it is proper, inasmuch as there are but a few hours left in which legislative proceedings may take place, and inasmuch as it is not desirable that the House should at once put an end to all hopes of the passage of the bill by determining to adhere, and inasmuch as the House manifestly does not desire to recede from its disagreement, I think it is proper that a further effort be made to bring about a reconciliation between the two Houses on this question consistently with the views of the House.

I therefore think, sir, that I ought simply to make a motion that the House insist on its disagreement to the amendment of the Senate and ask for a further conference on the bill. I submit that motion, but I shall not call the previous question on it at present, if any gentleman desires to move either that the House recede from its disagreement or that the House adhere to its disagreement.

Mr. LAWRENCE. We will do whatever you say is right.

Mr. DUNNELL. I move that the House recede.

Mr. HOLMAN. I now call the previous question on my proposition and that of the gentleman from Minnesota, [Mr. DUNNELL.]

The SPEAKER. The gentleman from Indiana [Mr. HOLMAN] moves that the House insist on its disagreement. The gentleman from Minnesota [Mr. DUNNELL] moves that the House recede. The vote will be first taken on the amendment of the gentleman from Minnesota.

Mr. DUNNELL. I will withdraw my amendment, so as to allow another committee of conference.

Mr. FOSTER. I wish to be heard only for a moment. Mr. Speaker, the statement of the gentleman from Indiana appears, I think, to convey the impression that the Senate has undertaken an innovation. The salary of the President is fixed now at $50,000; and this is the old question that we fought over last year whether or not we would legislate on the question of salaries in an appropriation bill. The House proposes to change existing legislation.

I understood the gentleman to say that the House had fixed one salary and the Senate another, as if this was a question simply of fixing the salary upon an appropriation bill between the two Houses.

Mr. HOLMAN. The House by this bill fixed the salary of the President at $25,000 a year, and they determined on that at an early day in the session when it was still uncertain who would be the President of the United States for the next four years.

Mr. CLYMER. I desire to suggest to the gentleman from Ohio [Mr. FOSTER] that he will remember, as the House and the country will remember, that the increase in the salary of the President from $25,000 to $50,000 was made on an appropriation bill just four years ago this night.

Mr. FOSTER. I do not dispute that.

Mr. CLYMER. I say further, when we are threatened with a veto, that the President of the United States did not hesitate to sign a bill reducing all the salaries which had been raised at the time his salary was raised, and I trust he will not so far forget himself and the record he has made as to attempt in this instance to defeat the wishes of the people as expressed through the House, their immediate repre-rerepresentatives.

Mr. FOSTER. The gentleman will not understand me as having made an argument one way or the other. All I wanted was that the statement of the gentleman from Indiana should be corrected.

Mr. HOLMAN. The gentleman from Ohio is substantially correct in one respect. Four years ago, on this same appropriation bill, the salary of the President of the United States was increased from $25,000 to $50,000. The House now proposes to fix it at $25,000, in the same appropriation bill, while the Senate insists on making it $50,000, and the House early in the session passed a bill fixing it at $25,000, at a time when the presidential question and the question who would occupy the presidential chair was in suspense.

Mr. FOSTER. The gentleman from Indiana repeats the statement to which I objected, that the Senate insists on making the salary $50,000. He repeats that statement, when the statement he should make is that the Senate insists on maintaining the salary at the point where it now is.

Mr. HOLMAN. I now call the previous question unless some gentleman wishes to move either that the House recede from its disagreement to the amendment or adhere to it.

Mr. WHITTHORNE. I make the motion to adhere, because I do not wish this question postponed until members are absent and this thing to be stolen through the House.

Mr. DUNNELL. I withdrew the motion to recede because it was evident that there was a desire that another committee of conference should be appointed to endeavor to settle this question.

Mr. WHITTHORNE. I will withdraw my motion to adhere if the motion made by the gentleman from Indiana [Mr. HOLMAN] was made in good faith.

Mr. HOLMAN. Of course the gentleman does not suppose that there is any bad faith about the matter.

Mr. WHITTHORNE. I am afraid that, if the matter is postponed to a late hour in the session, this provision may be stolen through the House.

Mr. HOLMAN. Then let the gentleman make his motion if he desires to do it; otherwise I shall call the previous question.

Mr. CANNON, of Illinois. Will the gentleman from Indiana allow me to ask him a question?

Mr. HOLMAN. Yes, sir.

Mr. CANNON, of Illinois. Suppose that this bill fails, is it not true that the salary cannot be cut down for the next four years?

Mr. HOLMAN. O, yes; that is true. I call the previous question on my motion to insist on the disagreement to the amendments of the Senate, and ask a further conference on the disagreeing votes of the two Houses thereon.

Mr. WHITTHORNE. I withdraw my motion to adhere for the purpose of letting the House vote on that question.

The question was taken on Mr. HOLMAN'S motion; and on a division there were—ayes 77, noes 72.

So the motion was agreed to.

Mr. HOLMAN moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POST-OFFICE APPROPRIATION BILL.

Mr. HOLMAN. I desire to make a still further report from a committee of conference on the Post-Office appropriation bill.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4187) making appropriations for the Post-Office Department for the fiscal year ending June 30, 1878, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, numbered 12, and agrees to the same, with an amendment making the sum $9,250,000; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same, with an amendment making the sum $150,000; and the Senate agree to the same.

The House recedes from its disagreement to the amendment of the Senate numbered 33, and agrees to the same, with an amendment making the sum $2,939,725; and the Senate agrees to the same.

WM. S. HOLMAN,
CHARLES FOSTER,
HIESTER CLYMER,
Managers on the part of the House.

WM. B. ALLISON,
T. G. DAVIS,
HENRY L. DAWES,
Managers on the part of the Senate.

Mr. HOLMAN. The points of disagreement between the two Houses when the last conference report was made upon this bill involved three subjects; first, an increase of the appropriation for the transportation of the mails by railroads from $9,000,000 to $9,600,000, and the two subsidy appropriations of $500,000 each, one to the New Orleans and Brazilian mail steamship line, and the other to the steamship line from San Francisco to the ports of China and Japan. By the action of the Senate in receding from the two last amendments, providing for the subsidies of $500,000 each, those two subjects have been eliminated from the contest between the two Houses.

The House conferees were impressed with the belief that $9,000,000 was a sum amply sufficient to meet the demands of the Post-Office Department for the purpose of securing the transportation of the mails throughout the United States by railroads with the utmost facility. After long and patient effort to secure an agreement, the conferees on the part of the two Houses have agreed that instead of appropriating $9,600,000, as insisted upon by the Senate, the sum to be appropriated shall be $9,250,000. While believing that the sum of $9,250,000 is a larger sum than ought to be appropriated, yet for the purpose of coming to an adjustment which will secure the passage of this bill at this late hour of the session the House managers have agreed that the appropriation for this purpose shall be increased by the sum of $250,000.

I desire to say that if there was ample time in which to perfect this and other appropriation bills during this session I think that this concession should not be made. But for the purpose of avoiding the necessity—not desirable either on the score of public quiet, the interests of business, or the interest of economy—for a called session of Congress, in order to avoid that, the conferees on the part of the House have consented to this concession, making the appropriation for that purpose $9,250,000.

This makes a deficiency for the Post-Office Department for the coming year $2,939,725, the smallest deficiency in the revenues of the Post-Office Department that has occurred for many years. That is a better showing than has been presented to Congress for a number of years. I now call the previous question on agreeing to the report of the committee of conference.

Mr. BUCKNER. I desire to inquire of the gentleman from Indiana

[Mr. HOLMAN]—I did not hear distinctly his statement upon that part of the report—what has been done by the conference committee in regard to the subsidies for steamship lines?

Mr. HOLMAN. The Senate has receded from both its amendments granting subsidies, and so the committee have reported to the House. The only matter involved in this report is the amount paid to railroad companies, which is increased from $9,000,000 to $9,250,000. I now call the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the report of the committee of conference was agreed to.

Mr. HOLMAN moved to reconsider the vote by which the report of the committee of conference was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONDITION OF APPROPRIATION BILLS.

Mr. HOLMAN. I desire to say that there are two appropriation bills still remaining to be acted upon, the sundry civil appropriation bill and the Army appropriation bill. It is believed, at least the hope is indulged, that within two hours the conference committee of the two Houses may be able to agree on the sundry civil appropriation bill and will be able to report it to the two Houses. It, is, therefore very desirable that the House remain in session.

MISSISSIPPI LEVEES.

Mr. ELLIS. I move to suspend the rules and pass House bill No. 3430, to repair and rebuild the levees of the Mississippi River, and to reclaim the alluvial lands thereof, to improve its navigation, and promote and protect its commerce.

The bill was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of $4,202,000 be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purpose of repairing and rebuilding the levees of the Mississippi River, thereby reclaiming from inundation by its waters the alluvial lands of its delta, deepening its channel for commercial purposes, closing its crevasses, and thereby protecting and promoting its commerce, as follows, to-wit:

Seventy-five thousand dollars in the State of Illinois.

Five hundred thousand dollars in the State of Missouri.

One hundred thousand dollars in the State of Tennessee.

One million two hundred and eighty thousand dollars in the State of Arkansas.

Four hundred and forty-seven thousand dollars in the State of Mississippi.

One million eight hundred thousand dollars in the State of Louisiana.

SEC. 2. That the Chief of Engineers of the United States Army, under the direction of the Secretary of War, shall have sole and exclusive direction of the work to be performed, and the expenditures to be made under the provisions of this act; that as soon as practicable after the passage of this act, and after proper advertisement by the Secretary of War, upon estimates to be furnished by the Chief of Engineers, the work herein provided for shall be let to the lowest bidder or bidders, in such sections and quantities as the Chief of Engineers may deem proper; that such contractors or bidders, before they enter upon their contracts, shall furnish bond, with good and solvent sureties, in favor of the United States, in an amount equal to one-third of their entire contract, for the faithful performance of the work contracted for; and in no case shall the full amount agreed upon be paid to any contractor; and until his entire contract is performed and the work done under it surveyed and accepted by the Chief Engineer, or some officer designated by him, 20 per cent. of said entire amount shall be retained; after which survey and acceptance the residue of 20 per cent. shall be paid to said contractor.

SEC. 3. That all estimates required, and all surveys, plans, and locations of said levees, and for their construction, shall be made by the Chief of Engineers, or under his direction by such engineers of the corps as he may designate, or by such citizen civil engineers as he may see fit to employ.

SEC. 4. That no portion of the moneys herein appropriated shall ever be applied to the payment of any debts or obligations incurred by any State or other local levee company or corporation or authority, nor for compensation for any work other than that performed under the provisions of this act, nor for any other purpose than that contemplated and provided for herein.

SEC. 5. That on or before the 1st day of January, 1877, the Secretary of War shall submit to Congress a full and complete report of the manner in which the work contemplated by this act has been performed, and in what manner the moneys herein appropriated have been expended.

Mr. HOLMAN. I move that the House take a recess for one hour.

Mr. SAYLER. I hope that will not be done.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The SPEAKER announced the appointment of Mr. HOLMAN, Mr. CLYMER, and Mr. FOSTER as the conferees on the part of the House in the further conference between the two Houses on the legislative, executive, and judicial appropriation bill.

ENROLLED BILLS SIGNED.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, reported that the committeehad examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 1128) to extend for two years the act establishing the board of commissioners of claims and the acts relating thereto.

Mr. BAKER, of Indiana, from the same committee, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 4476) to provide for the appointment of official short-hand reporters in and for the courts of the United States.

WITHDRAWAL OF PAPERS.

Leave for withdrawal of papers was granted in the following cases, no adverse reports having been made:

To Mr. WILLIAMS, of Michigan, in the case of W. A. Rease; and

To Mr. SAYLER, in the case of Dr. Tumbleby.

RECESS.

The question then recurring on the motion of Mr. HOLMAN that the House take a recess for one hour, it was not agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed a bill of the following title, with an amendment in which the concurrence of the House was requested:

A bill (H. R. No. 2952) authorizing the Commissioner of Patents to rehear the application of Stephen V. Benét for patent for cartridges.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 1003) for the relief of Benjamin P. Runkle, late a major on the retired list of the United States Army; and

A bill (S. No. 1127) for the relief of J. B. McCullough.

LEVEES OF THE MISSISSIPPI.

The question then recurred on the motion of Mr. ELLIS to suspend the rules and pass the bill to repair and rebuild the levees of the Mississippi River, and to reclaim the alluvial lands thereon, to improve its navigation, and promote and protect its commerce.

Mr. HOLMAN called for the yeas and nays on agreeing to the motion; and they were ordered.

Mr. MILLS. I desire to know the question we are to vote upon.

The SPEAKER. It is a bill appropriating $4,200,000 to repair and improve the levees of the Mississippi River.

Mr. ELLIS. This appropriation is to be divided between six States.

The question was taken; and there were—yeas 72, nays 113, not voting 105; as follows:

YEAS—Messrs. Ainsworth, Ashe, Belford, Boone, Bradford, Buckner, Buttz, William P. Caldwell, Carr, John B. Clarke of Kentucky, Cook, Culberson, Darrall, Dunnell, Ellis, Evans, Finley, Forney, Franklin, Gause, Gibson, Glover, Goode, Gunter, Haralson, Hatcher, Hays, Hoge, Hooker, House, Hubbell, Hyman, Thomas L. Jones, Kelley, Lamar, Levy, Lynch, McCrary, Mills, Money, Nash, Oliver, O'Neill, Packer, Payne, William A. Phillips, Powell, Purman, Rainey, Riddle, Rusk, Sayler, Schleicher, Siemons, Smalls, William E. Smith, Stone, Terry, Thomas, Throckmorton, Tufts, Alexander S. Wallace, John W. Wallace, Warren, Watterson, G. Wiley Wells, Whitthorne, Wike, Willard, Willis, Wilshire, and Young—72.

NAYS—Messrs. Abbott, Adams, George A. Bagley, John H. Baker, William H. Baker, Ballou, Bell, Blair, Blount, Bradley, Horatio C. Burchard, Burleigh, Candler, Cason, Caswell, Chittenden, Clymer, Cochrane, Collins, Conger, Cutler, Danford, Davis, Davy, De Bolt, Denison, Dobbins, Durham, Eames, Felton, Field, Fort, Freeman, Frye, Fuller, Andrew H. Hamilton, Hardenbergh, Benjamin W. Harris, Henry R. Harris, John T. Harris, Harrison, Haymond, Hendee, Henderson, Holman, Hopkins, Hoskins, Humphreys, Hunter, Joyce, Kehr, Franklin Landers, George M. Landers, Lapham, Lawrence, Le Moyne, Lynde, Magoon, MacDougall, McDill, Meade, Monroe, Morrison, Mutchler, Neal, New, Norton, O'Brien, Page, Phelps, John F. Philips, Pierce, Plaisted, Poppleton, Rea, John Reilly, James B. Reilly, William M. Robbins, Robinson, Sampson, Savage, Scales, Seelye, A. Herr Smith, Southard, Sparks, Springer, Stenger, Stevenson, Stowell, Strait, Tarbox, Thompson, Martin I. Townsend, Washington Townsend, Turney, John L. Vance, Robert B. Vance, Waldron, Charles C. B. Walker, Walsh, Warner, Whitehouse, Wigginton, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, Jere N. Williams, William B. Williams, Benjamin Wilson, James Wilson, and Woodworth—113.

NOT VOTING—Messrs. Anderson, Atkins, Bagby, John H. Bagley, jr., Banks, Banning, Bass, Beebe, Blackburn, Bland, Bliss, Bright, John Young Brown, William R. Brown, Samuel D. Burchard, Cabell, John H. Caldwell, Campbell, Cannon, Cate, Caulfield, Chapin, John B. Clark, jr., of Missouri, Cowan, Cox, Crapo, Crounse, Dibrell, Douglas, Durand, Eden, Egbert, Faulkner, Flye, Foster, Garfield, Goodin, Hale, Robert Hamilton, Hancock, Hartridge, Hartzell, Hathorn, Henkle, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Hoar, Hunton, Hurd, Hurlbut, Jenks, Frank Jones, Kasson, Kimball, King, Knott, Lane, Leavenworth, Lewis, Lord, Luttrell, Mackey, Maish, McFarland, McMahon, Metcalfe, Miller, Milliken, Morgan, Odell, Piper, Platt, Potter, Pratt, Reagan, Rice, John Robbins, Roberts, Miles Ross, Sobieski Ross, Schumaker, Sheakley, Singleton, Sinnickson, Stanton, Stephens, Swann, Teese, Thornburgh, Tucker, Van Vorhes, Waddell, Wait, Gilbert C. Walker, Walling, Ward, Erastus Wells, Wheeler, White, Whiting, Alan Wood, jr., Fernando Wood, Woodburn, and Yeates—105.

So the House refused to suspend the rules.

During the vote,

Mr. COCHRANE stated that his colleague, Mr. MAISH, was absent from the House on account of sickness.

Mr. WAITE stated that he was paired with Mr. CALDWELL, of Alabama, who would vote in the affirmative, while he would vote in the negative.

Mr. STONE said that his colleague, Mr. WELLS, was absent on a conference committee.

Mr. SAYLER. I move to dispense with the reading of the names.

There was no objection, and it was ordered accordingly.

The vote was then announced as above recorded.

AMENDMENT OF THE RULES.

Mr. SAYLER. I desire at this time to call up the privileged report which I had the honor on yesterday to submit from the Committee on Rules. It is not necessary, I presume, the report should be read again at this time. It is simply an amendment to the twenty-second rule of the House, giving to the Clerk of the House, pending the election of a Speaker, the same power that is vested in the Speaker of the House.

I do not propose to-night to discuss with my colleague from Ohio [Mr. GARFIELD] the question of the independence of one Congress of another, nor do I propose to discuss with him the other question as to the right of each Congress to make its own rules. Certainly in the latter proposition I fully agree with him. I have only to say, however, that almost without exception, from the beginning of our Government until the present time, Congress has been organized by the

Clerk presiding during the pendency of the election of a Speaker. There have been very few exceptions to this rule, and so far as the enforcement of the rules is concerned the one hundred and forty-seventh rule provides these rules shall be the rules of the House of Representatives of the present and succeeding Congresses unless otherwise ordered; and whatever may be the power of each Congress, the custom has been to consider the rules of the previous Congress the rules of the existing Congress, unless some action to the contrary is taken by that Congress.

And without discussing the matter any further, I will only direct to my colleague from Ohio the *argumentum ad hominem;* I will quote himself against himself. When the gentleman who now occupies the chair proposed at the beginning of the Forty-fourth Congress a resolution providing the rules of the Forty-third Congress should remain in force as the rules of the Forty-fourth Congress, the gentleman from Ohio, [Mr. GARFIELD,] my colleague, rose to a point of order, and his point of order was, "I object to the resolution under the existing rules, which are our rules without a declaration of this sort."

Now, Mr. Speaker, the second rule of the House——

Mr. HALE rose.

Mr. SAYLER. I do not dispute the proposition. I am arguing the custom.

Mr. HALE. Let me ask the gentleman a question. If the custom is as he believes and as he says, what is the special need of legislation on this point?

Mr. SAYLER. I will explain to the gentleman; that is what I am coming to. I only wished to get rid of the other proposition with which the proposition of the committee was embarrassed yesterday. The second rule of the House refers to the powers and duties of the Speaker, that he shall preserve order and decorum; and in order that he might be enabled to carry out that rule, it was found necessary, in 1861, to amend the twenty-second rule by adding these words: "It shall be the duty of the Sergeant-at-Arms to attend the House during its sittings," adding to those words, in 1860, these words: "to aid in the enforcement of order under the direction of the Speaker."

The one hundred and forty-sixth rule provides that all elections of officers of the House, including the Speaker, shall be conducted in accordance with these rules, so far as the same are applicable; and pending the election of a Speaker the Clerk shall preserve order and decorum. Now, precisely the same necessity which existed to amend the twenty-second rule, by placing the Sergeant-at-Arms as an executive officer under the direction of the Speaker, in order to enable him to comply with the second rule, it seems to me, renders it important we should also place the Sergeant-at-Arms under the direction of the Clerk, in order that he may discharge during this time precisely the same duties which are imposed upon the Speaker.

Mr. HALE. The point I am getting at is this: the Clerk has always presided at the organization of the House, and what is the special need now of passing any law or resolution which gives to him any additional power? The organizatien of the next House will proceed as the organization heretofore. Why then pass any additional law?

Mr. CANNON, of Illinois. The confusion is so great in this Hall that I cannot hear a word of what is going on.

Mr. SAYLER. I will answer the question of the gentleman from Maine with pleasure. On several different occasions in the organization of the House there has arisen very great confusion. Once the House was not organized during a period of nine weeks and scenes by no means creditable to the American Congress were enacted during that period. In the organization of the Thirty-first Congress, in the organization of the Thirty-fourth Congress, in the organization of the Thirty-sixth Congress, there was the utmost disorder, and in the organization of the Forty-second Congress Mr. McPherson, a most efficient presiding officer, as my friend from Maine will certainly concede, bitterly complained that he had no power whatever under the rules to preserve order any further than to appeal to members. The gentleman from Michigan [Mr. CONGER] asked me yesterday if that was not enough. I think we have had some evidence within the last week that that is not enough. I think we have had evidence in our own experience within the last week that the man who presides over the deliberations of this body—if sometimes they can be called deliberations—needs to have at his command an officer armed with power to enforce the order of the House.

Mr. HALE. Does the gentleman propose to give to the Clerk any more power than is now given to the Speaker?

Mr. SAYLER. Not at all. The committee proposes to give to the Clerk pending the election of a Speaker, and at no other time, precisely the same power to preserve order as is now given to the Speaker all the time.

Mr. HALE. The gentleman has just referred to disorders that have ocurred here within the last few days. Now, during those disorders we have had an organized House—a Speaker. I do not see there is anything in what the gentleman proposes that provides a remedy or that giving to the Clerk any power additional to what he has now would do so.

Mr. SAYLER. We have had an organized House. We have had a Speaker, and he has had power to enforce order, and has done it well and faithfully. But if it had been the Clerk who was the presiding officer he would have had no power to order the Sergeant-at-Arms to shoulder the mace, which is the emblem of the Speaker's power. Now what we want is to give to the Clerk pending the election of Speaker the power to control the Sergeant-at-Arms for the enforcement of order.

Mr. CONGER. Does the gentleman not think that among the patriotic members of the next House there will be some gentlemen willing to shoulder the mace and bear it about the House?

Mr. SAYLER. They would have no authority to do so.

Mr. CONGER. Would they not volunteer?

Mr. SAYLER. They have no authority to volunteer. I have no doubt there would be a great many gentlemen willing to shoulder the mace or anything else.

Mr. LUTTRELL. I move that the gentleman from Michigan have that privilege.

Mr. SAYLER. I always appreciate the jests of my friend from Michigan, [Mr. CONGER,] but I ask the House to remember that this is serious business. The only proposition before the House is to add to the twenty-second rule, which makes it the duty of the Sergeant-at-Arms to aid in the enforcement of order under the direction of the Speaker, these words:

And pending the election of a Speaker under the direction of the Clerk.

Mr. COX. I suggest that the confusion is so great that nobody is hearing anything that is said.

Mr. SAYLER. I am willing to yield now to any gentleman who desires to speak.

Mr. CONGER. Does the gentleman propose to confine that privilege to members of the committee?

Mr. SAYLER. Not at all.

Mr. CONGER. Then I would like to have five or ten minutes.

Mr. SAYLER. I yield five minutes to the gentleman.

Mr. CONGER. Unless there is something hidden beneath this rule which gentlemen have not explained, some secret object connected with the organization of the next House, I am sure no reason has been adduced why gentlemen should dare to presume that the members-elect of the next House will need any further control as gentlemen, as men, as members, than gentlemen of this House or any preceding House. What is there in the character of the members-elect of the next House that warrants gentlemen in presuming that they must have unusual restraints placed upon them? I wish the committee would inform the House what there is in the character of the members-elect that requires the Clerk to have power to call upon the Sergeant-at-Arms; what there is that requires it to be necessary that the eagle should be taken down to perform this great duty and to be put up again when he has done it. Mr. Speaker, I will venture that the bird will be taken care of without the proposed change of the rules, and I hope my friend from Ohio will be there to see that it is.

Mr. HALE. Will the gentleman yield to me one moment?

Mr. SAYLER. Certainly.

Mr. HALE. I agree with the gentleman from Michigan [Mr. CONGER] that there is nothing in the apprehension of the future that calls for any additional power to be granted to the Clerk of the House. There is no reason to believe that in the organization of the next House any circumstances will arise that call for additional power.

The Clerk of the House is not a member of this body; he is not selected, as the Speaker is, from the floor, with the power that goes with the Speaker; he is simply a creature of the House. The gentleman from Ohio, well informed as he is upon parliamentary history, cannot have forgotten the memorable scenes upon the floor of the House of Representatives in the New Jersey case, where the Clerk of the House, a creature of the House, and of a former House, undertook to exercise certain powers, and when the House rose against him, and John Quincy Adams, then standing upon the floor of the House of Representatives, representing the sentiment of the body, rose above the Clerk, calling him a creature only of the body, and proceeded to put motions that the Clerk had declined to put. That was a memorable instance, and it shows that no additional powers should be given to the Clerk. We are asked to legislate for the future, and we cannot tell how this power may be abused. There is no reason now why this House should vote to lodge in the hands of the present Clerk, much as we may respect him personally, any additional powers over those that have been exercised by the Clerk in past Congresses. I protest against any action that lodges in the hands of that official any power that in the future may tend to hamper, control, and cripple the House of Representatives.

Mr. CONGER. The gentleman has occupied my time much better than I could have done myself; but I had some more remarks that I desired to submit.

Mr. SAYLER. I only desire to say, in reply to the gentleman from Maine, that the facts to which he refers occurred prior to the time when the law was enacted which authorized the Clerk of the House to make up the roll of members, and which gave him additional powers in the organization of the House of Representatives. I now yield ten minutes to the gentleman from Massachusetts, [Mr. BANKS.]

Mr. BANKS. Mr. Speaker, I beg the attention of gentlemen of the House for a few minutes to the character of the proposition which has been made, and when the gentleman from Ohio [Mr. SAYLER] has ceased conversing with the gentlemen in his neighborhood I will go on.

Mr. Speaker, stripped of all the adventitious circumstances connected with the proposition made by the gentleman from Ohio representing the Committee on Rules, it means just exactly this, nothing

less and nothing more, that if there should be anything extraordinary and unprecedented in the organization of the next House there must be something extraordinary and unprecedented prepared to correct it. That is what it is, and nothing but that. I ask permission to repeat that the proposition which the gentleman from Ohio reports from the Committee on Rules is in substance and in spirit and in effect this: that if any extraordinary and unprecedented conduct should occur in the organization of the next House of Representatives, then there must be prepared in advance extraordinary and unprecedented legislation to prevent it.

Now, what I say to the honorable gentleman from Ohio [Mr. SAYLER] and what I say to the House of Representatives, in all good faith and not speaking as a partisan and not caring what may occur in the next House, is that this House has no right to assume either that extraordinary and unprecedented occurrences are to take place or that extraordinary and unprecedented legislation is required to correct the expected abuses. Gentlemen in this House have had no intimation from any source or from any quarter that any danger of this kind is impending or that any legislation of this kind is required.

Now, sir, let me say a word in regard to what has occurred heretofore on this very subject. I remember very well the organization of a House of Representatives which required nine weeks of time, beginning on the morning of the first Monday in December at twelve o'clock and ending nine weeks after at seven o'clock in the evening. That occurred when the House of Representatives was composed of the ablest men that the country ever knew. I speak with the highest respect of my associates in this House. I know and appreciate their powers, their comprehension of its duties, but I can say without reservation and without injustice to anybody that the House of Representatives to which I refer was stronger in its individual and in its associated power than any House of Representatives that I have ever known in the last twenty-five years. For those nine weeks the Clerk of the House was the presiding officer, and nobody else. It was a time when party feeling ran high. It was a time when the revolution through which we have passed had just shown itself. It was before the insane passions of the people of this country had been cooled by the sacrifice of the blood of more than a million and a half of the best men of the country, South and North. It was before sixteen States of the Union had been ravaged by flame and by the sword. It was before any of these dangers were either anticipated or believed possible, and when men in excitement such as we have not seen in this session, with determination and spirit that has been shown nowhere by anybody this session—when questions were presented men were ready with the bowie-knife and the revolver to defend their own rights and what they considered to be the rights of their people.

Mr. LANDERS, of Indiana. Will the gentleman from Masschusetts yield for a question?

Mr. BANKS. Not now; I have but ten minutes. In all those nine weeks Hon. John W. Forney, of Pennsylvania, who was Clerk of the House, had the power, without even the privileges that are accorded by the rule which has been read by the gentleman from Ohio, [Mr. SAYLER,] to suppress every disturbance and to control the House as it never has been controlled by a presiding officer either before or since. And he did this in virtue of his office and in the exercise of his power as Clerk of the House.

Now, does the gentleman from Ohio anticipate any such difficulty in the organization of the next House; has he any right to anticipate it; has any man, South or North, East or West, the right to discredit the next House upon any information we possess by the intention or the assumption that any impending difficulty or danger is likely to exist? No, sir, it does not exist, and therefore this legislation is not necessary. And I return again to the proposition that I laid down in the commencement of my remarks, that nothing but the assumption of the probability of extraordinary and unprecedented dangers can justify the enactment of extraordinary and unprecedented legislation to prevent them.

Let me refer for a moment to what is the general principle of parliamentary law in regard to a presiding officer. It is laid down in Cushing's Manual of Parliamentary Practice, on page 152, concerning the personal deportment of members while the assembly is sitting. It refers to the rights and powers of presiding officers anywhere, whether in a Legislature, in a town-meeting, or any assemblage of citizens:

> For the purpose of obtaining and securing the observance of order and decorum among the members of a legislative assembly while they are sitting as such, the presiding officer is invested with authority to suspend all ordinary business until order is restored; and if order cannot be obtained in any other way to call men by their names, which is equivalent to a complaint against them.

By the announcement of the name of a member who is disturbing the assembly, a complaint is made against him, and he is for the moment under arrest. And the Clerk of the House, as every other presiding officer in a deliberative assembly, public or private, has in that power the privilege and the capacity of putting any member of that assembly under arrest; and he is authorized to call in the assistance of any peace officer that may be within his hearing, whether belonging to the assembly or whether connected with it or not, so it be that his mission and his duty is to preserve the peace. And every presiding officer has that right and that power.

Now, what is the power of the Clerk of this House? It is expressed in general terms on page 49 of Barclay's Manual:

> Pending the election of a Speaker, the Clerk shall preserve order and decorum, and shall decide all questions of order that may arise, subject to appeal to the House.

He is to "preserve order and decorum." In what way? By calling the Sergeant-at-Arms, an officer of the House of which the Clerk is the presiding officer, whose duty it is to preserve the peace. The Sergeant-at-Arms, in the organization of the House, is just as much subject to the order of the Clerk of the House as he is subject to the order of the Speaker after the House shall be organized. And if the Sergeant-at-Arms is not enough, the Clerk can call every police officer in the Capitol; and if the police officers in the Capitol are not enough, he can call the police officers of the city. Wherever there is a man vested with the authority to keep the peace under the Government of which the House of Representatives will then be a part, the Clerk of the House has the right to call in the aid of that man, if necessary.

[Here the hammer fell.]

Mr. BANKS. One moment more. With these powers in the hands of the Clerk; with these powers exercised for seventy-five years without any difficulty at all, and with the additional fact that no difficulties equal to those that have environed this House in the past will affect the next House, there is no reason for us to discredit in advance by such legislative proceedings as these the character of that House. And let me say this is not all that the gentleman from Ohio [Mr. SAYLER] proposes, if I correctly understand what is to be proposed. The force in the office of the Sergeant-at-Arms is to be increased; there are other Sergeant-at-Arms to be proposed to this House, as I understand it, after this shall be enacted. And I ask the gentleman if this extraordinary and unprecedented legislation is necessary to keep the peace of the next House? What is the danger that threatens that assembly, requiring us in the last moments of this session, when the Sabbath day is breaking upon us, to suspend all legislation connected with appropriations in order to secure the passage of such legislation as this?

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4187) making appropriations for the service of the Post-Office Department for the year ending June 30, 1878.

The message further announced that the Senate insisted upon its amendments disagreed to by the House to the bill (H. R. No. 4691) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and other purposes, and requested a conference on the disagreeing votes of the two Houses thereon, and had appointed as the managers of the conference on the part of the Senate Mr. BLAINE, Mr. ALLISON, and Mr. WALLACE.

AMENDMENT OF THE RULES.

The House resumed the consideration of the report from the Committee on Rules.

Mr. PHILLIPS, of Kansas. I wish to ask the gentleman from Ohio [Mr. SAYLER] a question. I ask the gentleman, who proposes to give to the Clerk power over the Sergeant-at-Arms, if he proposes to give him power over the Sergeant-at-Arms of this House, or what Sergeant-at-Arms? There is no Sergeant-at-Arms of the next House yet.

Mr. SAYLER. I will inform the gentleman very readily that the Sergeant-at-Arms of this House continues to be the Sergeant-at-Arms of the House until his successor is elected.

Mr. GARFIELD. I want to call attention for a moment to two points in regard to this proposition. In the first place, there are I believe, one hundred and fifty men of the present House who will not be members of the next House; and the proposition is that one hundred and fifty men who within less than twelve hours cease to be members of Congress, shall make a rule in advance to govern three hundred men who are to be here as members of the next Congress.

Mr. SAYLER. I will ask my colleague whether he did not at the opening of the present Congress, assert directly and explicitly that the rules of the former Congress continued to operate in the organization of a new House, and until revoked by that House?

Mr. GARFIELD. I will complete what I was about to say. Every House may determine the rules and proceedings of its own body.

Mr. BUCKNER. Nobody doubts that.

Mr. GARFIELD. Each House may punish its members for disorderly behavior; but no power is given to one House to determine the rules of any other. It has been always ruled here—has been so ruled by the present occupant of the Chair, as well as by his immediate predecessor—that the rules of a former House have no binding authority on us until we adopt them.

Now there is one other point to which I ask attention. No member of this House has any power over any other member, except the Speaker, who is elected by the House, and as our direct superior has power to command the Sergeant-at-Arms to keep order and even arrest an unruly member. But this proposition is to put into the hands of a Clerk, who is no member of the House, the power on his own motion to use the constabulary to control the members of the next House

In other words, a man not a member of the House directs another man not a member to restrain of their liberty members of a House that will assemble here in perhaps a few weeks. I for one will never consent by any act of mine to usurp, or allow any other man here to usurp, any authority over a House that is to succeed us. That House is to be an independent House of Representatives of the American Congress, and it is to keep order for itself, to make its own rules. If that House itself directs the Clerk to use the constabulary to preserve order, it may do so; but this House may not command anything in reference to the next.

I think it not only a menace but a dangerous confession for us here to make, that after more than eighty years of peace and order in the autonomy of the various Houses of Representatives, we are now to have a manufactured machine by which to run the new House before it can be consulted in regard to it. If you adopt this proposition it is a *brutum fulmen*. The next House is in no way bound to regard it. It is an irrelevant, frivolous impertinence that can only do harm and can have no power, if the next House chooses to assert its rights.

Mr. SAYLER. My colleague [Mr. GARFIELD] is certainly not given to the vice of consistency; and he makes a proposition here which is directly antagonistic to the proposition which I quoted from his own record in the beginning of the last session of Congress. I do not feel that I have occasion to make any further reply to him.

I am sorry that my republican friends have taken a scare at this proposition. I assure them that there is in this proposition to amend the rules no deep-laid scheme, no dynamite that is going to blow up the next Congress. It is simply a plain proposition in explicit terms to invest the temporary presiding officer of the House with the power which my friend from Massachusetts [Mr. BANKS] says that officer is already possessed of.

It is to me a matter of surprise that the gentleman from Massachusetts should first warn us of the great danger of conferring this extraordinary power, which could only be justified by an extrordinary occasion, and then in the next breath tell us that this officer is at any rate armed not only with this power but with the power to summon any officer of the peace to preserve order. Now, I do not think that he is armed with any such power. I only want that he shall be empowered to preserve order, and that the Sergeant-at-Arms shall be explicitly declared to be the executive officer who, pending the election of Speaker, shall, under the direction of the Clerk, assist in the preservation of order.

I demand the previous question.

On seconding the previous question there were—ayes 91, noes 73.

Mr. CONGER. I call for tellers.

Tellers were ordered; Mr. CONGER and Mr. SAYLER were appointed.

The House divided; and the tellers reported—ayes 108, noes 75.

So the previous question was seconded.

The main question was ordered; which was upon agreeing to the report of the Committee on Rules.

Mr. TOWNSEND, of New York, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 138, nays 9, not voting 143; as follows:

YEAS—Messrs. Abbott, Ainsworth Ashe, Atkins, John H. Bagley, jr., Banning, Beebe, Bell, Blackburn, Bland, Bliss, Blount, Boone, Bradford, Bright, John Young Brown, Buckner, Samuel D. Burchard, William P. Caldwell, Candler, Caulfield, John B. Clarke of Kentucky, Clymer, Cochrane, Collins, Cook, Culberson, Cutler, Davis, De Bolt, Durham, Eden, Ellis, Faulkner, Felton, Field, Finley, Forney, Franklin, Gause, Gibson, Glover, Goode, Gunter, Hancock, Hardenbergh, Henry R. Harris, John T. Harris, Harrison, Hartzell, Hatcher, Henkle, Abram S. Hewitt, Hill, Holman, Hooker, Hopkins, House, Humphreys, Hunton, Hurd, Jenks, Thomas L. Jones, Kehr, Knott, Lamar, Franklin Landers, George M. Landers, Lane, Le Moyne, Lynde, Mackey, McFarland, Meade, Mills, Money, Morrison, Mutchler, Neal, New, O'Brien, Payne, Phelps, John F. Philips, Poppleton, Powell, Purman, Rea, Reagan, James B. Reilly, John Reilly, Rice, Riddle, William M. Robbins, Roberts, Savage, Sayler, Scales, Schleicher, Sheakley, Singleton, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stevenson, Stone, Tarbox, Teese, Terry, Thomas, Thompson, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Charles C. B. Walker, Walling, Walsh, Warner, Warren, Watterson, Erastus Wells, Whitthorne, Wigginton, Wike, Alpheus S. Williams, James Williams, Jere N. Williams, Willis, Benjamin Wilson, Yeates, and Young—138.

NAYS—Messrs. Adams, William H. Baker, Horatio C. Burchard, Cannon, Chittenden, Fort, Joyce, Lawrence, and Leavenworth—9.

NOT VOTING—Messrs. Anderson, Bagby, George A. Bagley, John H. Baker, Ballou, Banks, Bass, Belford, Blair, Bradley, William R. Brown, Burleigh, Buttz, Cabell, John H. Caldwell, Campbell, Carr, Cason, Caswell, Cate, Chapin, John B. Clark, jr., of Missouri, Conger, Cowan, Cox, Crapo, Crounse, Danford, Darrall, Davy, Denison, Dibbrell, Dobbins, Douglas, Dunnell, Durand, Eames, Egbert, Evans, Flye, Foster, Freeman, Frye, Fuller, Garfield, Goodin, Hale, Andrew H. Hamilton, Robert Hamilton, Haralson, Benjamin W. Harris, Hartridge, Hathorn, Haymond, Hays, Hendee, Henderson, Goldsmith W. Hewitt, Hoar, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Frank Jones, Kasson, Kelley, Kimball, King, Lapham, Levy, Lewis, Lord, Luttrell, Lynch, Magoon, Maish, MacDougall, McCrary, McDill, McMahon, Metcalfe, Miller, Milliken, Monroe, Morgan, Nash, Norton, Odell, Oliver, O'Neill, Packer, Page, William A. Phillips, Pierce, Piper, Plaisted, Platt, Potter, Pratt, Rainey, John Robbins, Robinson, Miles Ross, Sobieski Ross, Rusk, Sampson, Schumaker, Seelye Smalls, A. Herr Smith, Stephens, Stowell, Strait, Swann, Thornburgh, Martin I Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Gilbert C. Walker, Alexander S. Wallace, John W. Wallace, Ward, G. Wiley Wells, Wheeler White, Whitehouse, Whiting, Willard, Andrew Williams, Charles G. Williams, William B. Williams, Wilshire, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, and Woodworth—143.

So the report was adopted.

During the vote,

Mr. POPPLETON stated that his colleague, Mr. MCMAHON, had been called home suddenly by sickness in his family.

Mr. COCHRANE stated that his colleague, Mr. MAISH, was absent from the House on account of sickness, and that if present he would vote in the affirmative.

Mr. FORNEY stated that his colleague, Mr. CALDWELL, was paired with Mr. WAITE, who would vote in the negative, while his colleague would vote in the affirmative.

Mr. HAMILTON, of Indiana, stated that he was paired with his colleague, Mr. ROBINSON, who, if present, would vote in the negative, while he would vote in the affirmative.

Mr. PAGE moved the reading of the names be dispensed with.

Objection was made.

Mr. O'BRIEN stated that Mr. COX had gone into the Senate on a mission of peace and good will in regard to the amnesty bill.

The vote was then announced as above recorded.

Mr. SPRINGER moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CONGER. I move the tally-list be read over again.

The SPEAKER. It is not in order.

Mr. CONGER. I ask the roll-call be again read.

The SPEAKER. That is not the gentleman's privilege.

Mr. CONGER. I dispute the report of the Clerk.

The SPEAKER. The gentleman has not the right to dispute it.

Mr. CONGER. I have the tally here, which I obtained at the desk.

The SPEAKER. Then the gentleman was there in violation of the rules of the House.

Mr. CONGER. I was there nevertheless. I claim there were but 143 votes cast, and several gentlemen have kept it as carefully as could be.

The SPEAKER. The clerks assert that it is correct, and the Chair takes their tally.

Mr. CONGER. Have it read again.

The SPEAKER. Is there consent to having the roll-call read over?

Mr. O'BRIEN. I object. I know it is right.

LAKE GEORGE SHIP-CANAL, FLORIDA.

Mr. JONES, of Kentucky. I move to suspend the rules and pass the bill (H. R. No. 4456) to authorize William A. Dorner and others to construct a ship-canal at the head of Lake George, Florida.

The bill was read as follows:

That William A. Dorner, of Macon, Missouri, be, and he is hereby, authorized, with such others as may be associated with him, on the conditions hereinafter mentioned, to construct a ship-canal at the south end of Lake George, in Volusia County, Florida, at the point known as Volusia Bar; and for that purpose he may construct in the river or lake such walls, jetties, dikes, levees, and other structures, and employ such boats, rafts, and appliances as he may in the prosecution of said work deem necessary; and to protect his said works, he may build and maintain such levees or embankments as may be necessary to secure their permanency along the banks of the river or lake: *Provided*, That unless the construction of the proposed work shall be substantially commenced within six months from the date of the approval of this act, and prosecuted with due diligence, the provisions contained herein in relation to the said ship-canal shall be null and void; and unless the said Dorner and his associates shall secure a navigable depth of seven feet of water through said ship-canal within one year after the date of the approval of this act, Congress may revoke the privileges herein granted.

SEC. 2. That in no case shall the Government of the United States be liable for any losses incurred by said Dorner and his associates in the performance of the work herein mentioned.

SEC. 3. That when a channel seven feet in depth and not less than sixty feet in width shall be obtained, said Dorner and his associates shall have full power to collect the following rates of tolls, to wit: For each steamboat, sea-vessel, barge, or keel-boat, ten cents per ton, United States measurement; for each flatboat, $2; for each raft of timber, plank, or other lumber, $2 for each sixty feet in length, not exceeding twenty feet wide.

SEC. 4. That any person maliciously or intentionally injuring said works, or interfering with the construction thereof, or who shall neglect or refuse to pay the tolls as specified in section 3, shall be deemed guilty of a misdemeanor, and may be tried for such offense before the district court of the United States for the district wherein such offense may be committed; and, if found guilty, he shall be liable to a fine not exceeding $1,000, or to imprisonment for not more than two years, or to both fine and imprisonment as aforesaid, for each offense.

SEC. 5. That Congress shall have the right to purchase said ship-canal from said Dorner and his associates at any time after ten years from its completion, at its actual cost-price, with interest added at the rate of 5 per cent.

SEC. 6. That this act shall take effect and be in force from and after its passage.

The House divided; and there were ayes 41, noes not counted.

So the House refused to suspend the rules, two-thirds not voting in favor thereof.

LAW OF DOWER.

Mr. LAWRENCE. I submit the following report from a conference committee.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 2043) entitled "An act to improve the law in relation to dower in the District of Columbia," after full and free conference thereon, beg leave to report as follows:

The House recedes from its disagreement to the amendments of the Senate, and agree to the same.

WILLIAM LAWRENCE,
WILLIAM P. LYNDE,
SCOTT LORD,
Managers on the part of the House.

GEORGE S. WRIGHT,
JOHN W. STEVENSON,
Managers on the part of the Senate.

The report was adopted.

Mr. LAWRENCE moved to reconsider the vote by which the con-

ference report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 515) for the relief of Sarah E. Garland and Frank M. Hoppin; and

An act (H. R. No. 4475) removing the political disabilities of Joel S. Kennard, of Savannah, Georgia.

WITHDRAWAL OF PAPERS.

On motion of Mr. SCHLEICHER, by unanimous consent, leave was given to withdraw from the files of the House papers on the following pending bills, there being no adverse report thereon:

The bill for the relief of William Vance and brother;

The bill for the relief of Grandison Ruby;

The bill for the relief of the heirs of Ben. Edwards; and

The bill for the relief of Stephen Powers.

On motion of Mr. WARREN, by unanimous consent, leave was given to withdraw from the files of the House the papers in the case of Bernard S. Swart.

ELECTORAL VOTE OF OREGON.

Mr. PAGE. I move that the rules be suspended and that the resolution which I send to the desk be adopted.

The Clerk read as follows:

Resolved, That this House condemns the recent attempt to defeat the will of the people of Oregon by the refusal of the governor of that State to certify the election of an elector having a majority of the legal votes fairly cast and issuing a commission to a defeated candidate. And the House also condemns and denounces the corrupt use of money to aid in this outrage, and especially the payment of $3,000 to one Cronin, the defeated elector, for his part in the infamous transaction.

Mr. SPRINGER. I would like to hear that resolution again read.

The resolution was again read.

Mr. SPRINGER. Will the gentleman allow me to put into the resolution a condemnation of the offered sale or the consummated sale of the electoral vote of the State of Louisiana for $200,000?

The SPEAKER. Debate is not in order.

Mr. O'BRIEN. I desire to make a parliamentary inquiry. I wish to inquire of the gentleman from California [Mr. PAGE] how much money Wells did get.

Mr. SPRINGER. That is a disputed question. He is not yet paid. He is to get it after the inauguration.

Mr. WILSON, of West Virginia. I desire to make a parliamentary inquiry. Is it competent to move to indefinitely postpone that resolution.

The SPEAKER. It is not; the gentleman from California having moved to suspend the rules and pass the resolution.

The House divided on the question of suspending the rules, and there were ayes—78, noes 95.

Mr. PAGE. I call for the yeas and nays.

The yeas and nays were ordered.

PENSION BILLS PASSED.

The SPEAKER. Pending the call of the roll on the resolution of the gentleman from California the Chair asks that by unanimous consent the House should now act on a number of pension bills which the Committee on Pensions desires to have passed. Unless they are passed immediateiy they cannot be signed and become law.

Mr. CONGER. Will that interfere with the call of the roll?

The SPEAKER. The Chair will order the roll to be called immediately on these pension bills being disposed of.

Mr. CONGER. With that understanding I make no objection.

The following pension bills were, by unanimous consent, read three times, and passed:

The bill (S. No. 210) granting a pension to Austin R. Mills;

The bill (S. No. 735) granting a pension to Martha Irwin, widow of John Irwin;

The bill (S. No. 816) granting a pension to Laura M. Knowlton;

The bill (S. No. 1123) granting a pension to M. F. Woodard, mother of George R. Woodard;

The bill (S. No. 1152) granting a pension to Amasa J. Finch;

The bill (S. No. 535) granting a pension to Armstead Goodlow;

The bill (S. No. 1118) granting a pension to Mrs. Amy King;

The bill (S. No. 750) granting a pension to T. B. Murdock;

The bill (S. No. 792) granting a pension to Peter Harder;

The bill (S. No. 883) granting a pension to William H. Oliver;

The bill (S. No. 980) granting a pension to Irena Garrett;

The bill (S. No. 813) for an increase of pension to Laurence P. N. Landrum;

The bill (S. No. 832) for an increase of pension to Helen M. Stansbury;

The bill (S. No. 882) granting a pension to Stilman E. Dix, of Hampton, Virginia;

The bill (S. No. 767) granting a pension to Theodore Gardner;

The bill (S. No. 737) granting a pension to Harrison H. Doods;

The bill (S. No. 539) to provide for an increase of pension in favor of Martin Kelly;

The bill (H. R. No. 3544) granting a pension to Julia A. Roberts;

The bill (H. R. No. 3216) grantign a pension to Mrs. Eliza A. Semple;

The substitute (H. R. No. 4702) for the bill (H. R. No. 4076) granting a pension to Apolime A. Blair;

The bill (H. R. No. 4703) granting a pension to George McCoy;

The bill (H. R. No. 4704) for the relief of Joseph W. Gass, *alias* Calvin Halstead;

The bill (H. R. No. 4705) granting a pension to Harriet G. Edwards;

The bill (H. R. No. 4706) granting an increase of pension to Mrs. Louisa Merrill;

The bill (H. R. No. 3321) to amend the act entitled "An act granting pensions to the widows, children, dependent mothers and fathers or orphan brothers and sisters of those soldiers who were murdered by guerrillas at Centralia, Missouri, in 1864;"

The bill (H. R. No. 4340) granting a pension to Isabella Cassidy;

The substitute (H. R. No. 4707) for a bill increasing the pension of Mrs. Maria B. Craig;

The bill (S. No. 803) to repeal an act granting a pension to Mary H. Bartlett, approved January 28, 1873;

The bill (S. No. 599) granting a pension to Catharine A. Winslow, widow of the late Rear-Admiral John A. Winslow; and

The bill (S. No. 35) equalizing the pensions of certain officers in the Navy.

ENROLLED BILL SIGNED.

Mr. HAMILTON, of Indiana, from the Committee on Enrolled Bills, reported that the committee had examined and found duly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 4418) to pay William L. Scruggs, late minister at Bogota, from October 10 to November 21, 1876.

ELECTORAL VOTE OF OREGON.

The SPEAKER. The Clerk will now call the roll on the motion of the gentleman from California [Mr. PAGE] to suspend the rules and adopt the resolution which has been read and upon which the yeas and nays have been ordered.

The question was taken; and there were—yeas 87, nays 90, not voting 113; as follows:

YEAS—Messrs. Adams, George A. Bagley, Ballon, Banks, Belford, Blair, Bradley, William R. Brown, Horatio C. Burchard, Burleigh, Buttz, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Danford, Davy, Denison, Dunnell, Eames, Evans, Flye, Fort, Foster, Freeman, Frye, Haralson, Hathorn, Henderson, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kelley, Kimball, Lapham, Lawrence, Leavenworth, Le Moyne, Lynch, Lynde, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Norton, Oliver, O'Neill, Packer, Page, William A. Phillips, Pierce, Plaisted, Platt, Pratt, Rainey, Robinson, Sobieski Ross, Rusk, Sampson, Seelye, Sinnickson, Smalls, A. Herr Smith, Stowell, Strait, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Alexander S. Wallace, John W. Wallace, G. Wiley Wells, White, Willard, Andrew Williams, William B. Williams, James Wilson, Alan Wood, jr., and Woodworth,—87.

NAYS—Messrs. Abbott, Ainsworth, Ashe, Atkins, John H. Bagley, jr., Beebe, Blackburn, Boone, Bradford, Bright, Buckner, William P. Caldwell, Candler, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Collins, Culberson, Davis, Durham, Felton, Finley, Forney, Franklin, Goode, Gunter, Hardenbergh, John T. Harris, Hartzell, Hatcher, Abram S. Hewitt, Holman, House, Humphreys, Hunton, Hurd, Thomas L. Jones, Knott, Lamar, Franklin Landers, George M. Landers, McMahon, Meade, Mills, Money, Morrison, Mutchler, New, O'Brien, Payne, Phelps, John F. Philips, Poppleton, Reagan, James B. Reilly, Rice, Riddle, William M. Robbins, Sayler, Scales, Schleicher, Sheakley, Slemons, William E. Smith, Southard, Sparks, Springer, Stenger, Stone, Tarbox, Terry, Thomas, Thompson, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Walling, Warner, Erastus Wells, Whitehouse, Wigginton, Wike, Alpheus S. Williams, Jere N. Williams, Benjamin Wilson, Yeates, and Young—90.

NOT VOTING—Messrs. Anderson, Bagby, John H. Baker, William H. Baker, Banning, Bass, Bell, Bland, Bliss, Blount, John Young Brown, Samuel D. Burchard, Cabell, John H. Caldwell, Campbell, Carr, Cate, Chapin, Cochrane, Cook, Cowan, Cox, Cutler, Darrall, De Bolt, Dibbrell, Dobbins, Douglas, Durand, Eden, Egbert, Ellis, Faulkner, Field, Fuller, Garfield, Gause, Gibson, Glover, Goodin, Hale, Andrew H. Hamilton, Robert Hamilton, Hancock, Benjamin W. Harris, Henry R. Harris, Harrison, Hartridge, Haymond, Hays, Hendee, Henkle, Goldsmith W. Hewitt, Hill, Hoar, Hoge, Hooker, Hopkins, Hoskins, Jenks, Frank Jones, Kehr, King, Lane, Levy, Lewis, Lord, Luttrell, Mackey, Maish, McFarland, Metcalfe, Milliken, Morgan, Nash, Neal, Odell, Piper, Potter, Powell, Purman, Rea, John Reilly, John Robbins, Roberts, Miles Ross, Savage, Schumaker, Singleton, Stanton, Stephens, Stevenson, Swann, Teese, Van Vorhes, Wait, Waldron, Charles C. B. Walker, Gilbert C. Walker, Walsh, Ward, Warren, Watterson, Wheeler, Whiting, Whitthorne, Charles G. Williams, James Williams, Willis, Wilshire, Fernando Wood, and Woodburn—113.

So (two-thirds not voting in favor thereof) the rules were not suspended.

UNION PACIFIC AND CENTRAL PACIFIC RAILROADS.

Mr. FORT. I ask unanimous consent, on behalf of my colleague [Mr. WHITING,] to have a joint resolution in relation to the Union Pacific and Central Pacific Railroads printed in the RECORD.

There was no objection, and leave was granted.

The joint resolution is as follows:

Joint resolution in relation to the Union Pacific and Central Pacific Railroad Companies.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is hereby declared unlawful for the Union Pacific Railroad Company or for the Central Pacific Railroad Company to declare or pay over any dividend whatsoever upon the capital stock of said railroad companies so long as there remains due and unpaid any interest upon any of the mortgage bonds of said companies, and so long as the interest upon the bonds loaned to the said railroad companies by the Government of the United States to aid in and secure the construction of the same shall remain unadjusted by the said railroad companies.

ENROLLED BILL SIGNED.

Mr. HARRISON, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled, a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 3892) to remove the political disabilities of George Watson Carr, a citizen of Virginia.

WITHDRAWAL OF PAPERS.

On motion of Mr. POWELL, leave was granted to withdraw from the files of the House the papers in the case of Zebulon Vincent, no adverse report having been made.

NATIONAL MUSEUM.

Mr. CLYMER. I ask unanimous consent that the bill (S. No. 1252) for the erection of a fire-proof building for a national museum be taken from the Speaker's table and passed.

The Clerk read the bill, as follows:

Be it enacted, &c., That for a fire-proof building for the use of the national museum, three hundred feet square, to be erected under the direction and supervision of the regents of the Smithsonian Institution, in accordance with the plan of Major-General M. C. Meigs, now on file with the Joint Committee on Public Buildings and Grounds, on the southwest corner of the grounds of the Smithsonian Institution, the sum of $250,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated; said building to be placed west of the Smithsonian Institution, leaving a roadway between it and the latter of not less than thirty feet, with its north front on a line parallel with the north face of the buildings of the Agricultural Department and of the Smithsonian Institution; and all expenditures for the purposes herein mentioned, not including anything for architectural plans, shall be audited by the proper officers of the Treasury Department.

Mr. THROCKMORTON. I object.

Mr. CLYMER. I move that the rules be suspended and the bill passed, and I ask unanimous consent to make a brief statement in regard to it.

Mr. MILLS. I object.

The question was taken on the motion to suspend the rules and pass the bill; and on a division there were—ayes 71, noes 41; not two-thirds voting in the affirmative.

Mr. CLYMER. I call for tellers.

Tellers were ordered; and Mr. CLYMER and Mr. THROCKMORTON were appointed.

The House divided; and the tellers reported—ayes 106, noes 42

Mr. VANCE, of Ohio. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 99, nays 72, not voting 119; as follows:

YEAS—Messrs. Abbott, Adams, John H. Bagley, jr., Ballon, Banks, Belford, Bell, Blair, Bliss, Bradley, William R. Brown, Horatio C. Burchard, Candler, Cannon, Caswell, Caulfield, John B. Clark, jr., of Missouri, Clymer, Conger, Crapo, Crounse, Cutler, Danford, Davy, Denison, Eames, Evans, Flye, Foster, Freeman, Frye, Garfield, Hale, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Hathorn, Haymond, Hendee, Henderson, Abram S. Hewitt, Hill, Hoge, Hopkins, Hubbell, Hurlbut, Hyman, Joyce, Kasson, Kelley, Kimball, Lamar, Lynch, Mackey, Magoon, MacDougall, McCrary, Miller, Money, Monroe, Morgan, Nash, O'Brien, O'Neill, Page, Wilham A. Phillips, Platt, Pratt, Purman, Rainey, John Reilly, James B. Reilly, William M. Robbins, Robinson, Rusk, Sampson, Seelye, Sinnickson, Smalls, A. Herr Smith, Stone, Stowell, Strait, Tarbox, Terry, Martin I. Townsend, Washington Townsend, Waddell, John W. Wallace, Watterson, G. Wiley Wells, White, Whitehouse, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, James Wilson, Alan Wood, jr., Woodburn, Woodworth, Yeates, and Young—99.

NAYS—Messrs. Ainsworth, Beebe, Bland, Blount, Boone, Buckner, John H. Caldwell, William P. Caldwell, Campbell, John B. Clarke of Kentucky, Cochrane, Collins, Culberson, Davis, Durham, Ellis, Felton, Finley, Forney, Fort, Franklin, Glover, Goode, Goodin, Gunter, Andrew H. Hamilton, John T. Harris, Harrison, Hartzell, Hatcher, Hays, Hooker, House, Humphreys, Jenks, Thomas L. Jones, Knott, Franklin Landers, George M. Landers, Lawrence, Le Moyne, Levy, Lynde, Meade, Mills, Morrison, Mutchler, Neal, New, Payne, John F. Philips, Poppleton, Rea, Reagan, Rice, Riddle, Miles Ross, Scales, Singleton, Slemons, Southard, Sparks, Springer, Stenger, Stevenson, Thomas, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Charles C. B. Walker, Walling, Warner, Whitthorne, Wike, Jere N. Williams, and Benjamin Wilson—72.

NOT VOTING—Messrs. Anderson, Ashe, Atkins, Bagby, George A. Bagley, John H. Baker, William H. Baker, Banning, Bass, Blackburn, Bradford, Bright, John Young Brown, Samuel D. Burchard, Burleigh, Buttz, Cabell, Carr, Cason, Cate, Chapin, Chittenden, Cook, Cowan, Cox, Darrall, De Bolt, Dibrell, Dobbins, Douglas, Dunnell, Durand, Eden, Egbert, Faulkner, Field, Fuller, Gause, Gibson, Robert Hamilton, Henry R. Harris, Hartridge, Henkle, Goldsmith W. Hewitt, Hoar, Holman, Hoskins, Hunter, Hunton, Hurd, Frank Jones, Kehr, King, Lane, Lapham, Leavenworth, Lewis, Lord, Luttrell, Maish, McDill, McFarland, McMahon, Metcalfe, Milliken, Norton, Odell, Oliver, Packer, Phelps, Pierce, Piper, Plaisted, Potter, Powell, John Robbins, Roberts, Sobieski Ross, Savage, Sayler, Schleicher, Schumaker, Sheakley, William E. Smith, Stanton, Stephens, Swann, Teese, Thompson, Thornburgh, Tufts, Van Vorhes, Wait, Waldron, Gilbert C. Walker, Alexander S. Wallace, Walsh, Ward, Warren, Erastus Wells, Wheeler, Whiting, Wigginton, Willard, Willis, Wilshire, and Fernando Wood—119.

So (two-thirds not voting in favor thereof) the rules were not suspended.

During the call of the roll,

Mr. COCHRANE said: I desire to announce again that my colleague, Mr. MAISH, is absent on account of sickness.

ENROLLED BILLS SIGNED.

Mr. DARRALL, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 4616) making appropriations for the naval service for the year ending June 30, 1878, and for other purposes; and

An act (H. R. No. 4188) making appropriations for fortifications and for other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1878, and for other purposes.

Mr. POPPLETON, from the same committee, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 3833) for the relief of John N. Hall.

CONGRATULATIONS FROM THE IRISH PEOPLE.

Mr. CAULFIELD. Mr. Speaker, at the beginning of this session a congratulatory address from the people of Ireland to the people of the United States on the celebration of the centennial anniversary of our Independence was presented to this House and referred to the Committee on Foreign Affairs. I have looked anxiously for the report of that committee; but I apprehend the extraordinary press of business before that committee, and the confusion in legislation caused by the unprecedented condition of affairs resulting from the presidential election, has prevented the committee from reporting. I think such an address at such a period in our history, from a people whose cordial love for this Government and admiration for our institutions has been so unmistakably manifested from the beginning to the end of our centennial existence, should not be allowed to pass beyond the period of this session without its merited recognition and acknowledgment. Disclaiming, therefore, the least reflection on the Committee of Foreign Affairs, I offer the preamble and resolutions I send to the Clerk's desk, and ask for their adoption.

The Clerk read as follows:

Whereas the people of Ireland, at a meeting held in the city of Dublin July 4, 1876, representing all sections of that country, adopted with unanimity a congratulatory address to the people of the United States on the celebration of the centennial anniversary of American Independence;

And whereas from the infancy of this Republic down to the present time the generous people of Ireland, who are allied to us by the ties of kindred and sympathy, have proven our friends in time of need, especially during the war of our independence, for which they twice received the thanks of the Continental Congress, and also of our embassador to France, the illustrious Franklin, in 1778;

And whereas at a crisis memorable in the annals of the war of the Revolution, when our brave soldiers under the command of Washington at Valley Forge were suffering the vicissitudes of poverty and distress from want of stores and clothing, they were succored by the patriotic and munificent contribution of nearly a million of dollars generously tendered by twenty-seven of Ireland's sons in Philadelphia;

And whereas by their fervent loyalty in peace and patient sacrifices in war on every field from Lexington to Appomattox, evidenced by their heroic conduct in the van of battle, our fellow-citizens of Irish nationality have ever been among the foremost to contend for the triumph of liberty and self-government;

And whereas, with a view to the appropriate reception and acknowledgment of the address of the people of Ireland, it has been presented to the House of Representatives of the American Congress: Therefore,

Be it resolved, by the House of Representatives, That the people of the United States of America accept the congratulations of the people of Ireland, with a profound acknowledgment and grateful recognition of the cordial sympathy always entertained and manifested toward themselves and their institutions, from the first struggle for freedom of our infant nation to the present time; and sincerely hope that the example of this republic will spread its benign influence among the nations of the earth until the principles of self government shall be firmly established, and descend, as a sacred heritage, to all future generations.

Mr. O'BRIEN. Mr. Speaker, this Congress should not adjourn without a cordial reception and acknowledgment of the address of the Irish people tendered to the American people on the occasion of the centennial anniversary of our nation's independence.

No nation in the world has afforded deeper sympathy with us during our career as a republic. From the dawn of freedom on this continent the sons of Ireland were distinguished for their noble zeal in behalf of the principles of liberty. By centuries of suffering from every form of tyranny and despotism and unparalleled sacrifices on behalf of self-government, the people of Ireland had become illustrious; and when our first struggles for the rights of the colonies began, Ireland's sympathies were extended to America and Ireland's sons were foremost in the contest, by sea and land, contending for our independence.

There is no field, whether in the peaceful departments of letters, the arts, and sciences, or on the bloody field of war, where America, during our first century's career has achieved fame and triumph, but that a full share of the laurels crowned the brows of the sons of Ireland. To-day, the greetings of Ireland are responded to by millions of American citizens of Irish nativity whose love of our country and devotion to its interests stand unsurpassed. Let every American whose pride in his country's greatness is an inspiration of patriotism remember that the principles which have made us the foremost nation in the world have been cherished for centuries by the people of Ireland, and that though bound by the iron despotism of British power, they have never failed to contribute to our glory and prosperity.

Ireland in chains and America free are kindred nations, bound together by the inseparable ties of blood and the tenderest sympathies which could make two separate nations friends. Brothers, though in adversity, they rejoice in our success and bid us Godspeed for the centuries to come. Let us, Mr. Speaker, accept their congratulations, and in the hope that the day of liberty may soon dawn for the oppressed of every clime we will give renewed courage, hope, and life to a brave and chivalrous people. Therefore, if necessary, Mr. Speaker, I move to suspend the rules and pass the preamble and resolutions.

The preamble and resolutions were unanimously adopted.

PROCEEDS OF PUBLIC LANDS FOR EDUCATION.

Mr. WHITE. I move to suspend the rules, so as to discharge the Committee of the Whole on the state of the Union from the further consideration of and the House to pass House bill No. 748, to apply the proceeds of sales of public lands to the education of the people. This bill was reported from the Committee on Education and Labor, and I hope it will receive the favorable consideration of the House.

The bill was read, as follows:

A bill to apply the proceeds of sales of public lands to the education of the people.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the net proceeds of the public lands are hereby forever consecrated and set apart for the education of the people: *Provided*, That this act shall not have any effect to repeal, impair, or suspend any law now

authorizing the pre-emption of public lands or the entry of public lands for homesteads, nor as limiting in any manner the power of Congress to alter or extend the right of homestead upon such lands: *And provided further*, That nothing contained in this section shall be held to limit or abridge the power of Congress over the public domain or interfere with granting bounty lands.

SEC. 2. That the Secretary of the Interior shall cause an account to be taken upon the close of each fiscal year, and ascertain the total receipts from the sales or other disposition of the public lands of the United States, including all fees received at the general and district land offices during such year, and the amount of expenditures during said year, incurred or occasioned by the survey, sale, location, entry, or other disposition of such lands, including appropriations for the expenses of the said officers for said years, and shall certify to the Secretary of the Treasury the amount of the net cash proceeds from the sale, entry, location, or other disposition of such lands as aforesaid after deducting such expenses and expenditures.

SEC. 3. That upon the receipt of such certificate the Secretary of the Treasury shall, on or before the 31st day of July of each year, apportion to the several States and Territories and to the District of Columbia, upon the basis of population of the said States and Territories between the ages of five and twenty-one years, the net proceeds of sales of public lands for the previous year: *Provided*, That after five years one half of said net proceeds and after ten years the whole of the same shall be set apart as an educational fund, which said fund shall be invested in the bonds of the United States bearing a rate of interest not less than 4 per cent. per annum, both principal and interest payable in coin, the interest on such educational fund only to be appropriated as above provided: *And provided further*, That for the first ten years the distribution of said net proceeds and the interest on said fund to and among the several States, Territories, and District of Columbia shall be made according to the numbers of their respective population, of ten years old and upward, who cannot read and write, as shown from time to time by the last preceding published census of the United States.

SEC. 4. That the first appointment under this act shall be made on or before the 31st day of July, 1876, and each of said States and Territories shall be entitled to receive its distributive share of each apportionment, to be paid by the Secretary of the Treasury to its treasurer or other officer authorized by its law to receive the same, whenever thereafter it shall file with the Secretary of the Treasury a certified copy of the law of such State or Territory accepting the provisions of this act and undertaking that the funds provided by the same, whenever paid over to it as above provided, shall be faithfully applied to the free education of all its children between the ages of six and sixteen years. The distributive share of the District of Columbia shall from time to time be paid over to the commission of said District created by act of Congress approved June 20, 1874, entitled "An act for the government of the District of Columbia, and for other purposes," or other officer or officers provided by law, and shall be applied in the same manner as above provided for the States and Territories.

SEC. 5. That to entitle any State, Territory, or the District of Columbia to the benefits of this act, it shall maintain for at least three months in each year a system of free public schools for all the children within its limits between the ages of six and sixteen, and shall, through the proper officer thereof, for the year ending the 30th day of June last preceding such appointment, make full report of the number of public free schools, the number of teachers employed, the number of school-houses owned and the number of school-houses hired, the total number of children taught during the year, the actual daily attendance, and the actual number of months of the year schools have been maintained in each of the several school districts or divisions of said State, Territory, or District, and the amounts appropriated by the Legislature or otherwise received for the purpose of maintaining a system of free public schools. And if any State or Territory shall misapply, or allow to be misapplied or in any manner appropriated or used other than for the purposes herein required, the funds, or any part thereof, received under the provisions of this act, or shall fail to comply with the conditions herein prescribed, or to report, as herein provided, through its proper officers, the disposition thereof, such State or Territory shall forfeit its right to any subsequent apportionment by virtue hereof, until the full amount so misapplied, lost, or misappropriated, shall have been replaced by such State or Territory, and applied as herein required; and until such report shall have been made; and all apportionments so forfeited and withheld shall be added to and become part of the principal of the educational fund hereby created.

SEC. 6. That nothing contained in this act shall be so construed as to affect in any manner the existing laws and regulations in regard to the adjustment and payment to States of the percentage of the net proceeds of the sales of the public lands within their respective limits, as provided in section 3689 of the Revised Statutes of the United States.

Mr. O'BRIEN. I object to the passage of the bill.

The SPEAKER. The gentleman from Kentucky [Mr. WHITE] moves to suspend the rules and pass the bill.

Mr. WHITE. It is a bill to distribute the proceeds of the sales of public lands for educational purposes according to the illiteracy of the people; and I can tell you, gentlemen, that the South needs a great deal of assistance on that ground.

The question was taken upon suspending the rules and passing the bill; and upon a division there were—ayes 9, noes 141.

So (two-thirds not voting in favor thereof) the rules were not suspended.

Mr. WHITE. I ask consent to have printed in the RECORD as a portion of the debates some remarks upon this subject.

There was no objection, and leave was granted accordingly.

The remarks are as follows:

Mr. WHITE. Mr. Speaker, the bill proposes to distribute the proceeds of the sales of public lands to the school funds of the several States, and the distribution is to be made on the basis of illiteracy of the people. It would be very well for members to examine the report of the Commissioner of Education for the year 1872 and to reflect on the startling facts found there concerning the illiteracy of our whole people.

I need not remind members of the great necessity of a Government appropriation for the newly enfranchised citizens of the South; and I confess that it does seem to me that there is quite as much propriety in making the appropriation as the necessity, for it is urgent.

It is impossible for any one to exercise intelligently the rights and privileges of an American citizen, especially in the use of the elective franchise, without having at least a common-school education. Some of the Southern States make a discrimination in favor of the white children in the apportionment of the school fund. As an illustration I give the following:

STATE OF KENTUCKY, OFFICE SUPERINTENDENT PUBLIC INSTRUCTION,
Frankfort, August 1, 1876.

To the Commissioners of Public Schools:

I furnish you with the following statement concerning the apportionment for the school year ending June 30, 1877:

White children	459,357
Increase	11,215
White, *per capita*	$1 90
Colored children	53,196
Increase	2,524
Colored, *per capita*	55 cents.

For your further information, I publish the letter of the State auditor.

H. A. M. HENDERSON,
Superintendent Public Instruction.

The above statement made by the superintendent of public instruction for the State of Kentucky shows that $1.90 *per capita* is given to the white children of Kentucky, while only 55 cents *per capita* are given to colored children of that State.

Now, Mr. Speaker, is it possible for the United States Government to guarantee a republican form of government to a State which tolerates such a state of things as this! I imagine that the support which most of the Southern States are able to give to their systems of public schools is hardly better than that of Kentucky. In Delaware there is one man in every five who can neither read nor write; in North Carolina one in three; and in Georgia there are fifty-seven in every one hundred who can neither read nor write.

The colored people are not the only illiterates who are to be benefited by the provisions of this bill. I regret to say that there are thousands and tens of thousands of white children and white men in this country who can neither read nor write. Since the money resulting from the sale of public lands is to be divided on the basis of illiteracy, of course it follows that white illiterates will receive proportionately with colored illiterates.

Should the bill become law, as it is just and right and humane that it should, then I predict that the necessity for Federal soldiers to protect and defend the rights of citizens which are conferred by the fifteenth amendment to the Constitution will rapidly disappear.

It is a disgrace to the nation and a sad comment on our free institutions that such a state of affairs could exist in our borders as would justify and make it necessary for this democratic House of Representatives in the Forty-fourth American Congress to pass the following resolution:

Whereas the right of suffrage prescribed by the constitutions of the several States is subject to the fifteenth amendment of the Constitution of the United States, which is as follows:

"ARTICLE XV.

"SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

"SEC. 2. The Congress shall have power to enforce this article by appropriate legislation."

and whereas the exercise of the right of suffrage so prescribed and regulated should be faithfully maintained and observed by the United States and the several States and the citizens thereof; and whereas it is asserted that the exercise of the right of suffrage is in some of the States, notwithstanding the efforts of all good citizens to the contrary, resisted and controlled by fraud, intimidation, and violence, so that in such cases the object of the amendment is defeated; and whereas all citizens, without distinction of race, or class, or color, are entitled to the protection conferred by such article: Therefore,

Be it resolved by the House of Representatives, That all attempts by force, fraud, terror, intimidation, or otherwise, to prevent the free exercise of the right of suffrage in any State should meet with certain, condign, and effectual punishment, and that in any case which has heretofore occurred or that may hereafter occur in which violence or murder has been or shall be committed by one race or class upon the other, the prompt prosecution and punishment of the criminal or criminals in any court having jurisdiction is imperatively demanded, whether the crime be one punishable by fine or imprisonment or one demanding the penalty of death.

In conclusion, I desire to say, Mr. Speaker, that the bill which I have had read has been considered by the Committee on Education and Labor, to which I belong, and has been reported to this House for favorable action. For some time past I have tried to get the floor to present this bill. I ask the House to pass it now, even at this late hour of the last session of the Congress.

ALEXANDER & CO.

Mr. BRIGHT. I move to suspend the rules and put upon its passage the bill (H. R. No. 361) for the relief of Alexander & Co. for the loss of whisky by the negligence of the Government. This bill is now on the Private Calendar. The case is one of peculiar merit and very great hardship. I hope the bill will be passed.

The bill was read. It directs the Treasurer of the United States to pay to Alexander & Co. $3,000 in full satisfaction of their claim against the Government for loss of whisky seized for taxes, a large part of such whisky being lost by the negligence of the officers of the Government while the whisky was in their possession.

The motion to suspend the rules was not agreed to.

J. B. M'CULLOUGH.

Mr. GOODE. I move to suspend the rules to take up and pass the bill (S. No. 1127) for the relief of J. B. McCullough.

The bill was read. It directs the proper accounting officers of the Treasury to pay to J. B. McCullough, of Petersburgh, Virginia, $328.87 for rent of property occupied under contract by the United States, for which vouchers were given to McCullough.

Mr. CONGER. I ask for the reading of the report.

The report was read.

The motion of Mr. GOODE was agreed to, (two-thirds voting in favor thereof,) and the bill was passed.

REMOVAL OF POLITICAL DISABILITIES.

The SPEAKER. The Chair desires to lay before the House two bills from the Senate for the removal of political disabilities.

The Clerk read the titles of the bills, as follows:

A bill (S. No. 1293) to remove the political disabilities of Theophilus H. Holmes, of North Carolina;

A bill (S. No. 1292) to remove the political disabilities of John M. Haden, of Galveston, Texas.

Mr. CONGER. Do petitions accompany these bills?

The SPEAKER. The bills have been passed by the Senate; and the Chair is informed by the Clerk that the Senate makes it a rule to retain the petitions on file. If there be no objection, these bills will be regarded as passed.

There was no objection.

WILLIAM WHEELER HUBBELL.

Mr. WHITTHORNE. I move to suspend the rules and pass Senate bill No. 667, which was read last night, there being then a single objection which is now withdrawn.

The motion to suspend the rules was agreed to; and the bill (S. No. 667) for the relief of William Wheeler Hubbell, and to make just compensation for the past making, or use, or vending of his patent explosive shell fuses and percussion exploders by the United States, was passed.

WAR CLAIMS.

Mr. EDEN. I move to suspend the rules so as to concur in the amendments of the Senate to the bill (H. R. No. 4433) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871. These amendments do not change the bill essentially in any particular.

The motion was agreed to; and the amendments of the Senate were concurred in.

LOUIS PETOSKI.

The SPEAKER. There are three bills the consideration of which was consented to last night, and which the Chair will lay before the House. The first is the bill (S. No. 920) to authorize Louis Petoski, of Michigan, to enter a certain tract of land which embraces his home and improvements.

Mr. SAYLER. It is not necessary to read the bill. It has been passed by the Senate and approved by the Committee on Public Lands of this House.

There being no objection, the bill was passed.

SALE OF TIMBER LANDS.

The SPEAKER. The next bill to the consideration of which consent was given last night is the bill (S. No. 6) for the sale of timber lands in the States of California and Oregon and in the Territories of the United States.

Mr. SAYLER. This bill has received the favorable consideration of the Committee on Public Lands and should be passed.

Mr. WALLING. I say that this bill has not received the approval of the Committee on Public Lands.

Mr. SAYLER. My colleague on the committee, the gentleman from Kansas, [Mr. GOODIN,] is here and will verify my statement. My colleague [Mr. WALLING] is mistaken. That is all.

Mr. WALLING. This bill was referred to a subcommittee of the Committee on Public Lands, of which I am chairman. It has no business to be here.

The SPEAKER. The gentleman from Ohio [Mr. SAYLER] moves to suspend the rules, so as to bring the bill before the House and pass it.

The bill was read, as follows:

Be it enacted, &c., That the surveyed public lands of the United States within the States of California and Oregon and in Washington Territory not included within military, Indian, or other reservations of the United States, valuable chiefly for timber, but unfit for cultivation, and which have not been offered at public sale according to law, may be sold to citizens of the United States or persons who have declared their intention to become such, in quantities not exceeding one hundred and sixty acres to any one person, corporation, or association of persons, and in all other territories of the United States not exceeding forty acres to any one person, corporation, or association of persons, at the minimum price of $2.50 per acre: *Provided*, That nothing herein contained shall defeat or impair any *bona fide* claim under any law of the United States, or authorize the sale of any mining claim or the improvements of any *bona fide* settler, or lands containing gold, silver, cinnabar, copper, or coal, or lands selected by the said States under any law of the United States donating lands for internal improvements, education, or other purposes: *And provided further*, That none of the rights conferred by the act approved July 26, 1866, entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," shall be abrogated by this act, and all patents granted shall be subject to any vested and accrued water rights or rights to ditches or reservoirs used in connection with such water rights as may have been acquired under and by the provisions of said act; and such rights shall be expressly reserved in any patent issued under this act.

SEC. 2. That any person desiring to avail himself of the provisions of this act shall file with the register of the proper district a written statement in duplicate, one of which is to be transmitted to the General Land Office, designating by legal subdivisions the particular tract of land he desires to purchase, setting forth that the same is unfit for cultivation and valuable chiefly for its timber; that it is uninhabited, contains no mining or other improvements, except for ditch or canal purposes where any such do exist, save such as were made by or belonged to the applicant, nor, as deponent verily believes, any deposit of gold, silver, cinnabar copper, or coal; that deponent has made no other application under this act; that he does not apply to purchase the same on speculation, but in good faith, to appropriate it to his own exclusive use and benefit, and not for sale; and that he has not, directly or indirectly, made any agreement or contract in any way or manner with any person or persons whatsoever by which the title which he might acquire from the Government of the United States, or any right in said land or the timber thereon, should inure in whole or in part to the benefit of any person except himself; nor has deponent executed any mortgage or other instrument upon said land, or any part thereof, by or under which or any proceedings thereunder the title may be vested in any other person, which statement must be verified by the oath of the applicant before the register or receiver of the land office within the district where the land is situated; and if any person taking such oath shall swear falsely in the premises, he shall be subject to all the pains and penalties of perjury, and shall forfeit the money which he may have paid for said lands and all rights and title to the same, and any grant or conveyance which he may have made except in the hands of *bona fide* purchasers shall be null and void.

SEC. 3. That upon the filing of said statement, as provided in the second section of this act, the register of the land office shall post a notice in some conspicuous place of such application, embracing a description of the land by legal subdivisions in his office for a period of sixty days, and shall furnish the applicant a copy of the same for publication at the expense of such applicant in a newspaper published nearest the location of the premises for a like period of time, and after the expiration of said sixty days, if no adverse claim shall have been filed, the person desiring to purchase shall furnish to the register of the land office satisfactory evidence, first, that said notice of the application prepared by the register as aforesaid, was duly published in a newspaper as herein required; secondly, that the land is of the character contemplated in this act, unoccupied, and without improvements other than those excepted, either mining or agricultural, and that it apparently contains no valuable deposits of gold, silver, cinnabar, copper, or coal, and of the truth of the statement required to be made of the matter contained in the second section of this act, and upon payment to the proper officer of the purchase-money of said land, together with the fees of the register and the receiver as provided for in case of mining claims in the twelfth section of the act approved May 10, 1872, the applicant may be permitted to enter said tract, and on the transmission to the General Land Office of the papers and testimony in the case, a patent shall issue thereon: *Provided*, That any person having a valid claim to any portion of the land may object in writing to the issuance of a patent of lands so claimed by him, stating the nature of his claim thereto, and evidence shall be taken and the merits of said objection shall be determined by the officers of the Land Office, subject to appeal as in other land cases. Effect shall be given to the foregoing provisions of this act by regulations to be prescribed by the Commissioner of the General Land Office.

Mr. PAGE. I move to suspend the rules and pass that bill.

Mr. WALLING. I rise to a point of order.

Mr. PAGE. A similar bill was passed in the Forty-third Congress, and failed for want of time in the Senate.

Mr. MORRISON. It is a pernicious species of legislation, and ought not to pass.

Mr. PAGE. That is untrue. There are as honest men in this House as you are.

Mr. WALLING. That bill was referred to the Committee on Public Lands, and by that committee referred to a subcommittee. It requires an appropriation of money to carry it out, and it is one of those bills which must be carried out——

The SPEAKER. The pending motion is the motion to suspend the rules.

Mr. WALLING. Then the first motion must be to discharge the committee from its further consideration.

The SPEAKER. That is the motion, and pass the bill.

Mr. WALLING. I wish to move an amendment to the bill.

The SPEAKER. The motion to suspend the rules is not amendable.

Mr. WALLING. It has been already referred to a subcommittee and I have been instructed to report an amendment.

The SPEAKER. The gentleman has no right to move an amendment when the motion is to suspend the rules and pass the bill.

Mr. BUCKNER. Is it in order to lay the bill on the table?

The SPEAKER. It is not. The pending motion is on the motion to suspend the rules and pass the bill.

Mr. HOLMAN. I object to the bill.

The House refused to suspend the rules, two-thirds not voting in favor thereof.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the passage of a bill (H. R. No. 4313) to remove the political disabilities of Charles L. Scott, of Alabama.

It further announced the passage of a concurrent resolution that fifteen hundred copies of the report of the monetary commission created by joint resolution of August 15, 1876, together with accompanying evidence and documents, be printed for the use of the Senate, and thirty-five hundred be printed for the use of the House of Representatives; in which concurrence was requested.

It further announced that the Senate still further insisted on its amendment to the bill (H. R. No. 4691) making appropriation for the support of the Army, &c., disagreed to by the House of Representatives, and asked a further conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. BLAINE, Mr. ALLISON, and Mr. WITHERS as the managers of said conference on its part.

It further announced that the Senate further insisted on its amendments numbered 76 and 77 to the bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes, disagreed to by the House, and agreed to the further conference asked for by the House on the disagreeing votes of the two Houses, and had appointed Mr. WINDOM, Mr. ALLISON, and Mr. DAVIS as managers of said conference on its part.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. HOLMAN. I rise to submit the report of the conference of the two Houses on the legislative, executive, and judicial appropriation bill.

The Clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes, having met, after full and free conference, report that they are unable to agree thereon.

WM. S. HOLMAN,
HIESTER CLYMER,
CHAS. FOSTER,
Managers on the part of the House.

WM. B. ALLISON,
HENRY G. DAVIS,
WM. WINDOM,
Managers on the part of the Senate.

Mr. HOLMAN. This is the third report made to the House and Senate of the inability of the conferees to agree on the question at issue between the two Houses on that bill, that is, as to the President's salary. The House, of course, understands that all the other provisions of this House have been agreed to by the two Houses except this one question of the salary of the President. The House still insists that the salary of the President shall be fixed at $25,000, while the Senate want it to remain at $50,000.

I take occasion to suggest there are but three modes of disposing of this question: One is a further conference on the bill, the adoption of this report, the discharge of the committee, and agreeing to the further conference asked by the Senate on the disagreeing votes on the bill; or by our receding, which, of course, at once passes the bill; or by the House adhering to its disagreement, which results in the failure of the bill unless the Senate should recede. I take that to be the condition of the measure.

Mr. LAMAR. The question I wish to ask is this: Suppose the House adheres to its own provision, what will be the effect upon the salary of the President? Does it not stay as it is, and will not that produce the same result as if we recede?

Mr. HOLMAN. On the spur of the moment, as I have not had an opportunity to discuss the question specially, I should be compelled to say, if that bill passes now, it would reduce the salary of the President from the inauguration into the presidential office of its incoming incumbent. I take it to-day is not to be computed as any part of the incoming President's term of office.

Mr. GARFIELD. Suppose it does not pass; what will be the President's salary?

Mr. HOLMAN. If the law does not pass the President's salary is fixed at $50,000.

But, if the bill passes now, I hold it does affect the presidential salary from and after the 4th day of March. There is no possible question about that. The salary of the President would be reduced from and after the expiration of the present presidential term. And I hold, further, that if this Congress should remain in session until twelve o'clock to-morrow, Monday, the passing of the bill would have the same effect.

Mr. TOWNSEND, of New York. That is not a supposable case.

Mr. GARFIELD. I desire to be allowed just a single sentence. Any bill that President Grant may sign will fix the future salary. That marks the boundary of the terms.

Mr. EDEN. Suppose the bill fails on account of a disagreement between the House and the Senate, and we have an extra session. I ask the gentleman from Indiana what will be the amount we will have to appropriate under the law as it will then exist?

Mr. HOLMAN. O, of course, if this bill fails the presidential salary remains at $50,000 per annum. That is very clear.

For the purpose of testing the sense of the House I again move that the House insist on its disagreement to the amendment of the Senate touching the President's salary, and ask for a further conference. I do not call the previous question at this moment, in order to give an opportunity to any gentleman who may wish to make another motion, either that the House adhere or that the House recede, to submit it.

Mr. CLYMER. I wish to say one word, and I feel impelled to do so by a sense of duty as a member of the Committee on Appropriations. This is the third report from conference committees on this bill. It seems to be evident from our failures heretofore that we will meet with no better success in the future, considering the temper of the Senate as represented by its conferees. If by insisting we could obtain the legislation that this House seems to desire, I would continue to insist. But if we cannot obtain that legislation it would not be the part of wisdom for us to lose this bill and gain nothing by it, because if we lose the bill the salary of the incoming President inevitably becomes $50,000 per annum for his whole term.

Hence we can gain nothing by insisting, and I believe it would be the part of wisdom on the part of this House, considering all the circumstances, not to insist but to recede.

Mr. GARFIELD. Make that motion.

Mr. CLYMER. I say to my friends on this side of the House that that is the part of wisdom. We can do nothing better.

Mr. GARFIELD. I make that motion, that the House recede from its disagreement to the amendments of the Senate touching the President's salary.

Mr. HOLMAN. And now both motions being before the House I call the previous question.

The SPEAKER. There cannot be two motions of that character before the House at the same time.

Mr. HOLMAN. Both motions may be pending at the same time.

The SPEAKER. The motion to recede takes precedence of the motion to insist.

Mr. HOLMAN. But both motions are pending.

Mr. GARFIELD. O, no.

The SPEAKER. That is not worth while contending about.

Mr. HOLMAN. I call the previous question.

The SPEAKER. The Chair thinks it is not necessary to waste time by calling the previous question. There seems to be no objection to taking the vote immediately.

The question being taken on Mr. GARFIELD'S motion, on a division by sound, the Speaker stated that in the judgement of the Chair the "ayes" had it.

Mr. STENGER. I call for the yeas and nays.

The question being taken on ordering the yeas and nays, there were—ayes 16, noes 131; the affirmative not being one-fifth of the whole vote.

Mr. HOLMAN. I ask for tellers on the yeas and nays.

On the question of ordering tellers there were ayes 16, not one-fifth of a quorum.

Mr. HOLMAN. Then the House backs down.

So tellers on the yeas and nays were refused, the yeas and nays were refused, and the motion was agreed to.

Mr. GARFIELD moved to reconsider the vote by which the House receded from its disagreement to the Senate amendment; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

S. K. DONAVIN AND R. W. HUNTER.

Mr. CRAPO. I move that the rules be suspended and that the following resolution be adopted:

Resolved, That S. K. Donavin, deputy sergeant-at-arms, and R. W. Hunter, clerk of the House special committee to investigate the recent election in Louisiana, be allowed the sum of $360 each, to be paid out of the contingent fund of the House.

Mr. HOLMAN. I wish to inquire whether this appropriation is recommended by the Committee of Accounts.

Mr. CRAPO. It has the approval of the special committee to investigate the Louisiana election.

Mr. HOLMAN. I understand that these parties have been paid already for all the services they rendered.

The question being taken, the rules were suspended, (two-thirds voting in favor thereof,) and the resolution was adopted.

ESTATE OF REAR-ADMIRAL DAHLGREN.

Mr. WILLIS. I move that the rules be suspended, and that the bill (H. R. No. 4471) authorizing a settlement of the claim of the estate of the late Rear-Admiral John A. Dahlgren be passed.

The bill was read.

Mr. CONGER. I would ask that the report of the committee in this case be read, so that the House may understand it.

The Clerk read the report, as follows:

The late Rear-Admiral Dahlgren, having devoted the vigor of his manhood to scientific investigation for the perfection of naval ordnance, when not at sea in active service, had no opportunity for the accumulation of wealth, and left to his family but a small estate. Since his untimely decease his widow, who became the administratrix of his estate, has petitioned Congress to recognize in some measure his claims upon his country by allowing a reasonable compensation for the use and transfer of his patents for the casting, finish, and mounting of naval ordnance.

The justice of this claim has been passed upon and admitted by several committees of the Senate and House, who had the same under consideration, but every bill heretofore framed for relief of the petitioner, without encountering any considerable opposition, has failed, by some untoward event, to become a law.

The said Admiral Dahlgren, during his life-time, after many years of thought, labor, and experiment, took out three letters-patent for improvements in cast-iron ordnance and one for rifled projectiles. The great merit of these inventions as to ordnance is not only readily perceptible to an intelligent mind upon an inspection thereof, but has been vindicated by more than fifteen years of constant and almost exclusive use by the United States for the armament of vessels and shore defenses. During the late war every decisive naval victory achieved by the Union forces can be traced, in a great measure, to the superiority of the Dahlgren gun. Of these guns the United States have manufactured more than four thousand, and have now on hand, serviceable and in use, over three thousand, besides having permitted the governments of Italy, Russia, France, and Japan to make and use them without royalty to the inventor. Every officer of rank and distinction in our Navy has testified to the great value of these guns. Du Pont, Rodgers, Alden, Wise, Porter, and many others have give written certificates as to their excellency and superiority. Yet neither the inventor nor his widow and orphans have ever received at the hands of this Government any pecuniary remuneration therefor.

It is universally admitted that where a person, while in the public service, patents an invention, the utility of which has been demonstrated, it is proper for the Government, in case of need of such patent, to purchase the same at a reasonable price; but some deny that the Government should pay for the use thereof while the holder of the patent is in the employment of the State, receiving a fixed salary. If it is right for the Government to buy the patent itself held by a public employé, it is also right to pay for the use of such when it has never become such purchaser. The implied promise to pay in the latter has the same sanction in law and reason as the express promise in the former case. When a question of this kind was undergoing an investigation, the Judge-Advocate-General gave a well-considered opinion in favor of the patentee's right to receive a reasonable compensation for the use of his patent by the Government, notwithstanding he was, at the time of his invention, in the public service. Among other things, he said:

"In such a case, the Government, if desiring to secure a permanent property in the invention, should not be unwilling to remunerate the inventor in such a sum as—considering how far it may have itself contributed to the result—may be just and reasonable. If an opposite view, indeed, should prevail, the inventive talent of public operatives, instead of being stimulated, would be discouraged, or if exerted at all, would be placed, in the first instance, at the command of private individuals or companies, with whom, perhaps, in the end the Government would be forced to contract at a greatly advanced price."

But this is no longer an open question, as it has been passed upon by the courts in favor of such patentees in several cases; and the precedent for such compensation has been set by the Government in others.

The committee have reported a substitute for the original bill, and recommend the passage thereof.

Mr. HOLMAN. I trust the House will not pass a bill of this importance at this late hour of the session.

The SPEAKER. The House can always protect itself by voting down the motion to suspend the rules.

The question was taken on Mr. WILLIS's motion; and on a division there were ayes 23, noes not counted.

So (two-thirds not voting in favor thereof) the rules were not suspended.

ARMY APPROPRIATION BILL.

Mr. ATKINS. I submit a report from the committee of conference on the disagreeing votes of the two Houses on the Army appropriation bill.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4691) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes, having met, after full and free conference, they are unable to agree.

J. D. C. ATKINS,
ERASTUS WELLS,
CHAS. FOSTER,
Managers on the part of the House.

JAS. G. BLAINE,
WM. A. WALLACE,
W. B. ALLISON,
Managers on the part of the Senate.

Mr. ATKINS. It may be expected that I shall make an explanation of the result of the conference. There are two points of difference between the two Houses. The first is the reduction of the force and the other is the fifth section of the bill. I do not believe that the House and the Senate can agree upon the reduction of the force, nor do I believe that they can agree upon the fifth section. That, however, is a question for the House to determine.

Mr. O'BRIEN. What is the fifth section?

Mr. ATKINS. The fifth section imposes a restriction upon the appropriation for maintenance of the Army, so that it shall not be used in supporting either the Packard or the Nicholls government in Louisiana or in supporting the government of any State.

Mr. THORNBURGH. It is an amendment to the Constitution on an appropriation bill.

Mr. ATKINS. I move that the House further insist on its disagreement to the amendments of the Senate, and ask a further conference on the disagreeing votes of the two Houses thereon.

Mr. O'BRIEN. What is the use of another conference if they cannot agree?

Mr. ATKINS. I say that I do not believe that they can agree, but still I think that another conference should be had.

The question was taken on Mr. ATKINS's motion, and on a division there were ayes 100, noes not counted.

So the motion was agreed to.

SUIT AGAINST THE SERGEANT-AT-ARMS.

Mr. KNOTT. I move to suspend the rules and pass the following resolution:

Resolved, That the Sergeant-at-Arms of the House be hereby authorized to retain counsel in the cause in which Hallet Kilbourne is plaintiff and John G. Thompson and others are defendants, for the purpose of prosecuting or defending, as the case may be, the cause aforesaid in the Supreme Court of the United States.

Mr. HOLMAN. The case has not gone to the Supreme Court. I hope the gentleman from Kentucky will explain the matter. I am sure that the case has not gone to the Supreme Court.

Mr. KNOTT. I object to the gentleman from Indiana debating my motion, and call for a vote upon it.

Mr. HOLMAN. Then I trust that the House will not suspend the rules.

Mr. KNOTT. I object to debate by the gentleman from Indiana.

Mr. CAULFIELD. The gentleman from Indiana is obstructing legislation.

Mr. HOLMAN. This is a piece of unwarrantable extravagance.

The question was taken on Mr. KNOTT's motion, and on a division there were ayes 98, noes not counted.

So (two-thirds voting in favor thereof) the rules were suspended and the resolution was adopted.

Mr. MONEY obtained the floor.

Mr. HOLMAN. I rise to what I believe to be a privileged motion, and it is that the House take a recess.

Mr. TUCKER. That is not a privileged motion unless the gentleman has obtained the floor.

The SPEAKER. The Chair recognizes the gentleman from Mississippi.

PAY OF PAGES.

Mr. MONEY. I move to suspend the rules and pass the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That the Clerk of the House, in paying the pages for the month of March, as directed by resolution passed February 28, 1877, shall include all those employed and authorized to be paid for the months of December, 1876, and January and February, 1877.

Mr. HOLMAN. Does that come from the Committee of Accounts?

The SPEAKER. It does not. The gentleman from Mississippi [Mr. MONEY] moves to suspend the rules and pass the resolution.

Mr. HOLMAN. I trust that the resolution will not be adopted.

The question was taken; and upon a division there were—ayes 102, noes 16.

No further count being called for, (and two-thirds voting in the affirmative,) the rules were suspended and the resolution adopted.

REFUNDING COTTON TAX.

Mr. WELLS, of Mississippi. I move to suspend the rules so as to pass House bill No. 1341, to refund certain taxes collected by the United States on raw cotton during the years 1863, 1864, 1865, 1866, 1867, and 1868, and to create a perpetual common free-school fund, and for other purposes.

The bill was read.

Mr. HOLMAN. How much is involved in that bill?

A MEMBER. Over $68,000,000.

Mr. MILLS. There are millions in it. [Laughter.]

Mr. HOLMAN. That is entirely too modest.

The question was taken upon the motion to suspend the rules and passing the bill, and it was not agreed to; two-thirds not voting in the affirmative.

EMPLOYÉS UNDER DOORKEEPER OF THE HOUSE.

Mr. MILLS. I move to suspend the rules and pass the resolution which I send to the Clerk's desk, and I ask for it the vote of every gentleman in this House. It is to prevent the Doorkeeper from removing employés under him during vacation, as he has done heretofore.

The Clerk read the resolution, as follows:

Resolved, That employés now under the Doorkeeper of the House shall not be removed from their places before the commencement of the Forty-fifth Congress, and the Doorkeeper of the House is hereby prohibited from removing any of said employés.

The rules were not suspended, two-thirds not voting in favor thereof.

Mr. MILLS said subsequently: I do not think the House understood my resolution; I think that gentlemen voted under a misapprehension. I move to reconsider the vote on the resolution.

The SPEAKER. It is not in order to reconsider a vote on a motion to suspend the rules.

WILLIAM H. SMITH.

Mr. CAULFIELD. I move to supend the rules and pass the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That William H Smith be paid out of the contingent fund of the House the sum of $3.00 per day as messenger in the library of the House, from and including the 4th of March 1877, and until otherwise ordered.

The motion to suspend the rules and pass the resolution was agreed to, two-thirds voting in favor thereof.

ORDER OF BUSINESS.

Mr. HOLMAN. I rise to move that the House now take a recess. The Chair certainly can see that legislation is not conducted with any great degree of intelligence at this hour of the night.

Mr. TUCKER. The gentleman is out of order in casting such an imputation upon this House.

Mr. HOLMAN. I move that the House take a recess until eight o'clock to-morrow morning.

Mr. WADDELL. I move to amend that motion so as to make it ten o'clock.

The SPEAKER. If the House now takes a recess until ten o'clock to-morrow morning it will not be possible for the necessary business of the session to be concluded between ten and twelve o'clock.

Mr. SPRINGER. I move to take a recess until six o'clock.

Mr. WADDELL. I ask the Chair to submit my motion to the House.

The motion of Mr. WADDELL, to take a recess until ten o'clock, was not agreed to.

A. M. GAROUTTE.

Mr. WILSON, of Iowa. I move to suspend the rules so as to pass Senate bill No. 949, for the relief A. M. Garoutte, late captain and assistant quartermaster in the United States Army.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and is hereby, directed, out of any money in the Treasury not otherwise appropriated, to pay to A. M. Garoutte, late captain and assistant quartermaster United States Army, $1,544.15, in full for the amount refunded by said Garoutte to H. Hurdle, by order of General Boyd, in the year 1865, and of hotel bills paid by him for clerks and auctioneer while making sale of personal property of the United States at various places in the State of North Carolina in 1865 and 1866, and for amount of fine wrongfully imposed upon him by a court-martial in August, 1866, and paid by him; and for all sums which would have been due to him for military services in his said capacity if he had been honorably discharged on the 14th of August, 1866.

SEC. 2. That the Secretary of War be, and he is hereby, authorized and required to cause to be issued to the said Garoutte, late captain and assistant quartermaster, an honorable discharge to take effect from the 14th day of August, 1866.

The question was taken upon the motion of Mr. WILSON; and upon a division there were—ayes 86, noes 32.

Mr. MILLS. Let us have the yeas and nays on that.

The question was taken upon ordering the yeas and nays; and there were 26 in the affirmative.

So (the affirmative being more than one-fifth of the last vote) the yeas and nays were ordered.

Mr. O'BRIEN. Before the yeas and nays are called, I move that the House now take a recess until nine o'clock to-morrow morning.

Mr. WILSON. That motion certainly is not in order.

The question was taken; and there were—yeas 127, nays 35, not voting 128; as follows:

YEAS—Messrs. Abbott, Adams, Ainsworth, Ballou, Banks, Blackburn, Blair, Bland, Bliss, Bradley, Bright, William R. Brown, Buckner, Horatio C. Burchard, Burleigh, John H. Caldwell, Campbell, Caswell, Chittenden, Cochrane, Conger, Danford, Denison, Dunnell, Durham, Eames, Eden, Ellis, Flye, Forney, Fort, Foster, Freeman, Frye, Garfield, Gause, Goodin, Haralson, Benjamin W. Harris, Hartzell, Hathorn, Haymond, Hendee, Henderson, Henkle, Hoge, Hooker, House, Hubbell, Hyman, Thomas L. Jones, Kasson, Kehr, Kimball, Lamar, Lane, Lawrence, Leavenworth, Le Moyne, Lynch, Lynde, Mackey, MacDougall, McCrary, McDill, Meade, Miller, Mills, Morrison, Mutchler, Nash, Neal, New, Norton, Oliver, O'Neill, Packer, Page, Payne, Pierce, Pratt, Rainey, James B. Reilly, John Reilly, Rice, Riddle, Sobieski Ross, Rusk, Sampson, Sayler, Schleicher, Sheakley, Singleton, Slemons, Smalls, A. Herr Smith, Stone, Strait, Tarbox, Thomas, Thompson, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, John L. Vance, Robert B. Vance, Waddell, Waldron, Alexander S. Wallace, John W. Wallace, Warren, Watterson, G. Wiley Wells, Whitthorne, Wike, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, Jere N. Williams, James Wilson, Alan Wood, jr., Woodburn, Woodworth, and Yeates—127.

NAYS—Messrs. Ashe, Atkins, Boone, Bradford, John Young Brown, Samuel D. Burchard, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Collins, Culberson, Cutler, Davis, De Bolt, Egbert, Franklin, Glover, Goode, Andrew H. Hamilton, John T. Harris, Harrison, Hatcher, Holman, Humphreys, Jenks, Joyce, Knott, Money, John F. Philips, William A. Phillips, William M. Robbins, Miles Ross, Sparks, Stenger, Stevenson, and Terry—35.

NOT VOTING—Messrs. Anderson, Bagby, George A. Bagley, John H. Bagley, jr., John H. Baker, William H. Baker, Banning, Bass, Beebe, Belford, Bell, Blount, Buttz, Cabell, William P. Caldwell, Candler, Cannon, Carr, Cason, Cate, Caulfield, Chapin, Clymer, Cook, Cowan, Cox, Crapo, Crounse, Darrall, Davy, Dibrell, Dobbins, Douglas, Durand, Evans, Faulkner, Felton, Field, Finley, Fuller, Gibson, Gunter, Hale, Robert Hamilton, Hancock, Hardenbergh, Henry R. Harris, Hartridge, Hays, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Hoar, Hopkins, Hoskins, Hunter, Hunton, Hurd, Hurlbut, Frank Jones, Kelley, King, Franklin Landers, George M. Landers, Lapham, Levy, Lewis, Lord, Luttrell, Magoon, Maish, McFarland, McMahon, Metcalfe, Milliken, Monroe, Morgan, O'Brien, Odell, Phelps, Piper, Plaisted, Platt, Poppleton, Potter, Powell, Purman, Rea, Reagan, John Robbins, Roberts, Robinson, Savage, Scales, Schumaker, Seelye, Sinnickson, William E. Smith, Southard, Springer, Stanton, Stephens, Stowell, Swann, Teese, Tucker, Turney, Van Vorhes, Wait, Charles C. B. Walker, Gilbert C. Walker, Walling, Walsh, Ward, Warner, Erastus Wells, Wheeler, White, Whitehouse, Whiting, Wigginton, Willard, William B. Williams, Willis, Wilshire, Benjamin Wilson, Fernando Wood, and Young—128.

So (two-thirds voting in favor thereof) the rules were suspended and the bill was passed.

During the vote,

Mr. WILSON, of West Virginia, stated that his colleague, Mr. FAULKNER, had left the House an hour or two ago on account of indisposition.

The vote was then announced as above recorded.

MESSENGERS OF HOUSE POST-OFFICE.

Mr. TERRY. I move to suspend the rules and pass the following resolution, which simply proposes to place the messengers in the House post-office on the same footing as those in the Senate.

The Clerk read as follows:

Resolved, That there be paid out of the contingent fund of the House the sum of $250 to each of the eight messengers employed during the present session in the House post-office, the same being for the months of April, May, and June, 1877, at the rate of $1,000 per annum each.

Mr. FORT. That has not been considered by the Committee of Accounts.

Mr. WHITE. Has that been referred to any committee? It seems to me we are paying a great many employés of this House, especially as this is a House so much for reform.

Mr. TERRY. It simply places the messengers of the House post-office on the same footing with those in the Senate.

The House refused to suspend the rules, two-thirds not voting in favor thereof.

COMPILATION OF QUESTIONS OF ORDER.

Mr. WILSON, of Iowa. I ask unanimous consent to report from the Committee on Rules for present consideration the following resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That the questions of order decided in the House of Representatives, compiled by the journal clerk, under the resolution of August 15, 1876, be printed and indexed under the direction of the journal clerk for the use of the Committee on Rules.

There being no objection the resolution was adopted.

ARMY APPROPRIATION BILL.

The SPEAKER announced as conferees on the part of the House on the disagreeing votes of the two Houses on the Army appropriation bill, Mr. ATKINS, Mr. ABBOTT, and Mr. FOSTER.

And then, on motion of Mr. HOLMAN, at two o'clock and thirty-five minutes a. m., (March 4th,) the House took a recess until eight o'clock a. m.

AFTER THE RECESS.

The recess having expired the House re-assembled at eight o'clock a. m., (Sunday, March 4.)

JULIUS S. BOHRER.

Mr. STEVENSON. I ask that by unanimous consent the bill (S. No. 1010) for the relief of Julius S. Bohrer, master in the United States Navy, be taken from the Speaker's table and be put upon its passage. This bill has passed the Senate unanimously, and has the approval of the committees of both Houses.

Mr. ROBERTS. I hope the bill will pass.

The bill was read. The preamble recites that Julius S. Bohrer, master in the naval service of the United States, after twenty-five years' faithful service, during which time he received the most terrible bodily injuries while in the discharge of his duties, was illegally dismissed the service by the Secretary of the Navy, December 30, 1865. It further recites that the said Julius S. Bohrer, after the said illegal dismissal by the said Secretary of the Navy, did make most frequent and persistent application to the then President and honorable Secretary of the Navy, as required by law, to obtain a court-martial, the which was always denied him until May 23, 1876, when a general court-martial was ordered for him by the President of the United States and honorable Secretary of the Navy, which general court-martial declared, after a most rigid and exhaustive trial, on June 2, 1876, that the said Julius S. Bohrer was innocent of all and every charge and specification of court of inquiry of 1865; and the Secretary of the Navy, by General Order No. 210, on June 5, 1876, so declared, and that the action of the Secretary of the Navy was in consequence null and void.

The bill therefore authorizes and directs the Secretary of the Treasury to pay to the said Julius S. Bohrer, his executors or assigns, the full amount of his yearly salary, with interest on same for each and every year from December 30, 1865, to June 5, 1876, out of any moneys in the Treasury of the United States not otherwise appropriated; the act to take effect from the date of its passage.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. STEVENSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DISTRICT POLICE DEPARTMENT.

Mr. LE MOYNE, by unanimous consent, from the committee to investigate the police department of the District of Columbia, submitted a report in writing, and moved that the committee be discharged and that the report be printed in the RECORD.

There was no objection, and it was so ordered. The report is as follows:

This committee was directed by the resolution authorizing its appointment to inquire whether the members of the board of police commissioners for the District of Columbia had used or attempted to use any members of said police force for corrupt or improper purposes connected with any investigation of Congress or with a view of injuring or disgracing any member of Congress, or had attempted to interfere with the administration of law in the courts of the District, and whether said police organization had been used for any improper or corrupt purpose.

Under this resolution they have considered it within the proper limits of their authority to inquire whether the police organization has been used for any improper purposes by any one; and under this direction your committee has taken whatever testimony they could get showing the management and uses of said police by the police commissioners or by any one.

On the same day when this resolution was adopted a bill was passed by the House unanimously, and it was also passed by the Senate, abolishing the board of police commissioners. As the testimony which could be given was probably to be had from members of the force it was hoped that this bill would speedily become a law, and the subordinates might testify without fear of discharge, but for some reason this was prevented and some of the witnesses refused to testify, claiming that their testimony would be used against them.

So far as this testimony affects the character and conduct of the members of the board of police commissioners it is proper to say that it only affects the character and conduct of one of said commissioners; that one is Mr. William J. Murtagh, who it appears has for many years been the president of said board.

The testimony shows that in March, 1872, an investigation into the management of the Navy Department was being made by a committee appointed by this House. That Mr. Charles A. Dana, of New York, appeared before said committee as a witness. His intention to come to Washington appears to have been known to Mr. Murtagh, who was then the president of the board of police commissioners, and in advance of Mr. Dana's arrival Murtagh sent a written request to the superintendent of police asking that two policemen be detailed, to act in citizens' clothes, under the direction of Mr. Murtagh. These policemen went to the office of the National Republican newspaper for their orders. They were told to meet Mr. Dana at the depot, and, as they express it, to "shadow" him while he was in Washington City, and to report to Mr. Murtagh at the Republican office. Two of the detectives were also engaged at the same time at the same work. One of them went as far as Philadelphia with Mr. Dana, pointing him out to officers to whom they had telegraphed, and who arrested Mr. Dana on an information for libel. Mr. Dana was closely watched like a criminal for several days while he was in Washington and reports made to Mr. Murtagh of his movements. The object alleged for shadowing Mr. Dana here was that inasmuch as Mr. Dana was assailing the Navy Department in his newspaper, it was considered desirable to know from whom he was getting information, or, as the witnesses expressed it, "with whom he connected in Washington."

There is no testimony tending to show that the Secretary of the Navy was interested in this prosecution of Mr. Dana. One of the witnesses, a policeman named Clarvoe, swears that Mr. Murtagh wished him to secure witnesses who could prove at Philadelphia Mr. Dana's proprietorship of the New York Sun. He secured a man named Sargent, then an employé in the Treasury Department. Sargent says that the same day he went to Philadelphia for this purpose "I strolled along with Mr. Murtagh and went up to the Navy Department with him. I was never there but the one time with Mr. Murtagh. We then saw the Secretary of Navy." But when the witness is asked whether he received any instructions from the Secretary of Navy, or what conversations took place in the presence of the Secretary, he declines to answer.

His instructions, however, were to go to Philadelphia and see Mr. Cattell or Mr. Kemble, which he did, and he was sent to an attorney, &c. This refusal to answer may be prompted by a disposition, as the witness supposes, to protect the Secretary, or it may be from exactly the opposite motive and may be an attempt to insinuate what he could not prove. The Secretary himself would know the truth of the matter, and testifies that he had no knowledge of it. (November 3.)

This use of the police was evidently not a public service, or made for any proper purpose. To the contrary it would seem not only proper but necessary that an examination or investigation into the management of any Department of the Government should at all times be facilitated, and it was highly improper in either the commissioner of police or any one else to use the police force, largely paid out of the funds of the General Government, for the purpose of preventing investigation, acting as spies upon witnesses or to bring to punishment any one furnishing information in regard to the management of the affairs of the people.

It was said by one of the detectives that he had been telegraphed to by the police at Philadelphia about Mr. Dana; that his arrest was desired. If there was any sufficient charge against him there, he could have been got at any time from New York, and some other time and occasion would have been more proper than when he was summoned to the national capital as a witness.

That this improper use of the police was made is not denied by Mr. Murtagh himself; he only says he had entirely forgotten that it was ever done, from which we might infer that such use was not unusual.

But the more serious charge is the attempt made by the president of the police board to influence or control the official conduct of a member of this House who was in charge of another investigation into the affairs of the Navy Department.

The superintendent of the police says:

"About the 1st of July last Mr. Murtagh came to my office and requested that some attention be paid to Mr. WHITTHORNE, who was chairman of the committee that was investigating the affairs of the Navy Department. Mr. Murtagh stated that that investigation was being pursued in a very severe manner; that there was an anxiety prevailing in regard to that investigation, and that he wished to have Mr. WHITTHORNE watched to see what his habits were, with whom he communicated, and he suggested that possibly he was visiting houses not proper for a person to visit. He wished me to put detectives at work; that if we should find Mr. WHITTHORNE visiting any houses of prostitution or such places we should *raid* the house and send an officer of the police with a posse to take charge of the house and arrest all parties there; a report by the Naval Committee was to be made in a few days; after the arrests were made the parties were to be taken to the police station and detained there and the reporters of the National Republican, of which Mr. Murtagh was editor and proprietor, were to be notified. They were to come to the station-house, see the parties, and write up the report or not as they deemed proper. In a week or ten days Murtagh came again to inquire what had been done; he pressed the matter quite strongly. He spoke of the anxiety which prevailed at the Naval Department in regard to the investigation, and he urged in very strong language to have something done to carry out his project. I think in a day or two Murtagh called to know what progress had been made. He stated that it was then anticipated that the Committee on Naval Affairs would report on the third day after that, and *that something must be done before that report was made, that something must be accomplished or that it would be no use to carry the matter any further.* He called three or four times more before the committee did finally report. At one or two of these interviews Murtagh desired that reports by the officer, in writing, should be made, which were to be shown at the Navy Department to show that something was being accomplished. It was suggested by Murtagh that if Mr. WHITTHORNE could not be found in such a house a woman should be employed by whom he could be taken to a house of that kind."

This is the testimony of the superintendent of police.

James A. McDevitt, one of the detectives, says:

"In July last he was informed by Richards that Murtagh wanted Mr. WHITTHORNE, chairman of House Committee on Naval Affairs, watched, and also if a woman could be employed to get him into a house of prostitution, and raid the premises and have him brought to the station, and while in that condition it might be observed by the reporters, with a view of holding it over his head that it might influence his action in said committee. Sometime afterward I was brought into the presence of Mr. Murtagh by Richards. Murtagh was urging that something should be done in this matter; he was anxious that it should be hurried up, and he said he would be responsible for whatever money was expended."

George O. Miller, another of the detectives, says:

"In July last, during the investigation of the Navy Department, Major Richards told me that Murtagh wanted me to shadow Mr. WHITTHORNE to see if he went into any improper place and to have him arrested. I declined to engage in that business. The next afternoon Richards was standing on the stoop with Murtagh; as I passed out Murtagh said, 'I want you to attend to that matter.'"

These witnesses confirm the statement of Richards, but on the main charge, that the plan for influencing a member of this House in the discharge of his official duty was devised and attempted by Murtagh, there is really no conflict of testimony or even denial of the charge, unless Murtagh's own testimony might be considered a denial. This can scarcely be claimed, as it more nearly resembles a confession. When he was called as a witness to give his version of the matter, he says:

"During the naval investigation I was informed that certain statements had been made in reference to myself to be reported on by the committee. I asked Major Richards if he knew a member of Congress named WHITTHORNE. I said I had heard a great many stories about him and about his visiting houses of prostitution, and I would like to know something about him. At the second interview I asked him if he would not get all the information he could for me. At the next interview—I think I had four interviews with him—I think McDevitt was present and the matter was talked over in a general way. During the conversation I said if this man [WHITTHORNE] was attacking other people, and at the head of an investigation like this, and visited these places nightly, he ought to be raided."

This is the best statement on his own behalf that Mr. Murtagh can make after the charge had been made by the other witnesses whose testimony has been mentioned, and he does not claim to have any very accurate recollection on the subject; for example, he says:

Question. Is that all you can remember about it?

Answer. If you ask me questions I might remember something.

Q. Was anything said of making reports of what was found out?

A. I think not.

Q. Anything said about making written reports?

A. I think not, sir.

Q. Was anything said at that time about the method of Mr. WHITTHORNE's attack on the Navy Department?

A. No, sir; I do not remember anything of the kind.

Q. What is your best recollection about it?

A. I have told you *it passed out of my mind*, and it requires considerable effort for me to remember anything about it.

* * * * * * *

Q. Did you inform Major Richards that it was desired on the part of Secretary Robeson or any person connected with the Navy Department?

A. No, sir; on the contrary, I was in the Secretary's office one day and had a casual conversation with him and I asked him if he knew what sort of a man Mr. WHITTHORNE was? He smiled, as much as to say he had some impressions about him. "Well," said I, "he ought to be shown up." "Well," said he, "I do not want it to be done *while I am here*, because they will say I did it."

Secretary Robeson having been called as a witness, says that he does not recollect such a conversation, though it may have been had. As Mr. Murtagh swears that it did take place it is to be presumed that he testified truly, and the Secretary appears not to have denounced the plan or suggestion, but only to have expressed anxiety that it should not be charged to him; he was anxious, not to prevent this thing from being done, but to avoid any responsibility for it. But whether Murtagh engaged in this enterprise solely for his own gratification or was influenced by a desire or expectation of pleasing the Secretary of the Navy—and he seems to have resented investigation into the Navy Department—it is certain that, regardless of the obligations of his official position and of his dignity of a man, he urged upon the men whose positions he controlled to commit an outrage for the purpose of influencing or controlling the official conduct of the chairman of an important committee of the House.

If anything had been done as requested, your committee is of opinion that it would have been a gross breach of the privileges of the House of Representatives. That nothing was attempted is due solely to the fact that the sense of decency and propriety was stronger in the superintendent and subordinates than in the president of the board. If the subordinates had been as unscrupulous as the president, any member of Congress could be disgraced and punished without fault; for men who would consider this use of the police legitimate would not hesitate to manufacture a scandal. From the evidence taken by your committee, it appears that the office of police commissioner is useless. Mr. Murtagh, who has been the president of this board for many years, says this police board selected the officers and controlled the force. Yet he claims that the police force is unreliable, inefficient, and dishonest, and that his newspaper articles were more efficient in suppressing crime in the District than his acts as police commissioner. If this be true, it only shows either that the office of commissioner was badly filled or that it is useless; perhaps both. As for the reasons stated no crime or breach of privilege has been committed, your committee only recommend the adoption of the following resolution, and that the committee be discharged:

Resolved, That as the Federal Government is required to pay a considerable portion of the expenses of the police force of the District, it should only be used for public service. That William J. Murtagh, late president of the board of police, in attempting to use the police force to disgrace or influence the official conduct of a member of Congress, has shown himself unworthy to hold any office under the Government.

J. V. LE MOYNE.
C. W. MILLIKEN.
MILTON A. CANDLER.

THOMAS DUGAN.

Mr. HENKLE. I ask unanimous consent to offer the following resolution:

Resolved, That the Clerk of the House be directed to pay to Thomas Dugan, out of the contingent fund of the House of Representatives, two months' pay, at the rate of $60 per month, for services rendered as laborer in the Doorkeeper's department.

Mr. WHITE. Has this resolution received the approval of the Committee of Accounts?

Mr. HENKLE. It has not been formally before the Committee of Accounts; but I wish to say that this old man has rendered service; there is no provision for his pay, and if this resolution be not adopted he will receive nothing for two months' service which he has rendered.

Mr. WHITE. I did not hear the gentleman's reply to my question whether this resolution has been considered by the Committee of Accounts?

The SPEAKER. Does the chairman of the Committee of Accounts approve of this resolution?

Mr. ROBERTS. I do. I have no doubt it is correct.

The resolution was adopted.

HENRY S. FRENCH.

Mr. WHITTHORNE. I ask that by unanimous consent the bill (H. R. No. 473) for the relief of Henry S. French, of Nashville, Tennessee, be now considered and passed.

The SPEAKER. The bill will be read for information, after which objections, if any, will be in order.

The bill was read. It provides that the claim of Henry S. French, of Nashville, Tennessee, against the United States, for re-imbursement for certain cotton alleged by him to have been taken by agents of the United States in the year 1864, at or near Jonesborough, in the State of Georgia, be referred to the Court of Claims under the rules and regulations of said court; which court shall have jurisdiction to hear and determine and render judgment upon said claim for such amount as shall be found to have been the actual value of the cotton so taken.

Mr. SPRINGER. I wish to ask the gentleman from Tennessee if he can give us an estimate of the value of the cotton taken.

Mr. WHITTHORNE. I cannot state precisely the value. The amount is small. This bill was considered by the Committee on War Claims in the Forty-third Congress and is reported favorably by the same committee in this Congress.

Mr. SPRINGER. Since the gentleman informs me that but a small amount is involved and the bill has the approval of the committee, I make no objection.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

PAY OF EMPLOYÉS OF THE HOUSE.

Mr. ROBERTS. I am instructed by the Committee of Accounts to report the following resolution:

Resolved, That there be paid to William Tudge, out of the contingent fund of the House, $300, in addition to what he has received, for his services in the post-office of the House of Representatives, the same making his compensation equal to the other employés in the same service.

Mr. WHITE. Has this received the approval of the Committee of Accounts?

Mr. ROBERTS. It is reported unanimously by that committee.

The resolution was adopted.

Mr. ROBERTS. I am also instructed by the Committee of Accounts to report the following resolution. It is for the payment of the colored boys who have served us all faithfully during the session of Congress.

The Clerk read as follows:

Resolved, That the Clerk of this House be, and he is hereby, authorized and directed to pay, out of the contingent fund, to John Douglas, Jereßiah Smith, William H. Hall, Lewis Russell, Charles Carter, James A. Savoy, John H. Shaw, J. Cook Mickens, Washington Powell, Wilson Grice, John Berry, James Hall, Robert Coates, Henry Lewis, D. L. Bruce, and Richard Shaw, each, laborers' pay, at the rate of $720 per annum, during this session, deducting such sums as may have already been paid them.

The resolution was adopted.

Mr. ROBERTS also, by unanimous consent, from the Committee of Accounts, reported the following resolution; which was read, considered, and adopted:

Resolved, That the Clerk of the House be, and he is hereby, directed to pay out of the contingent fund the sum of $240 to William Deegan, a disabled Union soldier, for services under the Doorkeeper for the period of three months ending March 10, 1877, at the rate of $1,000 per year.

Mr. ROBERTS also, by unanimous consent, from the Committee of Accounts, reported the following resolution; which was read, considered, and agreed to:

Resolved, That any deficiency in the regular appropriation to pay the employés of this House be paid out of the contingent fund.

Mr. ROBERTS also, by unanimous consent, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the Clerk of the House pay, and he is hereby authorized and directed to pay, out of the contingent fund, to George C. Ellison, chief engineer of the House of Representatives, to indemnify him for moneys expended by him and incurred by him in and about certain legal proceedings in defending the title and retaining the possession of certain property belonging to the National Government in his custody as an officer of this House, under and by direction of the officers of this House.

Mr. ROBERTS also, by unanimous consent, reported from the Committee of Accounts the following resolution; which was read, considered, and agreed to:

Resolved, That Henry A. Olcott be paid out of the contingent fund of the House the sum of $3.60 per day for services as messenger in the office of the Clerk of the House, from and including the 1st day of January ultimo, until otherwise ordered by the House.

Mr. SPRINGER. The chairman of the Committee of Accounts allows also to be offered the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the Clerk of the House be, and he is hereby, directed to pay to Frank S. Donnelly the sum of $193.60, out of the contingent fund of the House, for his services as messenger during the present session.

The resolution was adopted.

TAX UPON SAVINGS-BANK DEPOSITS.

Mr. HAYMOND. I ask that by unanimous consent the bill (H. R. No. 3877) relating to the tax on deposits in savings-banks be now put upon its passage. It has the unanimous indorsement of the Committee on Banking and Currency. They have given the bill careful consideration and believe it ought to be passed.

The SPEAKER. The bill will be read for information.

The bill was read.

Mr. VANCE, of Ohio. I object.

HANS C. PETERSEN.

Mr. STRAIT. I ask unanimous consent to take from the Calendar the bill of the Senate (S. No. 709) for the relief of Hans. C. Petersen, and that the same be put upon its passage.

Mr. HAMILTON, of Indiana. I object.

The SPEAKER. As the objection comes from a member of the Committee on Enrolled Bills, the Chair desires to say that this bill has already been engrossed by the Senate.

Mr. HAMILTON, of Indiana. I object, at this stage of the session, to all bills that I know nothing about.

Mr. STRAIT. I move, then, to suspend the rules and pass the bill.

Mr. HOOKER. O, no, you cannot do that; for there is no quorum present.

Mr. STRAIT. I withdraw the motion.

Subsequently Mr. HAMILTON, of Indiana, withdrew his objection, and, no further objection being made, the bill was passed.

ERASTUS T. BUSSELL.

Mr. VANCE, of North Carolina. I ask unanimous consent that the bill (S. No. 917) to enable Erastus T. Bussell, of Indianapolis, Indiana, to make application to the Commissioner of Patents for extension of letters-patent for a "combined rubber and spiral steel spring" be passed.

The SPEAKER. Is there objection?

Mr. HOLMAN. We do not know whether it is proper to object to that bill or not. I would like to know what the patent is for.

Mr. VANCE, of North Carolina. It is for a "combined rubber and spiral steel spring." It is a meritorious case.

No objection being made, the bill was passed.

ENROLLED BILL SIGNED.

Mr. HAMILTON, of Indiana, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (H. R. No. 4472) making appropriation for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes.

PEREZ DICKINSON.

Mr. HOUSE. I ask unanimous consent to take from the Speaker's table the bill (S. No. 811) for the relief of Perez Dickinson, the surviving partner of James Cowan, deceased, heretofore trading and doing business under the firm name and style of Cowan & Dickinson, of Knoxville, Tennessee.

The bill has passed the Senate, and is recommended by the committee of the House.

Mr. HOLMAN. I move that the House take a recess until nine o'clock.

Mr. HOUSE. Is that motion in order while the House is considering this bill?

The SPEAKER. The House cannot take a recess until a quorum is present.

Mr. SAVAGE. I object to the bill.

Mr. HOLMAN. I object to legislation of this kind on Sunday morning after the vast body of legislation which was passed last night.

Mr. TOWNSEND, of New York. I do not understand that this is Sunday morning. It is yesterday.

Mr. HOLMAN. We should only pass those bills which are indispensable for the public service on this day.

Mr. DAVIS. That is right.

Mr. HOLMAN. I object imperatively to any bill which is not required by the public service.

Mr. HOUSE. A bill requiring the Government to pay to a man money that it owes him is indispensable to the public service

Mr. HOLMAN. I do not know anything in favor of that bill.

Mr. HOUSE. You do not know anything against it.

Mr. HOLMAN. I object.

Mr. HOUSE. I move to suspend the rules and pass the bill.

The SPEAKER. The Chair will state that there is not a quorum present, and it will be useless to put that motion.

Mr. HOUSE. Then I do not insist upon it.

ORDER OF BUSINESS.

Mr. FENN. I desire to take up a Senate bill.

Mr. POPPLETON. I object.

Mr. FENN. If the gentleman will yield to me a moment to state the facts, I am sure he will allow the bill referred to to be taken up.

Mr. POPPLETON. No, sir; I object to all bills.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed a bill of the House of the following title:

A bill (H. R. No. 2043) in relation to dower in the District of Columbia.

The message further announced that the Senate further insisted upon the amendments to the bill (H. R. No. 4671) making appropriations for the support of the Army and asked a further conference on the disagreeing votes of the two Houses, and had appointed Mr. BLAINE, Mr. ALLISON, and Mr. WITHERS as conferees on the part of the Senate.

CREEK ORPHAN FUND.

The SPEAKER laid before the House a report from the Committee on Indian Affairs, in relation to the Creek orphan fund, recommending the passage of the accompanying bill; which was recommitted to the committee, and ordered to be printed.

REPORT OF MONETARY COMMISSION.

The SPEAKER also laid before the House the following concurrent resolution from the Senate, passed March 3, 1877:

Resolved by the Senate, (*the House of Representatives concurring*,) That 1,500 copies of the report of the monetary commission created by joint resolution of August 15, 1876, together with the accompanying evidence and documents, be printed for the use of the Senate, and 3,500 copies for the use of the House of Representatives.

Mr. VANCE, of Ohio. I move to concur in the resolution of the Senate.

The resolution of the Senate was concurred in.

COUNTING THE ELECTORAL VOTE.

Mr. FINLEY, by unanimous consent, presented a concurrent resolution of the Legislature of the State of Florida, embodying a memorial to Congress relative to the counting of the electoral vote; which was ordered to be printed in the RECORD.

The resolution is as follows:

Concurrent resolution embodying a memorial to Congress relative to the counting of the electoral vote.

Resolved by the assembly, (*the Senate concurring*,) That Hon. CHARLES W. JONES be requested to present the following memorial to the Senate of the United States, and that Hon. JESSE J. FINLEY be requested to present the same to the House of Representatives of the United States:

The people of the State of Florida, represented in the senate and assembly, memorializing the honorable Senate and House of Representatives of the United States, respectfully represent that the final counting of the four electoral votes of Florida for Rutherford B. Hayes and William A. Wheeler, when the said votes had been actually and honestly cast for Samuel J. Tilden and Thomas A. Hendricks is a grievance of such magnitude to your memorialists that in their

view this appeal is not only fully warranted, but cogently demanded by the voice of duty. Your memorialists hold themselves to be justified in treating as established and unquestionable the fact that the said electoral votes were diverted from their true course and employed to defeat the end which they had been set forth to accomplish, because the knowledge of this fact has been communicated to your honorable bodies by solemn acts of all departments of the government of Florida. While it is true that the executive branch of said government had previously averred the contrary, it has been made known to your honorable bodies, and is rapidly becoming known throughout the civilized world, that according to the highest judicial authority of the State that averment is false.

Your memorialists may be forced to admit that there is no remedy for the specific wrong of which they herein complain, but they implore the early and earnest attention of your honorable bodies to the vices or defects in the Constitution or laws of the United States by reason of which such a wrong became possible. If it is true that under the Federal Constitution an exigency may arise in which one fraudulent act performed, or one mistake committed by a majority of a canvassing board, must necessarily defeat the will of the American people and determine the occupancy of the highest position open to human ambition, your memorialists fear that the great instrument which they have been accustomed to regard as the unapproachable masterpiece of statesmanship will become an object of derision and scorn.

Your memorialists venture to express the hope that the wisdom which characterizes your honorable bodies will be speedily applied to the devising of some expedient whereby it shall be made certain that the nation will never again prove utterly impotent to protect itself against the illegal action of a board of canvassers. And your memorialists will ever pray, &c.

Adopted by the assembly, February 12, 1877.

Adopted by the senate, February 13, 1877.

STATE OF FLORIDA,
Office Secretary of State, ss:

I, William D. Bloxham, secretary of state, do hereby certify that the foregoing is a correct transcript of the original now on file in this office.

Given under my hand and the great seal of the State of Florida, at Tallahassee, the capital, this 26th day of February, A. D. 1877.

[SEAL.] W. D. BLOXHAM,
Secretary of State.

PAY OF A COMMITTEE CLERK.

Mr. MACDOUGALL. I ask unanimous consent to offer the following resolution:

Resolved, That the Clerk of the House of Representatives be, and he is hereby, directed to pay to the clerk of the Committee on Military Affairs of the Forty-fourth Congress, out of the contingent fund of the House of Representatives, the same compensation which is now allowed by law, for the term of sixty days after the adjournment of the Forty-fourth Congress.

Mr. HUNTON. I object.

COMPENSATION TO CERTAIN LAND-OWNERS.

Mr. TARBOX. I move to take from the Speaker's table the amendments of the Senate to the bill (H. R. No. 186) to provide for compensation to the owners of certain lands ceded by the United States to Great Britain in and by the treaty of Washington of July 9, 1842. This bill has passed both branches. The amendments of the Senate are merely technical, and I ask that they be concurred in.

There being no objection, the amendments were concurred in.

EMPLOYÉS IN DOORKEEPER'S DEPARTMENT.

Mr. BOONE. I ask unanimous consent to have adopted at the present time the resolution which I send to the Clerk.

The Clerk read as follows:

Resolved, That Robert Coats be paid out of the contingent fund of the House the sum of $210 for services rendered as a laborer in the Doorkeeper's department from August 15, 1876, to the 1st day of December, 1876; and that James Hall be paid out of the contingent ——

Mr. EDEN, (interrupting.) On behalf of the gentleman from Indiana, [Mr. HOLMAN,] who has been called out to sign a conference report, I object.

RECESS.

Mr. HOLMAN, (having returned to the Hall.) I move that the House take a recess for half an hour, to enable the clerks to get up with the public business. They must have this time or we cannot get our bills through.

Mr. WHITE. Would it not be in order to pass an additional appropriation to hire some new clerks so as to catch up with the business?

Mr. HOOKER. I move to amend the motion of the gentleman from Indiana so as to take a recess till ten o'clock.

Mr. HOLMAN. That will be too late. But we may as well take a recess till nine o'clock. We can do nothing until that hour.

The question being taken on the amendment of Mr. HOOKER, it was not agreed to.

Mr. KNOTT. I move to amend the motion of the gentleman from Indiana so as to say half past nine o'clock instead of nine.

Mr. HOLMAN. That will do no harm.

The amendment of Mr. KNOTT was agreed to; and the motion of Mr. HOLMAN, as amended, was adopted.

The House accordingly (at eight o'clock and thirty-five minutes a. m.) took a recess till half past nine o'clock.

The recess having expired, the House re-assembled at half past nine o'clock a. m., and was called to order by Mr. COX, as Speaker *pro tempore*.

THANKS TO THE SPEAKER.

Mr. BANKS. Mr. Speaker, the business of the House presses upon us; its sessions are long and laborious; the air we breathe is unwholesome, and gentlemen are anxious—how well I know it—to throw off the burden of official position and escape to the clearer and sweeter atmosphere of home. But there is one duty to which I am sure the House can give its attention for a moment with satisfaction. It is the appropriate and customary acknowledgment of our obligations to the honorable Speaker for the assistance he has rendered us in the discharge of the important and arduous legislative labors of this session.

Few of us, I think, estimate justly the difficulties inseparably connected with this high office. Its duties seem light and easy as they are rapidly performed from day to day in our presence; but when, occasionally, we make an experiment for ourselves, we realize how very far short of the truth is our estimate of its perplexities and cares. In no office of the Government are official duties more responsible or difficult, in none are greater rectitude and attention required, and in none is there more of that imperceptible mingling of routine and regulation, of ministerial and judicial functions, of which we have recently heard so much, than is constantly demanded of the Speaker of this House in the supervision and direction of its daily business.

The close of the last session brought us to a sad and solemn though not unexpected event which called for an expression of our appreciation of the national importance of this position and of the indissoluble bonds of respect and affection that connect the members of the House with its presiding officer, and it became later a pleasant duty on two subsequent occasions to attest our confidence and make our acknowledgments in this regard to others than the present occupant of the chair, [Messrs. COX and SAYLER,] who succeeded temporarily the estimable and honored officer whose name will be honored among the eminent men who preceded him and whose untimely decease the House does not and will not cease to mourn. And as we are now about to return to separate and distant homes—bearing with us, I trust, the good wishes of all for all—it is an act not less of duty than of grace to make our official and final acknowledgments to him who is now the presiding officer of the assembly.

I send to the Chair a resolution expressing my own and the views of my associates on this side of the Chamber, trusting that it may receive the approval of all members of the House and be placed upon its Journals as an expression of respect, made with unanimity and sincerity, for the honorable Speaker of the House of Representatives.

The Clerk read as follows:

Resolved, That the thanks of this House be, and hereby are, tendered to Hon. SAMUEL J. RANDALL, Speaker, for the prompt, efficient, and impartial discharge of the duties of his office during the present arduous and important session of the Forty-fourth Congress.

Mr. HOLMAN. Mr. Speaker, I desire to second the resolution which has been submitted by the gentleman from Massachusetts, [Mr. BANKS,] and to add a single word to what he has so well said. I have for some years occupied a seat upon this floor. Considering the new, unusual, and embarrassing questions that have arisen during the present session of Congress, the trying position which our Speaker has occupied, I think it is proper for me to say that the resolution which has been read expresses more nearly than has ordinarily been the case, however proper on former occasions, the just compliments which the House should pay to a faithful and efficient presiding officer whose duties have been performed impartially and well. The value of the services of a public officer occupying so important a position, can be judged somewhat by the embarrassments which surround the public service in times of great excitement and perhaps of great public peril. I therefore, with very great satisfaction, second the resolution of the gentleman from Massachusetts.

Mr. WILSON, of Iowa. We have heard from the older members of this House. I would like to say one word, being one of the youngest members of this House.

A new Speaker begins with understood equality between him and members on the floor. Respect is won as aptness to administer the rules is manifested. When ordinary business is being transacted no special tact is necessary; but when great pecuniary or political interests are being discussed, the mettle of a presiding officer is tested.

No Speaker of the American Congress has ever been required to guide in deliberations where such interests were at stake as those which have agitated us for the past month, during which the greatest parliamentary contest of the century has taken place. If gentlemen of the majority have been restive under restraint, they must remember that rules are for the protection of the minority; and if gentlemen of the minority expected greater privileges, they must conclude that no Speaker can supplement the want of votes.

Mr. Speaker RANDALL has been compelled to decide during the last month on questions where the rules gave no light; and now, after a survey of the intensely exciting debates, we must admit that the Speaker has done his part exceedingly well; and in future, when we calmly consider the fearful storms through which we have been safely guided, we will again in our hearts thank Mr. RANDALL, who arose to sublime heights when occasion required.

The resolution was unanimously adopted.

Mr. BANKS. I move that the resolution be entered upon the Journal of the House.

The SPEAKER *pro tempore*. It will be so ordered.

THOMAS E. MALEY.

Mr. THROCKMORTON. I ask unanimous consent that Senate bill No. 1111 for the relief of Thomas E. Maley be taken from the Speaker's table, and passed at this time.

The bill provides that Thomas E. Maley, who was on December 15, 1870, duly retired from the active service and placed upon the list of retired officers of the Army, with the full rank and pay of lieutenant-colonel, on account of wounds received in battle while performing the duties of lieutenant-colonel in the command of eight companies of his regiment, shall be excepted and relieved from the operation of the act of Congress entitled "An act for the relief of General Samuel W. Crawford, and to fix the rank and pay of retired officers of the Army," approved March 3, 1875, solely because the injuries received by him in battle were more severe, dangerous, and disabling, and more fully incapacitating and disqualifying him for any service than the loss of an arm or a leg, or the permanent disability of an arm or a leg by resection; and he is hereby restored upon the list of the retired officers of the Army with the full rank of lieutenant-colonel held by him at the date of his retirement, March 3, 1875, with the pay of such rank from the date of the passage of this act, and that he shall hold and receive the rank and pay of a lieutenant-colonel upon the list of retired officers of the Army.

Mr. WALLING. I object to that bill; we have had too much military already.

The SPEAKER *pro tempore*. Objection being made, the bill is not before the House.

Mr. WALLING subsequently said: I objected, not from any captious spirit, but because I thought the bill was objectionable. I have since examined it, and I am satisfied that it is a meritorious bill and should be passed; accordingly, I withdraw my objection.

No further objection being made, the bill was passed.

GEORGE A. ARMES.

Mr. GARFIELD. I desire to withdraw the objection I made last evening to the bill (S. No. 407) to authorize the restoration of George A. Armes, to the rank of captain.

There being no further objection, the bill was read three times and passed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the passage of the following bills and joint resolution, without amendment:

An act (H. R. No. 183) granting an increase of pension to John E. Wunderlin, late private in the Thirty-third Regiment, New York Volunteer Infantry;

An act (H. R. No. 545) for the relief of James A. Jackson and others, securities of G. R. Horton, late postmaster at Monticello, Arkansas;

An act (H. R. No. 1244) granting a pension to James W. Thompson, late of Company H, Forty-seventh Illinois Volunteers;

An act (H. R. No. 1288) granting a pension to Jonathan Roberts, of Marietta, Iowa;

An act (H. R. No. 1566) granting a pension to Elizabeth D. Stoner;

An act (H. R. No. 3277) granting a pension to Kate Louise Roy; and

A joint resolution (H. R. No. 161) authorizing the Secretary of State to publish the history of the several surveys and scientific expeditions by the United States during the present century.

It further announced the passage of the following bills, in which concurrence was requested:

An act (S. No. 1289) for the relief of E. N. Horsford; and

An act (S. No. 844) for the relief of Nathaniel P. Harbin, of Georgia.

It further announced that Mr. HEREFORD had been appointed a manager on the part of the Senate on the conference on the disagreeing votes of the two Houses on the bill (S. No. 472) changing the time of holding the terms of the district court for the district of West Virginia, in place of Mr. CAPERTON.

ENROLLED BILLS.

Mr. BAKER, of Indiana, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 35) equalizing pensions of certain officers in the Navy;

An act (S. No. 210) granting a pension to Austin R. Mills;

An act (S. No. 407) to authorize the restoration of George A. Armes to the rank of captain;

An act (S. No. 535) granting a pension to Armstead Goodlow;

An act (S. No. 539) to provide for an increase of pension in favor of Martin Kelly;

An act (S. No. 599) granting a pension to Catharine A. Winslow, widow of the late Rear-Admiral John A. Winslow;

An act (S. No. 735) granting a pension to Martha Irwin, widow of John Irwin;

An act (S. No. 737) granting a pension to Harrison H. Dodds;

An act (S. No. 750) granting a pension to T. B. Murdock;

An act (S. No. 767) granting a pension to Theodore Gardner;

An act (S. No. 792) granting a pension to Peter Harder;

An act (S. No. 803) to repeal an act granting a pension to Mary H. Bartlett, approved January 28, 1873;

An act (S. No. 813) granting an increase of pension to Laurence P. N. Landrum;

An act (S. No. 816) granting a pension to Laura M. Knowlton;

An act (S. No. 832) to increase the pension of Helen M. Stansbury;

An act (S. No. 882) granting a pension to Stillman E. Dix, of Hampton, Virginia;

An act (S. No. 883) granting a pension to William H. Oliver, of Sweetwater, Tennessee;

An act (S. No. 980) granting a pension to Irena Garrett;

An act (S. No. 1118) granting a pension to Mrs. Amy King;

An act (S. No. 1123) granting a pension to Marsilvia F. Woodard, mother of George R. Woodard; and

An act (S. No. 1152) granting a pension to Amasa J. Finch.

Mr. POPPLETON also, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 3628) establishing post-roads, and for other purposes; and

An act (H. R. No. 4433) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871.

ARMY APPROPRIATION BILL.

Mr. ATKINS. I send to the Clerk's desk a report from the committee of conference.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to bill (H. R. No. 4691) making appropriation for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes, having met, after full and free conference have to report to their respective Houses as follows:

That they are unable to agree.

JOHN D. C. ATKINS,
J. G. ABBOTT,
CHARLES FOSTER,
Managers on the part of the House.

J. G. BLAINE,
WILLIAM B. ALLISON,
R. E. WITHERS,
Managers on the part of the Senate.

Mr. ATKINS. Mr. Speaker, it is proper for me to say the committee of conference, as the report indicates, have made no progress whatever. We could not even agree on the minor matter of the reduction of the salary of the General of the Army. We were not able to agree upon a small matter like that, while upon the great question of the reduction of force we were utterly unable to agree. Although, sir, (if it be not improper for me to make such a remark, and if it is I hope I will be checked in the progress of making it,) although the House conferees were willing to concede something on the subject of force, yet no indication of concession whatever was made on the part of the Senate conferees on that subject; none whatever.

As to the restrictive clause contained in the fifth section of the bill, they were still more implacable. I have to say, so far as I am concerned, that I have taken my position, and I shall not yield on the subject of the reduction of the force; that is, I will not yield to any increase of the Army over 20,000 men. Nor will I yield the fifth section at all.

Now, if this House chooses to have another conference committee and if it thinks this restrictive clause should be stricken from the bill and we should yield, I hope some indication will be given in some manner by which I at least will be relieved from further service on this conference committee. For myself, I want to say here and now (and gentlemen will pardon me for it) that I am somewhat incredulous. I am not ready to take as solemn pledges the little rumors floating through this Hall, through this Federal capital, and around through the country of the intended peace policy of the gentleman who is about to assume the reins of government. I for one, sir——

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the adoption by that body of the report of the conference committee on the disagreeing votes of the two Houses on the sundry civil appropriation bill.

ARMY APPROPRIATION BILL.

Mr. ATKINS. There is nothing in this fifth section of the bill which in my judgment militates against the Constitution of the country in any way whatever. There is nothing in it which prevents the preservation of the peace. Why, sir, is not the Army to-day in Louisiana? Have we not dual governments in the State of Louisiana? Does anybody suppose the non-use of the Army in the State of Louisiana would not be in the way of peace? This proposition simply proposes that the Army shall not be used for the purpose of setting up a rotten-borough government in the State of Louisiana over the wishes and sentiments of the masses and the sovereignty of that State. That is all this section amounts to. It means nothing more.

I shall not detain the House further, Mr. Speaker. There is but a single issue, and that is whether the Army shall be kept in this country as a political engine. That is all the issue there is in it: whether or not the Army shall turn out State governments and erect rotten-borough governments; whether it shall control elections. I think the Army was designed by the framers of the Constitution to repel foreign invasion and suppress insurrection. I did not know the offices of the Army were to build up political power in this country for one party or the other.

There is but a single issue, and I for one am in favor of this House doing as the House of Commons does in England—hold its hands upon the Army. The House has got its hands upon the purse-strings,

and the House should hold the Army, as the House of Commons in England holds the army now.

Mr. DUNNELL. I ask the gentleman to yield to me for a moment.

Mr. ATKINS. I decline to yield. The army in England is a yearly establishment. It is within the province of the House of Commons of England to withhold the appropriations and let the army fall at the end of any fiscal year.

Now I want to say so far as I am concerned that I am in favor of retaining the Army of this country for legitimate purposes. I would not cut this Army down one man below what is necessary for those purposes. But if we cannot have an Army bill without appropriating money to support an army for the purpose of keeping up carpet-bag governments over the will of the people, I, for one, must enter my demurrer here and now; and if it fall on that account it matters not to me. There is but a single issue involved here, and I hope gentlemen will at once make up their minds on this question. I yield to the gentleman from Pennsylvania, [Mr. JENKS.]

Mr. JENKS. This fifth section, which seems to be the main cause of quarrel between the two Houses, it seems to me to be not only our privilege but our duty to pass and to insist on, although it should cause such a disagreement between the two Houses as would prevent the passage of the Army appropriation bill altogether. The facts as they now exist are known to Congress. This provision applies only to the facts as they now exist, while Congress is in session. It refers to the rival governments of Francis T. Nicholls and S. B. Packard in the State of Louisiana.

Mr. HOLMAN. I rise to a question of order. The confusion is so great that we cannot hear the remarks of the gentleman from Pennsylvania.

The SPEAKER. This is a subject of great importance, of as great importance, perhaps, as any that has yet engaged the attention of the House. Order must be maintained.

Mr. CLYMER. I make the suggestion that in the closing hours of this Congress, when it is very important that we should intelligently transact our business, the rule with reference to admissions to the floor be rigidly and strictly enforced.

The SPEAKER. The gentleman might accomplish that object by moving to suspend the rules so that the Chair could revoke all privileges of the floor.

Mr. JAMES B. REILLY. I move that the rules be suspended so that the Speaker may enforce order in the way suggested.

Mr. ATKINS. If that motion takes me from the floor I object.

The SPEAKER. The gentleman will not be taken from the floor; but it is very essential that order be maintained during the remaining minutes of this Congress. The gentleman from Pennsylvania moves that the rule be suspended which authorizes admission to the floor of others than members, members-elect, and ex-members.

Mr. CONGER. I hope that for the first time that rule will not be suspended. It is the first time in eight years that I have known such a resolution to be offered here. I think we can get through the session without suspending that rule.

The SPEAKER. Perhaps the suggestion will be sufficient to enable the Chair to preserve order.

Mr. CLYMER. I suggest that it be left in the discretion of the Speaker. Let the Chair have this power if in his judgment it be necessary.

The SPEAKER. The Chair has no power to suspend a rule.

Mr. BANKS. If members of the House will remain in their seats and not talk I think there will be no trouble.

Mr. JENKS. I was proceeding to say that the state of facts to which we proposed to apply this provision of the act exists now, while Congress is in session. Congress is fully cognizant of the facts, and when Congress is in session and is cognizant of any given state of facts it is declared, by the fourth section of the fourth article of the Constitution, to be its privilege, and its privilege alone, to determine what shall be done with reference to those facts. I call the attention of the House to the language of that section:

> The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive, (when the Legislature cannot be convened,) against domestic violence.

Now, sir, it is not the President of the United States that shall guarantee to every State in the Union a republican form of government, but it is "the United States"—the United States represented by its whole legislative department. And it is the same power which is intrusted with the protecting of each State against invasion. In case of a foreign war, Congress, if it can be convened, is invariably convened to determine what shall be done; and if Congress is in session, it has always the potent voice as to what action shall be taken in reference to that. Then the next clause, without any change as to the power which shall decide, declares it to be the duty of the United States, on application of the Legislature, or of the executive when the Legislature cannot be convened, to protect each State against domestic violence; showing that even an executive of a State, if it be possible to convene the Legislature, shall not ask the United States to sustain himself or any one else in power; showing that the Legislature or rather the sovereignty, whoever represents it, shall exercise and control this power.

This being so, if Congress can be convened, the President has no right to send troops into any State either to sustain or overthrow a government. If an emergency should occur in which Congress could not convene, then the President might be justified in taking action in the matter. But when Congress can be convened, it is not only our duty but our privilege to decide the question. If it be objected that this is interjecting new matter into the appropriation bill it is our right and duty to insist, because upon this principle are founded all the liberties of all the people of the Anglo-Saxon race.

Mr. ATKINS. I now yield a few moments to the gentleman from Ohio, [Mr. FOSTER.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed a bill of the following title; in which he was directed to ask the concurrence of the House:

A bill (S. No. 1250) for the relief of Willis L. Foulke.

ARMY APPROPRIATION BILL.

Mr. FOSTER. The difference between the two Houses in regard to the Army appropriation bill is this: the Senate presents to the House precisely the bill of last session; I believe, in all respects the bill of last year. I believe, sir, that it is not only possible but probable that if this fifth section was out of the way, if there could be some agreement about that, we should have no difficulty in coming to an agreement as to the size of the Army. So that the simple question for the House now to consider is the fifth section, which relates to the use of troops in South Carolina, Louisiana, and other States.

Now, I want to say this to gentlemen on the other side of the House, that it must be plain to them that the march of events is such as to be convincing that the policy of the future Administration is in the line that they so much desire.

Mr. ATKINS. Will the gentleman allow me to ask him a question?

Mr. FOSTER. I decline to be interrupted just now.

Mr. ATKINS. I was courteous enough to yield the floor to the gentleman, and I supposed that he would be courteous enough to allow me to ask a question.

The SPEAKER. The gentleman from Ohio was a member of the conference and is entitled to be heard.

Mr. FOSTER. While I do not stand here to represent anybody or to speak for anybody, yet I want to ask gentlemen on the other side of the House, is it wise at this time, when all indications point to a change of administration in respect to the use made of troops in the States, now to force upon the Senate and upon this side of the House a proposition like that contained in the fifth section of the bill? I believe that there need be no apprehension on the part of gentlemen on the other side of the House on this subject.

Mr. COX. Then why not pass this section?

Mr. FOSTER. No gentleman on the other side of the House under ordinary circumstance would ask for the ingrafting on an appropriation bill a clause like this. In 1854, when the republicans undertook to do this thing in relation to the State of Kansas, if you will read the debates you will find that the democrats at that time had the advantage of the republicans in the argument on the constitutionality of this question.

The question is now presented to this House whether or not it will insist upon this provision and thus precipitate an extra session of Congress. That is just where we stand at this moment. We have left but about two hours of the session, or less than that, and that is the question presented for our consideration.

Mr. ATKINS. I wish to ask the gentleman from Ohio if he favors the policy of withdrawing the troops from South Carolina and Louisiana and allowing the people of those States to regulate their own affairs in their own way, subject to the Constitution of the United States?

Mr. FOSTER. I believe in the doctrine which I enunciated here the other day, that the flag should float over States, and not provinces; over freemen, not subjects.

Mr. ATKINS. I now yield for a few minutes to the gentleman from Massachusetts, [Mr. BANKS.]

Mr. BANKS. It is too late, sir, for argument. I believe with the gentleman from Tennessee [Mr. ATKINS] that the pledges of men in office or out are of no account. But there are some suggestions which will certainly weigh with the House in the careful consideration of the report and bill before us.

In regard to what we should do upon the subject presented to the House by the gentleman from Tennessee, the first question should be: what is in our power? Now, I agree with him that the strength of the Army, the number of men and its equipment are within the control of Congress. If it chooses to say that the Army shall consist of twenty thousand men, or more or less, it can make it so. It can organize such an army as it pleases, and whatever the judgment of the committee of conference may be upon that subject, I am willing to receive it and accept it, as upon any other subject which is within the discretion and power of Congress. But there are some things which are not within the power of the two Houses of Congress, and among those is the command of the Army.

> The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States.

That is the language of the Constitution. (Section 2, article 2.) Congress has power to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States. (Section 8, article 1.) Undoubtedly it has the same power in regard to the Regular Army of the United States; but its command is given to the President. It is the duty of the United States to "guarantee to every State in this Union a republican form of government," and "on application of the Legislature, or of the executive when the Legislature cannot be convened," to protect each of them against invasion and domestic violence. Whatever power is given in the Constitution for this purpose is given to Congress and the President, but the command of the Army is nevertheless in the President. That part of the Constitution cannot be changed by an act of Congress. And the fifth section of the bill is inoperative and of no account without the concurrence of the President or its approval by two-thirds of both Houses of Congress. This cannot now be obtained for the purposes proposed by this section of the Army bill, and therefore, whether the President be a democratic President or a republican President, or a democratic-republican President, if a State government by its Legislature or executive officers should apply for protection against invasion or domestic violence, whoever should be at the head of the Government would be bound by his oath to furnish it. Any legislation in contravention of these principles would be like the grinding of a hand-organ on the streets.

What is the use of legislation of this kind, then, which is impossible of execution at our order? It will involve the necessity of an extra session of Congress if the bill fails to pass the two Houses, or if it passes with the fifth section, and subject the members of the House to an expense of from $500 to $1,000, without effecting any good results whatever. I do not object to the House doing anything that is within the power of Congress.

If there be in the State of South Carolina or Louisiana or in any other State of the Republic an organized armed resistance to the government of the State, and that government calls upon the President of the United States, whoever he may be or whatever may be his politics or his partisan relations, he will use the Army for its protection. And whether the Army be paid or not, if there be a necessity to maintain in any State a republican form of government, or to protect it against invasion or domestic violence, the Army will be used for that purpose whoever may hold the office of President, and he will hold himself responsible to the examination afterward of Congress for his acts.

Now let me ask the members of the conference committee and the gentlemen of this House to consider this proposition; if we make the appropriations for the Army depend upon its use in conformity with the Constitution and the laws of the country, so far as the subject is within the control of the law-making power, what more can we do? I am sure that every member of the House, at least on this side, will be willing to accord to Congress so much power as that, and to sustain any report of the committee of conference based upon this view of the subject. I thank the gentleman for his courtesy.

Mr. ATKINS. I now yield three minutes to the gentleman from Ohio.

Mr. GARFIELD. I ask the attention of the House for a moment, and first on the question of the very right of this matter, without regard to any man or any administration. The chief, if not the summary, power with which the Executive of the nation is clothed for the purpose of preserving the public peace is the power of the Army and the Navy, of which he is commander-in-chief. No man can know in advance whether by foreign war, by domestic broils, or by insurrection in cities or States, that right arm of the Government will be needed, or where it will be needed to preserve the peace. But the Constitution makes it the sworn duty of the President of the United States to preserve the peace.

Mr. ATKINS. Will the gentleman allow me to ask him a question?

Mr. GARFIELD. Allow me to get through. It is proposed now to say, in advance, that in certain States of this Union there shall be no use of the Army under any conceivable circumstances connected with existing real or pretended State governments. Now, I desire to say that there never has been a law upon the national statute-book that assumes to prevent the President from performing his constitutional duty to preserve the public peace. Yet such a law it now is proposed to append to the appropriation bill for the support of the Army. Certainly there is no pending menace of usurpation which requires such a measure. It would dishonor any Congress to undertake to shackle any President by such a provision. It will especially dishonor this. So much for the law of the case.

In the next place, if gentlemen believe that they can accomplish any purpose in the direction of peace, in the direction of moderation, by putting a clog upon the incoming administration, they neither understand human nature nor the spirit of generosity that dwells in the hearts of men.

Mr. TUCKER. The gentleman utters a threat.

Mr. GARFIELD. Not at all; I am pointing out the unwisdom of your putting a threat into the law.

Let me say another thing in all frankness to gentlemen on the other side of this House. Ever since the close of the war both sections of the country have been to a great extent filled with mutual distrust. No doubt much of it is unjust, doubtless unjust on our part toward you, and in some measure unjust on your part toward us. But now when we are closing the life of this Congress, when we see evidences of a better understanding, of renewed efforts to bury the bitterness of the past, is it wise for you to insist upon a measure which, if adopted, will greatly increase the distrust which many of our people have felt toward you. It is wise to take such a course that men of suspicious minds will say that the men who were once in rebellion against the Government are determined to shackle the Executive, to shackle the Army, and to prevent them from keeping peace in case disturbances shall occur? Do you not run the risk of leading people to think you wish to break the public peace, and that by this measure you are preparing for disturbance?

I ask gentlemen who represent the Southern States whether they think that is a wise and prudent and magnanimous course, even if it were constitutional?

Mr. ELLIS. I do, certainly.

Mr. GARFIELD. But, coming back to the constitutional question, the passage of this clause in the Army bill is absolutely impossible. We cannot under any circumstances consent to do what we know to be unconstitutional and believe to be dishonorable.

An extra session of Congress, in the present excited state of the public mind, is greatly to be deplored. It will not be conducive to a restoration of good feeling; it will prolong the paralysis of business.

But the responsibility for all its evils must rest upon those who insist upon a departure from the Constitution and the traditions of the Government.

ENROLLED BILLS SIGNED.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 667) for the relief of William Wheeler Hubbell, and to make just compensation for the past making, or use, or vending of his patent explosive shell-fuses and percussion-exploders by the United States;

An act (S. No. 709) for the relief of Hans C. Petersen;

An act (S. No. 917) to enable Erastus T. Bussell, of Indianapolis, Indiana, to make application to the Commissioner of Patents for extension of letters-patent for a "combined rubber and spiral steel spring;"

An act (S. No. 920) to authorize Louis Petosky, of Michigan, to enter a certain tract of land which embraces his home and improvements;

An act (S. No. 949) for the relief of A. M. Garoutte, late captain and assistant quartermaster United States Army;

An act (S. No. 1010) for the relief of Julius S. Bohrer, master in the United States Navy;

An act (S. No. 1127) for the relief of J. B. McCullough;

An act (S. No. 1292) to remove the political disabilities of John M. Haden, of Galveston, Texas; and

An act (S. No. 1293) to remove the political disabilities of Theophilus H. Holmes, of North Carolina.

ARMY APPROPRIATION BILL.

The House resumed the consideration of the report of the committee of conference on the Army appropriation bill.

Mr. ATKINS. I yield five minutes to the gentleman from New York, [Mr. FIELD.]

Mr. FIELD. Mr. Speaker, this is a question of principle. We have now arrived at the supreme moment when this House must show whether or no it will exercise its constitutional rights. To gentlemen of the South I say, now is your time to stand up; for if you do, your friends can say to you, "Lift up your heads, for your redemption draweth nigh."

Is this the time to give way, when our political opponents are about to set a falsehood in the forehead of this nation? No. It is our right to insist upon this provision. The constitutional argument against it is utterly untenable. The Constitution provides that "the United States," not the President, "shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive when the Legislature cannot be convened, against domestic violence." Do gentlemen believe that the President is the one to exercise this power? I would ask my friend from Massachusetts [Mr. BANKS] whether he thinks that the President can march an army into Massachusetts to-morrow and declare that it has not a republican form of government, and therefore takes control of it? If he cannot, then we have a right to pass this proviso, because the two cases are in the same category. The President has no more right under the Constitution, without legislation by Congress, to interfere with the administration of a State government or to decide which is the rightfully chosen governor than he has to decide whether a State has a republican form of government.

Why, sir, gentlemen forget the constitutional history of this country. The Government was established under the Constitution in 1789, and no law to permit the President to interfere by armed force in a State was passed until 1795. President Washington went on for six years without the power to interfere with a State government. The law of 1795 was passed, if I mistake not, in consequence of the whisky insurrection in Pennsylvania. The power under consideration was then given to President Washington so far as to use

the militia; the power to use the Army was not given till years afterward. If there was no such power granted to the President during the first six years of the Government can we not take it away now?

We ought to take it away. What do we see? We see State governments set up and pulled down by our soldiers. We see, (for it is idle to attempt concealment of the truth)—we see the Army used to put down one party and to put up another. We have seen the Army used to elect a President. Everybody knows—in this Hall, at least, there is not a man so blind as not to see—that but for the use of the Federal troops in Florida and Louisiana you would not see the inauguration of the President who is to take the oath in an hour and a half from now.

Mr. Speaker, I appeal again to every member on this side of the House to stamp his condemnation once for all upon the monstrous doctrine that the President can use your Army as he pleases. It is your right, not his, to make rules for its government and regulation. We hold the purse-strings; control of them was given to us for this very purpose. Else why the provision that no appropriation for the Army shall be for a longer term than two years. No act of Congress can be passed that shall tie up the hands of this House.

Let us stand firm. [Here a burst of sunlight flashed over the ceiling.] Behold, the light cometh and the sun shines out gloriously; I accept the auspicious omen. [Applause.] Let us stand firm. The responsibility of an extra session will not rest with us. If the Senate choose to say to this House "The Army bill shall not be passed unless you give the President power to keep Packard and Chamberlain in office," then let us answer back, "Take that responsibility, if you dare." [Applause.]

Mr. ATKINS. I have just one remark to make. I want to say to the gentleman from Ohio [Mr. GARFIELD] that the southern members on this floor are in my opinion the peers of the gentleman in patriotism.

Mr. GARFIELD. Certainly; I do not deny it.

Mr. BANKS. Nobody questions it.

Mr. ATKINS. The language of the gentleman from Ohio, I think, was intended to convey the idea (although he did not say so distinctly) that there is lurking in the hearts of southern members on this floor a want of fealty to the Government.

Mr. GARFIELD. The gentleman will allow me to disclaim any such implication.

Mr. ATKINS. I am glad the gentleman makes the disclaimer, because I want to say here and now that I am for the flag——

Mr. GARFIELD. So am I.

Mr. ATKINS. I am for the Union; I am for the Constitution. Is the gentleman for the Constitution?

Mr. GARFIELD. Certainly I am.

Mr. ATKINS. Yes, according to his construction of it. The difference between us, however, is that I put upon it the construction that the Supreme Court of the United States has usually put upon it; but these late decisions of a part of the Supreme Court I do not know that I can subscribe to.

Now, Mr. Speaker, I move that the House further insist on its disagreement and ask a new conference with the Senate.

Mr. KASSON. Will the gentleman yield to me for a moment? [Cries of "O, no!"]

Several MEMBERS. Let us adhere, not insist.

Mr. SPRINGER. I move that the House adhere to its disagreement.

Mr. ATKINS. I hope the gentleman from Illinois [Mr. SPRINGER] will not insist upon that motion.

Mr. KASSON. Mr. Speaker, is it in order to move that the House recede?

The SPEAKER. It is.

Mr. KASSON. Then I make that motion, and wish five minutes to be heard on it.

The SPEAKER. The gentleman from Tennessee moves the House insist and ask for a further conference; and the gentleman from Iowa moves the House recede.

Mr. KASSON. I ask if, having made that motion, I am entitled to the floor.

The SPEAKER. The gentleman from Tennessee has demanded the previous question.

Mr. KASSON. Then I withdraw the motion to recede, and leave it to be decided on the gentleman's motion.

The previous question was seconded and the main question ordered; and under the operation thereof, Mr. ATKINS's motion was agreed to.

The SPEAKER announced as the conferees on the part of the House on the disagreeing votes of the two Houses on the Army appropriation bill, Mr. ATKINS, Mr. MORRISON, and Mr. FOSTER.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. HOLMAN. I rise to submit a privileged report. I submit the report of the conference committee of the two Houses on the sundry civil appropriation bill.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4680) making appropriation for the sundry civil expenses of the Government for the year ending June 30, 1878, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 5, 8, 9, 10, 13, 17, 19, 20, 21, 22, 23, 24, 36, 41, 43, 46, 47, 48, 49, 51, 53, 56, 59, 68, 73, 75, 79, 84, 85, 96, 110, and 118.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 4, 6, 12, 14, 15, 16, 24, 25, 26, 27, 31, 32, 33, 34, 35, 37, 40, 44, 57, 65, 69, 70, 71, 76, 78, 80, 81, 82, 83, 86, 87, 89, 90, 91, 93, 94, 95, 97, 99, 100, 104, 113, 114, 116, 120, 125, 127, 128, and 129, and agree to the same.

That the House recede from its disagreement to the amendment numbered 1, and agree to the same, with an amendment as follows:

In lieu of the sum proposed insert "$1,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 7, and agree to the same, with an amendment as follows:

In lieu of the sum proposed insert "$2,650,000," and in line 22, page 4 of the bill, after the word "engineers" insert "cadets," and in line 1, page 5, after the word "departments" insert "instruction of cadets."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 11, and agree to the same, with an amendment as follows:

Strike out all after the paragraph proposed to be inserted, and insert in lieu thereof, "For the general purposes of the District of Columbia, to be expended by the commissioners of said District, $250,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 18, and agree to the same, with an amendment as follows:

Strike out "19" and insert in lieu thereof "18;" and strike out "500."

And the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 29 and 30, and agree to the same, with amendments respectively as follows:

In lieu of the sum proposed by 29, insert "$300,000;" and in amendment numbered 30, strike out in line 9, page 11, of the bill the word "13," and insert in lieu thereof the word "16;" and in the same line after the word "timbered," insert "and mountainous;" and after the word "mile," in line 10, add "and for township lines not exceeding $14, and for section lines not exceeding $10."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 38, and agree to the same, with an amendment as follows:

Strike out all inserted by said amendment, and strike out the amended paragraph and substitute therefor the following:

"For the Freedmen's Hospital and Asylum in Washington, District of Columbia, namely: For subsistence, $18,000; salaries and compensation as follows: surgeon, $1,400; one surgeon and dispensary clerk, $1,200; engineer, $720; matron, $216; nurses and cooks, $1,800; fuel and light, $3,000; clothing, $3,500; rent of hospital building, $2,000; medicines and medical supplies, $2,500; and miscellaneous expenses, $5,164; in all, $40,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 39, and agree to the same, with an amendment as follows:

Strike out "25" and insert "18."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 42, and agree to the same, with an amendment as follows: Strike out "2" and insert in lieu thereof "1," and strike out "500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 45, and agree to the same, with an amendment as follows: Strike out "100" and insert in lieu thereof "50;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 150, and agree to the same, with an amendment as follows: Strike out "100" and insert in lieu thereof "75;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 52, 54, 55, and 58, and agree to the same, with amendments respectively as follows: In 52, strike out "50" and insert "30;"

In 54, strike out "50" and insert "30;"

In 55, strike out "100" and insert "50;"

In 58, strike out "100" and insert "50."

And the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 60, 61, 62, and 63, and agree to the same, with amendments respectively as follows:

In 60 strike out "50" and insert "30;"

In 61 strike out "80" and insert "60;"

In 62 strike out "50" and insert "40;"

In 63 add at the end of the paragraph, "to be immediately available."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 64, and agree to the same, with an amendment as follows: Restore that portion of the paragraph proposed to be stricken out; and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 66 and 67, and agree to the same, with amendments in effect respectively as follows: In lieu of the sum proposed by 66 insert "$250,000," and in lieu of the sum proposed by 67 insert "$150,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 72 and 74, and agree to the same, with amendments respectively as follows: In 72 strike out the word "two" and insert "500," and in 74, strike out "100" and insert "75;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 77, and agree to the same, with an amendment as follows: Strike out "Daniel" and insert "Darrall;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 88, 92, and 98, and agree to the same, with amendments respectively as follows: Strike out in 88, line 5, "1877," and insert in lieu thereof "at the present session of Congress;" in 92, in line 1, strike out "5" and insert "3;" and in lines 8 and 9 strike out "25" and insert "18;" and in 98 strike out in line 7, "2," and insert "1;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 101 and 102, and agree to the same, with amendments respectively as follows: In 101, add at the end of the amendment "and the Chicago, Rock Island and Pacific Railroad Company is required to refund to the Treasury of the United States one-half of the said sum, and the Secretary of the Treasury is hereby directed to enforce this condition;" and in lieu of the sum proposed by 102 insert "$65,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 103, 105, and 106, and agree to the same, with amendments respectively as follows:

In 103 strike out "80" and insert "50;"

In 105 strike out "25" and insert "10;"

In 106 strike out in line 3 "hereafter;" and at the end of the paragraph insert "prior to the 1st of February, 1878."

And the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 107 108, 109, 111, and 112, and agree to the same, with amendments respectively as follows:

In 107 strike out "5" and insert "4;"

In 108, in lieu of the sum proposed, substitute "1,500;"

In 109 in lieu of the sum proposed insert "$1,500;"

In 111 strike out "3" and insert "2;"
In 112 strike out "6" and insert "4."
And the Senate agree to the same.
That the House recede from its disagreement to the amendments numbered 115, 117, and 119, and agree to the same, with amendments respectively as follows:
In 115 strike out "30" and insert "20;"
In 117 strike out "five" and insert "four;"
In lieu of the sum proposed in 119 substitute "22,500."
And the Senate agree to the same.
That the House recede from its disagreement to the amendments numbered 121 and 122, and agree to the same, with amendments respectively as follows:
In 121 strike out "20" and insert "15;"
In 122 strike out "40" and insert "20."
And the Senate agree to the same.
That the House recede from its disagreement to the amendment numbered 123, and agree to the same, with an amendment as follows: Strike out "300" and insert "200," and strike out "200" and insert "100;" and the Senate agree to the same.
That the House recede from its disagreement to amendment 126, and agree to the same, with an amendment as follows: In lieu of the sum proposed insert "2,500;" and the Senate agree to the same.

WILLIAM S. HOLMAN,
JOHN R. EDEN,
HENRY WALDRON,
Managers on the part of the House.
WILLIAM WINDOM,
WILLIAM A. WALLACE,
Managers on the part of the Senate.

Mr. HOLMAN. I desire to submit a few remarks explanatory of the concessions which have been made by the House upon this bill, but owing to the lateness of the hour I find it impossible to do so, and I therefore ask unanimous consent to have printed in the RECORD, as a part of the debates, some remarks upon the subject of this bill and of the expenditures generally.

There was no objection, and leave was granted.

The report of the committee of conference was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed without amendment bills of the House of the following titles:

A bill (H. R. No. 1200) for the relief of Almont Barnes;

A bill (H. R. No. 1479) granting a pension to Dalton Hinchman;

A bill (H. R. No. 1995) granting a pension to Charles H. Bugbee, late private in Company A, Third Vermont Volunteers;

A bill (H. R. No. 2237) granting a pension to Anson K. Young;

A bill (H. R. No. 3282) granting a pension to Sarah McCooey; and

A bill (H. R. No. 3989) for the relief of Catharine and Sophia Germain.

SIGNAL SERVICE.

Mr. SINGLETON. I submit a report from a committee of conference.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 731) to limit and fix the Signal Service, having met, after full and free conference, report that they are unable to agree.

OTHO R. SINGLETON,
JAMES H. BLOUNT,
JAMES WILSON,
Managers on the part of the House.
GEO. E. SPENCER,
JAMES CLAYTON,
Managers on the part of the Senate.

Mr. SINGLETON. I move that the conference committee be discharged from the further consideration of the bill.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. MUTCHLER obtained the floor.

Mr. HOOKER. At the time when the business of the House was interrupted by the reports of the privileged committee of conference on the sundry civil bill the gentleman from Texas [Mr. THROCKMORTON] had the floor, and his bill was in progress of being read.

The SPEAKER. The Chair will recognize the gentleman hereafter.

EXTRA PAY TO CLERKS OF COMMITTEES.

Mr. MUTCHLER. I ask unanimous consent to offer the following resolution:

Resolved, That the Clerk of the House be directed to pay out of the contingent fund of the House to the several clerks of the House committees who are paid during the session only, a sum equal to one month's salary as extra compensation.

Mr. HOLMAN. I object to that.

Mr. MUTCHLER. I move to suspend the rules and adopt the resolution.

The question was taken; and on a division there were ayes 105, noes not counted.

So (two-thirds voting in favor thereof) the rules were suspended and the resolution was adopted.

Mr. HOLMAN. I call attention to the fact that no quorum voted, but if this is the last of the long series of these measures I will not insist upon a further count.

EXTRA PAY TO DOORKEEPERS.

Mr. MUTCHLER. I move that the rules be suspended and that the following resolution be adopted:

Resolved, That the Clerk of the House be, and he is hereby, directed to pay to the laborers on the roll of the Doorkeeper of the House their salary in full for the month of March out of the fund already appropriated for that purpose.

The question being taken and two-thirds voting in favor thereof, the rules were suspended and the resolution was agreed to.

PATRICK DORAN.

Mr. MUTCHLER. I move that the rules be suspended and that the following resolution be adopted:

Resolved, That the sum of $3.60 per day during the present session be paid out of the contingent fund of the House to Patrick Doran for services rendered by him as messenger to the Committee on Agriculture and other committees that have occupied the room of the said committee.

The question was taken; and (two-thirds voting in favor thereof) the rules were suspended and the resolution was adopted.

CLERK OF THE COMMITTEE OF ACCOUNTS.

Mr. FORT, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Clerk of the House be, and he is hereby, authorized and directed to pay to the Committee of Accounts, for clerical services to be rendered during the coming recess, a sum equal to one month's salary, in addition to what may now be provided by law for committee clerks, the same to be paid out of the contingent fund of the House.

NATHANIEL S. CLARK.

Mr. WILSON, of West Virginia, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That there be paid out of the contingent fund of the House to Nathaniel S. Clark, for services rendered as messenger under the Doorkeeper of the House, from September 1 to December 4, 1876, a sum at the rate of $3.60 per day.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate further insisted on its amendments disagreed to by the House to the bill (H. R. No. 4691) making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes, had agreed to the further conference requested by the House, and had appointed as the managers of the conference on the part of the Senate, Mr. BLAINE, Mr. ALLISON, and Mr. WALLACE.

The message further announced that the Senate had passed, without amendment, a bill of the following title:

A bill (H. R. No. 2386) for the relief of Moses F. Carleton, late second lieutenant of Company I, Fourth Michigan Infantry Volunteers.

The message also announced that the Senate had passed, with amendments, in which the concurrence of the House was requested, bills of the House of the following titles:

A bill (H. R. No. 1082) for the relief of Henry H. Meade, late paymaster United States Army; and

A bill (H. R. No. 3483) to restore John Palford, lieutenant-colonel United States Army, (retired,) to his former rank on the retired list.

ENROLLED BILL SIGNED.

Mr. BAKER, of Indiana, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 1200) for the relief of Almont Barnes.

PEREZ DICKINSON.

Mr. HOUSE. I move to suspend the rules so as to take from the Speaker's table and pass at this time Senate bill No. 811, for the relief of Perez Dickinson, the surviving partner of James Cowan, deceased, heretofore trading and doing business under the firm name and style of Cowan & Dickinson, of Knoxville, Tennessee.

Mr. BURCHARD, of Illinois. Let the bill be read.

The bill was read, as follows:

Be it enacted, &c., That there be, and hereby is, appropriated from the Treasury of the United States the sum of $38,476.80; and that the Secretary of the Treasury is directed to pay that sum to Perez Dickinson, the surviving partner of the firm of Cowan & Dickinson, of Knoxville, East Tennessee, in full compensation for two hundred and fifty-six bales of cotton belonging to them, and which was by them furnished and delivered to Major-General BURNSIDE, at his request, on the 17th and 18th days of November, 1863, and by him used in the fortifications for the defense of Knoxville, and the army under his command at the time of the assault by the forces under the command of General Longstreet, and the subsequent attack by him upon that city, and for other subsequent purposes it was used; and for which cotton they have never been paid anything, or received compensation, directly or indirectly, for any part thereof.

Mr. HOLMAN. That bill has been voted on once already and rejected.

The SPEAKER. The gentleman from Texas [Mr. HOUSE] moves to suspend the rules and pass the bill.

Mr. HOUSE. It has passed the Senate three times.

Mr. THORNBURGH. And it has never been reported against by any committee of this House.

The question was taken upon suspending the rules, and passing the bill; and upon a division there were—ayes 88, noes 22.

Mr. HOLMAN. I shall have to insist on a quorum to act on such a bill as this.

Tellers were ordered; and Mr. HOLMAN and Mr. HOUSE were appointed.

Mr. HOLMAN. I ask that the bill be again reported; I do not think it was understood.

The SPEAKER. That requires unanimous consent.

Mr. THORNBURGH and Mr. HOUSE objected.

The House again divided; and the tellers reported that there were—ayes 128, noes 21, two-thirds in the affirmative.

Before the result of the vote was announced,

Mr. HOLMAN said: I shall have to ask for the yeas and nays on this question.

The question was taken upon ordering the yeas and nays; and upon a division, there were—ayes 34, noes 120.

Before the result of the vote was announced,

Mr. TUCKER said: I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Mr. TUCKER and Mr. HOLMAN were appointed.

The House divided; and the tellers reported—ayes 43, noes 132.

So (one-fifth voting in favor thereof) the yeas and nays were ordered.

Mr. BURCHARD, of Illinois. I move to reconsider the vote by which the yeas and nays were ordered. The calling of the roll will probably carry us beyond twelve o'clock.

Mr. HOLMAN. Gentleman are very anxious to pass this bill without examination.

Mr. BLOUNT. It has been examined time and again.

Mr. HOLMAN. Not in this House.

Mr. BLOUNT. The gentleman knows all about it, and everybody else does.

The SPEAKER. The Chair thinks that the roll-call can be completed in twenty minutes, and the shortest way will be to call it.

The question was taken; and there were—yeas 142, nays 66, not voting 82; as follows:

YEAS—Messrs. Bagby, John H. Bagley, jr., Ballou, Banks, Blackburn, Bland, Bliss Blount, Boone, Bright, Buckner, Cabell, John H. Caldwell, William P. Caldwell, Candler, Cason, Caulfield, Chittenden, John B. Clarke of Kentucky, Clymer, Conger, Cook, Cox, Crapo, Danford, Darrall, Davis, Davy, Denison, Dobbins, Douglas, Dunnell, Durham, Eames, Egbert, Ellis, Evans, Felton, Finley, Forney, Fort, Freeman, Frye, Garfield, Gause, Gibson, Glover, Goode, Hancock, Haralson, Benjamin W. Harris, Henry R. Harris, John T. Harris, Hartridge, Hatcher, Hathorn, Hendee, Henderson, Henkle, Hoar, Hoge, Hooker, House, Hubbell, Hunton, Hurlbut, Hyman, Thomas L. Jones, Kasson, Kelly, Kimball, Lamar, Lane, Lapham, Luttrell, Lynch, MacDougall, McDill, Mills, Money, Nash, Norton, O'Brien, Odell, Oliver, O'Neill, Page, Payne, Pierce, Platt, Rainey, Reagan, John Reilly, Riddle, William M. Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Scales, Seelye, Singleton, Sinnickson, Slemons, Smalls, A. Herr Smith, William E. Smith, Stenger, Stone, Strait, Terry, Thomas, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts, John L. Vance, Robert B. Vance, Waddell, Wait, Alexander S. Wallace, John W. Wallace, Warren, Watterson, Erastus Wells, G. Wiley Wells, Whiting, Whitthorne, Wigginton, Andrew Williams, Alpheus S. Williams, James Williams, Jere N. Williams, William B. Williams, Willis, Wilshire, Woodburn, Woodworth, Yeates, and Young—142.

NAYS—Messrs. Ainsworth, Beebe, Bell, Bradford, Horatio C. Burchard, Burleigh, Carr, John B. Clark, jr., of Missouri, Cochrane, Collins, Culberson, Cutler, De Bolt, Franklin, Goodin, Andrew H. Hamilton, Robert Hamilton, Hardenbergh, Harrison, Hartzell, Haymond, Holman, Hopkins, Hoskins, Humphreys, Hunter, Jenks, Joyce, Kehr, Franklin Landers, George M. Landers, Lawrence, Le Moyne, Lynde, Mackey, Maish, Meade, Miller, Morgan, Mutchler, Neal, New, John F. Philips, William A. Phillips, Plaisted, Poppleton, Potter, Powell, James B. Reilly, Rice, John Robbins, Miles Ross, Savage, Southard, Sparks, Stevenson, Tarbox, Teese, Thompson, Turney, Walling, Walsh, Warner, Wike, Benjamin Wilson, and Alan Wood, jr.—66.

NOT VOTING—Messrs. Abbott, Adams, Anderson, Ashe, Atkins, George A. Bagley, John H. Baker, William H. Baker, Banning, Bass, Belford, Blair, Bradley, John Young Brown, William R. Brown, Samuel D. Burchard, Buttz, Campbell, Cannon, Caswell, Cate, Chapin, Cowan, Crounse, Dibrell, Durand, Eden, Faulkner, Field, Flye, Foster, Fuller, Gunter, Hale, Hays, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Hurd, Frank Jones, King, Knott, Leavenworth, Levy, Lewis, Lord, Magoon, McCrary, McFarland, McMahon, Metcalfe, Milliken, Monroe, Morrison, Packer, Phelps, Piper, Pratt, Purman, Rea, Roberts, Sayler, Schleicher, Schumaker, Sheakley, Springer, Stanton, Stephens, Stowell, Swann, Van Vorhes, Waldron, Charles C. B. Walker, Gilbert C. Walker, Ward, Wheeler, White, Whitehouse, Willard, Charles G. Williams, James Wilson, and Fernando Wood—82.

ENROLLED BILL SIGNED.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 1111) for the relief of Thomas E. Maley.

Mr. HAMILTON, of Indiana, from the same committee, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 4397) for the relief of Francis M. Strong and Thomas Ross.

REVISED STATUTES FOR MEMBERS.

Mr. COX, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That members of the Forty-Fourth Congress be entitled to one copy each of the Revised Statutes of the United States, the same as members of the Forty-Third Congress.

COMMISSION ON GOLD AND SILVER, ETC.

Mr. VANCE, of Ohio, from the Committee on Printing, reported back with a favorable recommendation the following resolution; which was read, considered, and concurred in.

Resolved by the Senate, (the House of Representatives concurring,) That the commission to inquire into the change which has taken place in the relative value of gold and silver and the causes thereof, the policy of restoring the double standard in this country and of continuing greenbacks concurrently with the metallic standard, may report on or before the 15th of February, 1877, instead of on or before the 15th of January, 1876.

ELECTORAL COMMISSION.

Mr. VANCE, of Ohio, moved to suspend the rules and pass the following resolution:

Resolved, (the Senate concurring therein,) That there be printed 10,000 copies of the proceedings of the electoral commission, embracing all of said proceedings and briefs of counsel, together with proceedings of the joint convention regarding the State returns which were submitted to said joint convention; 7,500 copies for the use of the House, and 2,500 copies for the use of the Senate.

The rules were suspended (two-thirds voting in favor thereof) and the resolution passed.

ARMY APPROPRIATION.

Mr. ATKINS. I rise in reference to a privileged report and will yield to the gentleman from Illinois, [Mr. MORRISON,] one of the conferees on the part of the House on the disagreeing votes of the two Houses on the Army appropriation bill.

Mr. MORRISON. I desire to report from the committee of conference on the Army appropriation bill that they have been unable to agree. There were several subjects on which they disagreed, but all might have been accommodated but one, and that the subject embraced in the fifth section of the bill, which relates to the use of the Army in Louisiana and South Carolina. That the House may know exactly the position of the House conferees I have written down the substance of what they insisted on and ask that it be read by the Clerk.

The Clerk read as follows:

The conferees on the part of the House, while not insisting on the letter of the fifth section of the Army bill, firmly maintain they will consent to the passage of no Army appropriation bill that shall not contain such restriction upon the President in regard to the use of the United States troops in Louisiana as will prevent him from installing and maintaining the Packard government.

Mr. BROWN, of Kentucky. Let me ask the gentleman from Illinois why is South Carolina omitted from that proposition?

Mr. MORRISON. The same principle obtains in refererence to South Carolina as in reference to Louisiana. We intended to include both.

The SPEAKER. It is not an official paper.

Mr. BROWN, of Kentucky. It was understood then to apply to both.

Mr. MORRISON. Yes, sir. I desire to say, Mr. Speaker, that the difference on this section of the bill was so radical as to make it impossible, in my opinion, to admit of any agreement on the subject. The Senate conferees insist that no restriction shall be placed upon the discretion of the President in the matter of the use of troops in Louisiana and South Carolina.

Mr. FOSTER. Or anywhere.

Mr. MORRISON. And with this statement I leave the question to the House.

Mr. FOSTER rose.

The SPEAKER. To whom does the gentleman yield?

Mr. MORRISON. I yield first to the gentleman from New York, [Mr. Cox.]

Mr. COX. Mr. Speaker, this is not new legislation. I have only one word to say. In the Kansas matter, years ago, the republicans made the precedent. In the famous difficulty as to the Army bill, led by Henry Winter Davis, there was a proviso which destroyed that bill, prohibiting the use of troops in Kansas because personal and and public liberty seemed to require it. But the time for argument is past. This bill has failed because force and fraud have made it impossible——

Mr. GARFIELD. O, bah!

Mr. COX. Yes, sir; force and fraud. And when I said fraud I did not point to you, as the country understands your relations. [Laughter and applause.]

Mr. FOSTER. I offer the following——

The SPEAKER. Nothing can be offered except under a suspension of the rules.

Mr. MORRISON. I make the motion that the House adhere to its disagreement, and on that demand the previous question.

The SPEAKER. The Chair will now hear the proposition of the gentleman from Ohio.

Mr. FOSTER. I send up to the Clerk's desk and ask to have read as part of my speech the following:

The Clerk read as follows:

Be it enacted, &c., That one-half of the sum appropriated by an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1877, and for other purposes," approved July 24, 1876, being the sum of $12,993,583.95, is hereby appropriated for one-half of the fiscal year ending June 30, 1878, which sum shall be distributed among the various branches of said service as provided by this act.

Mr. FOSTER. That is a part of my remarks. I should like to be permitted to close them.

Mr. WALLING. I hope the gentleman will have the opportunity to do so, and not be interrupted.

MESSAGE FROM THE SENATE.

A message from the Senate, by one of its clerks, informed the House that the Senate had passed, without amendment, bills of the House of the following titles:

A bill (H. R. No. 2867) to amend section 2958 of the Revised Statutes, and

A bill (H. R. No. 4702) granting a pension to Apolime A. Blair.

ARMY APPROPRIATION BILL.

Mr. FOSTER. I will make the suggestion that the House agree to make the appropriation for three months—a quarter of a year.

Mr. MORRISON. No, sir.

Mr. BLACKBURN. No, sir; not for three days.

Mr. FOSTER. Then the responsibility must rest on you.

Mr. O'BRIEN. We will take the responsibility.

The SPEAKER. The question is on seconding the previous question on the motion of the gentleman from Illinois, [Mr. MORRISON,] that the House adhere to its disagreement with the Senate on the Army appropriation bill.

The question being taken, there were—ayes 151, noes 101.

So the previous question was seconded.

The main question was ordered.

Mr. HURLBUT. I ask for the yeas and nays on the motion of the gentleman from Illinois that the House adhere to its disagreement.

The yeas and nays were ordered.

PAY OF COMMITTEE CLERKS.

Mr. CAULFIELD. I move to suspend the rules and pass the following resolution heretofore reported favorably from the Committee on the Judiciary by Mr. KNOTT, namely:

Resolved, That the Clerk of the House be, and he is hereby, authorized and directed to pay out of the contingent fund of the House, at the rate of $6 per day from July 1 to August 31, 1876, inclusive, to the clerks of the twenty-one committees designated by the Committee of Accounts as the committees for payment of clerks to which provision was made in the act of Congress approved August 15, 1876, entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1877, and for other purposes," deducting therefrom any amount which the clerks of said committees respectively may have heretofore received during the time named.

The rules were suspended (two-thirds voting in favor thereof) and the resolution was adopted.

RELIEF OF SETTLERS ON PUBLIC LANDS.

Mr. CROUNSE, by unanimous consent, from the Committee on Public Lands, to which was referred the bill (H. R. No. 3002) for the relief of settlers on certain lands in the State of California, reported the same, accompanied by a report in writing; which report was ordered to be printed, and with the bill laid on the table.

ENROLLED BILLS SIGNED.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles: when the Speaker signed the same:

A bill (H. R. No. 186) to provide for compensation to the owners of certain lands ceded by the United States to Great Britain in and by the treaty of Washington July 9, 1872; and

A bill (H. R. No. 4702) granting a pension to Apolime A. Blair.

LEAVE TO PRINT.

Mr. WALLING, by unanimous consent, obtained, leave to have printed in the RECORD some remarks on the bill (H. R. No. 1191) to regulate the survey and sale of timber lands of the United States.

ORDER OF BUSINESS.

Mr. CASON. I ask consent to withdraw papers in the case of Emil Lloyd, there being no adverse report thereon.

Mr. CONGER. I object to any business except the call of the roll.

The Clerk (at thirteen minutes before twelve o'clock) proceeded to call the roll.

MESSAGE FROM THE SENATE.

While the roll was being called a message from the Senate was communicated by Mr. SYMPSON, one of its clerks, informing the House that the Senate had passed the following bill, without amendment:

A bill (H. R. No. 473) for the relief of Henry L. French, of Nashville, Tennessee.

ENROLLED BILL SIGNED.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes.

ADVERSE REPORTS.

Under the previous order of the House, authorizing adverse reports upon bills and petitions to be handed in at the Clerk's desk, reports were made as follows:

By Mr. JOHN REILLY, from the Committee on Military Affairs: A petition of the heirs of Benjamin Moore.

Also, a bill (H. R. No. 976) authorizing the Secretary of War to deliver to the city of Port Huron, Michigan, certain condemned cannon and balls for a soldiers' monument in Lakside Cemetery.

Also, a bill (H. R. No. 4316) donating condemned ordnance to Post 8, Grand Army of the Republic, Brattleborough, Vermont.

By Mr. BANNING, from the same committee: A petition of Benjamin Penny.

Also, a bill (H. R. No. 842) for the relief of John H. Ferry, late captain and assistant quartermaster of volunteers.

By Mr. A. S. WILLIAMS, from the same committee: A bill (H. R. No. 567) granting relief to Leverett H. Town.

Also, a bill (H. R. No. 1746) authorizing the Secretary of War to correct an Army officer's record.

Also, a bill (H. R. No. 2214) removing from the records of the War Department, in the office of the Adjutant-General, the charge of desertion standing against the name of Francis M. Strickland, of Company E, Twenty-sixth Indiana Volunteers.

Also, a bill (H. R. No. 3347) making an appropriation for the construction of a military post near the Ute Indian reservation in Colorado Territory.

Also, a bill (H. R. No. 3008) to provide for the construction of military roads in the Territory of Arizona.

By Mr. STRAIT, from the same committee: A bill (H. R. No. 3070) for the relief of Christopher W. Robertson.

Also, a bill (H. R. No. 2765) for the relief of John T. Castle, first lieutenant Company B, Forty-sixth Regiment, Indiana Volunteer Infantry.

Also, a bill (H. R. No. 2721) for the relief of John Hoffman.

Also, a bill (H. R. No. 3977) for the relief of Henry Freeman, late a veteran soldier.

Also, a bill (H. R. No. 1116) for the relief of the heirs of George Fisher.

Also, petitions of George L. Maloney, Jacob C. Hartmann, Mary Thornhill, Alexander M. Vinnedge, John M. Goodhue, Isaac R. Sutton, and Mrs. Allamirah Bronson.

By Mr. HARRIS, of Massachusetts, from the Committee on Naval Affairs: The petition of Mrs. General Van Cort.

Also, a bill (H. R. No. 2903) for the relief of James H. Linn, late acting first assistant engineer in charge of the Mississippi squadron, United States Navy.

The said bills and petitions were ordered to lie on the table, and the accompanying reports to be printed.

By Mr. O'BRIEN: From the Committee on Coinage, Weights, and Measures: A bill (H. R. No. 87) to establish a mint for the coinage of gold and silver at Saint Louis, in the State of Missouri.

Also, a bill (H. R. No. 173) to establish a branch mint of the United States at Omaha in the State of Nebraska.

Also, a bill (H. R. No. 244) to establish a branch of the mint of the United States at Cincinnati, Ohio.

Also, a bill (H. R. No. 275) to establish a branch of the mint of the United States at Saint Louis, Missouri.

Also, a bill (H. R. No. 397) to establish a coinage department in the United States assay office in the city of New York.

Also, a bill (H. R. No. 657) to provide for coinage at the branch mint at Denver, Colorado.

Also, a bill (H. R. No. 816) to establish a mint at Columbus in the State of Ohio.

Also, a bill (H. R. No. 907) to establish a mint for the coinage of gold and silver at Chicago, Illinois.

Also, a bill (H. R. No. 1254) to provide for the establishment of a branch mint of the United States at the city of Kansas in the State of Missouri.

Also, a bill (H. R. No. 2683) to establish an assay office at New Orleans, Louisiana.

The said bills were ordered to lie on the table.

ARMY APPROPRIATION BILL.

The Clerk proceeded with the call of the roll as far as the name of Mr. THOMAS L. JONES, of Kentucky. The votes recorded were—yeas 65, nays 43; as follows:

YEAS—Messrs. Ainsworth, Atkins, John H. Bagley, jr., Banning, Beebe, Blackburn, Bland, Bliss, Blount, Boone, Bradford, Bright, John Young Brown, Buckner, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Campbell, Candler, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Cook, Cox, Culberson, Davis, De Bolt, Durand, Durham, Eden, Ellis, Felton, Field, Finley, Forney, Franklin, Gause, Gibson, Glover, Goode, Goodin, Gunter, Andrew H. Hamilton, Robert Hamilton, Hardenbergh, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hartzell, Hatcher, Henkle, Abram S. Hewitt, Hill, Hooker, Hopkins, House, Humphreys, Hunton, Jenks, Thomas L. Jones—65.

NAYS—Messrs. Adams, George A. Bagley, William H. Baker, Ballou, Banks, Belford, Blair, Bradley, William R. Brown, Horatio C. Burchard, Burleigh, Buttz, Cannon, Cason, Caswell, Chittenden, Collins, Conger, Crapo, Crounse, Danford, Darrall, Davy, Denison, Dunnell, Eames, Flye, Fort, Foster, Freeman, Frye, Garfield, Hale, Haralson, Hendee, Henderson, Hoar, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman—43.

VISITORS TO WEST POINT.

The call of the roll proceeded until five minutes before twelve o'clock, when

The SPEAKER said: The Chair desires to say it is a physical impossibility for the Clerk to complete the roll-call. The Chair desires to announce the appointment of the following gentlemen as visitors to West Point under the law: Mr. BANNING of Ohio, Mr. WALKER of Virginia, and Mr. PLATT of New York.

VALEDICTORY OF THE SPEAKER.

The SPEAKER. Gentlemen of the House of Representatives, the Speakership, always responsible, onerous, and full of embarrassments, has at this session imposed unusual and vexatious burdens. I have discharged the duties of the high position with unfaltering confidence in the candor and fairness of the House and a resolute purpose to do the right at every hazard.

For the first time in many years a democratic House of Representatives has occupied this Hall and responded with untiring industry to the universal sentiment for reform in Government and the re-establishment of peace throughout the Republic. Fraud and corruption have been exposed and made odious; the expenditures of administration have been enormously reduced; no new taxes have been levied, and every description of undue appropriation of the public money has been prevented. In this regard this House has met the public demand and expectation.

In respect to political events, the session has been one of the most critical in our history. The majority in this House, representing a majority of all the voters in the Union and a majority of the electors duly chosen at the recent election for President and Vice-President, has been made to choose between acquiescence in what we believe to be usurpation or reaching the right through civil commotion. The democratic party yielded temporary possession of the Administration, rather than entail upon the people civil war with all its attendant horrors. There are some who will condemn the permission we have given to the results of a law which was not administered in the spirit of its creation, nor, as we believe, according to the letter of its provisions. We have done all this in preference to the danger of anarchy and bloodshed. Time will surely remedy these wrongs, for there is in the American mind a desire to do justice. We must await that remedy. It must come, impatient as we shall be for its arrival. Until then we demand, as we have the right to demand, the reign of equal justice; that the sword shall cease to strike prostrate the governments of States; that the civil shall be superior to the military rule, and that the people shall be freed now and forever from the shackles of recent misgovernment. [Applause.]

I sincerely thank you one and all for your parting words of approval and shall ever cherish the same with the deepest sensibility. And now, with the wish that each and every member may safely return to his home, it only remains for me to declare that the constitutional limitation of the Forty-fourth Congress has been reached, and that this House stands adjourned without day. [Great applause.]

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By Mr. BAKER, of Indiana: Joint resolution of the Indiana Legislature, for the equalization of pensions granted to soldiers of the war of 1861, to the Committee on Invalid Pensions.

By Mr. BLAND: Joint resolution of the Legislature of Missouri, recommending the repeal of the leaf-tobacco tax, to the Committee of Ways and Means.

By Mr. BROWN, of Kansas: Concurrent resolution of the Legislature of Kansas, favoring the election of United States Senators by the people, to the Committee on the Judiciary.

Also, concurrent resolution of the Legislature of Kansas, in favor of an allowance of time to the settlers on Osage trust lands to make payment therefor, to the Committee on Public Lands.

Also, concurrent resolution of the Legislature of Kansas, protesting against the removal of the Sioux Indians to the Indian Territory, to the Committee on Indian Affairs.

By Mr. EAMES; The petition of Joseph Endicote and others, of Rhode Island, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. FULLER: Joint resolution of the Legislature of Indiana, relating to soldiers' pensions, to the Committee on Invalid Pensions.

By Mr. GOODIN: Concurrent resolution of the Legislature of Kansas, favoring the election of United States Senators by the people, to the Committee on the Judiciary.

Also, concurrent resolution of the Legislature of Kansas, in favor of an allowance of time to the settlers on Osage trust lands to make payment therefor, to the Committee on Public Lands.

Also, concurrent resolutions of the Legislature of Kansas, protesting against the removal of the Sioux Indians to the Indian Terrritory, to the Committee on Indian Affairs.

Also, concurrent resolution of the Kansas Legislature, asking for a complete set of self-registering instruments for signal station for use of agricultural college, to the Committee on Appropriations.

Also, concurrent resolutions of the Legislature of Kansas, for the amendment of the pension laws, to the Committee on Invalid Pensions.

By Mr. HATCHER: Concurrent resolutions of the Legislature of Missouri, asking for the repeal of the tax on leaf-tobacco, to the Committee of Ways and Means.

By Mr. HOPKINS: Papers relating to the petition of W. A. Kenner, for a pension, to the Committee on Invalid Pensions.

By Mr. HUMPHREYS: Joint resolution of the Legislature of Indiana, relating to soldiers' pensions, to the same committee.

By Mr. JOYCE: The petition of Helen M. Slocum, for the removal of her political disabilities, to the Committee on the Judiciary.

Also, the petition of citizens of Vermont, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. LAPHAM: The petition of M. L. Davis and others, for the passage of the national bond-note currency act, to the Committee on Banking and Currency.

By Mr. LEAVENWORTH: Remonstrance of the National Tobacco Association, against any change in the duty on cigars and tobacco, to the Committee of Ways and Means.

Also, remonstrance of the manufacturers of quinine against putting the same upon the free list, to the same committee.

Also, protest of color manfacturers, against the proposed change of the duties on colors, to the same committee.

Also, remonstrance of Powers & Weightman, against putting citric acid on the free list, to the same committee.

By Mr. LUTTRELL: The petition of the members of the Chamber of Commerce of Los Angeles, California, relative to harbor improvements, to the Committee on Commerce.

Also, the petition of Edward H. Nally, and other citizens of California, for a post-route, to the Committee on the Post-Office and Post-Roads.

By Mr. MORGAN; Concurrent resolution of the Legislature of Missouri, favoring the repeal of the special tax on leaf-tobacco, to the Committee of Ways and Means.

By Mr. PHILLIPS, of Kansas: Concurrent resolution of the Legislature of Kansas, asking that pensioners receive their pensions from the date of their disability, to the Committee on Invalid Pensions.

Also, concurrent resolution of the Legislature of Kansas, that a signal station be established for the agricultural college, Manhattan, Kansas, to the Committee on Military Affairs.

Also, the petition of citizens of Kansas for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. SEELYE: The petition of the Marshalltown (Iowa) Congregational Church for a commission of inquiry concerning the alcoholic liquor traffic, to the Committee on the Judiciary.

By Mr. STONE, of Missouri: Concurrent resolutions of the Legislature of Missouri, relative to the special tax on leaf-tobacco, to the Committee of Ways and Means.

By Mr. STRAIT: The petition of Anna B. Underwood and others, of Minnesota, for a sixteenth amendment to the Constitution of the United States preventing the disfranchising of United States citizens on account of sex, to the Committee on the Judiciary.

By Mr. WILLARD: The petition of Joseph Post and others, of Westbury, Long Island, that Congress pass no law by which prostitution may be licensed in the District of Columbia, to the Committee for the District of Columbia.

APPENDIX.

APPENDIX

TO THE

CONGRESSIONAL RECORD.

The Electoral Vote.

SPEECH OF HON. J. W. STEVENSON,

OF KENTUCKY,

IN THE SENATE OF THE UNITED STATES,

December 6, 1876.

The Senate having under consideration the motion to print the message of the President transmitting a letter, accompanied by testimony, addressed to him by Hon. JOHN SHERMAN and others, in relation to the canvass of the vote for electors in the State of Louisiana—

Mr. STEVENSON said:

Mr. PRESIDENT: I feel constrained to vote against the pending motion to print the report and accompanying documents just communicated by the President to the Senate. In doing so I mean no personal disrespect to the Executive, and still less to the distinguished gentlemen who have signed that report.

These papers have not been read. I do not know what they contain. They are clearly not official state papers, and emanate from no department of the Government. I insist that they should go to the Committee on Printing, and I shall presently move that reference.

The Senator from Ohio, [Mr. SHERMAN,] informs us, that the paper communicated by the President, is a report from himself and certain other distinguished republicans, detailing the proceedings of the returning board of Louisiana in their recent canvass of the vote for the appointment of electors for President and Vice-President in that State. These gentlemen, we learn, were invited by the President of the United States to proceed to New Orleans, and witness that count. We know, from what has just fallen from the Senator from Ohio, [Mr. SHERMAN,] that this paper is *ex parte*. Besides, it is partial. It contains only that portion of the testimony offered by the republicans, but contains no proof offered by the democrats, and read before this returning board. Certain prominent democrats, at the request of the chairman of the national democratic committee, went likewise to New Orleans, some of whom witnessed the proceedings of the returning board.

We shall probably receive, in a day or two at furthest, from these gentlemen their version of the official proceedings before that board, accompanied by the entire testimony upon which its conclusions rest. I should prefer, therefore, that both reports, with the accompanying documents, and all the testimony taken before the returning board, should go to the Committee on Printing and be printed together. Such a course seems to me to be one eminently in the interest of truth, justice, and fair dealing. The printing of both reports could only lead to a delay of a few days, and I am satisfied that such action would be much more satisfactory to the country at large than the printing of an *ex parte* one now.

The present hour, Mr. President, is too full of real peril to the entire country for leaders, on either side, to attempt to seek any party advantage by inflammatory appeals in advance to the partisan passions and prejudices of the people.

I am, sir, as you know, a life-long democrat of the straitest sect. I acknowledge a ready allegiance to the just behests of legitimate party discipline; but I solemnly declare, that, if I know myself, I will go as far in the support of all lawful and constitutional measures for the prompt inauguration of that man as President of the United States, who has legally received in the late election a majority of the votes cast by all the electoral colleges in the several states, whether that man be Rutherford B. Hayes, or Samuel J. Tilden.

The elevation of either of these eminent citizens to the exalted and responsible position of Chief Magistrate of the United States, deservedly great as I concede such an honor to be, sinks into paltry insignificance compared with the higher duty of preserving, intact, the free suffrage of the American people; of seeing to it that when the people of all the States entitled to vote for the appointment of electors for President and Vice-President have exercised that right under the form and sanctions of law, the voice of the majority when thus expressed and clearly ascertained, shall become effective and potential against fraud or usurpation, whether Federal or State.

Our fathers one hundred years ago sought the preservation of their liberties under a new and novel form of government which found its support upon the consent of the governed. It sprang from the people as the acknowledged source of all political power.

To this extent, it differed from the older representation of the British House of Commons. The latter found its origin not so much in the popular supremacy of the people, as in the stern requirements of the Crown.

Knights and burgesses were at first summoned, often against their will, to a parliament called by the king, and frequently, amid murmurs of popular discontent, and popular remonstrances against the increased expenditure which such representation entailed.

But the king sought their aid and advice, in his contest against the power of the feudal barons in the upper and hereditary branch of the English Parliament.

Time gave a more popular impress to this system of representation in England, until the knights and burgesses were looked to as the guardians of popular rights, and ultimately, became the bulwark of safety against the usurpations and encroachments both of the Crown and the lords.

But our American representation was always popular, and emanated directly from the people. Representation rests on suffrage; suffrage is the delegation of power from a freeman to his selected agent. This right to choose representatives, is the portion of political power belonging to every qualified elector, and through this channel, representatives become invested by the people with executive, legislative, judicial, and delegated power.

Free suffrage, is, therefore, the vital breath of American representative government. Its exercise to be effective must be guarded, protected, and secured against violence, force, and fraud. The manner, time, and place of its exercise are all ordained, and prescribed by previous law. The right of every qualified elector to vote involves the correlative right to have that vote counted. The transcript of all the votes cast must be certified in certain and definite form, prescribed by law, to the public officer charged officially with the high trust of proclaiming the true result of the total vote cast. It follows therefore that any interference with the right of an elector entitled to the right of suffrage to vote, or any falsification of the returns of the vote as cast or any false and fraudulent certificate of the verity of the result of the entire ballot is an utter and absolute overthrow of the fundamental principle on which our system of American self-government rests. For nearly a century, the will of the American people, as ascertained and expressed, in the mode and manner prescribed by law, has been always acquiesced in, and the rulers chosen by a majority of the qualified electors, have been peaceably installed. It has been the distinguishing characteristic, and chief excellence of American constitutional government in the past, that the people irrespective of party, have lent a ready obedience to the self-imposed limitations upon their own power as electors placed in the Constitution as a barrier against the sudden impulses of frenzy or passion. It is this conservative principle which has distinguished the regular action of American popular power from the temporary and violent convulsions for liberty in the Old World—"a liberty created by arms to-day, and crushed by arms to-morrow." For the first time in our history, we are threatened with a popular struggle as to the result in the appoint-

ment of presidential electors in the several States on the 7th of November last.

I shall not anticipate that issue, or seek by anything I shall say, to forestall popular opinion, or increase the public excitement which its consideration involves. "Sufficient unto the day is the evil thereof." It will come soon enough. I regret that the honorable Senator from Ohio, [Mr. SHERMAN,] should have deemed it proper, before all the reports and accompanying documents had been printed, to have precipitated a debate upon Louisiana affairs, and by singling out a few isolated cases of individual outrage, and wrong, to have indulged in so impassioned an appeal to the prejudices and partisan feelings of the country. Let me tell that Senator that such appeals can be productive of nothing but mischief.

If ever there was a time when party excitement and partisan zeal should be restrained within the walls of the Capitol, it is at this very hour. It is useless to deny that already a very considerable portion of the American people are impressed with the belief, that the votes for the appointment of electors in two or more of the Southern States, have not been fairly counted, and that an effort has been made by fraudulent and improper means through the agency of returning boards to change the true result of that vote.

I shall not stop to inquire at this moment, whether this popular suspicion is ill or well founded. The facts have not yet been presented on which a definite and final opinion can safely rest. I have a well-founded impression, which might be removed by proof. Committees of Congress have already been sent to Louisiana, Florida, and South Carolina, with full power to investigate thoroughly all the circumstances and facts connected with the appointment of electors in these three States. Other committees appointed by the Senate will probably soon follow. All these committees will, no doubt, institute a full and thorough examination of the officers and soldiers stationed in the several parishes of Louisiana during the election, and will ascertain and report with reasonable certainty what was the true and exact vote and whether violence or intimidation existed or not. Within a few weeks these reports, with all the testimony, will be laid before Congress and the country. Statesmanship and prudence alike demand that Congress, upon whom the duty of determining the result may ultimately rest, should quietly await that period. It was in this aspect that the speech of the Senator from Ohio [Mr. SHERMAN] caused me so much surprise and such deep regret. No party should desire to see a President elected or inaugurated except upon clear evidence, that he has received a majority of all the electors appointed in the several States. Still less, should any American citizen, be elevated to that exalted position with the slightest taint of fraud, or of just suspicion upon his presidential garments.

The Senator from Ohio [Mr. SHERMAN] has been pleased to tell us what he saw of the operations of the returning board. He has dwelt in terms of burning and eloquent denunciation of special acts of violence, wrong, and intimidation which he insists marked the action of the democratic party in the late election in Louisiana, and which justifies, as he says, the returning board in setting aside the entire vote at various precincts in many parishes of Louisiana, thereby disfranchising thousands of the white and colored citizens alike in that down-trodden State. The Senator not only tells us of his approval of the action of the returning board of Louisiana, but he becomes eloquent in his compliments and commendation of both the high personal and official character of the individuals who constitute that tribunal. I confess I was astonished at the eulogium pronounced by the Senator on this board. I was myself in New Orleans for a week, upon a mission similar to that which carried the Senator from Ohio to that city. I enjoyed the pleasure of meeting and sojourning at the same hotel with him and his republican *confrères*. I was not before the returning board. I witnessed none of its proceedings and heard none of the testimony offered before it. I left the day after it commenced its sessions. While I should prefer to await the return of the congressional committees and the publication of their reports before I said one word on Louisiana affairs, I cannot permit the impassioned speech of the Senator from Ohio to go to the country without taking issue with him on his facts, and entering as I do, my earnest and strong dissent to the conclusions put forth by him that the late appointment of electors in Louisiana was carried by force and intimidation practiced by the democratic party on the colored vote. I utterly deny that the returning board were in any way justified in their action.

I do not believe that the conclusions of the Senator from Ohio [Mr. SHERMAN] touching that election can be maintained and supported by legal and impartial proof. During my sojourn in New Orleans, I was in daily intercourse with influential men of Louisiana of all parties, both white and colored. I sought through every channel proof and information touching the true character of that election. I saw and talked with electors from various portions of the State, many of them officials, who conducted the election, and many others who were candidates for both executive and legislative offices during that canvass. I talked to republicans as well as to democrats. The conclusion which I reached, from all I saw or heard was that the election in Louisiana was in all respects quiet and peaceable, and that its people appointed presidential electors for Tilden and Hendricks by a majority of 8,957 for the highest Tilden elector over the lowest Hayes elector, and a majority of 6,300 for the lowest Tilden elector over the highest Hayes elector. This conviction was honestly formed and is sincerely entertained by me at the present hour. Should testimony be hereafter brought to satisfy me that I am in error, or even to raise a doubt as to the fairness of the Louisiana vote, I shall gladly surrender that opinion and make my official action accord with the result disclosed. My conviction of the peaceable and fair character of that election rests upon a few facts which I proceed to state.

First, it is admitted by all, that upon the face of the poll-books Tilden and Hendricks carried Louisiana by a majority of from seven to nine thousand votes. The returning board of Governor Kellogg will scarcely deny that fact. The country will take notice that this majority was obtained in a State where the republican supremacy has been absolute for the past ten years and where all State and Federal patronage and power have been enjoyed and exercised exclusively by republicans. In addition, at and long prior to the election, Federal soldiers were stationed in the various parishes throughout the State. It seems absolutely unnatural and improbable to me that any system of ruthless, wholesale, intimidation, and violence could have been exercised by the whites over the colored voters without the knowledge of officers and soldiers, and without instant exposure and suppression. How could violence and intimidation exist without detection? Would not prompt application have been made by the republican supervisors of election to the military for the protection of the colored electors in the parishes where such lawlessness existed? No officer or soldier has been introduced to prove that he was called upon, either before or during the election, to suppress violence or intimidation in any solitary precinct in Louisiana or to prove that any such violence or intimidation existed or occurred. On the contrary, Major Bascom, an officer of high character in the Army of the United States, a republican in politics and an avowed supporter of Hayes and Wheeler, who had been stationed for many months before the election in one of the democratic parishes rejected by the returning board, and who was present at the time of the election in this excluded parish—West Feliciana, I believe—stated publicly to the democratic, and I believe also to the republican committee, that he witnessed no intimidation, at or before the election, over any elector, but that a more quiet and peaceful election was never held in any State than was held in that parish. His soldiers if called upon would, I doubt not, fully support their commander in all his statements touching the peaceful character of the election there. The very failure of the republicans to prove before the returning board, by Federal officers and soldiers stationed in all the excluded parishes of Louisiana, the existence of a solitary act of violence or intimidation is strong and persuasive testimony that no such violence or intimidation existed.

Mr. President, I put it to the candor of republican Senators to explain this remarkable omission. Federal soldiers, at the solicitation of Governor Kellogg, were stationed before and during the election in Louisiana in almost every parish in that State to protect the colored electors from force, violence, and intimidation. I challenge the Senator from Ohio to find an officer or soldier stationed in either East or West Feliciana, in Morehouse, in Ouachita, or in Monroe Parishes, who will support him in his fierce denunciations of the outrages against colored electors in those parishes. Does that honorable Senator hope to persuade the country that intimidation could have been practiced in the excluded parishes without the knowledge or cognizance of the officers and soldiers stationed there? I submit to the honorable Senator that the testimony of officers and soldiers of the United States Army would receive higher credibility by the entire country as to the existence of violence and intimidation than the varying and diverse statements of that poor old negro woman Pinkston, on whose testimony the Senator dwells with so much pathos and feeling.

I was not before the returning board and I have not read her testimony. I have been informed that she was contradicted by at least two credible witnesses in her statement that the killing of her husband and child grew out of, or was in any way connected with politics. Allow me further to say that the testimony of Major Bascom, as to the character of the election in Feliciana Parish, was fully corroborated by the Episcopal bishop in Louisiana, known everywhere throughout the length and breadth of our land as an eminently pious and learned prelate, conservative and just in his feelings, wholly unconnected with politics, a messenger of peace, truth, and love, incapable of intentional injustice to any sect or party. This gentleman stated to me that he was making his episcopal visitation through the State of Louisiana during the late election and was present in one or more of the parishes excluded by the returning board, perhaps East and West Feliciana. He told me that he not only did not see the slightest intimidation, force, or violence by the white over the colored electors, but that he was well satisfied from what he saw, heard, and knew in these parishes that none existed. He said that a large number of colored voters in West Feliciana informed him that they were tired of republican rule and rejoiced in the privilege afforded them by the presence of the soldiers of voting the democratic ticket.

Similar statements were made to me by gentlemen of the highest credit and character, among whom I will name Governor Nichols and Attorney-General Ogden. These gentlemen canvassed and went through every portion of Louisiana during the late election. They assured me that there was no system of violence and intimidation, but that the election throughout the State was in the main quiet and peaceable. They both knew and met in their canvass large numbers of colored voters in many parishes of Louisiana who stated to them that, though formerly republicans, voting for years the republican ticket, that in consequence of the incompetency of the dominant offi-

cials in Louisiana to afford their children the advantages of education, for which the scanty earnings of their hard labor had been so severely taxed, and in consequence of the corruption and inefficiency of the republican State government in Louisiana, they desired a change and intended to vote the democratic ticket. This information was fully corroborated by a large number of colored electors who came frequently to the democratic committee-room, both from rural parishes and from the city of New Orleans, stating that they themselves had freely and voluntarily voted the democratic ticket at the last election, and that they knew of many others who had done the same thing.

I might cite, too, the written and I believe sworn statement of a colored elector in one of the excluded parishes, Morehouse perhaps, setting out that he was the president of a democratic club in his precinct, composed of forty-five colored members, all of whom voted the democratic ticket, and that he knew personally of changes enough of colored voters from the republican to the democratic party in that parish fully to account for the reduced republican majority at the late election as compared with the vote cast there two years ago.

And yet, the change of the colored vote from republican to democratic, whenever it occurs in Louisiana, is seized upon by the republican party as the strongest evidence of intimidation.

I cannot believe, from all I saw and heard while in New Orleans, that any such wholesale system of violence and intimidation as that described by the Senator from Ohio [Mr. SHERMAN] prevailed at the late election in Louisiana.

Whenever such violence is made apparent by reliable and impartial testimony, I shall be ready to go as far for the protection of free suffrage, irrespective of color, as any Senator upon this floor.

That there have been crimes and wrongs committed in Louisiana which shock our humanity I do not doubt. I deplore their occurrence as much as the honorable Senator from Ohio possibly can. But crimes are not confined to Louisiana. They exist everywhere. They may occur more frequently in the Southern than in Northern and Western States. They probably do. And the reason for this is to be traced to the sudden and fundamental change in the social and political condition of the people of the South, growing out of the late war.

I do not, however, believe that these outrages in the main have anything to do with politics; still less, that there is any organized system of intimidation practiced by the whites over the colored voters in the South. The quiet condition of Georgia, Alabama, and Texas abundantly attests the utter groundlessness of such a charge. Like causes produce like effects. If the white electors sought by a system of violence to control the suffrage of colored electors, some evidence of it would undoubtedly appear in these last-named States.

And yet we know that a few years ago this same stale, threadbare cry of intimidation and oppression was urged by the republicans in Alabama and Georgia for setting aside the elections there.

My honest and deliberate conviction is—and I think the fact will be demonstrated, if the true condition of Louisiana affairs could become known—that whenever political intimidation and force have occurred in that State it will be found that such outrages have been practiced by colored republicans over men of their own race, who sought a change in their political relations, rather than by white over colored electors.

Mr. President, will the honorable Senator from Ohio [Mr. SHERMAN] tell the country why the republican party in Louisiana have not suppressed the system of violence and internal disorder so gloomily described by him as existing in that State? They have had absolute and entire control of that State for ten years past. Every office, from the highest to the lowest—executive, legislative, and judicial—has been filled exclusively by republicans of the most extreme party views.

Why has not the republican party in Louisiana suppressed disorders, crimes, and intimidation by a rigid enforcement of the law? In addition to the absolute supremacy of republican rule in the State government, we know that Governor Kellogg has received the constant support of the Federal Government. United States troops have for six years past been sent, without stint, to that unfortunate State.

The one hundred and third article of the constitution of Louisiana declares:

> The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting under adequate penalties all undue influence thereon from power, bribery, tumult, or other improper practices.

Why has not Governor Kellogg, backed by a republican Legislature, enforced this constitutional provision, and restored peace and good government, by a prompt and rigid enforcement of the statutes against force and violence?

Have they done so? What says my honorable friend from Ohio? Why, Mr. President, I appeal to republican testimony to prove that for six or eight years past nothing but wrong, anarchy, and disorder have marked the administration of public affairs in that State. For nearly six years Louisiana has had but one representative in this Chamber. The right of the people in that State to vote, or to have their votes counted, has been openly disregarded and trampled upon by republican returning boards in that down-trodden State.

So far from supporting the individual elector in his constitutional right to vote, these returning boards have, in utter defiance of the constitution and laws of Louisiana, absolutely ignored the right of free suffrage. Within six years past the country has seen the State government of Louisiana subverted by a United States district judge, supported by the military power of the United States; and still later, the American people have seen representatives of the Louisiana Legislature, legally chosen by the people of that State, ejected from their chamber in the capitol by Federal soldiers, and representatives, not elected, put in their places by the arbitrary, unjust, and illegal action of the present returning board in Louisiana. And all this successful usurpation upon the constitutional rights of the free people of Louisiana has been accomplished by the republican rulers in that State.

I doubt not that in the failure of Governor Kellogg and in his utter incapacity, even with the free use of the Army of the United States, to restore order, to execute the laws, and to establish and maintain good government will be found the true explanation for the change of the colored vote from the republican to the democratic party in the late appointment of presidential electors in Louisiana. But the same cry of intimidation by the white over the colored voters, which has successfully sustained the past usurpations of returning boards in Louisiana, in their ribald and open disregard of the constitutional rights of the people of Louisiana, is sought again to be made potential in the late presidential contest.

The people of Louisiana have quietly submitted to their deprivation of suffrage in the choice of their rulers under the State government for years. The problem which now confronts the people, not of Louisiana alone, but of the United States, is, shall the usurpations of this same returning board, successful as it has been in the past find a wider theater for its action in the illegal suppression of the vote of the people of Louisiana on the 7th of November, 1876, in the appointment of presidential electors? This is a question far above party. It goes directly to the constitutional right of the people of every State in the American Confederacy to select in manner and form prescribed by law their rulers, both Federal and State.

If it be constitutional for this returning board, perpetual in its organization and unlimited in its power, to pass absolutely upon the suffrages of the entire electors of Louisiana, rejecting as many or as few of the votes of the State as they may in their discretion determine, and changing at their will the true return of the vote, is not that an end of free government? If such action be constitutional in Louisiana, would it not be equally so in New York, Pennsylvania, and Ohio? Could not any one of those States create returning boards through their Legislatures, and obtain such returns of the election as the party character of the Legislature and of the returning board might deem expedient?

The vote of a State for President and Vice-President would then depend, not on the vote of a majority of the people, but upon the will or judgment of the returning board—whether honest or upright, does not lessen the danger—as to what that vote should be declared to be. Mr. President, what State in the American Union would tolerate such an exercise of power as the returning board of Louisiana has exercised for years? How long could it be permitted and our liberty be preserved?

But I insist that the returning board of Louisiana had no jurisdiction whatever, to canvass or pass upon the vote for the appointment of electors in Louisiana.

I persuade myself that I can make this entirely clear to my republican brethren in this Chamber who are lawyers. The question of jurisdiction rests upon the true construction of the election laws of Louisiana. No one denies, that the appointment of electors is exclusively a matter of State jurisdiction, and that presidential electors are State officers. The Constitution of the United States declares:

> Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

It devolves upon those who claim, like the Senator from Ohio, that the returning board of Louisiana was clothed with jurisdiction to canvass the vote of that State for the appointment of electors to produce the legislative act of that Commonwealth which confers it. The Legislature of Louisiana has either directed the manner in which electors in that State shall be appointed, or there is no authority to appoint them. The Senator from Ohio [Mr. SHERMAN] claims that the election law of 1872 and amendments confer jurisdiction upon the returning board to canvass these returns for the appointment of electors.

Let us look, then, to the act of November 20, 1872, the first section of which declares—

> That all elections for State, parish, and judicial officers, for members of the General Assembly, and for members of Congress shall be held on the first Monday in November, and said elections shall be styled the *general elections*. They shall be held in the manner and form and subject to the regulations hereafter prescribed, and no other.

The second section of the same act provides—

> That five persons, to be elected by the senate from all political parties, shall be the returning officers for *all elections* in the State, a majority of whom shall constitute a quorum and have power to make return of all elections.

The twenty-ninth section declares—

> That in every year in which an election shall be held for electors of President and Vice-President, such election shall be held at the time fixed by act of Congress.

By the seventy-first section it is provided—

> That this act shall take effect from and after its passage, and that all others on the subject of election laws be, and the same are hereby, repealed.

The foregoing sections of the act of 1872, which I have quoted, con-

tain all the provisions that I deem material to the determination of the question of the jurisdiction of the returning board.

It will be perceived that the seventy-first section of this act directly repeals all other election laws in Louisiana.

At the time of the passage of the act of 1872 two acts had been in force in the State of Louisiana touching the appointment of presidential electors: The act of 1868, which was re-enacted by the revised statutes of Louisiana adopted in 1870. I will quote two or three of the provisions of this latter act:

SEC. 2824. Every qualified voter in the State shall vote for electors as follows: Two persons shall be selected from the State at large and one person shall be chosen from each congressional district in this State; and in case any ticket shall contain two or more names of persons residing in the same district, (except the two chosen from the State at large,) the first of such names only shall be considered as duly voted for.

SEC. 2826. Immediately after the receipt of a return from each parish, or on the fourth Monday of November, if the returns should not sooner arrive, the governor, in presence of the secretary of state, the attorney-general, a district judge of the district in which the seat of government may be established, or any two of them, shall examine the returns and ascertain therefrom the persons who have been duly elected electors.

SEC. 2829. The electors shall meet at the seat of government on the day appointed for their meeting by the act of Congress, the first Wednesday in December, and shall then and there proceed to execute the duties and services enjoined upon them by the Constitution of the United States, in the manner therein prescribed.

SEC. 2830. If any one or more of the electors chosen by the people shall fail from any cause whatever to attend at the appointed place at the hour of four p. m. of the day prescribed for their meeting, it shall be the duty of the other electors immediately to proceed by ballot to fill such vacancy or vacancies.

The first question which occurs is: Did the act of 1872 repeal the act of 1868 re-enacted in the revised statutes of Louisiana in 1870? The words in the seventy-first section of the act of 1872 are broad and direct. They expressly declare, "that this act shall take effect from and after its passage, and that *all others on the subject of election laws be, and the same are hereby, repealed.*"

If the act of 1868, re-enacted in the revised statutes of Louisiana in 1870, was repealed by the seventy-first section of the act of 1872, then there was no legislative authority whatever empowering the State of Louisiana to appoint electors on the 7th of November, 1876, and the vote of that State must be rejected.

Mr. WEST. If I do not interrupt the Senator——

Mr. STEVENSON. Not at all. I desire information and seek light in all quarters.

Mr. WEST. I want to be informed, and that is the reason I rise now. What election law does the Senator refer to as a substitute for the law authorizing the appointment of presidential electors and filling vacancies in the electoral college?

Mr. STEVENSON. The inquiry which I was pressing at the moment the Senator from Louisiana interrupted me, was whether the repealing clause of the act of 1872 did in fact actually repeal the act of 1868 authorizing the appointment of presidential electors, which was re-enacted in the revised statutes of Louisiana adopted in 1870? If such repeal became effective, and the act of 1872 and amendments, were the only election laws in force in Louisiana, then there was no legal authority in that State for the appointment of electors, and the election on the 7th of November was void, and the returning board could have had no jurisdiction to canvass the votes cast for electors. The act of 1872 no where authorizes the appointment of presidential electors; it makes no provision as to the mode and manner of their appointment; whether by the people of Louisiana or by their Legislature; whether by congressional districts or general ticket; and the act makes no provision for the filling of vacancies in the electoral college. If, therefore, the act of 1872 was the only election law in force in Louisiana on 7th November, 1876, the election for electors was null and void.

Mr. WEST. Now will the Senator permit me to state my knowledge of the case?

Mr. STEVENSON. With pleasure.

Mr. WEST. There is a general law of Louisiana——

Mr. STEVENSON. I have already referred to that.

Mr. WEST. Relating to electors.

Mr. STEVENSON. That is the law of 1868.

Mr. WEST. There is a stipulation in the revised statutes of Louisiana that all elections for presidential electors shall be conducted in the same manner as those for State officers. There is also a provision in the revised statutes that on the meeting of the electoral college if from any cause whatever any elector fails to be present his colleagues shall have the power and authority to supply that vacancy. The reasoning of the Senator is that the repealing clause regulating the conduct and the manner of elections and the method of making the returns also repealed the power of the State to appoint electors under the provisions of the Constitution of the United States and also repealed the power of those electors when appointed to fill any vacancy. That is the Senator's proposition. I leave it to the judgment of the Senate.

Mr. STEVENSON. I have already referred to the act of 1868—re-enacted in the revised statutes of 1870—and quoted the provisions touching the appointment of electors in Louisiana. The Senator from Louisiana does not understand the inquiry I was pressing. That inquiry was, whether the act of 1868 and of 1870 touching the appointment of electors was or was not repealed by the act of 1872, which the Senator himself must admit makes no provision for the appointment of electors whatever. If that act of 1872 did repeal all other election laws in Louisiana, then I insist there was no legislative authority to appoint electors, and the term "all elections" did not include presidential electors. But suppose I admit, *ex gratia*, what the Senator from Louisiana so strongly insists upon, that the act of 1872 did not repeal the act for the appointment of presidential electors, passed in 1868 and re-enacted in the revised statutes of 1870; how does that help the jurisdiction of the returning board to canvass the returns for the appointment of presidential electors?

If the Senator will turn to the provisions of the Revised Statutes of 1870, which he seems to insist have not been repealed by the act of 1872, but are still in force, he will find that by section 2826 of that act, which I have already quoted, it is provided that—

Immediately after the receipt of a return from each parish, or on the fourth Monday of November, if the returns should not sooner arrive, the governor, in the presence of the secretary of state, the attorney-general, a district judge of the district in which the seat of government may be established, or any two of them, shall examine the returns and ascertain therefrom the persons who have been duly elected electors.

Therefore I submit that, if the act of 1872 repealed all other election laws, and that act was the only act in force on the 7th November, 1876, there was no authority to appoint electors in that State on that day. If the act of 1872 did not repeal the act of 1868, re-adopted in the revised statutes of Louisiana in 1870, and the latter is still in force; in that event the governor of Louisiana is to examine the returns of the election and make the return. On either horn of the dilemma, there is clearly no jurisdiction in this returning board.

It is not necessary that I shall express at this time any opinion whether the act of 1868, re-enacted in the revised statutes of Louisiana of 1870, was repealed or not. The general rule of law on the effect of the repeal of a former law by subsequent legislation is that a general statute, without negative words, will not repeal the particular provisions of a former act unless the two acts are irreconcilably inconsistent.

The Senator from Ohio [Mr. SHERMAN] quotes the words of the second section of the act of 1872 creating the returning board and providing that they "shall be the returning officers for *all elections in the State*," and triumphantly asks if those words are not broad enough to include the elections for the appointment of presidential electors? I think not. My construction of the words "*all elections*" is that they are limited and confined by the words of the first section of the same act to "elections for State, parish, and judicial officers, members of the General Assembly, and for members of Congress."

This construction is supported by the further fact that the act of 1872 makes no allusion to the appointment of presidential electors. But if the position of the Senator from Louisiana [Mr. WEST] be true, that the revised statutes of Louisiana, adopted in 1870, which re-enacted the statute of 1868, providing for the appointment of presidential electors, be not repealed by the act of 1872, then the governor, and not the returning board, is, in the presence of witnesses, to ascertain the result, with no judicial power to exclude or in any manner to interfere with the vote as cast—if that act was repealed by the act of 1872, then there was no power conferred, as already stated, to appoint electors.

I shall not stop to inquire now what tribunal has power to decide upon these questions, or the mode in which it is to be done. My purpose is accomplished in attempting to show that the returning board of Louisiana was clothed with no power, judicial or ministerial, to canvass the returns for the appointment of electors in Louisiana.

Mr. President, the judicial power claimed by the Senator from Ohio, [Mr. SHERMAN] and by the Senator from Louisiana, [Mr. WEST] for this returning board to canvass and exclude the votes cast for the appointment of electors, is wholly inconsistent with and in direct contravention of the express requirements and limitations of the act of 1872, for securing the free suffrage of the whole people.

Why prescribe duties for the commissioners of elections, or the supervisor of registration, as to the mode, manner, and time in which votes are to be counted, or compiled statements of the true result of the votes cast at every precinct in Louisiana are to be made up and returned, if the returning board can judicially disregard them, and reject as many or retain as many of the votes actually cast as they may in their discretion determine?

In a word does not the judicial power claimed by the Senator from Ohio [Mr. SHERMAN] for this returning board of Louisiana to canvass the returns for the appointment of electors in that State, rejecting and admitting as many or as few of the votes cast by the people as that board may determine, virtually invest them with the arbitrary power of deciding the presidential election, should the result of that election depend on the vote of Louisiana?

Mr. President, what a problem to confront the American people at the beginning of the second century of our free institutions!

Who can measure the momentous issues which the safe solution of such a question directly involves? Who shall measure the responsibility of those who, under the Constitution and laws, must shortly be called upon to determine it? I will by no act or word anticipate the excitement of that hour. I can only invoke the divine Ruler of the universe, whose blessings have been so plenteously vouchsafed to our country during the first century of its existence, when that hour comes to inspire the hearts of our entire people with wisdom, courage, and calmness enough to see that its settlement rests not on any narrow plane of party expediency or individual political success, but the higher and nobler one of an enlightened and enlarged American patriotism.

Manufacture and Sale of Intoxicating Liquors.

SPEECH OF HON. HENRY W. BLAIR.

OF NEW HAMPSHIRE,

IN THE HOUSE OF REPRESENTATIVES,

December 27, 1876,

On the joint reso'ution introduced by him proposing an amendment to the Constitution of the United States in regard to the manufacture and sale of intoxicating liquors.

Mr. BLAIR. Mr. Speaker, I believe that the public good requires the protection of the American people from the evils of alcohol by an amendment of the Constitution.

I will read the joint resolution which I have prepared, and have had the honor to present for that purpose by the unanimous consent of the House:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein,) That the following amendment to the Constitution be, and hereby is, proposed to the States, to become valid when ratified by the Legislatures of three-fourths of the several States, as provided in the Constitution:

ARTICLE —.

SECTION 1. From and after the year of our Lord 1900 the manufacture and sale of distilled alcoholic intoxicating liquors, or alcoholic liquors any part of which is obtained by distillation or process equivalent thereto, or any intoxicating liquors mixed or adulterated with ardent spirits or with any poison whatever, except for medicinal, mechanical, chemical, and scientific purposes, and for use in the arts, anywhere within the United States and the Territories thereof, shall cease; and the importation of such liquors from foreign states and countries to the United States and Territories, and the exportation of such liquors from and the transportation thereof within and through any part of this country, except for the use and purposes aforesaid, shall be, and hereby is, forever thereafter prohibited.

SEC. 2. Nothing in this article shall be construed to waive or abridge any existing power of Congress, nor the right, which is hereby recognized, of the people of any State or Territory to enact laws to prevent the increase and for the suppression or regulation of the manufacture, sale, and use of liquors, and the ingredients thereof, any part of which is alcoholic, intoxicating, or poisonous, within its own limits, and for the exclusion of such liquors and ingredients therefrom at any time, as well before as after the close of the year of our Lord 1900; but until then, and until ten years after the ratification hereof, as provided in the next section, no State or Territory shall interfere with the transportation of said liquors or ingredients, in packages safely secured, over the usual lines of traffic to other States and Territories wherein the manufacture, sale, and use thereof for other purposes and use than those excepted in the first section, shall be lawful: *Provided*, That the true destination of such packages be plainly marked thereon.

SEC. 3. Should this article not be ratified by three-fourths of the States on or before the last day of December, 1890, then the first section hereof shall take effect and be in force at the expiration of ten years from such ratification; and the assent of any State to this article shall not be rescinded nor reversed.

SEC. 4. Congress shall enforce this article by all needful legislation.

In order to justify legislation of any kind restricting the manufacture and use of alcoholic liquors, I believe it to be necessary to maintain these propositions:

First. That it is the duty of society, through the agency of government, which is the creature of society, to enact and enforce all laws which, while protecting the individual in the full possession and enjoyment of his inalienable rights, tend to promote the general welfare, and especially whenever that welfare is impaired or threatened by any existing or impending evil it is the duty of society to enact and enforce laws to restrict or destroy that evil. It may be proper to observe that no law can promote the general welfare which deprives an individual of an inalienable right, when that right is properly defined, or which impairs the enjoyment thereof, whether of life, liberty, property, or the pursuit of happiness. But society has inalienable rights as well as individuals, and the right to such legislation as will promote the general welfare, in its true sense, is one of them; and the inalienable rights of individuals and the inalienable rights of society at large are limited by, and must be construed and enjoyed with reference to each other.

Second. While society has no right to prevent or restrict the use of an article by individuals for purposes which are beneficial only, yet if that use, beneficial to some, is found by experience to be naturally and inevitably greatly injurious in its effects upon others and upon society in general, then it becomes the duty of society, in the exercise of its inalienable right to promote the general welfare and in self-defense to social life, just as the individual may defend his natural life, to prohibit regulate, or restrict the use of that article, as the case may require. This principle is daily applied in laws which control the manufacture and use of gunpowder, nitro-glycerine, dynamite, and other things of great and dangerous potency, the unrestrained use of which, even for useful purposes, has been shown by experience to be destructive to the inalienable rights of others. This results from the common principle of law that every man must so enjoy his own rights as neither to destroy or impair those of another, and it is the great end for which government is instituted among men to compel him so to do.

Third. No person has a right to do that to himself which impairs or perverts his own powers; and when he does so by means of that which society can reach and remove by law, to such extent as to become a burden or a source of danger to others, either by his example or by his liability to commit acts of crime, or to be essentially incapacitated to discharge his duties to himself, his family, and society, the law, that is, society, should protect both him and itself. A man has no more right to destroy *his* inalienable rights than those of another, or than another has to deprive him of his own. The laws restraining the spendthrift in the destruction of his inalienable right in property and punishing suicide, (as the common law did, by forfeiture of estate, &c.,) or *attempted* self-murder, (as the law does now,) are familiar examples of the application of this principle.

These are elementary principles of law and of common sense. They are corner-stones of all just government. To these principles every member of society is held to have given his assent. They are unquestioned, so far as I know, by any one who believes in any law. They are axiomatic and indestructible as the social organization itself.

Fourth. The use (unless medicinally) of alcoholic liquors to the extent of intoxication or poisoning—which, as will hereafter be seen, is the same thing as intoxication—is an injury to the individual; it inflicts great evils upon society at large; it is destructive to the general welfare; it is of a nature which may be greatly restricted if not destroyed by the enforcement of appropriate laws; consequently such laws should be enacted and enforced; and this should be done in our country, either by the States, or by the General Government, or by *both*, if such laws can be made more efficient thereby.

I believe this proposition to be true, and respectfully ask candid attention to the facts and observations which follow.

DEFINITION OF TERMS, ETC.

The substance known as alcohol is thus defined by Webster:

Pure or highly rectified spirit, extracted by simple distillation from various vegetable juices and infusions of a saccharine nature, which have undergone vinous fermentation; the spirituous or intoxicating element of fermented liquors.

Fermentation, the process by which alcohol is first obtained from organic substances, but combined with much larger quantity of other matter, is thus defined by the same authority:

That change of organic substances by which their starch, sugar, gluten, &c., under the influence of water, air, and warmth, are decomposed, usually with evolution of gas and heat, and their elements are recombined in new compounds. Vinous fermentation converts sugar into alchohol.

Brewing is the preparation of alcoholic liquor from malt, and hops, and from other materials, by steeping, boiling, and fermentation.

Distillation, or *rectification*, (to make straight or pure,) is a process subsequent to fermentation, by which alcohol in a highly refined and most powerful form is obtained from fermented or brewed liquors. It is thus defined by the eminent lexicographer before cited:

The act of falling in drops, or the act of pouring or throwing down in drops. The volatilization of a liquid in a closed vessel by heat, and its subsequent condensation in a separate vessel by cold, as by means of an alembic, or still and refrigeratory, or of a retort and receiver; the operation of extracting spirit from a substance by evaporation and condensation; rectification.

Distiller: One whose occupation is to extract spirit by distillation.

Alcohol for commercial purposes is obtained by distilling wine and other liquors that have undergone vinous fermentation; carbonate of soda is sometimes added to keep back acetic acid, and fusel-oil is removed by charcoal. The alcohol of the London pharmacopœia contains about 82 per cent. of alcohol and 18 of water. Its specific gravity is required to be 838, water being 1,000. It has great affinity for water, absorbing it from the atmosphere.

Professor Brande found from 1 to 2 per cent. of alcohol in small-beer; 4 in porter; 6 to 9 in ales; about 12 in the light wines of France and Germany; from 19 to 25 in port and sherry and other strong wines; from 40 to 50 and occasionally more in brandy, gin, and whisky. The strength of these liquors is ascertained by various expedients; but the process is sometimes complicated by reason of the different ingredients intermixed to color, sweeten, or flavor the liquor, or fraudulently added to alter the specific gravity, or to substitute a cheaper material.

See the New American Cyclopædia, Alcohol.

The discovery of *distillation* of wine has been attributed to Albucasis, or Casa, an Arabian chemist and physician of the eleventh century, but many centuries elapsed before the process of distillation was applied to produce those stronger drinks which under the name of "spirits" are now in such common use in daily life. Brandy is a late term in European literature. Gin was unknown two hundred years ago. Rum is an American term applied to an American invention; and whisky, a Celtic word—*uisge*—water—has not been anglicized more than a century and a half. Neither rum, brandy, gin, or whisky have been in common use as spirituous drinks, nor any alcoholic drinks of anything like similar destructive power, until comparatively recent modern times.

See first lecture in "Course of six Cantor lectures delivered before the Society of Arts on alcohol by Benjamin W. Richardson, M. A., M. D., F. R. S." Dr. Richardson is known as one of the ablest scientific men of the age, and these lectures are the most recent and valuable contributions to the subject of "alcohol" that I have been able to obtain.

Distilled alcoholic liquors, the forms now in common use embraced by the first section of the proposed amendment, comprise brandy, rum, gin, and whisky.

Fermented liquors in common use are wine, cider, ale, and beer. The latter are alcoholic, *but are not mixed with alcohol obtained by distillation*, and are far less powerful and destructive to mankind. These are not included in the first section, but are left to the action of local laws, as is now the case, by section 2 of the amendment proposed.

In treating the subject I wish first to invite attention to the nature of alcohol and its effects upon the human system, as established by chemical and medical science. I shall then cite facts and statistics from other sources tending to show the necessity of legislation upon the subject. Then I shall explain the adaptation of the proposed amendment to the removal of the alleged evil, and endeavor to show that the powers of government are inherent and ample, and should be exercised in the premises.

THE TESTIMONY OF SCIENCE AND OF THE MEDICAL PROFESSION.

An English writer, who is declared by Governor Andrew in his remarkable argument in favor of a license law, before a committee of the Massachusetts Legislature, April 4, 1867, probably the ablest and

most eloquent presentation of the views of those opposed to prohibitory laws ever made in the world, to be "one of the most able English scientific critics," &c, and who is opposed to teetotalism, says in the Cornhill Magazine of September, 1862:

And first as to the effect of long continued habits of alcoholic excess upon the general health of the body, these may be summed up in brief by one word—*degeneration*. Degeneration of structure and chemical composition is the inevitable fate of the tissues of the drunkard. Apart from moral influences all that we see of physical misery, of weakened intellect, of shortened life in the habitual drunkard, is due to this degeneration of tissue, which is gradually but infallibly brought about by alcoholic excess. Even the very blood, the beginning of all tissues, is affected in a similar way, as we might expect.

There is no doubt that in excessive doses alcohol if it be a food at all is a very bad one, and we must remember that the drunkard does in fact test its capacity to act as food; for by his habits he so impairs his appetite that he can take very little, if any, ordinary food.

This writer represents that class of medical gentlemen whose scientific views are most friendly to alcohol, and he states his conclusions thus:

On the part of alcohol, then, I venture to claim that though we all acknowledge it to be a *poison, if taken during health* in any but quite restricted doses, it is also a most valuable *medicine*-food.

It will be observed that I make no attack upon it as a *medicine*. This is the most favorable statement of the nature of alcohol in its effects upon the human organism which can be found, based upon respectable medical authority. It is that adduced by Governor Andrew in his great argument against prohibition, and I venture to say that there is not a particle of dispute in the medical world that it is true so far as it goes. I am not aware of the existence of any medical authority which admits that the use of distilled alcoholic liquors, as a common daily drink, does not inevitably tend to destroy the human system. True, there are a few exceptional instances recorded where men after having destroyed the normal functions of their organism, so that all healthy and natural foods are rejected by it, have lived for a time almost wholly upon alcohol itself. But in all cases where its action is favorable, it finds a diseased or unnatural condition to which it adapts itself, like the surgeon's knife to the tumor or to the shattered limb. There are exceptional organisms which prove the rule. But from this circumstance to argue that it is beneficial to the healthy normal state of child or man is like feeding a man upon the drugs of the apothecary, because, as *medicines*, they have been instrumental in restoring healthy digestion to the dyspeptic. I cheerfully grant that there is a large though lessening array of eminent medical authorities, which, while vigorously condemning the use of *distilled* liquor, as a beverage, declares its belief that the *fermented* wines and other mild forms of alcoholic liquor are on the whole beneficial when used in moderate quantities; but I am not dealing with these at all, and reiterate the statement that the medical world is a unit in declaring that the common use of distilled liquors operates as a *poison*, and not as a food, and destroys the mind and body of man.

While conceding that many chemists and physicians are advocates of the moderate use of light wines and fermented drinks, it is only fair, however, to say that I think that the weight of medical opinion based upon the latest scientific investigation and observation is against the position that alcohol, even in fermented forms, ever operates otherwise than as a poison. But this is not important to the argument, for that rests upon the undisputed verdict of the medical world, that "*alcohol except when taken in quite restricted doses is poisonous to a person in health.*"

Dr. Willard Parker, a very eminent name among the physicians of America, writes the present year:

Alcohol has no place in the healthy system, but is an "irritant poison," producing a diseased condition of body and mind.

The International Medical Congress, the highest medical body in the world, held its last session at Philadelphia, in September, 1876, and I find the following in the official report of its proceedings on the 16th of that month:

The following is the report from the section on medicine, on the paper of Dr. E. M Hunt, on "Alcohol in its therapeutic relations as a food and a medicine."

First. Alcohol is not shown to have a definite food value by any of the usual methods of chemical analysis or physiological investigation.

Second. Its use as a medicine is chiefly as a cardiac (relating to the heart) stimulant, and often admits of substitution.

Third. As a medicine it is not well fitted for self prescription by the laity, and the medical profession is not accountable for such administration or for the enormous evils resulting therefrom.

Fourth. The purity of alcoholic liquors is in general not as well assured as that of articles used for medicine should be. The various mixtures when used as medicine should have definite and known composition, and should not be interchanged promiscuously.

Please note that this supreme authority says that alcohol is not known to have *food* value and that its principal use as a medicine is to *stimulate the heart*, not to create power by nutrition, but to use up the capital of the body with unnatural rapidity, and even for this purpose something else might generally be substituted.

I have already cited the Cartor lectures by Dr. Richardson, published this year, by far the most profound publication upon this subject which I have seen. Upon page 86 he gives the details of careful observation and experiment, and says:

Adopting the lowest estimate which has been given of the daily work of the heart, namely, as equal to one hundred and twenty-two tons lifted one foot, the heart during the alcoholic period did daily work in excess equal to lifting fifteen and eight-tenths tons one foot, and in the last two days did extra work to the amount of twenty-four tons lifted as far. * * * It will seem at first sight almost incredible that such an excess of work could be put upon the heart, but it is perfectly credible when all the facts are known. The heart of an adult man makes, as we see above, seventy-three and fifty-seven-tenths strokes per minute. This number multiplied by sixty for the hour and again by twenty-four for the day would give nearly 106,000 as the number of strokes per day. * * * And speaking generally we may put the average at 100,000 in the entire day. With each of these strokes the two ventricles of the heart, as they contract, lift up into their respective vessels three ounces of blood each, that is to say six ounces with the combined stroke, or 600,000 in the twenty-four hours. The equivalent of work rendered by this simple calculation would be one hundred and sixteen foot-tons, and if we estimate the increase of work induced by alcohol we shall find that four ounces of spirit (daily) increase it one-eighth part, six ounces one-sixth part, and eight ounces one-fourth part.

Upon the "food" question he says, page 100:

Alcohol contains no nitrogen; it has none of the qualities of these structure-building foods; it is incapable of being transformed into any of them; it is therefore not a food in the sense of its being a constructive agent in the building up of the body. In this respect I believe there is now no difference of opinion among those who have most carefully observed the action of alcohol.

Further on he disproves the common notion that alcohol developes *an increase of animal heat*. In the first stage of its operation it drives the blood to the surface by temporary stimulation of the heart, creating a flush, while the internal heat is being actually diminished, and demonstrates that though in the "first and third stages of alcoholic disturbance there is often muscular excitement which passes for increased muscular power, the muscles being rapidly stimulated into motion by the nervous tumult, yet the muscular power is actually enfeebled."

Discussing the *adulteration* of alcoholic liquors he says, page 124:

A *bona fide* wine, derived from the fermentation of grapes purely, cannot contain more than 17 per cent. of alcohol; yet our staple wines by an artificial process of fortifying and brandying, which means the adding of spirit, are brought up in sherries to 20 and in ports to even 25 per cent.

But the most startling fact of all given in this connection is this:

The admitted addition of some actively poisonous substances to alcohol, in order to produce a new luxury, is the evil most disastrous. The drink sold under the name of *absinthe* is peculiarly formidable. In this liquor five drachms of the essence of absinthe, or wormwood, are added to one hundred parts of alcohol * * * which has been discovered to exert the most powerful and dangerous action upon the nervous functions. Indeed such are the terrible consequences incident to this agent, that I agree with Dr. Decoisne in maintaining that it ought by legal provisions to be forbidden as an article of human consumption in all civilized communities. Until recently absinthe has not been publicly offered for sale in this country on a large scale. But now, unhappily, the poison is openly announced even here and the consumption is on the increase. (Pages 125, 126.)

After demonstrating the effects of alcohol in producing structural disorganization of the body, inflicting fatal disease of every important organ of the body and the overthrow of the mental powers, Professor Richardson proceeds thus; and I call attention to it as bearing upon this proposed amendment, which has special care for generations to come:

The most solemn fact of all bearing upon these mental aberrations produced by alcohol, and upon the physical not less than the mental, is that the mischief inflicted on man by his own act and deed cannot fail to be transferred to those who descend from him and who are thus irresponsibly afflicted. Among the many inscrutable designs of nature none is more manifest than this: that physical vice, like physical feature and physical virtue, descends in line. It is, I say, a solemn reflection for every man and every woman, that whatever we do to ourselves so as to modify our own physical conformation and mental type, for good or for evil, is transmitted to generations that have yet to be. Not one of the transmitted wrongs, physical or mental, is more certainly passed on to those yet unborn than the wrongs which are inflicted by alcohol. We, therefore, who live to reform the present age, in this respect are stretching forth our powers to the next, to purify it, to beautify it, and to lead it toward that millennial happiness and blessedness which in the fullness of time shall visit even the earth, making it, under an increasing light of knowledge, a garden of human delight, a paradise regained.

I trust such an object will not be deemed unworthy of the profound attention of the Congress and people of the United States. He closes thus:

This chemical substance, alcohol, an artificial product, devised by man for his purposes, and in many things that lie outside his organism a useful substance, is neither a food nor a drink suitable for his natural demands. Its application as an agent that shall enter the living organization is properly limited by the learning and skill possessed by the physician—a learning that itself admits of being recast and revised in many important details, and perhaps in principles. If this agent do really for the moment cheer the weary and impart a flush of transient pleasure to the unwearied who crave for mirth, its influence (doubtful even in these modest and moderate degrees) is an infinitesimal advantage by the side of an infinity of evil for which there is no compensation and no human cure.

It is easy to multiply the highest medical authorities and well attested facts in support of the views of these eminent gentlemen. Perhaps it is unnecessary, but I will further trespass upon the indulgence of the House to a limited extent in this direction. I shall do this without much attention to classification, as the bearing of each fact upon the various points of discussion will be sufficiently apparent, and the same fact often bears upon the truth of several propositions. The celebrated Dr. Carpenter, in his work on the use and abuse of alcoholic liquor, says:

The following statement of the result of a whole year's experiment at brickmaking, made by two sets of men—the one working on the abstinent, the other on the moderate system—is given by a gentleman of Uxbridge, England. Out of upward of 23,000,000 of bricks made in 1841, by the largest maker in the neighborhood, the average per man, made by the beer-drinkers in the season, was 760,269, while the average of the teetotalers was 795,400; which is 35,131 in favor of the latter, per man. The highest number made by a beer-drinker was 880,000; by a teetotaler, 890,000. The lowest number made by a beer-drinker was 659,500; the lowest number by a teetotaler was 746,000; leaving 87,000 in favor of the latter. Satisfactory as this account appears, I believe it would have been much more so if the teetotalers could have obtained the whole gang of abstainers, as they were frequently hindered by the drinking of some of the gang; and when the order is thus broken the work cannot go on.

I am informed that the experience of the armies and navies of England and America demonstrate that the soldier or sailor who abstains from the use of alcohol is, as a rule, more vigorous and healthy than the user, braver and more reliable in action, and far more capable of enduring the hardships of war.

Dr. Storer, of Boston, says, alluding to the statements of Dr. Day, superintendent of the Washingtonian Home of Boston:

Reference has been made by the doctor to the dire effects so often seen by medical men in the persons of the children of those addicted to habits of intoxication—epilepsy, idiocy, and insanity, congenital or subsequently developing themselves, with or without any apparent exciting cause. He has not, however, I think, sufficiently held up to the victims of this baleful thirst the terrible curse they thus deliberately entail upon their descendants.

It is hardly necessary to remark that Dr. Storer, the distinguished professor of obstetrics and diseases of women in Berkshire Medical College, is inferior to no other authority upon whatever relates to his own specialty in the practice of the healing art.

The report of the Massachusetts board of State charities for 1866 was prepared by seven gentlemen, three of them physicians, all of them appointed by Governor Andrew, and therefore not likely to be a board of crazy teetotalers. Speaking of "one prolific cause of the vitiation of the human stock," they say:

That prolific cause is the common habit of taking alcohol into the system, usually as the basis of spirits, wine, or beer. * * * The basis being the same in all, the *constitutional effects* are about the same. The use of alcohol materially modifies a man's bodily condition; and, so far as it affects him individually, it is his own affair; but if it affects also the number and condition of his offspring, that affects society. If its general use does materially influence the number and condition of the dependent and criminal classes, it is the duty of all who have thought and care about social improvement to consider the matter carefully, and it is the special duty of those having official relations with those classes to furnish facts and materials for public consideration. It is well known that alcohol acts unequally upon man's nature; that it stimulates the lower propensities and weakens the higher faculties, * * * and represses the functions which manifest themselves in the higher or human sentiments which result in *will*. If the blood, highly alcoholized, goes to the brain, its functions become subverted; the man does not know and does not care what he says or does. If this process is often repeated * * * the man is no longer under control of his voluntary power, but has come under the dominion of automatic functions, which are almost as much beyond his control as the beating of his heart. Any morbid condition of body frequently repeated becomes established by habit * * * and makes him more liable to certain diseases, as gout, scrofula, insanity, and the like. This liability or tendency he transmits to his children just as surely as he transmits likeness in form or feature. * * * Now the use of alcohol certainly does induce a morbid condition of body. It is morally certain that the frequent or the habitual overthrow of the conscience and will, or the *habitual weakening* of them, soon establishes a morbid condition, with morbid appetites and tendencies, and that those appetites and tendencies are surely transmitted to the offspring.

Again, it is admitted that an intemperate mother nurses her babe with alcoholized milk; but it is not enough considered that a *father* gives to his offspring certain tendencies which lead surely to craving for stimulants. These cravings once indulged grow to a passion, the vehemence of which passes the comprehension of common men.

Among the Greeks the prohibition of intoxicating wines (distilled liquors were unknown) was enforced by the severest penalties. "Plato Aristotle, Plutarch, and others have noticed the hereditary transmission of intemperate propensities, and the legislation that imposed abstinence upon women had unquestionably in view the greater vigor of the offspring, 'healthy minds in a healthy body.' That indulgence in the use of strong drink by expectant mothers would be injurious to them and their offspring was known to the learned and wise among the ancients." "The Romans had a prohibitory law which forbade intoxicating wine, while it allowed the pure juice." (See the very learned treatise of Rev. Dr. William Patton, of New York City, upon Bible wines, published in 1874, for a great mass of valuable information upon this subject.)

Willard Parker, M. D., of New York, in an address to the American Association for the Cure of Inebriates, asks:

What is alcohol? The answer is, a poison. It is so regarded by the best writers and teachers on toxicology. I refer to Orfila, Christisson, and the like, who class it with arsenic, corrosive sublimate, and prussic acid. Like these poisons when introduced into the system, it is capable of destroying life without acting mechanically. Introduced into the system it induces a general disease, as well marked as intermittent fever, small-pox, or lead poison.

And in a public address the same distinguished gentleman declares "that one-third of all the deaths in the city of New York are the result, directly or *indirectly*, of the use of alcohol; and that within the last thirty-eight years 100,000 persons in that city have died of its use, either by themselves or their parents."

And in a letter to Rev. Dr. Patton, which the latter cites in his "Bible Wines" above referred to, Dr. Parker says:

Alcohol is the one evil genius, whether in wine or ale or whisky, and is killing the race of men. Stay the ravages of this one poison, alcohol, that king of poisons, the mightiest weapon of the devil, and the millennium will soon dawn.

Attributing the fact largely to intoxicating liquors primarily and indirectly, the board of State charities of Pennsylvania state that "in careful breeding of cattle at least 95 per cent. come to maturity, and of horses 95 per cent. in our northern climate, while of the infinitely more precious race of men at least 33 per cent. perish in the bud of infancy or blossom of early youth."

Great God! I stagger in the effort to grasp these statistics of death. Are these the dreams of scientific madmen? Truth is not only stranger than fiction but infinitely more horrible. And the tide of testimony rolls on.

In 1874 Dr. James Edmunds, a very distinguished English physician, delivered a course of lectures upon the medical use of alcohol and stimulants for women, in New York City, which were published. He says, page 9:

It is admitted by every one that alcohol is the cause of more than half the insanity we have. I am not so familiar with the facts on this subject here as I should naturally be at the other side of the Atlantic. * * * I know this: that Lord Shaftesbury, the chairman of our commission on lunacy in England, has said in a parliamentary report on the subject, that six out of ten lunatics in our asylums are made lunatic by the use of alcohol. It is a fact which cannot be disputed that diseases of the liver, diseases of the lungs, diseases of the tissues of the body, are induced directly by the use of alcohol, and that as a general rule you may say that where you have alcohol used most largely and most frequently, there these diseases and degenerations in the tissues of the body become most marked. I could give you very authoritative facts bearing upon this matter from sources which are not open to the imputation of any kind of moral bias, as the utterances of some of our temperance friends may be open to.

Now recollect that food is that which puts strength into a man and stimulant is that which gets strength out of a man; so that when you want to use stimulant, recollect that you are using that which will exhaust the last particles of strength, with a facility with which your body would not otherwise part with them. If a man takes a pint of brandy what do we see? It intoxicates, it poisons him. Of course you know *intoxicant* is a modification of the Greek word *toxicon*. The man who is intoxicated is poisoned; we simply use a Greek instead of a Saxon word for it. We see a man intoxicated. What are the phenomena we see then? A man lies on his back snoring, helpless, senseless. If you set him up he falls down again like a sack of potatoes. If you try to rouse him, you get nothing out of him but a grunt. Is that the effect of a stimulant, do you think? I should think it is the effect of a paralyzer that you have—mind, and body, and nerve, and muscle all equally and uniformly paralyzed right through. * * * Alcohol in a large dose is a narcotic poison, which paralyzes the body and stupefies the mind. If a man takes a somewhat larger dose, what do you see then? You see that snoring and breathing come to an end—you see that the soft flabby pulsation of the heart ceases; that the spark of life goes out, and the man cannot be resuscitated. In fact there are more men killed, so far as I know English statistics, more men poisoned in that way by alcohol than are poisoned by all other poisons put together. We have a great horror of arsenic and fifty other things; the fact is that all these other things are a mere bagatelle in relation to the most direct, absolute, immediate, and certain poisonings which are caused by alcohol.

Colonel J. G. Dudley, of New York City, has published a valuable pamphlet reviewing this subject and carefully collating the opinions of the leading medical writers of the last fifty or seventy-five years, such as Orfila, Christisson, Dr. Taylor, Pereira, Professor Binz, Dr. Lallemand, Perrin, Dr. Willard Parker, Professor Edmund A. Parkes, Professor Duroy, Dumorel, Magnus, Dunglison, Dr. James Edmunds, Powell, Professor N. S. Davis, Dermarquay, Wetherbee, Burns, Dickinson, and others, all of whom agree in deciding that alcohol is *an acrid poison*.

Take now the following table from Neison's Vital Statistics, which Professor Parkes adopts and indorses in his great work on hygiene, page 270. These deductions were drawn from observations upon the lives of three hundred and fifty-seven persons:

A temperate person's chance of living is—		An intemperate person's chance of living is—	
At 20	44.2 years.	At 20	15.6 years.
30	36.5 years.	30	13.8 years.
40	28 8 years.	40	11.6 years.
50	21.25 years.	50	10.8 years.
60	14.285 years.	60	8.9 years.

Whatever else the American Congress and people may disagree upon I think it will generally be conceded that life-insurance companies know what they are about.

Take now the following tables upon the basis of which they do business, and which are unquestionably as reliable as the keenest observation continued for many years can construct. The first table is prepared by Dr. Edward Jarvis, a distinguished American statist.

Ages of persons.	Deaths in 100,000.		Comparative rate of mortality.	
	Intemperate.	Temperate.	Intemperate.	Others.
15 to 20 years	1,342	730	18	10
20 to 30 years	4,953	974	51	10
30 to 40 years	4,620	1,110	42	10
40 to 50 years	5,992	1,452	41	10
50 to 60 years	6,418	2,254	29	10
60 to 90 years	46,174	33,260	13	10
Comparative rate of deaths in equal numbers of intemperate and temperate persons of all ages, the same year			32	10

The following is from Carpenter on Physiology. It compares four general insurance companies with *one* temperance provident institution. And it should be noted that this is a comparison of teetotalers on the one hand with teetotalers and *moderate* or temperate drinkers combined on the other:

	Policies issued.	Number of deaths.	Equal to—
Company A	944	14	15 per thousand.
Company B	1,901	27	14 per thousand.
Company C	838	11	13 per thousand.
Company D	2,470	65	26 per thousand.
Temperance provident institution	1,596	12	7½ per thousand.

The first table shows an average mortality more than three times as large among the intemperate as among the temperate, and the

other more than two and one-half times larger in the general companies than in the temperance institution.

Dr. Carpenter also indorses a certificate, of which the following is one paragraph, which he says was signed by more than two thousand physicians of all grades and degrees, from the court physicians and leading metropolitan surgeons to the humble country practitioner:

We the undersigned are of opinion—
First. That a very large proportion of human misery, including poverty, disease, and crime, is induced by the use of alcoholic or fermented liquors as beverages.

The evidence of this character is entirely inexhaustible, and I close it with the following "declaration" by the uncontradicted voice of the medical profession of New York City and vicinity:

MEDICAL DECLARATION.

1. In view of the alarming prevalence and ill-effects of intemperance, with which none are so familiar as members of the medical profession, and which have called forth from eminent English physicians the voice of warning to the people of Great Britain, concerning the use of alcoholic beverages, we, the undersigned, members of the medical profession of New York and vicinity, unite in the declaration that we believe alcohol should be classed with other powerful drugs; that, when prescribed medicinally, it should be with conscientious caution and a sense of grave responsibility.

2. We are of opinion that the use of alcoholic liquor as a beverage is productive of a large amount of physical disease; that it entails diseased appetites upon offspring; and that it is the cause of a large percentage of the crime and pauperism of our cities and country.

3. We would welcome any judicious and effective legislation—State and national—which should seek to confine the traffic in alcohol to the legitimate purposes of medical and other sciences, art, and mechanism.

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M. Freligh, author of Practice of Medicine and Materia Medica.
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While there is a large array of eminent medical authorities which incline to the belief that the moderate use of *fermented* liquors is not injurious and is often beneficial to health, yet the concurring sentiment of the medical world is against the use of *distilled* alcoholic beverages. But the weight of the latest and best medical and scientific opinion largely preponderates in favor of the position that alcohol is simply a poison, and should never be introduced to the human organism even in the forms of fermentation except as an antidote for disease, like arsenic, strychnine, prussic acid, or any other powerful but poisonous agency. I do not propose to enter this field of discussion so far as the light domestic wines and drinks of the people are concerned. It is not essential to the grounds of my argument in support of the proposed amendment. It is only just, however, that the position of the medical profession upon the influence of alcohol in any form of administration upon the human system should be fairly stated, and, if in so doing it shall have appeared that the preponderance of opinion is against the use of *fermented* as well as *distilled* liquors, it is no fault of mine. It will strengthen the argument against the stronger and more concentrated poison, if it shall be found or believed that fermented liquors contain enough of the pernicious spirit of wine, which one of Shakespeare's immortal characters stigmatizes as "*devil*," to endanger the physical, mental, and moral organism of those who indulge in their habitual use.

FACTS AND STATISTICS FROM THE CENSUS AND OTHER SOURCES, MOSTLY OFFICIAL.

I now desire to present in the best manner I can a statement of facts bearing upon the effect of the manufacture and use of intoxicating liquors on the wealth, industries, and productive powers of the nation; also upon its ignorance, pauperism, and crime. I have endeavored to authenticate every statement by careful inquiry. The information is drawn from the census returns, from records of the Departments of Government, reports of State authorities, declarations from prominent statisticians and responsible gentlemen in different parts of the country. Much of it is to be found, with a great deal more of similar matter, in a very valuable book published the present year. The author is William Hargreaves, M. D., of Philadelphia. No one who has not fought with figures, like old Paul with the beasts at Ephesus, knows how it taxes the utmost powers of man to classify, condense, and present intelligibly to the mind the mathematical or statistical demonstration of these tremendous social and economic facts. The truths they teach involve the fate of modern civilization.

In 1870 the tax collected by the Internal Revenue Department was upon 72,425,353 gallons of proof spirits and 6,081,520 barrels of fermented liquors. Commissioner Delano estimates the consumption of distilled spirits in 1869 at 80,000,000 gallons. By the census returns June 1, 1860, there were *produced* in the United States 90,412,581 gallons of domestic spirits—and of course this was consumed, with large amounts imported besides—but there are very large items which escape the official enumeration. These have been carefully estimated as follows:

	Gallons.
Domestic liquors evading tax and imported smuggled, at least	5,000,000
Domestic wines	10,000,000
Domestic wines made on farms	3,092,330
Domestic wines made and used in private families	1,000,000
Dilutions of liquors paying tax by dealers	7,500,000
	26,592,330

This amount added to the total produced in 1860 would be 107,004,911; added to amount on which was collected tax in 1870 would be 99,017,683.

It is well known that the great mass of alcoholic liquor is consumed as a beverage, and it will fall below the fact to place the amount paid for it at retail by the American drinker at 75,000,000 gallons yearly. But take the very modest estimate of Dr. Young, Chief of the Bureau of Statistics, who makes the following estimate of the sales of liquors in the fiscal year ending June 1, 1871:

Whisky, (alone)	60,000,000 gallons at $6, at retail	$360,000,000
Imported spirits	2,500,000 gallons at $10, at retail	25,000,000
Imported wine	10,700,000 gallons at $5, at retail	53,500,000
Ale, beer, and porter	6,500,000 gallons at $20 a bbl. at retail	130,000,000
Native wines, brandies, cordials, estimated		31,500,000
Total		600,000,000

I am satisfied that this is much below the real amount, but it is enough.

This is one-seventh the value of all our manufactures for that year, more than one-fourth that of farm productions, betterments, and stock, as shown by the census.

Dr. Hargreaves estimates the retail liquor bill of 1871 at $680,036,042. In 1872, as shown by the internal-revenue returns, there was a total of domestic and foreign liquors shown into the hands of the American people of 337,288,066 gallons, the retail cost of which at the estimated prices of Dr. Young is $735,720,048. The total of liquors paying tax from 1860 to 1872—thirteen years—was 2,762,926,066 gallons, costing the consumer $6,780,161,805. During several of these years the Government was largely swindled out of the tax, so that no mortal knows how far the truth lies beyond these startling aggregates.

Dr. Young estimates the cost of liquors in 1867 at the same as in 1871—$600,000,000—and exclaims: "It would pay for 100,000,000 barrels of flour, averaging two and one-half barrels to every man, woman, and child in the country.

Such facts might well transform the mathematician into an exclamation point. Dr. Hargreaves, who goes into all the *minutiæ* of the demonstration, dealing, however, only with bureau returns, declares that the annual consumption of distilled spirits in the United States is not less than 100,000,000 gallons annually, and this makes a very small allowance for "crooked whisky." Take now Dr. Young's moderate estimate of $600,000,000 annually, and relying upon the official records of the country, and in sixteen years we have destroyed in drink $9,600,000,000—more than four times the amount of the national debt, and once and a half times the whole cost of the war of the rebellion to all sections of the country, while the loss of life, health, spiritual force, and moral power to the people was beyond comparison greater. The lowest estimate I have seen of the annual loss of life *directly* from the use of intoxicating liquor is 60,000, or 960,000 during the period above mentioned; more than three times the whole loss of the North by battle and disease in the war, as shown by the official returns.

The assessed value of all the real estate in the United States is $9,914,780,825; of personal, $4,264,205,907. In twenty-five years we drink ourselves out of the value of our country, personal property and all.

The census shows that in 1870 the State of New York spent for liquors $106,590,000; more than two-fifths of the value of products of agriculture and nearly one-seventh the value of all the manufactures and nearly two-thirds of the wages paid for both agriculture and manufactures, the liquor bill being little less than twice the receipts of her railroads. The liquor bill of Pennsylvania in 1870 was $65,075,000; of Illinois, $42,825,000; Ohio, $58,845,000; Massachusetts, $25,195,000; New Hampshire, $5,800,000; Maine, where the prohibitory law is better enforced than anywhere else, $4,215,000, although Maine has twice the population of New Hampshire.

Dr. Hargreaves says that there was expended for intoxicating drinks in—

1869	$693,999,509
1870	619,425,110
1871	680,036,042
1872	735,726,048
Total	2,729,186,709
Annual average	682,296,677

And he says the average is larger since 1872, exceeding $700,000,000.

Each family by the census averages 5.09 persons, and we spend for liquor at the rate of $81.74 yearly for each. The loss to the nation in perverted labor is very great. In 1872 there were 7,276 licensed wholesale liquor establishments and 161,144 persons licensed to sell at retail. It is said that there are as many more unlicensed retail liquor shops. All these places of traffic must employ at least half a million of men. There were then 3,132 distilleries, which would employ certainly five men each—say, 15,660. The brewers' congress in 1874 said that there were employed in their business 11,698. There would be miscellaneously employed about breweries and distilleries 10,000; in selling, say, 500,000. In all, say, 550,000 able-bodied men, who, so far as distilled liquors are concerned at least, constitute a standing army constantly destroying the American people. They create more havoc than an opposing nation which should maintain a hostile force of half a million armed men constantly making war against us upon our own soil. The temple of this Janus is always open. Why should we thus persevere in self-destruction?

There are 600,000 habitual drunkards in the United States. If they lose half their time it would be a loss of $150,000,000 to the nation in productive power and in wages and wealth to both the nation and themselves every year.

Dr. Hargreaves has constructed the following table:

The yearly loss of time and industry of 545,624 men employed in liquor-making and selling	$272,812,000
Loss of time and industry of 600,000 drunkards	150,000,000
Loss of time of 1,404,323 male tipplers	146,849,592
Total	568,861,592

And he adds that investigation will show this large aggregate is far below the true loss.

By this same process 40,000,000 bushels of nutritious grain is annually destroyed, equal to 600,000,000 four-pound loaves; about 80 loaves for each family in the country.

Dr. Hitchcock, president of Michigan State board of health, estimates the annual loss of productive life by reason of premature deaths produced by alcohol at 1,127,000 years, and that there are constantly sick or disabled from its use 98,000 persons in this country.

Assuming the annual producing power of an able-bodied person to be $500 value, and this annual loss of life would otherwise be producing, the national loss is the immense sum of		$612,510,000 00
Add to this the losses by the misdirected industry of those engaged in the manufacture and sale; loss of one-half the time of the 600,000 drunkards and of the tipplers, as their number is estimated by Dr. Hargreaves		$568,861,592 00
And we have		1,181,371,592 00
The grain, &c., destroyed		36,000,000 00
		1,217,371,592 00
Dr. Hitchcock estimates the number of insane, made so annually, at 9,338, or loss in effective life of 98,259 years, at $500 per year		49,129,500 00
Number of idiots from same cause, an annual loss of 319,908 years		159,954,000 00
		1,426,455,092 00
Deduct receipts of internal-revenue tax, (year 1875)	$61,225,995 53	
Receipts from about 500,000 State licenses, at $100	50,000,000 00	
		111,225,995 53
Annual loss to the nation of production		1,315,229,096 47
Annual value of all labor in the United States, as per census of 1870		1,263,984,003 00
Losses from alcohol in excess of wages of labor yearly		51,245,093 47

This calculation includes nothing for interest upon capital invested, for care of the sick, insane, idiotic—it allows alcohol credit for revenue paid on all which is used for legitimate purposes. In England

the capital invested in liquor business is $585,000,000, or £117,000,000. It was proved by the liquor dealers before the committee of the Massachusetts Legislature in 1867 that the capital invested in the business in Boston was at least $100,000,000, and in the whole country it cannot be less than $1,000,000,000, or ten times the amount invested in Boston. The annual value of *imported* liquors is about $80,000,000. It may be that the above estimate of losses yearly to the nation is too high. Perhaps $500 is more than the average gross earnings of an able-bodied man, and there may be other errors of less consequence. But any gentleman is at liberty to divide and subdivide the dreadful aggregate as often and as long as he pleases, and *then* I would ask him what good reason has he to give why the nation should lose *anything* from these causes.

PAUPERISM.

I cannot detain the House with full statistics from the various States in regard to the pauperism occasioned by alcohol, but not less than 130,000 widows and orphans are left such in our country annually by liquor-drinkers, and from two-thirds to four-fifths of the inmates of our poor-houses are sent there by drink.

CRIME.

The statistics of crime are even more astounding. In the report of the United States Commissioner of Education for 1871, page 541, I find this statement: "The fourth fact is, that from 80 to 90 per cent. of our criminals connect their courses of crime with intemperance. Of the 14,315 inmates of the Massachusetts prisons, 12,396 are reported to have been intemperate, or 84 per cent." Ninety-three per cent. of those confined in Deer Island house of industry are confined for crimes connected with liquor. "In the New Hampshire prison sixty-five out of ninety-one admit themselves to have been intemperate. Reports from every State, county, and municipal prison in Connecticut made in 1871 show that more than 90 per cent. had been in habits of drink by their own admission." The warden of the Rhode Island State prison estimates 90 per cent. of his prisoners as drinkers. These relate to those who have been guilty of the more serious offenses, not mere every-day arrests for drunkenness and disorderly conduct.

The report of the board of State charities of Pennsylvania for 1871 says, page 89:

> The most prolific source of disease, poverty, and crime observing men will acknowledge is intemperance.

Mr. William J. Mullen, the well-known and highly esteemed prison agent, in his report for 1870 says:

> An evidence of the bad effects of this unholy business may be seen in the fact that there have been thirty-four murders within this city (Philadelphia) during the last year alone, *each one of which was traceable to intemperance, and one hundred and twenty-one assaults for murder proceeding from the same cause.* Of over 38,000 arrests in our city within the year, 75 per cent. were caused by intemperance. Of 18,305 persons committed to our prison within the year, more than two-thirds were the consequence of intemperance.

Judge Allison, in a speech delivered in Philadelphia in 1872, says:

> In our criminal courts we can trace four-fifths of the crimes that are committed to the influence of rum. There is not one case in twenty where a man is tried for his life in which rum is not the direct or indirect cause of the murder.

AND PHILADELPHIA

is the city of brotherly love. She is excelled by no large city in the world in all the elements and evidences of enlightened Christian civilization. She has immortalized herself in our centennial year by a queenly majesty of municipal deportment and a magnificence of patriotic hospitality which are a source of love and pride to her countrymen and have won for her the cordial and unstinted admiration of mankind. And it is a delightful relief for my aching head, as I copy and compile these statistics of damnation, to record the illuminating and illustrative fact that on those centennial grounds, from which intoxicating liquors were rigidly excluded, and where the æsthetic and diviner cravings of humanity were fed as from the gardens of God, among all the millions who wandered through that world of the last and highest results of civilization on earth, not one arrest was made for intoxication during the whole term of the exhibition. The infinite significance of that philosophy which not only demands prohibitory laws to restrain evil, but also the provision of food for the mind and stimulants to all the innocent, enlarging, and ennobling tendencies of the soul, could not be more strikingly illustrated and enforced.

Mr. Speaker, the records of New York, with her more than ten thousand liquor shops, one-half of which are unlicensed, and which Mr. Oliver Dyer says would line both sides of a street running from the Battery out eight miles into Westchester County, having, by the report of Superintendent Kennedy, made some years since, an average of one hundred and thirty-four visits each daily, with 50,844 arrests for intoxication and disorderly conduct in the single year 1868, and with 98,861 arrests for crimes of every description, nine-tenths of which were the result of drink; all these I have examined, but I have no heart to dwell upon them. I cannot endure their longer contemplation. The mathematics of this infinite evil are only paralleled by the tremendous calculations of astronomy, and as I quit the appalling theme I feel as though I had been calculating eclipses on the firmament of the pit.

If we can do no more for this agonized land, groaning and travailing in despair, than to institute the commission of inquiry into the statistical evidences which are waiting everywhere for proper authentication, and a bill for which, having passed the Senate, reposes in the embrace of a committee of this House, we shall have accomplished *something* for which the ages to come will rise up to bless our memory; for I sincerely believe that nothing is required to work out our salvation from the great evil which we are considering but authentic knowledge, generally diffused among the people. In the pressure of the momentous affairs by which we are surrounded, I have not been able to summarize and classify as I would otherwise have done this statement of such facts as appear to me to be derived from reliable sources; but I have done the best I could, hoping that abler minds will turn their attention to the subject and that Congress will no longer neglect to institute official inquiries, with a view to such ultimate legal action as may arrest an evil which, if not arrested, will go far to destroy the American people.

BEARING OF THE SUBJECT UPON THE EDUCATION OF THE PEOPLE.

Some paper has sneeringly alluded to this proposed amendment as a measure of temperance reform for posterity. Chiefly so it is; and all the voices of humanity cry out for its adoption. All thinking men admit that the condition of posterity depends upon intelligence and virtue, and these are transmitted and developed by the educational institutions and processes of the country, of which by far the most important is the common school; and over that alone has the Government any control. Contrast for a moment the means of education in virtue and intelligence with those which exist for the promotion of vice and crime and misery in this country, and then let those sneer who will at a measure which aims to save posterity from the fate which, if there is no reform, will overtake us in national life, just as surely as the time finally comes when the individual inebriate, whether in the horrors of delirium or the stupidity of the consumed sot, drops into the tomb of despair.

The census of 1870 shows that there are in the United States 141,629 schools, with 221,042 teachers and 7,209,938 pupils who attend in the aggregate—the average is less—costing $95,402,826. Of these, 125,059 are public schools, with 183,198 teachers, 6,228,060 pupils, costing $64,030,673 yearly.

There are 12,955,443 between the ages of five and eighteen years who should be at school, leaving 4,845,505 who do not attend at all. About 740,000 of these are engaged in labor of some kind; but there must be more than 3,000,000 who do not go to school at all. Dr. Hargreaves says that ninety-nine hundredths of them are children of the intemperate, and he makes the following tabular statement showing the relative efficiency of the "two educational systems" as they are operated in Pennsylvania, whose condition is not discreditable in comparison with the country at large:

EDUCATION IN KNOWLEDGE AND VIRTUE.		EDUCATION IN IMMORALITY AND VICE.	
Schools, colleges, &c., in Pennsylvania	16,090	Drinking-places in Pennsylvania	23,606
Professors and teachers	18,783	Persons employed in liquor shops	45,490
Pupils and students, &c., in regular attendance	542,076	Tipplers and drunkards	802,004
Cost for educational purposes in Pennsylvania	$8,399,723	Direct cost of liquors in Pennsylvania	$80,000,000

More than nine times as much money spent to destroy as there is to save "posterity" by these two systems. And again he says:

> Though within the last twenty years our teachers have increased from 25 to 30 per cent. and pupils attending school more than 50 per cent., yet crime has increased more than 60 per cent.

Rather a hard look for "posterity," and if there is no change "posterity" better not be there.

RIGHT AND NECESSITY OF LEGISLATION.

The right of Government to legislate upon the subject of intemperance has been strongly denied, but the absolute necessity of prohibition or regulation of the traffic in intoxicating drinks has been demonstrated in every civilized country where their use has unfortunately become prevalent, and the statute-books of England and America, for two centuries at least, bear constant witness to the exercise of that power. The question has been raised and settled in the Supreme Court of the United States and by the highest tribunals in almost every State of the Union, if not in all. It is too late to deny the power, the right, and the necessity of such legislation. It is only a question of the jurisdiction by which it shall be enacted and the extent to which it shall be carried.

In this connection I wish to call attention to a fallacy which exists in the minds of many. It is assumed by the advocates in the traffic of intoxicating liquors that there is a distinction between the right of Government to enact legislation *totally* and *partially* prohibitory. Government, it is said, may *license* and *regulate* but may not *prohibit*. But there is no such distinction in reason at all. The power to *partially* prohibit by *license*—which is prohibition so far as it restricts at all—is the same power and stands upon the same ground; that is, the obligation to promote the general welfare—as that to prohibit absolutely. A license to one man to make or sell ardent spirits is an absolute prohibition to all the rest of the community to do so at all. The advocates of the license and regulation of the traffic have no *logical* grounds upon which to object to *absolute* prohibition, if necessity requires. It is only a question of *degree*. The universal sense of mankind has passed that point where it is necessary to demonstrate the *right* to prohibit absolutely and totally. There is in fact no difference between

license and prohibition as a principle. Prohibition is never held to extend beyond those uses which are demonstrably injurious to society. For all necessary and beneficial purposes prohibitory laws permit or license the traffic. I think this view of the subject important and a complete reply to those who claim that the evil should be licensed and regulated, at the same time that they hold the total prohibition to be a violation of inalienable right and the enactment of a sumptuary law. The one is as much a sumptuary law and a violation of inalienable right as the other, and no more so. If this is true, and I am not able to see wherein it is false, there is an end of the argument between the advocates of license and prohibition as to the *right* of such legislation, for they stand upon common ground, and there is no logical position for those who controvert the justice of prohibitory laws, so called, but that of those who advocate the unrestricted right to manufacture and sell intoxicating liquors to everybody for all purposes; and that ground has not been held by any court for generations to my knowledge.

Alcohol has its uses. It is a necessity in the arts. It is invaluable for many medicinal purposes, and as such is entitled to protection as property. But on the other hand it is armed with fatal capacity to destroy. It is a Pandora's-box of evils. In its peculiarly fatal form, that of distillation, which is a concentrated death, it was unknown for fifty-five hundred years of the world's history, and mankind were the better for their ignorance. The fruit of this tree of knowledge has been death. During the last three centuries what is known as ardent spirits with us, and the immense and dreadful curses which grow out of their use, have gradually arisen. They have the power of perverting the natural instincts and tastes of both body and mind, and to recreate man into the slave of perverted appetites, having insatiable, consuming, uncontrollable, devilish power. The image of God becomes dangerous to society as well as to himself, whether as a maniac or as a criminal, and it is this *consequence* of the use of intoxicating liquors which the laws have constantly, but imperfectly, undertaken to control for many years; nothing more.

This amendment proposes to extend over the national domain the protection of a constitutional inhibition of the destructive tendencies of liquors when made and used for purposes which have been proved to be detrimental to society, and which many of the States of the Union have endeavored vainly to restrict and destroy.

Nothing but a general law can be efficient. That has been demonstrated by experience. While one State prohibits, another manufactures and encourages. The appetite already exists. It increases and even becomes hereditary. More than one hundred and sixty thousand saloons and tippling-places educate the children of America in habits of intoxication, and the appetite *will crush* the imaginary lines which State legislation erects against the introduction of this evil merchandise, even as the billows of the lake which burneth with fire and brimstone might be supposed to bury and consume the paper on which that legislation is written. The manufacture and the appetite act and react upon each other. The demand creates the supply, and constantly cries out "Give! Give!" The supply or manufacture is thus stimulated and perpetuated. It will always continue unless stopped by the union of persuasion and compulsion, because of its lucrative nature, and because the appetite for strong drink when once established lives with an infernal immortality through successive generations of men. Thus it is that the necessity of legal enactment is apparent. True that behind legal enactments, as in all other cases where public evils and crimes are prohibited by law, must be public opinion, which is the basis of all law in a free country where the people rule, and public opinion is the creature of experience, argument, discussion, and personal appeal—in short, of "moral suasion," as these agencies are called in their application to the subject of intemperate vice in the use of spirituous liquors. "Moral suasion" must precede the law, and accompany and assist in its enforcement. They are allies. The one grows out of the other just as the *law* against theft grows out of the universal sentiment of mankind that theft is wrong and a public evil which must be prevented by the forces of society.

Laws to protect society against intoxication inevitably grow out of moral suasion, if there is enough of it to arouse the general conscience and the intelligent apprehension of the people to the enormous losses and wrongs inflicted by alcohol upon society at large. Thus it is that the call for more of moral suasion and less of law is a contradiction of terms. These forces are in harmony like a father and son in a partnership; the law steps in and enlarges and perpetuates the business which moral suasion has established after years of indefatigable industry upon the platform, through the press, and by private solicitation and appeal. And for any person to cry out against a law against the use of intoxicating liquors in society which can never have been enacted at all but in consequence of moral suasion, and say that it injures the cause because you cannot *compel* men to do right against their will, is to say that all crime and every public evil shall go free of the law; not only that, but that society shall abandon all conservative and preventive means for the protection of those who come after us; that not only shall the law abandon the present but the rising generation, and in fact consistency will require that in the end moral suasion itself must be abandoned, since its inevitable result is a formal embodiment of its teachings in general law, as soon as it has produced a strong public sentiment upon which law can rest—and which will enforce the law.

I have already asked attention to the facts which as I think demonstrate that the unrestricted use and effect of distilled spirits constitute public evils of such a nature as to not only justify but compel the interposition of the law; just now I wish to confine attention to the necessity of

NATIONAL LEGISLATION

if we would reach the evil effectively.

It is evident in the first place that the intense thirst or appetite of the country will lead to the manufacture and transportation of alcohol for the purpose of its gratification. If the production is suppressed everywhere else in the whole country, still in a single one of the smallest States where the manufacture might be allowed, (and the temptation to permit the manufacture in small and isolated localities would be greatly increased in the proportion that the concentration of the business made its existence profitable to the State for purposes of taxation and otherwise,) the materials being transported, as they would be from other States, the entire supply of all kinds of distilled spirits for the whole country could easily be furnished. The manufacture might be localized, but it would still exist, and all the efforts of State legislation elsewhere would thus be substantially thwarted.

Again, supposing that every State and Territory in the country should suppress the manufacture, and importation from abroad should continue, the evil would remain the same; and we should only have transferred the manufacture, with the immense capital engaged in it, to a foreign country to which we should first export our corn and rye and wheat to be returned in the form of imported liquors to the dry throats of American consumers. Thus we should retain the evil after depriving ourselves of the revennes derived from it. Now, since State legislation cannot interfere with the manufacture outside its own limits, nor perhaps within its own limits for exportation to other States, and as commerce, alike domestic and foreign, is controlled by the General Government, it is apparent that any legal enactment which goes to the root of the matter must be national in its scope and character. So far as the exportation to other countries is concerned, while I do not say that it could not be still carried on without great evil to our own people, aside from the waste of material and the perversion of capital and labor from useful purposes, yet to continue to poison mankind at large with what we had prohibited to ourselves would be like peddling off to our neighbors the contaminated and fatal garments which we might have had left after the small-pox or yellow fever had run through our own family.

As a means of suppression, the power to arrest the article *in transitu* is hardly less important than that to prevent the manufacture and sale; but this power can never be effectively exercised so long as the United States protects the transportation of ardent spirits to the same extent as other forms of property from one part of the country to another. Experience has demonstrated the impossibility of prevention when there is a chance to procure and while all the innumerable avenues of transportation are open.

Again, the power to control the manufacture and sale and use of distilled alcoholic liquors is to be found under the head of the *police* power of government, as it is called, which is vested primarily in the several States; and in order that this power be exercised by the nation at large, except in the District of Columbia and the Territories, the Constitution must first be amended so as to give the national Government the right to co-operate with the States in the enforcement of that power for the restriction of this traffic. There is no valid objection to the enlargement or change of national jurisdiction in this respect, as will appear from an inspection of the Constitution as it now stands. The power already exists over the internal police of the States *so far* as to protect alcohol as property for *all* purposes for which it can be manufactured and transported. The Constitution *now interferes* with the internal police of every State which may desire to banish liquor from its borders for the public good, by protecting every other State which sees fit to encourage the traffic in the production and transportation of this substance as a commodity of legitimate commerce, and compels each State to allow its importation in bulk from foreign countries and other States, and when once within the territorial limits of a State you can no more prevent its distribution through the dram-shop than you can arrest the progress of the storm by a geographical line. So it is that the Constitution already does interfere in the most potent and specific manner with the internal police of the States upon this all important subject.

Thus it appears, *first*, that the evil can only be effectually reached by national legislation, and, *second*, that such legislation must be of a *constitutional* character. It further appears that this is the assertion of no new power over the internal police of the States. It is only a modification for the general welfare of a power already possessed by the national Government, which is now being exercised to the destruction of the efforts of the States to extirpate a prolific source of pauperism, crime, and death. The Constitution of the United States, as it now is and has been from the beginning, is a law for the *unrestricted* manufacture, sale, importation, exportation, and internal transportation of intoxicating liquors. It is the great legal fortress of intemperance in this country to-day. It is not a blank upon this subject. It is not even a mere *license* law. But by its recognition of alcohol as property, which may be made and used and carried and protected for *all purposes* in the national domain; by its protection of alcohol as an imported article in the ports and in the Territories of the nation, and

by its practical nullification of State laws, enabling the citizens of one State to erect a public bar protected by the supreme law of the land along every inch of the boundaries of a sister State which may be struggling to suppress the evil, by smuggling strong liquors with impunity across the boundaries of States, and even carrying them everywhere under the Stars and Stripes, protected if need be by the Army of the Union, in these ways the Constitution of the United States is now the great almighty obstacle in the way of the temperance reform in this country.

THAT CONSTITUTION OUGHT IN THIS RESPECT TO BE CHANGED.

Can it be changed? That is the question, and there is but one answer. *It must be done.* No such word as *fail* should be allowed in the vocabulary of patriotism. But *how?* It can only be done by public opinion. Intelligence, conscience, and common sense are the foundations of sound public opinion; and they are the agencies which must be relied upon to effect the proposed change in the Constitution of the nation. It must be based upon the intelligent demand of three-fourths of the States in this Union. How can that public sentiment be created? First, there must be an intelligent apprehension of the extent of the evil to be remedied, and that the nation *as such* is concerned in it. Second, there must be a practical measure proposed, wise and just and efficient, upon which the efforts of the people can be concentrated. That measure must be radical in its nature, but it must not ignore existing rights nor violate the public faith, nor assail the personal character of those who are engaged in what the nation recognizes, and has recognized from the beginning, as a legitimate business and source of revenue to the coffers of the country. If the nation has traded in its own destruction it must itself wear the hood of shame. That measure cannot destroy property rights vested in the public faith without compensation or without giving ample time for the diversion of capital to other and less pernicious industries.

THE SLAVE TRADE

was abolished by a constitutional provision, which, in form, gave it protection for nearly twenty years. If it had been proposed to make that provision operative at once the Constitution itself never would have been adopted by the American people. That measure must interfere as little as possible with the internal affairs of the States, leaving to them the enforcement of special laws within their own borders subject to the general constitutional restriction. And, finally, in order to have practical value, it must be one which, appealing to the intelligence and patriotism of all classes in the whole country, will have some rational chance of adoption by the widely diversified interests, prejudices, and sentiments of this vast nation, and of incorporation into the supreme law of the land. Such a measure I have endeavored to devise, and, although it may be full of imperfections, I have felt some hope that it would turn the attention of greater powers to the subject, and that the eminent gentlemen who have charge of it would mature some plan for the suppression of this national crime and shame, through a constitutional inhibition. I desire to call specific attention to those features of this proposed amendment to the Constitution which have commended themselves to my own judgment, and which I have thought would strike the public mind with some force.

LEADING FEATURES OF THE PROPOSED AMENDMENT.

First, it *is* a proposed *constitutional amendment*, and not a measure of proposed legislation by Congress under the Constitution as it now is. I think I have already said enough to show that whatever the nation does to facilitate the suppression of the evils perpetrated by alcohol must be accomplished by a change in the Constitution itself.

TIME.

Second, the *time* when the first clause shall take effect is so far in the future that vested rights will not suffer at all; certainly not essentially. Notice of a quarter of a century is sufficient to every manufacturer to turn his attention to other and less harmful pursuits. It is longer than our fathers gave to the merchant marine of the country to remove its capital from the slave trade, even if ratified at once, and ten years are given whenever ratification may take place. This will enable every man to wear out his still or convert his machinery to some beneficial purpose. It will cover the average period of business life for this entire generation, and I doubt whether there is a distiller in the world who desires that his son should follow the pursuit in which he himself feels compelled to remain, and the immediate destruction of which would reduce his family to beggary. Capital invested in the wholesale and import trade could be very easily diverted in other directions at much shorter notice, while the retailer only requires time to sell out his stock on hand.

I am persuaded that great injustice is often done in public discussions of this subject by the wholesale denunciations and uncharitable, not to say unchristian and even brutal, epithets which are hurled at the large number of American citizens who are engaged in one branch or another of the liquor business. They are men like ourselves, oftentimes better than those who assail them, and nothing is gained by the effort to reform individuals by lectures which would disgrace a fishwoman, or to carry great public measures by scurrilous attacks upon men who follow an avocation which, however hostile to the interests of mankind, is yet intrenched in the Constitution of our country—a Constitution sanctioned by the names of Washington, Franklin, and Madison, and by virtue of the broad provisions of which we derive the power to attack our fellow-men with a license of the tongue almost as pernicious to the public welfare as the license of the traffic in rum. I am satisfied that very large numbers of men whose interests are bound up in the liquor traffic would themselves gladly cooperate, if they were not repelled as criminals, with the most ultra advocates of the temperance cause in some broad measure which, while it will enable them to avoid pecuniary ruin, will, at the same time, protect the coming generations from the storm of fire and brimstone which is pelting ours like that which fell upon Sodom and Gomorrah and left them at the bottom of the Dead Sea.

THE CONSUMER.

Again, the *consumer*, he who complains that you assault his manhood, his personal liberty, that you lock up his mouth with a sumptuary law, that you trample upon his God-given freedom, when you deprive him of his rum, whisky, brandy, and gin, when you interfere with his right to get drunk, to be drunk, and to help others to be drunk like himself, even this man cannot complain, for before the year 1900 he will be in his grave. And I have never yet seen the *sot* even who wanted to transmit his right to be destroyed by strong drink to his son. There is hardly a victim of intemperance on this continent to-day who will not vote to save his son from the dreadful appetite which chains him to his fate. The parental sentiment of the country will cry out for this amendment and the instincts of human nature will crowd to the ballot-boxes of the land to save the children of the ages to come. I firmly believe that if Congress will only give the American people the opportunity to act on this proposed amendment, it would win upon a popular vote after two years' discussion.

But there is no form in which the appeal can be made but by the submission of an amendment from the National Legislature to the States at large, and why should not the opportunity be given and the result left with the people themselves?

The importation of liquors is now the subject of treaty stipulation with France and other countries, but we have the unquestionable right to abrogate these treaties after reasonable notice. Every nation has this right, and I allude to it only because I have heard the existence of these treaties suggested as an obstacle to the adoption of the amendment.

Again, this resolution proposes to prevent the

MANUFACTURE.

I think it is apparent that there can be no permanent temperance reform in this country so long as the manufacture is free.

I am not aware of the existence of any law in any State which interferes with the unrestricted manufacture of distilled spirits for every purpose. Whatever is made will be sold; and if it is right to regulate or prohibit the sale for any use, it must be right to regulate or prohibit the manufacture for the same use, and if it is possible to regulate or prevent the sale after the article has been distributed into a million localities all over the country, it is comparatively easy to control the manufacture, which necessarily must be carried on where large masses of capital are concentrated. Granted that individuals will manufacture their own poison, yet they must do it in secret and under such difficulties and public reprobation that comparatively small injury could result. And if it is possible to regulate the sale, and successfully or even with approximate success to restrict the *sale* to legitimate and necessary uses in detached States, as has been so largely done even under all the embarrassments of existing laws and a public sentiment none too sensitive and never hereafter to be less so than now, how much easier will it be to regulate and control the *manufacture* by licenses from the States or from the General Government, as should be found best in practice. Especially would this be so when by the control of transportation every particle made could be traced to the proper and authorized dealers or custodians throughout the country. It would be impossible to conceal the manufacture if carried on to any injurious extent. Nothing can reach the manufacturer but a constitutional amendment, for two reasons: first, as before observed, the Constitution now recognizes ardent spirits for all uses to be property, and, second, no matter how strictly any State law might provide for its suppression, capital could locate in some other jurisdiction, in some other State or Territory, or in some foreign state, and create the supply which the drinking appetite of the consumer demands.

Again it will be observed that the proposed prohibition by the nation

EXTENDS ONLY TO DISTILLED

alcoholic liquors. The advocates of temperance are themselves yet somewhat divided upon the question whether the use of fermented and brewed liquors as a beverage is or is not beneficial to the country. I have before alluded to the fact that there is high medical authority for the position that domestic wines, cider, ale, and beer are not hurtful in themselves, when not used in positive excess, and rendered so in the same way that the system is injured by gormandizing and gluttony. There is also a strong impression, however groundless it may be, that a mild stimulant is essential to the civilization of the nineteenth century, and that its use in the milder forms named prevents more general indulgence in *distilled* liquors, with their terribly destructive powers. Such a *belief* is a fact, although the ground for it may be false.

But all men who believe in restrictive legislation of any kind concur in the assertion that the use of distilled alcoholic drinks is the source of the *great mass* of the evil which intemperance inflicts upon

the country, and all classes of men who advocate legislation of any kind will, it is believed, support this proposition; some because they believe it goes just far enough, others because they believe it is better than nothing and will lead ultimately to the desired end. The latter class may well ask themselves the question: "If we prevent the country from taking the first step, how can we expect it ever to take two?"

No doubt the extinction of distilled liquors as a beverage will increase, at least for the time being, the consumption of brewed and fermented drinks; but, on the other hand, it should be remembered that the general improvement of public sentiment which must attend the long and earnest agitation of the subject before even *this* proposition will become a part of the law of the land will strengthen the hands of those who oppose the intemperate use of the milder intoxicating beverages.

The third section relates to the first, and is designed to keep this proposition

FOREVER BEFORE THE COUNTRY,

so long as there is a foe to alcohol in it, and to save every advantage ever gained until ratification is an accomplished fact. It cannot be expected that this great work will be accomplished in one year, or five; but if, in 1890, the amendment is not ratified, then it is to go into effect ten years after its ratification, whenever that devoutly to be wished consummation is realized. Every position gained will be held. Whatever question might arise from lapse of time as to the continued pendency of the proposition before the American people, or as to the power which has been claimed of a State to withdraw its assent to an amendment at any time before ratification by the constitutional three-fourths of the States, is entirely obviated by the distinct provision of the pending proposition itself.

If this Congress, or if any subsequent Congress, will submit this proposed amendment to the people of the country for action, there will never be necessity for another plan of battle. Whenever this one is carried out the victory will be complete. There can be no such thing as repulse, as the loss of strategic points or of defeat just as victory begins to dawn.

The language employed in stating the

EXCEPTED PURPOSES AND USES

for which the manufacture and traffic would still legally exist is, I think, as broad and comprehensive as any which can be devised and at the same time secure the object of the amendment. The term *arts* includes cooking and all the common, useful, industrial, and preservative purposes which are known and practiced by the people, as well as the fine arts and the more intricate and recondite processes of the laboratory. The term *medicinal* must cover every occasion for the use of alcohol as a remedy for physical infirmity, whether of man or beast, and I think the statement of specific excepted uses and purposes for which production and traffic may be continued better than the mere prohibition thereof for use as a "*beverage*." The medicinal use is necessarily sometimes as a beverage, although the proper use as a beverage is always *medicinal*. Possibly it would follow that the prohibition of the use as a beverage might interfere with its medicinal application in some cases. In all the statutes which I have seen the choice of terms is between the word "beverage," on the one hand, leaving the article to unrestricted use for all other purposes, and a general prohibition for all purposes, with exception only of those recognized cases of necessity which being definitely known could be provided for, and thus the abuses which might arise in the other method of statement be avoided.

THE SECOND SECTION EXPRESSLY GUARDS,

and in some respects increases, the jurisdiction of the States as it now exists over the subject-matter, and negatives any license of the traffic by implication until the ratification of the proposed amendment. True, there could be no real license implied by the proposal of this amendment to the States, but it might be construed as a denial by Congress of the right of the States to regulate or suppress the traffic to the extent which they are now conceded to possess that power. It further contains a concession by Congress of power to the States and Territories to suppress the manufacture, transportation, and sale of all liquors, and to exclude them from State and territorial limits, which they have never yet exercised to my knowledge. Whether this would have the force of law as against existing constitutional rights may not be a serious question, but it would probably prevent any interference by legislation on the part of Congress with any action on the part of the States or Territories, unless it should clearly be required by the Constitution as it now exists. Whatever powers the National Government now possesses, such as the right to abrogate or regulate the traffic in the District of Columbia and in the Territories, and to make its exclusion forever from the Territories a part of their fundamental law, and to impose such a condition as inseparable to their admission as States, are expressly reserved. At the same time all the rights which any one engaged in the traffic now has under State laws are carefully preserved to him so long as his State shall not see fit to interfere with him; at least until the first section takes effect, and that does not interfere with fermented liquors at all.

The amendment carefully preserves the police power of the State over the whole subject by providing that Congress shall enforce it only in case of *needful* legislation. It is designed to leave the whole matter, concurrently with the General Government, still in the power of the States respectively, contemplating no interference with local machinery and methods *unless* it should become imperatively necessary; and it is not probable that much active interference by the National Government would ever be required. As, in the vindication of the great rights of the American citizen, legislation, the courts, their processes, and the ministerial officers of the States are generally sufficient *to protect*, so in this matter the fact that the broad ægis of the Constitution protected the American people from the curse of this traffic would secure the ample enforcement of its beneficent provisions by local authorities throughout the land.

Nor can there be any valid objection to this legislation based upon the doctrine of

STATE RIGHTS.

for the Constitution now asserts and exercises the power to substantially control or thwart the police power of the States by rendering nugatory their efforts to regulate and suppress the evil. The police powers of the States are thus really nullified or abridged in a most important, nay a matter of vital, concern. The deadliest foe of social happiness and public order is placed under the protection of the national Constitution, and the State must subordinate its process to the rights of rum, protected by the national power. This amendment proposes to repeal those restrictions upon the rights of States to govern themselves, and substitute provisions in harmony with the tendencies of enlightened State legislation and the interests of society, and thus it proposes to *re-inforce* the police power of the States acting for the public good. This certainly at the worst is no greater restriction of the powers of the States than now exists in the Constitution by virtue of the protection given to the liquor interests against which the States, so many of them, wage war. And it is difficult to see why an advocate of State's rights should be satisfied with the Constitution as it is, and then complain when it is proposed to change the Constitution so as to give the States still greater power to restrict and control an evil over which but *for* this Constitution the States would have absolute power.

It seems to me that this is a sufficient reply to those who, claiming that they desire to suppress the evil, object to an increase of State power for that purpose. If the real difficulty is that the objector would relieve the liquor traffic of *all* legal disabilities, whether State or national, then this view of States' rights will not be satisfactory. He will then be satisfied with no constitutional amendment which does not destroy all "police power," State or national, to interfere with the evils of alcoholic intemperance. "States' rights" is a term too much abused in these latter days, and honest men should examine well the motives and pretenses of those who appeal to prejudices engendered by controversies which, with their causes, are vanished away. We certainly are a nation to such extent that a vast evil which contaminates the atmosphere of the continent can be assailed with national power, especially when it can be reached successfully in no other way, and the method proposed leaves to the States the execution of the great work if they will perform it in their own self-chosen way.

I deem it important to offer some observations upon the policy and efficiency of the

PRINCIPLE OF PROHIBITION

as applied to the suppression of the alcoholic evil. It is not seldom claimed that the policy of prohibition by law does not diminish the consumption of intoxicating drinks; that human nature resents interference with personal freedom; that legal restriction becomes a nullity, and in the end drunkenness and its attendant evils are increased; that the public conscience becomes hardened, and the sense of obligation to obey the laws of the land is blunted, so that the "last state of that man (and nation) is worse than the first." It will be observed, however, as a rule, that this argument is seldom advanced by those whose interests or principles incline them even so far as to the use of "moral suasion," as it is termed, to extirpate the evils of intemperance. As a rule, restrictive laws are opposed by the class of people who never resort to moral suasion themselves, and who stand in need of both legal and moral suasion to counteract the tendency of either their own interests or appetites or both. How sincerely these people believe in their position that restrictive laws which they oppose *increase* the evil upon which they thrive, every one is to judge for himself. But there are a few who honestly entertain that opinion. True that no law is operative except as it is made so by public opinion, but the enactment of an evidently wise and necessary law should often precede in order that it may assist in forming public opinion. Every step forward necessarily precedes and draws along the car of progress. Legislators are supposed to be selected because they are wiser than the mass of those for whom they make laws; but of what use are they if, having more wisdom, they are never to exercise it until moral suasion has raised the virtue of the people so high that the evil has disappeared and consequently the laws are unnecessary?

Laws presuppose something wrong to be prohibited, and it does not follow that they are to be repealed (or even not enacted) simply because the sentiment of a particular or even of the general community, for the time being, may not properly execute them. Agitation and the effort to enforce a good law, by demonstrating its wisdom and the blessings which flow from its enforcement, will create a public opinion which ultimately will make the law generally operative. Probably there is no criminal law whatever which is en-

forced in one-half the instances of its infraction. Should the law against theft, arson, burglary, forgery, and other crimes *therefore* be repealed? There was a condition of society, as man has progressed from the savage to the enlightened state, when there was no public conscience which took cognizance of any of these crimes. Wise legislators prescribed laws in advance of public opinion, and by their enforcement educated their peoples to a higher life and more complete acquiescence in the law. But it is said that the enforcement of laws with us depends upon the juries of the country; so it does; they are the judges of the fact. Therefore they should be *impartial*. And does any one believe that when a jury is selected with as complete freedom from bias as if selected for the trial of the charge of murder there would be any more difficulty in punishing that crime against society which occasions the perpetration of more than three-fourths of the murders? You inquire of every juryman upon his oath whether he is in favor of capital punishment before he is selected to pass upon a question which involves the life of his fellow-man. That man is disqualified to be a juror who does not believe in the law. In the same way ascertain his opinion as to the enforcement of restraining laws against intemperance, and thus secure an impartial jury by putting each member of the panel upon his conscience, and there is no trouble in enforcing the law.

But I do not design to follow out this train of thought. I wish to recall attention to the fact that there is no difference in *principle*, but only in the degree of its application, between laws which restrain and those which totally prohibit the use of intoxicating liquors, so that the question lies open *only* between those who would have *some* law and those who would have *no law whatever* upon the subject. Now, there is no civilized people, and I venture the assertion that there never was one, where seriously intoxicating liquors have existed which have not found it absolutely impossible to preserve the structure of society without legal restriction. Certainly there has been none in modern times, and there is none to-day so far as I know.

I wish to cite one or two instances in the recent history of the Anglo-Saxon race.

IN THE SENATE DEBATE

of last session, page 584 of the RECORD, Senator Morrill, now the distinguished Secretary of the Treasury, said:

We had almost this identical question as early as 1795, when the country was in the dilemma of a large national debt. When the Secretary of the Treasury, Mr. Hamilton, was casting about for the means of sustaining the public credit, one of the methods resorted to was the identical thing we are doing now; that is, to raise a revenue upon the importation and distillation of alcoholic drinks, accompanied also by a system of licenses for the retail sale of alcoholic drinks so manufactured in this country or imported from abroad. Therefore it becomes of the utmost importance to inquire what was the effect of that policy upon the morals of the people. How did it come about that about that period we came to be denominated a nation of drunkards? How was it that it was generally asserted, and is a matter of history to-day, that the American Colonies at the close of the war, and for the two decades afterward, drank more liquor *per capita* than any other people upon the face of the globe? It has usually been accounted for from the pernicious effects of the war. * * * but it was not the prime cause. Whoever will take the pains to look into our history will find that more than all things together it sprang from the policy of raising a revenue out of the distillation of alcoholic drinks, and the Government taking into its own hands the retail trade of the country in alcoholic and intoxicating drinks.

In 1795 the number of wine licenses was 3,253, of spirit licenses 7,461. The amount of duties $54,731. In 1800 the Secretary's report says: "Of the proceeds of those duties more than $500,000 arise from tax on distillation, $372,000 of which are paid on 22,000 country stills, scattered over the immense territory of the United States. Sixty-five thousand dollars are the product of 13,000 retailers' licenses, all grown up in a single decade."

Senator Morrill then cites the experience of England, which was the same as ours, and after depicting the terrible results in powerful language, he says:

That is the history of it, and it is as natural as for water to run down hill. It must be so. Whenever the Government lends its moral countenance to, and encourages the importation and the production, of course you cannot, Senators will see that it is impossible to, control the sale. It becomes popular, it is taken out of the ban at once, and it increases everywhere. That, I think, is the historical account in this country and elsewhere. It is the natural, it is the irresistible effect I do not know the amount of crooked whisky, but I should suppose the distillation was not less than 100,000,000 gallons at least—

Yearly in this country—

for a people of 40,000,000, besides all that is imported from abroad. What becomes of it? * * * The statistics show beyond all controversy, if anything has ever been made clear by statistics, that three-fourths of the pauperism is attributable directly and indirectly to intoxicating drinks; and three-fourths of the crime to the same cause. Just contemplate that statement, and then see whether the government of a country that raises its revenues by the encouragement of the distillation of such an agency as that has no connection with it. Why, sir, more than all other agencies combined is the terrible effect of alcoholic drinks upon the health and morals and prosperity of this people. *It is the gigantic crime of crimes in this age, and particularly in this country.*

I would earnestly call attention to the able debate in the Senate from which this is taken, and in which several of the most distinguished men of the nation participated. The result was the passing of the resolution for a committee of inquiry elsewhere referred to.

THE EXPERIENCE OF ENGLAND

in the adoption of the beer law and in other instances is exactly similar to that of the United States. The removal of restrictions and countenance of the business by the Government expands the evil just as naturally and inevitably as the removal of the dam lets out the water behind it.

Prohibition has been more honestly and thoroughly tried in the State of Maine than anywhere else in America or Europe, except perhaps in Mohammedan countries, where both religion and law enforce total abstinence.

Hon. WILLIAM P. FRYE, when attorney-general of that State, writes to Hon. Neal Dow as follows:

I can and do, from my own personal observation, unhesitatingly affirm that the consumption of intoxicating liquors in Maine is not to-day one-fourth as great as it was twenty years ago; that in the country portions of the State the sale and use have almost entirely ceased; *that the law itself, under a vigorous enforcement of its provisions, has created a temperance sentiment which is marvelous, and to which opposition is powerless. In my opinion our remarkable temperance reform of to-day is the legitimate child of the law.*

To this high and emphatic testimony to the fact that prohibition *does* prohibit, I wish to add this evidence from the inexorable figures of the

CENSUS OF 1870,

which contrasts the systems of prohibition and stringent license; and if such are the comparative results between *these*, what would be the consequence of the removal of *all* restrictions save only as moral suasion might oppose the whirlwinds and tornadoes of universal ruin with the gentle putterings of the mellow-voiced philanthropist?

	Maine.	New Jersey.
Barkeepers	72	338
Restaurants	280	1,380
Liquors and wines	36	665
Brewers and malsters	25	573
Distillers and rectifiers	8	43

In Maine the keepers of restaurants do not sell liquors, while in New Jersey they almost universally do. "Liquors and wines" in Maine refers to State liquor agents. The population of Maine was 626,915; that of New Jersey was 906,096.

In November, 1867, Massachusetts repealed her prohibitory liquor law. In his message to the Legislature, January, 1869, the governor said:

The increase of drunkenness and crime during the last six months, as compared with the same period of 1867, is very marked and decisive as to the operation of the law. The State prisons, jails, and houses of correction are being rapidly filled, and will soon require enlarged accommodations if the commitments continue to increase as they have since the present law (a license law) went into force.

Although this amendment does not propose to interfere with the fermented liquors any further than to remit their management more fully to the several States, it not being believed by me to be sufficiently clear that the prohibition of the manufacture and use of such liquors should be attempted by national enactment, so long as public sentiment is so considerable in favor of their beneficent effect when properly used, and in consideration of the comparatively small injury and danger which arise from their abuse, yet upon the question of the *actual effect* of *prohibitory laws* upon the traffic the statistics of the trade in fermented drinks are as logically illustrative as in case of distilled liquors. Take then the testimony of the brewers themselves. In the fifteenth annual report of the United States Brewers' Association, held at Cincinnati, June 1875, they passed these resolutions:

Resolved, That where restrictive prohibitory enactments exist, every possible measure be taken to oppose, resist, and repeal them.

And it is further resolved, That politicians favoring prohibitory enactments, who offer themselves as candidates for office, be everywhere strenuously opposed, and the more so if it be found that their personal habits do not conform to their public profession.

In an address before the convention it was stated:

Very severe is the injury which the brewers have received in the so-called temperance States.

Then follow data from various States proving the assertion.

This testimony shows the hollow insincerity of the absurd pretense that prohibitory laws do not tend to eradicate the evils of intemperance. Legal prohibition and moral suasion operate like the law of Moses and the Gospel of Christ. They act and react upon and fulfill each other. And to assert that law does not *destroy* this evil and therefore there should be no law, is to assert that there should be law against no evil whatever, since not one based upon the abuse of any appetite or passion of man has ever yet been absolutely extirpated. Doubtless the appetite for stimulants will always seek gratification by excess; but society can protect itself against the evils of that excess only by the most strenuous measures to remove alcohol, that terrific agency which the last two hundred years has brought into such common use that its blasting power over the fairest regions and highest civilizations of earth has become the bane of both, and threatens with destruction the future of the race. So far as the United States are concerned, (the people of each State dealing with it as they please,) even then there will remain alcohol in its fermented forms which were the most powerful used for five thousand five hundred years, and in *this* form alcohol was *the* curse and calamity of mankind. Evasions of this law as of all other laws will take place, and there need be no sentimental refinement upon the practical loss of any right which a confirmed toper may desire to cherish for his own personal comfort. Sources of gratification though limited will still be found. But it is to be hoped that something would be accomplished for the mass of our fellow-men, and particularly for those innocent ones to whom the great future belongs, and toward whom he that would bequeath to them the awful inheritance of drunken woe which is amassed and increasing daily on American soil, must be a brute indeed.

THEORIES OF PERSONAL LIBERTY, ETC.

There is a theory of personal liberty which, sanctioned by the great names of

JOHN STUART MILL

and of Von Humboldt and others of less distinction, has been advanced as the insuperable objection to all legislation which strikes at the use of alcohol as a beverage.

Mill, in his work on Civil Liberty, pages 170 to 173, thus states that theory in his vigorous way:

There are in our own day gross usurpations upon the liberty of private life actually practiced and still greater ones threatened with some expectations of success; and opinions proposed which assert an unlimited right in the public not only to prohibit by law everything which it thinks wrong, but in order to get at what it thinks wrong to prohibit any number of things which it admits to be innocent.

Under the name of preventing intemperance the people of one English colony, and of nearly one-half the United States, have been interdicted by law from making any use whatever of fermented drinks except for medicinal purposes; *for prohibition of their sale is in fact, as it is intended to be, prohibition of their use.* The infringement complained of is not on the liberty of the seller, but on that of the buyer and consumer; since the state might just as well forbid him to drink wine as purposely make it impossible *for him to obtain it.*

Governor Andrew cites this passage, and so do defenders of the traffic generally, as decisive authority upon the subject, and it is doubtless the highest that he can cite. The common sense of the American people would, however, hardly accept without question all the social, economic, religious, or irreligious theories of Mr. Mill, and I respectfully demur to any theory which results in the ruin of my fellow-men. By their *fruits* shall ye know them. That is the only rule by which a practical legislator has any right to test the theories of great or of little men.

But what does even Mill himself say? He asserts, in the first place, what is a positive error, so far as the grounds of this amendment are concerned. I do *not* assert the right in order to get at what I think wrong, "to prohibit any number of things which I admit to be right." By no means whatever. I admit the manufacture, importation, and use of alcohol in the form of distillation for *certain necessary purposes*, and for them only, to be legitimate, and convenient, if not necessary, entitled to protection and subject to regulation by law only for purposes of taxation like other property and to prevent its application to other dangerous and destructive uses which injure and often ruin mankind. The right to regulate the legitimate use and to prevent the abuse is just exactly the same right which government has to protect every man in the use of fire for his happiness, and to prohibit both himself and others from using it as the agent of wanton destruction to the lives and property of society at large. No more, no less. Alcohol is a poison, which may be put to good uses. When an individual puts this poison to a bad use the law has the right to interfere, and those who make it have the right to enact the law so that it may interfere; to prohibit not "any number of things which it admits to be innocent," but the use of an active means of self and social destruction. Thus it is clear that Mr. Mill, if he means *us*, has misconceived his form of action and must either bring a new suit or abandon his case.

But he goes on to illustrate and apply what he means by his general proposition above stated. He says "the use of *fermented* liquors has been interdicted except for medicinal use," &c. But this amendment does not intermeddle with their use at all. It is not designed to. It is not designed to raise that difficult question upon which mankind is divided. True, it increases the police power of the States over them indirectly, but not in a way to restrict their use unless public sentiment of the State requires it. This is done by an increase of the power of internal State police. It is a surrender of national power. It is a concession to the States of a power of interstate and foreign commerce. It only strikes at what all, or nearly all, men concede to be a most terrible national evil which ought to be suppressed and which cannot be effectually regulated except by a national prohibition, which must take the form of an amendment to the Constitution. I am sure that it will be conceded that the citation from Mr. Mill is irrelevant.

BARON VON HUMBOLDT

is also quoted by Governor Andrew and others. See his Sphere and Duties of Government, page 171, where he says:

The State may content itself with exercising the most watchful vigilance of every unlawful project and defeating it before it has been put into execution; or, advancing further, it may prohibit actions which are harmless in themselves, but which tempt to the commission of crimes or afford opportunity for resolving upon criminal actions. This latter policy again tends to encroach on the liberty of the citizens; manifests a distrust on the part of the State which not only operates hurtfully on the character of the citizens but goes to defeat the very end in view. All that the State may do without frustrating its own end, and without encroaching on the freedom of its citizens, is therefore restricted to the former course; that is, the strictest surveillance of every transgression of the law, either already committed or only resolved on; and as this cannot properly be called preventing the causes of crime, I think I may safely assert that this prevention of criminal actions is wholly foreign to the State's proper sphere of activity.

The essence of all this seems to be in the concluding idea, viz: that the State cannot legislate by imposing burdens or restrictions upon the individual, the object of which is to prevent the causes of *crime*. Well, supposing this to be so, does it reach the foundations of legislation restricting the evils resulting from the use of intoxicating liquors? Obviously not, unless those evils are *simply causes* of *crime*. But those evils embrace not merely crime against the individual and society at large, but physical degeneration of the individual and of the species, insanity, idiocy, pauperism, every form and degree of misery, taxation, public burdens of every kind, poverty, starvation, accident and frightful casualties, ignorance, and death.

Now many of these effects of the wrongful use of distilled spirits exist independently as distinct and most deplorable public evils, and would do so even though they did not so often culminate in every sort of crime. But this proposition of Humboldt's covers the case of causes of *crime* alone, and if legislation for the prevention of these evils is not within the power of the State, then I am at loss to see what forms of preventive legislation are possible. The doctrine is universal license and anarchy, if it is to be understood to cover the ground which is claimed for it. It not only abolishes the old truth, which, however homely in its expression, is the basis of the great mass of the laws to which society owes its happiness and all hope of future improvement—that an ounce of prevention is worth a pound of cure. Cannot legislate to prevent the *causes* of crime without violating personal liberty! Then personal liberty, which does not include the right to commit crime, *does* include the right to cause it to be committed. But the great Humboldt is misquoted, for observe the confusion of thought and the utter nonsense of his language if it is to be construed as covering this case. I revere his intellectual power, but there is only one God, and the *man* who undertakes to construct a universe or a Kosmos will not always manifest the attributes of the Almighty. He says "that the State is restricted to the strictest surveillance of every *transgression* of the *law*, either already *committed* or only *resolved upon*." But *this* is a question of the original *enactment*—the *creation* of a *law*, not of its violation or of its enforcement. *Shall there be* any law at all upon the subject? What is a crime in the only sense with which we have anything to do? Why, it is the violation of an *existing law;* doing what is *already* forbidden or failing to do that which *is* enjoined; or, in Mr. Webster's own words: "An omission of a duty which is commanded, or the commission of an act which is forbidden *by law*." So far as government is concerned there can be no crime, and therefore no *causes* of crime until there is a law, the *violation* of which is all that constitutes crime.

Now the question between alcohol and its opponent is whether there shall be any law at all, and the answer to that question depends altogether upon the consequences which the unrestricted use of alcohol exerts upon mankind. Does it or does it not produce such evils in society as to require or justify its restriction by law—the *creation* of a law—the violation of which will be a crime? The mere fact that a drunken man is more likely to commit murder than a sober man is of course no reason why he should be punished for being *drunk*, unless there is a law against it. Until there is a law against it drunkenness is no crime. So if, being drunk, he commits murder, then he is to be punished because he has violated the law against taking life, not because he was drunk. Drunk or sober, then, he is to be punished for his violation of law.

But now in this debate comes this question, Is the fact that drunkenness is a state of mind and body which is so bad and dangerous a thing of itself for members of society to be in, that voluntarily getting into that state should be prohibited, and is the making and selling that stuff which tempts and makes men to get drunk for that very purpose so bad a thing that the manufacture and sale of it should be prohibited by law? And upon that point the facts I have spread out are pertinent. To do that which causes three-fourths of all the crimes known to the law should *itself* be made a crime. It is bad itself, and should therefore be prohibited by law. It is a question of making a new law, not of enforcing an old one. It is therefore not at all within the reasoning of Von Humboldt, and the citation as an authority falls. New laws must be made according to the times. The duty of government is ever the same: to protect society and promote the general welfare. The special laws of different nations and ages vary according to the forms in which vice presents itself, and the various agencies and forms of destruction with which society is assailed. Alcohol is the parent of nearly all the forms of misery in this age and of three-fourths of the grand aggregate of all the crimes that are known, and surely that which produces all these is a legitimate subject for regulation by law. To say that society shall not control the dram-shops which line our streets is to say that any man has the right to plant Pennsylvania avenue with torpedoes and drape Broadway with old clothes from the pest-houses, because the torpedo and old clothes are property and a legitimate subject of barter and sale; and that because the torpedo and garments have their uses when they preserve a people and promote the general welfare, *for that reason* they may be used to destroy the nation and people which they were designed to preserve.

THE FALLACY IS HERE.

It is assumed that because alcohol may be manufactured and sold for some purposes, it follows that it *therefore* must be permitted for all. This is not so. Some things are beneficial in every form and way in which they are appropriated to the service of mankind. Other things have uses for which they are necessary and beneficial, and again their appropriation may be disastrous to society; and when they become so society, through the law, must protect itself. All laws restrict personal liberty when that much-abused term is used in the sense of license. I do not think it important to call further attention to the *ipse dixit* of theorists whose conclusions have been contradicted by experience and rejected by good sense wherever mankind have existed under the dominion of law. But the constitutionality of prohibitory or restrictive laws in the States has been settled by all the

courts of the country; and I have previously endeavored to show that the right to *license* one man is the right to restrict all others, and implies the right to *totally* restrict when the public good requires. The general proposition is that the States have this power; that it should be extended and exercised over the whole country in the only way in which it effectually can be, by an amendment of the Constitution of the country giving concurrent power to the nation to make the prohibition general and efficient whenever isolated States shall fail.

I desire to cite a few sentences from the opinions of

THE SUPREME COURT

of this country in the celebrated license cases. These cases were argued by Daniel Webster, Rufus Choate, B. F. Hallett, John P. Hale, and others, in favor of the licensees; and by very able counsel on the other side. I believe that the opinions are considered by the profession as very able and well considered. The court was unanimous, and most of the judges delivered separate though according opinions. The cases are reported in 5 Howard, 504–633.

Judge Taney says, page 576:

The laws of Congress regulating foreign commerce authorize the importation of spirits, distilled liquors and brandy, in casks or vessels not containing less than a certain quantity specified in the laws upon this subject. Now if the State laws in question come in collision with those acts of Congress and prevented or obstructed the importation or sale of these articles by the importer in the original cask or vessel in which they were imported, it would be the duty of this court to declare them void.

On page 577:

If any State deems the retail and internal traffic in ardent spirits injurious to its citizens and calculated to produce idleness, vice, and debauchery, I see nothing in the Constitution of the United States to prevent it from regulating and restraining the traffic or from prohibiting it altogether if it thinks proper.

On page 579:

It appears to me to be very clear that the mere grant of power to the General Government cannot upon any just principles of construction be construed to be an absolute prohibition to the exercise of any power over the same subject by the States.

I call attention to the language in italics as also bearing upon the nature of the concurrent and co-operative jurisdiction which this amendment proposes to give, both to the States and the nation, over the subject-matter of distilled liquors.

Judge McLean, on pages 588 and following, says:

The license laws of Massachusetts are essentially police laws; enactments similar in principle are common to all the States. A great moral reform which enlisted the judgments and excited the sympathies of the public has given notoriety to this course of legislation and extended it lately beyond its former limit. The acknowledged police power of a State extends often to the destruction of property. A nuisance may be abolished. Everything prejudicial to the health or morals of a city may be removed; merchandise from a port where a contagious disease prevails being liable to communicate the disease may be excluded and in extreme cases may be thrown into the sea. It is a power essential to self-preservation, and exists necessarily in every organized community. It is indeed a law of nature, and is possessed by man in his individual capacity. He may resist that which does him harm, whether he be assailed by an assassin or approached by poison. And it is the settled construction of every regulation of commerce that under the sanction of its general laws no person can introduce into a community malignant diseases or any thing which contaminates its morals or endangers its safety. Individuals in the enjoyment of their own rights must be careful not to injure the rights of others. From the explosive nature of gunpowder, a city may exclude it. * * * These are acts of self-preservation. * * * In the progress of population, of wealth, and civilization, *new and vicious indulgences spring up, which require restraints which can only be imposed by legislative power.*

Judge Woodbury says, page 630:

After articles have come within the territorial limits of States, whether on land or water, the destruction itself of what constitutes disease and death, and the longer continuance of such articles, or the terms and conditions of their continuance, when conflicting with their legitimate police, or with their power over internal commerce, or with their right of taxation over all persons and property within their jurisdiction, seems one of the first principles of State sovereignty and indispensable to public safety.

It would be easy, sir, to multiply authority from all the courts of the country, which assert, I think, with unvarying uniformity, the power of the State to control absolutely the use of alcohol, subject only to the protection given it by the Constitution of the United States, the extent to which it shall be exerted being purely a matter of expediency, while against this power and its exercise can be found nothing but the speculations of writers whose theories are either untenable or inapplicable to this or perhaps any other state of society which can arise until the millennium shall abolish all law by the absolute extirpation of evil from among men.

IN RECAPITULATION AND CONCLUSION, SIR,

I only wish further to say that by the indulgence of the House I have thus at great but I hope not at unnecessary length endeavored to call the attention of Congress and of the country to the vast and increasing public evils which exist in the land, whose origin lies in the excessive use of that most powerful poison known as alcohol. I have not dealt in specific instances but in masses of fact as they have been gathered and accumulated here and there by the statistician, the census-taker, the official investigator, and most of all by that noble profession which comprises so many of the ablest and best of men—a profession whose theory is the gospel of man's physical and mental nature, and whose practice is philanthropy applied to the details of all human woe—the medical profession, which by its researches in the chemical world and its incessant and protracted pursuit of the recondite origin of disease and of the philosophy of suffering and despair, as well as of the sources of vigor and hope and happiness to mankind, has placed civilization under the largest debt that is due to any of the learned orders of society; that profession, sir, has not failed to stamp upon alcohol the mark of *Cain* among poisons. It is the murderer of men. That noble profession has brought it to the doors of the Capitol, and charged it with the wholesale death of our people. They assail it as the pestilence which walketh in the darkness and which wasteth in the noon-day—as the parent of every crime, as the cup of misery ever full; the prolific source of ignorance, poverty, squalor, idiocy, insanity in all its dreadful forms, personal ruin, social destruction, national ruin—the prime agency of hell on the earth. And with them come all classes and conditions of men. These are not witnesses whose testimony can be denied or gainsaid. I will not speak of woman in rags and disheveled hair, with her wan cheek and hollow voice, nor of her children shivering on the corners of the street, starving within the shadow of churches built to the Most High with the price of their blood. It is not fitting here to be *sentimental*, nor would I attempt it if permitted. The gravity of the occasion has passed beyond all necessity of resort to touching tales and strokes of pathetic imagery. The evil is before us. Its infinite extent must be admitted. There is nothing to be considered but the *remedy* and its application. I have endeavored to present one that seems to me to have been born of hope.

This measure is not proposed by any party that now exists. I trust that it will encounter opposition from no party whatever. It has been prepared with the knowledge of scarcely any one. I am alone responsible for it. It is not the project of "temperance men," as they are sometimes called, whether derisively or otherwise. On the contrary, mistaking its true character and misconceiving its far-reaching consequences, and its avoidance of conflict with the interests and passions of the present time, "temperance men" have complained that it is an *evasion* of the conflict. I fear that fifteen years of agitation will convince such of us as may then be alive that this objection does not recognize the great power of existing forces which must be overcome. It should be remembered that no battle is won until the enemy is driven from his *position*. He is now intrenched in the Constitution of this country. The battle may go on as it has gone on for fifty years, without one single blow being struck at the *manufacture* of alcohol. And as hitherto "men may come and men may go" and thousands may continue to fall on either side, yet the battle remain forever undecided, because the struggle, however violent, is *renewed* forever by the recruits of successive generations. There is no concentration of forces upon the main position. Effort is lost because misdirected. Much of it, to be sure, is not wholly *lost*. Moral suasion—that is, argument and precept and exhortation, from the pulpit, the rostrum, the press, and private admonition—molds public opinion and accomplishes wonders for individual men, but it lacks the powerful re-enforcement of national law. That it can never get until it asks for and demands it. This revolution in national law can be wrought only by years or agitation and effort. Local sentiment must be awakened almost everywhere; in at least two-thirds of the country existing opinion must be reversed before the Constitution of the country in this respect can be changed. Meanwhile each State retains all the power it now has over both fermented and distilled liquors, and as soon as this measure has been ratified there would be conferred upon the States largely increased control over both. Discussion and effort would demand the attention of the nation as such, and a concentration of the whole army upon a comprehensive plan of battle to carry the citadel would be substituted for isolated and sporadic warfare. And when the battle is once gained it is won for all time. This form of effort is infinitely the best way in which to accomplish *local* reform. The facts and arguments upon which the temperance reform is based are the same, whether urged to influence the action of the individual, the local opinion, or Legislature of a single State, or the nation at large; and the modification of the national Constitution involves that universal local effort and the creation of that public sentiment everywhere which will result in the enactment and enforcement of prohibitory State and territorial laws.

Temperance men object because the first clause of this amendment if adopted does not become operative until 1900. They fear that they will die without the sight. So they may, but how can they object until they have tried to see whether they can obtain even *this?* Consider the past. Be admonished by history. Do not lose everything by attempting the impracticable. Remember that this is an effort to procure the enactment of a *law*, which must carry the heads and hearts of conservative jurists, of dignified and unconvinced legislators, and the *popular vote*. This is a different thing from enthusing a popular assembly under the magnetism of Mr. Gough. Do not forget either that it is to be the act of the *nation;* that, however it may be as between God and alcohol, however it may be between the maker of alcohol and the higher law, yet *we* as a *nation* have assured the maker and dealer in liquor that he might vest his capital in permanent forms, that he might manufacture this article for all purposes whatever, and that we would protect him in the enjoyment of his capital and the production of his still. We take from his industry yearly vast sums in the way of taxation for the support of the Government. True this legalized destruction of national wealth infinitely transcends the advantage of the tax, but nevertheless we have *legalized* the traffic for a century.

Now have we as a *nation* any *right* at once to destroy his industry and turn the distiller and his family upon the street to starve? Is he not entitled to reasonable notice of the change in the national policy, that he may gradually divert his capital and turn his business capacity in some other direction and train his son in some other employment? And if this view does not strike you with force, then consider the further fact that there are more than $500,000,000, probably $1,000,000,000 vested in this traffic to-day in the United States, and that such an interest will for many years to come have sufficient *power* to defeat any measure which destroys it at once.

But liquor makers and sellers are *men*. Great numbers of them are respectable and honest men. I have no sympathy with the wholesale denunciation of them as a criminal class. Many of them recognize the dreadful consequences which flow from the business in which they are engaged; yet it is a lawful business; circumstances over which often they have no control have identified them with it just as others have found their way into the pulpit, into Congress, or into other avocations of life. It is no more just to denounce them as cold-hearted villains, intent upon nothing but the destruction of mankind, than it is to assail the personal integrity of every man who ever owned a slave. If approached in a proper spirit with a proposed reform in which they should be recognized as men and invited and urged upon considerations which must influence any humane being, and which would give them a chance to save themselves and their families, I believe that the actual *co-operation* of many liquor makers and sellers could be secured.

Since the introduction of this resolution it has been attacked as a palpable effort to curry favor with the prohibitory sentiment of the country and at the same time avoid offense to the "beer element." It is no such thing. This measure is not of that radical nature to command the vehement approbation of what are known as prohibitory men, though it must and I trust will command increasingly their approval. But the question of the manufacture and use of fermented liquors is left where it now is, with the *States*, because it is *medically* still an open question whether the restricted use of such liquors is not beneficial to the people, although their use is fast becoming excessive and an abuse. But there is very slight difference of opinion as to the destructive tendency of *distilled* liquors as administered by the "laity," and all agree that the great mass of the evils of intemperance arise from their manufacture and use as a beverage. And if the ban of the law can be placed upon the manufacture and use of distilled alcoholic liquors as a beverage, the minor abuses resulting from fermented liquors can well be left wholly to the restraining powers of the States, as enlarged by the second clause of the proposed amendment. While by no means of a callous organization, I certainly do not complain of criticism which attacks my personal motives, some of which has been brought to my attention. Those motives are not relevant to the measure itself. And whatever may be said by others I am consoled by the consciousness that this step is taken after long reflection, that my motives are satisfactory to myself, and that they will be judged by the only Tribunal to whom they can be surely known and whose approval is of much consequence.

The opposition of the consumer to any national measure which should at once deprive him of his beverage would be found to be very serious and I fear decisive. But there is no class of men who have a stronger desire to see their children saved from the chains which hold them to their own dreadful doom than the drunkards of this country. This measure has been sneered at as a proposed reform—*for posterity*. So it is; and as such it ought and I think will enlist the overwhelming force of parental feeling in its favor whenever the public mind has studied its peculiar features and elements of strength.

I think that existing parties may well hesitate to oppose this measure. The cause it represents is one of moral reform, and it must be re-inforced by legislation. In due time it will be. If neither of the great parties now dividing the country sees fit to antagonize it, this measure will force its way without being made the source and object of political strife. Becoming operative so long in the future, it ought not to provoke the opposition of any political organization, and all men should be able to consider this subject calmly and to decide it upon its merits. If it is a measure enlisting the moral convictions and humane sentiments of the people, and especially of that nucleus of able, conscientious, and aggressive men who are ultimately the ruling power in every progressive nation, although for years they may struggle on fighting and dying under the banner of defeat, it will be well for all parties that would live to beware how they oppose this proposition. At least let it have fair consideration by the House and the country, for it is a subject which *will have* consideration. It is not a ghost, nor will it "*down*." I ask for it the considerate attention of all men now, for the time is coming when it will be forced upon them. The political exigency which absorbs and distracts the country will pass away, but this evil will not pass away. Its extirpation will be imperiously demanded long after the question of the succession to the Presidency shall have been settled whether by peace or by war. Public men will be destroyed who touch it, but the cause will survive. Stronger arms will uphold and advance the banner until victory floats on its ample folds; and the Constitution of the country shall yet become the pledge of sobriety and temperance among the people, the ally of virtue, and not the charter of this great source of ignorance, misery, and crime.

Counting the Electoral Vote.

SPEECH OF HON. C. J. FAULKNER,

OF WEST VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

January 24, 1877,

On the report of the select committee upon the privileges, powers, and duties of the House of Representatives in counting the votes for President and Vice-President of the United States.

Mr. FAULKNER. Mr. Speaker, concurring as I do in the report which the Committee on the Judiciary has made on the powers and privileges of this House in counting the electoral vote—a subject now under our consideration—and believing that the people of my district and State feel a deep interest in the questions herein involved, I regard it a duty to give some expression to my opinions on this subject. I am not surprised that a very painful sense of anxiety should be felt at the clouds which already darken and which seem to be still gathering over our political horizon. We stand in the presence of one of those dangers which seem to be incident to the very structure of our Government, and which, as we may pass through it, peaceably or otherwise, must increase or impair confidence in the value of our free institutions.

Standing, then, in the presence of such events, I should regard myself criminal, if I sought, by the use of any intemperate or inflammatory language, to add to the excitement which now disturbs the tranquillity of the public mind. The occasion is too solemn for the display of any angry or vindictive partisan feeling. Yet I have my convictions of the duty which, at a crisis like the present, devolves upon me as a representative of the people; and I shall act up to those convictions of public duty firmly and fearlessly, leaving the results of my action to the wise and ultimate judgment of a free and intelligent people.

From the earliest foundation of our Government to the present hour, all who have had occasion to study our constitutional system have reached the conclusion that the election of a Chief Magistrate of this Republic is the *experimentum crucis*, or the crucial experiment of our system; that in the very nature of things it must be the source of the greatest perils to the Republic and the severest test to which our institutions can be exposed. Whether our present situation results from the intrinsic difficulties incident to the popular election of a Chief Magistrate, clothed with so much power and patronage as belongs to the office of President of the United States, or whether it results from any defect in the safeguards provided by law to secure a fair and honest expression of the popular will, it is not necessary at this time to discuss.

Mr. Calhoun, in his admirable work upon the Constitution and Government of the United States, and which I feel free here to say is one of the most striking examples of exact reasoning and of analytical power, to be found among the writings of American statesmen, has, with remarkable sagacity, foreshadowed the condition of political events which now exist in this country. He refers to the vast patronage and power vested in a single person, constituting the executive department of the Government; to the struggles which will be made by parties, through the election of a President, to get possession of this patronage and power; to the reluctance with which a party, long in possession of the offices and money of the Goverment, will surrender these advantages to its opponents; to the frauds and corruptions that may be expected to characterize this obstinate determination to retain power; to the probability of a disputed presidential succession; to the fact that the then incumbent in office may himself be a candidate for re-election or an active partisan of the organization seeking by corrupt and forcible means to retain the Government; to the probable employment of force by that incumbent to continue himself or his own party in power; and thus he proceeds to foreshadow the exchange of our republican institutions for monarchical, ending in the decay and destruction of our free Government.

We have now before us something of that condition of affairs which that eminent and reflecting statesman, more than thirty years ago, predicted as one of the consequences of a single Executive and of the growing centralization of power in the Federal Government.

We have now upon us the disputed presidential succession to which he refers; we see a party which for sixteen years has been in the absolute control of the vast power of this Government, now clinging to that power with a tenacious grasp, bold, desperate, and unscrupulous; we have witnessed the violations of law, the perpetration of frauds, and the employment of military force, which have been resorted to to perpetuate its power; we see that there is now in the executive chair a daring and successful soldier, who is in full sympathy with that party; who speaks of himself not as the President of the nation, but as the President of his party; who has already assembled a large body of troops around the Capitol of the Republic, and who has declared his purpose to increase that force if the course of events shall demand it. He openly avows his conviction (although the subject is yet under examination) that Governor Hayes has been elected President and he has announced his determination to see that he is inaugurated. If he acts up to all the declarations which are ascribed to him by in-

terviewing reporters, he will have but one more act to perform to fill the rôle of Oliver Cromwell, and that will be to administer Colonel Pride's purge to the Representatives of the people by the expulsion of every democratic member by armed force from his seat. Nor does this seem to be altogether an imaginary event; for we are daily informed through the unrebuked columns of the National Republican, the leading organ of the Administration in Washington City, that, should the democratic House of Representatives refuse to join the Senate in counting the electoral vote in the mode prescribed by that body and should the House hold a session of its own, in which the Speaker shall announce that "As no President of the United States has been elected, the House will now proceed to ballot for the same," the moment this motion is made the Speaker and all who join with him in that movement "*will be summarily arrested.*" This would indeed be the beginning of the end!

In casting our eyes over this country and in noting what has transpired within the last two months, we cannot but feel a very high degree of admiration for the good sense, marked moderation, and patriotic temper which have distinguished the American people. In what country, I will not say now upon this earth, but which ever has existed since the records of history have cast light upon their acts, has any people ever exhibited such self-control and mastery over their passions and feelings? For two months a large majority of the American people have believed that their favorite candidate has been fairly and honestly elected to the highest position of executive power in this country. And yet they have witnessed returning boards in three of the States of this Union, impelled by their own selfish interests, sustained by a powerful party, and encouraged by usurped military authority, deliberately tampering with the elections in those States and so manipulating results as to overthrow the expressed will of the people. And yet we have had no riots, no tumults, no crying "To your tents, O Israel," no organization of regiments, no marshalling of armies. During this protracted and painful suspense, the operations of business have almost ceased, and yet the people are cool, calm, and collected. In what country upon earth could such obedience to law, such calm reliance upon the ultimate triumph of right and justice, be found as in the people of the United States? Could any fact more fully establish the excellency and superiority of free institutions and the expediency of depositing with an intelligent people all the powers of government?

But let it not be supposed because there has been no outbreak of popular violence, no impatient, tumultuary assemblages threatening the peace of society, that it is thence to be inferred that the people are indifferent to the choice of their rulers or to the threatened violation of their rights. Far from it. The seeming indifference but real calmness of the public mind is to be ascribed to a conviction on their part that there is an ample remedy provided by the Constitution itself to rectify these wrongs. In other words, the people believe, as I believe, that there is a power in Congress fully adequate to meet all the exigencies of the present hour.

The facts of this case, so far as I deem it necessary to bring them to your attention, are few and easily stated. Mr. Tilden has received 184 undisputed electoral votes, lacking but one of the number necessary to elect him; and this exclusive and independent of the 19 votes of the three disputed States of South Carolina, Florida, and Louisiana. I will say nothing at this time of South Carolina or Florida, neither will I at this time say more than a word or two of the Oregon *fiasco*. I must be allowed to say to you frankly that I take no stock in Cronin, the Oregon elector. It may be, and I think it not improbable, that Oregon has lost one of her republican electors by his ineligibility; I look not without satisfaction to the overthrow by this act of that *prima facie* dogma behind which the republican party has sought to intrench itself; but I can never give my consent that his minority competitor shall be substituted in his place. I think it much to be regretted that the purity of our cause should have been blemished by this attempt to give a democratic elector to a State whose popular vote was admittedly republican. I cannot at my time of life unlearn those doctrines of popular right which I was taught in my younger days. I remember when but a youth I read with extraordinary interest the contest between John Wilkes and the House of Commons of England. Wilkes was then a great popular favorite, and the cry of "Wilkes and liberty" resounded throughout that island from the hills of Cumberland to the promontory of Lands End. Wilkes was elected to the House of Commons, but he was the author of some indiscreet and objectionable publications. For these he was expelled by the government majority from the House. He was again returned by the sturdy voters of Westminster. He was again expelled, and declared *ineligible* to a seat in Parliament. A third election came on, and he received an overwhelming majority, while his competitor, Colonel Lutteral, received but a very small vote. The House then decided that the votes cast for Wilkes were all *null* and *void*, because cast for an ineligible candidate, and Colonel Lutteral, with his small minority vote, was adjudged entitled to a seat upon that floor. The people of England could not tamely submit to this subversion of a great elective principle, the right of the people to choose their own representatives. Parliament was dissolved, and the first act of the new House of Commons was what? To repeal, to rescind? No; but to *expunge* all those proceedings from its records as a violation of the fundamental principles of English liberty.

This principle has ever since been held sacred in England; and while the ineligibility of a candidate may, perhaps, in mere corporation elections, as some of the courts have decided, give the minority candidate a right to his seat, it cannot be introduced into the political elections of this country without violating the elementary and most sacred principles of our Government.

I have said that I would say nothing at this time about South Carolina and Florida, for the case of Louisiana itself affords all the facts necessary to the elucidation of my own views of my constitutional duty. In that State, which gives eight electoral votes—seven more than are necessary for the election of Mr. Tilden—it is an admitted and uncontroverted fact that Mr. Tilden's majority of the vote actually cast on the 7th of November was upward of 8,000. This is a fact denied by nobody, was testified to by all who were present at the examination of the returns in New Orleans, and is admitted without dispute by the republicans themselves. And yet the eight electoral votes of that State were cast on the 6th of December last in favor of Governor Hayes and in opposition to Governor Tilden. Upon what pretext was it that so shameless an outrage was perpetrated, not simply upon the people of Louisiana, but upon the people of West Virginia and of the entire Union? They have in that State what is called a returning board, which sits in secret conclave, and which assumes the right to disfranchise whole parishes for reasons satisfactory to itself; and proceeding to exercise that right in this particular case, it has so altered the returns of that State as not only to reverse Mr. Tilden's majority of upward of 8,000, but to give to Governor Hayes a majority of upward of 4,000. To accomplish this result, they deliberately disfranchised 13,350 democratic voters who appeared at the polls and voted on that day. No reason has been assigned to the public by the board for its arbitrary action, nor has there been any statement to show what votes were counted and what rejected. All that we are left to infer from their action is that they rejected these 13,000 democratic votes upon the false and unfounded pretext of force and intimidation employed by the democrats to prevent free suffrage by their opponents. This charge of violence and intimidation is wholly unsupported by any satisfactory testimony, the evidence being that there never was a more quiet and peaceable election in that State; never a larger number of voters at the polls, and that there had not been a riot, a tumult, nor even a fisticuffs encounter within the broad limits of that State on that day. The action of this board can only be characterized as a bold usurpation, and a fraudulent exercise of power, so reckless and daring that it would not even have been attempted had it not been distinctly understood that its action would be sustained by the military power of the United States.

We shall have a grave responsibility cast upon us as members of this House on the second Wednesday of February next if no adjustment of our pending difficulties is made before that day; and the question is, what are our duties to the people of the United States under the facts which I have just stated? Are we required, by any fair view of our duty, to count those eight electoral votes for Governor Hayes and thus defraud the people of the United States of their choice for President? Have we the constitutional right to reject those votes from the count? and if so, is it not our duty to resist this fraud, and to vindicate the purity of the election and the just rights of the people? These are, or may be, important and interesting questions at this particular crisis, and as they may lead to further complications they should be carefully considered by us all.

When something upward of two months ago, and prior to the presidential election, I made some speeches in West Virginia, I then anticipated very much what has since occurred. I then expressed my own decided opinion that the sole right of counting the electoral votes devolved, under the Constitution, upon the two Houses of Congress; that to accept a vote its acceptance must be concurred in by both the Senate and the House of Representatives; and that if either failed to concur the vote could not be counted, but must be rejected. I then said, in view of what was then going on in South Carolina, Florida, and Louisiana, that, if I had satisfactory evidence before me that the votes of those States were procured by fraud or coerced by military power, I would not consent to count them, but would cast my vote for their rejection. For this declaration of my opinion I was stigmatized and denounced by the republican press of my own State and elsewhere as "a revolutionist" and "dangerous political agitator;" and yet I have not found since that those opinions were at all peculiar to me; I believe they are entertained by every democrat in this House and by some of the best intellects of the republican party in both Houses.

Let us now for a moment recur to the Constitution of the United States, and to the practice of the Government under that Constitution. The language of the Constitution is:

> The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted.

In construing this provision of the Constitution, two theories have been advanced. One that claims for the President of the Senate the sole and exclusive power of counting the electoral returns, treating the two Houses of Congress as mere constitutional spectators of the scene before them; the other claims that power as belonging exclusively to the Senate and House of Representatives, and regards the President of the Senate as simply a ministerial officer, designated to

receive, to take charge of, to open the certificates, and to hand them over for the decision and action of the two Houses.

Without going into any minute examination of the question, I feel free to assert here that the idea of vesting in the President of the Senate the power thus claimed for him by the extremists of the republican party is not only without any authority in the language of the Constitution, but has been repudiated in the practice of this Government from our earliest history. The suggestion is of recent origin; it has sprung from the emergencies of party desperation; and it is the boldest, and, I may add, the most unauthorized assertion of unconstitutional power which has been advanced in our history. The pretension is absurd upon the face of it, not only because it would exclude the two Houses of Congress from all participation in a great act of the Government, at which they are required by the Constitution to be present, but because it would vest in the presiding officer of the Senate the right to determine the result of an election in which he might be directly and personally interested as a candidate, a fact which has already occurred six times in our history.

We have now had, prior to the one now pending, twenty-two presidential elections in this country. In every case, as the Constitution prescribes, the electoral votes have been submitted to a joint convention of the two Houses. Questions have arisen as to the rejection of the vote of States, but in not one single instance in the history of Congress has the President of the Senate claimed, or any other person claimed for him, the right to act on the acceptance or rejection of the contested vote of a State.

The most satisfactory precedent which has struck my attention in the past proceedings of Congress, and which is the most satisfactory, only because of the clearness and precision of the language used by the then presiding officer, occurred in 1805, upon the occasion of Mr. Jefferson's second election to the Presidency. I can well conceive that there was a great deal in the circumstances then surrounding the event to cause a marked observance of all the requirements of the Constitution and a strict and literal adherence to its letter and spirit. It was the first meeting of a joint convention of the two Houses subsequent to the exciting contest between Burr and Jefferson, which had so deeply agitated and convulsed the country. It was the first joint convention after the adoption of the twelfth amendment, which itself resulted from that contest and which is the law under which the recent election was held. Aaron Burr was then the President of the Senate, and as he was a man eminently distinguished for the clearness and precision of his expressions he left no doubt upon the mind of any one as to what his views were upon the subject. After alluding to the several packets which from the indorsements upon them "*appeared*" to be the votes of the electors, he addressed himself to the two Houses of Congress and said: "*You will now proceed, gentlemen, to count the votes as the Constitution and laws direct;*" which was accordingly so done by the tellers appointed by the two Houses.

I am very well aware that Vice-President Burr, who officiated at this first election after the adoption of the twelfth amendment, has not left a very savory memory in the minds of the American people; but with his known defects of character, all will admit that he was a man of the most acute and penetrating intellect, an able lawyer-a profound constitutional jurist, and the most accomplished parlia, mentarian that ever presided in the Senate. But what is of infinitely more importance than the weight of his name and authority is the fact that no single instance can be pointed out in the history of Congress, from that day to the present time, when any different construction of the respective powers of the President of the Senate and the two Houses of Congress has been asserted or practiced in any of the eighteen presidential elections which have since occurred.

There is one more incident that I will notice in connection with this subject. It occurred in my own presence in February, 1857, when I was a member of this House. A question was started as to the propriety of counting the electoral vote of Wisconsin, the electors having been prevented from meeting on the day prescribed by law by a severe snow-storm. But they met on the following day and cast the vote of that State for Frémont. Whether counted or rejected it could not affect the result of the election in the slightest degree, and not a great deal of interest was manifested on the subject. Mr. Mason, Senator from Virginia, was then acting as President of the Senate, and consequently officiated as president of the joint convention. He said nothing while in the chair that indicated a claim upon his part, as president of the convention, to decide upon the admissibility or rejection of the vote of Wisconsin; but an impression was produced upon the minds of some by the manner in which he abruptly terminated the joint convention that he held such an opinion. As soon as he was advised of these impressions, he availed himself of the earliest moment to disavow any such opinion and to repudiate all such authority on the part of the President of the Senate. I have alluded to this case because the conduct of Mr. Mason on that occasion has been misunderstood and misrepresented by those who sought to find in him an authority for asserted powers in the President of the Senate, which he declared in his opinion did not exist.

A recent construction has been advanced by some republican politicians and presses, which is quite as much in conflict with the true theory of the Constitution and the practice of the Government as the one just disposed of, and that is that, while it maintains that such a power is vested in the President of the Senate, it treats him not as the constitutional custodian of the electoral certificates, and *ex officio* president of the joint convention, but as the organ and instrument of the Senate itself, with the full right, upon the part of that body as the representatives of the States, to prescribe his duties and to make him the mouth-piece of their views upon all the disputed points that may arise in a presidential election. This construction destroys the individuality and independence of that officer for all the purposes for which he has been designated by the Constitution, makes him, in the performance of that constitutional duty, the mere organ and agent of the Senate, rejects all participation by the House in the count of the electoral vote, and assumes for a single branch of the Legislature the sole authority to act upon a contested presidential election. It is sufficient for me here to say that such a proposition can find no authority for its support in the Constitution, none in the opinion of any prominent statesman or jurist of this country, and none in the practice of the Government.

If it be true, then, as I think is very clear, that the right to count and reject electoral votes is not lodged by the Constitution in the President of the Senate, let us then further inquire whether any such power exists at all in the Federal Government to go behind the electoral certificates and inquire into their validity; and, if so, where that power resides. The chief difficulty on this branch of the subject results from the fact that the Constitution does not make the election of a President to depend upon the popular vote of the country at large, but treats it as the *act of the States* in their separate capacity of States. The choice of electors is to be made in such manner as the Legislatures of the States may prescribe. The number of electors is made equal to the whole number of Senators and Representatives to which the State is entitled in Congress, and the mode of authenticating the result in each State is left to the local Legislatures. Some curious anomalies result from these constitutional provisions. It is not improbable under our system that a minority candidate, so far as the popular vote is concerned, might be elected. Let me illustrate this: New York might give to her electors for some particular candidate 200,000 majority, and Pennsylvania might give to electors 200 majority; the electoral vote of those two States would thus be carried for their respective favorites; but the popular majority of near 200,000 of the one over the other would avail nothing in the count. So Delaware and Nevada have a strength in the electoral colleges three times beyond their popular vote; Florida, Rhode Island, and Colorado twice as great as their popular vote, and West Virginia, Kansas, and Minnesota two-fifths beyond their popular vote. Now while it is conceded that the electoral certificates are the result of State action, yet it is State action that may involve in its consequences the welfare and happiness of the entire Union. Such being the case, there must be some central authority to determine the legality and validity of these certificates; how far they are in conformity to the State laws, and whether they have been manipulated in the State by some usurped authority, defying the law and trampling upon the rights of the people of that State.

While, therefore, there are many wise and excellent men who deny the existence of any such authority, yet I am satisfied that the great mass of the learning and intellect of the country has reached the conclusion that this power is rightfully and constitutionally vested in Congress. It is a power that has been claimed, exercised, and recognized from an early period of our Government; and Mr. Clay embraces the whole argument in a nutshell, when, in 1821, he contended that the power to count necessarily implied the power to reject that which ought *not to be counted*.

I have therefore reached the conclusion upon this point that the right to reject an electoral vote does reside in the central authority of the Union, and that that authority is Congress. Upon this point there will be found little diversity of opinion in the two Houses, but the same harmony of opinion will not exist as to the mode and limitations under which this power is to be exercised by Congress.

It is now held very generally by the republican party that while Congress does possess the constitutional authority for good cause to reject the vote of a State, yet this rejection, to be legally done, must be the concurrent act of both bodies. They deny that it is competent to one of the Houses acting separately to reject the vote of a State. This is the *pons asinorum* of the whole controversy; it is the key to the present situation; it is a problem pregnant with results at the present time, and upon its determination will depend, if not the peace, at least the satisfaction and contentment of the public mind. It is certainly, to say the least of it, a very extraordinary doctrine for the republican party to plant itself upon at this perilous crisis of the country. It is in direct conflict with the construction which that party has given to the respective powers of the two Houses for the last eleven years.

In 1865 what is known and recognized as the twenty-second joint rule originated in a republican Senate and was adopted with almost unanimity by both branches of a republican Congress. That rule in express terms declared that if *either House* objected to the count of the electoral vote of any State it should *not be counted*, but should be rejected from the enumeration. This rule has been in operation since 1865, and has controlled the annunciation of the three last presidential elections. Its propriety as a fair construction of the power of the two Houses was never questioned until the democratic party acquired a majority in the House of Representatives. But it is said the

Senate have rescinded this joint rule. Admit that it has withdrawn its assent to its further continuance, does that in any wise impair the proper constitutional construction of the power of the House of Representatives? This rule was not an arbitrary regulation gotten up without any respect to the Constitution of the country, but it was a deliberate expression of the opinion of Congress as to the rights of the two Houses under that Constitution. And does not the propriety of this rule rest upon the plainest deductions of natural reason, and of parliamentary action? The vote of a State is announced, and the question is, shall it be counted? If the two Houses concur in its count, there can be no difficulty; but if they disagree, what other result can follow but its rejection? Both bodies are alike equal in authority, and independent in their action; both are entitled to equal respect of their opinions; and if there is a disagreement as to their acceptance of any proposition, the same result must follow as in the case of their disagreement in the passage of a bill or joint resolution. In other words, to give effect to anything upon which the two Houses have to act, there must be a concurrence of the two Houses, or the proposition before it fails. Any other view of the subject would make the one House inferior to the other, and virtually confer upon one what the Constitution requires both to perform. I therefore concur with the Judiciary Committee in the conclusions they have come to on this subject, and maintain that when the proposition is submitted to the two Houses, shall the vote of Louisiana be counted? and the House declares that in its opinion it should not, that the vote must stand rejected from the count.

Now we come to consider what in all probability will be the action of this House on the 14th of February next if the bill of the joint committee is not adopted before that day. With all the facts now before us, although there is a bare possibility that those facts may be varied by the reports of the committees, I do not see how the House of Representatives can do otherwise than reject the vote of Louisiana from the count. Assuming this then to be done, how will the vote stand before the House? Mr. Tilden will have 184 votes; Governor Hayes will have 177. Is this an election by the electoral colleges, or is it a failure to make an election? Upon this point there is some diversity of construction. I am rather inclined to the opinion that it requires a majority of the whole number of electors, composing the various electoral colleges, to make a choice, and that the exclusion of the Louisiana electors will not diminish the number required to make that majority. If this be the correct view, then there will, upon the facts stated, be no election by the electoral colleges, and the duty of electing a President will under the Constitution devolve upon the House of Representatives.

Will we be allowed without opposition to exercise this constitutional duty? Will the Senate assent to the rightfulness of our proceedings, or will it take issue with us and will the executive department assume to interfere in the event of such disagreement between the two Houses?

It is in the contemplation of just such a contingency as that to which I have referred—the Senate insisting upon the counting of Louisiana, and the House rejecting that vote from the count—which has caused the National Republican, the leading organ of the Administration at Washington, in successive frantic and jacobinical articles to announce that if the House shall, under the circumstances, proceed to exercise its constitutional power to elect a President, that every democrat in the House so concurring in that movement "will be summarily arrested." I know not how such threats may affect others, they certainly will not disturb me. I shall perform my constitutional duty according to the best lights before me, unawed by these contemptible menaces whether they proceed from the Executive or from any of his vile and profligate organs. I have already endured insult and imprisonment in four of the Government bastiles and forts in this country in resisting an illegal and arbitrary demand made upon me, and I am ready to endure imprisonment again and again, whenever my sense of duty counsels me to resist lawless and unscrupulous power. And here permit me to say that I am a man of peace; I hate all riots, tumults, and every form of disorder that can disturb the peace of society. I will go as far as he who will go farthest in support of every measure of conciliation, peace, and compromise short of a surrender of the Constitution and the violation of the just rights of the people; but there are evils to be dreaded worse than the convulsions that sometimes disturb the good order of society, and those are the triumph of the military over the civil power, the subversion of the popular will by force or fraud, and a base and cowardly surrender of our constitutional rights and privileges.

The inquiry may well be made whether if the House rejects the vote of Louisiana, to be followed by its logical consequences, an election by the House of Representatives, the Senate will acquiesce in or resist this proceeding of the House? I know that there are some men in this country of great ability, of vaulting ambition, and of intense partisan feeling; men of that stamp of character who would as soon see the Government in ruins as the republican party out of power; but such is certainly not the character of a large number of republican Senators now in that body. They are men who have some love yet left for their country and its institutions, and they will give to the subject a calm, patriotic, and statesman-like consideration. I believe then that the Senate will concur in the course which I have indicated that it is probable the House will adopt, if no adjustment of this difficulty shall be made. My reasons for that opinion can be very briefly stated. They are—

First. That a profound conviction pervades the public mind of this country, shared universally by the democrats and to a large extent by the most intelligent and reflecting republicans, that Tilden has been fairly and honestly elected and should be inaugurated. So general and profound is that opinion that no other conclusion could give satisfaction to the public mind. The time has not yet arrived in this country when the firm and decided judgment of the American people can be treated with inattention or contempt by a body of selfish and unscrupulous politicians.

Secondly. The fact is so notorious that the State of Louisiana cast her electoral vote for Tilden by a majority of upward of eight thousand, and that he has been defrauded of proper certificates by the secret and corrupt machinations of a returning board that were ashamed even to make and preserve any minutes of their proceedings, that I do not believe that Governor Hayes would accept the Presidency acquired through such fraudulent and dishonorable proceedings; nor do I believe that the Senate of the United States would imperil its high position before the American people by giving encouragement to such frauds.

Thirdly. In claiming our right to reject the vote of Louisiana, we stand upon firm and stable ground. We stand upon the justice of our cause; upon the clear support of the American people, and upon a construction of our powers which has been expressly recognized and acted upon by the Senate for the last eleven years, and which that body could not under existing circumstances repudiate without subjecting itself to the charge of the grossest inconsistency, and of the most extreme and indefensible partisanship.

I have, so far, confined myself exclusively to the expression of my concurrence in the resolutions reported by the gentleman from Kentucky, [Mr. KNOTT,] chairman of the Committee on the Judiciary, which are now under consideration by this House, and have made no reference to the bill reported by the joint committee of the Senate and House of Representatives to provide for and regulate the counting of the votes for President and Vice-President, submitted by the gentleman from Ohio [Mr. PAYNE] as chairman of said committee on behalf of the House. That bill is not yet before us, and probably will not be taken up for examination and discussion by this House until acted upon by the Senate.

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. FAULKNER. Mr. Speaker, I do not profess to be exempt from the influence of party as a member of this body. Indeed, in looking back to my past political life, if I have committed any error in that respect at all, it has been in too rigid an adherence to its requirements and policy. Occasions will, however, sometimes arise in which party success may be too dearly bought, and when the transcendent interests of the country, and the peace and happiness of the nation, must cause all mere party triumphs to dwindle into utter insignificance. I took occasion a few days ago to express my opinion upon the powers, privileges, and duties of the House of Representatives in counting the electoral vote for President and Vice-President, and I endeavored to show that in accordance with the former practice of the Government, and the true construction of the Constitution, a result might be reached that would be in consonance with the wishes and feelings of the people of my State; and yet in reaching this conclusion I had to assume that a co-ordinate branch of the Government would rise superior to all the influences of party and concur with us in the rightfulness and justice of our position. In this assumption I might be mistaken, and the country precipitated in to a fierce and irreconcilable conflict between the Senate and House of Representatives, which might lead to the most serious civil convulsions. I cannot, therefore, but look with great satisfaction upon any measure which, violating no provision of the Constitution, nor surrendering any right of the people, will enable us to bring this painful and menacing controversy to a termination in a manner acceptable to the people of the United States.

The bill now under consideration comes before us with high recommendations; it professes to be a measure of peace, of conciliation, of order, and of settlement. It professes to be so just and impartial in its provisions that no man can predict in advance what result may flow from it, and it is alike lauded and assailed by prominent politicians of both parties. It comes before us unanimously recommended by the able committee on the part of this House and sustained by the committee of the Senate with one exception, whose opposition to the measure cannot disparage it much in my estimation. It has already passed the Senate by more than a two-thirds vote, receiving the cordial and earnest support of the most universally esteemed members of that body without distinction of party.

The bill fixes and determines three important propositions for which I have heretofore earnestly contended:

First. It utterly explodes the idea that the President of the Senate has any authority to determine the validity of contested electoral returns.

Secondly. It affirms the right to count the electoral vote to be in Congress.

Thirdly. It recognizes the authority of Congress to go behind the face of the electoral returns and to inquire into the fact, to what extent they may have been procured by fraud, coerced by military power, or manipulated by secret and illegal returning boards.

It is true it requires that where double returns are received from any State, and the commission created by the bill shall determine in favor of the acceptance of one of those returns, the decision of that tribunal can only be reversed by the concurrent action of the two bodies. This is the only feature in the bill that is not in accordance with my preconceived opinion of the powers of this House; and it is a concession based, on my part, upon the very high respect and deference which I am disposed in advance to give to the decisions of that able and upright tribunal.

This bill has been assailed upon the ground that it is a violation of the Constitution and a delegation of our constitutional powers to that commission. If this were true, it would be a fatal objection to the bill; but I am unable to see any provision of that instrument with which it is in conflict. It is conceded that the Constitution is not very clear and explicit as to the mode and manner of counting the electoral vote. Where such is the case much must necessarily be left to implication and legislation. The fair and just implication, sustained by the past practice of the Government, is that the power is vested in the two Houses of Congress. That power is distinctly recognized in the bill now before us, and the authority given to the commission is not a delegation of the power thus conferred any more than the reference of a cause in court to a commissioner to ascertain facts and the law bearing upon those facts for the information and enlightenment of the court would be a delegation of its judicial power to that officer. The right of Congress, retained by this bill, to reject any decision made by this commission upon the law and facts submitted by it is a conclusive answer to the objection of a surrender or delegation of our powers to that body. No doubt very great weight will be attached to its decisions; they will doubtless merit our fullest confidence, and will probably be acquiesced in without any dissent on our part; yet we are left entirely free to reject them if they shall not be in conformity with what we believe to be law and justice.

It is further maintained that the powers conferred upon this commission are novel, that the blending of judges of the Supreme Court with committees of the two Houses is unprecedented and dangerous, and that we are venturing upon an experiment which may mar the symmetry and beauty of our constitutional system. This is a very great error. The provisions contained in this bill are neither novel nor without some semblance of authority in our past history. The present bill is modeled upon a bill which received, in many provisions similar to it, the approval of both Houses of Congress in the year 1800, and which was earnestly sustained by the ability and influence of John Marshall, afterward Chief-Justice of the United States—a name illustrious in the jurisprudence of this country—and by many others scarcely less distinguished for their eminent talents and constitutional learning.

As this bill, therefore, in my opinion, is neither unconstitutional nor unsupported in its general features by distinguished jurists and statesmen in the earlier and purer days of this Republic, the simple inquiry is, does it afford a fair and honorable means of reconciling the conflicting sentiments and opinions of forty millions of people, and of producing a result which will give peace and satisfaction to the public mind? Upon this point there seems to be no ground for diversity of opinion. An overwhelming majority of both branches of Congress look to the results of this commission with the unshrinking confidence that it will remove every difficulty out of our path, and enable us to reach a conclusion satisfactory to ourselves and to the nation. From all parts of the country—north, south east, and west—we are receiving memorials, letters, telegrams, proceedings of public meetings, and resolutions of legislative assemblies, declaring their entire confidence in the efficacy of this bill as a measure of national relief, and announcing the determination of the people, without regard to their political predilections, to stand by and abide the result of this mode of settlement.

Under such circumstances can I refuse my assent to this bill? No greater calamity could befall this nation than to have a presidential incumbent holding office by a disputed title, and where one-half the nation would in their hearts and consciences believe him to be a usurper. Whether it led to civil strife and contention or not, it would give a shock to our institutions from which they might never thereafter successfully recover. I wish to see all causes for discontent and dissatisfaction in the public mind removed. I wish to see universal confidence restored in this nation, for without it industry must continue paralyzed and labor continue without employment. The happiness, the prosperity, financial ease, and industrial energies of this nation now hang upon a prompt, peaceable, and harmonious settlement of this presidential question. I am encouraged to believe, by all around me and by all that I can hear from every portion of the country, that this measure, if adopted, will quiet discontent, tranquilize the public mind, inspire confidence, and infuse new vigor and life into our free institutions. So believing, I shall without hesitation cast my vote for the bill.

Counting the Electoral Vote.

SPEECH OF HON. L. W. BALLOU,

OF RHODE ISLAND,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, 1877.

Mr. BALLOU. Mr. Speaker, the great question for us to decide in this presidential contest, and that which is alike important to all parties, is not one of administration, not whether Mr. Tilden or Mr. Hayes is elected President, but who is legally and constitutionally elected.

There is no great principle that divides the two great parties of the country upon which an issue can be made of sufficient importance to justify any other contest than the one for the supremacy of the law. On this the liberty of the people and the perpetuity of our country rests, and all parties are alike interested in preserving it.

The two platforms of the republican and democratic parties, upon which the presidential contest was waged, differ in words rather than principles, and the great questions which have been before the country in the past and decided during the last sixteen years are now professedly accepted by all. All agree that we are a nation, and not a league; that all men are created equal and have the inalienable right to life, liberty, and the pursuit of happiness. All profess to rejoice that the Union has been preserved; that slavery has been abolished; that the amendments to the Constitution are adopted, which confer citizenship, with all its rights and immunities, and the right to vote upon those who had been slaves; that the public debt incurred in suppressing insurrection cannot be questioned, and that the rebel debt is illegal and void.

The republican party to-day, both by the platform it has adopted and the candidate it has chosen, stands pledged to "the permanent pacification of the southern section of the Union and the complete protection of all its citizens in the free enjoyment of all their rights;" to "regard the interests of the white and of the colored people both and equally;" to "put forth its best efforts in behalf of a civil policy which will wipe out forever the distinction between North and South in our common country;" to "a civil service organized upon a system which will secure purity, experience, efficiency, and economy;" to "a strict regard for the public welfare solely in appointments, and the speedy, thorough, and unsparing prosecution and punishment of all public officers who betray official trusts;" to "a sound currency," (based upon specie;) to "education unsectarian and free to all;" to "simplicity and frugality in public and private affairs;" and to "a fraternal spirit of harmony toward all sections and classes."

Does the democratic party to-day dissent from any of these principles or propose any new measures antagonistic to those the republicans are pledged to carry out? If so, what? It is easy to say, "You republicans are extravagant and corrupt and we democrats are for economy and reform," but the history of the country in its different sections and localities or as a whole, when under democratic rule, has not shown such an excess of patriotism, purity, honesty, and faithfulness over republican administrations as to justify revolution in order to bring it into power. There are weak and selfish and corrupt men in all parties, and it will be difficult for any party to select sixty thousand persons for official positions and not get some who are unpatriotic and selfish mixed in, but I believe it may be safely stated that not only the percentage of loss by fraud, in proportion to the amount of money received and expended, has been greatly reduced since the inauguration of President Lincoln, and especially during the administration of President Grant, but that the percentage of unfaithful officials in proportion to the whole number employed has been greatly reduced also; and that the honesty and faithfulness and patriotism of the officials to-day will compare favorably with that of any period in the history of the Government.

If then there are no new principles to be adopted, the only party question there is must be, who shall administer and carry out to legitimate results those which all professedly hold? Shall the administration be in the hands of those who have heretofore proclaimed and defended these principles in the halls of legislation and on the battle-fields, or in the hands of those who have opposed them till means and strength failed and submission was a necessity.

I think candid men can give but one answer, and that is that the tried friends of equal rights and liberty for all will be more likely to see the work they have thus far carried on faithfully completed than to trust the administration to those who have seemingly accepted these principles only from necessity or inability longer to oppose them. And yet it would be far better that the democratic party, which has opposed them for years, should come into power and administer the Government, if legally chosen, than that the republicans should retain possession by illegal or unconstitutional means; for republican institutions and liberty itself can only be preserved by obedience to law.

How then stands the case in relation to the presidential election at

the present time, and what course should be pursued? If it is a time of trial and danger, then more than ever should we be guided by law and hold on to the Constitution as the anchor of our hopes, and not resort to untried expedients. That Constitution declares that—

Each *State shall* appoint, in such manner as the *Legislature* thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.

It also declares that—

The electors shall meet in their respective States and vote by ballot for President and Vice-President, * * * and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—the person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed,

the time of choosing the electors and the day on which they shall give their votes being fixed by law.

Have these conditions been complied with? Certainly the number of electors designated by the Constitution have been chosen by all the States, and have voted by ballot for President and Vice-President on the days designated by law, and have sent distinct lists of the persons voted for, certified and sealed, to the President of the Senate, who has received and must open the certificates, in the presence of the Senate and House of Representatives, when they must be counted, and somebody must do it. As there have been but two candidates for either President or Vice-President, and an odd number of votes has been given, some one must have a majority and be elected. Who shall count the vote and declare the result?

Unquestionably Congress may provide by law the course that shall be pursued under the Constitution, but in the absence of legislative provision to the contrary it would seem to be obviously the duty of the one whom the Constitution designates to do a part of the work in the presence of the Senate and House of Representatives should complete what it specifies must then and there be done, no other person or body being officially present or named for that purpose. That this was the intention and understanding of the framers of the Constitution may be clearly seen not only by the uniform practice of Congress during the early and many successive presidential elections but by the following explanatory resolution adopted by the convention itself on the 17th day of September, 1787, the very day that Washington transmitted it to the Congress of the Confederacy, giving the *opinion* of the convention in regard to what should be the mode of proceeding by the first Congress under the Constitution to be adopted, and what it considered would be the duty of the President of the Senate:

Resolved, That it is the opinion of this convention that as soon as the conventions of nine States shall have ratified this Constitution, the United States in Congress assembled should fix a day on which electors should be appointed by the States which shall have ratified the same, and a day on which the electors should assemble to vote for President, and the time and place for commencing proceedings under this Constitution; that after such publication electors should be appointed and the Senators and Representatives elected; that electors should meet on the day fixed for the election of President, and should transmit their votes, certified, signed, sealed, and directed as the Constitution requires, to the Secretary of the United States in Congress assembled; that the Senators and Representatives should convene at the time and place assigned; that the Senators should appoint a President of the Senate for the sole purpose of receiving, opening, and counting the votes for President, and that after he shall be chosen the Congress, together with the President, should, without delay, proceed to execute the Constitution.

And in accordance with this resolution the President of the Senate, John Langdon, at the first election of George Washington, certifies that he did, "in the presence of the said Senate and House of Representatives, open all the certificates and count all the votes of the electors for a President and Vice-President." And John Adams, as Vice-President, who was also President-elect for the third presidential term, certifies to the election in the same words and to the opening and counting of all the votes. Thomas Jefferson also as Vice-President, and who received an equal number of electoral votes with Aaron Burr for the fourth presidential term, and who was chosen President by the House of Representatives, certifies that he "did in the presence of the Senate and the House of Representatives open all the certificates and count all the votes of the electors for President." The amendment of the Constitution adopted by the States in 1804 has the same phraseology in relation to opening and counting the votes as the original instrument, and the same course was pursued and similar certificates were issued by the President of the Senate in relation to opening and counting the electoral votes for the first eight administrations, certainly showing how the framers of the Constitution understood and what they considered the duties of the President of the Senate in relation to the counting of the electoral vote. And probably this course of proceeding would never have been questioned as being the constitutional and legal method were all the certificates of electors of such a character as to leave no doubt of the true and legal result.

But in the present crisis, when two great parties are almost evenly divided, and where fraud is charged upon both sides, and when two sets of certificates are returned from several States, and each party confidently claiming that its candidates have been legally elected, shall it be left to any one man to decide the issue, it is asked, and at his option accept one set of certificates and reject the other? While this may seem to be committing the will of the people to the voice of one man we should not forget that however many certificates are returned from a State to be opened and counted there is only one set that can be legal, and somebody must decide which that one is. The bill reported by the joint committee presumes that five Representatives and five Senators will be chosen, equally divided in their party preferences, and that from the judges of the Supreme Court four members shall be taken who shall choose a fifth, who may become the umpire, and thus the decision of the election by the proposed committee will still be in the hands of one man, and that too in a way not contemplated by the Constitution.

This may meet the difficulty of to-day and settle peaceably the presidential question of 1877, because a majority in each House belong to different party organizations and may choose the commission to whom the whole matter is to be referred, fairly; but none of us would be willing to submit it to the action of a committee to be thus chosen, *viva voce*, if both the Senate and the House of Representatives were controlled by the same political party, and in opposition to our own. Therefore the present bill of the joint committee, though it may bring peace for the moment, is an unsafe rule and will be a dangerous precedent unless the Constitution shall be soon amended so as to meet all emergencies.

In any closely contested election like the present it will be a tempting occasion for a Congress with a majority in both branches of one political party, under the pretense of illegality or fraud, to substitute its own voice through a partisan committee for the voice of the people.

Is it not better and safer to stand by the old rule, which the framers of the Constitution recommended both by resolution and practice, making it the duty of the President of the Senate to open the certificates, count the votes, and declare the result; and if further legislation is deemed necessary to allow an appeal to be made from his decision on any legal or constitutional question, and *on no other*, to the Supreme Court, our highest legal tribunal, for its opinion and decision of all such questions, thus avoiding the danger of a possible individual party bias either by the President of the Senate or a committee of Congress, and still have the voice of the people constitutionally expressed in the choice of their Chief Magistrate; thus making the decision equally fair and just on the present occasion, and being a safe precedent for any conceivable division of parties in any exigency which may arise in the future.

Counting the Electoral Vote.

SPEECH OF HON. JOHN V. LE MOYNE,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the report of the select committee upon the privileges, powers, and duties of the House of Representatives in counting the votes for President and Vice-President of the United States.

Mr. LE MOYNE. Mr. Speaker, what I desire to say is only in explanation of my vote and not expecting to influence any one else.

This has been said in this debate to be the most important measure which will probably come before Congress for a generation, yet it is to be disposed of in about twenty-four hours' consideration. Such haste is necessarily dangerous. In 1800 Congress discussed and considered this same question for many months, and was not then able to solve the difficulties which we propose to dispose of on the spot. We are being driven by a compelling fear, and that fear not only denies us the time to consider, but deprives us of the dispassionate judgment so necessary for a wise conclusion. This condition of itself suggests doubt, and that doubt is whether or not we are acting in obedience to the Constitution which we have sworn to support.

By the Constitution upon Congress alone has the duty been devolved of counting the electoral vote. There is no provision in it whereby authority is given to any other branch of the Government or individual to participate in this duty, or to revise the action of Congress. Whether the power be in the President of the Senate, in the House, or in the two Houses jointly, it is certainly in Congress as fully as its exclusive power to legislate. Would Congress have power to either deputize a part of itself to legislate or to incorporate with itself some other body or branch of the Government, or certain individuals to pass the laws? If it could not thus discharge a legislative function, can it thus discharge a judicial function conferred by the same power, to wit, the Constitution? We as members of Congress have only a delegated power, and how can we refuse obedience to that fundamental rule of law, "*Delegatum non potest delegare.*" The gentleman from Virginia said this could not be considered as the relinquishment of any rights of the House, because the law could only be passed by our consent; but still it is more or less a delegation, and the question is, can we delegate? These are serious questions, and would certainly deserve more time if there was not a commanding necessity which denied it.

I confess that I feel the force of this necessity as much as any. I

represent in part one of the important cities of the West. The gentleman from Maine reminded us that God made the country (meaning Maine) and man made the cities; and I believe so far as I know of Chicago that this is probably true. She may not be quite as godly as she ought to be, or perhaps as Maine is, but she has quite as much interest in the peace and prosperity of the country, quite as much in the fair, amicable, and speedy settlement of this question. The cities have responded more promptly on the desirableness of this bill, because the cities are the first and quickest to receive the impressions of public affairs with their daily papers and the intercommunication of large numbers of men. Public affairs are considered more speedily and it takes more time for this fermentation to work out into the rural districts. But the conclusion will not be different. I do not believe you will find the people through the country even in Maine more willing to sacrifice any material interest for the sake of maintaining either one side or the other in a difference of opinion as to constitutional law. I do not believe they will be any more willing even to delay that degree of prosperity in business which a termination of this political contest will bring.

I do not think that the question as to the effect of this measure on the political parties is worthy of consideration. I do believe that there is that feeling of assurance among a large number of the democrats that if by any scheme or plan devised Mr. Tilden shall not receive the office, their confidence in the men who supported the measure will be lost. Our action will be judged in this matter greatly by the results. But with all these considerations, with this great doubt and hesitation, I feel constrained for the sake of peace to vote for this bill.

Gentlemen may sneer at the suggestion of war. I myself have never believed it possible. Neither did we of the North believe in 1861 that the southern people would be so foolish as to make war. A bitter experience should make us now more careful. Any difficulty about this matter, if it did not lead to war, would so discredit us that our bonds would be sent home, our credit destroyed, and we would be utterly overwhelmed with financial distress. I will venture to say that there is not a member of this House who has not been consulted and told how many men to fight could be brought to Washington either by one side or the other. It is only mere rumor of war, but over the whole country there has been a grumbling that threatened a storm. The atmosphere seemed charged with angry excitement, which needed only a spark to light it, which would send a flame from one end of the land to the other. I believe this flame would utterly consume all such petty instruments of fraud as a Louisiana returning board and would annihilate all attempts at military dictation, but I fear it might also destroy that safeguard of liberty, "the law;" and, to avoid all risk, considering only that highest of all duties, to preserve the Government, I feel compelled to support the bill.

Counting the Electoral Vote.

SPEECH OF HON. TAUL BRADFORD,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, 1877.

Mr. BRADFORD. Mr. Speaker, as I propose to vote against the passage of the pending bill, it is due to myself and to my constituency that I place of record the reasons which impel me to this determination.

Trained in a school in which the inviolability of the Constitution is the cardinal canon of faith and of duty, I may with regret but not with trepidation dissent from the views of the majority of my party, which sanction an expedient by which the will of the American people may be defeated in its highest function and the frame of our Government materially and permanently changed.

Congress has not illimitable power. It can neither assume that which does not belong to it nor divest itself of that which is its proper attribute. It can neither elect a President of the United States nor create a tribunal by which such sovereign ordination may be accomplished.

The elective power in continuing the succession to the chief officers of the nation resides with the people, and when it is not constitutionally exercised the duty of preventing an interregnum devolves in part on the House of Representatives and in another part on the Senate.

And when and how this resultant duty of the several Houses of Congress arises and must be performed is the great question which now challenges our consideration and must soon receive from each of us an answer, loyally spoken in the presence of the people, truthfully spoken in the forum of conscience, and patriotically spoken for the guidance of those to whom the same question will hereafter be propounded.

Differences of opinion as to the meaning of the Constitution where it speaks of the mode of electing a President and Vice-President of the United States no doubt there are, but it is no part of our duty to reconcile these views if we can, and, if we cannot, then abandon the constitutional methods of procedure and agree upon some plan of judicial sortilege that has the sole but popular merit of promising to each aspirant to the Presidency a chance of success.

Yet these views have grown to be concurrent in a remarkable degree. Their original divergence occurred in the matter of the final count of the electoral vote, one favoring the power of the President of the Senate to count this vote, and the other the power of Congress to count it; and this has been entirely corrected and removed by the action of the Senate on the pending bill. And this much accomplished—this fundamental distinction of the warring creeds removed, is it not manifest that the remaining differences of opinion on this subject are but transitory, and that the whole dispute could have been settled conformably to the plain formula of the Constitution?

It may now be treated as determined that the President of the Senate has not the constitutional power to count the electoral vote, but that such power vests only in the Congress. How shall it be exercised?

Congress must pass upon the vote of each State as it is presented. And such vote will not be entitled to enumeration until it shall have been decided to possess all the elements of a valid constitutional vote. The judgment so pronouncing must be that of each House, acting separately, and must be delivered by silent acquiescence in the enumeration of the vote or by a deliberate resolution favoring or rejecting it. And certainly the failure of the Houses to agree on the matter cannot result in a decision favoring the judgment of either of them.

The mere existence of evidence which could make a *prima facie* case does not of itself make such case; but to accomplish that the judicial or quasi-judicial tribunal to which it is submitted must pronounce it, if competent and filling, the measure of legal admissibility. A *prima facie* case is the result of evidence acted upon by a judicial tribunal. Hence the mere presentation of the certified lists of electoral votes does not make the *prima facie* case to be overthrown only by the judgment of Congress. And without further elaborating this point I take the position that the question before Congress in prosecuting the inquiry under consideration is, Shall the vote be counted? and not the question, the votes being regular and *prima facie* entitled to enumeration as the President of the Senate or somebody else might decide, Shall the vote be rejected?

The right of the House to pass upon the vote is equal with that of the Senate. And the right to pronounce judgment in the premises implies the right to pronounce efficient judgment; otherwise, in the event of a disagreement between the Houses, we would have to fall back upon the position so successfully overthrown by able lawyers and experienced statesmen of both parties in the other end of the Capitol, that the President of the Senate has the right to count the vote.

The truth of the whole matter lies in a nut-shell. It is beautifully casketed in the resolutions of the "committee on the powers and privileges of the House in the matter of the count of the electoral vote," presided over by the gentleman from Kentucky, [Mr. KNOTT.]

These are the resolutions:

Resolved, 1st. That the Constitution of the United States does not confer upon the President of the Senate the power to examine and ascertain the votes to be counted as the electoral votes for President and Vice-President of the United States.

2d. That the only power which the Constitution of the United States confers upon the President of the Senate in respect to the electoral votes for President and Vice-President of the United States is, to receive the sealed lists transmitted to him by the several electoral colleges, to keep the same safely, and to open all the certificates, or those purporting to be such, in the presence of the Senate and the House of Representatives.

3d. That the Constitution of the United States does confer upon the Senate and the House of Representatives the power to examine and ascertain the votes to be counted as the electoral votes.

4th. That in the execution of their power in respect to the counting of the electoral votes, the House of Representatives is at least equal with the Senate.

5th. That in the counting of the electoral votes, no vote can be counted against the judgment and determination of the House of Representatives.

6th. That the committee have leave to sit again, and report hereafter further matter for the consideration of the House.

And these resolutions, at the time of their introduction a few days ago, evidently reflected the views of a majority of members on this side of the House. And how can so wide a departure be taken as leads one from the high ground of these resolutions down to a complete abdication of the powers and duties of this House embodied in the pending bill? Forensic or constitutional reasoning is unequal to the achievement of bridging the broad chasm that lies between the resolutions and the bill.

But the advocates of the bill claim a constitutional grant of power in the premises to the Congress, which power, they say, must be executed as Congress may direct, either directly under its own supervision or indirectly under some organized authority.

This position is not tenable. The high prerogative duty of counting the electoral vote is, in pregnant but not ambiguous terms, devolved upon Congress by the Constitution.

The Senate and House of Representatives are assembled in a single chamber, in whose presence the President of the Senate must open the packages containing the electoral votes; whereupon it is directed that the votes "*shall then be counted.*" The "grand inquest" of the presidential office then ensues. A certain "*presence*" is required, and

all other and subsidiary agencies are excluded from the solemn court. And after contemplating this high constitutional commission, endowed of dignity and authority by the authors of our Government, who with complacency can regard the ephemeral and unauthorized "commission" ordained to calm the fears of one party and to open to the other a way of retreat from a perilous and revolutionary position?

Democrats supporting this bill renounce their title to defenders of the hereditary faith of their party. They work on republican lines "outside the Constitution." They admit that there is color of truth and fairness in the republican claim to the vote of Louisiana and Florida, and, not willing to give judgment in the premises, they remit to an improvised and secret junta the power to impeach the indefeasible title of Tilden to the Presidency.

This course can find no justification anywhere except in unfounded dread of the republican party. It is the offspring of panic, the conjuration of alarmed capital, now well-nigh become the people's master.

The other and the better course is the one pointed out in the Constitution, and followed in all the history of our Government. This we ought to pursue. This the people expect us to pursue. We have no right to presume that anybody will levy war in this country because we discharge our duty. There will be no war. The advocates of peace are all the people. Republicans menace only because democrats are timid. Tilden has been elected President of the United States, and if a republican Senate should fail to recognize and acknowledge this fact, the House should then proceed to re-affirm the judgment and selection of the people. It has the right and it has the power, and lacks only the courage to condemn the unhallowed work of the impious conspirators who have raped the States of Louisiana and Florida. It is a national disgrace to treat with these felons; and the dignity and high standing of those who will be called upon to conduct the negotiation will not redeem its character. The judges who must play confessors to congressional consciences will suffer in the public estimation. The whole Government will be involved in the odium of arbitrating the right of the people to choose their President.

Sir, the rules of the House have denied me the privilege of discussing elaborately and at length the provisions of this bill. It is only permitted me to give in brief my notions of duty suggested by the situation in which I am placed. The bill will pass against my humble protest. It may secure an acknowledgment of Mr. Tilden's election, as its advocates on this side of the House believe. God grant that it will. But, as for myself, I prefer to give constitutional sanction to what the people have done, and without taking chances or sharing responsibility with another in an indivisible obligation, to proclaim Mr. Tilden, not the fortunate suitor before a court of arbitration for the Presidency, but, the annointed of the people, President of the United States.

Counting the Electoral Vote.

SPEECH OF HON. JOHN REILLY,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877—

Mr. JOHN REILLY. Mr. Speaker, the discussions on this bill by the members who have spoken in both Houses of Congress have, I think, fully established it as legal and constitutional. That there is a necessity for legislation that will effect an amicable and legal settlement as to how the electoral vote shall be counted, it is almost needless to argue; that "the tranquillity of the country has been disturbed and its business prosperity imperiled" by the impending question is shown by the following resolutions, being part of resolutions adopted by the Legislature of the State of Pennsylvania and transmitted to the Senators and Representatives by the governor:

Whereas the tranquillity of the country has been disturbed and its business prosperity imperiled by the extraordinary difficulty of ascertaining in the nearly balanced vote what has been the result of the late election for the electors for President and Vice-President;

And whereas, to allay any excitement that may endanger the public peace and precipitate upon the people the calamities of civil war from which they have been lately delivered, it seems fit and proper that the Legislatures of the States, whose prerogatives and vital interests are involved in the issue, should declare and emphasize those principles embodied in the national Constitution by which the decision of the pending question can alone be safely and lawfully reached;

Resolved by the senate, (the house of representatives concurring,) That the will of the people in electing a President and Vice-President of the United States can only be expressed in the manner prescribed by the Constitution, and the persons having the majority of the votes of the electors appointed by the States of the Union in the manner prescribed by the Legislatures thereof must be by the force of the Constitution and laws declared President and Vice-President respectively and must be on the 4th of March inaugurated, and thereafterward duly respected as such.

Second. That all factious opposition and all threats of violence designed or intended to prevent or imperil the declaration and confirmation of the constitutional election of the President and Vice-President are unpatriotic in spirit, dangerous and revolutionary in tendency, and merit and should receive the condemnation of of an outraged and indignant people.

* * * * * * * *

Resolved, That our Senators in Congress be instructed and our Representatives requested to let their action on this question conform to the spirit of this declaration.

Resolved, That the governor be requested to have a copy of this preamble and resolutions forwarded to each of our Senators and Representatives in Congress as early as convenient.

The foregoing preamble and resolutions have passed the Legislature.

THOS. B. COCHRAN,
Clerk of the Senate.
WM. C. SHURLOCK,
Clerk of the House of Representatives.

JANUARY 16, 1877.

If further evidence were required it will be found in the various resolutions of Legislatures, boards of trade, chambers of commerce, and other organizations, as well as the public meetings which have been held, and their resolutions on the subject which have in many cases been laid before Congress.

That the members of the Pennsylvania Legislature had good cause for the resolution denouncing "factious opposition" and "threats of violence" may be inferred from the following extract from a prominent daily paper:

[Correspondence of Forney's Press, Philadelphia.]

HARRISBURG, *January* 14.—There has been considerable conversation in republican circles since the late caucus on the subject of a bill which Representative Long proposed to offer for consideration. No one as yet, save your correspondent, is able to give the facts. Here they are: After the question of adjournment had been discussed in the Thursday night gathering, Mr. Long stated that he had a bill which had been prepared in Washington and sent to this city, and had here been submitted to the governor and approved by him, providing for the appropriation of $1,000,000 to arm and equip the National Guard of Pennsylvania, to be used in case of an emergency at Washington. The announcement of such a bill created the most intense excitement in the caucus. Mr. Long was assailed on all sides to divulge the authorship of the bill, which he declined to do, only repeating that it was prepared at Washington and approved by the authorities there and here.

Here is a proposition given to the country to place the State forces on a war footing at an expense of a million of dollars. The resolution, I presume, is sleeping in caucus ready to be brought out at any time the "authorities" referred to may direct. That the General Government regard this question with alarm may be inferred when they concentrate troops at the national capital. On July 10, 1876, the report of the War Department to this House shows that there was not a single soldier in Washington. Their report of January 9, 1877, shows that there are 771 soldiers at the Arsenal here, it being the fourth point in numbers in the United States. July 10, 1876, there were in South Carolina 538 soldiers; the report for January 9, 1877, showed 1,466. In Louisiana in 1876 there were 506 soldiers; in 1877 there are 1,391. The movement of troops to the Southern States you will recollect was ordered *the day after the adjournment of last session of Congress.* It is fair to presume that it was important that they should go there, as there was a great Indian war on hand, and Congress was urgently pressed for additional troops only a few days before; and it must have been urgent indeed to divert them from the protection of the frontier. It is barely possible that the election in these States was more important than the protection of the frontier and the suppression of the Indian war. The country will hardly believe that there was much necessity for it. When there was a threatened outbreak, Governor Hampton being called upon by the officers to quiet it, the election over in these States, the troops were re-enforced by a committee to secure a "fair count." That result not being altogether satisfactory, it is to be presumed that the troops are sent to the national capital to re-enforce the "fair count" committee and enforce it; hence the disturbance to the country. The people see in all this an evidence of danger, and their wishes are that the question shall be removed to a tribunal that will not be affected by bayonet rule, and one that they can stand by and support when made; one that will help restore the country to the path of prosperity, which it was rapidly reaching when this obstruction was put in its way. That the passage of this bill will give relief to the country I have no doubt, and therefore cheerfully give it my vote.

Counting the Electoral Vote.

SPEECH OF HON. JOHN F. PHILIPS,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. PHILIPS, of Missouri. Mr. Speaker, I had hoped for the opportunity to express at length some opinions formed and convictions entertained by me in respect of this great measure.

But the action of the House in limiting the debate, under the necessities of the case, admits only a few words in explanation of the vote I shall give.

Many honest, true men of my political household think the demo-

crats of this House should stand by their construction of the Constitution and let the consequences take care of themselves. I concede to no man greater zeal for the party than myself. In its policy and principles are wrapped up the tranquillity, the prosperity, honor, and glory of the American Union. Its defense under persecution, derision, and misconception of the autonomy of the people, its unshaken attachment to the constitutional methods of administering the Government, challenge the admiration of every honest, thoughtful citizen. To the fact that amid the season of wild disorder succeeding our civil strife, when bad blood, wicked passion, and devilish fanaticism ran riot and ruled the hour, the democratic party held up the blazing shield of the Constitution are we this day indebted for our rescue from the unappeasable and unchained spirit of despotic power.

That the American people in the late election approved its policy by electing its presidential candidate, I have no doubt whatever. But circumstances of an extraordinary and perilous nature environ the Republic in the matter of declaring according to the methods of law the result of that election. Be it fraud, conspiracy, or corruption, we find ourselves as members of this House in a conjuncture, anomalous and doubtless wholly unanticipated by the framers of the Constitution, who did not foresee what a rôle returning boards and the Federal army were to play in American politics? We are in the condition of shipwrecked men at sea. We need not in this perilous moment debate how came we here, nor exhaust ourselves so much in reproaches and mutual accusations. The great question with us as rational men, fit to be legislators, is, what shall we do to reach the shore?

No party in this country ever stultified itself in yielding an abstract opinion in the face of that necessity which places against party fealty the outcry of a whole people for relief. And the party which shall be foremost in the struggle for a peaceable and just solution of the complications of this hour—threatening as they do to whelm us with a strife that would bear American liberty to the bloodiest grave the world ever saw—will be the controlling party of this Republic for many years.

The democratic party is a pacific party, because it works by the agency of law, and not the sword. It loves not the riot of confusion, for it is the hand-maid of peace and the guardian of orderly government. Backed as it is by the popular conviction that it has been denied the immediate recognition of the fruit of its triumph at the polls only by force and fraud, it will the more demonstrate the grandeur and self-abnegation of its patriotism when for the public peace it admits the defeated party to the equality of compromise.

A people without faith is a people without hope. Surely all honor and conscience are not dead in the breasts of Congresses and the judiciary! If men have brought their minds to a different conclusion on firm ground of belief, the sooner we dissolve and pull down this fabric of so-called popular government the better.

If, in fact and in law, Mr. Tilden or Mr. Hayes has been elected by the people, there is authority lodged in the commission to ascertain this; and if the commission, composed, as it will be, of the best men of the Senate and House and venerable men of the highest judicial tribunal on the earth, have not the wisdom to discern, the conscience to seek, and the courage to declare the truth, then indeed have we reached that extreme of political disorder for which revolution is the only cure. I shall vote for this bill as the best solution proposed and in preference to the humiliating spectacle of one man in the Senate declaring according to his party bent who is to be the President, and then witness a quiet submission to this usurpation or an appeal to the bloody arbitrament of the sword.

In the face of such an emergency as this to say that the Constitution is barren of power to admit of the solution proposed, is to stultify the men who made it and to create a just suspicion of its preservative energy. Coming as do the appeals against the constitutionality of this bill from the men who have tossed that instrument in the air, spat upon it, and cut it into shreds with military bayonets whenever it interposed to thwart their party schemes, they excite little alarm. Invoked as this measure is by every consideration of public peace and patriotism, I doubt not these constitutional mists clouding the visions of my colleagues, will dissipate in the sunlight of the nation's repose and glory to follow this lawful and orderly adjustment.

Counting the Electoral Vote.

SPEECH OF HON. JAMES PHELPS,

OF CONNECTICUT,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. PHELPS. Mr. Speaker, in the few moments allowed me under the necessary arrangement for the limited debate upon this measure, which is not second in importance to any which has demanded the consideration of the Congress of the United States since the formation of the Constitution, I shall have an opportunity to state but briefly and very generally the reasons by which I am governed in the conclusion to which I have arrived. In doing so, I shall purposely avoid the discussion in its bearing on precedents which have been made and followed on former occasions of counting the electoral vote, because that branch of the subject involved has been exhaustively treated by many gentlemen representing both sides of the question.

In giving expression to my views, I shall endeavor to betray no partisan bias. Party organizations are unimportant in the presence of such a crisis, and partisan triumphs sink into insignificance when weighed against the mighty issues which hang upon the disposition of this question. One party or the other may succeed through the proposed arrangement, and one or the other must be defeated, but whatever the result in that respect, if the safety of the country is secured, the people will have reason to bless the instrumentality by which it has been accomplished.

For the first time in our history we are confronted with the spectacle of contending political parties disputing over the result of a presidential election, in which thirty-eight States participated, whose citizens cast an aggregate of more than eight millions of votes. If the preponderance exists on a certain side, it is only by a single vote in the electoral college, and whether it does honestly exist depends upon the decision of numerous controverted questions which arose in the conduct of the election and the subsequent canvass and promulgation of the vote in three of those States, all of which are necessary to be counted on that side to establish such preponderance.

In each of those disputed States, unfortunately perhaps for the credibility of the claim that the result of their elections was fairly declared, the party which seeks to take advantage of that declaration had in its possession the State governments and the officers and machinery by which the election was conducted, the votes canvassed, and the result proclaimed; and in each of them the gravest charges of irregularity, informality, intimidation, and fraud are alleged by each party against the other; and in two of them the difference on the face of the returns between the opposing electoral tickets was so small as to be decisively affected by the *balance* of the alleged irregularity and fraud. In the other still more serious charges are made, and important constitutional and jurisdictional questions are raised to add to the embarrassing complications which surround the result.

The returning officers in all have so certified the election as to give the votes of the States to a candidate who, by such certification, receives precisely the number necessary to his election; a state of things which never before arose and may never again occur, which seems not to have been anticipated by the framers of the Constitution and for the adjustment of which no clear method appears to have been provided in the organic law.

The uncertainty attending the final conclusion of the question has kept alive the intensely bitter feeling which pervaded the canvass, and increased the hitherto unexampled and protracted prostration of the industries of the country, until the people have justly become more anxious for a satisfactory solution of the difficulty than for the success of the political party with which they are identified.

It is contended by a class of ultra partisans whose political interests and feelings accord with those of the officer who is by law designated to preside over the two Houses of Congress when convened for the purpose of counting the electoral votes, that that officer has the power, and that it is his duty, to make the count and ascertain and declare the result; or in other words, that he is the final arbiter in all controversies that may arise in connection with all the claims and counter-claims of fraud, intimidation, &c., and all the points of jurisdiction and of constitutional power which are involved in the settlement of the numerous questions which arise in the disputed States. Whatever the Constitution authorizes him to do is as the presiding officer of the two Houses of Congress, and in their presence legally assembled. How, and when, and by what rule or precedent is he to determine those vexed questions? The exercise of such authority, if he legally possessed it, would be utterly impracticable in the present case. But the Constitution gives him no such power, and imposes on him no such duty, and by the clearest implication confines both his power and duty to the simple ministerial function of opening the certificates, that the count may be made by Congress through its appointed agents, and the ascertainment and declaration of the result by the two Houses in their accustomed mode. Such a construction is recognized by the sanction of an uninterrupted practice since the adoption of the Constitution. A departure from it under existing circumstances would be not only arbitrary, but revolutionary, and the Chief Magistrate inaugurated under such a proceeding would be the head of a party and the leader in the conspiracy, and not the legally chosen and constitutional Executive of the nation. If installed by virtue of such an unwarranted innovation, he would command neither the acquiescence nor the respect of the people. Under such an example all constitutional obligations and restraints would thenceforward be inoperative, and arbitrary and unlawful power would be invoked and exercised to perpetuate the existence of the party in possession of the Government.

The power of Congress to count the vote is vested in the two Houses by constitutional enactment, and there is doubtless a well-founded objection, except in the most pressing emergency, to its delegation by Congress to any other body not wholly composed of members of both Houses. But the usual and only constitutional course hitherto pursued on such occasions is almost certain now to fail through a disa-

greement between the two Houses of Congress, for the reason that they possess equal original powers and are separately controlled by opposing political parties, and therefore some measure of compromise is absolutely necessary to obviate the difficulty. Such adjustment must from necessity be constitutionally irregular in the sense that it is not constitutionally provided for, and it can only be justified to secure the peace of the country and preserve what remains of the Constitution. This is the paramount duty in the extreme exigency before us. To save the life of the nation one of its members, if need be, may be sacrificed. On that ground I believe the proposed measure to be fully justified and properly available as a choice between the continuance of free popular government and anarchy; between public and private financial prosperity and individual and national bankruptcy; between employment and honest support for the laboring masses and a degree of destitution and distress which cannot be described; and possibly between peace and such civil discord as would crimson the country with fraternal blood.

Possibly some of the details of the bill may be liable to criticism, but statesmen should not be too technical when the whole Constitution is in danger. I believe it is as perfect and as well adapted to the occasion as any which human wisdom could have devised, and the able and conscientious committee who freely sacrificed party preferences upon the altar of patriotism that they might harmonize all differences and present a plan to rescue the Government from the danger which menaced it deserve the gratitude of the country, and their names will live so long as the American Constitution shall survive.

For these reasons I cannot hesitate to give the measure my cordial support; and my anxiety for its success, regardless of the question who through it may be the recipient of the great trust depending on its execution, is limited only by the magnitude of the trust, the extent of the peril, and the value of free institutions to a people who in the course of a century have achieved marvelous advancement in everything which makes a nation great, and whose destiny is I trust to continue for all coming time to accomplish still greater conquests in the way of peaceful and enlightened progress.

Counting the Electoral Vote.

SPEECH OF HON. W. H. STANTON,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. STANTON. Mr. Speaker, in casting my vote for this bill, I do not wish to be understood as sanctioning it as a procedure to be followed for all time, in determining who are elected President and Vice-President. The twenty-second joint rule, which the Senate longer refuses to act under, contains provisions, in my view, far more in consonance with the Constitution in counting the electoral vote than are the provisions of this bill.

The refusal of the Senate to act under this rule presents to us the alternatives of adopting this bill or refusing to adopt it and precipitating on the country internecine strife. There is no use shutting our eyes to the fact that unless some measure of the nature of this bill be adopted forthwith, there will be a dual administration after the 4th of March next, and, as a consequence, there will be anarchy, confusion, business prostration, riot, and, without doubt, bloodshed.

I say now that if I considered that any one provision of this bill were unconstitutional I would not vote for it. The Constitution, by my vote, shall not be bartered away for expediency. This bill I believe to be entirely consistent with the Constitution, but it is not, I also believe, such a mode of procedure to count the presidential or electoral vote as the framers of the Constitution designed. They would not have delegated to a committee composed of members of both Houses and members of the Supreme Court such functions as are prescribed in this bill. It is not well to drag the Supreme Court of this country into the slough of politics. But in times of high political excitement like the present, when the members of that body are the only ones whose decisions and determinations on the presidential question the parties of the country will respect, they can for a moment, with propriety, lend their saving influence and services to avert evils incomprehensible from our land. It is not the first time in the history of our country that a member of the Supreme Court has performed in behalf of the country functions which a technical construction of the Constitution might question. It is in truth a question requiring judicial interpretation and exposition in a degree to which this bill calls the services of these judges. It is technical rather than substantial violence done the Constitution (if there be thereby any violation of that instrument at all) to place members of the Supreme Court on this proposed commission, and he who would let loose the dogs of war that technicalities might be inviolate thinks more of his own opinion than of his country's good.

We have all, I believe, arrived at this conclusion: that there will be no acquiescence by this House in a count of the electoral votes by the President of the Senate alone. The weight of precedent and practice is against the right of this officer to count these votes, and within the present week the most eminent members of the Senate, democratic and republican, have in public speeches declared that the right to count these votes does not reside in this officer. This House will not recognize, as the arbiter to determine who will be President after the 4th of March, the President of the Senate and the Senate will not recognize, in determining who was elected President, the mode of procedure provided in the twenty-second joint rule.

In this dilemma what are we do to? Are we to let the ship of state drive headlong into the breakers, or will we, like good citizens, provide a compass by which we may take our bearings and thus escape the dangers that beset us?

I sincerely believe that Samuel J. Tilden and Thomas A. Hendricks, on the 7th of November last, were unquestionably elected President and Vice-President of these United States. I believe that the majority of the voters of the United States, a majority of more than a quarter million, agrees with me in this view. But the other portion of the voters of these States, if they do not sincerely believe that Rutherford B. Hayes and William A. Wheeler were elected President and Vice-President, profess at least so to believe. To these professions I must give the credit of sincerity. I always respect the man who is sincere, no matter in what or to what extent he may differ from me, and while I think that there is no basis for the claims of those who say Mr. Hayes was elected President, yet I feel so strong in the justness of what I claim in behalf of Mr. Tilden that I have no hesitation in submitting the points in dispute to the arbitrament of such eminent men as this bill designates to compose the commission.

I confess I do not like that provision of the bill that allows a vote to be counted unless rejected by both Houses. If the Senate and House have the right to make the count—and in the light of all I have read on this subject I believe they have—then it is singular, it is a contradiction of terms to say that the yes of one House shall prevail over the no of the other House. If the Senate and House are to count they cannot count without concurring, and assuredly when one says yes and the other says no there is no concurrence.

But this is one of the open questions of constitutional interpretation and construction, and since the interpretation that requires a vote to be rejected by both Houses to exclude it is the only interpretation upon which the committee that reported the bill would harmonize, I am willing for this occasion and to bridge over the present difficulty to accept that construction of the Constitution. There being a doubt, that doubt can be no better resolved on this occasion than in the direction of harmonizing differences and preventing turbulence and bloodshed. I believe Congress has the power to prescribe how the electoral vote shall be counted. The framers of the Constitution made no provision how or by whom the votes shall be counted. They simply said: "And the votes shall then be counted."

When the Constitution says by whom a power shall be exercised or in what particular manner it shall be exercised, that precludes all legislation on the subject, and no legislation such as this bill proposes would be in order if the person to make the count and the manner of making it were named and designated in the Constitution. But, as they are not named and designated in that instrument, it is incumbent on Congress, by a law or joint rule, to provide for carrying into effect and operation the provision of the Constitution relating to counting the electoral votes. Until Congress does that the machinery for making a President is incomplete. Our republican friends say that the twenty-second joint rule is abrogated; they are divided among themselves as to the right of the President of the Senate to count the votes. They certainly know that the provision of the Constitution relating to counting the votes has not completeness or full proportions, and yet in the face of these things some of their leaders say we do wrong in making provision to count the vote.

To fail to provide for counting the vote in the face of these circumstances is to give up the ship of state to the buffetings of every wind and wave. Why do these men wish the ship of state to float into a maelstrom? Is it that the vessel may be wrecked and that their personal fortunes may be thereby advanced and enhanced? If they are not wreckers, they are certainly trying to allure that ship of state on by false beacons. They declare that all is peace while in fact all is unrest and confusion. They declare that the democracy will acquiesce in an arbitrary decision by the President of the Senate that Hayes is elected President, when the voice of democracy says they will not accept any such unlawful determination of this question. That these leaders of the republican party have not faith in these declarations themselves is evident from the fact that they have for some weeks past been making such a disposition of the Army and munitions of war as can be construed into nothing less than warlike preparations. And yet these men would bid us be still. That would be the stillness of death—the stillness of death for those who are plotting to triumph by the sword.

Never in the history of this country has there been need of moderation, of compromise, of concession on the part of political parties, more than at the present moment. It only requires a blow to be struck between the democratic and republican partisans to beget a civil war in this country, before which all other civil wars would be insignificant. All the elements for such a strife are at hand. There

are poverty and destitution and total prostration of business throughout the length and breadth of the land. The laboring masses, although pleading for work and opportunity to earn something for the support of their families, plead in vain, and their only occupation is to stand day after day idling in the streets and by-ways waiting for something to turn up. Those men took such action at the last election as they thought would bring back to them the days of their old prosperity. They voted to turn out an administration lavish of the people's money, prodigal of the people's property, and to install in its stead an administration under Samuel J. Tilden, who showed himself during his governorship of the great State of New York as a champion of economy in the public expenditures and a friend of the poor man. They may be robbed of the fruits of that work; it is possible that Mr. Tilden may be counted out; but if they are to be subjected longer to a continuation of the present ruinous policy, I say to the opponents of this bill that they who thus subject them better do it within the law.

The American people always obey the law, but they have little reverence for the small tricks of the politicians. I shall be grievously disappointed if a procedure to count the electoral vote under this bill shall result in defeating the just claims of Mr. Tilden to the Presidency. A majority of my constituents will be grievously disappointed at such a result; but I feel I am acting for their best interests, and for the best interests of the country, in voting to reach a result on this question by reason and law rather than by blind partisanship and brute force. I vote for this bill because I still have faith in humanity, because I believe that the men who compose our Supreme Court will rise above partisanship and decide as to justice and equity belong.

Counting the Electoral Vote.

SPEECH OF HON. WILLIAM M. LEVY,

OF LOUISIANA,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. LEVY. Mr. Speaker, in the closing hours of the discussion of this bill and on the eve of final and decisive action on a measure fraught with interest to the whole country, I deem it proper for me, as one of the Representatives from Louisiana, to give expression to the reasons which influenced my vote. In the decision of the pending issue it is generally conceded that the electoral vote of that State enters largely, indeed conclusively. I have neither the time nor the disposition on this occasion to enter into a discussion on the merits of the disputed question as to how the legal votes of Louisiana were cast in the recent presidential election.

While violent attacks have been made by a portion of the republican press and by gentlemen of the other side, on this floor, assailing the character of the people of Louisiana by charges, as unfounded as they are gross, that intimidation, violence, and murder have undisputed sway within its limits, thus preventing the free exercise of the elective franchise, and while these denunciations demand refutation, I shall postpone that refutation to a later day, when the testimony taken before the committees of this House shall be presented, and thereby a complete vindication can and will be made.

The able and elaborate arguments in both Houses of Congress are, to my mind, conclusive in favor of the constitutionality of the measure; as to the fairness of the plan proposed in the bill, my convictions are strong; as to the expediency and necessity of its adoption I am solemly impressed.

Mr. Speaker, the enemies of Louisiana—by this I mean the enemies of her true interests and those who have marred and are still endeavoring to mar her prosperity and advancement—have by representations based on vague allegations and unsustained by truthful testimony sought to create the impression and establish the belief that the democratic party of Louisiana wages unrelenting warfare against the colored republicans; seeks to deny them the enjoyment of their constitutional and legal rights; sets at defiance the legislation of the country, and practices or justifies intimidation, violence, and murder of the colored men and social ostracism of the white men who are opposed to their political views and policy. Without entering at this time into details to disprove these groundless accusations against the whole people of my State, I shall content myself for the present with supporting my declaration as to their falsity by the simple statement that the continued existence of the men who have so grievously wronged them, the unscrupulous adventurers who have preyed upon their vitals and robbed them of their substance, the security in which they live in the State which they have oppressed, the safety with which they walk the streets and flaunt their ill-gotten gains in the faces of their victims, afford incontrovertible evidence of the patience, forbearance, and peaceful disposition of a community which for partisan ends is traduced and abused.

Mr. Speaker, amid all the wrongs, oppression, and humiliation which have been heaped upon down-trodden Louisiana; in spite of the sacrilege which has violated her rights as a State in the Federal Union, co-equal with each and all of her sister States; in spite of the insult which has been offered to her sovereignty and her majesty within her legislative halls; although she has been denied the right to choose her own State rulers, and instead of citizens of her own choice selected fairly and legally at the ballot-box, a heartless and cruel usurpation has been foisted upon her; in spite of all this, her sons have patiently endured all these insults, injuries, wrongs, and outrages, and instead of rising in their might and driving the usurpers and wrong-doers from her soil, they await the awakened justice of their fellow-countrymen and anxiously look forward to a peaceful solution of their difficulties and release from thraldom by the slow but sure process of law and ultimate triumph of right.

Louisiana has passed through the trial of disappointed hopes, has suffered in the school of adversity as but few Commonwealths have ever suffered, and in all her tribulations, in all her sorrowing trouble, she has maintained peace and order, and while all else has been imperiled and ,may perchance be lost, she has preserved her fair name, the manhood of her sons, and illustrated her devotion to good government and the cardinal principles of republican institutions.

Mr. Speaker, in 1872 the high-handed, unlawful interposition of Federal authority forced upon my State a government not of their choice, and maintained a gross usurpation the fruits of which have been the disturbance of society, the wreck of material interest, blight of prosperity, misrule, failure to administer the laws, and absence of protection to life and property. An unscrupulous, partisan returning board has shamelessly trampled under foot the elective franchise and seeks again to fasten on her a usurpation more hateful, if posssible, than that belched forth in 1872. Though there has never been a day or an hour when the people of Louisiana did not have the ability to hurl these usurpers from their high places and sweep them from their soil, they have resisted this natural impulse and contained their wrath within the limits of law and order; and now in this moment of excitement and passion, when her destiny is hanging on the thread of executive will, the dispatch just read at the Clerk's desk from her prominent citizens and business men affords another proof that her true sons rise above the plane of prejudice and partisanship and their voice is heard in this solemn crisis in the ever-blessed cause of peace.

Believing, then, that the public good will be promoted, quiet and good feeling restored, civil discord avoided, and fraternal harmony established by the passage of this bill; and believing further that I reflect the sentiments and wishes of my immediate constituents, and my fellow-citizens of the whole State, I shall cheerfully cast my vote in favor of the measure under consideration.

Counting the Eectoral Vote.

SPEECH OF HON. A. M. BLISS,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. BLISS. Mr. Speaker, the strong probability that the important measure now under discussion will soon become a law is, I think, a cause for congratulation on the part of all patriotic citizens and of the American people at large. The spirit of patriotism, the sinking of passion, of prejudice, and of party feeling, displayed by the representative men of both of the great political parties who composed the joint committee on counting the electoral vote, and who framed the bill under consideration, cannot be too highly commended. It seems like a return of the spirit that animated our forefathers in the early days of the Republic when there was less of partisanship, if not more of patriotism.

The necessity of agreeing upon some plan that shall settle the question now agitating the country, as to which of the candidates for President and Vice-President voted for at the late election have received the rightful and honest majority of the electoral votes under the Constitution and the laws, is admitted by the great mass of the people. Not only is this necessity admitted, but we are strongly urged by memorials, by letters, by telegrams, emanating from citizens of the Republic without regard to party, to support the bill of the joint committee. While it is regarded by some as objectionable in a few respects, the fact remains that the popular sentiment is unmistakably in its favor. We would prove recreant to our trusts and fail to perform the duties of our office if we as representatives of the people did not listen to their voice and strive to carry out their will.

I will not undertake to discuss the constitutionality of the bill. That is the province of the lawyers in this body. After having listened to the able and it seems to me convincing and conclusive ar-

guments in favor of the bill advanced by gentlemen of such eminent attainments in the legal profession as have delivered their opinions in both the Senate and the House, I have no hesitation in accepting their views on that subject.

I have endeavored to divest my mind of narrow, partisan opinions, and take into consideration the facts concerning the recent election, and take a practical view of all the circumstances, then judge of what my duties are on the present occasion. I believe that Mr. Tilden has been honestly and fairly elected by a majority of the legal electoral votes of the States, as well as by a popular vote. The political party to which I am attached is almost a unit in the same belief. I think a very large number of republicans all over the country also believe that Mr. Tilden is fairly and honestly elected. It would, however, be an act of injustice on my part did I not admit that there are great numbers of fair-minded, honest republicans who just as earnestly and honestly believe that Mr. Hayes has been elected by a majority of one of the electoral votes according to the form of law.

The tribunal that this bill authorizes is of a nature that should command the confidence and respect of all citizens of either political party in the country. I am one of those who believe that there are higher considerations and graver duties in the minds of men who may be chosen to give the most momentous decision of the greatest question that in our time has agitated the country than mere partisan spirit.

The individual presidential candidate will weight but little in the balance before the judicial minds of this tribunal in comparison with the justice and truth that is demanded from the men upon whose verdict the eyes of the whole nation are centered.

Sir, I have no fear of the result of this question. Unworthy indeed would be the Republic to drag on a longer life if a tribunal of the highest caste could not be trusted to adjudicate upon justice and fact.

It would be a great blow at a republican form of government if in this our centennial year, in the face of dangers predicted years ago, that the Republic would be destroyed in a contest for a presidential successor, enough of patriotism were not manifested by both parties to honorably and peaceably arbitrate on a question that has brought ruin to so many other governments.

We should be willing to admit that partisan influences have caused non-partisans to doubt, and that the great mass of the people desire only to be convinced which side is right to cordially acquiesce in an authoritative decision. Accepting this as true, then it will be much better that disputed facts and disputed law should be referred to a tribunal in whom all the people would have confidence, and whose decisions would be accepted as of supreme and binding force, subject to the ratification of at least one branch of Congress.

There are questions to be settled now concerning the meaning of the Constitution in regard to counting the electoral vote about which there has been more or less difference of opinion expressed by able statesmen from the early days of the Republic until the present time. The exigencies of the times demand that this settlement should now take place and be settled for the future.

So far as the legal questions of the bill have been discussed I am willing to be governed in my judgment by the judgment and opinions of such eminent and experienced minds as composed the joint committee who matured the bill, and who have so ably advocated its passage. When such able and eminent lawyers and statesmen as Mr. BAYARD and Mr. THURMAN, who represent one party, and Mr. CONKLING and Mr. EDMUNDS representing the other party in the Senate, together with the gentlemen of the legal profession belonging to both parties who advocate the legality of the measure in this House, agree on all the essential points favorable to the bill, my judgment readily agrees with their opinions. I believe the judgment of the people at large must be affected in the same manner, and that they will accept the conclusions of those gentlemen as convincing and satisfactory.

Of course, Mr. Speaker, if I were to look at the subject merely as a partisan, having no regard for the honest opinions of others who believe that Mr. Hayes has been elected President of the United States, with my own positive views that Mr. Tilden has been elected, I would naturally take the partisan position that no step must be taken that admits of a doubt as to which candidate is elected. We hear men declare in a positive manner that Mr. Hayes has been elected and must be inaugurated, or that Mr. Tilden is elected and he must be inaugurated. This conflict of opinion must be decided in an impartial manner by some impartial tribunal, or the promptings of party zeal may lead us into a sea of trouble. I believe the right mode and the one that will give the greatest satisfaction to the people is the one indicated in this bill.

The trouble and dispute that has been agitating the country, it seems to me, will be productive of much good in the end. Already we have seen in the House and in the Senate, since this bill has been discussed, members of the two political parties, animated by a mutual desire to avert the dangers that threatened the nation, unite in bursting the bonds of partisanship, and working together earnestly in an effort to arrive at conclusions which do not flavor of an advantage to either party. Gentlemen who have always been politically opposed to each other are now found working together harmoniously in support of this bill. It augurs well for the future welfare of our republican institutions when gentlemen so recently opposed in bitter political contests can lay partisanship aside and labor in unison to arrive at a peaceable settlement.

Mr. Speaker, it is but too well known that the whole country during the last three years has been prostrate and suffering after the most fearful crisis that has ever visited this country. When prosperity and confidence began to dawn upon us shortly before the great contest, they were blighted in their very bud by this unfortunate doubt in which the country has been plunged.

It needs no prophet to foretell that the fair and equitable settlement of the great question before us will at once restore confidence, which will, as if by magic, give the people of this country the peace and plenty that have ever been their natural birthright. But no such happy restoration can be attained if by any possibility the occupant of the White House could be considered a usurper or doubtfully elected. I have as much confidence in the wisdom and peaceable disposition of the people as any man on this floor, but I do know that there is as much grave danger when an unarmed nation is disturbed in the confidence of their rightful ruler as there is in the armed mobs that might infest the streets of our great cities. Knowing this danger I am the more ready to acquiesce and give my hearty support to a measure that will avert it.

Mr. Speaker, I have said that I am willing to leave with confidence the legal questions of this bill in the hands of those great lawyers of both the Senate and the House, of whom the country may feel proud; but to an unlegal mind certain facts seem naturally to assert themselves in regard to this great question.

The Constitution has provided for the solution of certain doubtful questions in the electoral college. Thus, for instance, if there is a tie vote in the electoral college the Constitution provides for its remedy; or, if more than two candidates were voted for and none received a majority of the whole vote cast, we again find the Constitution provides a remedy. But the Constitution has failed to provide for fraud; and the framers of that great instrument, in the purity of their minds, never perhaps supposed that frauds would be an element of selecting the occupant of the highest position in the gift of the people.

I suppose there can be no doubt, as events fully prove, that both parties admit, in the very act of asserting their belief in the victory of the election, that the contest naturally is in dispute. Now, sir, admitting, as the opponents of my party do admit, that such a contest does exist, what other remedy is possible to decide this grave question than this bill now before us, when the Constitution has failed to make provisions for a remedy to settle the present exigencies?

And here I might say, however satified I feel that Mr. Tilden has been elected President, I would still consider it a great misfortune if his inauguration should not receive the undisputed title of his opponents as well as his friends; because that misfortune would speedily assert itself in his case as well as in that of Mr. Hayes to the injury of the whole country. Surely, sir, a private citizen would hesitate to invest his means in real estate when there was a doubt about the title. How much more should the people hesitate to have a Chief Magistrate ruling over them whose title to the great office could by any possibility be tainted with doubt?

It is that solution and remedy which the bill affords that has so speedily and strongly asserted itself in the public mind, and public opinion has spoken with its thousand tongues in its favor. It is for that reason that I heartily give my consent to this measure which holds out the olive-branch of peace to a nation distracted with political strife.

Counting the Electoral Vote.

SPEECH OF HON. LEVI MAISH,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. MAISH. Mr. Speaker, in the absence of rule or statute regulating the count of the electoral votes, I have held that the House by its own organs must count the votes for President and the Senate the votes for Vice-President. This, it seems to me, is the plain implication of the twelfth amendment, and under circumstances not difficult to imagine might be absolutely essential to the execution of the ultimate power of the House to choose a President and the Senate to choose a Vice-President, in the event of no election by the colleges. How otherwise shall either body determine when the contingency has arisen upon which its further action depends? We are made by the Constitution the sole judges as to that. No one, except here and there some desperate partisan, who contends that the President of the Senate may count the votes and declare the result, will say that there is any other provision for the ascertainment and notification to us of that contingency. Shall we wait until the Senate, upon which is devolved the lesser trust and the lesser duty, has arrived at a conclusion and certified it to us? That would be to make the Chief Magistrate a mere dependency of the Senate, and to defeat the very

purpose for which the election in case of no choice by the colleges was transferred to this House.

Nor was it in my judgment ever intended by the men who framed the twelfth amendment that the two bodies, so entirely dissimilar in constitution, should count concurrently, and that no result could be reached or declared until they agreed. To leave this most momentous question in a government, the choice of its head, to two tribunals without an umpire, would be to invite anarchy or a settlement by the sword. We might continue in this way until the 4th of March, concurring in nothing but continued non-concurrence, and this process might be repeated after every new election, and every new election under such circumstances would be a more frightful civil convulsion than the last. What, in that case, would become of the express power and enjoined duty of the House to elect in the event of no election by the people. It is subordinated to the Senate or surrendered altogether, as the case may be; the operation of the Constitution is arrested, and the undoubted rights of this House to choose and of the people to have chosen a President by their immediate representatives is wholly defeated. The majority on this floor is the last and most emphatic expression of that public opinion which gave one of the candidates at the late election 300,000 majority of all the votes cast in the United States.

It is because we are such that the Constitution has given us the choice upon the partial failure of the electoral machinery. And we are required to proceed with this duty. "Immediately" upon the opening of the certificates. In these certificates we find "distinct lists" of the ballots respectively cast for President and Vice-President, and these are thus separate in order that such body may take and count those relating to the office to be in a given contingency filled by it, and thus to ascertain for itself whether that has arisen or not.

But I hold also, Mr. Speaker, that either House may take advice in the performance of these duties, and may employ any agency best designed to enlightened its conscience. If the two Houses see fit to join in the creation of a new tribunal for this purpose whose judgment is not final, and may not be arbitrary, I cannot see that the project is open to any future constitutional objection. The pending bill is not precisely what I would have made it, but I believe that it tends directly to peace, to reconciliation, and to substantial justice between the parties. Cherishing these views I shall cheerfully give this measure my support.

Counting the Electoral Vote.

SPEECH OF HON. H. S. MAGOON,

OF WISCONSIN,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. MAGOON. Mr. Speaker, believing the bill to be unconstitutional, I have but one duty. As members of this House we have sworn to "support the Constitution;" not simply to follow or obey, but "to support." To trifle with an oath so solemn by yielding aid to a bill of even doubtful constitutionality, we should not; but to support a bill, palpably, to my judgment, in conflict with the Constitution, I cannot.

First. The Constitution provides, article 1, section 6, that—

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created * * * during such time."

This bill, sir, creates a commission, requires its members to take an oath, clothes them respectively with new, with vast and independent powers, binding upon both the Government and the States; and then appoints five Senators and five members of this House to be ten tribunes in the high civil office thus created, and annuls the right of either House to withdraw any member after his appointment thereto.

Second. The Constitution requires, article 1, section 7, that—

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary, except on a question of adjournment, *shall be* presented to the President of the United States; and before the same shall take effect, *shall be approved by him.*

This bill, sir, proceeds solely on the theory that it is constitutionally necessary, and the bill makes it necessary for the concurrent act of both Houses to reject the electoral vote of a State from which there has been but one return; also, the bill gives the commission the power to reject all the votes from a State where there are more than one return; also, makes the concurrent act of both Houses essential to reverse any decision of the commission. In all which respective cases, whether the two Houses concurrently vote upon the question, or whether the commission decide for their concurrent voice, the President is utterly ignored. No resolution, no order, no vote is presented for the President's approval; but the bald *ipse dixit* of the two Houses, and of their delegated commission, is final, the approval of the President required by the Constitution to the contrary.

Third. The Government of the United States, Mr. Speaker, is a Government of granted powers. All powers not conferred by the Constitution, nor thereby necessarily implied, are reserved expressly to the States or the people. This is the language of the Constitution:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. —*Constitution, Amendment* 10.

To appoint electors, sir, for President and Vice-President is a power not delegated to either House of Congress or to both Houses jointly; but, on the contrary, the Constitution expressly provides that—

Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.—*Constitution, article* 2, *section* 1.

Mark you the words. Not, sir, that each State *may* appoint, but "each State *shall* appoint." The power to appoint electors is thus recognized to be, not in either House or in both Houses, but in the State alone, to which goes the organic mandate, "Each State *shall* appoint!" If those powers, therefore, which are not delegated to the United States by the Constitution be reserved to the States or to the people, *a fortiori*, the power to appoint electors, thus expressly declared to be in the State, is no wise lodged in either House of Congress or in both Houses, but is constitutionally denied to them both.

Again, the Constitution provides, in reference to the electors and the lists of their votes for President and Vice-President, that those lists the electors "shall sign and certify and transmit sealed to the seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, *open all* the certificates and *the votes shall then be counted.*" (Constitutional amendment, article 12.)

This bill, Mr. Speaker, provides that an objection to the electoral return from any State may be made here in writing, signed by any Senator and Member of the House. And this even in the case where there has been but one return from the State. No matter if the State has appointed the electors constitutionally; no matter if the State has supreme authority over this subject, and sent hither but one return of the solemn action of its electors; no matter if the Constitution not only denies to Congress the appointment of electors but solemnly ordains that their "votes *shall* be *counted*;" yet, by this bill, when merely objection to such return is filed, the Senate must withdraw; and if the objection be sustained by a bare majority of both Houses, the votes "shall be" *not* "counted," but rejected.

Fourth. This bill deliberately takes from the President of the Senate all power to count the electoral votes. Who is the President of the Senate? Why, sir, the answer is in the Constitution:

The Vice-President of the United States *shall be* President of the Senate.—*Article* 1, *section* 3.

He must have the same personal qualifications as the President himself:

No person constitutionally ineligible to the office of President shall be eligible to that of Vice-President.—*Amendment* 12.

Like the President, the Vice-President must be "a natural-born citizen," "thirty-five years" of age, "fourteen years a resident within the United States." (Article 2, section 1.) He is elected at the same time and in the same manner and for the same term as the President; not from a single district like members of the House, not from a single State like august Senators, but by the people of the whole United States through electors appointed in each State by their sovereign national will.

Side by side in the Government the President and the Vice-President stand clothed with vast responsibilities and powers, the one in the highest elective office in the world, and the other only second to the first—his personal co-equal and constitutional successor; yet over both, as a protection to the people, hangs everywhere the poised sword of impeachment.

While on the one hand, then, the executive power of this nation, great and tremendous as all must admit it to be, is vested in the President; while the President alone is Commander-in-Chief of the Army and Navy of the United States; while he, with the Senate, makes treaties with the empires of the world, appoints foreign embassadors, judges of the Supreme Court, and all other officers whose appointment is not otherwise directed in the Constitution; yet on the other hand the Vice-President was intended in the Constitution of our fathers to perform three plainly designated duties:

First. To preside over the Senate.

Second. To act as President upon the death, resignation, or inability of the President.

Third. To safely keep the certified lists of the electoral returns as the sole constitutional custodian, and, in the presence of the Senate and House of Representatives, open all the certificates and count the votes.

Such, in my judgment, is the text of the Constitution, together with the practice and precedents of many years of our national history. In 1789, 1797, 1801, 1805, 1809, 1813, 1817, and 1825, respectively, the Senate solemnly ordered the President of the Senate to transmit to the President and Vice-President-elect, at each of said presidential elections, a certificate of election expressly reciting that—

The President of the Senate did, in the presence of the Senate and House of Representatives, open all the certificates *and count* all the votes of the electors.

But not only, in my judgment, does the stream of precedents combine with the text of the Constitution to anchor the right in the President of the Senate to count the votes, but plain reason teaches me that this is the safer construction. The highest officer in this nation, except one, may well be vested with this important trust. His personal qualifications required by the Constitution are greater than those required of any member of either House. Although it is not certain that a member of either House may be impeached for official misconduct, indeed precedents make it almost certain he cannot be, yet with the Vice-President there is no such uncertainty. The Constitution expressly ordains, he may be impeached.

Here, then, is the officer, the President of the Senate, who under the Constitution receives the electoral returns, keeps them till the day appointed for opening, and then, in the presence of both Houses as witnesses, he, the representative not of a district or of a State, but of the nation; he, bound by his oath of office and in the peril of impeachment for misconduct, "*opens* all the certificates and *counts* the votes." With deference and respect to both Houses, nevertheless my judgment is that it is safer to intrust this power to count the votes, necessarily at times both difficult and intricate, comprehending perhaps both political and judicial questions, to the Vice-President alone than it is to either House alone or to both Houses alone.

But, sir, this bill robs the President of the Senate of any power to count at all. It locks up the counting in the two Houses alone or in their delegated commission. It reverses precedent; drives away the President of the Senate from the counting; ignores the President of the United States himself as a part of the law-making power; centralizes in the two Houses the electoral votes of the States; thus striking a blow into the vitals of the Government by expedients temporary in their intended scope, but dangerous at last to the welfare and peace of our Republic.

Counting the Electoral Vote.

SPEECH OF HON. T. J. HENDERSON,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. HENDERSON. Mr. Speaker, for the first time in the history of our country, under our present form of Government, we are met with grave and serious difficulties in determining the important question who have been constitutionally and legally elected to the high offices of President and Vice-President of the United States. The great difficulty now presented is in ascertaining and determining where the power and duty rest, under the Constitution, to count the electoral vote and to declare who are elected President and Vice-President of the United States for the next four years, from the 4th day of March next. I say, Mr. Speaker, in determining under the Constitution, for the reason that, if it be granted that Congress has the power to legislate upon the subject and to provide by whom and in what manner the electoral vote shall be counted, it has neglected for a period of more than eighty-seven years to exercise such power and to provide by law in what manner and by whom the electoral vote shall be counted.

To-day, Mr. Speaker, we have many conflicting views and opinions on the question who is to count the electoral vote and determine who has been legally and constitutionally elected President and Vice-President; and these views and opinions are intensified by political and partisan prejudices and interests. Some claim that Congress alone has the power to count the vote and declare the result. Others hold that either House, acting for itself and independently of the other, can judge for itself whether a vote shall be counted or not; and, therefore, that no vote can be counted, unless both Houses agree that it shall be. Others still claim that the two Houses meet in joint convention and count the vote, and that a vote is taken on all questions arising, and that members of the Senate and House vote *per capita*, as members of a joint convention. And still others claim that the President of the Senate alone has the power, and that it is his duty under the Constitution to open and to count the vote and to declare who is elected. Now, Mr. Speaker, it is very difficult at this time to determine correctly the proper construction of the constitutional provision relating to the counting of the electoral vote. And why? Because of our political prejudices and partisan interests. The determination of this question and the adoption of any one of these modes claimed, by which the vote may be counted, may determine which party shall control the administration of the Government and enjoy its immense patronage for the next four years. Neither party has any confidence in the other, and the difficulty is greatly augmented by the fact that both parties claim the election of their respective candidates. And neither will yield to any construction of the Constitution or to any plan of adjustment which does not result, or at least give some promise that will result, in the success of their respective candidates.

Turn which way we may there seems to be danger. Mr. Speaker, at least danger is talked of. And I fear that danger will not be lessened by mere expedients, by temporizing with the troubles that threaten us. Our safety lies in our wisdom and patriotism, in our ability to rise above the shadows of political prejudices and interests, and in the light of truth and of an earnest patriotism, to determine what is right and just in settling the result of the presidential question by the constitutional mode, whatever that may be held to be.

Mr. Speaker, I have not intended to make any elaborate speech on the question now before the House, nor on other questions relating to the presidential question and which are now of such deep interest to us and to the country. But I desire to express my opinions on some of these questions and to give some of the reasons which will influence my vote on the bill now under consideration. After much careful investigation and thought, I have arrived at the conclusion that Kent was entirely correct in his supposition or opinion that in the absence of legislation on the subject, it is the duty of the President of the Senate to count the electoral vote. I am not so clear as to the power to legislate, but incline to the opinion that he would have been justified in going further and declaring that the Constitution made it the duty of the President of the Senate to count the electoral vote, and that it was intended he should do so; and that therefore there is no *casus omissus* in the Constitution, as is claimed by very many able and learned men. But unless the President of the Senate is to count the vote under the Constitution then there was a *casus omissus* in that provision of the Constitution unquestionably.

I know, Mr. Speaker, there are no express words in the Constitution which say the President of the Senate shall count the votes, neither are there any words which say that any other officer or officers, or that any other body or bodies of men shall do it, nor any from which it can be implied that anybody else is to do it other than the President of the Senate. During the discussions on this question it has frequently been said: "If the framers of the Constitution intended the President of the Senate to count the vote the insertion of two words, 'by him,' after the word 'counted,' would have made it clear and left no doubt about their intention." That is true, Mr. Speaker, and I can say with as much force of reason and of logic that if the framers of the Constitution intended that the Senate and House of Representatives should count the votes it would have been quite as easy to have said so by adding, after the word "counted," the words, "by the Senate and House of Representatives." So that the provision of the Constitution would have read: "The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted by the Senate and House of Representatives." Then there would have been no doubt about the intention. But it is said as the Constitution only says the President of the Senate is to open the certificates, you are therefore to infer from that that he was not to do anything else but to open them. If that is good reasoning, then it can be said with quite as much force, and I think a great deal more, that as the Constitution only requires the Senate and House to be present when the certificates are opened and the vote counted, therefore it was not intended that the two Houses should count the vote. The original Constitution as well as the twelfth amendment provided that the certificates or lists of persons voted for, and the number of votes for each, should be directed to the President of the Senate; so that he is to be the custodian of them. And it further provides that he is to open all the certificates, and when he opens them in the presence of the Senate and House of Representatives, then, that is, at that time, and when the Senate and House of Representatives are present, the votes shall be counted. Now it is universally admitted that it is not said by whom the votes shall be counted in words; but in the absence of any words whatever from which it can be inferred that the Senate and House of Representatives are to count the vote, or that any other officer than the President of the Senate is to count the vote, then the conclusion seems to me irresistible that the President of the Senate, in whose hands the certificates are, and who opens them in the presence of the two Houses, and who is not required to deliver them to the Senate and House, nor to any other person to count, shall count the votes himself.

Mr. Speaker, in connection with this whole matter of the electoral votes and of the counting of them there is not one syllable said in the Constitution about the "Senate and House of Representatives," except that the certificates are to be opened in their presence and that the vote shall then be counted; and the word then undoubtedly means and was intended to require that the votes should be counted at that time when the Senate and House were present. There is nothing affirmed of the two Houses of Congress, no duty imposed upon them, no power nor authority conferred upon them in the counting of the electoral votes, except the duty to be present when the certificates shall be opened and the votes counted. But it is asked: What are the two Houses present for? As the Constitution is as silent as the grave as to any duty they are present to perform, the answer is, they are there as witnesses, as spectators, to witness the performance of what the framers of the Constitution did not anticipate would be a very difficult duty to perform. They are there not to make the opportunity themselves for making a President and Vice-President, respectively, but to know whether these officers have been elected by the people through the electoral colleges, and if not, then immediately to elect, as the Con-

stitution requires, the House a President and the Senate a Vice-President. It may well be doubted, Mr. Speaker, whether the framers of the Constitution ever intended the Senate and House of Representatives to exercise any control over the counting of the electoral votes when they are in certain contingencies, which by their own acts they may create if given the power to act judicially in counting the electoral votes, to elect the President and Vice-President. I think we can see the danger to-day if that were so. I firmly believe that Hayes and Wheeler have been fairly and justly elected President and Vice-President of the United States. I have no doubt but they have been. That belief may be the result of political bias; but if I am correct the same political bias prevents the democrats, who are in a large majority in this House, from seeing it. And if they had the power to-day over the electoral vote I do not for one moment doubt but that Hayes and Wheeler would be counted out; or else it would be held that there was no election by the people, and the House would assume to elect a President. In fact I have heard and seen that course talked of and advocated as the right and proper course for the democrats to pursue. Yet every sensible man knows that there has been an election by the people; that the electors of all the States of the Union have been appointed or elected; that they have cast their votes for one or the other of two candidates only, and therefore that one or the other must be legally elected President. And for this House to attempt to elect a President, or for the Senate to attempt to elect a Vice-President, would be a most unwarrantable usurpation of power and would amount in itself to revolution.

Mr. Speaker, it occurs to me that a careful examination of the history of this provision of the Constitution must satisfy a reasonable mind that the framers of the Constitution intended that the President of the Senate should be the proper person to count the vote. Now let us examine that history for a moment.

The first provision we find on this subject in the proceedings of the constitutional convention, as we learn both from the Journal of the convention and from the Madison Papers, is:

> The President of the Senate shall, in that House, open all the certificates; and the votes shall be then and there counted, &c.

This is the first proposition made by the committee of eleven in their report to the convention, September 4, 1787, and let it be borne in mind that the only difference between this and the proposition finally adopted is that the words "in the presence of the Senate and House of Representatives" are substituted for the words "in that House," and the words "and there" were stricken out. Now I do not think the word "House" was intended to mean the room or place where the Senate met simply, but it was intended that the certificates should be opened in the Senate, sitting as a Senate. And if the construction of the clause as it was finally adopted is correct, that the two Houses are to count the vote, then it will be claimed also that as the proposition was originally presented to the convention it was intended that the Senate should count the vote, for the form of expression is the same, "and the votes shall then and there be counted." But was it the intention then that the Senate should count the vote? There is no evidence of it; none whatever. But, on the contrary, on the 6th of September, 1787, we find that the seventh clause, the one in question, was amended by inserting the words "in the presence of the Senate and House of Representatives" after the word "counted." And if it had remained that way the clause would have read: "The President of the Senate shall, in that House, open all the certificates and the votes shall then and there be counted in the presence of the Senate and House of Representatives." And in that case there could be no doubt as to the intention that the Senate and House should have nothing to do with the counting of the votes, but were only to be present when it was done. For it would be absurd to say that, "the votes shall then and there be counted in the presence of the Senate and House of Representatives," if those two bodies were to count the votes. And yet this amendment left the language of the provision as it was, "the votes shall then and there be counted" in the presence of, &c." This makes it very clear to my mind that the constitutional convention by the adoption of that amendment did not intend the two Houses to count the vote. Is there any evidence that the members of the constitutional convention changed that intention? I think not. The only possible evidence is that the words of the clause were afterward transposed, and the words "in the presence of the Senate and House of Representatives" were inserted in lieu of the words "in that House," and after the word "shall;" so that the clause as adopted reads:

> The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted.

But it will be noticed that the form of construction or expression is the same as it was originally in the first report of the committee of eleven: that is, "shall open all the certificates, and the votes shall then be counted;" and, whether the words "in the presence of the Senate and House of Representatives" are inserted after the word "shall," in the middle of the clause, or after the word "counted," at the end of it, in my opinion, makes no difference as to the proper interpretation of the provision and in determining what the intention of the framers of the Constitution was as to how and by whom the votes were to be counted. To say that the change of the form of construction was intended to give the two Houses the controlling power over the count is to charge the framers of the Constitution with wonderful stupidity, or with a deliberate and willful intention to leave in doubt how and by whom the vote was to be counted; for, if it occurred to them as to whether the two Houses were to exercise a controlling power over the count or whether the President of the Senate was to count, and it was determined, after they had agreed that the vote should be counted "in the presence of the Senate and House," that they would change the provision and make it the duty of the Senate and House to count the votes, is it not strange, passing strange, that they would have signified that intention by simply changing the form of expression—by transposing the words "in the presence of the Senate and House of Representatives," putting them in a different place, and leaving the language as to the counting of the votes substantially as it had been all the time before, and still saying nothing about the Senate and House of Representatives whatever, except that the certificates were to be opened in their presence? If it was intended to change the clause, and make it the duty of the Senate and House of Representatives to count the vote, after they had adopted the amendment—which only required that the votes should be counted "in the presence of the Senate and House of Representatives," and which unquestionably excludes the idea that the Senate and House were to count the vote—then it occurs to me the framers of the Constitution certainly would have used such language as would have made it clear that it was intended by them that the Senate and House should count the votes. The transposition of the words did not do that, Mr. Speaker; and hence it occurs to me that the authors of the Constitution did not intend any different interpretation by the simple change of the form of construction, and that it is intended to mean precisely the same as if the words "in the presence of the Senate and House of Representatives" had remained after the word "counted." But did the framers of the Constitution put any interpretation upon this provision so that we may fairly judge what their intention was as to the counting of the votes? I think they did, and that, if any doubt was created by the transposition of the words "in the presence of," &c., that doubt was removed by the acts and resolutions of the convention, adopted September 13, 1787. After the convention had concluded or was about to conclude its labors, the following resolution was adopted on the 13th day of September, 1787, as preliminary to putting the new government in operation under the Constitution just adopted by them, viz:

> *Resolved*, That it is the opinion of this convention that, as soon as the conventions of nine States shall have ratified this Constitution, the United States in Congress assembled should fix a day on which electors should be appointed by the States which shall have ratified the same, and a day on which the electors should assemble to vote for the President, and the time and place for commencing proceedings under this Constitution; that, after such publication, the electors should be appointed and the Senators and Representatives elected; that the electors should meet on the day fixed for the election of the President, and should transmit their votes, certified, signed, sealed, and directed as the Constitution requires, to the Secretary of the United States in Congress assembled; that the Senators and Representatives should convene at the time and place assigned; that the Senators should appoint a President of the Senate for the sole purpose of receiving, opening, and counting the votes for President; and that, after he shall be chosen, the Congress, together with the President, should without delay proceed to execute this Constitution.

Now, here immediately after the adoption of this very clause of the Constitution, and before the convention adjourned, we find its members, in the resolution just read, recommending necessary action for the purpose of putting the new Government in operation; and among other things it was recommended that "the Senators and Representatives should convene at the time and place assigned, and that the Senators should appoint a President of the Senate for the sole purpose of receiving, opening, and counting the votes for President." This resolution shows plainly how the framers of the Constitution understood their own acts, and what they intended in regard to the counting of the votes. The Constitution had not yet gone into operation. There was no President of the Senate to open and count the votes as provided in the Constitution, and the convention recommended or expressed the opinion that the Senate should appoint a President of the Senate for the sole purpose, not only of receiving and opening, but of counting the votes for President. And why, Mr. Speaker, did they make this recommendation? Why did they not let the Senate and House count the first votes? It has been said over and over again, by men who claim to be the embodiment of all wisdom and who sneer at the idea that it was ever intended the President of the Senate should count the votes, that the framers of the Constitution never intended to confer such tremendous power upon one man. All such are answered, fully and completely answered, by saying that is just what the framers of the Constitution expressed the opinion should be done at the first election under the Constitution, namely, that one man should be elected for the sole purpose of receiving, opening, and counting the votes for President. If it was proper at the first election, why not at subsequent elections? If it was so dangerous a power that the framers of the Constitution never could have intended to confer it upon one man, why, I repeat, did they express the opinion it should be conferred upon one man in case of the first election of a President under the Constitution, and that in contravention of the Constitution, the work of their own hands, if they intended the Senate and House should count the vote? This was not only the opinion and recommendation of the men who made the Constitution, but when Congress assembled in 1789, the Senate, on the 6th day of April of that year, proceeded by ballot to the choice of a President for the sole purpose of opening and counting the votes for President of the United States, and John Langdon was elected. The

very first order of the Senate relating to the counting of the vote is very important in determining how and by whom it was understood the counting of the votes was to be done. It is as follows:

Ordered, That Mr. Ellsworth inform the House of Representatives that a quorum of the Senate is formed; that a President is elected for the sole purpose of opening the certificates and counting the votes of the electors of the several States, in the choice of a President and Vice-President of the United States; and that the Senate is now ready in the Senate Chamber to proceed in the presence of the House to discharge that duty; and that the Senate have appointed one of their members to sit at the Clerk's table to make a list of the votes as they shall be declared, submitting it to the wisdom of the House to appoint one or more of their members for the like purpose.

This message was delivered to the House by Mr. Ellsworth, and the Senate was notified by the House of Representatives that the House was ready forthwith to meet the Senate, not to count the votes, Mr. Speaker, but "to attend the opening and counting of the votes."

Now, the language of the order read is that the Senate will proceed not with the House to discharge whatever duty was intended, but "in the presence of the House." Why do they use that language? Because the Constitution required the President of the Senate, who had just been appointed by the Senate for the sole purpose of opening and counting the vote, to perform that duty in the presence of the Senate and House. But it is said they appointed tellers. This is true; but it is perfectly consistent for them to have done so without having any controlling power over the count of the votes. They were required to be present when the votes were counted, and by tellers the votes as declared could be verified. The language of the order is that the teller appointed by the Senate was to make a list of the votes as declared, and the Senate only submitted it to the wisdom of the House to appoint one or more of their number for a like purpose. These tellers were not to count the votes for the two Houses, but to make lists of the votes as declared. Declared by whom? Not by the Senate and House, but by the President of the Senate. This is made certain by the proceedings in the House as shown by the Journal of the House. For after the votes were counted and the House of Representatives had returned to the House, the Journal says:

Mr. Parker and Mr. Heister (tellers appointed on the part of the House) then delivered in at the Clerk's table a list of the votes of the electors of the several States in the choice of a President and Vice-President of the United States, as the same were declared by the President of the Senate in the presence of the Senate and of this House, using the language of the Constitution:

And the Journal of the Senate is as follows:

The Speaker and the House of Representatives attended in the Senate Chamber, and the President elected for the purpose of counting the votes declared that the Senate and House of Representatives had met, and that he, in their presence, had opened and counted the votes of the electors for President and Vice-President of the United States, &c.

This was in case of the first election of President of the United States, and was done agreeably to the Constitution of the United States, as appears from the certificate of Mr. Langdon, prepared by a committee of the Senate under the order of the Senate. That certificate has been so often repeated I will not read it. But it states that the President of the Senate "did, in the presence of the Senate and House of Representatives, open all the certificates and count all the votes of the electors for a President and Vice-President."

Without encumbering my remarks or the RECORD by repeating extracts from the Journals of Congress and reading certificates of various Presidents of the Senate who certify that they had counted the votes for President and Vice-President, and which will appear so often in other speeches in the RECORD, I will say that I find in 1801, and again in 1805, resolutions adopted by the Senate that the Senate would be ready to receive the House of Representatives on certain days, not to count the votes, but "for the purpose of being present at the opening and counting of the votes for President and Vice-President." And in 1805, the House of Representatives resolved—

That this House will attend in the Chamber of the Senate this day, at noon, for the purpose of being present at the opening and counting the votes for President and Vice-President of the United States.

Not, Mr. Speaker, for the purpose of counting the votes with the Senate, but of being present at the counting of the votes; and which excludes the idea that the two Houses were to count the votes most unquestionably. We find also that not only John Langdon in 1789, but John Adams, President of the Senate in 1797; Thomas Jefferson, President of the Senate in 1801, and he himself then a candidate for President, as Adams was in 1797; and Aaron Burr, President of the Senate in 1805, each and all of them certified under their hands and seals that they had at the time stated, respectively, "in the presence of the Senate and House of Representatives, opened the certificates and counted the votes for President."

Mr. Speaker, whatever doubts may have arisen since or may exist now as to the construction to be put upon this provision of our Constitution, as to the counting of the votes for President, there can be no doubt as to how it was understood and construed by the makers of it and by those acting under it at the time of its adoption and for many years afterward. And to-day I have no doubt, sir, that it was the manifest intention of the framers of the Constitution, and especially in the absence of legislation on the subject, that the President of the Senate should open and also count the electoral votes for President and Vice-President. Why not, Mr. Speaker? It is said he ought not to count the vote because he may be a candidate for President himself. Is that a good reason? I think not. If it is, a man should not be elected judge because he may have a suit to be tried in the court over which he presides; and it is a familar maxim of the law that "no man shall be a judge in his own cause." I should doubt the propriety of a President of the Senate counting the electoral votes if a candidate himself for President, and certainly if such eminent men as John Adams and Thomas Jefferson had not done so or otherwise certified to a falsehood. If they did not certify to a falsehood, did not count the electoral votes themselves when candidates as certified by them, they certainly in their respective certificates indulged in figures of speech which make an ugly record against them. But if it be improper for a President of the Senate when a candidate for President, to count the votes, if his modesty inclines him to do so, he can allow the Senate to appoint a President *pro tempore* while he takes a trip to Long Branch or Saratoga.

But, Mr. Speaker, it is said the President of the Senate is a mere "figure-head;" that he is not a member of any department of the Government, and he has no voice nor vote except in case of a tie; that he only presides over the Senate as a sort of ornamental appendage. It is true that in certain contingencies, they admit that he may be President of the United States. But the idea is ridiculed of such an important duty being performed by one occupying so insignificant a position. Why, Mr. Speaker, I can see much danger in giving to the House of Representatives a controlling influence in the "counting in" or "counting out" of a President when the House is to elect if none is declared elected upon counting the electoral votes; and the same may be said of the Senate, which is to elect a Vice-President in case none is declared elected upon counting the electoral votes. In doubtful cases upon some flimsy pretense the two Houses, when an election is close, may usurp the rights of the people, declare certain votes illegal, claim that there has been no election by the electoral colleges, and then proceed to elect by the House a President who may have received a minority only of the electoral votes. If there is anything certain in the history of our Government it is, that it was the intention of those who established it to keep the several departments of it separate and distinct from and independent of each other; and to-day, in the light or in the darkness of the present hour, I do not think it would be safe to allow this House to make its own opportunity to elect a President of its own choice, whatever may be said of the President of the Senate and of the danger of his exercising the power to count the electoral votes.

But, to close my views of this question Who is to count the vote? I will say that the very fact that the President of the Senate does not belong to any of the departments of the Government, but is at the head of the Senate—the body representing the States; and that it may well be presumed that he has been selected by the people for his high charcter, for his ability, honor, and integrity, because he is in certain contingencies to fill the high office of President of the United States and discharge its responsible duties, (far greater and more responsible than to count the electoral votes)—is the most satisfactory evidence to my mind that the framers of the Constitution intended that he, the President of the Senate, should count the electoral votes and declare the result of the election, and that the Senate and House of Representatives were only required to be present when the act was done.

This, sir, is the conclusion of my mind as to the intention of the fathers of the Constitution. I can see no danger, sir, in standing by the constitutional mode of counting the votes, and if the conclusion I with so many others have arrived at be not correct, then it is our duty to arrive at a correct conclusion and have the matter settled either by legislation or by constitutional amendment. I believe in meeting questions which are likely to affect not only ourselves but future generations fairly and calmly, and in the light of reason and of patriotism to settle them upon sound and just principles. Threats, bluster, and bravado give no evidence of statesmanship nor of patriotism. I have but little faith in temporizing with national troubles, in adopting mere expedients to tide over difficulties when the difficulties should be radically remedied. I know that medicine is sometimes given, not to cure but simply to relieve pain; and this I fear is the most that the bill from the select committee on counting the electoral vote, now under consideration, will do, even if it does that. I have great respect for the committee and a very high appreciation of their ability and patriotism, and if the bill passes, as I have no doubt it will, I trust good may result from it. But I doubt the constitutional power to pass it. I doubt whether the good anticipated to result from it will be realized; and I believe, whatever the result may be by the mode proposed, the defeated party will be no better satisfied; and above all I believe that there is an almost absolute certainty that the result, whatever it may be, and in favor of whichever party it may be, will affect the character of the justices of the Supreme Court who are to compose a part of the commission provided for in the bill. Four judges are selected by the bill so that it is understood two are democrats and two are republicans. I do not like this, Mr. Speaker. I cannot approve of it. I have the highest respect for the Supreme Court and for all the judicial tribunals of our country, and I do not desire to see the high character of our judges, especially of the Supreme Court, the highest tribunal of the land, compromised and endangered by making them political judges to decide political controversies. For this reason as well as others I cannot vote for this bill.

But, Mr. Speaker, I will vote for any proper bill to refer to the Supreme Court, sitting as a court, any judicial question connected with the counting of the electoral votes. Or, if it is not the law now, I

will vote for a bill providing for a trial of title to the office of President, so that no man can be unlawfully "counted in" as President; for, while I have not proposed to say anything about the late election, I believe in a fair election and I abhor practices of fraud in elections. Our safety is in the purity and freedom of the ballot-box, and those we must preserve at all hazards, or the Republic is sooner or later lost. Fraud and force must not be tolerated. And, while so many gentlemen on the other side of the House are so much afraid of the Army and are complaining of the use of a few soldiers here and there to preserve the public peace under the law, no word of condemnation, no protest is ever heard from their lips against armed bodies of men, rifle clubs, parading around the country for weeks before an election, attending and preventing political meetings, and intending to interfere with the rights of citizens and the freedom of the ballot-box. That this was done at and preceding the late election in several States, and with the intention of controlling and carrying the election, there can be no doubt in the mind of any reasonable man who is not deaf to all evidence. Yet honorable gentlemen on this floor, who would impeach the President of the United States for sending a small squad of soldiers to preserve the peace and to maintain the rights of citizens, utter no word of condemnation against these lawless bands of armed men, unrestrained by law. In the language of the great Roman orator we may well exclaim, "*O tempora! O mores!*" I tell those gentlemen that the distinguished services of President Grant, both civil and military, will be remembered by a grateful people. He is soon to retire from his present high office, and perhaps from the public service forever, but his name and his fame will be dear to the hearts of the American people when the memory of his defamers and traducers will have perished from the earth, to be remembered no more forever.

Mr. Speaker, I desire to see peace and fraternity established throughout all our borders. I desire that every citizen, whatever may be his race or color, shall enjoy in the most perfect freedom all the rights guaranteed to him by the Constitution and all the constitutional amendments; and when this shall be the condition of our country then will the institutions of our country and this great Republic be established on a rock. I have no patience, Mr. Speaker, with the man or association of men who talk about war, about the settlement of national questions by other than peaceful modes. Woe to the man who first lifts his voice or his arm against the peace of this country. A curse upon his name and a curse upon his memory forever!

Mr. Speaker, "our days on the earth are as a shadow." All that now hear my voice and all that are now in authority or who may be during the next four years will soon have passed away; but this great Republic and these grand and glorious institutions of ours must live, and, I trust, live FOREVER.

Counting the Electoral Vote.

Once to every man and nation comes the moment to decide
In the strife of truth with falsehood, for the good or evil side;
Then it is the brave man chooses, while the coward stands aside,
Doubting in his abject spirit till his Lord is crucified.

SPEECH OF HON. GEORGE W. CATE,

OF WISCONSIN,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. CATE. Mr. Speaker, we are told by the friends of this measure that there exists great excitement and uneasiness in the public mind, and almost entire prostration in business, by reason of the doubt and uncertainty regarding the final termination of the muddle over the electoral vote, and an apprehension that serious consequences, perhaps bloodshed, will follow. Well, sir, there is undoubtedly much uneasiness in the public mind, an apprehension of impending evil, growing out of this question beyond what has ever been felt before. And why is it? Because of any doubt in the public mind as to where the exact truth is? because of any doubt as to where the Constitution has placed the power to count the votes and determine the result of the late election? or because of a want of confidence in the body possessing such power to deliver full and complete justice in this matter? Any apprehensions of evil arising from the determination of the contest in accordance with the Constitution as interpreted and construed by all men and all parties from the first to the last election? Not at all; but all the excitement and uneasiness prevading the public mind is wholly and entirely due to the wicked pretensions of certain prominent men in the republican party that they would not submit to a counting of the votes as they have hitherto been counted, but that the votes shall be counted by the President of the Senate, and that he is the sole judge of how many and what votes shall be counted; that he and the Senate would declare who was elected, and that if the House after such a declaration should attempt the election of Tilden the members would be promptly arrested—a proposition startling to the average mind in view of the fact that in no possible contingency has the Senate the power to elect or declare anybody elected President of the United States, and well calculated to produce alarm among a people who are and ought to be jealous of their liberties, and who have in the recent past submitted to about as much usurpation as they are willing to bear.

The people believed that if these pretenses and threats were carried into execution there would be trouble and perhaps a civil war, because such things would not be tolerated. A fear that Hayes is about to be inaugurated by the use of the Army of the United States in defiance of the unquestioned belief that he was defeated, in short, a fear arising from the sayings of prominent men in the republican party that the settled law of the land was to be defied and trampled under foot at the dictation of the bold conspirators who have assumed to speak for the party, *has* created all this alarm and uneasiness and fear of war, and was designed for that very purpose, to drive the democratic party to abandon the old well-beaten path in which all the electoral votes heretofore cast have been peaceably and satisfactorily counted and accept in its place some other mode more favorable to them. There has been no fears of strife if the Constitution is observed, but only in case it is wholly ignored in the interest of a defeated candidate.

We are told that a compromise like that proposed is in the interest of peace and will bring a revival in business. I do not so regard it; peace will be insured if the time-honored precedents be followed, and confidence in the stability of our institutions be fully restored, and the public mind will at once become tranquil. A sort of "bull-dozing" process has been resorted to from the first to disturb and distract the public mind and create an apprehension of danger that could only be diverted by a resort to other modes of counting the vote than the mode hitherto in practice. This was commenced on the day following the election by the announcement that Hayes had received 185 votes, and was elected, which was untrue, or at least was not known to be true, and therefore none the less a falsehood, but was designed to prepare the public mind for what should follow, and there has followed from that time to the present a most wicked and fiendish attempt to force an abandonment of well-known and approved methods, and the adoption of methods novel and untried, but out of which, or by means of which these bold conspirators expect to be able successfully to thwart the will of the people. To allay all this excitement it is only necessary that these pretensions be abandoned and submit to the usual methods of counting the vote. The people are never alarmed or excited over the observance of the settled law. I will now briefly give my reasons for opposing this bill; and first, *who* all count the vote.

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted.

Three principal questions arise upon this clause of the Constitution; *first*, by whom shall the votes be counted; secondly, *what* shall be counted; and thirdly, to what shall the inquiry extend. In virtue of the law the Vice-President is the custodian of the returns until the time of counting, at which time he is commanded to open them in the presence of the two Houses. His duties are specific and clearly defined, and it is a familiar rule in the construction of powers that when specified enumerated powers are granted there can be no implied powers except such as may be necessary to the execution of such as are specifically conferred. Such minute and particular specification of granted power of itself excludes the idea of the grant of any additional power, upon the theory that having attempted to define the power or authority conferred in relation to a particular subject, it will be presumed that all the authority intended to be invested has been fully and specifically defined.

Why was the President of the Senate required to produce the returns and open them in the presence of the two Houses? For no other reason than because he had the possession, because he was the custodian of them. There is not in the whole Constitution in relation to this subject the delegation to the President of the Senate of a single scintilla of power or authority beyond that conferred upon any member of the House, or upon any other member of the Senate, the *right* to preside in the separate deliberations of the Senate and give the casting vote in case of an equal division; but as to possessing any particular power or control over the joint convention, it is not to be found in the Constitution. And yet there are found gentlemen who, in the face of this silence of the Constitution, contend that the power to accomplish the grand act of the occasion, the *only* object of the meeting of the two Houses, is vested in the President of the Senate; an unusual way to confer such an important power.

No, sir; at best it can only be claimed to be an inferential power in the President of the Senate, and the best argument that can be urged to rebut any such inference, an argument that ought to be conclusive at least upon the two Houses of Congress, is the fact that from the first convention that assembled for that purpose to the last the *two Houses always did count the vote*—ordinarily, perhaps always, by the instrumentality of tellers appointed by their direction from each body, as a means of exercising the right and duty of the two Houses, because each member could not count, neither could the whole body count; but as a means of convenience only, the tellers being no more or less than the organs, the instruments of the two bodies to ascertain a fact, and their acts in the premises to all intents and purposes are the acts of the two Houses.

Sir, it is significant of the merits of this question that until the present time there has been no difference of opinion as to the right of the two Houses to count the votes for President and Vice-President, and whenever any discussion involving that right has arisen it has not been so much to combat an opposite opinion as to protect the rights and privileges of the two Houses against unintentioned abrasion. The people of this country are and should be jealous of their liberties and are naturally opposed to an unnecessary centralization of power, and to-day they look with alarm upon this new doctrine; new because never before asserted with any considerable confidence by anybody that such an important power had been lodged with *any* one man in this country; a power that he may be, as he has been, called upon to exercise in a case where he is himself acandidate for President; a power which may enable him by the manipulation of votes to declare himself elected in opposition to the true state of the vote, and for which there may be no redress but by revolution.

The power of determining the result of an election for President and Vice-President is a great power, to inquire into the election and determine from the returns and other proper evidence who has received a majority of the legal votes, involving, as the inquiry necessarily must in closely contested elections, the question "What is a vote?" "What votes are to be counted?" "Which are the votes that represent the true will of the people of a State?" because none others can be counted, call them by whatever name you please, the power to reject and the power to count, and you have some idea of the tremendous and dangerous prerogative claimed for the President of the Senate.

That no man shall be permitted to be a judge in his own case or in a case in which he is interested is a fundamental principle in the polity of this country, recognized and practiced in every department of the Government, from the highest to lowest. Freedom of all personal interest is absolutely necessary to impartial judgment; even send a juryman from the box if he is related to either party within the third or fourth degree and looks with suspicion and discredit upon the testimony of a witness who is related however remotely to the party for whom he testifies. Yet gentlemen contend for the lodgment of a power in the President of the Senate where the inducements to use that power for his own advancement are beyond estimate. This is a strong argument that the power has not been given, because such a consideration could scarcely have escaped the attention of the framers of the Constitution. They must have anticipated that the President of the Senate, usually the Vice-President, would himself be a candidate for the office of President and entitled to participate in counting the electoral vote; and the impropriety of him being the *sole* judge must have been as apparent to them as it is to us and explains the singular phraseology of the Constitution. To the popular mind it will be one of the strangest arguments, the *magnitude* of the power to be vested in one man, however eminent and able and however pure and exalted he may be.

In a debate occurring on this subject at the last session of Congress Senator CHRISTIANCY said:

> There seems to me a fair though not conclusive inference that it is *not* made the duty of the President of the Senate to count them—
>
> The votes—
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> because, if this had been intended, the language in that connection would naturally have been as already suggested by several Senators, "the President of the Senate shall open all the certificates and count the votes."

And it is instructive to find that, while all the more able Senators in both political parties participated in that debate, not one, so far as I have observed, favored the idea that the President of the Senate had power to count the vote, and this, too, at a time when there were no reasons to anticipate the circumstances by which we are now surrounded, and will therefore be accepted by the country as the calm and well-matured judgment of the Senate. In 1821, Mr. Clay declared in the Senate that the counting was by the two Houses, and there was no one to deny it in a body at that time containing as able men as this country has ever produced. In 1857, the right of the President of the Senate to decide as to the counting of the vote of a State objected to was denied in the most emphatic manner and asserted by none, although the then acting President of the Senate disclaimed any such power and declared that he had not assumed to exercise such a right, and the right of the two Houses to determine what is a vote within the meaning of the Constitution, and what votes, if any, shall be counted, was maintained in the most determined manner by Senators Seward, Douglas, Crittenden, Stanton, Toombs, Butler, Wilson, Collamer, and others, and while no action was taken toward defining the relative powers of the two Houses and the President of the Senate in counting the electoral vote, because the exigencies of the case did not demand any, still the expressions of opinion can lead to but one conclusion, namely, that the power of deciding what votes should be counted is vested in the two Houses of Congress. Such also was the general opinion of the members of the House of Representatives as expressed on that occasion.

But the most direct and notable construction of the Constitution occurred in the enactment of the twenty-second joint rule just prior to counting the electoral vote in 1865, and under which the vote in that year and 1869 and 1873 were counted without difficulty, and under which the present contest would have been peaceably and fairly settled had it pleased the party responsible for the rule to be governed by it, although it had served the party for three presidential elections and the votes of States had been counted and rejected by the two Houses under its provisions. That rule construed the Constitution to lodge in the two Houses the power to count the electoral vote, and in case of a dispute to decide what votes, if any, from a given State should be counted, and demanded a concurrence of the two Houses to admit the vote of any State to be counted if it was objected to, giving to either House the power to exclude a vote if in its judgment it ought to be excluded. But now, unhappily for the peace of the country, men who are responsible for the rule and have participated in its execution from its inception to the present time without perceiving its injustice, can hardly find suitable words to express their detestation of it. It is pronounced monstrous that a vote of a State can be rejected by the action of but one of the two Houses. Ay, it is monstrous that a democratic House should have the power to reject the vote of a State, but it was not considered monstrous for a republican House to reject the vote of a State, and probably would have continued to be so considered had the republicans retained power in both Houses; but having lost the control of one body beyond hope of recovery, and having quite as unexpectedly secured the vote of a portion of the "solid South" though by means the most disreputable, these conscientious gentlemen can no longer conceal their disapproval of this iniquitous rule, especially as under it, if justice should prevail, their party would be sure to lose their vote in the solid South and with it Hayes would lose his election. But I was speaking of the legislative precedents tending to establish the right of the two Houses to count the electoral vote. On the 25th day of February, 1875, Mr. MORTON introduced a bill to provide for and regulate the counting of the electoral vote, the prominent feature of which was that the power to count and determine the result was in the two Houses of Congress.

In case of two sets of returns, it provides that the two Houses shall decide which shall be counted, and in case there is a disagreement between them as to which shall be counted, the vote of the State is lost; in other words, the concurrence of both bodies is required to receive and count the vote where there are two returns. The bill passed the Senate on the same day, but was lost in the House; but the discussion in the Senate developes the remarkable fact, in view of recent occurrences, that the Senate was almost unanimous in the opinion that the right of counting was in the two Houses. At the commencement of the next Congress, Mr. MORTON introduced a similar bill upon which final action has not been had, but the discussion of the principles involved was more elaborate and characterized by more ability and learning than upon any other measure before Congress, and showed that almost the entire body concurred in the opinion that to the two Houses had been given the jurisdiction to count the electoral vote. Thus in support of the power of the two Houses to count the vote we have the uniform practice of one hundred years; the enactment of the twenty-second joint rule by Congress, signed and approved by President Lincoln and yet in force; the passage through the Senate of a bill expressly recognizing the power, and the introduction of a second similar bill in the Senate which received the indorsement of all the prominent Senators of both parties; and yet, with all this unbroken history before us, there rises up like the ghost in the play a party to deny this rule, as Peter denied his Master, under the leadership of men who have been instrumental in producing this very history, who, if not responsible for the enactment of this rule, assisted in administering it for years without objection and so long as it promised aid and comfort to their party. Upon my construction of the Constitution, and the record I have referred to, I rest this part of my argument, except to add that this bill expressly admits the power.

This bill lodges the power to count in all disputed cases where there is but one return from a State in the two Houses, but in cases of double returns the power to decide is placed in the commission. To my mind this is clearly unconstitutional. What right has the Congress to delegate this important duty imposed upon it by the Constitution to any other body or person? Clearly none at all. If we once admit that this power is by the Constitution delegated to the Houses—and so far the friends of this bill are concerned it must be conceded for the purposes of this argument, because the bill admits the power—any other power imposed upon Congress may just as well be transferred, and any duty imposed may just as well be shirked as this. Will anybody pretend that the Congress could refer to the President or any other department of the Government the power to decide a contested-election case of a member of Congress? And why not? Because the power and duty in that regard is placed in the two Houses, an answer that is impregnable to any criticism. The Constitution has within certain limits defined the separate and independent powers of the several departments of the Government and within which each is independent of the other. Now will anybody pretend that the executive department might impose upon either of the other departments the discharge of any duty imposed upon it by the Constitution or that the judicial might create a commission of learned men to determine an important and difficult case pending in it? How apparent is the absurdity of such a proposition. And yet that is just what this bill does; and it is no answer to say that it is being done by the law-making power, because it no less than the other departments is acting solely within delegated powers beyond which it cannot go.

Sir, why should this side of the House consent to deprive itself of the power the House now possesses, the power of preventing the in-

auguration of any man as President who in its judgment, after a full and fair inquiry, has not been elected. This side of the Chamber believes that the two Houses have full power to institute investigations to determine who has been legally elected, and that the *prima facie* case made by the certificate may be disproved by showing that the canvass upon which it was based is tainted with fraud or other illegality. I feel that there is no doubt of this power, and that it should be exerted in the interest of justice and good government. Without it the people of this country are at the mercy of a few returning boards controlled and manipulated, as they will ever be, by the worst elements in politics, in the interest of one party or the other.

It is monstrous to say that the people are without any remedy for such outrages as it is claimed have been perpetrated in Louisiana and Florida, when, as in the former State, the whole State government is in the conspiracy. Why, sir, should this power be surrendered and those important questions left in the adjudication of a tribunal intensely partisan in its organization and a majority of whose members there is every reason to believe disagree with us? In the debates that have transpired on this bill republican members who support it justify their support in part with the assertion that the commission will not go behind the certificates of the State canvassers when the certificate is regular on its face, leaving nothing to be done in such cases but to tabulate the returns, and while these orators are loud in their praises of the absolute fairness of the commission as contemplated, there can be no question that they expect each republican member will do his duty, which means that the opinions expressed in debate shall be sustained, and that the casting vote of the fifteenth man, though silent as the falling snow shall as quickly and unerringly as lightning executes the will of God execute the wish of the republican party.

Why not stand by the Constitution as explained and construed in a hundred years of advancing science and civilization, rather than embark upon an unknown sea of experiment, and throwing doubt and uncertainty upon such unbroken current of authority? This House should plant itself on the Constitution and tender to the other House as the mode of counting the vote the uniform practice and insist upon its observance. But, says the objector, the Senate will not agree to that and the peace of the country will be disturbed, our institutions endangered, and the prosperity of the country seriously disturbed. To this I answer that the liberties of the people are best preserved by frequent resort to first principles, and that the peace and prosperity of the country are best preserved by a strict adherence to the settled law of the land, and the country will stand by the public servant who is fearless in the discharge of duty and stands by the Constitution, as construed and interpreted through a long series of years. I yield to no man in appreciating the blessing of peace, and no man deprecates more than myself the horrors of war; but I would preserve peace and avert war by an adherence to the law. No party will ever be charged with fomenting strife which insists that an unbroken line of precedents, based upon and sustained by the Constitution, shall be observed. If in such a case war comes, it will be chargeable to that element that sought to ignore the settled law of the land and substitute in its place new and untried theories. But war would not come; the mere force of public opinion would frown down all attempts to subvert and overturn the established usage of the land, and consign to eternal infamy all who would seek to involve the people in civil war to accomplish their own base purposes. It would be a war in which the people would be on one side and a few politicians on the other.

But as important as are the questions of peace and war, a far more important question to this people is involved in the questions now before Congress. Is the will of the people the supreme law of the land in the election of President and Vice-President? That is the important question now confronting us, the most momentous question ever presented to the people of this country, and no amount of talking and antagonizing it with the rights of States can obscure or belittle it in the public mind. The States have rights which must be protected, and duties are imposed upon them which should not be neglected. The United States will see that the governments of the States are not only republican in form, but republican in practice, and no State will be permitted by any species of legislation to perpetrate an injustice upon the people of the whole country, as would be the case if a candidate lacking a majority of the votes of the people of a State should, by the fraudulent action of its canvassing board, be foisted upon the country as the President-elect. The republican leaders say that, though the fraud may be proved clear as holy writ, there is no remedy here if the fraud is covered by the *forms* of law. From such a monstrous doctrine I dissent; and I also object to submitting that question to any tribunals organized in the interest of a party holding such a doctrine. The pertinacity with which it is urged alarms me.

Is the fraud in Louisiana to be passed, and force and truth imparted to the saying that a "fraud is as good as a truth if it be clothed in the forms of law," under which principle, while admitting that the popular vote of that State, as shown in the returns, was for Tilden, they yet claim the State for Hayes, because all the fraud and deviltry by which such result was reached is merged in the certificate? But happily for the good of the country there is no such law. Fraud vitiates everything with which it comes in contact, from the simplest transaction between man and man to the orders, certificates, judgments, and decrees of the highest tribunal in the land.

But what necessity for such a tribunal as the one provided for in this bill? Is not the Constitution and the legislation had under it sufficient for the present emergency as it has been in the past? Senator BOUTWELL, in speaking to Senator MORTON'S bill of last year, says:

> Not only did the framers of the Constitution do all that is possible to secure a true count of the electoral votes, but all that is necessary.

This part of the Constitution was long and well considered, as the debates show. There has been no fault found before. In aid of its provisions the joint rule was enacted by our republican friends, which, together with the Constitution, served their purposes well for three successive elections.

Sir, why are the republicans so thoroughly dissatisfied with the old mode of counting the vote? There is but one answer; because under the old method they cannot defeat the election of Tilden, and therefore it must be discarded and a plan devised that will bring about that result. First, it is insisted that the President of the Senate shall count the vote, a plan that had been proposed and denounced in the convention by those who made the Constitution and also denounced as untenable by the good men of all parties and at all times since the adoption of the Constitution whenever the subject has been discussed, and finally it had to be abandoned, and instead a commission is raised intensely partisan in its character and in part composed of five judges of the Supreme Court, three at least of whom must be republicans, and thus giving the republicans a majority in the commission. And this is the tribunal by the decisions of which the inauguration of Hayes is made possible; makes that possible which without it would be impossible without the consent of the House.

But it is said that this tribunal is an absolutely fair and impartial one, and the fact that the five judges are taken from the Supreme Court is referred to as showing its exceeding fairness; but justice and candor compel me to say that while I respect and revere that august tribunal and bow with reverence to its judgments and decrees, and would submit in entire confidence to the adjudication of any one of its members my dearest rights, off the bench in regard to all mere political questions I should repose no other or greater confidence in what they might say or do than I would in any other number of equally able men of the same party—no more, no less; for I expect when those judges get down from the bench and take their places in this commission they will go there to represent the republican idea in this controversy, and I have good reasons to believe that that is what is expected of them. Republican orators who support the measure justify their course to their party friends by asserting that it increases Hayes's chances, upon the theory of course that the certificates will be adjudged conclusive. And Mr. MORTON said in debate that "in no other way than by going behind the certificates can Tilden be de-clared elected," and it being understood the two Houses *will* go behind the certificates and investigate the charges of fraud and corruption, those gentlemen regard a change of forum to a tribunal whose opinions are not known—in doubt—perhaps as favorable to them. They take the benefit of the doubt, because the logical result of MORTON'S statement is, that if we do go behind the certificates an investigation will result in Tilden's election.

Now, profoundly impressed with the belief that Mr. Tilden has been fairly elected, I am decidedly opposed to surrendering the lawful and constitutional method of determining that question; a method that in my judgment will lead to the inauguration of Tilden and Hendricks, to this new and untried tribunal not judicial but political in its character, a majority of the members being presumptively against us. Undeniably it will be regarded, as in truth it is, a concession to the republicans. I am not willing to make it. I know the two Houses have the power to enforce the right, and will do so if it is left to them. Manifestly we ought not to shirk the responsibility. England expected every man to do his duty at Trafalgar; *our* country expects every member of this House to do his duty here, remembering that "eternal vigilance is the price of liberty."

Mr. Speaker, if this was a question of sentiment only, I grant you the bill ought to pass, for the debate is replete in beautiful thoughts, expressed in words and manner of surpassing eloquence, creditable alike to the head and heart of the speakers; but I submit that it is more than that, it is really whether the voice of a majority of the people of this country is to go for naught, be set at defiance by the fraudulent action of a Louisiana returning board upon the senseless pretext that its action is conclusive upon the country if satisfactory to that State, the entire machinery of whose government is in the hands of men who wink at the fraud and justify the wrong, men who have notoriously defied the law and trampled in the dust the liberties of the people for their own base purposes. And are the people without remedy? None need be expected from the State authorities because they are interested in perpetuating the wrong. Then none exists unless this body, in virtue of its admitted constitutional powers, becomes the grand inquest of the nation and asserts the supremacy of right.

Am not I in Wisconsin as much interested in an honest count of the electoral vote in Louisiana as the people of that State are, and have I not the right to demand that the vote shall be correctly counted? Shall the people submit to the action of a returning board composed of men notoriously unworthy of credit, condemned by the action of a republican Congress, and by the deliberate judgment of every honest man of all parties, one of whom practically convicted of perjury by the House committee of the Forty-third Congress, and

whom General Sheridan declared to be a "political trickster" and unworthy of confidence? The idea is monstrous, and strikes at the very foundation of our institutions, the right of the people to govern. I do not subscribe to any such doctrine. I believe in protecting to the fullest extent all the rights of the States against the encroachments of Federal power, but it is not one of the rights of the States to arbitrarily defeat the popular will through the knavery of any of its officials; and if, by any means or in any manner, the government of a State shall for any purpose, with or without the consent of its people, be used in such a manner as to cheat and defraud the people of the Union of the just results of the election of President and Vice-President, such State government is no longer republican in form, and it becomes the duty of the two Houses of Congress to interfere to protect not only the people of Louisiana, but of the whole country, from such lawlessness.

Mr. Speaker, I firmly believe the two Houses of Congress have this power, and that it ought to be exercised, and for fear that some other tribunal might not believe as we do, I will not consent to surrender one iota of power, but would hold and exercise it to the vindication of truth and justice. Never was there a question of such transcendent importance to the future of this country; let us meet it here and now and establish a precedent that will be of untold value, deciding once and forever that the people of this country will not submit to a falsehood and bow in humble submission before a certificate known to be false. A piece of paper conceived in fraud and perjury, and brought forth in iniquity, is claimed to impart absolute verity, a thing that cannot be inquired into at all; and this in the face of the fact that most of the States, and especially my own State of Wisconsin, have by their courts decided that the certificate is impeachable, even in cases where the statute declares that the canvassers shall determine what persons have been elected, holding that it is the *election* and *not* the canvass that determines the right to the office. Therefore I shall vote against this bill: First, because I believe the right of counting the electoral vote is by the Constitution vested solely in the two Houses of Congress; secondly, because I believe that power cannot be delegated to any body or persons; and thirdly, because, if the bill is not in conflict with the Constitution, it is unnecessary, as there is no reason why the present electoral vote shall not be counted in accordance with all the precedents; and lastly, because it may result in the denial of justice and the triumph of a conspiracy, the most gigantic and damnable, to compass the inauguration of Mr. Hayes in fraud of the voice of the people, and therefore I would keep the power where I *know* that justice will be done.

Counting the Electoral Vote.

SPEECH OF HON. SAMUEL F. MILLER,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. MILLER. Mr. Speaker, in the short time allotted me for debate I shall not expect to enter upon any general discussion of this measure. I content myself by saying that I believe this bill now before us, providing for counting the votes for President and Vice-President, is constitutional. If I did not so regard it, I certainly should not give it my vote. But, further than this, Mr. Speaker, I believe this bill is more just and more impartial to the parties interested than any plan suggested by any of the various interpretations of the Constitution given us by the disagreeing constitutional expounders.

I am one of those who honestly and sincerely believe that Mr. Hayes was elected by the people, but I concede that other gentlemen equally honest just as sincerely believe that Mr. Tilden was elected. I have so much confidence in the honest election of my candidate, the republican candidate, that I am willing to submit the question to a fair and impartial tribunal. If my democratic friends, who are equally confident in the justice of their claims, are willing to submit them to an impartial tribunal, why should we not agree upon this mode of settlement? Why should either party persist in asking a tribunal or umpire whose decision is known in advance and whose award cannot command the respect and acquiescence of the other party.

It is idle to say that the Constitution clearly marks out the course for us to pursue. The Constitution leaves us in doubt. Not only do the two great parties in this House not agree upon the constitutional mode of counting the electoral votes, but even individuals of the same party advocate opposing interpretations. The truth is, for the last sixty years, at least, the votes of the electoral colleges have been counted under the provisions of a legislative plan or agreement adopted by the two Houses of Congress. So we are but doing our duty as it has been understood by those who have gone before us in trying to agree upon a plan in advance of the count.

Of course in the absence of any legislative provision on the subject we must follow the constitutional path by the best lights we have. And I am free to say, if this bill is defeated, if agreement is impossible, I shall support those who claim the right of the President of the Senate to count, believing that this accords with the early practice before the adoption of the twelfth amendment, and believing, too, that, as this amendment retained the same words in relation to the count as the old section which it superseded, it is but fair to claim that it was adopted with the interpretation that these words had already received.

But, after the precedents of the last sixty years, I never could justify myself in refusing to support a legislative plan so fair and impartial as this, to follow a disputed interpretation, however plausible. The interpretation may be followed from necessity by reason of failure to enact a legislative provision, but never from choice and design.

Now let me hasten to another point. Let me ask my republican friends if they think it probable—after the speeches and votes of republican Senators on this bill—that these Senators will ever maintain the right of their president to count the votes for President and Vice-President, unless possibly the democratic party should be foolish enough to defeat this measure or fail honorably to carry out its provisions. And is there a sane man in this House who believes that the President of the Senate will count these votes without the support and against the voice of that body? But I forbear to press this point, although it is suggestive of our real position.

Now we are told by some exceedingly brave gentlemen that we are yielding to clamor, to unmanly fears. I am conscious of no personal fear in this business. But are the peace and prosperity of the American people and the honor of republican institutions matters of so little consequence that we cannot guard and preserve them without the suspicion of unworthy motives? I certainly do not anticipate any bloodshed or civil war if this bill is defeated, but I shall expect, if either party defeats this measure with the design through doubtful means to seize the administration, that it will hold power without satisfaction and without honor, and that it will receive such a rebuke from the people at the first election as will consign it to defeat and oblivion for the next fifty years.

The gentlemen on the other side will mark out for themselves the policy of the democratic party; but I for one do not wish the republican party with its record so glorious in war and in peace consigned to any such fate. I prefer to vote for this bill. If it is passed I shall expect to see the claim of Mr. Hayes, now clouded by suspicion and misrepresentation, cleared up and vindicated by the decision of this high tribunal.

And if his claim be so established we shall see him inaugurated with the approbation of the whole American people.

Counting the Electoral Vot..

SPEECH OF HON. DAVID REA,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877.

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. REA. Mr. Speaker, I do not propose to discuss the constitutionality of the bill now before the House. That has been done in this and the other end of the Capitol much more ably than I could do it. I shall therefore content myself with a statement of the reasons for the vote I shall give upon this bill.

This bill is one of grave importance and demands the calm, unpartisan consideration of every member. No graver question in my humble judgment ever confronted Congress than the one now before this House.

The people of this great country are divided into two almost equal parties, each claiming to have elected its candidate for President and Vice-President. Dual returns from each of four States are said to be in the possession of the President of the Senate, each purporting to contain the true and lawful votes from said States.

Under the Constitution it is the duty of the President of the Senate to open all the certificates, in the presence of the Senate and House of Representatives, that he may have in his possession, and under the law as it now is that duty is to be performed on the second Wednesday in February, a little over two weeks from this day.

When the certificates are opened and double votes from one or more States shall appear, of necessity an adjudgment must be had as to which of the dual votes are lawful and shall be counted, and some person or body must determine that question.

Who shall adjudge the disputed votes is a question upon which members of the House and Senate are not agreed.

The Constitution says:

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted.

It is not stated in words by whom the votes shall be counted, neither

is it stated what shall be done in the case of double votes from a State.

The twenty-second joint rule has been abrogated, and there is no law or rule at this time prescribing how and by whom the true and lawful votes shall be selected from the false ones. It is claimed by some that the President of the Senate is empowered by the Constitution with power and authority to judge and determine for himself which are the lawful votes, and to count the same, and that an assumption of authority by Congress to determine and pass upon the genuineness of votes, in the absence of a law authorizing the same, would be revolution. Others claim that the President of the Senate has no power or authority to judge which are the true and lawful votes, but that by virtue of the Constitution the authority and power to adjudge the validity of the votes are vested in the Senate and House of Representatives, and that for the President of the Senate to adjudge the validity of votes without authority from the Senate and House of Representatives, and against the protestations of either House, would be revolution. And others claim that all votes, although objected to, properly certified are to be held as lawful votes and counted, unless both Houses concur in excluding the same, while others claim that all such votes objected to are to be excluded, unless both Houses concur in counting the same.

With all these conflicting views, entertained by members of this House and by the Senate, and knowing there was no rule or law in force to plainly guide and control the canvas and count of the electoral votes when the two Houses should meet together and the President of the Senate in their presence should open all the certificates containing the votes, the Senate and House some weeks ago wisely appointed a joint select committee to prepare some measure, legislative or otherwise, best calculated to accomplish the lawful counting of the electoral votes.

That joint committee, composed of honest and able men of both political parties, of whose patriotism mainly and learning there can be no doubt, after long and patient deliberation, reported the bill now before the House unanimously, with one exception.

The bill has passed the Senate and is now before the House, and the question now is shall the House defeat or pass the same. Is this House prepared to take the grave responsibility of defeating this bill, confronted as it is with the surrounding difficulties and contrariety of opinions of members of the House and Senate; with the good people of this whole country of both parties demanding a peaceful and lawful solution of the presidential problem? In view of all these facts, in full view of the near, and, without some agreement, it may be the unwelcome future to the American people, are Representatives upon this floor prepared to reject this bill without substituting something better, and launch the ship of state upon a boisterous and turbulent sea on the 14th day of February next without rudder or pilot—to be driven by every uncertain wind, it may be, upon some unseen reef, there to be broken asunder? I for one am not. I am a partisan; I believe in the political tenets of the party to which I belong. I would sacrifice much for its success; I love my party, but I love my country better.

I do not believe the President of the Senate has any power under the Constitution to pass upon and determine the lawful from the unlawful votes. His power over the votes ends when he has opened the certificates.

I believe the power to judge of the legality of votes is vested in the Senate and House of Representatives, acting concurrently, and that no vote objected to can be counted unless both Houses agree thereto. The bill now before the House is founded upon the doctrine that the power to canvass and count the votes and adjudge the lawful from the unlawful votes is in the Senate and House of Representatives, and not in the President of the Senate, and hence the right of Congress to prescribe the means and manner by law of passing upon the lawfulness of votes, canvassing, and counting the same. The Senate and House are equal, one having as much power to judge of the lawfulness of votes as the other; and they are equal in the passage of this bill. It cannot pass unless both Houses agree to it. Whatever can be done under this bill is in law done by the two Houses acting concurrently.

I do not believe the passage of this bill will be a surrender of the right and power of either the Senate or House, but on the contrary it will be an affirmance of the power of both.

There are some objections, in my judgment, to bringing the judges of the Supreme Court into the commission authorized by this bill. It would have been better, in my judgment, if some other plan or commission could have been devised, provided it would have been equally impartial, and would have commanded the same respect from the people. No other plan has been presented, and without anything better I believe it would be unwise for this House to defeat this bill. This side of the House cannot afford to do it. This side of the House has the power to pass the bill, and hence if the bill is lost it will be chargeable with its defeat.

I believe there is a wide-spread conspiracy in this country to inaugurate a President by fraud and force if necessary, and for that purpose the fraudulent acts of fraudulent returning boards, sustained by military force, have been resorted to in order to procure the electoral votes of certain States against the expressed will of a majority of the electors of such States. The passage of this bill, in my judgment, will defeat that conspiracy.

I am certain a large majority of this House believe in all sincerity that this House has an equal voice with the Senate in determining what votes shall be counted, and that neither the Senate nor the President thereof has the right or power under the Constitution to count votes objected to by the House.

Suppose this bill is defeated and that when the Senate and House of Representatives meet together on the 14th day of February next, and the certificates are opened, that the President of the Senate should claim the right, in the absence of any rule or law to the contrary, to count the votes and determine for himself what votes he will count, and proceeds to and does count certain votes, and declares Hayes and Wheeler elected against the protestations of the House of Representatives, what will this House do? It can do but one thing. If the honest judgment of the House shall be in that event that the action of the President of the Senate was unlawful, and therefore no President had been elected, then it would be its sworn duty to proceed at once and elect a President, and should the House then elect Tilden President there would be two declared-elected Presidents; and I cannot see how a collision could be avoided, unless one of the parties should back down. Let us not take the chances. Let not the Representatives of the people, who are this day holding in the balance the future destiny of this great Republic, move on blindly without any rule or law, to govern the count, until they have arrived at a point at which it would be cowardly and humiliating for one party to yield to the other.

The passage of this bill will avert any such calamity. It is not cowardly or humiliating to vote for it, but, on the contrary, it is patriotic.

This is a government of law; all great disputes ought to be settled by law rather than force. No party that abandons the forms of law can expect to be intrusted with power in this country.

We upon this side of the House have great confidence in our cause. If we have the law, justice, and the right on our side, should we hesitate as to the results under this bill?

Through a number of years of practice in an honorable profession I have learned that thrice armed is he, before the bar of justice, who has truth, justice, and the right on his side.

As a rule, it is those who have no faith in the justness of their cause who refuse to submit matters in difference to an honorable and wise tribunal.

Mr. Speaker, I represent on this floor a law-abiding, liberty-loving constituency, engaged in the honest, industrious pursuits of life. They want peace. I do not believe those of either party desire any man inaugurated President unless he has been fairly elected. I do not believe I would reflect their will if I should vote against this bill.

If by the passage of this bill we shall avert a great national danger without doing violence to the Constitution, we will have done an act of patriotism for which the good people of this whole country within their hearts will thank us.

When this bill shall become a law, as I believe it will, I trust that fraud and corruption will find no protection under it, but, on the contrary, through the instrumentalities of this bill I shall hope to see the true and lawful votes for President and Vice-President counted, and the will of the people thereby respected.

Doubtless this bill is not perfect. Through all the works of man imperfection can be traced, but under all the circumstances surrounding the presidential problem I believe it better to pass the bill than to defeat it.

I shall, therefore, give it my vote.

Counting the Electoral Vote.

SPEECH OF HON. JOHN H. BURLEIGH,

OF MAINE,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. BURLEIGH. Mr. Speaker, as the time allotted to each member of this House to speak on this most important question is very short, I must state my reason for the vote I shall give in as brief a manner as I can. Since I can remember, my idea of the counting of the electoral vote has been that, according to the Constitution, this high honor was vested in the President of the Senate.

But, sir, since the grave question of the day and how to decide it has arisen, I find in looking over the history of our country that the greatest of the men we have had, without distinction of party, have taken different views in regard to counting and deciding electoral votes that are questionable.

There is another impression that has always been fixed on my mind, and that is that the framers of the Constitution never intended that Congress should have the power by throwing out the vote of a State, or otherwise to annul the action of the several States in the choice of a President. On the contrary, the Constitution provides that a

member of Congress, or holder of any office under the Government, shall not be an elector.

It only provides that the House of Representatives, voting by States, may elect a President when the States by votes of electors fail in so doing.

The Constitution was made before the days of telegrams. It directs that the result of presidential elections shall be arrived at and forwarded to the Vice-President, under close seal, in the quickest possible time for those days, as has been so well shown and expressed by my friend from Ohio, [Mr. GARFIELD.] Then the voters of Massachusetts could not know how those of Georgia had voted, or those of Georgia how those of Massachusetts had voted, until the votes of each had been counted and registered by the authorities of these States. Then the result of the election in the States far removed from each other and from the capital could not be known generally until but a short time before they were to be opened by the President of the Senate. But now on the morning after the election the click of the wires informs the voters of all the States of the approximate result, or so near that a close calculation can at once be made of what votes are wanted to decide the election in favor of one candidate or the other. So that the object of the framers of the Constitution in having the quickest possible returns that neither party could take advantage of the knowledge of how the State had voted and be incited to use extraordinary efforts to secure the election of their candidate is lost. The Constitution should be changed to meet the advance of the times.

Men and money, it is said, after the late election were sent into the States that might be influenced in making up the counts by both parties to see that there was a fair count and that their respective party should secure the vote or votes necessary to secure the election of their candidate. The result is each party charges the other with fraud, each claims that their candidate is elected. The country urgently looks to Congress to settle the question of who is elected President, and to settle it fairly, while the constituents of every member, in every city and town, are divided in their views or wishes in regard to its adjustment. We search the records of the country since it was formed for information. We find no precedent, no parallel antecedent, and that every question that has arisen in former Congresses that the settlement of would aid us now has been passed over, and that the views of eminent men as expressed in the records of how disputed votes shall be counted and the action of former Congresses on the subject tend more to mistify and entangle than to guide and clear.

Men that voted for Governor Hayes declare that he is elected, and men that voted for Governor Tilden declare that he is elected. The best men in the country, in Congress and out, are divided in opinion in regard to the meaning of the Constitution, as to how and by whom the votes of disputed States shall be settled; the guides that might govern not settled, but contradicting each other, each side positive and earnest in the belief that their candidate is elected, some saying, on both sides, "No compromise, hold on, we have got them." Is this the language of statesmen, when the peace of their country is perhaps at stake?

Mr. Speaker, while I believe sincerely in the honesty of the party to which I belong, in its belief that Governor Hayes is elected legally, I accord to the democratic party an equally sincere, honest belief that Governor Tilden is elected by the people who voted in the several States. Under these circumstances what shall be done? What shall we do?

Sir, seeing no way of settling the great question of who shall be President of the United States under the present condition of things by Congress, under the Constitution or by precedent, I shall cheerfuly vote for the bill now under discussion, with the feeling that by so doing I shall be acting for the best interest of my country. I believe that in settling this great question by this commission, without a jar to our institutions, the great Republic will rise to a greater prominence; our people and those of the Old World will have greater respect and confidence in our republican form of government.

Hereafter, when the question we have before us is bridged over and Congress again gets to work, every lover of our country will hope that it will act on this subject and have it settled in such a manner as will last for all time.

Counting the Electoral Vote.

SPEECH OF HON. JOHN K. TARBOX,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. TARBOX. Mr. Speaker, I attempt no argument. The debate here and in the upper House has been exhaustive to the last degree of research and logic. I wish simply and briefly to indicate the considerations that govern the vote I shall give. The pending bill is obnoxious to objections which under less imperative stress of affairs had constrained me into opposition. I cannot regard with unruffled complacency the apparent abdication or delegation to a novel tribunal, unknown to familiar government processes, of a fraction even of the power and responsibility to adjudge a political question the determination of which, as I believe and as I read the law and the precedents, falls within the province of the two Houses of Congress in the performance of a duty devolved by the Constitution; and I cannot take kindly to the proposition to involve the Supreme Court, however remotely, in a partisan controversy and the decision of an extra-judicial matter, out of which I fear that august tribunal may not emerge without some regretted loss of public confidence and popular reverence, which make the basis of its moral strength and conservative usefulness in our republican polity. I wish, sir, the scheme had been so cast as that the opinion of the court might be taken on controverted legal issues relative to the constitutional powers and privileges of the two Houses, several or joint, in the electoral count, and left the Houses free to execute the function, whatever it be, which the highest judicial authority should adjudge them severally or jointly top ossess. Any denial that the chief Legislative Assembly of the people can be trusted to discharge with integrity the trust the Constitution vests in it, when once the nature and boundaries of that trust are defined by authority, is an impeachment of the organic charter and equally of the foundation principle of republics.

But, Mr. Speaker, these objections are overmastered by the imminence of the public crisis. The peace of the country is beset by perils, in the apprehension of which the best sentiment of the land has taken serious alarm. The wisest men of our counsel, skilled in law and practiced in statesmanship, commend the bill under consideration as the best expedient not subversive of the Constitution that their most patient and conscientious deliberation can construct, to compose a strife which if left uncontrolled may spend itself in ruinous ravage of our prosperities and institutions. Statesmen, most constant in fealty to the Constitution and able among ablest expounders of that revered oracle, approve it as conservative of the organic form and spirit and legitimate for carrying into effect the constitutional provision. The chief hostility, based on reasons drawn from the Constitution, comes from a source not hitherto distinguished for devotion to the authority of that instrument. Again, sir, the compromise feature of the bill is honorable, for it reaches neither fact, principle, nor right, but only methods. It is not a compromise in the offensive sense of a bargain or barter of election results; but a compromise of conflicting opinions as to the just mode for the ascertainment of the true constitutional result. It proposes to give effect to the national will as the ballot declares and the law awards it; not to reverse or revise it. In fine, sir, the tribunal, or commission, or whatever is its fittest designation, which the bill creates will exist by the authority and creative act and as the agent and subordinate aid of the law-making power of the Government, not to elect a President and Vice-President, but to ascertain and determine the fact who are the lawfully elect to those offices. The scheme is not therefore vulnerable to the fatal criticism of unconstitutionality or the assumption of power to override the judgment of the ballot-box. The tribunal is not an absolutely impartial one, since the strongest and fairest minds are not wholly invincible to the unconscious bias of prejudices, interests, sympathies, and affections; but, in its judicial part at least, I believe it will prove as fair and impartial as the wit of man could constitute it or human imperfections admit of. Not only the individual honor of these grave judicial personages, but also the dignity of the great tribunal of justice they adorn, are involved in the righteous determination of the legal questions committed to their decision. The country and the world expect them to act in a spirit equal to the gravity and solemnity of their responsibility.

No competent and reasonably impartial observer of events, I think, now doubts that a purpose was entertained in certain political circles—I do not call it a conspiracy; I will not characterize it at all—but a purpose existed to assert the independent right of the President of the Senate, in the contingency of inaction by Congress, to count the votes, decide all contests, and declare the election. The now President was expected to enforce the decision and, if need be, by the use of the Army put the person so declared elected in possession of the presidential office, and the Senate and the several executive departments were relied on to recognize him as the rightful President and support his title. I will not contemplate the consequences to domestic tranquillity and the common welfare from such a consummation. This bill, if accepted, defeats that purpose and protects the nation from its perils. Sir, I see no alternative. The event is close by. We cannot drift in safety. We must act. The choice rests between the adoption of this measure and a probable failure of the Houses to seasonably agree upon a mode for the discharge of a constitutional duty to the execution of which the joint action of the two Houses is essential, and in default of which the government of law stops as stricken with a paralysis and the Republic is cast helpless into the troubled sea of revolution.

Mr. Speaker, the favor I give this bill is apart from any calculation of the probable issue it will occasion to the presidential contest. That the people chose Mr. Tilden for their President in November is a conviction I entertain in common with a large majority of the American people. That democratic electors were chosen in Florida

and Louisiana and the choice of the ballot-box corruptly set aside by as base knaves as ever abused authority and dishonored official place will be writ in the history of these events when a interest no longer exists to falsify the truth. But, sir, we know how oft unequal are human systems of law to accomplish the ends of full and absolute justice. It possibly may be that the tribunal will hold that whatever frauds the State officers may have been guilty of, their acts are nevertheless final and conclusive and beyond the reach of any power resident in the Federal authority to revise and reform. If it shall so result the country must endure with patriotic patience, and wickedness enjoy its doubtful triumph for a season. Better to suffer the temporary wrong than by extraconstitutional and revolutionary resorts imperil the structure of the Government itself, which shelters—so our patriotic pride fondly believes—the best hopes of civil liberty. If wrong be done, time accomplishes its just revenges.

No lie shall live; no man by lies—
God's debts are paid at last:
He who with devil's coin that tries
To pay them, shall be cast!"

Counting the Electoral Vote—Louisiana.

SPEECH OF HON. R. LEE GIBSON,

OF LOUISIANA,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. GIBSON. It is impossible properly to investigate the processes of an election in the State of Louisiana without being familiar with the methods by which the citizens may be duly qualified to vote.

REGISTRATION.

No one can exercise the right of suffrage without having been duly registered and having received a certificate of registration. The entire machinery of registration has been and is in the hands of the governor of the State and his political adherents. The governor has power to appoint a registrar for the State at large and a supervisor of registration in each parish (county) in the State. And it is provided by law, (see section 31 of act No. 155, approved July 24, 1874:)

That the decision of any supervisor or assistant supervisor of registration on all questions of erasure from or addition to the registration and on all questions relative to the registry of voters shall be final. No parish or district judge shall interfere by writ of injunction, mandamus, or other order of court, to compel any supervisor or assistant supervisor of registration to register or prohibit him from registering any person. Any judge so interfering shall, upon conviction thereof, be subject to a fine of not less than $500 and imprisonment for not less than six months, and shall be liable to impeachment and removal from office.

Heavy penalties are inflicted upon any person who not being entitled to register shall attempt to do so, or who shall attempt to vote at any election without being duly qualified.

A person who believed he had the right to register and who was refused made application to the only judge who had jurisdiction in the city of New Orleans of political cases, and it was decided by him that he had no jurisdiction and could afford no relief. Nay, more than this, it is made the duty of the supervisors, by section 39 of the said act, to appoint suitable persons *without limit as to numbers*, at each poll or voting-place or precinct, who shall have the power of constables during the time of election and of *counting ballots cast*, and whose duty it shall be to convey the box to receive the votes to the place of holding the election and to deliver the same to the commissioners of election, and to attend the commissioners of election during the whole time of holding the election and obey all legal orders of such commissioners. And the said constables are entitled to receive as compensation the sum of $5 for a period not exceeding three days.

In addition to constables without limit appointed by the State authorities, the United States marshal in compliance with the instructions laid down by Hon. Mr. Taft, Attorney-General, appointed United States deputy marshals, without limit as to number, throughout the city of New Orleans and the State of Louisiana to protect the citizens in the exercise of their political rights. In the ward in which I reside in the city of New Orleans I have reason to believe that of the republican votes cast more than half were constables and deputy marshals and officers of the Government, and I doubt not one-fourth the voters of the republican ticket in the State were acting in some official capacity.

The supervisors of registration are clothed with the power under the law to deny absolutely to any citizen the right to register, and to strike from the registration the name of any citizen whom they shall determine has been improperly registered. They have the authority, as has been seen, to summon to the aid of the commissioners of election the entire physical power of the State to preserve order and protect the polls.

At the recent election in Louisiana every person who voted was required to produce his title to the right in the shape of a certificate of registration, and every certificate of registration issued in that State was from the hands of the appointees and adherents of Governor Kellogg. Surely, then, there can be no complaint by the party which calls itself republican in Louisiana against the fairness of the registration. Every return and statement of the ballots actually cast, which was placed before the returning board, was made up by officers appointed by the party in power and came up from citizens who had been thus qualified, and who had exercised their right to vote thus supervised by the Kellogg officials.

ELECTION LAWS.

If we now turn to the machinery of elections we will find it to be not less complete, not less independent of the control of the people or of their supervision, and equally well adapted to retain for the party in power complete political supremacy.

First, the election is conducted by certain officers called commissioners of election, whose power and duties are somewhat similar to the judges of election in other States. They are appointed by the assistant supervisor of registration in each parish and in the city of New Orleans by the supervisor of registration.

Under the act of 1872 the mayor and administrators of the city of New Orleans appointed commissioners for the parish in which it was situated; but that was amended by an act of the Legislature, and the power of appointment was taken away from the said officers, who were conservative, and conferred upon the supervisor, who was a republican. (See sections 7 and 8 of act No. 98, 1872, amended by act 128 of 1874.)

The commissioners of election are required by section 43 of the act of 1872 immediately upon the close of the polls on the day of election to proceed to count the votes as provided in section 13 of this act.

And after they shall have so counted the votes and made a list of the names of all persons voted for, and the offices for which they were voted for, and the number of votes received by each, the number of ballots contained in the box, and the number rejected and the reasons therefor, duplicates of such lists shall be made out, signed and sworn to by the commissioners of election of each poll, and such duplicate lists shall be delivered, one to the supervisor of registration of the parish, and one to the clerk of the district court of the parish, and in the parish of Orleans to the secretary of state, by one or all of such commissioners in person, within twenty-four hours after closing the polls.

It is also made the duty of the commissioners, by section 26, *if on the day of election* there shall be any riot, tumult, acts of violence, intimidation, and disturbance, bribery or corrupt influences, so as to prevent or tend to prevent a fair, free, peaceable, and full vote of all the qualified electors, to make in duplicate, and under oath, a clear, full statement of all the facts relating thereto and of their effect in preventing a fair, free, peaceable, and full election, and of the number of qualified electors deterred thereby from voting; which statement shall also be corroborated under oath by three respectable citizens, qualified electors of the parish, which shall be forwarded in duplicate to the supervisor of registration of the parish, and if in the city of New Orleans, to the secretary of state. This completes the duties of the commissioners.

Second. The duties of supervisors of registration are not less clearly prescribed and defined.

In section 43 *it is provided that within twenty-four hours after* the receipt of all the returns for the different polling-places he shall consolidate such returns, to be certified as correct by the clerk of the district court, and forward the consolidated returns, with *the originals received by him*, to the returning officers provided in section 2 of this act; the said report and returns to be inclosed in an envelope of strong paper or cloth, securely sealed, and forwarded by mail. He shall forward a copy of any statement as to violence or disturbance, bribery or corruption, or other offenses specified in section 26 of this act, if any there be, together with the memoranda and tally-list used in making the count and statement of the votes. It is also made his duty not only to forward but to make up as well an official statement by section 26, as follows:

If in any parish, precinct, ward, city, or town, *during the time of registration, or revision of registration*, there shall be any riot, tumult, acts of violence, intimidation and disturbance, bribery or corrupt influences at any place of registration or revision of registration, it shall be the duty of the supervisor of registration of the parish, if they occur *during the time of registration or revision of registration*, to make in duplicate and under oath a clear, full statement of all the facts relating thereto, and of the effect produced by such riot, tumult, acts of violence, intimidation and disturbance, bribery or corrupt influences, in preventing a fair, free, peaceable, and full registration, and of the number of qualified electors deterred thereby from registering, which statement shall also be corroborated under oath by three respectable citizens, qualified electors of the parish. One copy of said statement shall be so annexed to his returns of election by paste or wax or some other adhesive substance that the same may be kept together. And the other copy the supervisor of registration shall deliver to the clerk of the court of his parish for the use of the district attorney.

This completes under the law the duties of the supervisors of registration.

POWERS AND LIMITATIONS.

Second is the returning board. It is made the duty of the presiding officer of the returning board "to open in the presence of the said returning officers *the statements of the commissioners of election*, and the

said returning officers shall, *from said statements*, canvass and compile the returns of the election in duplicate."

When the returning board meet they have nothing before them except the aforesaid envelopes of strong paper or cloth, securely sealed, and their contents. The law does not direct anything else to be sent.

The returning officers are required to observe the following order according to section 3 of the act: "They shall compile, first, statements from all polls or voting-places at which there shall have been a fair, free, peaceable registration and election;" which manifestly means returns not accompanied by the official statements of undue influences, "riot, tumult," provided for by section 26 of the law. Hence in the absence of such statements their duties are merely ministerial, involving no discretion, and they are bound to declare the result according to the face of the returns. But when such statements shall be received by them in form as required by section 26 of this act, then, and in that case only, they may proceed to investigate said statement of riot and tumult. They are required, first, to investigate the statement itself, and if upon its face they are convinced that the riot or tumult referred to did not materially change the result of the election, then they shall canvass and compile the votes with those previously canvassed and compiled, showing conclusively that they have no discretion in the absence of such statements. Secondly, if, after considering the statement, they are not fully convinced, it shall be their duty to examine further testimony in regard thereto. In this investigation they are required to allow any interested candidate a hearing, and are authorized to send for persons and papers; which shows that they are not to act on *ex parte* affidavits, but should have witnesses before them with the privilege of cross-examination and subject to the well-established rules of evidence.

Now, it is very clear what the statements as required by section 26 of this act are. They must be made by a commissioner or commissioners of election within twenty-four hours after the close of the polls or by a supervisor of registration within twenty-four hours after the receipt of all the returns for the different polling-places, and in either case must be corroborated under oath by three respectable citizens, qualified voters of the parish. The commissioners' statement is limited to what may occur on the day of election, because it is only on that day that they are officers under the law and conduct the elections. The statement of the supervisors is confined to acts occurring during the time of registration or revision of registration, for it must be observed that they are the supervisors of registration, not of election, and conduct the registration. In either case it must be a clear, full statement of all the facts relating thereto and of the effect produced by such riot or tumult, and of the number of qualified electors deterred by such riots or tumults from registering or voting. Whenever such statements have been placed before the board and they have become convinced from the examination of further testimony in regard thereto, by sending for persons and papers, of the truthfulness thereof, it is made their duty not to canvass or compile the statement of votes from such poll or voting-place, but to exclude it from their returns.

It has been seen that the election is actually conducted by duly appointed officers called commissioners, whose qualifications, powers, and duties are clearly expressed. The supervisors do not conduct the election, nor the returning board, but the commissioners. Their powers are separate and distinct. They possess extraordinary powers, with an unlimited number of constables to do their bidding. Moreover, they are on the spot, three at each poll; they hold the ballot-boxes, look every voter in the face, have the right to challenge, and are the official witnesses of the occurrences at the polls over which they preside. The supervisors and members of the returning board cannot be present at the polling-places, there being only one supervisor for each parish and five members of the board for the whole State, while there are hardly ever less than ten and often more than twenty polling-places in each parish, many miles apart, in the fifty-seven parishes in the State.

It is therefore made the duty of the commissioners to send up statements, corroborated by three citizens on oath, showing what transpired at their polls. *These statements are to be forwarded by the supervisors of registration*, with their own consolidated returns, *within twenty-four hours after the receipt of all the returns from the different polling-places*, and so annexed to their returns of election that the same can be kept together *in an envelope of strong paper or cloth, securely sealed, by mail* to the returning board at the city of New Orleans. (section 43.) Every fact essential to a clear understanding of the election is before them *from official sources provided by law;* the legal foundation for further investigation must be found here or it does not exist.

REASONS FOR THE LIMITATION.

Now, the reason of the law requiring the board to canvass and compile the statements of the local commissioners, and that all the supervisors should be engaged simultaneously in their several parishes in completing their returns and statements on the spot where the election was held, within a limited time, and that an official copy of the statement and returns should be filed with the clerk of the court so that it might be of record, is plain and indisputable. It was that they might know precisely what had occurred at each poll from officers who were present, and to prevent the supervisors from omitting or disregarding the statements of the local commissioners or substituting their own; it was to compel the returns and statements to be completed before communication could be had with other parishes or the general result was known, so as to remove the temptation to doctor their returns or set forth false and frivolous protests solely with the view of securing the triumph of their own party; it was that the local candidates might be able in due season to ascertain whether there was a statement against them, and the grounds of it, so that they might prepare their evidence and appear with their witnesses before the board in the distant city of New Orleans; it was that the officers conducting the election should prepare a solid basis for the disfranchisement of their fellow-citizens, according to law, if it was to be done at all! But for these limitations the supervisors, regardless of the report of the commissioners and the voice of the people, might quit their parishes, assemble in the city of New Orleans, compare notes, and perfect a conspiracy by which they should cast the vote of the State through the returning board, or bitter partisans might file mere protests or affidavits from wholly irresponsible and unknown persons and thus consume the time of the board and change the result without the candidates or people really concerned, being notified or heard.

And why was it that the commissioners were required to complete their statements within twenty-four hours after the close of the polls and forward them to the supervisor of registration? And why was the supervisor of registration required, within twenty-four hours after the receipt of all the returns from the different polling-places, to consolidate such returns and to send them to the returning board, together with the official statement as to intimidation?

It was manifestly because that was ample time within which to perform these duties fully and completely, and, if much delay occurred, they might not reach the city of New Orleans in season for the board, soon to assemble. Public policy requires that the result should be proclaimed so as to prevent a lapse of the government and for the information of the people; and prompt action, while the occurrences were fresh in their minds, would secure more accuracy and leave less room for collusion and fraud.

The reason for the provision requiring the board to meet in New Orleans "within ten days after the closing of the election" is equally clear. Within ten days there would be ample time for the returns and statements to be completed all over the State, if the commissioners and supervisors followed the law, and to reach the board by due course of mail. More was not necessary, less would hardly be sufficient.

And not less reasonable and proper is the mandate that the board shall canvass and compile the undisputed polls first. The postponement of the contested parishes would allow candidates in remote parts of the State time to secure their witnesses, and to appear with their cases thoroughly prepared before the board. It would also prevent the members of the board from ascertaining the final result, and from afterward allowing or rejecting particular polls with the view of changing that result one way or the other.

The intent of the law was that the canvass and compilation should be poll by poll, parish by parish; those uncontested first in order and then the disputed ones, as the investigation showed that they finally were to be rejected or compiled and tabulated, one after the other. But for this the board might reserve all the contested polls and parishes and decide them *en bloc*, and thus after reviewing the entire canvass, swayed by partisan temptations, throw out enough to meet the exigencies of their party. The undisputed polls and parishes are to be compiled one after another, and there is no provision of the law requiring or permitting the disputed polls and parishes to be decided differently; each case, as presented, should be investigated and disposed of finally. This is the manifest intent of the law.

Is there any State in this Union with such safeguards against undue influences in elections or in which there are so many officers of the law clothed with so much power?

First. Look at the supervisors of registration, with power to deny any citizen in the State the right of *registration* and to strike his name from the *list* of the qualified voters even after registration. Some of the most honorable and eminent citizens of the State were so disfranchised in the recent election, and among them my colleague, Mr. ELLIS. I believe that not less than five thousand were so deprived of the right of suffrage in the city of New Orleans, all conservatives.

Secondly. Look at the commissioners and their army of paid constables, with power to challenge, arrest, imprison, conducting the elections, and authorized to send up any statement of undue influences at the polls.

Thirdly. Look at the United States marshal and his countless deputies, all of one party, swarming around the polling-places.

Fourthly. Look at the sheriffs and police charged to preserve the peace.

Fifthly. Look at the military forces of the Federal Government, standing ready to render succor at a moment's notice.

And finally look at the returning board in the city of New Orleans, with the tremendous power in certain specified cases of rejecting returns. It is true that the conditions-precedent to the exercise of this extraordinary power are plainly laid down, as well as its modes and methods and limitations, showing precisely in what cases jurisdiction arises, so that nothing is left to implication or inference. But it is an anomaly in our system that any four or five men should have the power after the election is over, under any circumstances, to deprive hundreds and thousands of American citizens, American freemen, of the

dearest right inherited from their forefathers the right to choose their rulers.

I can understand how individuals may be disfranchised for rebellion or crimes after trial by the law of the land, but it shocks our ideas of justice to be told that this power may be lodged with four partisans in a great State, to be exercised against thousands of men without a hearing in the midst of a heated political struggle. Under these circumstances, at least the board should be required to observe the ancient safeguards of rights and privileges immemorial and hallowed. Will any fair-minded man hold for one moment that they may stretch their authority beyond the limits prescribed by the statutes and enlarge their jurisdiction according to their own views of the exigencies of the case.

It was this very assumption on the part of the board to amplify its jurisdiction that was condemned by Messrs. HOAR, WHEELER, and FRYE in their report in February, 1875. In commenting upon sections 3 and 26 of the act of 1872, they say:

Upon this statute we are all clearly of opinion that the returning board had no right to do anything except to canvass and compile the returns which were lawfully made to them by the local officers, except in cases where they were accompanied by the certificates of the supervisor or commissioner, provided in the third section. In such cases the last sentence of that section shows that it was expected that they would ordinarily exercise the grave and delicate duty of investigating charges of riot, tumult, bribery, or corruption on a hearing of the parties interested in the office. It never could have been meant that this board of its own motion, sitting in New Orleans, at a distance from the place of voting and without notice, could decide the right of persons claiming to be elected.

The board took a different view of its powers and proceeded to throw out the votes from many polls where they found intimidation and violence to have existed. The result was to defeat persons whom on the returns they should have declared elected and to elect persons who should not have been declared elected.

We have no doubt that they believed they were defending the people of Louisiana against a fraud on their constitutional rights. But there is no more dangerous form of self-delusion than that which induces men in high places of public trust to violate law to redress and prevent what they deem public wrongs.

But it may be concluded, indeed it has been, that these express provisions of the law are merely directory, not mandatory or imperative, and that therefore the board might disregard them. It has been declared upon the floor of this House that these wise and necessary limitations were mere questions of red-tape and sealing-wax, and that they were not entitled to serious consideration. The power to disfranchise a mere question of red-tape and sealing-wax! Why, sir, in the history of this country it has ever been the most important question that could be considered, a question above counting-rooms and ledgers or ships or lands or goods, a question of liberty or slavery. It may well be doubted whether a returning board can consistently with self-government, a government by the people, exercise this power of political excommunication against whole communities, even when treading clearly within the lines of the statutes; but to say that they may pass over and beyond is simply monstrous. Now I will admit that there are certain provisions of the law that are not sacramental, and when not complied with may not be fatal to the ascertainment of the result.

The object of an election is to declare the will of the people. Commissioners, supervisors, returning boards, constables, troops, these are intended as the fitting instruments by means of which the people may attend the polls, deposit their ballots, and make known their choice of the men to be intrusted with the public offices. Cushing on Legislative Assemblies, section 201, says:

Provisions of law which are introduced upon affirmative propositions are commonly, unless essential in their character, merely directory, but if accompanied also by negative words or their equivalent they are of course, without regard to their character, always peremptory.

SEC. 202. In the application of this principle much embarrassment will be prevented by keeping in view these two considerations: First. That it is the language rather than the nature of a statutory provision which makes it imperative or directory. Second. That whether a neglect of the requisitions of a directory statute will be fatal or not to the proceedings does not depend so much upon the nature of the neglect as upon its influence in producing the result of the election. Irregularity in the proceedings of returning officers, though not sufficient of themselves to authorize a presumption of fraud or corruption, are nevertheless always looked upon as strong corroborative circumstances.

SEC. 203. The following cases are selected from a much greater number as examples of irregularities in the conduct of the returning officers, and the observance of the requisites of statutes, and which have been held to be merely directory statutes, and which have been considered as insufficient to invalidate elections: Where the ballot-box was not locked as required by law, but was only tied with tape, and was also placed in the custody of a person not authorized to have charge of it; where, instead of "a box locked or otherwise secured," a gourd carefully stopped and tied up in a handkerchief" was used; where there was an omission to give the notices required by law to two inconsiderable places within an election district; where the returning officers did not meet for the purpose of making their returns until after the time appointed by law; where the poll clerks appointed by the sheriff were not sworn until after the election, or were not sworn at all; where the number of votes being required by law to be set down in writing, was set down in figures; where the return of votes was unsealed, instead of being sealed up as required by law; where the votes were returned after the time prescribed by law; where the opening of the meeting was delayed for two hours beyond the time fixed; where the officers presiding at an election, in the belief that illegal votes had been received, stopped the balloting and commenced anew; where the warrant calling the meeting for the election did not specify the time when the poll would be opened; where the poll was not kept open each day the number of hours required by the law. In all these cases, there being a substantial and good election, notwithstanding the irregularities complained of, the proceedings were not invalidated.

The following cases being referred to on these points: Haywood on County Elections, page 511; Cochrane and Rowe, page 288; Warwick, Cushing, S. and J., page 401.

But it is one thing to ascertain and declare the will of the voter and it is a very different thing to proceed to disfranchise the voter. Surely it must be held that the forms of the law should be rigidly complied with in the process of setting aside an election. Section 3 is an example of the use of "negative words or their equivalent," spoken of by Cushing, the section using the word exclude in the sense that the board shall not count returns when protested in the form required by the act until investigated and satisfied of their fairness. Sections 2 and 26 provide how the basis for an investigation shall be laid, and unless the requirements of the law be complied with, namely, that the commissioners submit a statement, corroborated by the affidavits of three respectable citizens made at the time of the election, or a statement submitted by the supervisor and corroborated by the affidavits of three respectable citizens, made at the time of the registration or revision of registration, and attached to and returned with the statement of the votes, it is out of the power of the returning board to raise the question of disfranchisement.

Judge Cooley says in his work on constitutional limitations, page 612:

A great constitutional privilege the highest under the Government is not to be taken away on a mere technicality, but the most liberal intendment should be made in support of the electar's actions.

Page 616:

That one entitled to vote shall not be deprived of the privilege by the action of the authorities, is a fundamental principle.

Page 602:

All regulations of the elective franchise, however, must be reasonable, uniform, and impartial; they must not have for their purpose directly or indirectly to deny or abridge the constitutional right of citizens to vote or unnecessarily to impede its exercise; if they do, they must be declared void.

It cannot be pretended that the board is a court of general and unlimited jurisdiction over all political questions or elections in the State, or is competent to try any cases of intimidation that private parties may bring before it. The board do not claim to be a court. They declare "this board is not a court, but a commission appointed by the Legislature with special *and limited* powers." Now it is an elementary proposition that a commission cannot exceed the letter of its mandate. Moreover, the constitution of the State of Louisiana, article 73, declares:

The judicial power shall be vested in a supreme court, in district courts, in parish courts, and justices of the peace.

ART 94. No judicial powers, except as committing magistrates in criminal cases, shall be conferred on any officers other than those mentioned in this title.

It cannot be pretended, then, upon any theory of the case that the board can exercise any general judicial powers, any powers at all, except those indispensable to canvass and compile the statements of the commissioners of election and the quasi-judicial powers conferred by the statute only when the conditions in which these cases may arise have been strictly complied with.

If, then, the board has exceeded its jurisdiction it must be admitted that it has usurped power, not abused it merely. It might be held that a mere abuse of power could not be inquired into, but no man in America can be found bold enough to insist that a returning board in any State may defy the laws, may stifle the voice of the people, may set up its own will as the supreme law and compel governors and Legislatures, and Congress, and President, and not only the people of a State but the American people, to bow to its behests.

Cooley says, page 621:

Each board is to receive the returns transmitted to it, if in due form, as correct, and is to ascertain and declare the result as shown by such returns; and if other matters are introduced into the return than those which the law provides they are to that extent unofficial, and such statements must be disregarded. If a district or State board of canvassers assumes to reject returns transmitted to it on other grounds than those appearing upon its face, or to declare persons elected who are not shown by the returns to have received the requisite plurality, it is usurping functions, and its conduct will be reprehensible if not criminal. The action of such boards is to be carefully confined to an examination of the papers before them and a determination of the result therefrom.

INIQUITOUS RULES.

Before proceeding to business the board announced certain rules for its guidance.

Rules 4 and 5 declare that they will first canvass and compile the returns from the parishes where *no objection* is made to the canvass, and after disposing of these they will then take up the parishes in which *objection* is made to the vote of any or all polls in such parish.

This opened the door to fraud.

Anybody might offer an objection to the canvass and compilation of the statements of the commissioners before the board; but the law authorized no such procedure. It has been seen that the function of the board was merely ministerial, and it was bound to canvass and compile the statements unless accompanied *by a statement from the commissioners* showing intimidation on *the* day of election, corroborated by affidavit of three respectable citizens, or *from the supervisor* showing intimidation during registration or revision of registration, likewise corroborated by three respectable citizens accompanying the returns. Now the board held that an objection, no matter how slight, or by whom made, or how and when or in what form, was sufficient to arrest the canvass and compilation in any case.

But Rule 8, "requiring when any candidate or his attorney, or other person authorized to do so, shall present a witness before the returning officers, he shall present interrogatories to be propounded to such witness which *he shall have previously submitted to his opponent* to be crossed at least twenty-four hours, unless such time be named or the

cross-interrogatories put before the expiration of that time," is a more flagrant violation of fair dealing and of the law.

This was known in New Orleans even to the newspaper boys to be a system for drilling and debauching ignorant and depraved witnesses or shielding false witnesses, repugnant alike to the laws of Louisiana and to any civilized State! And yet distinguished gentlemen, borne away by prejudice and party passion, have been heard to defend this extraordinary procedure adopted by the returning board as peculiar to the jurisprudence of Louisiana, and have asserted that decrees of courts involving large plantations have been based upon evidence taken in this fashion.

It is a proceeding peculiar to the returning board, which it never devised until the committee of distinguished strangers came to witness them make a fair count of the ballots actually cast!

Rule 10 equally violated the rules of evidence and of justice. It provided that "the evidence for each contested poll in any parish when concluded shall be laid aside *until all the evidence is in from all the contested polls in the several parishes* where there may be contests, and after the evidence is all in the returning officers will decide *the several contests in secret session.*"

This was to close the door against detection.

Why hold in reserve all the contested cases to be decided together? Why not, as in the uncontested parishes, make the examination in each case separately, hear the witnesses, and decide each one on its own merits, independent of the others, as common justice would require? Why go into secret session? Where is the clause in the law authorizing or permitting it? No conservative was present to tell what actually took place in these secret meetings; whether they deliberated or whether the result had not already been "settled," as it was in 1874, before going into the secret sessions.

There is but one explanation of these unwarranted proceedings. The presumption is they sought secrecy, and they held under advisement all the contested cases together that they might consummate the projected wrong at the conclusion of the canvass, so that there could be no reconsideration, no rehearing, no redress, no exposure.

If further evidence were wanting to show evil intent, it may be found in the practice of the returning board refusing to allow any knowledge of the protests and statements that had been filed until the last moment, and in permitting *ex parte* affidavits to be filed and then rejecting them, and in steadily declining to settle in advance the order in which the contested cases would be disposed of, and in changing and modifying the rules so that parties were taken by surprise. Even in the mode of taking testimony adopted it was impossible for any one to know in advance the facts to be rebutted or the time when a particular contest would be investigated, or the mode of procedure in certain cases.

Mr. McGloin represented the injustice of this policy, and observed, addressing the board, protesting against its action:

If you will remember, our committee requested that you open all the parishes, so we might see all the protests at as early a stage of proceedings as possible. If you remember, that application was repeated several times and refused, and that the papers were only opened not very many days ago; and I call attention to the fact that a large number of parishes are under general protests, and these are the least accessible, and we have been utterly unable to get the testimony from some of them. Under the rule there were some of these parishes that we were informed were not protested, but when the returns were opened protests were found, and it was too late for us to get our witnesses.

And one of the most striking illustrations of this practice was the infamous Pinkston case. The attorneys for the conservatives protested against the unfairness.

Judge SPOFFORD. We were thrown off our guard on yesterday when the gentleman stated that no affidavits would be received from the other side. It was stated to me by the chairman then that all *ex parte* affidavits would be excluded from the record hereafter, and although we had made all preparation to have these affidavits sent down here, the rule was changed, and we were compelled to telegraph to our witnesses to be here in order that they may be examined before commissioners, and now for the first time we are made aware the board intends to hear oral testimony.

Mr. MCGLOIN. When your rule stated that affidavits would be taken, we made preparations to have those affidavits. The rule was modified by the chairman announcing that no *ex parte* affidavits would be received. This new change of the rule has made it so we could not get witnesses down.

Governor WELLS. We shall not delay.

The parish of Ouachita is several hundred miles from the city of New Orleans, and this poor, ignorant, depraved, and unfortunate woman had been brought down, unknown to anybody but to the parties in the plot, to be introduced with all the dramatic effect possible to startle and shock the whole country with the story in which she had been drilled. It is now admitted by all men that this pitiable woman is wholly unworthy of belief, and that the particular persons charged with abusing and torturing her were miles away from the scene at the time the occurrences took place.

Sir, I do not stand here to defend inhumanity and cruelty, and I long for the day when a just government in my State shall bring every wrong-doer, however wealthy or powerful, to punishment, and shall extend the shield of the laws over every person within her borders however humble. But hardly less culpable than the fiends who murdered the husband of this woman, and foully abused her, were the reckless and wicked men who planned this conspiracy to blacken the character of worthy citizens in the parish of Ouachita and to excite sectional hate against the southern people for political effect. *They* might be guilty of the crimes charged, but none others among the educated or civilized men in my State, white or black.

WHAT THE BOARD DID.

Under these rulings and interpretations of the laws the board conducted the canvass and compilation of the returns of the recent election.

First. The board began by violating the law which created it in two important particulars. There is no limit to the term of office of the members of the board; it is immortal. But the law says expressly, (section 2, act 98, 1872:)

In case of any vacancy by death, resignation, or otherwise, by either of the board, then the vacancy *shall be filled* by the residue of the board.

It provides also that the board "shall represent all political parties," and "shall be composed of five members."

The four members who call themselves republicans alone composed the board that assembled November 13, 1876, in the city of New Orleans. Not one of these members ever offered a motion to fill the vacancy, and no effort was made to do so; and yet an honorable member of this House had the hardihood to stand up before the country and declare upon the information of the members of this board that they had offered the vacant place to six conservative citizens! So that the canvass was begun by gross and confessed violations of the law and of justice, coupled with a false assurance to the gentleman from Maine.

There were only four members of the board, all republicans, and no conservative was elected to fill the vacant place. But how came the place vacant? By the resignation of the conservative member during the canvass of the returns in 1874. Mr. Arroyo was then the conservative member of the board, and he tells us what took place in their executive (secret) sessions, how carefully they deliberated, how conscientiously they weighed the testimony; with what pains they concluded their long investigations, with what grace and courtly dignity their proceedings were conducted. Hear what he says before a committee of this House:

Question. What was done in the executive sessions?

Answer. In the executive (secret) sessions I must say this: Mr. Wells was a very arbitrary man. He was the most arbitrary man that I ever met in my life. He browbeated and bullied me, and the reason I bore it so long was respect for the State in which I have lived all my life. His conduct was most arbitrary. He would take off his coat and walk up and down the room, abusing me and browbeating me, crying "White League, White League, White League!" Nothing but White League. I never suffered so much in my life as I did in the third story of the State-house in a little bit of a room in the Saint Louis Hotel. The room was not more than fourteen feet square, surrounded by police, and I could have been murdered there without anybody ever knowing it.

Q. What was done in those executive (secret) sessions; *did* they deliberate?

A. It was browbeating me all the time. Nothing but White League, White League, White League!

Q. Did they not consult in regard to what result was *to be reached?*

A. The result had already *been settled.* I had nothing to do but to go there and enter my protest. I was never more browbeaten in my life than I was in that room by Governor Wells.

This gentleman resigned, but he remained long enough on the board to tell us what they did in their secret sessions in 1874. Who shall disclose the story of their secret proceedings in the year 1876? To prevent this they violated the law. They shut out the only avenue by which we were permitted to look into the recesses of this secret conclave, but in closing the doors in our faces, and hiding from public view, they trampled the very law into the dust by which they could act at all, and stood before the people in the attitude of conscious guilt.

Second. The board did not canvass and compile, and did not pretend to canvass and compile, the statements of the commissioners of election at all. They announced time and time again that they would be bound by the returns of the supervisors of registration and not by the statements of the commissioners of election. And from the beginning to the close of their work every hour and every day they defied the law. "Said returning officers shall meet in New Orleans to canvass and compile the statements of votes made by the commissioners of election." They took an oath to do this, and yet they never in one instance, observed it.

But what did the returning board do?

They counted out 10,269 conservative votes and 1,763 republican votes. In addition to those counted out by the returning board, thirteen polls were not returned or counted out by the supervisors of registration, and to cap the climax the board counted in or added to the republican vote 88 votes in the parish of Saint Charles, and 179 in the parish of Vernon and deducted that number from the democratic vote. The grand total uncounted, made up and counted out, shows 13,236 conservative, and 2,178 republican.

The annexed table marked A contains the statements of the votes sent up by the commissioners of election.

The table marked B contains a list of all the polls and parishes rejected or suppressed by the returning board and the supervisors.

And the table marked C shows the votes rejected, suppressed, and manufactured by the returning board, exclusive of the five parishes alleged to have been intimidated.

Now every one of these votes, every one of these 15,416 ballots was cast by persons qualified under the law by Kellogg officials and counted by officers appointed by Kellogg and so returned. If they were false or fraudulent, these officers and not the people who voted are to blame.

Now I assert that there was not a single instance throughout the State, *with one exception*, where the statements required from the commissioners of election or supervisors of registration were made and presented to the board according to law, and throughout their entire

proceedings there was not a single instance in which the board rejected the returns from one single polling-place that they did not do so by the exercise of a power in excess of their lawful jurisdiction.

INTIMIDATION.

I challenge any gentleman who was upon the visiting committee of distinguished statesmen, or any attorney for the board, or any gentleman in this House, to produce a *single case* in which the commissioners of election or the supervisors of registration sent up a statement alleging intimidation in the form, within the time, and in the manner required by the law. Every act therefore in relation to the question of intimidation was a palpable violation of the law, and can only be justified on the ground that there was *no* limitation to the jurisdiction of the returning board, or that the limitations, if any there be, might be set at naught.

What is the single exception I have referred to? It occurred in the parish of Concordia. The commissioners of election at polls 2, 3, and 4, in that parish made up their statements properly, and the supervisor forwarded them with his own consolidated returns and protest, republican commissioners and supervisor, against polls at which there were republican majorities showing intimidation and unlawful conduct. This was the only poll in the broad limits of the State challenged under the law.

What did the returning board do in this instance? They did not even institute an investigation as the law required. They did not send for persons and papers. They simply counted the returns for their own party.

The only intimidation then, set forth as the law requires so as to give the board jurisdiction of the question at all, during the last election in the State of Louisiana, was republican intimidation alleged by republican officials.

Is it to be supposed that all the other commissioners or supervisors were ignorant of their duties? Had not these very questions arisen in the election of 1874? Why should they neglect to report intimidation now, at the time and in the manner required? The registrar for the State at large had issued circular after circular, impressing upon his officers their duties. Why, then, should they have universally failed to comply with the plain, reasonable, well-known, and simple provisions of the law?

The legal presumption is that the officers understood their duty, and when it is ascertained that no statements were made by them as required by law, the presumption inevitably follows that there was no basis of truth for the statements required; that there was no intimidation or violence for them to report.

But it is alleged that the reason why the officers did not make the statements was because they were afraid to do so; that by so doing they would have forfeited their lives. This is certainly a grave charge and one easily made. But it will not be satisfactory to the American people. Was a single commissioner or supervisor injured on the day of election, or since then, after having made their affidavits in the custom-house in New Orleans and returned to the people whom they had libeled? Not one has been harmed throughout the State.

How are you to ascertain whether their fears were well grounded, or assumed merely for party purposes? The law does not provide that the officers shall be excused from the performance of duty on account of apprehensions of danger. The people have a right to the services of intelligent, brave, and efficient officers; and it will not do to allege cowardice as a good reason for failure to do duty. Are States to be disfranchised because governors and sheriffs and constables and commissioners, backed by the Army of the United States, allege that they were afraid to enforce the laws, and on their responsibility as officers to do their duty? If we have descended to this depth of degradation and base cowardice, away with your mockery of self-government. You have offered a premium upon deceit and falsehood and cowardice, and would breed disorders and distempers sufficient to undermine all the virtues and all the manhood of the people.

It is alleged that though the officers failed to make their statements according to the law, nevertheless there was intimidation; that the returning board, passing over the boundaries of their legal jurisdiction, ascertained the fact, and that was sufficient justification for all they did. Leaving out of view the ill effects, the disastrous consequences sure to flow from permitting officers when called upon to discharge delicate and difficult political duties to substitute their own discretion for the law, let us see how they could ascertain in any satisfactory manner precisely how many voters were deterred from voting and precisely what persons had been guilty of intimidation.

In the first place the invention of the secret ballot was to protect the weak and timid from undue influences of any kind, and it is simply impossible, if the voter desires to conceal his preferences, to ascertain the particular candidates for whom he may vote. The advantages of the ballot were described long before the American Union was dreamed of, by Cicero, who says:

"The ballot is dear to the people, for it uncovers men's *faces* and *conceals* their thoughts. It gives them the opportunity of voting as they like and promising all that they are asked."

Who, then, shall define or measure intimidation? How easy to carry an election by arranging in the event of defeat at the polls for the unhappy minority to cry out, "Our friends did not vote; many of them because they were afraid to vote," and so change the result in their favor!

How easy, with efficient political organization in certain parishes where there may have been local disturbances, or where the drift is against your party, to arrange in advance that these disorders should be turned to political advantage by abstaining from the polls altogether on the plea of universal intimidation! How imposing such a spectacle! How it will touch the sympathies of the North! It is not difficult to detect frauds or irregularities, but it is impossible to tell what measure of intimidation may produce results. It is a noticeable fact that in Louisiana few, very few witnesses came forward and testified that they themselves had abstained from voting on account of fear. In nearly every instance they testified as to others; that they believed that so many hundred citizens would have voted, and voted their ticket, if they had not been afraid to do so. Why did not the intimidated come to testify? The answer is, they were afraid to do so. So that intimidation goes so far as to disable witnesses from speaking the truth, and thus makes out its own case without evidence, without proof, without witnesses.

Now, I submit if elections may be carried upon this process of intimidation—if a thousand good men or ten thousand or fifty thousand good citizens may be disfranchised because a few disorderly men create a disturbance, with whom they are not acquainted and have no connection, and a few other timid men refuse on account of fear to exercise their political rights, you have put an end to all government of the people and laid down a foundation for arbitrary power.

It cannot and will not be pretended by any fair man acquainted with the facts that there was not a full vote in the recent election. The last census shows 87,066 white males over twenty-one years and 86,913 colored males over twenty-one years, an aggregate of 173,979. Leaving out of question the causes and the blame, it cannot be denied that the State of Louisiana has possessed few attractions to invite immigration; that its most fertile lands along the Mississippi, once cultivated like gardens, have been for years given over to annual inundations; that taxation has been oppressive, and that government has been inefficient and corrupt, and society in many parts unsettled and disordered. The registration cannot be depended upon; it is utterly without credit. There were 18,145 colored votes registered in the city of New Orleans in 1874 out of a total of 13,341 colored males (over twenty-one;) and the registration of colored votes exceeded by 4,000 the total number of colored adult males returned by the census, while the registration of white males was 10,000 less. Certainly then there can be no complaint of intimidation during registration. There was a total population by the last United States census of 726,275, white and colored, and 173,979 males over twenty-one years. Out of this number in 1874 146,523 votes were polled, and the returns show that a vote of 161,033 was polled in the recent election, an increase of 14,510.

In Massachusetts, in a recent election, with its restricted suffrage, 100 votes were cast only to every 162 males over twenty-one; Illinois cast 100 votes to every 127 males over twenty-one; Maine cast 100 votes to every 120 males over twenty-one; and New York cast 100 votes to every 118 males over twenty-one years, while the returns show that Louisiana, with bad roads and distant polling-places, cast 100 votes to every 119 males over twenty-one years.

Now it must be admitted by all reasonable men that these facts do not leave a very wide margin to intimidation.

ARBITRARY, ILLEGAL, AND FRAUDULENT PROCEEDINGS.

In 1874 the board filled the vacancy which existed then as now, and they admitted counsel representing the candidates to be present from the beginning. In these respects they were much more considerate of public opinion and much more disposed to obey the laws than in 1876, when graver responsibilities rested upon them, and they were surrounded if not sustained by the leaders of the party to which they belong. But the undertaking was more difficult and the prize more dazzling. And it will be demonstrated that throughout their proceedings in the year 1876 violations of the law and disregard of justice were more frequent and flagrant than in 1874, when a committee of this House, composed of the ablest men belonging to the republican party, unanimously condemned their interpretation of the laws and the results pronounced by them.

In 1874 there were contests in twenty-eight parishes, and in 1876 in twenty-four parishes. In 1874 the official statements of the commissioners showed a conservative majority of from three to five thousand, while in the last election they show a majority of from six to eight thousand. In 1874 146,523 votes were cast, while in the last election, notwithstanding the fact that the city of New Orleans containing one-fourth of the population of this State polled but a very slightly increased vote, 161,033 votes were cast, showing an increase in the country parishes of nearly 14,510 in two years.

Let us look at facts and instances.

IBERIA.

It is not pretended that there was any intimidation. It was alleged by the supervisor that the commissioners at poll 4, third ward, had not written the word "voted" across the certificates of the voters as soon as they had deposited their ballots; but the republican commissioners made no such statement or protest. The supervisor was not present, nor could he have seen the certificates, for they are retained by the voters. There was no evidence of the fact. There was no proof that any one of them had voted or attempted to vote more than once; but it was in proof that this was the largest democratic poll in that parish and it was rejected by the board; 322 democratic votes and 11 republican were thrown out. Even had this charge been

true it would have shown merely that the republican commissioners failed in one part of their duty, but that no blame or fault attached to the voters. The charge was not investigated, much less established. But against the largest republican poll in that parish, the statements of votes themselves showed on their face that they had not been sworn to by the commissioners, as the law directs—an indisputable irregularity—and yet this poll was counted.

More than this, in the presence of the distinguished visitors, both the president and Mr. Anderson ordered the compilation of the returns from this parish, which was tantamount to saying there is no dispute; nothing to investigate; but the result showed that when in secret session they reversed this action, resolved to count in the republican poll, giving 377 votes for Packard, and to cast out the democratic poll, with 322 for Nicholls.

WEBSTER.

The only statement or protest before the board was that there were twelve double ballots cast and that they had been rejected. There was not one word of complaint, and yet the returning board threw out a poll containing 436 conservative votes and 194 republican—a conservative loss of 242.

VERNON.

The returns were received by registered letter on the 17th. The slight irregularities, touching only the tally-sheets, were declared by President Wells himself to be "trifling." He said they were merely "technical." But, while in secret session, the board cast out 179 votes for the conservatives and added 179 to the republicans, causing a loss to the conservatives of 358 votes.

The republican candidates for the local offices rejected and scorned the fraudulent returns of the board and declared that they had been fairly defeated.

SAINT CHARLES.

There was a question as to the legality of two polls. It was settled neither way, but the board in secret session simply added 67 votes to the republican majority, increasing it thereby.

RICHLAND.

There was nothing from the supervisor or commissioners. The remarks on the tally-sheets are with reference to scattering votes, and nothing else. Certain protests were on file and said to be by President Wells "democratic protests." These returns were received by the board on the 18th of November with these statements only in evidence. They were opened and canvassed on the 24th day of November. On November 30 it appears that the supervisor of this parish turned up at the custom-house in New Orleans, appeared before F. A. Woolfley and made an affidavit embodying a protest against the election in a parish several hundred miles away, without notice to the candidates or people in that parish, couched in vague and general terms, with no allegations showing specific disorders or that a man was hurt. The returning board in secret session threw out 619 conservative majority. This parish was held over by the board on a general protest filed by Kellogg until the supervisor could reach the city and be induced to file a protest manufactured in the custom-house.

FRANKLIN.

In the absence of all statements, the board in secret session reduced the conservative vote by 46, and against this parish, several hundred miles from New Orleans, there appeared an affidavit, also manufactured in the city of New Orleans, as late as the 24th of November, so vague and general as to be simply ridiculous.

The returns from this parish remained for some time in an express office in New Orleans and were produced by Mr. Cavanac, who volunteered to pay the express charges, the board declining positively to do so.

DE SOTO.

The board also in secret session contrived to throw out 692 conservative votes and 181 republican, causing a loss to the conservatives of 511 votes.

The supervisor swore to his returns over five hundred miles from New Orleans on the 10th of November, and they were received by the board on the 18th, duly stamped, post-marked, and sealed, and when opened were found to contain affidavits dated in the city of New Orleans November 25.

The republican candidates for the Legislature and sheriff would not accept the offices tendered them by the board, and came out in letters declaring they had been fairly defeated, and that the election was quiet and peaceable.

The secretary of the returning board was detected by one of the gentlemen present, Mr. Cavanac, changing his receipt from the 18th to the 25th of November.

TANGIPAHOA.

The commissioners' statements were placed before the board, and yet, though no protests or statements were filed against them, the board cast out 118 democratic votes and 13 republican.

LIVINGSTON.

They threw out 378 conservative votes, with no protests and statements from supervisor and commissioners, but on affidavits not filed until 28th November, frivolous in themselves, though this parish is but a few hours from New Orleans.

NATCHITOCHES.

When the returns were received Mr. Anderson observed: "The compiled statement is sworn to by E. K. Rose, supervisor, before John Barlow, deputy clerk. The remarks give a list of scattering votes cast for certain persons. *Everything is in form.* The result is as follows."

Thereupon he announced the result.

Concluding the matter, President Wells said: "Send the *returns over to the clerk to be compiled.*" Such was the official order taken. Now this was an announcement to the visitors that the matter was decided, for compilation was the last and final disposition to be made.

But what did the board do? Why, in secret session they threw out two polls at which the conservatives had 339 majority.

Now, although it appeared that by the State supervisors' returns three of the republican electors had not been voted for, the board disregarded the statements of the commissioners of election and supervisors as well, and changed the returns in secret session, giving all the electors (republican) an equal vote.

LA FAYETTE.

Their conduct while in secret session with regard to this parish was still more glaring and indefensible. The supervisor swears to his returns, including those of the commissioners of election in his parish, on the 14th. But on the 28th of November, the very day he delivered them to the board in the city of New Orleans, he files an affidavit against his returns. The supervisor omits, on his own responsibility, and without the shadow of authority or right, 436 conservative votes, and the board threw out 83 conservative votes and 4 republican votes, making a conservative loss in that parish of 515, and yet there was placed before the board the affidavit of Mr. Clegg, the supervisor's clerk, showing that the supervisor himself had declared there was nothing to object to in the parish. But, without notice to the people or candidates in that parish, the board and supervisor conspired to change the result.

PARISH OF ORLEANS.

Ward 2. Poll 6 was cast out by board.

No allegation of intimidation. Supervisor A. G. Brim said the return made by commissioner was so indistinct and imperfect he could not embrace it in his consolidated return, and so he forwards the tally-sheet, statement of votes, &c., having omitted to include it.

It was hard to say whether at poll 6 De Blanc got 247 or 249. Tally-sheet shows 249. It is very plain.

Burke suggested sending to the office of the secretary of state to verify figures.

Board, with the tally-sheets before them, cast out the poll—248 democratic votes; 93 republican votes; 155 democratic loss.

Ward 11. Lewis Bachers, supervisor, sworn to on 13th before P. G. Deslonde.

Supervisor left out poll No. 2, stating, under the head of remarks, that the tally-sheets and statements of votes were not delivered to him by the commissioners.

This was contradicted by Mr. Burke, and United States supervisor and commissioners themselves contradict him. Upon examination the tally-sheet was found to be all right.

Board cast out the poll—413 democratic votes; 94 republican votes; 319 democratic loss. Even if they had not been delivered, the board could have procured the duplicates.

Ward 7. Supervisor omitted poll 3 because he had not received statement from commissioners within twenty-four hours. Board rejected this poll in final compilation on this ground, causing loss of 173 to democratic party, although they had frequently held that that was no valid ground for rejection, and in the case of parish of Saint Landry had so acted. (See Anderson's remarks, report.)

CALDWELL PARISH.

Returns received November 14; sworn to November 9.

The only protest disclosed at the opening, November 27, was the general protest of Messrs. Packard, Brewster, and others, filed November 25. No copy of same with the clerk of the district court.

The vote cast in this parish was 631 democratic and 285 republican, and the board threw out poll 1—141 democratic.

PARISH OF SAINT LANDRY.

Opened Monday, November 27, four packages, three of them not sealed and in very bad order, signed and sworn to on the 15th of November, before the clerk of the fifteenth judicial district court.

Mr. Wells remarked that there was a pile of protests, but they are for the local officers.

The protests in the case of this parish were dated November 27, the same day the returns were delivered to the returning board, and were made in the city of New Orleans.

This parish cast 3,746 democratic and 2,432 republican votes; and the returning board threw out 120 democratic and 38 republican votes.

Mr. Anderson of the board assured the visiting committee that the returns were in the city on November 18, and yet they were withheld and only delivered to the board on November 27.

CATAHOULA.

Returns were received November 16 and opened on November 27 There were no statements alleging intimidation, or violence, or any irregularities. The board threw out 97 democratic votes and 14 republican votes.

CLAIBORNE.

Received by mail, November 14, two packages; one mailed from Homer, November 10, and one mailed from Homer, November 11; seals broken *at the end* and attention of the board called to the fact by Colonel Zacharie. Only remarks were as to scattering votes, so said Kenner, of board, and Green, clerk.

The votes cast in this parish were: democratic, 1,576; republican, 432; and the returning board threw out poll No. 3—democratic votes 184, republican none. Colonel Zacharie asked:

Is there any protest in that package?
Mr. KENNER. No, sir.
Mr. GREEN, clerk. Are there any protests in the parish of Claiborne?
Mr. GREEN. No, sir; none, sir; none except a general protest.

Governor Wells said there was a lengthy statement from the supervisors not attached to returns and dated November 24, accompanied by two affidavits, which were entirely rebutted before Mr. MEADE'S committee.

The supervisor of this parish is a clerk in the New Orleans post-office, resident of New Orleans, and was sent to the parish to do such work; drew his pay from State and from Post-Office Department same time.

GRANT.

The statement of votes made by the commissioners of election in this parish was returned to the republican and the democratic United States supervisors by the commissioners at the request of the chairmen of the executive committees of the republican and democratic parties in Grant Parish, and by the consent of the candidates of both parties.

The State supervisor had designated the polling-places, appointed the commissioners of election, and had then absented himself from the parish on the day of election, in collusion with Governor Kellogg—as was proved before the Morrison committee—and the republican and democratic United States supervisors made out a consolidated return, and forwarded the same, together with the statement of votes of the commissioners of election, to the returning board, and Mr. Richardson, United States supervisor, delivered all the returns to the returning board in person, November 29, and the vote was announced.

After Mr. Richardson made a full explanation of all the facts concerning the election, the board laid the parish over for consideration. The statement of votes of the commissioners of election and tally-sheets were all in perfect order, according to law, and the board threw out the vote of the entire parish, seven polls, 515 democratic and 95 republican votes. (See testimony before Morrison committee, and full testimony filed before the returning board from D. A. Ward, supervisor; W. L. Richardson, United States supervisor, and E. A. Burke, fully refuting all charges of irregularity except as to the absence of Ward, and proving Kellogg's complicity.) The Sherman report contains all the testimony and interrogatories against the parish and none in its favor.

BOSSIER.

The returns were received on Monday, 27th, and on that day opened. No statement attached or submitted, alleging intimidation or violence, and yet the board cast out 280 democratic votes and 78 republican.

LA FOURCHE.

The returns from this parish were opened on November 22, and though no statements were filed with the clerk of the district court or laid before the board, yet in secret session, without notice to the people of the parish, the board cast out 314 democratic and 176 republican votes.

I exclude from this table every one of the polling-places in the five parishes alleged to have been intimidated. Without reference to these parishes, and allowing the republicans all that they may claim elsewhere, the conservatives carry the State, if you give them the 5,464 votes thus illegally and fraudulently disposed of.

In the foregoing nineteen parishes a democratic majority of 5,464 was thrown out in violation of law and of justice.

These proceedings were wholly indefensible. I repeat, strike out the five parishes, alleged to have been intimidated, altogether from the count and the conservatives carry the State.

THE FIVE PARISHES ALLEGED TO HAVE BEEN INTIMIDATED.

But what are the facts with regard to the five parishes, namely: East Baton Rouge, East Feliciana, West Feliciana, Morehouse, and Ouachita?

The total vote of these parishes in 1874 and 1876 is as follows:

Parishes.	1874.	1876.
Morehouse	1,671	2,168
Ouachita	2,460	2,658
East Feliciana	2,535	1,742
West Feliciana	1,859	2,096
East Baton Rouge	4,102	3,864
Total	12,627	12,458

In three of them, Morehouse, Ouachita, and West Feliciana, there was an increase of 862 votes, while in two of them there was a falling off—East Feliciana and East Baton Rouge.

EAST BATON ROUGE.

The supervisor of this parish had been manager of a snake show on the levee at New Orleans, but moved to Mississippi and was a member of the Legislature of that State at the time he was acting supervisor. This officer refused to consolidate with his returns the statements of the commissioners of election for five polls, thus taking it upon himself arbitrarily to disfranchise 1,147 democratic voters and 147 republican.

His returns were sworn to on November 11. No statement or protest was filed with the clerk or sworn to. He kept his returns in the custom-house until the 24th, and upon affidavits and protests not authorized by the law, and every one of which were refuted and disproved, the board threw out 304 democratic and 10 republican votes, so that between the supervisor and the board 1,451 democratic and 157 republican votes were rejected. This officer filed his returns with the clerk of court as correct under oath, and afterward confessed that he had subsequently changed the face of the said returns by placing thereon a protest against them.

WEST FELICIANA.

The returns were sworn to on November 13 and opened on November 25. There were no protest or remarks on the face of the consolidated returns, but affidavits and protests made up subsequently in the custom-house in New Orleans.

It was alleged in June last that outrages had been committed in this parish and a resolution was adopted by this House directing the special committee then sitting in New Orleans to investigate and report upon them.

Your committee by a unanimous vote have adopted the following report of this subcommittee:

GENTLEMEN OF THE COMMITTEE: Your subcommittee proceeded to the town of Bayou Sara, in the parish of West Feliciana, and examined fourteeen witnesses. Among them, besides citizens of the parish, of both democratic and republican parties, were parish and State officers and officers of the Federal Government, military and civil.

The testimony discloses that the only outrage alleged to have been recently committed in the parish was the murder of Max Aronson, on the 11th of May, 1876, and that the findings of the jury at the coroner's inquest were correct. We call attention to this document.

PARISH OF WEST FELICIANA,
State of Louisiana:

At the inquisition held before the coroner of said parish, L. S. McCrindell, on plantation of H. S. Perkins, over the body of Max Aronson, on the 13th day of May, A. D. 1876, the jury, whose names are hereunto subscribed, upon their oaths say that Max Aronson came to his death by gun-shot wounds in head by the hands of a body of armed negroes, unknown.

T. E. WOODS.
E. D. WOODS.
ROBERT H. JOHNS.
THOMAS WEST.
E. H. WALKER.
L. S. McCRINDELL, *Coroner.*

MAY 15, 1876.

CLERK OF THE SEVENTH JUDICIAL COURT,
June 21, 1876.

A true copy.

CHARLES J. HOWARD, *Clerk.*

It appears that Max Aronson was believed to have chastised a colored man for stealing a beef, and that the colored people of the vicinity regarded this punishment as an outrage upon and a wrong to their race. A number of them, supposed to be twenty or thirty, met together, sought Max Aronson at his own house, and shot him down in his doorway. It appears from the evidence that politics had nothing to do with this crime. Max Aronson was identified with neither political party, and had but recently arrived in the neighborhood.

Much of the testimony taken incidentally relates to the character of the local officers, the disposition of the people, and the political condition of the parish. A part of it refers to a disturbance of considerable magnitude in an adjoining county of the State of Mississippi, growing out of the attempt of the officers of the law to arrest the murderers of Max Aronson.

As these matters were beyond the scope of the inquiry and duty of your committee, and the evidence taken incomplete, owing to the absence of many of the principal witnesses, who were in attendance upon the Senate committee at Jackson, Mississippi, your committee do not feel justified in making any comments upon them.

R. L. GIBSON.
C. B. DARRALL.

This report was unanimously adopted by the committee.

It was in evidence that at the very time the local politicians were calling for troops, and reporting that the streets of the village were running with blood, the United States officer on the spot, Major Bascom, telegraphed to his superior officers that it was as orderly as a New England town.

It was also in evidence that there were local disorders and disturbances, but that most of them might be ascribed to the supervisor of the parish and his brother, who having the leadership of the ignorant negroes, had for several years lorded it over the property and intelligence of the community, breeding discontent and creating ill-feeling and disorders, thus rendering life and property insecure.

MOREHOUSE PARISH.

The consolidated statement of the supervisor was dated November 11, and was received on November 27. Many affidavits and protests were filed charging intimidation and violence, but most of these were proved to be forgeries and to have been manufactured to order in the custom-house at New Orleans, but none of them were in form as required by section 26. The people of the parish had no knowledge of any protest or statements, and the republican candidate returned by the board to the senate withdrew, declaring he had not been elected.

EAST FELICIANA.

The supervisor of this parish swore to his returns on November 10

and they were received by mail on November 13. The affidavits and protests were dated as late as November 21 or 23.

The supervisor introducing himself to me on the streets in New Orleans some time before the election told me his name was Anderson and that he had been driven from the parish. I said to him at once, "Sir, I will go with you to the parish and investigate this matter to the bottom. I am glad you have given me an opportunity to thoroughly look up a case of intimidation. We will start this evening or in the morning." He replied that he would like to introduce me to two citizens from the parish. We went across the street and met two gentlemen. They told me that Anderson had a difficulty with his own clerk who was a republican and that he was afraid of him.

Anderson told me afterward that he would return, that he had no fears of the people and that it was not necessary for me to visit the parish, that the parish would go overwhelmingly democratic and he was at a loss what to do, as he would be held responsible by his party friends. I repeated that I would cheerfully go with him now if he thought there was any necessity for it, that I knew the people of that parish and that it grieved me to hear them charged with intimidation, and that he ought to perform his duties honestly and fearlessly and let the consequences take care of themselves.

It has been proved since the election that no tickets were sent to this parish, but that instructions were sent to the leaders that the republicans should abstain from voting, with the view of rejecting the vote of the parish on the plea of universal intimidation. All the republican tickets used in the State are issued in the city of New Orleans and sent to the county parishes by special messengers and where none were sent no election could be held, that is, no republicans could vote.

OUACHITA.

The supervisor swore to his returns before the clerk of the district court on November 11. No protests were filed with the returns nor any statement as required by law. Certain statements were filed by the commissioners at certain polls, and by the United States supervisor, to the effect that the election was fair and peaceable.

Certain protests and returns were filed as late as the 24th, and the supervisor, Grady, wrote to secretary of the board inclosing affidavit of Eliza Pinkston, dated November 23, showing that the returns had been received by the returning board before the 23d, though they were entered as received on the 24th. Here is the letter:

NEW ORLEANS, *November* 23, 1876.

DEAR SIR: Inclosed please find affidavit of Eliza Pinkston, which was received too late to file with my returns. Please say that it was brought in with the returns mentioned

Very respectfully,

M. GRADY, *Supervisor.*

Mr. ABELL, *Secretary of the Board.*

The affidavit of Eliza Pinkston was dated the 25th! It appears that the people in this parish were in an excited state about the election; that, before the election, difficulties had occurred between certain leading men, which resulted in creating distrust and apprehension, so that many of the citizens formed associations to protect their lives, their families, and their property.

This condition of affairs resulted from the want of an honest and firm government, willing and able to enforce the laws and to dispense justice with a steady and an inflexible determination.

NO JURISDICTION OF ELECTORAL VOTE.

Had the returning board authority to count the electoral vote? The Constitution of the United States (article 11, section 1) provides that "each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress."

The meaning of this is obvious, for the language is affirmative and simple. Each State shall appoint the electors. Now, what is a State?

It will not do to turn to Vattel or Burlamaqui or other writers upon international law for a definition of an American State. We know pretty well what the true notion of a State in the American Union is. The highest and fairest conception of the State is the people thereof acting through a government, popular in form and in substance. The people constitute the state. *L'état, c'est moi* was the exclamation of Louis XIV. To-day the people exclaim "We are the State." This is the fundamental and dominant idea of our institutions. We know then, when the Constitution says the State shall appoint, it is meant that the people shall appoint. How shall they exercise this power? The plain, simple, and constitutional answer is "as the *Legislature may direct.*" Either then the Legislature may appoint directly, acting for the people, or provide by proper legislation the manner in which the people of the State may do so.

Could the Legislature delegate this power to some other agency independent alike of State and of itself? If so, then the presidential office might be filled, not by the State or the people of the State acting through their Legislature, but by some alien or foreign power. Nevertheless, it has been held that it was competent under this provision of the Constitution for the Legislature to direct, not how the State shall appoint electors, but to take this power away from the State and to create a returning board of four or five men who should select the presidential electors.

If the Legislature should direct any other power or persons to appoint the electors, such direction would be clearly in violation of the Constitution and such appointment invalid, for the Constitution says the State shall appoint. And so again, if the State should appoint in some other mode than as directed by the Legislature, such appointment would be equally invalid, for the Constitution is peremptory that they shall be appointed as the Legislature may direct; and should the Legislature fail to direct how the appointment should be made, the State could not appoint. The two things must then concur. The State must appoint, but the Legislature must direct the manner of appointment. Should either element fail, no valid result can be produced.

If this view be correct, it will not, it cannot be contended that a returning board of a State may be so constituted as to exercise plenary power and arbitrarily to reject returns on this side or that, so as in effect to substitute its own appointments for those of the people. Could that be regarded as consistent with section 4, article 4, of the Constitution, which imposes the following obligation: "The United States shall guarantee to every State in this Union a republican form of government?"

The inference is that the States were already in the enjoyment of a republican form of government, for the word guarantee implies something already in existence, and not something to be procured. Hence it is clear that the States of the American Union in the contemplation of the Constitution were republican States enjoying the rights and privileges of self-government, the right to choose their rulers, to be represented in the Government that should tax them.

It is idle then to say that any Legislature in this Union can direct that the electors for President and Vice-President shall be appointed by four or five men in the State, and not by the people thereof.

If, then, it shall appear that the returning board of Louisiana, either in accordance with the law or in violation of the law, actually appointed the presidential electors, it must be admitted that such appointments are clearly invalid. They do not constitute the State. No such institution is known to the Constitution as entitled to the appointing power, for a returning board or perpetual council cannot for a moment be regarded as a State at all, or part of the State, in the sense of the Constitution. It is an oligarchy pure and simple, the most hateful of all forms of tyranny and the oldest and most persistent enemy of the government of the people.

It is manifest, then, that any electors that may have been appointed by the returning board, even though the Legislature may have so directed, hold by an invalid title. The defenders of the returning board claim that under the law they had the power, absolute and unconditional, to throw out the votes of one, two, a dozen, or fifty parishes (counties) in the State. One thousand or ten thousand or a hundred thousand voters might be by them disfranchised and only the votes of a few polls counted. And it is in proof that the voices of over fifteen thousand duly qualified voters were thus stifled.

Now, an election is not a mere formality. Its object is not simply to permit every citizen duly qualified to vote. The end and aim is to ascertain the *will of the majority.* The Government is controlled by a majority of the people, and however small that majority may be, it is charged with the responsibilities of administration and is entitled to carry out its policy.

Hence if the returning board or any body of men should be clothed with the authority either to disfranchise a large proportion of the citizens entitled by law to vote, before the election, without a hearing, or to reject their votes after the election, so as to turn the scale and give the majority to the side they might prefer, there really has been no election; no majority of the people has declared itself, and the result remains in doubt. An election means a decisive and final *choice.* But there has been no choice by the people in the case stated. The State acts and can act only by majorities, and it cannot be said that the State has appointed, for only a part of the State has been permitted to speak and until the whole body of the people who are entitled to declare their will has been heard from it cannot be said that the State has spoken—has appointed. But in place of her will has been substituted the preference of the returning board. I do not mean to say that this result would follow from the exercise of the canvassing functions by the board correcting manifest errors or frauds or irregularities of any kind, but the power of excommunication, not against individual voters but against whole communities, is an arbitrary power from the nature of the case and irreconcilable with the fundamental principles of American government as well as the written language of the Constitution.

But let us consider for a moment whether the Legislature has directed the manner in which the State of Louisiana shall appoint electors. The last act of the State was approved November 20, 1872, and the seventy-first section thereof provides that "this act shall take effect from and after its passage, and that all others on the subject of election laws be, and the same are hereby, repealed."

If it be held that this act repeals all the previous laws relating in any manner to the subject of elections, we are forced to find provision for the appointment of the presidential electors in the act or to reach the conclusion that no provision was made by the Legislature for their appointment. What, then, are the provisions in the act of 1872 bearing upon the subject matter? The first section provides "that all elections for State, parish, and judicial officers, for members of the General Assembly, and for members of Congress, shall be held on the first Monday in November, and said elections shall be styled the gen-

eral elections." "*They* shall be held in the manner and form and subject to the regulations hereafter prescribed, and no other."

Section 2 provides "that five persons, to be elected by the senate, from all political parties, shall be the returning officers for all elections in the State, a majority of whom shall constitute a quorum and have power to make the returns of all elections."

It will be admitted that no elections could be held by the people in any State for electors unless provision were made for the same by law. Our liberty is not a wild, stormy South American liberty, nor the chaotic license of the French communists, but is secured to us and regulated by law. The people do not govern themselves directly, but through the agencies of courts, executives, Legislatures. The phrase "all elections," then, means all elections that are provided for by law. I ask gentlemen, then, to point out the provisions in this act directing the manner in which the State shall appoint presidential electors. The first section enumerates carefully the offices. It says distinctly that all elections for State, parish, and judicial officers, for members of the General Assembly, and for members of Congress, *shall be held in the manner and form and subject to the regulations* hereafter prescribed. These are "all elections" for which legal provision is made in the act. Now not a word is said about presidential electors anywhere in the act. The power to appoint presidential electors is derived from the Constitution of the United States. It never belonged to the States or people of the States until the Constitution was adopted and conferred it upon them.

Nor can the appointing power be exercised unless the Legislature shall direct the manner in which it shall be done in obedience to the fiat of the Constitution. The only reference to the matter in the act of 1872 may be found in section 20, which provides that in every year in which an election shall be held for electors for President and Vice-President such election shall be held *at the time* fixed by act of Congress; but no provision is made as to the manner and form. Such an election, it will be seen, was excluded from the catalogue in the first section, and is referred to in the twenty-ninth section as if provision had been made for it in some previous act and it now only remained to provide that such election shall be held *at the time* fixed by act of Congress. Hence the conclusion is irresistible that either no provision exists at all in Louisiana, or it must be contained in some act anterior to that of 1872.

Has, then, the general election law of 1872 repealed the special provisions of antecedent acts for the appointment of electors for President and Vice-President?

By act of 1868, re-adopted in the revised statutes of 1870, the Legislature directed the manner of these appointments.

SEC. 2824. Every qualified voter in the State shall vote for electors as follows: Two persons shall be selected from the State at large and one person shall be chosen from each congressional district in this State; and in case any ticket shall contain two or more names of persons residing in the same district (except the two chosen from the State at large) the first of such names only shall be considered as duly voted for.

SEC. 2826. Immediately after the receipt of a return from each parish, or on the fourth Monday of November if the returns should not sooner arrive, the governor, in presence of the secretary of state, the attorney-general, a district judge of the district in which the seat of government may be established, or any two of them, shall examine the returns and ascertain therefrom the persons who have been duly elected electors.

SEC. 2829. The electors shall meet at the seat of government on the day appointed for their meeting by the act of Congress, the first Wednesday in December, and shall then and there proceed to execute the duties and services enjoined upon them by the Constitution of the United States in the manner therein prescribed.

SEC. 2830. If any one or more of the electors chosen by the people shall fail from any cause whatever to attend at the appointed place, at the hour of four p. m., of the day prescribed for their meeting, it shall be the duty of the other electors immediately to proceed by ballot to fill such vacancy or vacancies.

Here are the ample, necessary provisions for the appointment of electors for President and Vice-President. But in the act of 1872 the only allusion to the subject is as to *the time*, but not a word as to the number of electors, not a word as to whether they shall be elected by districts or for the State at large, or whether by the Legislature or the people. Not a word as to how vacancies that may happen in the electoral college shall be filled. The republican members of the electoral college in Louisiana did proceed to fill two vacancies, and thus recognized the act of 1868–'70. If it be held that this act was repealed by the law of 1872, then clearly no electors have been appointed by the State of Louisiana. If, on the contrary, the act of 1868, re-adopted in 1870, remains in force, the governor of Louisiana is to examine the returns of the election, and the returning board have no duty to perform in respect to them.

The special provisions of the act of 1868–'70, with regard to a special subject, under the well-established rule of construction, will not be held to be repealed by the general terms or phrases in the general law of 1872 Sedgwick upon Statutory and Constitutional Law, page123, says:

In regard to the mode in which laws may be repealed by subsequent legislation, it is laid down as a rule, that a general statute without negative words will not repeal the particular provisions of a former one, unless the two acts are irreconcilably inconsistent.

Whatever view may be taken of the subject, and whichever interpretation may be adopted, it must be admitted that the returning board were not authorized by law to canvass and compile the returns for the electors for President and Vice-President.

WHAT JURISDICTION IN STATE ELECTIONS?

But has the returning board any legal jurisdiction over the returns for members of the General Assembly and for governor and lieutenant-governor? The constitution of the State, article 45, provides the returns of all elections for members of the General Assembly shall be made to the secretary of state, and article 34 provides that each house of the General Assembly shall judge of the qualifications, *election*, and *returns* of its members.

But section 44 of the act of 1872 requires the clerk of the house and secretary of the senate to place on the rolls the names of persons returned as elected by this board, and declares that they and "none other shall be competent to organize the house or senate."

It has been seen that there is no limit by law to the term of office of the members of the board, and that they have the right of succession—the power of filling vacancies.

The only mode in which the board might be dissolved is by a repeal of the law creating it; but if it possesses the power to determine who shall be members of the General Assembly, if they can arbitrarily decide who shall constitute the General Assembly, it follows that they could compel an obligation from the members they might consent to return not to repeal the law, or they might make their returns so as always to retain a majority of their own political partisans in power.

Nor is this idle speculation. In 1874 the returning board, instead of allowing the returns of all elections of the General Assembly to be made to the secretary of the State, merely canvassing and compiling them ministerially, assumed to pass final judgment upon them, rejecting many altogether, so as practically to reverse the result in eight parishes and to suppress all the returns and deny representation in four parishes.

In that year the statement of the commissioners of election showed seventy conservative representatives to have been elected by the people to the lower house out of a total of one hundred and eleven members. In the parishes of Assumption, Caddo, Iberia, Jackson, Rapides, Saint Tammany, Terre Bonne, and Avoyelles, electing fourteen conservative representatives, the returning board threw out a sufficient number of polls to reverse the entire result and return as elected the thirteen republicans and one independent candidate that had been defeated at the polls. In the parishes of De Soto, Bienville, Grant, and Winn electing five conservative representatives, and in one of which (Bienville) there was not even a republican candidate, the returning board failed to make any returns at all and sought thereby to prevent the members elected in those parishes from participating in the organization of the house of representatives; and this house was thus packed in the interest of a party, the party willing to perpetuate the board.

This wrong, it is true, was partly remedied by the intervention of certain leading republican members of the House of Representatives, who carried through an adjustment called the "Wheeler compromise," under which most of the fraudulently returned members withdrew and the representatives elected by the people took their seats. But who shall intervene now? Who shall correct the wrong done to the people of Louisiana in the last election? Shall another committee of this House intervene and find a remedy?

It is necessary that a roll should be made up; that the returns should be canvassed; that the returning board should canvass and compile the statements of the commissioners of election; but under this provision of the Constitution its duties must be merely ministerial. It is reserved for the General Assembly to pass final judgment upon the merits of each case contested, procuring all the information through its appropriate committees.

The members returned have only *prima facie* title to their seats, and the board can confer no other. They can only give a *prima facie* title. To do this it is only necessary, it is only right, that they should make an examination to establish a *prima facie* title, and this may be done by the face of the returns. Why go into the merits of the election? Why ascertain all the facts back of the returns when at best they can only furnish a *prima facie* right; and how can they take jurisdiction of the whole question, on the merits, when this power is reserved in the very language of the constitution and therefore prohibited to the returning board. "Each house of the General Assembly shall *judge* of the qualifications, *election, and returns* of its members."

But article 48 of the constitution also reserves to the General Assembly the determination of the election of the governor and lieutenant-governor. It provides that—

The members of the General Assembly shall meet in the House of Representatives to examine and count the votes. The person having the greatest number of votes for governor shall be declared duly elected.

Now will it be seriously contended that another body may be interposed by mere legislative enactment between the commissioners who conduct the elections and make up the statement of the votes at the polling-places and the General Assembly, with power to reject votes, to quash the returns; not merely to canvass and compile the votes, but to change the result according to their direction? What then will be left to the General Assembly? For if this vast power be confided to the returning board, there is an end of the whole question, and the General Assembly would be powerless to correct error or to escape from the binding force of a fraudulent count and canvass of the board.

Nor can it be maintained with any show of reason or authority that the General Assembly and the returning board possess concurrent and equal jurisdiction over the returns for members of the General As-

sembly, and for governor and lieutenant-governor; for the exercise of the power by either precludes the other, and is wholly inconsistent with such pretensions by the other.

And a conflict ensues the moment the returning board passes from a consideration of the face of the returns, the *prima facie* case, to the investigation of the actual occurrences at the polls and the merits; that moment it ceases to exercise ministerial functions and assumes to pass judgment upon facts outside the record. If this power be lodged with the returning board, its voice would be binding and final upon the representatives of the people; but no legislative enactment can convey power in derogation of the supreme law, the constitution.

FEDERAL RELATIONS.

In bringing these remarks to a close, I will merely add that the problem to be solved in Louisiana was no ordinary one in political history. The population was almost equally divided between the white people and the colored people. From time immemorial the latter had been held in slavery, and the former were their masters. Suddenly, at the close of a gigantic war, the slaves were not only made free and not only endowed with the right of suffrage but the leading white men in the State were disfranchised. Livy and Dionysius tell us that when Tarquin the Proud was asked what was the best mode of governing a conquered city, he replied by beating down with his staff all the tallest poppies in his garden. (Livy, 1, 54.)

It was a hazardous experiment to attempt to govern a proud American Commonwealth through its former slaves, without the slightest training to fit them for the weighty responsibilities of self-government. It will not be held by those at least acquainted with the institution of slavery that it was one to form statesmen in, or to develop among its subjects those strenuous virtues essential to the maintenance of freedom.

If it had been foretold sixteen years ago that the white people of Louisiana within eight years would be overcome in a fierce struggle, and that a few strangers from the North, uniting with their slaves, should have complete control of their government; that they would quietly accept a denial of all representation in it, endure a taxation equivalent to confiscation, and witness a carnival of crime and imbecility in which the guarantees for order, life, and property alike well-nigh perished, it would have been regarded as the delusion of a disordered mind. That there should have been outbreaks during this transitional period, so sharp, decisive, and overwhelming, is not to be wondered at.

Sir, I feel that I express the true sentiments of the white people of Louisiana when I say that, while they may regret the large pecuniary losses arising from the emancipation of the colored man, they would not under any circumstances consent that he should be remanded to slavery or be deprived of one jot or tittle of his political rights and privileges. For all the losses they have incurred and for all the disasters they have experienced, if there can be any compensation, it is in the fact that the institution of slavery has been extirpated, root and branch, from the soil of my beloved State. I thank God that to-day every man in my State is as free as I am and that the whole people is in the full enjoyment of equal political rights and privileges.

Nor, sir, do I stand here to denounce the North or northern men who may cast their fortunes with us. While I claim no ancestry that may boast of Pilgrim or Puritan origin, I would be the last man to decry the hardy virtues of the men who landed on Plymouth Rock or to detract from the merits and excellent traits of their descendants.

The city of New Orleans is no stranger to New England. You can hardly mention a name dear to New England that has not its representative in the great southern metropolis, or within our borders, upon the banks of the great Father of Waters. How many men honored and beloved in every walk of life do I recall whose birthplaces were in the mountains of New England. They assisted to lay the foundations of civil society in Louisiana and to strengthen them with the best elements of New England faith and culture.

And so long as the majestic figures of Washington and Lafayette look down upon us from yonder canvas, I shall feel that their descendants, mingling together with those of Adams and Winthrop and Palfrey and Eustis on the soil of Louisiana, may not plead in vain before an American Congress for simple justice.

These are the people that you would stigmatize as barbarians! Is that the spirit in which to meet the grave issues of the hour? Would you deprive the people of property, of intelligence, the law-abiding and Christian elements in society of the hope of building up the waste-places, of securing a vigorous and wise administration of the laws, of establishing upon a firm basis a system of free schools for the benefit of all classes and races? Would you take away the power of amendment? That is the chief merit of our institutions. They rest upon the conviction, not that the people are perfect, but that, seeing their mistakes, their errors, their faults, they may on the true theory of self-government apply wholesome corrections.

The people of Louisiana have elected with Governor Nicholls men who represent all the respectable elements and the conservative forces in society—men of property, of intelligence, of character—who embody the policy of reconciliation and enjoy the confidence of all classes, white and colored alike. Their government is universally recognized and respected throughout the State, except in one single public building in the city of New Orleans, in which the recent United States marshal, surrounded by a few ignorant negroes and United States troops, awaits the intervention of the Federal power to install him as governor. Sir, I can imagine no calamity that could equal the recognition of this Packard government. It has no element of stability. It would not live one minute but for the hope of Federal support. Its only prop is the bayonet, its only adherents tax-gatherers and spoilsmen. We have endured much in Louisiana, because we hoped that the day of our deliverance would surely come, but the attempt to force this government upon the people would fill them with utter dismay. An outbreak of an epidemic of yellow fever, small-pox, and cholera, all combined, would be an insignificant calamity in comparison with the doom of submission to the *régime* that threatens our peace, our property, our most cherished hopes for ourselves and for those to come after us.

Instead of an upright magistracy, confidence, contentment, happy homes, returning prosperity, gladdening every heart and tinging every prospect with light and hope, extreme, ignorant, and corrupt men, with nothing at stake, would control the Government; every interest would be blighted, every industry paralyzed, society become still more disorganized, and crime and poverty and ignorance prevail more and more.

> Regions of sorrow, doleful shades, where peace
> And rest can never dwell; hope never comes
> That comes to all.

Sir, it cannot be done. It will not be done as long as there remains any respect for free government or any sympathy for human suffering or for human progress in the minds of the American Congress.

Louisiana from the depths of her sorrow and despair may well exclaim:

> Spare us the inexpiable wrong, the unutterable shame,
> That turns the coward's heart to steel, the sluggard's blood to flame,
> Lest when our latest hope is fled, ye taste of our despair,
> And learn by proof in some wild hour, how much the wretched dare.

A.

Statement of the electoral and gubernatorial vote of the State of Louisiana for 1876, *from the commissioners of election.*

DEMOCRATIC-CONSERVATIVE VOTE.

Parishes.	At large.		L. St. Martin, first district.	E. P. Poche, second district.	A. De Blanc, third district.	W. A. Seay, fourth district.	R. G. Cobb, fifth district.	K. A. Cross, sixth district.	F. T. Nicholls, governor.	L. A. Wiltz, lieutenant-governor.
	John McEnery.	R. C. Wickliffe.								
Ascension	1,197	1,197	1,198	1,200	1,198	1,197	1,197	1,197	1,219	1,213
Assumption	1,687	1,686	1,686	1,679	1,680	1,686	1,678	1,680	1,697	1,697
Avoyelles	1,470	1,471	1,471	1,469	1,471	1,471	1,470	1,470	1,485	1,485
Baton Rouge, East	2,238	2,238	2,238	2,238	2,238	2,238	2,239	2,239	2,241	2,239
Baton Rouge, West	440	440	440	440	440	439	440	439	442	441
Bienville	953	956	955	956	955	956	965	955	958	958
Bossier	883	883	883	883	883	883	883	883	880	881
Caddo	1,654	1,656	1,657	1,656	1,655	1,657	1,656	1,656	1,719	1,694
Calcasieu	1,298	1,288	1,294	1,294	1,298	1,292	1,292	1,296	1,308	1,304
Caldwell	631	632	632	632	632	632	632	632	626	627
Cameron	246	246	246	246	246	246	246	246	246	246
Carroll	592	592	592	592	591	591	592	592	615	599
Catahoula	907	936	935	935	936	936	877	936	958	948
Concordia, (returned)	181	181	146	146	146	146	180	146	193	192
Concordia, (protested)	126	126	125	125	125	125	125	125	186	179
Claiborne	1,576	1,577	1,576	1,577	1,576	1,577	1,577	1,577	1,588	1,589

Statement of the electoral and gubernatorial vote of the State of Louisiana for 1876, *from the commissioners of election.*—Continued.

DEMOCRATIC-CONSERVATIVE VOTE.

Parishes.	At large.		L. St. Martin, first district.	E. P. Poche, second district.	A. De Blanc, third district.	W. A. Seay, fourth district.	R. G. Cobb, fifth district.	K. A. Cross, sixth district.	F. T. Nicholls, governor.	L. A. Wiltz, lieutenant-governor.
	John McEnery.	R. C. Wickliffe.								
DeSoto	1,304	1,305	1,305	1,305	1,305	1,305	1,305	1,305	1,313	1,309
Feliciana, East	1,737	1,737	1,737	1,737	1,737	1,737	1,737	1,734	1,741	1,741
Feliciana, West	1,248	1,248	1,248	1,249	1,249	1,249	1,249	1,250	1,246	1,248
Franklin	789	790	790	789	789	789	789	789	789	789
Grant	518	520	520	515	519	519	495	520	514	524
Iberia	1,247	1,247	1,247	1,247	1,247	1,246	1,247	1,247	1,253	1,253
Iberville	954	954	951	950	957	955	949	949	965	954
Jackson	460	462	463	463	463	463	463	463	456	450
Jefferson, (right and left bank)	785	782	783	781	783	783	783	781	859	783
La Fayette	1,156	1,149	1,156	1,156	1,156	1,156	1,156	1,156	1,158	1,159
La Fourche	2,005	2,004	2,005	2,004	2,005	2,005	2,001	2,005	2,006	2,009
Lincoln	1,064	1,070	1,070	955	1,070	1,070	1,070	1,070	1,080	1,081
Livingston	769	779	769	769	768	769	769	769	770	770
Madison	332	331	331	331	331	331	331	316	336	338
Morehouse	1,377	1,380	1,379	1,379	1,379	1,379	1,378	1,379	1,400	1,393
Natchitoches	1,761	1,761	1,588	1,588	1,588	1,761	1,588	1,588	1,776	1,770
Ouachita	1,865	1,869	1,867	1,868	1,868	1,868	1,868	1,868	1,869	1,872
Plaquemines	712	712	712	712	712	712	712	712	727	717
Pointe Coupée	1,082	1,083	1,083	1,084	1,080	1,081	1,082	1,067	1,096	1,098
Rapides	1,619	1,621	1,621	1,618	1,620	1,621	1,621	1,618	1,649	1,627
Red River	413	413	413	413	413	413	413	413	413	413
Richland	963	970	970	970	970	970	970	970	975	973
Sabine	906	906	906	907	907	907	907	907	908	908
Saint Bernard	336	336	336	336	336	336	336	336	335	385
Saint Charles	263	263	263	263	263	263	263	263	263	263
Saint Helena	648	649	649	649	649	649	649	649	652	650
Saint John Baptist	743	743	743	743	743	743	743	743	757	757
Saint James	980	980	980	982	980	980	979	978	984	984
Saint Landry	3,746	3,749	3,744	3,747	3,747	3,747	3,747	3,746	3,750	3,755
Saint Martin	1,023	1,021	1,023	992	1,020	1,023	1,023	1,023	1,032	1,032
Saint Mary	1,484	1,485	1,485	1,485	1,485	1,485	1,485	1,485	1,455	1,457
Saint Tammany	649	648	648	647	648	648	648	648	645	596
Tensas	464	464	464	464	464	464	464	464	486	471
Terre Bonne	1,387	1,389	1,388	1,388	1,389	1,388	1,372	1,388	1,402	1,396
Tangipahoa	930	931	931	931	931	931	931	931	936	936
Union	1,465	1,492	1,493	1,493	1,493	1,493	1,492	1,493	1,595	1,504
Vermillion	902	908	908	908	908	908	908	908	908	912
Vernon	647	647	647	647	647	647	647	647	649	649
Washington	514	514	514	514	514	514	514	514	519	514
Webster	886	887	887	887	887	887	887	887	896	894
Winn	549	550	550	551	549	549	514	549	556	546
Orleans	24,963	25,005	25,009	24,987	24,996	24,996	24,996	25,006	25,097	25,070
Total	83,723	83,859	83,650	83,474	83,633	83,812	83,530	83,603	84,487	84,242

NOTE—Concordia, protested in the above, was excluded by the supervisor.

Electoral and gubernatorial vote of the State of Louisiana, 1876.

REPUBLICAN VOTE.

Parishes.	At large.		Peter Joseph, first district.	L. A. Sheldon, second district.	Morris Marks, third district.	A. B. Leyissee, fourth district.	O. H. Brewster, fifth district.	Oscar Joffrion, sixth district.	S. B. Packard, governor.	C. C. Antoine, lieutenant-governor.
	W. P. Kellogg.	J. H. Burch.								
Ascension	2,071	2,073	2,074	2,074	2,069	2,073	2,073	2,074	2,052	2,054
Assumption	1,691	1,691	1,692	1,692	1,692	1,692	1,691	1,691	1,684	1,685
Avoyelles	1,504	1,504	1,504	1,504	1,505	1,504	1,505	1,504	1,503	1,498
Baton Rouge, East	1,626	1,627	1,624	1,624	1,623	1,623	1,623	1,623	1,623	1,622
Baton Rouge, West	912	912	197	197	197	197	197	912	902	911
Bienville	227	227	227	227	227	227	227	227	226	225
Bossier	1,703	1,718	1,719	1,719	1,719	1,720	1,719	1,721	1,724	1,722
Caddo	2,687	2,687	2,687	2,687	2,687	2,686	2,686	2,686	2,630	2,649
Calcasieu	84	84	84	84	84	84	84	84	85	80
Caldwell	285	285	285	285	285	285	285	285	282	281
Cameron	52	52	52	52	52	52	52	52	52	50
Carroll	2,410	2,405	2,416	2,416	2,417	2,416	2,416	2,416	2,307	2,382
Catahoula	820	817	822	822	823	822	822	822	801	801
Concordia, (returned)	1,170	1,170	596	595	596	596	1,168	594	1,161	1,165
Concordia, (protested)	1,353	1,354	1,354	1,354	1,285	1,354	1,351	1,354	1,284	1,289
Claiborne	432	432	432	432	432	432	432	432	427	427
De Soto	898	898	898	898	898	898	898	898	892	893
Feliciana, East										1
Feliciana, West	778	778	777	776	776	779	776	777	780	776
Franklin	129	129	129	129	129	129	129	129	129	129
Grant	395	394	394	394	394	394	393	394	405	385
Iberia	1,452	1,452	1,452	1,452	1,453	1,452	1,452	1,452	1,449	1,447
Iberville	2,297	2,297	1,849	1,848	2,250	1,848	1,878	1,848	2,283	2,293
Jackson	23	23	23	23	23	23	23	23	35	28
Jefferson, (right andl eft bank)	1,761	1,768	1,767	1,768	1,768	1,768	1,763	1,753	1,688	1,763
La Fayette	661	660	661	661	661	661	661	661	660	659
La Fourche	2,013	2,013	2,013	2,013	2,012	2,013	2,013	2,013	2,006	2,009
Lincoln	331	329	331	330	329	329	329	330	324	321
Livingston	121	121	120	121	121	121	121	121	121	121

Electoral and gubernatorial vote of the State of Louisiana, 1876.—Continued.

REPUBLICAN VOTE.

Parishes.	At large.		Peter Joseph, first district.	L. A. Sheldon, second district.	Morris Marks, third district.	A. B. Levissee, fourth district.	O. H. Brewster, fifth district.	Oscar Joffrion, sixth district.	S. B. Packard, governor.	C. C. Antoine, lieutenant-governor.
	W. P. Kellogg.	J. H. Burch.								
Madison	2,528	2,511	2,516	2,511	2,506	2,511	2,506	2,506	2,510	2,510
Morehouse	782	782	783	765	783	782	783	781	762	768
Natchitoches	2,099	2,099	1,558	1,558	1,558	2,092	1,550	1,558	2,084	2,089
Ouachita	793	792	792	792	792	792	792	792	781	783
Plaquemines	1,754	1,754	1,754	1,754	1,754	1,754	1,754	1,754	1,732	1,747
Pointe Coupée	1,987	1,984	1,987	1,986	1,987	1,988	1,986	2,003	1,943	1,965
Rapides	1,751	1,750	1,749	1,750	1,749	1,749	1,750	1,749	1,729	1,743
Red River	832	832	832	832	832	832	832	832	832	832
Richland	277	276	277	277	277	277	277	277	265	270
Sabine	23	23	23	23	23	23	23	23	23	23
Saint Bernard	691	691	691	691	691	691	691	691	691	638
Saint Charles	1,141	1,141	1,141	1,137	1,140	1,141	1,141	1,141	1,140	1,141
Saint Helena	520	520	520	520	520	520	520	520	516	517
Saint John Baptist	1,288	1,288	1,288	1,288	1,286	1,288	1,288	1,288	1,287	1,286
Saint James	1,989	1,989	1,991	1,990	1,982	1,990	1,991	1,989	1,984	1,984
Saint Landry	2,432	2,432	2,432	2,432	2,430	2,430	2,430	2,430	2,445	2,428
Saint Martin	1,097	1,097	1,099	1,099	1,098	1,099	1,099	1,098	1,090	1,090
Saint Mary	2,405	2,406	2,406	2,402	2,406	2,407	2,406	2,406	2,397	2,399
Saint Tammany	551	552	552	552	552	552	552	552	550	484
Tensas	3,207	3,207	3,207	3,207	3,207	3,207	3,207	3,207	3,192	3,203
Terre Bonne	1,969	1,970	1,970	1,970	1,969	1,970	1,970	1,971	1,962	1,972
Tangipahoa	565	565	565	565	565	565	565	565	558	558
Union	94	94	94	94	94	94	94	94	87	89
Vermillion	277	272	272	272	272	272	272	272	272	268
Vernon	.....	.....	2	2	2	2	2	2	1	1
Washington	165	164	165	165	165	165	165	165	163	165
Webster	864	864	864	864	864	864	864	864	858	857
Winn	76	82	82	82	82	82	82	82	78	78
Orleans	15,131	15,125	15,122	15,145	15,147	15,078	15,120	15,130	15,030	14,917
Total	77,174	77,162	74,913	74,902	75,240	75,395	75,479	75,618	76,477	76,471

B.

Votes rejected by the returning board.

Election precincts.	Conservative.	Radical.
BOSSIER.		
Poll 1	108	49
Poll 3	172	29
EAST BATON ROUGE.		
Poll 12	162	4
Poll 14	144	6
CALDWELL.		
Poll 1	141	.....
CATAHOULA.		
Poll (c) 5	36	2
Poll (c) 15	61	12
CLAIBORNE.		
Poll 3	184	.....
DE SOTO.		
Poll 1	210	49
Poll 2	125	53
Poll 5	153	60
Poll 7	150	10
Poll 8	54	.....
EAST FELICIANA.		
Poll 1	235	.....
Poll 2	62	.....
Poll 3	397	.....
Poll 4	135	.....
Poll 5	474	.....
Poll 6	124	.....
Poll 7	161	.....
Poll 8	118	.....
WEST FELICIANA.		
Poll 2	102	35
Poll 3	89	33
Poll 4	139	80
Poll 5	235	3
Poll 9	123	2
Poll 10	322	1
FRANKLIN.		
Poll 2	74	28
GRANT.		
Poll 1	123	64
Poll 2	25	10
Poll 3	50	21
Poll 4	70	.....
Poll 5	26	.....
Poll 6	51	.....
Poll 7	170	.....
IBERIA.		
Poll 4	322	11

Votes rejected by the returning board—Continued.

Election precinct.	Conservative.	Radical.
LIVINGSTON.		
Poll 2	109	.....
Poll 3	110	.....
Poll 4	87	.....
Poll 8	72	.....
LA FAYETTE.		
Poll 2	82	4
MOREHOUSE.		
Poll 1	17	101
Poll 2	69	4
Poll 3	25	4
Poll 5	269	140
Poll 6	203	39
Poll 7	97	34
Poll 8	149	33
NATCHITOCHES.		
Poll 5	150	2
Poll 6	196	5
OUACHITA.		
Poll 1	340	11
Poll 3	345	2
Poll 8	207	31
Poll 9	96	2
Poll 10	70	.....
Poll 11	159	.....
Poll 12	303	2
RICHLAND.		
Poll 1	208	.....
Poll 3	151	75
Poll 4	245	67
Poll 5	172	15
SAINT CHARLES.		
Poll 7	33	9
SAINT LANDRY.		
Poll 9	120	38
TANGIPAHOA.		
Poll 3	76	.....
VERNON.		
Poll 1	116	.....
Poll 7	26	.....
Poll 10	37	.....
WEBSTER.		
Poll 1	185	73
Poll 5	251	121
Votes rejected by the board	10,269	1,763

Votes suppressed by the supervisors.

Election precincts.	Conservative.	Radical.
EAST BATON ROUGE.		
5 polls	1,147	147
LA FAYETTE.		
1 poll	436	.....
LA FOURCHE.		
2 polls	314	176
TANGIPAHOA.		
1 poll	43	13
SAINT CHARLES.		
1 poll	34	.....
ORLEANS.		
Second ward.....1 poll..	248	93
Seventh ward.....1 poll..	332	159
Eleventh ward.....1 poll..	413	94
	2,966	682
VOTES ADDED.		
Saint Charles	.....	88
Vernon	.....	179
Total	2,967	415
Grand total of votes suppressed	13,236	2,178

C.

Votes rejected, suppressed, and manufactured by the returning board, exclusive of the five parishes alleged to have been intimidated.

Election precincts.	Conservative.	Republican.
BOSSIER.		
Poll 1	108	49
Poll 3	172	29
CALDWELL.		
Poll 1	141	.....
CATAHOULA.		
Poll (c) 5	36	2
Poll (c) 15	61	12
CLAIBORNE.		
Poll 3	184	.....
DE SOTO.		
Poll 1	210	49
Poll 3	125	53
Poll 5	153	69
Poll 7	150	10
Poll 8	54	.....
FRANKLIN.		
Poll 2	74	28
GRANT.		
Poll 1	123	64
Poll 2	25	10
Poll 3	50	21
Poll 4	70	.....
Poll 5	26	.....
Poll 6	51	.....
Poll 7	170	.....
IBERIA.		
Poll 4	322	11
LIVINGSTON.		
Poll 2	109	.....
Poll 3	110	.....
Poll 4	87	.....
Poll 8	72	.....
LA FAYETTE.		
Poll 2	82	4
NATCHITOCHES.		
Poll 5	150	2
Poll 6	193	5
RICHLAND.		
Poll 1	208	.....
Poll 3	151	75
Poll 4	245	67
Poll 5	172	15
SAINT CHARLES.		
Poll 7	33	9
SAINT LANDRY.		
Poll 9	120	38
TANGIPAHOA.		
Poll 3	76	.....
VERNON.		
Poll 1	116	.....
Poll 7	26	.....
Poll 10	37	.....
WEBSTER.		
Poll 1	185	73
Poll 5	251	121
Total of votes counted out by returning board	4,728	816

In addition to those counted out by the returning board, thirteen polls were counted out by the various supervisors of registration, as follows:

Votes rejected by the returning board—Continued.

Election precincts.	Conservative.	Republican.
LA FAYETTE.		
One poll	436	.....
LA FOURCHE.		
Two polls	314	176
TANGIPAHOA.		
One poll	42	13
SAINT CHARLES.		
One poll	34	.....
ORLEANS.		
Second ward, 1 poll	248	93
Seventh ward, 1 poll	332	159
Eleventh ward, 1 poll	413	94
	1,820	535

Votes suppressed by the board and supervisors.

Conservatives	4,728
Conservatives	1,820
Total	6,548
Republicans	816
Republicans	535
Total	1,351

Votes added to the republican ticket.

Saint Charles	88
Vernon	179
Total	267
Republican vote suppressed	1,351
Republican vote added	267
Net republican loss	1,084
Conservative vote suppressed	6,548
Deduct republican loss	1,084
Excess of conservative loss	5,464

GRAND RESULTS.

Highest majority for Tilden electors, as shown by table A, 8,957.
Lowest majority, 6,300.
Nicholls's majority, 8,010.

Counting the Electoral Vote.

SPEECH OF HON. BENJ. T. EAMES,

OF RHODE ISLAND,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decisions of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. EAMES. Mr. Speaker, the questions involved in the report of the committee of the House to determine its powers and privileges, and in that of the Senate and House upon counting and declaring the votes in the recent election for President and Vice-President of the United States are of vital importance. The correct decision of these questions may determine, if not the existence, the continuance and stability of the Government under which we live, which is a government of law and not of men.

Any departure from this fundamental principle of a free government as a government of law and not of men, upon which we all depend for protection of reputation, liberty, life, and property, involves the very life of the Government. Liberty and law, and liberty regulated by law, are essential requisites of a free government. If we would preserve such a government it is an indispensable condition to stand by and preserve intact the law of the land until changed in the mode prescribed by law. And it is fortunate that the consideration of the vital questions involved in these reports occurs at a time when there is no occasion to determine them otherwise than upon principle and in accordance with the fundamental principle of law upon which a free government rests and upon the adherence to which its continuance depends.

The great political parties of the country in this Congress are so divided, and in the next Congress will be so evenly divided that it will be impossible, whether Mr. Hayes or Mr. Tilden shall be President, at least for a period of two years, to change the existing law so as to disturb the business interests of the country. With a republican Senate and a democratic House, whether the President is republican or democratic, no change in the law can be made unless agreed to by both political parties, and hence no fears need be entertained by any one engaged in any business pursuit that any change in the law will

be made which will disturb the business of the country, as no change can be made unless assented to by both the great political parties.

It is true, however, that the uncertainty as to the result of the recent presidential election has created in the public mind an uneasiness which interferes with the business of the country, through a vague apprehension that it may result in disturbing the peace which now exists, and the continuance of which is essential to the prosperity of the industrial and commercial interests of the country. This vague and, as I think, unfounded apprehension of another civil war is the only thing in the way of a dispassionate and calm consideration and determination of the great questions involved in these reports, in accordance with the law of the land.

But whether this apprehension is well founded or not, the question is here and before us, and as members of this House, upon our consciences and our oaths, we must express an opinion upon it; and it is a question of vital importance not only as determining the result of the recent election, but as establishing a precedent in all presidential elections which may hereafter occur. In this view it is the solemn duty of every member of this House, so far as he may, to divest himself of political or partisan bias, and to decide the question upon a careful and thorough consideration of the provisions of the Constitution and the law of the land; constantly keeping in mind that the Government under which we live is a government of law and not of men, and that if the law is in any respect wrong there is a mode prescribed by which it may be changed peaceably and without resort to arms.

Where, then, under the Constitution and the laws of the United States is the power vested to determine the election of the President and Vice-President? Is it in the President of the Senate, in the House of Representatives, in the Senate, or in Congress? Let us, so far as we can, examine these questions upon principle and aside from appeals to party, and without regard to the apprehension that our material interests seem to require and demand a settlement in the present, without regard to either principle or the future, but simply and solely upon the principles of law upon which all our rights under a free government depend and without which a free government fails and falls. This is the question to which our attention is invited and which we are called upon to decide, and upon its correct solution, as I have said, may depend the permanence and stability of our feee institutions.

The provisions of the Constitution upon the election of a President and Vice-President are expressed in language so simple and plain that there ought not to be any dispute about their intent and meaning.

Article 2, section 1, declares that—

> Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

It also prescribes that "Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States," and declares also the qualifications which are necessary for a President and a Vice-President.

Congress has by law prescribed the time when the electors shall be chosen, and the time when they shall give their votes, and the Constitution prescribes the manner in which they shall give their votes and how they shall be certified, and the officer to whom they shall be delivered; and provides that the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and that the votes shall then be counted, and declares that the persons having the greatest number of votes for President and Vice-President shall be the President and Vice-President if such number be a majority of the whole number of electors appointed.

Now under these provisions of the Constitution each State has the right to appoint, in such manner as the Legislature thereof may direct, the electors to which it is entitled, subject only to the limitation as to eligibility and the time of election and when the electors shall vote. And under these provisions of the Constitution and the laws of the United States and the laws of the State the only question which can arise, wherever the power rests to determine it, is whether the electors have been chosen in the mode prescribed by the State law and were eligible to the office of elector under the Constitution, were elected on the day prescribed by law, and on the day fixed by law cast their votes for persons eligible to the offices of President and Vice-President of the United States.

It is the right of the State under the Constitution to appoint the electors in such manner as the Legislature may direct. If these electors, having the requisite qualifications, have been appointed in accordance with the laws of the State where appointed, the vote must be counted, for neither the House nor the Senate nor Congress can either deny or abridge the constitutional right conferred in this respect upon the States.

The only question then is whether the law of the State has been complied with and whether this law is in accord with the limitations prescribed as to time and place and qualifications by the Constitution and laws of the United States.

This leads to the question by whom, under the law, is the vote certified by the State to be counted?

The power of the President of the Senate to count the vote is found in the provision of the Constitution which directs the votes to be delivered to him, and directs him in the presence of the Senate and House to open all the certificates, and declares that the votes shall then be counted.

What power does this provision of the Constitution confer upon the Vice-President of the United States or President *pro tempore* of the Senate? It certainly, by its terms, confers no powers in this respect either upon the House or the Senate or Congress. Neither the House nor the Senate nor Congress is named in this connection, except as witnesses to an act which is to be done by some other person who is named.

The act to be done, which is not only to open the certificates but also to ascertain who has been elected President and Vice-President, is by the express language of the Constitution to be done in the presence of the Senate and the House, and of necessity to be done by some one besides the Senate and the House, and, by necessary implication, as no other person is named, by the person to whom the vote was directed, who had the custody of the votes, and who by express language was directed to open the certificates in which the votes were inclosed. Otherwise the whole ceremony is idle. The President of the Senate has the legal custody of the votes. He is directed to open them on a certain day in the presence of the Senate and the House. The two Houses meet. The President of the Senate opens the certificates in their presence. What is to be done with them? Who is to count them? Surely not the House, nor the Senate, nor both Houses, for what is to be done is to be in their presence, and by necessary implication not to be done by them. It surely was intended that the votes should then and in that presence be counted to ascertain who if any one had been elected as President and Vice-President.

And although the Constitution does not in so many words say that the votes shall be counted by the Vice-President, inasmuch as the votes were to be counted then and there, the inference is almost absolutely certain that the act was to be done by the person who was specifically named as the custodian of the votes and who was directed by name to have them on a certain day at a fixed place, and then and there to open the certificates. And such has been the construction placed upon this clause of the Constitution from the organization of the Government.

But if the power to count these votes and to declare the result is not in the Vice-President, or the President *pro tempore* of the Senate, in whom is this power vested by the Constitution? Is it in the two Houses, in the presence of which the Constitution directs the President of the Senate to open the certificates? No one makes this claim, because each House has its separate organization, and when they meet, they meet as the Senate and the House and not as a joint convention to determine any question which may arise. And under the uniform practice, when any question has arisen on such an occasion, the two Houses have separated and acted separately upon it. Is it in the House? If so, upon what provision of the Constitution or the law? Where in either case can any authority be found for the exercise of any control by the House in such case? Indeed no pretense of this kind has been made. The only claim is that the House may by its action prevent the count of a vote of a State. If this is the true construction of the Constitution, then it follows that the House may at any time defeat the election of a President and Vice-President, although it may be demonstrated that the election has been made in every respect in accordance with the Constitution and laws of the United States and the laws of the States. Is it vested in the Senate? If so, the same thing follows. It cannot therefore be claimed that this power exists in the House or the Senate separately, and, if not, is it vested in Congress? And it is just here that the doubt arises.

The Constitution prescribes that after the certificates of the votes have been opened by the Vice-President the votes shall then be counted. It does not in terms say that they shall be counted by the Vice-President, and it surely does not in language say that the votes shall be counted by Congress. The necessary implication, as I have said, is that, inasmuch as the votes are then to be counted in the presence of the Senate and House, it excludes the idea of the count by the Senate and the House, because the body in the presence of which the act is to be done, by the very language of the Constitution, is not the body to do the act required. And yet I freely admit that the language of the Constitution in this respect is open to doubt. It does not say that the count is to be made by the Vice-President, nor does it say that the vote is to be counted by Congress.

It is upon these few words that the claim is made that the power is vested in Congress, and that it has power to count the vote under the general provision of the Constitution "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." But in putting a construction upon this general provision of the Constitution, it should be borne in mind that it does not apply to the special question under consideration any more than to any other subject to which it may apply. And besides this it should also be remembered that as to the choice of President and Vice-President the Constitution does make special provisions, and among these precludes either a Senator or Representative from acting as an elector for these offices, and especially provides that such electors shall be chosen in such manner as the Legislatures of the States may direct; and also specifically prescribes that, if there is a failure to elect a President or Vice-President, the House shall elect the President and the

Senate the Vice-President, and that, in vesting these specific powers in the Senate and in the House, it precludes the exercise upon this subject of any other powers, and therefore excludes any power supposed to be derived from the general clause of the Constitution, on which solely rests any reasonable claim in this regard by Congress. Moreover no fair mind can read the law of the land, as expressed in the Constitution, without coming to the conviction that it never was intended by the framers of that instrument that Congress should, under any circumstances, have the power, either directly or indirectly, to interfere with the constitutional right of the States in the mode prescribed by the Legislatures thereof to choose the President and Vice-President of the United States.

It surely was never intended that the Legislature should elect the Executive, any more than that the Legislature should elect the judges of the Supreme Court.

The true intent of the Constitution was to keep so far as possible each of the great departments, the legislative, judicial, and executive, separate from each other, the one to adopt, the other to interpret, and the other to execute the laws.

In this view certainly it is more than doubtful if Congress has any power over the question now pending before the House. If it has any power, that power is subordinate to the express authority given to the States to choose electors for President and Vice-President in such manner as they may prescribe. This is the constitutional right conferred upon the States. It cannot be denied or abridged by any act of Congress, and if the States under their respective laws in the exercise of this right have acted within the limits of the Constitution and the votes of their electoral colleges have been duly authenticated and sent to the President of the Senate, as required by law, they must be counted, whoever has the power to count. And whenever so certified, they must stand, *prima facie* at least, as the vote of the State, and every such vote should be counted, if Congress has the power, unless it is rejected by the concurrent vote of both Houses.

The only power that Congress has, if any, is to determine whether the vote of any State has been cast for persons eligible under the Constitution in the mode prescribed by the Legislature thereof, because the Constitution confers upon the States the right within certain limitations to choose electors of President and Vice-President in such manner as the Legislatures may prescribe, and no act of Congress can deprive the States of this constitutional right. And any attempt to do it is an usurpation of power, and in its very essence revolutionary. If, therefore, any law is to be adopted by Congress for the purpose of ascertaining who in the recent election has received a majority of the votes of the electoral college of the State, it ought to carefully recognize and guard these unquestioned rights of the States under the Constitution. And whatever power is granted by any such act should be limited to Congress. If the power to count the vote is not by the fair construction of the Constitution vested in the Vice-President, and if it is so vested, Congress has no power to divest it, it is vested in Congress, and if vested in Congress it is a personal trust, which can be delegated to no person or body except Congress. It might as well be claimed that the power to make laws under the Constitution could be delegated as to claim that this power if in Congress can be delegated.

Applying these views to the reports of the committee of the house as also to the report of the committees of the two Houses, it will be seen that, in my judgment, the power to open and count the electoral vote is vested in the President of the Senate. If, however, there is doubt upon this proposition, the power is in Congress, to be defined by law; and if in Congress it must be exercised so as not to infringe on the constitutional rights of the States, and that in the exercise of this power the only question which can be inquired into in any case where the vote has been duly authenticated is whether the vote is by persons eligible and upon the face of the returns duly elected to the office and whether such election was at the time and the vote of the electors was cast at the time required by law, and that any authority which Congress has over these questions, if it has any, cannot be delegated.

I dissent, therefore, to the report of the House committee, which claims that it is in the power of the House by objecting to a vote to defeat the provisions of the Constitution which confers on the States the right to choose electors of President and Vice-President in such manner as the Legislature may prescribe. And if Congress has any power over this subject, I claim that Congress should exercise that power, and not attempt to avoid its duty by delegating that power to others upon whom no power in this regard or for this purpose has been conferred by the Constitution.

Aside from this legal view of the question before the House upon these reports, it seems to me as a question of expediency the bill of the committees of the two Houses ought not to be approved. If there are questions upon which doubts exist, these questions relate to a political office; and the judges of the Supreme Court before whom these questions may come for adjudication ought to be kept free from any bias in their decision.

But aside from this view, it appears to me that questions of this kind may as well be determined by the President of the Senate as by a fifth judge, who is to be selected by the four judges of the Supreme Court, who have, as acknowledged by the report, been named because two of them are democrats and two republicans. In either case, practically, we have a commission of five republicans from the Senate, five democrats from the House, four judges, two of whom are republican and two democrats, and the fifth will decide who is to be President and Vice-President of the United States. It is submitting the whole question practically to one man, and the question is whether it would not be wiser to submit it to the man who is named in the Constitution to receive and open the certificates, rather than to any other person, however eminent, who is not recognized by the Constitution as having any power over the subject.

Convinced, as I am, that under the Constitution the Vice-President has the power to open and count the votes, it seems to me that the best course to pursue is to allow him to exercise this power as such officer always has, rather than to submit the question to any one not known to the Constitution for any such purpose. And if the Vice-President in the exercise of this power shall commit any error, to leave the final determination of the question, not to five persons who are judges of the Supreme Court of the United States, but to the Supreme Court, before which the questions in dispute may be judicially determined.

I think, therefore, that the bill reported should be amended so as to provide that the President of the Senate shall open and count the votes and declare the result, and that his decision upon all constitutional questions should, if desired, be left, under the last section of the bill, to be determined by any court which has jurisdiction to hear and determine such a case.

In adopting such a course we will have complied with the provisions of the Constitution as it has been understood and acted upon in the early years of the Republic; will have protected the rights of the States under the Constitution; will have secured a remedy for any wrong which may have been done; and shall have recognized and acted upon the great principle upon which we depend for the protection of life, liberty, and property, that we live under a Government of law and not of men.

Counting the Electoral Vote.

SPEECH OF HON. E. S. SAMPSON,

OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, 1877.

Mr. SAMPSON. Mr. Speaker, the more I have thought on this question of the electoral count and the more carefully I have reflected on events which have crowded themselves upon our attention the last few months, the deeper has become the conviction in my mind that agreement by the two Houses on this question is an absolute necessity.

Eighty-eight years, save a few days, we have been moving on under our Constitution. We have had twenty-two presidential elections prior to the present. Seventeen times have questions been raised in the two Houses or at the joint meetings touching the validity of electoral votes; seven times have the questions been evaded; three times decided by or under joint resolutions, signed by the President, which had the force of law; seven under the rule which provided no question should be decided in the affirmative nor vote be counted unless both Houses concurred therein.

And through all these objections and questions and through all this time, three great facts stand out prominently before us. First, the time has never been till now when a disputed electoral vote would change the result; second, the two Houses have never failed to agree on how they would dispose of disputed votes except in cases where they have skillfully evaded decision; third, repeated warnings have been uttered all along down our history to beware of the day when the vast powers, patronage, and political policies of this Government would depend on disputed electoral votes, and we should be without a law, constitutional provision, or tribunal to say who should decide. If it has been of such importance to agree before, and we have never failed to do so, how much more important is it now.

Let us look calmly at the situation, view things as they are. Party feeling and pride is a sensitive element. But yesterday, on the other side of this Hall, a member and a friend of this measure, too, used the word war in such a connection and manner that I could almost feel my strong friendship for the bill slipping away in spite of me. The situation demands calmness and reflection. Since the first day of the meeting of this the Forty-fourth Congress the lurid flames of party strife have been burning brighter and brighter in this country—schemes and counter-schemes to the extent of human ingenuity to make and unmake Presidents, to drag down and build up parties have been the general order of the day; the principle of the equality of all men before the law, both white and black, and the sentiment that in the Anglo-Saxon race of the South rests the superior right to rule those States, have been writhing in mortal strife for the mastery; and after this long, fierce, and exciting conflict, and party passion has been wrought up to well-nigh a white heat, crisping and consuming trade and industry, and even patriotism, what do we find? Almost a drawn battle; the massses of the people divided nearly

equally in political sentiment; eighteen States republican; eighteen States democratic, dual governments in two; South Carolina has her republican governor and her democratic governor, her republican legislature and her democratic legislature. Louisiana has her republican governor and her democratic governor, her republican legislature and her democratic legislature; parties there literally standing to arms with a handful of United States soldiers at each of the two capitals, watching to see who dare fire the first shot; the sands of the present Administration almost run; in the hands of the officer the custodian of the electoral votes for the candidates for the incoming Executive 391 votes, instead of 369 as there ought only to be—22 more than under the Constitution can be cast; double returns from four States; the two Houses of Congress divided politically, one prepared to stand by the republican returns as expressing the true voice of the people, the other by the democratic returns as being based on the actual vote—these votes to be counted in a few days; the 22 spurious electoral votes that now corrupt the national ballot-box to be rejected; the Constitution failing to provide expressly who shall say which is the true vote and which the false; no law fixing this power or regulating it; an irreconcilable difference; in the absence of law who shall exercise this most delicate and important duty? Shall we hesitate to enact a law that shall solve the difficult, surely not, if we have the constitutional power?

Congress has the power to provide all necessary legislation to carry into execution all other powers given the Federal Government by the Constitution. Three times has Congress exercised this power by joint action, twice approved by the Executive, which had the effect to exclude or receive electoral votes; twice by joint resolution, once by joint rule. The majority of our greatest and best men of the past and present have held to the right to legislate upon the subject. And this seems now with all the exciting surroundings to be the only square inch of common ground upon which the two parties can unite.

I have examined so far as I could, reflected upon, compared, read, and thought over the reasons for and against its constitutionality with a due regard, as I believe, to the weight and solemnity of the oath I have taken to support the Constitution of my country, and believe it to be a measure to protect and preserve the Constitution, not to violate it. It constitutes a tribunal absolutely fair, even to the avoidance of a shadow of a shade of partisan bias so far as man can devise, and it does seem to me that the party or the individual who would refuse, in the present state of doubts, of fact, and differences of law, to submit to the arbitrament of so fairly constituted a tribunal must lack confidence in the righteousness of his cause.

I find, sir, from my brief experience here, that it is always hard to yield, even in the slightest degree, what any of my own party may regard as an advantage, believing as I do that it is the only party which stands firmly by the immortal doctrine that the rights of all our citizens as granted by the Constitution shall be maintained; and I am not unmindful that, in a crisis like the present, reflections like these might come to members: "Through this measure defeat must come to one party or the other, but woe unto him by whom the defeat of his party cometh; better a millstone be tied about his neck and he be cast into the sea. If I vote 'no' and my party is defeated by the bill, it will not be my fault; if it is sustained, I have done it no harm; it can never be known, but it would have been so in any event, and I I am politically intrenched." But he who, if his judgment is convinced that this is a measure in the interest of truth, righteousness, and peace, would let personal or mere party considerations turn the weight of a hair in the scales, is not worthy to occupy a place on the floor of the American Congress.

I believe no one has a higher respect for the judgment of the noble and patriotic men who compose the republican party of Iowa than I, and I have regretted to find they were not more earnestly for this measure; but the last word I received, a telegram on yesterday, has the true ring. It was:

Hold the fort! Country before party. The people will sustain a peaceful solution.

This was signed by men whose republicanism is as strong and pure as exists in that republican State which gave to Mr. Hayes, whom we hope to see by fair and righteous means President of these United States, near 60,000 majority.

I am heartily for this measure, and doubt not it will pass and demonstrate to the world that this great American people are yet capable of self-government.

Counting the Electoral Vote.

SPEECH OF HON. W. F. SLEMONS,

OF ARKANSAS,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. SLEMONS. Mr. Speaker, could I avoid the responsibility which attaches to me as one of the Representatives of the people, I would be slow (even with my solemn convictions against the pending bill) to dissent from the well-matured judgment of the distinguished gentlemen in this and the other end of the Capitol for whose high legal attainments I have so much respect and in whose patriotism I have most unfaltering confidence.

I am not unmindful, sir, that the gentlemen who have reported the bill now for consideration were inspired by a patriotism as exalted, and filled with a courage as sublime as can be boasted on this continent; and that they believe that ruin and rescue are alike concealed in the near future. To avert the one and reach the other we are called upon for action to-day and now. But, sir, they fail to discover to my short-sightedness precisely where the obstacle, if any, is situated from which I am asked to turn aside.

I have not gathered sufficient inspiration from the declared perils of the hour to consent to weigh anchor, abandon the port in which we have sheltered for three-quarters of a century, and drift away on a sunless sea before a gale unequaled in fierceness in the lives of any of us.

It is true, sir, that the echo of artillery on the Eastern Branch of the Potomac sounds a little warlike, the concentration of munitions of war and the hundreds of spies that swarm in the city and about this Hall look just a little suspicious. But, sir, when we remember how unwise in their glory and base in their fall these conspirators have been, we should not be surprised at the feint they make to cover their return to obscurity, or perchance to Canada, where their treasures have preceded them.

I have seen it announced in the Government organ that the representatives of the people would be arrested and tried for treason if they should chance to demur to the ruling of the Senate's presiding officer. I have heard it predicted that a hundred thousand men would be here to count the vote *per contra*. I hear it said that a very distinguished and personal friend of one of the rivals for the Presidency said that no blood should be spilt by his troops; so I take it, sir, the war ended before it began. I have heard it said that the President said "Damn the courts." But who supposes he meant to be disrespectful to the judicial department of the Government? I am glad that some of these utterances are not authoritative.

Sir, let me ask in all seriousness whence comes this panic and whence the danger from which we flee? Sir, who is it that tells us that a rock is discovered in the safe harbor of so many years, around whose concealed but rigid top the mad waters dash and roar? Does this ominous cry come from the outlook in the foremast or does it come from bondholders or boards of trade concealed in the hull? Whence comes the cry to lower the life-boats; that we have "struck?" And can they tell me whether there are sharks in that sea into which we are requested to lower this frail craft now being prepared?

Does the cry of terror which breaks upon the calm repose of the American Congress come from the millions of freemen harnessed to the soil, the bench, and forge, who on November 7 peacefully and legally determined the presidential election so far as an honest government could require, or does it come from those of the cottage home who toil not?

Sir, by what means has it been discovered that the strong arm of the people by their Representatives cannot protect the ballot cast on November 7 as they have for the past long years? Sir, who has asserted that the House of Representatives, together with the Senate, cannot exercise the power so long and so safely exercised without the interposition of an umpire? Both Houses have repeatedly and unequivocally asserted the power and authority to count the vote concurrently. The Senate has declared that the presiding officer of that body has not the right to count the vote; then the power given by the Constitution must be where this House has located it. Has not the unbroken precedents of fifty years located it in Congress assembled in joint convention? Then, sir, why seek a new tribunal that shall dispose of the highest and dearest interests of the whole people?

Sir, to-day the American people are face to face and are confronted with the cruel wrongs to which Southern States have been so long subjected. To-day the American people are in hearing of the piteous appeal of peace, long exiled peace, in behalf of her prostrate subjects. To-day they can, if they choose, witness the spectacle of prostrate States pinned to the dust by the bayonet, while that miserable spawn of reconstruction, the illicit offspring of legislative and judicial cohabitation, the loathsome, cancerous wart, (the returning boards,) feed upon a prostrate people like the vulture upon the chained Prometheus.

I am unwilling, sir, that the American people shall turn away, withdraw their sympathy from the people of that blighted, blackened, and ruined land, and leave them to the mercies of a new returning board unheard of in this or any other country. Sir, the pending bill does not provide the time when this joint high commission shall render its decision.

Sir, no man, I take it, at this time seriously doubts the power of the two Houses to count the vote in whatever shape it may come. Then, sir, why drag the judges of the court of last resort from their seats to mingle in this political wrangle? Why do you cut off the last hope of redress either one of the presidential aspirants have? When they have failed in this, what court will consider their grievances by *quo warranto* or otherwise? Not the court that sits in judgment with the high commission. Certainly not, for they are disqualified. Then who shall create the court before whom this question may be finally settled? Congress, I suppose.

Sir, Congress (under the Constitution operating *ex propria vigore*)

has the power to count the vote, and has, in my judgment, no right to dart with it. And if it can delegate it, now is not the time to let go. Sir, Congress can perform whatever it has authority to perform under the Constitution. "Both Houses," in the language of Senator CONKLING, "may do whatever is committed to them," but they cannot delegate to anybody else legislative powers, "*or any other power* which is reposed in Congress and nowhere else." And this, I take it, sir, is the matured judgment of all good lawyers who have examined the question or heard it discussed.

Mr. BOUTWELL, in March, 1876, said in the Senate:

The power and duty to count the vote was in the Congress and that Congress must execute it, and that it cannot under the Constitution be transferred.

Says Mr. MERRIMON, in 1874:

Congress has the power to count the vote, and no other power can do it.

Mr. FRELINGHUYSEN said in the Senate, February, 1875:

I believe the tribunal to count the votes is the Representatives of the people in Congress assembled.

Mr. BOUTWELL in March, 1876, when the question of counting a disputed vote was being considered, said:

There can be under the Constitution no other tribunal to decide that or any other question arising in the course of the proceeding. The duty is imposed upon the two Houses of Congress, and they alone can perform it and have not the power to transfer it to any one else.

Senator MORTON in the Senate, March 16, 1876, said:

Then the question arises which is the more reasonable, which is the better, which is the safer of the two; to adopt the construction which gives this great power to one man, the President of the Senate, who may be counting for himself, or would it be safer to leave it to the determination of the two House of Congress, representing the States and people? If we can agree to adopt either one of these constructions, I say the latter is the safer; it is the more reasonable, it is in conformity with the spirit of our Government and of popular institutions. I then adopt the latter construction.

Who, sir, I ask, denies the authority of the Congress to count the vote? And why are we asked to abandon that time consecrated mode of settling the question, and travel away from the landmarks of fifty years, if not away from the Constitution? Sir, all the woes which have overtaken my people, all the refined cruelty that has been visited on the ruined South, is the result of great straining if not absolute fracturing of the Constitution; and any departure from precedent and law fills them with alarm.

It is a matter of little consequence to my people what man happens to be the President of these States. They expect and desire nothing but peace at home. While the limping cripple, the widow, and orphan struggle on to rebuild their lost fortunes, they only desire to see elevated to power that party who will cling to the Constitution as it is as firmly as the rock which crowns the thunder-scarred brow of the everlasting mountains. I shall therefore cast my vote against the pending bill with the firm conviction that I am at least not far in error.

Counting the Electoral Vote.

SPEECH OF HON. BURWELL B. LEWIS,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. LEWIS. Mr. Speaker, in the short space of ten minutes I can only state without amplifying some of my reasons for supporting the bill to provide a mode for counting the electoral vote reported by the joint committee. Those members upon this floor who come from the South occupy a peculiar attitude in relation to this measure. They are the only southern Congressmen elected since the war who may be considered as true representative men of the people of that section; and hence their views and actions are not only closely scrutinized and criticised, but, as we are painfully conscious, are liable to misconstruction and misrepresentation. While they should never surrender their convictions or their manhood, they should remember that a mind that wisely and voluntarily submits to the inexorable logic of events loses none of its independence.

This bill embodies the result of the conference of the ablest constitutional lawyers now in public life, and it has passed the Senate. It is a measure on the side of peace and order and is demanded by the best interests of the whole country. It is entirely constitutional; it is fair and just. The country is not prepared for the shock of its rejection; the South cannot afford to oppose it. The Constitution wisely leaves it to the States respectively to appoint in the manner designated by their Legislatures the requisite number of presidential electors. In our early history these appointments were directed to be made either by the governors or the general assemblies of the States; but in latter years, in deference to popular rights, these electors have been chosen directly by the people. It is a great historical public fact that such an election was held by the people of all the States on the 7th day of last November. Each State has appointed its electors, and these electors have voted for one or the other of the national candidates. It becomes this House, it is our imperative duty, to use strenuous efforts to uphold the legal votes of all the States instead of to endeavor to make an opportunity to elect a President ourselves through a disagreement of the two Houses.

The people know that the President of the Senate has no power to count the electoral vote, and yet they believe that the contingency contemplated by the Constitution for the House to elect a President and the Senate a Vice-President has not arisen. One party of the people know that their candidates have a large popular majority, and they sincerely believe that they have a decided majority of legal and honest votes in the electoral college; the other party believes that according to the forms of law and a strict construction of the Constitution their candidates have a majority. This controversy has assumed immense proportions, enlisting the feelings and passions of a great people and involving the most momentous issues.

Let neither party be swift to assume extreme positions. Let us be careful not to adopt the ingenious vagaries of heated, immoderate, and interested men for constitutional doctrine. Is it best for the House to take one position and the Senate another entirely antagonistic; or is it not wisest to provide by their concurrence a mode of procedure fair, constitutional, and peaceful? The first course is in the interest of revolution, disorder, and anarchy; the latter is in the interest of peace, law, and liberty. From the very beginning of this controversy I have had no hope for a satisfactory solution of the grave difficulties involved except in an agreement by a joint committee upon a lawful plan of counting, in execution of the general power to count lodged by the Constitution in the legislative department of the Government.

We are often asked, what will be the result if this bill becomes a law? To this I answer, no man can foretell. I hope and believe it will eventuate in the inauguration of Tilden and Hendricks; but in this I may be disappointed. We are told if Mr. Hayes is to be inaugurated the more violent the procedure by which it is done the better for the democratic party. For my part I feel assured that this is a serious error. If he is to be inaugurated at all, far better will it be for him to come in under the reign of law and the auspices of the best men of his own party. This will insure the supremacy of reason, order, and moderation. But if he should become Chief Magistrate of the country by force and violence, and at the hands of the extreme men of his party, then his administration must necessarily drift into arbitrary and despotic measures, and the South will be the principal victim.

Counting the Electoral Vote.

SPEECH OF HON. M. C. HUNTER,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. HUNTER. Mr. Speaker, a solution of the question as to how the present electoral vote shall be counted, so as to satisfy the people and restore confidence in the business interests of the country, is one of the most difficult problems that the American Congress has ever been called upon to solve. As I am limited to ten minutes in the consideration of this important question, it will be impossible for me to undertake a discussion of the real merits of the question within that time; I can do no more than to indicate the vote I shall give upon the question and my reasons for so doing.

I believe that Mr. Hayes has been fairly and honestly elected President of the United States and Mr. Wheeler Vice-President thereof, and that each is as much entitled to his seat as such as any member of the Forty-fourth Congress is entitled to the seat he now occupies on this floor. I am equally satisfied that most, if not all, the members on the democratic side of this House as firmly believe that Mr. Tilden and Mr. Hendricks have been fairly and honestly elected to the positions of President and Vice-President and should be inaugurated as such, as I believe the reverse of it.

The friends of Mr. Hayes and Mr. Wheeler having a majority in the Senate, and those of Mr. Tilden and Mr. Hendricks a majority in the House, and the Senate and House having an equal say as to how the votes shall be counted, and neither willing to yield its honest convictions, in such a case how are the votes to be counted so that one set of the candidates can be declared duly elected? Says one, count them under the provisions of the Constitution as they have always been counted. There is just where the trouble arises. The language of the Constitution is indefinite. One party insists that it means one thing, while the other insists that it means another. The two Houses being equal so far as making the count is concerned, and each contending for a different construction of the Constitution, how is it possible to decide the question as to how the vote shall be counted unless

one House yields to the other, which it is certain not to do? The provision of the Constitution in reference to the counting of the electoral vote is as follows:

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the *votes shall then be counted.*

What votes shall be counted? It must mean the *legal votes from each State.* The electoral vote from each State is now deposited with the President of the Senate, but from each of the States of South Carolina, Florida, Louisiana, and Oregon there are two sets of electoral votes, one for Hayes and Wheeler and the other for Tilden and Hendricks. Which are the legal votes from each of these four States? The republicans insist that the Hayes and Wheeler votes are, while the democrats say that the Tilden and Hendricks votes are. Which party is right? *That is the question to be decided.* Now who is to decide it? A large number of the republican Senators and Members of the House insist that under the provision of the Constitution above quoted, that as the President of the Senate is the custodian of the electoral votes and must open the certificates containing them in the presence of the Senate and House of Representatives for the purpose of having them counted, and there being now no law on the subject of counting them except the above provision of the Constitution, therefore the President of the Senate must *count* the votes, while the democrats and many of the republicans insist that the votes being opened in the presence of the Senate and House of Representatives, it is the duty of the Senate and House to decide what votes should be counted and what not.

Now, the Senate and House being equally divided upon this question of the legality of the electoral votes from the four States above named, it is impossible for the Senate and House, therefore, to decide the question. And as a majority of each House insists that the President of the Senate has not the power to decide what votes shall be counted and what not, then what is to be done? The votes must be counted, and no one has the power to count them, unless the Senate and House of Representatives shall provide by law a mode for counting the same. Many of the republicans say no legislation is either necessary or proper on the subject, as the President of the Senate under the Constitution has the power to count the votes, and that he should go forward and do so, and if the votes thus counted by him show that Hayes and Wheeler are elected he should so declare them elected, and that in pursuance of such election they should be inaugurated as President and Vice-President in spite of what the House might say or do in the premises. On the other hand the democrats contend that, if the Senate and House fail to agree as to the count of the vote, then there would be no election by the electoral vote, and that the House should go forward under the Constitution and elect a President in accordance with the provisions thereof. The Constitution on that subject provides as follows:

The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President.

From the above brief statement any one can see the real difficulty with which Congress has to contend in the counting of the electoral votes. And every one can see the condition in which our country would be placed if the vote is not properly counted and some one legally declared elected, in whose election the people will have confidence and respect his Administration. It is the duty of every true man in a great struggle like this to rise above mere party prejudices and do under the circumstances what is right and for the best interests of the country.

Some insist that it has been the uniform practice since the foundation of the Government for the President of the Senate to count the electoral votes, and that he should therefore count them now; but such is not the fact. The history of each count from 1789 down to 1865 shows that, whenever a question arose as to what were legal and what illegal votes, in each case a controversy sprung up as to who had the power to decide upon the validity of votes, whether it was the President of the Senate or the two Houses of Congress; and for the purpose of settling that vexed question the old fathers from the year 1800 down to 1824 discussed the question at great length and at various times for the purpose of remedying the difficulties that were likely to arise in counting the electoral vote, introduced bills on the subject, which in every case provide for a mode of counting the electoral votes other than by the President of the Senate, but each election having from time to time passed off quietly, as no question arose in reference to disputed votes that changed the result of the election, count the disputed votes as you would, and hence all legislation on the subject was dropped until 1865, at which time both Houses of Congress were republican. In that year the republican party passed what was known as the twenty-second joint rule, which took away from the President of the Senate the power to count the electoral votes and conferred that power upon the two Houses of Congress, and the rule not only provided for the counting of the votes by the two Houses, but it also provided for throwing out the vote of a State where *both* Houses did not *concur* in counting it. Under this joint rule the electoral votes were counted in 1865, in 1869, and in 1873. In 1876 this joint rule was repealed by the action of the Senate. The rule in my judgment was wrong and never should have been adopted, but as the republican party adopted it and counted the electoral votes for President and Vice-President at three different times under it, and thereby refused to permit the President of the Senate to make the count, I feel that it is too late now for the republicans, as a party, to contend that the President of the Senate, and not the two Houses of Congress, should count the vote.

I am a republican from principle, because I believe the republican party to be the purest and best party, and has done more for the people and the country than any other party that has ever existed. I further believe that that party fairly and honestly elected Messrs. Hayes and Wheeler President and Vice-President of the United States at the late election, and so believing I am willing to submit the count of the electoral vote to a fair and honest tribunal, as provided for in this bill, as I see no other way to make a count, for the reasons above stated, that will give satisfaction to the country. I believe, in thus submitting to a count of the votes, that Hayes and Wheeler will be declared duly and legally elected, and will go into office with the approval of the people, without respect to party, and the country be saved from the destroying effects of a political contest which could only injure and in no way benefit the great and growing interests of the country, a contest that would so divide our people as to destroy all confidence in the future perpetuity of the Republic.

Counting the Electoral Vote.

SPEECH OF HON. L. B. CASWELL,

OF WISCONSIN,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. CASWELL. Mr. Speaker, so much has been said upon this question so important to the country, I can hope to bring nothing new to the consideration of the House which will very much aid us in our conclusions. I feel it my duty, however, to state in my own way some of the objections I have to the passage of the pending bill, and enter my protest against such innovation upon an unbroken line of precedents, if not upon the Constitution itself.

I ask the members of this House, the representatives of a great people, to pause and consider well before we strike a blow to the very foundation of our electoral system which cannot be repaired for many years to come. This bill wrenches from the States that delegated power which is so important to them, the selection of a President of the United States. It not only destroys that most important provision of the Constitution but it disregards the precedents established and so well settled by its framers, and by those whose duty it was first to execute its provisions. While it may be true that never before was occasion so great for raising these issues or did the election of a President depend so much upon their construction, yet it is also true that the interpretation of men free from the bias that now gives rise to these questions is a much safer one for the future of the Republic than that given as the result of a heated partisan discussion in which every one feels an intense interest. We may now search in vain for a single arbiter who is not suspected at least of some bias upon these questions.

With much relief, then, and I trust with greater safety, do we return to the ways of our fathers when they looked coolly and with unflinching fidelity upon the rights of the people, as they themselves took care should be preserved to them in this great conpact between the States.

It is a well-settled rule that when a statute or other instrument contains doubtful or uncertain language, we may with great propriety inquire for the intention of the framers; and who can ask for a safer guide than the real intention of those who drew and adopted the Constitution? Shall we say they did not understand its meaning, that it was left for the Congress of the second century to interpret this instrument?

To pass this bill is to assume that every count of the presidential vote from Washington to the present time has been irregular and a usurpation of the duties devolving upon Congress. Are we to suppose there are not ample means by which the election of a President can be consummated without permission or interposition of Congress?

The Constitution delegates to the States the power to appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives. These electors are State officers. To them is committed the duty of electing a President of the United States. They have no other duty. They exist as an electoral college only one day. Their mission is ended at once. The certificate which they make of the vote cast is is as complete and binding as the decree or judgment of any court of last resort. If we go behind it, or attempt to, we invade a most sacred right which belongs to the State alone. Neither Congress nor any branch of Congress nor the presiding officer of either House can

annul or reject it. The State alone may deal with it. These electors are appointed in such manner as the Legislature shall direct.

There can be but one return from a State; one which bears the imprint of State authority, that one which emanates from the State government. That certificate must be opened by the President of the Senate; all others are irregular and out of place. The only question that could be raised is one of State organization. Has the State a government or has it not? If so, it has an executive and a Legislature, and the electoral vote is the one cast as this Legislature has directed. This the President of the Senate may know as he knows the officers of a State. He knows from whose hands the returns are received. He knows by the certificate upon the back of the return. He open this, the official return, and the counting which follows, whether by tellers or otherwise, is but a mere compilation of figures.

All contests as to who are the electors, whether they have been chosen by fraud or otherwise, whether eligible under the restrictions fixed by the Constitution and are entitled to cast the vote of the State which selected them, should be raised and determined in the State prior to the meeting of the electoral college. The limited time fixed for their session, their contemporaneous action throughout the United States, and the short space of time which intervenes after the final count before the commencement of the presidential term confirm the theory that all questions relating to the electors are settled by State authority before the casting of the electoral vote. These colleges throughout the United States meet and complete their work on one and the same day, and they then cease to exist as a college.

The President of the Senate in the opening and counting the vote exercises only a ministerial duty. He is the agent of the electoral college, their chairman, their executive officer to count their vote. If he errs, if he opens and counts a return which is no return, which bears not the proper authentication, and which did not emanate from State authority, if he counts as votes those which are not votes, and thereby declares him elected who is not elected, the injured party or the people may have their remedy by *quo warranto* to try the title of the usurper.

There exists at this time ample authority to prevent all abuses, to defend our institutions from usurpations or encroachments; why then adopt a new remedy? What occasion has arisen that should require us to warp the Constitution and annul the precedents of so long standing?

Among the very last acts of the constitutional convention we find it resolved that the Senators in the Congress which would soon convene "should appoint a President of the Senate for the sole purpose of receiving, opening, and counting the votes for President." Pursuant to this resolution the Senate did appoint John Langdon, who opened and counted, he certifies, the electoral vote and determined that George Washington was elected President. Here is an interpretation of the most positive character given as their understanding how and by whom the electoral vote was to be counted.

Story in his Commentary on the Constitution, volume 1, page 407, says:

> Contemporary construction is properly resorted to to illustrate and confirm the text, to explain a doubtful phrase, or to expound an obscure clause.

Chancellor Kent also says, volume 1, page 465, (note:)

> A contemporary exposition given of the Constitution of the United States, practiced and acquiesced in for a period of years, fixes the construction.

In 1797 we find John Adams as President of the Senate certifying that he had counted the votes which determined his own election.

Again in 1801, while Thomas Jefferson was President of the Senate, we find a similar certificate, both containing the fixed clause, as if it was essential, that they had counted the vote. The result of Thomas Jefferson's count gave him an equal number of votes with Aaron Burr for President, and this was so certified to the House of Representatives. Can it be supposed these men, who have been accredited with originating the whole theory of our Government, were so grossly ignorant as to perform an act, so great and important to the American people in those trying hours, which in no way belonged to them, and sign a certificate setting forth acts of the grossest usurpation, and especially when they on each of these occasions were the persons directly interested in the final result? Can we suppose these men would have performed a task so delicate unless it be to fulfill a plain, well-defined, constitutional duty which they could not avoid? Any other interpretation of their acts would be a sad reflection upon the good sense as well as the integrity of these great men.

I now, Mr. Speaker, desire to call attention to another principle so well settled in American jurisprudence that it needs no citation of authorities.

When a statute, or I may say a constitution, is adopted with a known interpretation or construction of its provisions, that interpretation or construction becomes also binding upon the people. Now in addition to the resolution adopted by the constitutional convention recommending the Senate to appoint a President to receive and count the votes, and in addition to the examples set by Adams and Jefferson in the cases above cited, we find that in 1800 a bill was introduced in Congress somewhat similar to the provisions of the bill now pending. Strong grounds were at once taken by members of both the Senate and House of Representatives, and by some of the men who framed the Constitution, that Congress had no control whatever over this question and that the passage of such a bill would be an innovation upon the rights of the States and a violation of the Constitution itself. After a long and protracted discussion upon this subject, involving the question of counting the votes as well as others, the bill was finally defeated; and the very next count which was had was made by the President of the Senate, and was the one made by Thomas Jefferson.

In the height of this discussion and the fate of this bill, and the great constitutional questions there raised, an amendment or substitute for that very section of the Constitution which provides for the electoral vote was adopted, but the clause relating to opening and counting the vote was left undisturbed and still remains as it then was. The country was satisfied with the way in which it had been interpreted and its provisions exercised, and with this interpretation, with the usage which prevailed at the time, this substitute was adopted and has become binding upon the American people.

The framers of the Constitution took special care to guard the Executive from legislative encroachment. Judge Story gives many reasons for keeping the election of President entirely free from Congress, one of which is the following:

> Compromises and bargains would be made and laws passed to gratify particular members or conciliate particular interests, and thus a disastrous influence would be shed over the whole policy of the Government. The President would in fact become a mere tool of the Congress.

If the learned commentator had had the present hour with the pending bill before his far-seeing mind he could not have used language more appropriate in its description.

The time has now come when the breakers have made their appearance. The effort is now being made to strike down this right, supposed to be reserved to the people beyond the reach of Congress.

It is well known that some step must be taken to turn aside the practice which has heretofore obtained and the interpretations given to the Constitution, and a diversion be made of the electoral vote from the usual channels, or we shall meet the frowns and disappoint an element unsatisfied with our laws and our institutions.

An emergency has arisen in which it is claimed we must barter away a most sacred right reserved to the people. This is the consideration for peace. So much of the foundation of our Government must be torn down and surrendered to "conciliate," as Judge Story says, "particular interests."

While I would sacrifice much, while I would yield almost any other consideration for the precious boon of peace and the prosperity which I trust may follow the final solution of these disturbing elements, I cannot consent to so palpable a violation and destruction of the people's rights as will be effected by the passage of this bill. If we may provide the means of rejecting the vote of one State, we may with equal propriety reject the whole. If we can defeat the will of the people of one State by depriving them of a choice in the election, why not deprive the people of their choice in every other State? If we can question, overturn, or reject the vote of a State, we may at once determine that no electoral vote shall hereafter be counted from any State. If it belongs to the States to determine in what manner the electors shall be appointed, what right have we to question that manner of choosing them? Whence came such power in Congress? Is it anywhere expressed in the Constitution? Is there one line or sentence in that instrument which gives Congress any control whatever over the election of a President except to provide the time for choosing the electors and their qualifications.

The Federal Government is a limited power. All authority not expressly delegated to it is reserved to the States or the people. Whence, then, comes the power to interfere in the casting or counting the electoral vote?

If the election of a President may depend upon the future action of Congress, it becomes a doubtful and uncertain event to be determined by a most doubtful and uncertain tribunal. If that body may determine by itself or by a commission created by it what are electoral votes, it may also determine that there are no votes and that none shall be counted. If it may so decide, what tribunal will administer the punishment? Who can save the people from this usurpation of power? Who will restore to the States this right so properly reserved to them?

An officer like the President of the Senate may be impeached or punished for his disobedience or refusal to consummate the will of the people and perform the duties of his high office, and he may even be commanded by the courts to discharge the duties imposed upon him; but who can define the duties of Congress if that body has control of this question and who will command or punish that body for a neglect of duty?

Mr. Speaker, if we have the power to determine all these questions ourselves we certainly have none to delegate, as this bill assumes to do. Gentlemen may say we are but following the practice of courts in appointing a commission or referee to discharge certain duties collateral to the main questions and that their decisions become the decisions of the court and that in this case the determination of this commission will become the act of Congress and that it is not an exercise of delegated power. The decisions of commissioners of courts and referees are of no binding force until confirmed by the court, but the decrees of this commission are binding and become the fixed rule of action unless set aside by the joint act of both Houses. Nor will it do to say we are but conferring additional duties upon officers already chosen when we select four of the associate justices of the

Supreme Court to form part of this commission. They do not perform this task as judges, as a court. They cease to be a court when they become a part of this commission. They are but men. It is to this I object in part, as I believe to the courts belongs the duty to decide the questions of law, if any there be, involved in the present emergency; and if any way could be devised to hasten a speedy submission of these questions to the Supreme Court as a court, it would have my most earnest approval, and to the decision of that tribunal would the whole people bow in submission.

If we may delegate so important a trust to members of the Supreme Court, we may delegate such authority to any other class of men, to be selected as occasion may require and according to the necessities of the particular occasion. A grand chaos is here opened. Who knows the arbiters of 1881? Perhaps some military board will then be chosen, and thus from year to year as we attempt to elect a President we submit such questions as may arise to an unknown tribunal upon the theory that the Constitution of our fathers and the laws made in pursuance thereof are incomplete, and ours is a Government without a rudder, sail, an institution erected amidst a pending storm for temporary purposes only.

No, Mr. Speaker, I cannot consent to this departure. We had better meet the pending crisis with the Constitution which our fathers used, and which we have found to be a safe anchor, and let us use what power it has in preserving the rights of the people.

Counting the Eectoral Vote.

SPEECH OF HON. A. H. BUCKNER,

OF MISSOURI.

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. BUCKNER. Mr. Speaker, I avail myself of the privilege accorded by the honorable gentleman from Ohio [Mr. PAYNE] to those who desire to present the reasons of their vote on this bill, to submit some of the grounds of my approval of it. As an original proposition, disconnected from the circumstances surrounding us, few could be found who would favor it. It is by its terms temporary in its operation and obviously an expedient to tide the country and the Government over the perils of the next six weeks. Its necessity grows out of the fact that a gigantic conspiracy has been organized to defeat the popular will expressed at the late election by the use of any means, whether fair or foul, and that this conspiracy, organized by the worst element of the party in power, supported by the patronage as well as by the military and naval arms of the Government and defended by a corrupt and venal press, threatens to become a success. One of the chief props of this nefarious plot was the bold and impudent assertion that by the Constitution and by the practice of Congress in the past the President of the Senate was vested with the duty and powers not only of opening the certificates of the electors but of counting the ballots cast by them for President and Vice-President. It is this audacious "pretension," which, in the language of a leading republican Senator, "staggers human credulity," that gives to this conspiracy its formidable and dangerous character; and when it is well known that the President has determined to use the military power of the Government to protect and defend the candidate thus made President by the presiding officer of the Senate, the situation becomes full of peril and solicitude.

If the distinguished leaders of the republican party, who by the very terms of the bill now under consideration, as well as by their very conclusive arguments on the floor of the Senate, have repudiated and denounced this groundless pretension, had proclaimed their opinions as to the want of power of the President of the Senate at the opening of this session, in all human probability the desperate political tricksters who conceived and originated this conspiracy would have halted in their criminal course, and the presidential succession might have been settled without the passage of this bill. They were dumb when they should have spoken from the house-tops; their lips were sealed when duty to their country, as well as to their party, demanded that they should break their silence. But for this dereliction of duty, this miserable pretension would have died the death of the ridiculous, and Congress saved the necessity of this discussion and of the passage of this bill. Nor is it likely that this bill would have been necessary, certainly not in the form now presented, if the people who supported the candidates receiving nearly a quarter of a million majority of the votes at the late election, both in Congress and out of it, had shown the same boldness, determination, and pluck which their ancestors did when a similar attempt was made by the federalists of 1801 to defeat the popular will and inaugurate a revolution.

It is well known that Jefferson and Burr were the republican and democratic candidates for President at the election of 1800, the Constitution then providing that the candidate receiving the highest number of votes should be President and the next highest Vice-President. They each received 73 electoral votes, and, neither having a majority of the whole college, upon the House of Representatives, voting by States, was devolved the duty of electing the President. For several days the balloting went on, neither candidate having obtained a majority of States, the republicans voting for Jefferson and the federalists for Burr, when it was well known by everybody that the people, who voted for both of them, voted for the former for President and the latter for Vice-President. The progenitors of the present republican party determined to defeat and thwart the clearly expressed will of the people, and, finding that some of their party friends could not be brought to the support of Burr, they proposed to defer the balloting until the 3d of March, and then pass an act devolving the Goverment for the next four years on the President of the Senate, who would have been the creature of the federalists of that body. Mr. Jefferson and his friends made no secret of their purpose in the event of such an act, of revolution being attempted. They openly proclaimed their fixed resolution to resist any attempt of this sort by force, and it is a part of the history of the country that the governors of two great States of the Union were preparing to put the militia of their States on a war footing. The conspirators of 1801 quailed before the outraged indignation of a free people, and Mr. Jefferson was elected President by the House, notwithstanding then, as now, this opposition to him and his party had control of the Government in all its departments, legislative, executive, and judicial.

Mr. Speaker, I have never doubted that, if the democratic party had pursued the same course with our ancestors of 1801, if they had treated the pretension of the President of the Senate to count the electoral vote and declare who was elected President as a bold usurpation and an act of revolution that under no circumstances would be submitted to, if the resolution of the conventions of the 8th of January of the great States of Ohio, Illinois, and Indiana had been followed up by the States of the East and Northeast, this wicked and dangerous conspiracy of the men who have, by their misgovernment, peculations, and corruptions, brought disgrace and defeat to their party would have been abandoned and the will of the people as expressed last November carried out. But, sir, such seems not to have been the sentiment of those whose duty it was to act in this matter.

It is a mistake, however, to suppose that the pretension that the President of the Senate could alone count the electoral vote is the only difficulty to a peaceful and satisfactory solution of the difficulties surrounding the presidential succession. That "pretension" being admitted, all other difficulties vanish before the exercise of this one-man power. But consigning this pretension to the grave of forgotten follies, as the provisions of this bill in fact do, there are several disputed questions which make their appearance, and must find a solution. Conceding that the count of the electoral vote is to be made by the two Houses and that each House has equal power and prerogative in making it, the troublesome question arises whether it requires a concurrent vote of both Houses to reject as well as to affirm or count a vote. At no time in the history of the Government has this question assumed the importance or the character it now possesses. We have had the votes of States in dispute, but we have never had such disputes in a condition of things like the present, that is, when *the disputed votes were decisive of the result and when both Houses of Congress* differed in their political *complexion*. Up to this time the votes of disputed States were not decisive of the result or both Houses were of the same political faith. Hence it is that the question as to the power of each House to count or reject a vote must be decided or the probabilities are that no result would be reached by both Houses by the 4th of March. And this is neither a constitutional question—one that has been decided by uniform and unbroken precedent—or one about which any fair-minded reflecting mind can have any reasonable doubt. It is the rock on which the bill of 1800 was wrecked between the two Houses.

In the bill of 1824, passed in the Senate under the leadership of Mr. Van Buren, and approved by Mr. Webster, then chairman of the Judiciary Committee of the House, each House must concur in the rejection of a vote, or it was entitled to be counted. The twenty-second joint rule, adopted in 1865, rejected the vote if either House failed to approve it. Amid the doubt and uncertainty on this mooted question, it is absolutely essential that some agreement should be had or we may drift into anarchy, an interregnum, the usurpation of the President of the Senate, or something worse.

Thus situated, as we are, it seems to me that there can be no excuse for a negative vote on this bill, unless it is believed that the two Houses cannot count the electoral vote under the Constitution or there is some other valid constitutional objection to it. If there were any doubt as to the phraseology of the Constitution, the long and unbroken line of precedent for seventy-five years ought to set this question at rest. A great jurist has said that—

Constitutions are not theories proposed for ingenious speculation, but fundamental laws ordained for practical purposes. Their meaning once ascertained by judicial interpretation and contented acquiescence, they are laws in that sense until the power that made them thinks proper to change them.

There is nothing settled or that can be settled by continuous and unbroken usage and by the opinions of statesmen of all political parties both living and dead, unless it is the power and duty of "the Senate and House of Representatives," sitting as "unmixed bodies," to examine and decide the validity or invalidity of the electoral vote

and count the same. I assume that to be the mandate of the Constitution, as the bill before us concedes. But it is urged as an objection to this bill that it divests the two Houses of their power and authority to count the electoral vote and transfers it to the judges of the Supreme Court. But it is obvious that neither objection has any foundation in fact. It neither delegates its power and authority to the courts, nor does Congress in any way divest itself of its complete jurisdiction over the matter. The duties imposed on the judges are imposed upon them as citizens and not as justices of the Supreme Court; just as Justice Nelson was confirmed as one of the high joint commission that made the Geneva award. They are selected because of their judicial training, their pre-eminent learning, and exalted position and character; but if Congress had the same right to command their services, five judges of any of the States of the Union might have been selected just as well.

Nor does the bill divest the two Houses of their jurisdiction and control over the count. The commission of fifteen occupy the same relation to Congress that a master in chancery or referee bears to the court that appoints him. He is intrusted with the discharge of certain duties in aid of the court, and he may be required to decide both questions of law and fact, and make his report to the court by which he is appointed. But his judgment is subject to the confirmation or disapproval of the court; just as the opinion of the commission authorized by this bill is subject to rejection by the concurrent action of both Houses. The two Houses by concurrent action still maintain their control over the judgment of the commission, and it may be reversed if both Houses concur in so doing. But this is objected to, not because it is unconstitutional, but I suppose on the ground that either House, as under the joint rule of 1865, should have authority to reject a vote of a State. I do not purpose going into this mooted question. It is sufficient to say that it is one on which the two Houses may well compromise, and on which the Constitution is silent, and the usage far from being uniform. There is no superiority given to one House over the other, but each stands on the same plane, with equal right to judge and decide, to confirm or reject; and surely it is quite as competent for Congress to regulate its own action in this regard, as it would be to enact that where the circuit and district judges are sitting on a trial of a cause the report of a referee should not be disapproved except by the concurrence of both judges. By an act of the last Congress a commission was appointed by the two Houses, with power given to them to select two experts, who should report upon the remonetization of the silver dollar and other kindred questions. We have not divested ourselves of our constitutional jurisdiction over the silver question any more than the present bill divests the two Houses of their control of the electoral count, and I know of no law or constitutional prohibition which would have prevented Congress from providing that the recommendation of this silver commission should not be overruled except by the action of both Houses.

Mr. Speaker, the validity or invalidity of the disputed electoral votes are judicial rather than legislative or political questions. When once it is ascertained that the votes are legal, constitutional, and valid votes, the act of counting them is purely ministerial. And it is well that eminent judges, in connection with the best judicial minds of each House, be empowered to examine and pass upon the questions involved. They are required by this bill to be sworn to act impartially and decide the questions submitted to them to the best of their ability, and I have confidence that the judges selected, as well as the members of the two Houses that may be joined with them, will honestly and faithfully do their duty, not alone to their party, but to their consciences, their country, and their God.

Counting the Electoral Vote.

SPEECH OF HON. THOMAS C. PLATT,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. PLATT. Mr. Speaker, to me the following reasons seem to justify completely the vote I mean to cast for this bill:

First. While I firmly believe that Governor Hayes was fairly elected President, I cannot deny that a large number of citizens and of members of this House believe with equal sincerity that Mr. Tilden was elected. It is an election so close that all admit that the vote of one State and that one vote of that State must decide the result. It is a disputed election; the title to the office of President is not so clear in the minds of the people that Governor Hayes, if he were put into office without such an adjustment as this bill proposes, would have that general or universal consent to his administration which is necessary to the welfare of the country. In supporting this measure I do not conceive that I surrender any rights that are rights. If I held a piece of real estate the title to which was clouded, I should ask the proper authority to look into it and to give me a clear title. I should not thereby declare or confess that I had no faith in my own right, but rather that I had so firm a faith that I was willing to submit all the facts to an honest and proper tribunal and abide its decision.

Second. That the manner of settlement proposed in this bill is constitutional and legal, I cannot doubt, when I, who am no lawyer, realize the fact that it was framed by the most eminent lawyers of both political parties in both Houses, and that in the Senate it received the support and votes of the ablest constitutional lawyers who are members of that body. If I, a layman, should hesitate to take their opinion, I should only convict myself of rashness and presumption.

Third. I am a life-long republican, a strict party man, who has had and still has an abiding faith in the past, the present, and the future of that great party. Still, I am not of those who believe that in so important, so solemn, so vital a proceeding as is intrusted to the committee by this bill, the judges of the Supreme Court who are to take part in it will be actuated by partisan considerations. I do not even dare to entertain the belief that the other members of the committee, in the face of their grave and awful responsibilities, will act as partisans. I should be ashamed of myself and of my American citizenship if I cherished such suspicions. I grieve to think that there are any who are willing to impute such base motives to the eminent men who must compose this commission. If our cause is just, we, as republicans, have nothing to fear from the grand inquest of this tribunal. They will deal justly and honestly. If our claim is false; if our title to the Presidency is not true, I trust there is no republican in the land so base as to desire such a lease of power.

Fourth. The voice of the people of the country favors and demands the passage of this bill. Especially is this true of the business and commercial interests of the nation, and they it is who comprise the great majority of the thinking, working, patriotic people of the land. Every property-owner, merchant, trader, banker, farmer, mechanic, or laborer is personally interested in having a peaceful settlement of this difficulty which is depressing values, paralyzing trade, retarding industries, and destroying that confidence which is the foundation of business enterprise and prosperity. They want peace, they want prosperity, and they do not for a moment cherish the thought that they are securing it thus through compromise or dishonor.

Some of us, and many people outside these walls, have honest fears of civil war unless some such amicable settlement as this bill provides is adopted. I do not care to express my own opinions on this subject; but all will agree that short of civil war no greater calamity could befall our country than to inaugurate a President about whose title to the office a considerable part of the people, including a portion of the republican party, felt a doubt. Such a doubt, even if it did not provoke resistance to his authority, would yet maintain a condition of uncertainty and dissatisfaction throughout the country which would be unendurable; because it would paralyze all industry, intensify prevalent distress, and prevent entirely that revival of enterprise and commerce which we so sadly need, and to which, I believe, we may hopefully look forward if we can but secure a contented acceptance of the result of the presidential election. Such a result this bill will surely give us. I for one declare here and now that I am ready to abide by the decision of this proposed tribunal if this bill shall become a law; to accept its verdict, whatever it may be; philosophically and patriotically if against my own convictions and hopes, gratefully and joyously if it shall firmly establish the right and title to the presidential office of that brave soldier and true patriot, Rutherford B. Hayes.

I hope for the passage of the bill because it will avert from us as a nation a great calamity, and because by adopting this settlement we may hope to strengthen and continue the proud career of the republican party, prolong the peaceful life of the nation, perpetuate the existence of orderly and law-abiding liberty, and set an example to the world of which our children and children's children may well be proud—an example which will elevate us in the opinions of all good men everywhere, and show us to be a nation of freemen truly capable of self-government, because capable of self-restraint, patience, and forbearance under the greatest dangers and difficulties.

Counting the Electoral Vote.

SPEECH OF HON. JOSEPH H. RAINEY,

OF SOUTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. RAINEY. Mr. Speaker, the pending bill has doubtless attracted more general attention and awakened a deeper interest in its several provisions than any measure that has been presented before Congress since the beginning of the last century.

Not even the grave questions involved in the proposed war policy of 1860, a momentous period in American legislative discussions, could well cope in importance with the great subject now under consideration. At that time the idea of actual conflict was a novel one with the majority of the people, and its consequent perils were rather fascinating in their dim conception.

Now, already emerged from the horrors of civil strife, and its smoke nearly, if not entirely dispelled, we cherish yet closer by comparison the blessings of peace and regard with aversion all thought of future warrings. Hence it is that the pending measure has received such heartfelt indorsement from the masses, regarding it as they do as the means of averting a near resort to arms.

Granting this grim foreboding to wear a semblance of reality, can we, with even the slightest sense of fealty to the Constitution, suffer that anchor of our Government to become broken merely to stave off yet a little while longer an inevitable conflict? For it must come sooner or later. Once permit the Constitution to be made a mere piece of pottery to fashion as party exigencies seem to demand, and that moment we are cut adrift from safe moorings and carried beyond rescue upon the tossing billows of the political sea.

I have given time and close study to this proposed measure. I object to the bill generally, because, from even a common-sense standpoint, it is at utter variance with the fundamental law of our country—an equity which marks the distinctive features between the organism of our Government and that of other lands. Since my initial entrance into your honorable body no proposition has come before it in which I have taken so strong an interest. The report of the joint committee is singularly adroit, having the pleasing property of impressing the reader very favorably on a first and casual reading. But reflection thereon tends inevitably to arouse suspicion. It is evasive in tone and lacks a positiveness and firmness of expression which would seem to indicate a purpose or desire to shrink from responsibilities that should be assumed. This surely is not owing to its approximate omnipotent origin, as described in the following sentence taken from the remarks made by a distinguished Senator before the Senate at the opening of the debate on the pending subject. He said:

* * * There is no human agency, there is nothing short of the overruling providence of the Almighty that can furnish a juster test of human rights than this.

If such be true, in my judgment, every sentence should have been bold and well nerved with the consciousness of the purity of its origin and the sanction of Omnipotence. I object to the bill specifically because it is in open defiance of the Constitution, which provides that the executive, judicial, and legislative powers of the Government shall be regarded as entirely separate and maintained as such; the bill proposes to coalesce two of these three branches and make them judges of the rightful claim to the posession of the third. And further, in the event of an appeal from the decision of this tribunal, for which contingency the bill provides as follows:

SEC. 6. That nothing in this act shall be held to impair or affect any right now existing under the Constitution and laws to question, by proceeding in the judicial courts of the United States, the right or title of the person who shall be declared elected, or shall claim to be President or Vice-President of the United States, if any such right exists.

The only court to which an appeal could be made is crippled in its power to decide by the fact that a majority of its members will have already passed judgment upon the question, and thereby rendered nullify their subsequent vote.

And again the vaunted impartial character of this tribunal is somewhat dwarfed when we recollect that its aggregate is an odd number, and that the pairing of votes therein will leave yet one upon which the fate of a party must rest. It will prove, in fact, the election of a President by one man rather than by a majority of the people of the United States, and therefore the ignoring of the legal right of the people and a challenge of their lawful franchise; a franchise which, once assailed in this manner, Heaven alone can foretell what other infringements it may have to endure in the name of law and expediency.

Gentlemen refer to the necessity of this compromise plan as being of the gravest importance in order that the paralyzed industries of the country may be revived and renewed; as though, indeed, we were suffering more in such direction than any other country. Surely they must have overlooked the present dearth in business that is spread as world-wide as it is proving disastrous. This lack of business activity is not owing to any political cause incident to the present dilemma in which we find ourselves, but to the one fact that we have fallen upon a troubled period when, indeed, "the time is out of joint." Neither Hayes nor Tilden is able to change the mercantile situation nor to stem the tide of the logic or sequence of events.

I am opposed to the bill also because in my opinion it is a reflection and an outrage upon the wisdom of the authors of the Constitution who bestowed so much care and attention upon its construction. Framed at a period far removed from party strife, which has become so rampant during the last quarter of the present century, the spirit of toleration and impartiality has left its ineffaceable impress upon that instrument.

Finally, and with all possible earnestness, I venture to suggest that extreme caution be exercised in the premises, lest the passage of this bill be taken as an announcement to the world that, after the test of a hundred years, it has been found impracticable for a republican government of such magnitude as ours to exist upon a firm and peaceful basis; just, yet charitable, and equal always to any emergency. The demise of this Republic would be a calamity of no ordinary character. Such a result would increase the arrogance of potentates and plunge in the depths of humiliation and despair a large portion of the world's inhabitants, who have watched with unfeigned interest our steady rise as like a star unto its zenith, and who have cherished the best hopes for the perpetuity of our institutions and the life of the Republic; and we ourselves would be called upon to mourn over our rended country as did Antony of old over the prostrate body of Cæsar, when, slightly paraphrasing his words, he said:

O, mighty country! Dost thou lie so low?
Are all thy conquests, glories, triumphs, spoils,
Shrunk to this little measure? Fare thee well!

For these and other reasons which I could assign, did time permit, I feel constrained to vote against the pending bill.

Counting the Electoral Vote.

SPEECH OF HON. C. FREEMAN,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. FREEMAN. Mr. Speaker, in the settlement of all questions of constitutional law the primary and fundamental source of information, in a Government such as this, must lie in the examination and correct interpretation of that basis of all law, the Constitution itself. This is the root whence springs the life of all national law, and it is a strange matter indeed if, after nearly one hundred years of its study by the minds of some of the noblest specimens of intellect the world has ever produced, we are left now stranded, in the face of insurmountable danger, which all that time was liable, during any four years, to arise. Now, sir, what are the mandates of the Constitution in this behalf? They are, as regards the election of a President, first—

Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.—*Article* 2, *section* 1, *clause* 2.

The Congress may determine the *time* of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States."—*Article* 2, *section* 1, *clause* 4.

In these provisions of the Constitution, together with the twelfth amendment hereafter referred to, we must search for a clear and proper understanding of the whole question of the counting of the electoral vote. Under the reading of clause 2, section 1, article 2, the entire question of the *manner* of appointment of electors is placed within the control of the State Legislatures. No other power is found anywhere to infringe a hair's-breadth on this exclusive right. It is above and beyond Congress, and draws vitality from the very source of life to Congress itself. As well might the State Legislatures undertake to interfere with the constitutional rights and powers of Congress, as the latter assume to interfere, in whatever manner, under whatever claim, in whatever shape, or under color of whatever right, with the sole, supreme, unimpeachable power of the State Legislatures. The people of the States themselves, save in so far as they can elect from time to time their legislators, cannot interfere, and no other branch of the State governments have aught to say.

THE LEGISLATURES OF THE STATES ARE SUPREME

in this matter and they can provide any manner of appointment they deem best. This constitutional power being supreme, it follows that its exercise cannot be disputed or reviewed, for to give to Congress a right to review the action of the Legislature is to deprive it at once of its supreme authority and to nullify the mandate of the Constitution. But "the Congress may determine the *time* of choosing the electors and the *day* on which they shall give their vote, which day shall be the same throughout the United States." As this power is not in dispute and does not touch the merits of the question as at present presented, it is hardly necessary to dwell upon it. Any right Congress would have upon the subject is to be looked for, if anywhere, in the constitutional power given. But it would but go to the formality of the vote and not to its substance; and in the only case, that of Wisconsin in 1857, in which the question arose of the power of Congress to control the count, when it appeared on the face of the certificate that the electoral vote had been cast on the day succeeding the one prescribed by law, the vote was recorded and so stands to-day. It was a case much argued by some of the ablest men of that day; but the action then taken remains a record to this hour. The only argument adverse to the claim of counting the vote of that State was practically founded upon the express constitutional provision followed by the act of Congress itself.

Having thus seen that the manner of appointment is entirely and absolutely vested in the State Legislatures, we come to Article 12 of the Constitution, before referred to, which expressly directs—who? Not Congress, or either House thereof, but the electors themselves how they shall proceed until they are finally directed to *certify* and transmit sealed, not to Congress, or the Senate, or House separately, or to the President of the Senate, but to the *seat of Government* of the United States, *directed to*

THE PRESIDENT OF THE SENATE.

Now, just here let me ask who is the President of the Senate? For an answer we turn to clause 4, section 3 of article 1 of the Constitution, and we find that—

The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.

It is therefore in his capacity as Vice-President, or, in the case of a Presidency *pro tempore*, by his relation to that high office, that the electors are directed to act. As President *pro tempore* alone he could not act. There is no authority for it in the Constitution. But as President *pro tempore*, acting Vice-President, he can, for as acting Vice-President he becomes technically President of the Senate under the Constitution. And this marks the constitutional distinction between the President of the Senate as such under the Constitution, and as the mere presiding officer or organ of that body.

The President of the Senate shall, in the presence of the Senate and House of Representatives, open *all the certificates* and the votes shall then be counted.

And this raises the question with regard to which hasty partisanship has filled the air with its thousand evil tongues, and sought, by devices well learned through long years of assuming power, to breathe into loyal hearts the thoughts of another scene of blood and ruin such as these same imbittered spirits conjured up into all the horrors of reality scarcely sixteen years ago. Why, sir, one is led to think we have already entered unconsciously into the first dread step of war. We pause to seek for the existence of a supreme court to expound the supreme law of the land and for an executive whose duty it is to enforce it. Have they passed out of existence or have we already reached that stage of independent government when, like unhappy Mexico and the unstable republics of South America, the solution of party questions is to be found only in individual supremacy and open revolution? Why is it, sir, that the law of the land is not permitted to take its natural course? What bird of evil omen has cast its shadow over this land of free people and awakened fears of the impending downfall of free government? It is the spirit of treason and rebellion already sending grumbling and muttering threats abroad, as sixteen years ago, of what is to be the result if such constructions of law and principles of action are not adopted in the present condition of the presidential election as shall suit the views of the defeated party. Sir, before looking into the legal merits of the question I desire, as solemnly as words can enable me, to enter

A WARNING PROTEST AGAINST ANY COMPROMISE

with such a condition of affairs. If to-day, when the people of the whole world are singing hosannas to the glory and happiness of free government as carried to the remotest corners of the earth by the national gatherings here of the past year—if, I say, to-day and at this hour, with each day bringing to us the echoes of their greetings, we are forced to admit that we are living under law so shadowy and unreal as to be without the power of enforcement, then God take into his keeping the hope of the oppressed, for the future of free government is enshrouded in darkness. Sir, I believe in the law, and the life of the law is the execution of the law. When a citizen, or a body of men, or a great party cry out for the execution of the law in a certain form and threaten resistance if not heeded, their hearts are filled with treason, I care not who they are. No party can or will endure, in a government republican in form, which does not live up practically and earnestly to the forms of law; and no government republican in form can endure which does not live up to and enforce, in the hour of threat and danger, the law which is the foundation of its existence. Now, sir, let us turn to the question of

THE COUNTING OF THE ELECTORAL VOTE,

the law for which, if any, is found in the twelfth amendment to the Constitution already referred to. Its words are:

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted.

Now, sir, what is the true intent and meaning of the words "certificates" and "counted?" The word certificate means here "a written declaration legally authenticated," or "a written testimony to the truth of any fact." The word to count means "to tell or name, one by one, or by groups, for the purpose of ascertaining the whole number of units in a collection; to number, to enumerate, to compute, to reckon;" and to compute is to determine by calculation, to ascertain by mathematical process; and the count is the amount ascertained by numbering.

The language of the Constitution is not that the votes shall be counted *by the* Senate and House of Representatives, but "in the *presence* of the two Houses." They are entirely *passive* and clearly not active in the matter. On page 334 of the journal of the Federal convention the words "in presence of the Senate and House of Representatives" were moved to be inserted after the word counted, and this motion was carried. The journal of the convention does not show that any motion was made to strike out the words "in that House," which occur in the original draught, nor does it show why the words "in the presence of the Senate and House of Representatives" were inserted in the place of the words "in that House," instead of after the word "counted," as was voted by the convention.

This was in place of the words "shall *in that House*" open all the certificates, and the votes shall then be counted, which shows that the *original idea was not even to have the lower House present at the counting*. The electors were not intended to meet at the seat of the General Government, for a motion to that effect was negatived. Congress may determine the time of choosing the electors and of their giving their votes, but the *manner* of appointment of the electors remains in the local or State Legislatures, and only the manner of *certifying* and *transmitting* their votes is given to Congress. By what authority can Congress question the appointment? It has only to see as to the proper exercise of the powers granted, viz: The time of choosing the electors and of their giving their votes and of the proper certification and transmission. If their custody and opening are in the power of the President of the Senate and he is directed, "in the presence of the Senate and House of Representatives," he shall open all the certificates, and "the votes shall then be counted," and no reference is made to any other construction of the sentence, the common sense of the language, the implication of law, all show that the counting is to be by the custodian of the trust. It cannot be doubtful, or it would have read "shall open all certificates in the presence of the Senate and House of Representatives, *by whom* the votes shall then be counted." The new-born horror with which the idea of

THE POWER OF THE PRESIDENT OF THE SENATE

to count the votes is *all at once investsd*, seems to have no existence as to the faithful trust of their unlimited custody for months. If he could count them against the judicial dictates of his conscience, how much more readily could he alter them or destroy them altogether. A thousand excuses could be made for the secret act, while the other is to be executed with both Houses as witnesses of the wrong, if any be attempted, and with the punishment of impeachment before the wrong-doer.

By the Federal Constitution, as I before remarked, the manner of the appointment of presidential electors is in the State Legislatures. The question of how that right has been exercised is one for the State to decide. But the electors once appointed, the manner of the certification and transmission of their votes can alone be directed by Congress, and if properly done they are bound to be counted. The President of the Senate is directed to open the votes. There can be but *one valid and correctly certified and transmitted certificate* from each State. There may be many false and fraudulent ones. He is to open all the *certificates*. A false paper is not a certificate, and he is not directed to open anything but the *certificates*.* I would like to be pointed to the line in the Constitution saying this question must be submitted to Congress, and I would like to be pointed to the principle of interpretation by which when the Constitution delegates a power which requires the exercise of conscientious individual action, that is not the delegation of judicial power. If the certification is correct it proves itself; if it is not correct it is no certification. How in cases of dispute is the President of the Senate to determine whether he has opened the vote until he examines the certificates, and this again is the exercise of a judicial power co-extensive with and necessary to the execution of the power to open the votes. But the true intent and meaning of the Constitution upon this point is unanswerably shown by the interpretation put upon it by the actual framers of the document in the resolution in the nature of instructions of September 17, 1787, by which the Senate was advised how action should be taken on the first vote.

COUNTING THE FIRST VOTE FOR PRESIDENT.

The instructions were that the Senators should appoint a President of the Senate for the sole purpose of receiving, opening, and counting the votes for President. In accordance with this interpretation of the Constitution by those who framed it and on undeniable evidence of the acceptance of the Constitution by Congress, at the election for the first presidential term, April 6, 1789, we find it was ordered in the Senate "that Mr. Ellsworth inform the House of Representatives that a quorum of the Senate is formed; that a President is elected for the *sole* purpose of opening the certificates and *counting* the votes of the electors of the several States in the choice of a President and Vice-President of the United States; and that the Senate is now ready, in the Senate Chamber, to proceed in the presence of the House to discharge that duty; and that the Senate have appointed one of their members to sit at the Clerk's table to *make a list* of the votes as they shall be declared; submitting it to the wisdom of the House to appoint one or more of their members for the like purpose." Then again in the form of the Journal of the Senate of the same date it is broadly stated that "the President elected for the purpose of counting"—here the word "opening" is omitted—"the votes declared the Senate and House of Representatives had met, and that he, in their presence, had opened and *counted* the votes," &c.

THE FIRST CERTIFICATE OF ELECTION FOR PRESIDENT,

the one given to General Washington, contains these words:

Be it known that, the Senate and House of Representatives of the United States of America being convened in the city and State of New York the 6th day of April, A. D. 1789, the underwritten, appointed President of the Senate for the sole purpose

of receiving, opening, and counting the votes of the electors, did, in the presence of the said Senate and House of Representatives, open all the certificates and count all the votes of the electors for a President and for a Vice-President; by which it appears that George Washington, esq., was unanimously elected, agreeably to the Constitution, to the office of President of the United States of America.

In testimony whereof I have hereunto set my hand and seal.

JOHN LANGDON.

And so, too, the certificate to Vice-President Adams contains the same words; so that at that day, when the intention must have been clear and well understood, the matter of the opening and counting and declaring the vote was indisputably in the President of the Senate, for he exercised it without question or dispute. So, too, the Journal of the House is in strict conformity with that of the Senate. On the same day it appears therein recorded that Mr. Ellsworth, on behalf of the Senate, said:

Mr. Speaker, I am charged by the Senate to inform this House that a quorum of the Senate is now formed; that a President is elected for the sole purpose of opening the certificates and counting the votes of the electors of the several States in the choice of a President and Vice-President of the United States, and that the Senate is now ready in the Senate Chamber to proceed, in the presence of this House, to discharge this duty. I have it also in further charge to inform this House that the Senate has appointed one of its members to sit at the Clerk's table to *make a list* of the votes as they shall be declared, submitting it to the wisdom of this House to appoint one or more of its members for the like purpose.

And it will be noticed that each body elected parties *"to make a list of the votes as the same shall be declared,"* showing that the act of declaration of the vote was to be recorded as the substance of the list. This seems to leave the question so utterly beyond argument at this period of time, that it would be a work of supererogation to say more in that connection.

HOW HAS THIS CONDITION CHANGED?

To ascertain we must follow the Constitution and laws made in pursuance thereof. Accordingly we next find a law passed by Congress in 1792 under and by virtue of the Constitution which entirely harmonizes with all these forms and actions, and one that shows that there was no thought at that time of Congress, as such, having anything more to do with the electoral vote than as witnesses. It clearly intends to keep even the custody of the votes out of the hands of Congress in case of the absence of the President of the Senate. Surely, if Congress were to pass upon the substance and validity of the certificates, their care and sole keeping would not have been deposited so studiously in other quarters; for, after in section 5 enacting (without referring to the Vice-President as if there was no thought of misunderstanding on this point) "that the said certificate," &c., agreeable to the Constitution, should issue to the President declared elected, section 6 goes on to provide for the custody of the votes in case of the President of the Senate, who was the Vice-President, not being at the seat of Government on their arrival, &c., by directing that they be placed, not in charge of the Senate President *pro tempore* or House of Representatives, or both, or as they might direct, but in the office of the Secretary of State as a place of safe-keeping, and to be delivered over, &c., to the President of the Senate. I desire it to be observed that so far, that is the

TERMINATION OF THE CONGRESSIONAL PROCEEDINGS

of the election for the first term, not an act committed or a word spoken in either branch of Congress is at variance with the plain language of the Constitution that the President of the Senate is to receive and open the certificates, which, *ex necessitate rei*, involves the determination of the fact as to what are the certificates, while every action unanswerably adopts the construction of the resolution of September 17, 1787, "that the purpose of electing a President of the Senate is for the single purpose of receiving, opening, and counting the votes." It was intended that thisquasi-judicial power should be in the hands of the Vice-President, who by the Constitution is President of the Senate, and as there was no Vice-President to thus act, it became necessary to appoint a President of the Senate, whose powers and duties were strictly limited to the necessities of the occasion. This view is still further strengthened if we look to the language used in relation to

THE APPOINTMENT OF TELLERS,

whose duties were merely clerical and in no sense indicative of any assumption of power by either House, namely, "the Senate appointed one of its members to sit at the Clerk's table *to make a list of the votes*," not after they are opened, but "as they shall be declared," and by the House that two members "be appointed on the part of this House to sit at the Clerk's table with the members of the Senate and *make a list* of the votes *as the same shall be declared*." Is this not clear that the President of the Senate, as Vice-President or acting Vice-President, is to open and declare or announce the vote before the list is made, and that the list must be made in conformity with such declaration or announcement, and that such action, under the obligation of the Constitution, is of such a character as to be mandatory and it cannot be avoided by either Congress or the President of the Senate, and must from the very necessities of the condition require the use of the good conscience of the latter and to that extent be quasi-judicial?

THE SECOND ELECTION OF PRESIDENT.

At the election of 1793 the mode of procedure was identical, and I desire to call attention to the message from the House of Representatives of February 5, 1793, with regard to the appointment of a committee "to join," &c., * * * "of *examining* the votes," &c., for President and Vice-President. But after the two committees had ascertained the mode by examining the supposed law and the precedent, they reported "that one person," &c., * * * "make a list of the votes as they shall be *declared*," of course by the President of the Senate acting as a constitutional officer. Here the language is sometimes loose, but there nowhere exists a thought of questioning the powers of the President of the Senate under the Constitution. So the Journal of the Senate of February 13, 1793, reads "the certificates of the electors," &c., "were by the Vice-President," &c., (here the title President of the Senate is not even used,) tending to show more forcibly that it was in this character in which the presiding officer of the Senate derived

HIS CONSTITUTIONAL DUTY,

and not simply as the officer elected by the Senate from its own body to preside. The Constitution makes the Vice-President the President of the Senate. At the first election there was no existing Vice-President and the Senate could not elect one, for there was no vacancy. It became, therefore, necessary to elect a President of the Senate for the purpose of executing the functions and duties in connection with the counting of the vote, but he was created, and his duties confined to that particular thing. It is in no wise as President of the Senate, but as Vice or acting Vice-President that his duties and functions under the Constitution arise, and in no one portion of that instrument, as I hope to convince the House before I close, is a more profound sagacity shown than in that where this high and solemn duty is placed in the hands of that officer. That at that early day the relationship of the Vice-President by relation of his office to the Presidency of the Senate was not in all minds is quaintly illustrated by the announcement of the Secretary of the Senate to the House of Representatives on the occasion of the second declaration of the electoral vote, that he was "directed to inform the House that a President of the Senate is elected," &c., whereas Vice-President Adams presided, declared the vote, and announced the result. The only other

ASSUMPTION OF THE TWO HOUSES

at this time was the proper and necessary one, they having been witnesses of the announcement of the result, of the notification to the parties elected. And here I desire to ask attention once more to the language of all these various resolutions. At the election for the third term a similar resolution "to ascertain and report a mode of *examining the votes*" was adopted, which resulted in the adoption in the same united resolve for the appointment of tellers "to make a list of the votes as they shall be declared." And this was the only examination carried out, was the only one lawful under the Constitution. And in the declaration of the second and third electoral votes the Vice-President had to declare his own election, in the one case the Vice-President and in the latter as President, and no one had the hardihood to suggest at that early day when the practical workings of that instrument were upon trial before watchful minds that such was not the law. The terms were doubtless well considered and by their selection speak with double force the true intent. To *read* the vote or to *declare* it in connection with the sole custody and power and duty to open it, is to be compelled to pass upon its validity and is essentially judicial.

TO COUNT IT AFTER IT IS DECLARED

is to sum it up, to obtain its result in numbers in accordance with the declaration, and is nothing but clerical and ministerial. No sophistry of language can make it otherwise, as no condition of circumstances changes the organic law. To view it otherwise is to say that either House had it in their power from the commencement to defeat the will of the people from whom they received their own existence. The manner of the appointment for electors is in the Legislatures of the States. If this be so, and it is so by the express words of the Constitution, all the incidents of the election must lie in the same direction and can by no distortion of power be assumed by Congress. It is essentially different from the election of its own members, for there the power is directly given to look into the qualifications, which include their due election.

THE FIRST DISAGREEMENT

between the two Houses was shown by refusal to agree to the first bill, proposed to provide a mode of deciding disputed elections of President and Vice-President of the United States.

This disagreement was mainly on the point of whether the votes should be *admitted* upon the concurrence of the two Houses or whether no votes should be *rejected* save by concurrence of both Houses, and, strange as it may appear to the present House, it was the House that firmly adhered to the latter.

THE THIRD ELECTION FOR PRESIDENT.

Here, upon no agreement being arrived at as to the mode of examination of votes by the joint commission, on motion the Senate—

Resolved, That the Senate will be ready to receive the House of Representatives in the Senate Chamber on Wednesday next, at twelve o'clock, for the purpose of being present at the opening and counting the votes for President of the United States; that one person be appointed a teller on the part of the Senate to make a list of the votes for President of the United States as they shall be declared, and that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, which shall be entered upon the Journals; and if it shall appear that a choice hath been made agreeably to the Constitution, such entry on the Journal shall be deemed a sufficient declaration thereof.

On the next day the proceedings show that Mr. Wells was appointed a teller on the part of the Senate for the purpose expressed in the

above resolution. On February 11, 1801, the next day, it was ordered by the Senate—

That the Secretary notify the House of Representatives that the Senate is ready to meet them in the Senate Chamber for the purpose of being present at the opening and counting the votes for President of the United States.

In accordance with this order the Journal shows that the House and Senate convened in the Senate Chamber for the purposes expressed in the above resolution. Throughout the proceedings—

THE WORD VICE-PRESIDENT

was used instead of President of the Senate, showing that it was in the spirit of that character, rather than as presiding officer merely, he was recognized in the performance of this duty. Here again the words of the resolution appointing tellers are precisely as hitherto; "to make a list of the votes for President and Vice-President of the United States *as they shall be declared*"—by whom but by the Vice-President, and how, if he has not the power to determine what is a vote, and under what authority if not the Constitution!

No subtile logic of the brain can cloud so clear a fact. The Journals of each House show that the President of the Senate in presence of both Houses proceeded to open the certificates of the electors of the several States, beginning with the State of New Hampshire, and as the votes were read the tellers on the part of each House counted and took lists of the same, which, being compared, were delivered to the President of the Senate.

HOW PLAIN THE LANGUAGE,

"*as the votes*" (not names) were read; (here the word read is used in place of declared, showing that the first reading and the declaring are the same, and again implying in different terms an absolute necessity for the existence of a power to distinguish a vote from a pretense which is no vote at all;) and this, too, when the Vice-President who read and declared the vote was himself tied in the count by another candidate for President and one vote changed would have decided the matter in his favor. And again, stands recorded on the Senate Journal of February 9, 1801, in all the solemnity of irrepressible truth, the great fact that the then Vice-President and President of the Senate was by them directed to make out a certificate of election declaring that "he did in the presence of both Houses open all the certificates and count all the votes of the electors for President," &c. Thus far we have the fact of the

DIRECTIONS OF THE CONSTITUTION

plain, for though the terms and language might have been more definite, yet the action of the two Houses and the President of the Senate, uniform as it has been, has set a seal upon this construction which has made them the fathers of this most proper interpretation. Even at this early day the wisdom of the framers of the Constitution had been shown in giving the two Houses of Congress no part but that of witnesses to the solemn act of counting and declaring the electoral vote. For they had only been prevented from using unconstitutional power as has been already shown by difference as to the mode of use between the two. This brings us to the constitutional amendment, article 12. And here the whole line of reasoning heretofore adopted is still further indorsed. For though the question, or doubt, if any, could only arise from a construction different from that heretofore pursued of the words "the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates *and the votes shall then be counted*," yet in the face of

THE PRACTICAL ACTION

based upon that clause by which the President of the Senate had always opened and counted the vote, as the certificates of election show, and though the question of what the result of pretended votes might be had been much discussed, the amendment re-affirms the practical construction of the power of the Vice-President by using *the identical words*. Nay, further, under the law passed to declare that under certain circumstances two sets of certificates, the same in substance but differing in form, shall be forwarded, it gives the Vice-President power to decide which shall be opened at the day fixed, which is a quasi-judicial action.

THE FORMS OF PROCEDURE

under this amendment and the certificate ordered to be made by the President of the Senate of the result of the election for the fifth term contain the assertion that he had counted all the votes exactly in accordance with that heretofore adopted. On February 6, 1809, the following resolution in relation to the Massachusetts electors was offered in the House by Mr. Bacon, who said that he wished, in offering it, merely to give an intimation to the Senate that such petition had been received. The resolution was as follows:

Resolved, That the Clerk of this House do carry to the Senate the several memorials from sundry citizens from the State of Massachusetts, remonstrating against the mode in which the appointment of electors for President and Vice-President has been proceeded to on the part of the senate and house of representatives of said State, as irregular and unconstitutional, and praying for the interference of the Senate and House of Representatives of the United States *for the purpose of preventing the establishment of so dangerous a precedent.*

In this connection, Mr. Randolph said it appeared to him that, under color of redress of grievances, the resolution might go in a very alarming and dangerous manner to enlarge the sphere of action of the General Government at the expense of the dearest rights of the States. In what manner, asked he, is the General Government constituted? We, as one of the branches of the Legislature, are unquestionably the judges of our own qualifications and returns. The Senate, the other branch of the Legislature, is in like manner the judge without appeal of the qualifications of its own members. But with respect to the appointment of President, on whom is that authority devolved in the first instance? On the electors, who are to all intents and purposes, according to my apprehensions, as much the judges of their own qualifications as we are of ours; and it appears to me as competent to the people of any part of this country to prefer a petition to the electoral college to set aside the returns of any members of Congress as to prefer petitions to this House to set aside the qualifications of electors. True, it is that for the convenience of the thing, and also for the prevention of cabals and intrigue, the electors assemble in separate divisions in the respective States; but they are to be considered, to all intents and purposes, as a body of men equal in number to the Senate and House of Representatives, charged with the election of President and Vice-President of the United States, and judges in the last resort of their own qualifications and returns. If not, they are a mere nullity. * * * This is a delicate subject; one which it is agreed on all hands there is no occasion to touch. The election is not only undisputed, but indisputable. * * * If we do away the decision of the electoral body, which is as independent of us as we are of them, the Constitution is, in my opinion, verging to its dissolution.

The resolution for the sixth term was identical with the former ones, and during the progress of the count attention was called to what appeared a defect in the returns from one of the States. But the matter was passed without even a consideration and the return duly counted. The same joint convention also refused to have an elector's reason for not having voted spread upon the Journal, it being contended that the House had no concern with the causes why a vote was not received.

Such it seems is

THE STRICT LEGAL POSITION

on the question of the counting of the electoral votes under the Constitution as construed and acted upon in every instance where a question had arisen up to the commencement of the civil war. The appointment of tellers by and under the inspiration of a concurrent resolution, so called, but not so in fact, can in no sense be taken as an act of law or having vitality under that clause of the Constitution authorizing the Government to carry out the powers herein delegated, for it needs what is essential under the third clause of section 7, article 1, of the Constitution, which says, "Every order, resolution, or vote to which the concurrence of the two Houses is required must be signed by the President."

UNFORTUNATELY THE HISTORY OF THE WORLD

shows an innate desire on the part of power to arrogate to itself greater power, and in no form has tyranny and oppression and disregard of law shown itself more cruel and desperate than in unrestrained legislative bodies. They are safe in so far only as they are bound down and restricted to the exercise of powers wisely granted, and the argument against the exercise of power on the part of the Vice-President because of the danger from the nature of its extent is unreal and unreasoning. He is the second officer of the Government, yet removed from temptation because wielding no separate power. From his relations to the Government he shall be President of the Senate and absolutely free from the chance of individual gain. In any plan involving wrong he could only be gainer in the case by declaring himself President in the face of the decision of the people, which would be revolution, pure and simple. He would be in the immediate face of the Representatives of the people, with impeachment before him, and harmless to act; chained in as securely as it is within the power of man to be. Not so with Congress. Already its powers are vast and far-reaching. Already both branches have shown a full appreciation of their powers, and almost from the day of their creation the record will show a jealous spirit of aggression between the two, and a spirit of self-assertion such as has marked no other branch of Government. No one who has read the debates of the past touching

THE ELECTIONS AND POWERS OF THE TWO HOUSES

can fail to mark and appreciate this startling fact; for in the light and reason of history it reminds us with a voice that will not be stilled of the horrors and awful crimes which can flourish in an irresponsible body or one unconfined by something more than the specious reasonings of arbitrary desires. These things were well known to the fathers of the Constitution. It was not in the power of the executive or judicial branches arising from that august division they anticipated danger, but from the power of the Congress. Indeed the words originally adopted did not anticipate the presence of the Congress as such. They were "the President of the Senate shall, *in that House*, open all the certificates, and the votes shall be *then and there* counted." Surely if any intention had existed in the minds of the framers that Congress was to supervise or control the counting, it would have shown itself in different language than that. The operation of mind most natural was this, when put in words: The Vice-President is the proper officer to open and count the votes, but, as it is a high and solemn duty and one to be performed with all due formality, let it be done in the Hall of the Senate and before that august representation of States. When the words in their present form were adopted, so little attention seems to have been given to this that there is nowhere to be found a motion to strike out the words "in that House," and so little importance seems to have been

attached to the change that it was substantially agreed to by the committee of revision.

But to illustrate more strongly the mind of that day in this connection, and as convincing of the overwhelming importance attached to the dignity and power of the States as such, and their rights in the premises, and not representatives of the people as such, when it had been decided that in the election of a President by the House "a quorum for this purpose shall consist of a member or members from two-thirds of the States," the convention refused to add thereto the words, "and also a majority of the whole number of the House of Representatives." So that while it was possible by the letter of the Constitution for nine members representing nine States to have been a quorum, yet it would not have been possible for sixty-one Representatives representing only eight States to have been so. True, such a condition was not probable, but the fact of the possibility being the essence of the reason of the law is an unanswerable illustration of the mode of mind from which the law received its birth. And the fundamental law on this subject thus fashioned and laid down in the Constitution has stood the test of time. It is a mistake to suppose the case presented at this late day, complicated as it is by the bitter results of relentless civil war, is in any sense graver in a legal point of view than those of the past. They were more or less founded on the institution of slavery and involved the deepest and most powerful appeal to the selfish passions of the human heart, for they were appeals founded on property rights and self-interest. Mr. Randolph, of Virginia, gave evidence of this in 1821, when he said he "recollected perfectly well in the celebrated election of Thomas Jefferson and Aaron Burr, * * * what were we then told? Why, that we must withdraw our opposition or there would be no election; that a dissolution of the Union impended; that volcanoes began to play; that earthquakes yawned beneath us; and recollect, sir, we had a President in the chair who had a majority in the House, small as it was. He treated the idea of giving away with derision and scorn. We said we will not give away, and you must take the consequences." Chancellor Kent also adds his voice to the view that the authority under the Constitution, in the absence of all legislation to count the vote, is vested in the President of the Senate. This distinguished jurist says:

> The President of the Senate, on the second Wednesday in February succeeding every meeting of the electors, in the presence of both Houses of Congress, opens all the certificates and the votes are then to be counted. The Constitution does not expressly declare by whom the votes are to be counted and the result declared. In the case of questionable votes and a closely contested election, this power may be all-important, and I presume, in the absence of all legislative provision on the subject, that the President of the Senate counts the votes and determines the result.

So, too, Senator BAYARD, in reference to this very subject, has said, and with most cogent force:

> The truth is, all my theories of government come just about to this: that if they are not to be honorably, honestly, and fairly administered, any laws that you make will be perfectly worthless to procure that justice and certainty, that proper record of the will of the people, which our scheme of government was intended to produce. I apprehend that there is no rule which you can frame that will not be open to defeat by some supposititous cases. * * * When the time shall come that a Vice-President of this country, or the Senate or the House of Representatives of this country, shall, from passion moving them act otherwise than honestly, of what use are your laws or your safeguards of statutes and Constitution? They will be of no value, and the Government will have failed, and another will take its place, because in all human experience there is one thing that will be necessary, no matter what form of government may exist, and that is that honesty and truth shall be its foundation-stone and enter into the administration of its affairs.

These, sir, are the words of a distinguished democratic Senator, and who can doubt their truth? So that the conclusion of all that can be said against the repose of trust or power in any one place applies with equal force to all. Especially does it apply to a body such as the Congress of the United States, where the danger of improper collective action is always to be guarded against, and where individual responsibility can so easily be shielded by the protection of party feeling. The words of Mr. Pinckney, who had better means of knowing the thought of the framers of the Constitution, for he was of them and of their day, seem to me unanswerable. He said, as early as the year 1800, in speaking of the power of Congress:

> Knowing that it was the intention of the Constitution to make the President completely independent of the Federal Legislature, I well remember it was the object, as it is at present not only the spirit but the letter of that instrument, to give to Congress no interference in or control over the election of a President. It is made their duty to count over the votes in a convention of both Houses and for the President of the Senate to declare who has the majority of the votes so transmitted. It never was intended, nor could it have been safe in the Constitution to have given to Congress thus assembled in convention the right to object to any vote or even to question whether they were constitutionally or properly given. * * * To give to Congress even when assembled in convention a right to reject or admit the votes of States would have been so gross and dangerous an absurdity as the framers of the Constitution never could have been guilty of.

In this consideration of this subject no attention has been given to the twenty-second joint rule. All of the legislation and action with regard to the States lately in rebellion, since 1861, has been legislation founded on or growing out of a state of war. It was a legislation of its own kind, and to meet the supposed existing necessities of a condition of war, or one resulting therefrom. It is not necessary to refer to that specifically here. If the twenty-second joint rule were ever a constitutional rule, it has, at least, no existence now. In the face of the almost unanimous vote to that effect in the United States Senate, comprising the most distinguished leaders of both political parties, it is not presumed any one will seriously contend otherwise. I fully agree with the remarks, in this connection, of the distinguished gentleman from Massachusetts [Mr. SEELYE] upon the character of this legislation, if it be called such, and its results.

In conclusion, Mr. Speaker, I believe, in the face of my oath of fealty to the Constitution, that I cannot support this bill. If the President of the Senate has not the power he exercised for nearly three quarters of a century succeeding the establishment of the Constitution—a sacred instrument which has been able to carry itself and this country through perils the like of which the history of nations does not reveal—surely the Congress has it not. If *it* has such powers as have been contended for, they are, from the very necessity of their being, judicial powers, and cannot be delegated. If it be dangerous to trust one man with such authority, for whose improper exercise thereof a dreadful penalty awaits, how much vaster and more probable the danger when that one man is to be selected, as it were, by the hazard of a die, and under no authority of law whatever. Sir, it is in the dark, impenetrable future that this bill sows the wind to reap the whirlwind. The distrust and collapse of business that is over us and around us is the result of years of shuffling with dangers, just as this bill proposes now to do, until they had grown into all the terrors of war. I find the patriotism of the democratic party, as far as this bill is concerned, to consist in the chance it affords to undo the results of an election duly decided in November last. As a member of this House, sworn to obey the Constitution, I cannot join in such a feast, and deeply as I regret it, and humiliated as I almost feel at not being able to view the subject as many able men have done, I shall obey the dictates of my conscience and vote against the bill.

Counting the Electoral Vote.

SPEECH OF E. W. LEAVENWORTH,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877—

Mr. LEAVENWORTH. Mr. Speaker, deeply as I am impressed with the gravity of the subject now brought to our consideration and portentous as may be the consequences hanging upon our decision, I do not propose to myself at this late period of the debate the discussion of the various constitutional questions which the subject presents. The ablest constitutional lawyers in each House have presented their views at length and the subject may with great propriety be regarded as exhausted. No new light can be extracted from the history of the past, no new facts can be brought forward, and the various points presented will scarcely be more strongly fortified by any weight of argument hereafter to be offered.

But it is a privilege granted by the courtesy of the Houses, and one of which I think it a duty to avail myself briefly, to spread upon the record the reasons which impel me to give my support to the bill now pending before us. I feel the more strongly urged to do so for the reason that I entertain grave objections to two provisions of the bill. I desire to set forth the reasons which still induce me to give it my support.

The constitutionality of clothing the committee of fifteen with the power to make decisions upon questions growing out of the counting of the votes which are binding upon this House against our convictions and against our votes seems strongly to encroach upon powers which, under the Constitution, this House can confer upon no other body. It is certainly a very near approach to giving to the committee the power to count the votes and declare the result. But in a matter of this overshadowing importance I am not willing to set up my own judgment upon a question of constitutional law against that of the oldest and ablest constitutional lawyers of both parties and in each House. I yield my own opinion to their more full and mature consideration of the subject and their better judgment.

The other serious objection which I have to the bill arises from the fact that the commission have the *power* given them to go behind the regular certificates of the electors, authenticated in conformity to the law, and investigate any and all questions affecting the legality of the elections in the several States. Nothing could induce me to give my assent to any law, whatever public necessity might demand, which embodied such a flagrant violation of the sovereignty of the States and was in such direct antagonism to the great fundamental principles on which the electoral colleges are founded but the most unhesitating conviction that no five respectable lawyers can anywhere be found, and least of all five judges of the highest legal tribunal known to our laws, who, acting under the solemn obligation of their oaths, will hold that either this House or both Houses of Congress combined can go behind the certificates and investigate the legality of the elections held in the several States. To hold that the duly authenticated certificates of the electors are not final and conclusive, and can be set aside by Congress by any investigation into the conduct and character of the elections in the States, would

alone be fatal to the very existence of the Republic for any prolonged period. No such doctrine can ever prevail and no five judges will ever indorse it.

What, then, is now the peculiar condition of affairs which renders this or some similar law an indispensable necessity? A presidential election was held on the 7th day of last November. The electors from the several States of the Union have sent in their certificates, and we are rapidly drawing near to the day when, under the Constitution, it will be the duty of somebody to count them. But how is this most important act in the making of a President to be performed? Shall the two Houses meet together and shall the President of the Senate, in their presence, open all the certificates, decide all the questions which we know will grow out of the duplicate certificates, count such as *he* shall decide in favor of, and then declare the result? Shall all these grave questions, shall the final result of this warmly-contested election, which for nearly three months past has agitated every community in the nation from the Atlantic to the Pacific, be decided by *one* man? And shall he so decide with an overwhelming majority of the members of each House believing that he has no power to do so? Would an election thus secured ever be satisfactory to this nation? Would any honorable, patriotic citizen be willing to accept an office thus obtained? Has the Vice-President any such right conferred upon him by the provisions of the Constitution? Allow me, Mr. Speaker, for a few moments to examine this all-important question, for this is one of the two great questions which divide the friends and the opponents of this bill.

First. No Vice-President has ever *claimed* that he was clothed with any such power by virtue of the Constitution. It does not appear, by all the records of the past, that he has ever asserted such a right. On the contrary, when this very question of the admissibility of the vote of Wisconsin arose, in 1857, Mr. Mason, of Virginia, then President of the Senate, again and again in the most emphatic language disclaimed any such power.

Second. A very large majority of the members of each House are, after the most mature reflection, fully satisfied that he has no such power, and would therefore never permit its exercise.

Third. No Congress which has been assembled within these walls has ever given its assent to any such proposition.

Fourth. This whole subject has been repeatedly before Congress and has been fully considered and discussed by many of the ablest statesmen who have ever given dignity and character to the American Congress. But neither the bill of 1800, which received the assent of John Marshall and of a large number of the very men who framed the Constitution, nor that of 1824, which was reported in this House by the ablest constitutional lawyer which this country has ever produced—the immortal Webster—and which received the assent of another eminent lawyer and statesman—Martin Van Buren—nor the law of 1876, which received the approval of every republican Senator except three, and also that of the distinguished Senator from Ohio, [Mr. THURMAN,] conferred any such power upon the Vice-President, but all by common consent ignored and repudiated it. Can any stronger evidence than this of the uniform sentiment of the best minds in the country, both in the past and in the present, be found?

Fifth. The language of the Constitution itself confers no such power. No fair reasonable construction of the language can extract from it any such right. On the contrary, it is a substantial denial of the right. It provides in so many words that the Vice-President shall "open all the certificates and the votes shall then be counted." Now no body of men ever assembled on this continent who understood the precise meaning of words more accurately than the framers of the Constitution. Never was their significance more carefully weighed. Now, is it possible that such a body of men could have intended to invest the Vice-President with the greatest, the most responsible power ever conferred upon any citizen of the Republic, the power substantially to elect the President of these States by such language as this? Can any person in the perfect possession of his cool, unbiased judgment doubt that, had such been their intention, the language would have been substantially this: He shall "open all the certificates and then shall count the votes?" Can any gentleman attribute to that body such profound ignorance of the language or such gross carelessness in its use in an instrument of such immeasurable importance as the Constitution of these States as the construction claimed by the opponents of this bill would necessarily imply?

But farther, will honorable gentlemen claim that such a vast power shall or can be *implied* from the language of the Constitution? There is not one word on which such a construction can hang. There is absolutely nothing from which it can be implied. There is no intimation of the slightest kind as to the person or body by whom or by which the count shall be made. Why then give it to the Vice-President? Why not to Congress? Congress has always exercised this power. The Vice-President has in times past counted the votes only under joint rules of the two Houses. From them he has derived his power. He has not done it by virtue of any constitutional provision, but under the joint rules from time to time adopted by the Houses.

But even if the Constitution had in so many words given to the Vice-President the power to *count* the votes, as well as to open the certificates, it would by no means follow that he could arrogate to himself the right to decide a question as to their admissibility. To open the certificates and count the votes are ministerial acts; to decide upon the reception or rejection of the vote of a sovereign State of this Union, on the great question of the election of a President, is a judicial act of the most solemn character and of the very highest importance. True the votes cannot be counted until their admissibility has been passed upon; but the language supposed would still leave the main question just where it now stands, and would leave the power in the hands of Congress.

Sixth. During the year 1865, the now celebrated twenty-second joint rule was adopted by the two Houses of Congress, and continued in full force until three Presidents had been counted in under it. That rule expressly recognizes the power of *Congress* over all questions growing out of the counting of the electoral votes.

Now, Mr. Speaker, with all these facts spread out before us, with a perfectly uniform construction given to this clause of the Constitution for almost one hundred years, and with a uniform practice in harmony with such construction, it must now be settled, if it ever can be except by an amendment to the Constitution, that the power to decide all questions growing out of the counting of the electoral vote is, and of right out to be, vested in the two Houses of Congress.

Such being the state and condition in which the subject rests, it becomes at once a matter of anxious inquiry, in what manner are we now to provide for the counting of the electoral votes?

It is quite clear to every gentleman before me that the two Houses can neither agree upon any joint rule, or any law under which the votes can be counted. The Constitution fails to give any hint as to the mode in which the count shall be made. Every effort which has been made thus far in our history to enact into a law clear and definite rules to govern in all the exigencies which may arise in the performance of this delicate duty have thus far failed. At this late hour we find ourselves far out at sea, without a compass or a chart to guide our way and insure our safety, and the storm rapidly approaching; shall we encounter it in this helpless condition, with no provision against its fury, and reckless of the consequences which may follow? or shall we, like cool, prudent, and wise men, make the best provision in our power to escape from the dangers which threaten us?

What mode of escape do the opponents of this bill hold out to us? Have they any bill to offer? Do they propose any joint rule under which we shall proceed? Has any feasible politic course whatever been suggested by any one of the very able gentlemen in either House who opposed the bill? Or do they blindly leave us to our fate, drifting helplessly down the rapid, dangerous stream, with the roar of the approaching cataract already sounding in our ears? Is any gentleman so deaf that he cannot hear that ominous roar? Is anyone so heedless that he will not listen to it?

We are all aware of the wide difference of opinion existing in the two parties in regard to the power of the Houses in the counting of the votes. Should we meet for that purpose, without any rule to guide us previously agreed upon, a fatal division must necessarily ensue. And what result would so naturally follow from it; what, indeed, so inevitable as the election of a President by each House of Congress? What a spectacle would this be to present to the world; what a disgrace to the Republic; what pain and mortification would it give to every friend of his country, to every admirer of our institutions throughout the civilized world! How would the confidence of the world be shaken in the strength and stability of our Government. But beyond, and even above all this, serious as it is, what doubts and uncertainties would fill every mind; what confusion and agitation would spread with lightning speed to every hamlet in the land; what bitter animosities would spring forth from day to day! The present appalling depression, which paralyzes every branch of industry throughout our broad country, would be only the prelude to other and greater calamities which no wisdom can foresee and no power can prevent.

In view of dangers like these, Mr. Speaker, I cannot hesitate for a moment in the decision which I make. The oath which I have taken, and the duty which I owe to the country independent of all oaths, compel me to elect that course which conducts the country in safety and honor to a peaceful and satisfactory result. The bill now before the House will secure this end, and all good citizens, East and West, North and South, will gladly bow to the final decision. Any other course will plunge us into a vortex of folly, if not of ruin.

And now, Mr. Speaker, before closing these hasty remarks I desire to call the attention of those of my political friends who oppose this bill to the very peculiar and embarrassing situation in which they are placed.

They propose no bill or rule as a substitute for the one now before the House; they suggest no way of escape from our dangers. If this bill does not become a law, we must count the votes with no other light than that which the Constitution sheds upon the subject. Shall the Vice-President decide the question which of the two certificates from Louisiana shall be counted? That is impossible. With two-thirds of each House denying his power to do so, it can never be attempted. Why, only last year not only did all the republican Senators but three vote for Mr. MORTON'S bill utterly ignoring any constitutional right in the President of the Senate to decide these great questions, but even Mr. FERRY himself, now President of the Senate, is found among the number of those thus voting. Shall *he* insist on his right to count the votes?

Shall the two Houses decide the question, then? We all know full well that they will disagree on that very question, as well probably as on some others of a similar kind. Shall the Senate insist that the votes of the three disputed States shall be counted, and thus elect Messrs. Hayes and Wheeler notwithstanding their rejection by the House? Is this the ground on which my political friends who oppose this bill are to stand? And can they, can the republican party stand there?

It should not be forgotten that in 1865 when the twenty-second joint rule was adopted the republican party had a large majority in each branch of Congress. This rule was *their* exposition of this very constitutional provision which we are now discussing. They have put themselves and their party on the record on these very questions. The twenty-second joint rule ignores all power in the Vice-President to decide on the admissibility of an electoral vote, and provides further that no vote can be counted without the *concurrent* action of *both* Houses. Mr. MORTON'S bill of last year, so unanimously voted for by the republican Senate, contains the same provisions.

We have now the President of the Senate. Shall the republican party for that reason invest him with this great power? Suppose for a moment that the President of the Senate was now a democrat; how many of those now so clamorous that he shall count in Messrs. Hayes and Wheeler would then urge his right to do so? Such sudden and radical changes as these ill become the republican party. They are the peculiar privilege of our democratic friends, and we ought never to encroach upon their well-earned rights. No somersault in politics is so low, none so high, but they can make it without the slightest danger to their party or themselves.

They can rise on this floor and for weeks attempt to justify and uphold the most naked and flagitious usurpation which this country has ever witnessed—the election of a Legislature for the State of Kansas by raiders and interlopers from the State of Missouri—and when the occasion which required it has passed, they can acknowledge and condemn it as freely as their opponents.

They can in like manner and by like means attempt to defend and uphold that great historic fraud and villainy the Lecompton constitution, and when the necessity for so doing has gone by they can turn round and denounce it as abhorrent to all that is honest or decent.

They could exhaust the vocabulary of vituperation and abuse to find words sufficiently bitter and debasing to express their feelings of contempt and hatred for the great benefactor of modern times. But now, when the whole world is vocal with his praise, they too can sing peans to his honor.

They could denounce in bitterest language and oppose with all their power in each of these Houses the last three great amendments to the Constitution; they could in every State of this Union resist and denounce them and vote unanimously against them; and to-day they can make them a fundamental plank in all their State and national platforms.

But where would such an exhibition of duplicity and inconsistency leave the republican party? We must not forget that we have behind us a constituency who not only read and think, but they act also accordingly to their maturest convictions. They require at our hands in the administration of the affairs of the country capacity, integrity, and consistency. When we fail in either particular, we forfeit their confidence and are held to a strict accountability. We cannot give one construction to the Constitution to-day and another and different one to-morrow, as the exigencies of the passing hour and the wants of the party may seem for the occasion to require.

The republican party can stand alone upon the rock of eternal truth and justice; but, standing on that immortal foundation, she may defy all the assaults of her enemies, and stand forever. The power of political tempests may sometimes disturb her equilibrium, but she will safely ride out every storm and remain still in the future as she has been in the past the salvation, the sheet-anchor of the country.

Truth, crush'd to earth, shall rise again,
The eternal years of God are hers;
But Error, wounded, writhes with pain,
And dies among his worshipers.

Counting the Electoral Vote.

SPEECH OF HON. JOHN T. HARRIS,

OF VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. HARRIS, of Virginia. Mr. Speaker, varied have been the experiments and terrible the results in the effort of mankind to inaugurate that form of government best calculated to establish society upon a firm basis, and that rights essential to the protection and enjoyment of all should be sufficiently guarded and protected. Back to the prehistoric ages the struggle between the despotic few and the oppressed many illustrates all the movements of mankind. Since the dawn of Christian civilization the tendency of the mass has been upward. Their processes have been slow but sure. And while the reactionary principle in every great era has been represented, yet whenever principles of freedom have gained recognition, though they may for a while be obscured, they are never lost. If the lessons of history, either ancient or modern, are to be our guide, we must always avoid that class of men who when troubles surround us either arrogate to themselves or seek to confer on others extraordinary powers. For in state and church convulsions history teaches us that the most violent and most extreme have always been the most ambitious and the least patriotic.

Society has always been divided into two elemental forces. The one believing that mankind was not capable of self-government; the other contending against despotic assertion. In the past, in the slow movements of human advancement, the first class have used every bad instrument to perpetuate their theories. Under the Roman government the citizen held his thousands in bondage and proclaimed his government the freest in the world. So with the Spartan when the helot was made the victim of the fury of the young men to educate them to valor sufficient to contend against more dangerous enemies. While the civilization of to-day would not tolerate the Roman helot, there yet remains a reactionary force in society that scouts the power and the rights of the people and magnify themselves by self-contemplation into an importance they will never in the future secure. Without reason and not acknowledging equality, they proclaim that the people ought not to rule. But they are not of the people, and therefore assume in themselves the right to rule. The Mohammedan says "God is God and Mohammed is his prophet." This class say the people are dogs and we are their rulers.

Another, and perhaps the most powerful element to the injury of society, has sprung from the disposition of the governing classes to solve the question who shall govern and how shall the people be governed. The welfare of mankind has not been their guiding-star. Personal interest, the promotion of self, or the permanent establishment of certain families in the line of promotion, has done much toward retarding the will of the people in the attainment of the perfection of human government. With that class no government was good unless it recognized them as its rulers; hence from the beginning the world has been almost in constant turmoil and strife, and as the result government after government has been overthrown, society has been disturbed, and the perfection of civilization retarded.

The government of England from the stability and comparative permanence of her institutions has received the appellation of "the fast-anchored isle." From the first Roman invasion until to-day her history is full of instruction; for it shows the perils and the suffering through which mankind must pass in their struggle for liberty. Her soil has almost countless times been enriched by the blood of the foreign invader. Internecine wars have raged throughout her whole extent. Religious factions, petty despots, and contending chiefs have all preyed on the progenitors of the present Englishman. His knowledge, conservatism, and love of liberty have been purchased by the sufferings of centuries. While she is kind to those that inhabit her island, our rebellion resulted from her unwillingness to extend the same blessings to her own children. The right of self-government was asserted and won by us, our independence established, and a great nation is developed where a century since a wilderness, over which the Indian was the sole monarch, existed.

Mr. Speaker, let us look to our own Government for a moment. There is not one foot of territory in the United States now under control of its original government. England, France, and Spain each exercised jurisdiction over a part of the territory now within our limits. As every people think they are the best and their ancestors were the wisest and purest people that ever lived, so we think of ours. Yet, Mr. Speaker, they were but men at last, and had their ambitions and that desire implanted in the human heart to govern and not be governed. The stamp act of the mother country was grievously complained of, and the next year it was repealed. So in 1767 an act was passed imposing heavy duties on the colonies. Complaint and remonstrance went forth, and in 1770 the duties were remitted on everything except tea and the government of England made arrangements to import that to America direct from India so that it would be cheaper here than even in England. But this abated not the feeling of the leading men of the colonies. They had conceived the idea of freeing themselves from the mother country by throwing off the tyrannical yoke, and nothing less than that would satisfy them; hence cargoes of tea were seized in the harbors of Boston, New York, and Annapolis and thrown overboard. Preparations were everywhere made to resist the acts of England, then becoming more tyrannical and oppressive each day. The result the world's history tells—a republican government deriving its power from the consent of the governed; thus another signal illustration of the determination of man not to be governed, but to govern.

Let us for a moment retrospect in regard to the United States. In 1783 we made peace with England, and in 1789 we established our present form of government. In 1812 we had a war with England, in 1846 a war with Mexico, and in 1861 a war among ourselves, to say nothing of our Indian wars. Thus, Mr. Speaker, our new Republic had three wars in less than a century.

But, sir, the point to which I am coming is this: Since the organization of society and the formation of government among men there never has been a more critical moment in the history of any people than the present is with us.

It is then, sir, the duty of the Representatives of the people to rise to the importance of the occasion and apply the remedy ere it be too late. I know to see the danger afar off and seek to avert it is often only provocative of ridicule. If no means are used to preserve the country and its destruction follow, then an injured people have a right to complain of those who were unfaithful sentinels on the watch-tower. If patriotism, and not selfishness, control the hour and preserve the country in peace, then the selfish and bigot will say there had never been danger. Let that be as it may, we have high duties to perform; and, not looking to the right or the left, should fearlessly discharge them.

Sir, if we wait until the crisis is upon us, it is then too late. Let one drop of blood be spilled by military authority at this capital, and the country from Maine to California will be under arms and become a common battle-field, not such a one as that in which Louis XIV said he would engage when he exclaimed, "If I must needs fight, I will war against my enemies, not my children," but one in which father will be arrayed against son, son against father, brother against brother, and neighbor against neighbor, with no dividing lines to mark the home or the territory of either.

Mr. Speaker, who believed in January, 1861, that such a war was then in the near future? I was a member of the Thirty-sixth Congress and I remember well how the idea of a serious war was laughed at. The country remembers it. My friends from Mississippi, [Mr. LAMAR and Mr. SINGLETON,] the gentleman from Indiana, [Mr. HOLMAN,] and the gentleman now from New York, then from Ohio, [Mr. COX,] the gentleman from Texas, [Mr. REAGAN,] and myself were the only members of that Congress who are members of this; and they, I know, remember it. We all remember if any one ventured to express the opinion that the country was approaching a revolution he was regarded as a croaker and ridiculed for his anxiety. The country remembers the memorable words of Mr. Lincoln *en route* to this city to be inaugurated, "nobody hurt," by which he meant to convey the idea, and which was so understood by the people, that there would be no war.

Again, sir, after Sumter was reduced, when the President of the United States called for 75,000 men the news was received by the Montgomery congress with derisive laughter. How the North thought those troops would end the war then begun in ninety days, and how Mr. Davis said after the first battle at Manassas that the war was over. Yet the war was not over, but went on, on like a mighty wave, swelling as it rolled, until it swept over the fairest and best country on earth. Day by day the sun rose in all his splendor, not to witness a bright and happy people enjoying the blessings which God had so bountifully bestowed on them, but to behold the dread calamity of war, of armies marching and counter-marching; men of a common ancestry, bound together by a common interest, forgetting God bade them to love one another, seeking the destruction of human life and of all else that makes man happy. Month followed month, new year after new year greeted us, ushered in by the good on bended knee with thanks to God for the past and prayers for the future, but peace came not. War with its "grim-visaged front" continued to desolate our fair land for four long and weary years, carrying in its train all the horrors to which human nature can be subjected. War seldom comes when both parties anticipate it. It generally comes when neither does. But few people would willingly plunge their country into revolution if the result could be foreseen. Wars occur generally because each side thinks the other will not fight, and so thinking one side presses its opinions and views until it cannot recede and the other will not. Hence both are disappointed and conflict follows, and the poor and innocent people who took no part in its inception must bear all the horrors attending the greatest curse on earth to man. This day and hour, Mr. Speaker, we stand on the verge of that great calamity. God grant to this Congress the wisdom and patriotism to avert it. Will they be equal to the momentous occasion, and will they, like men and patriots, come to the rescue of their country and save all of earth that is worth living for? Will they preserve "peace on earth and good will toward men," with laughing mothers and prattling babes and happy homes, or will they turn this our beloved country into a charnel house and a land of desolation, with weeping mothers and homeless orphans? God spare us this calamity.

Mr. Speaker, on the 7th day of November, 1876, the people of the United States assembled at their respective places of voting to select a President and Vice-President to preside over our destinies for four years. The democratic party claim that their candidates, Tilden and Hendricks, were duly elected by the qualified voters for the offices respectively of President and Vice-President, while the republican party claim that their chosen leaders were duly elected under the *forms* of the law. Hence Hon. Mr. HEWITT, chairman of the national committee of the former, issues his proclamation announcing the triumph of the democratic candidates, and Mr. Chandler, the chairman of the republican committee, announces the triumph of the candidates of the party he represents. Here is an issue, square and unqualified, made between the two great parties of this country. How is it to be decided? The Constitution says the electors of the several States shall vote by ballot and shall place the same under seal directed to the President of the Senate, who shall open the certificates in the presence of the two Houses of Congress, when the votes shall be counted. The failure of the Constitution to say by whom to be counted produces all the trouble. If it had added that the President of the Senate was to count and adjudicate, or had said the two Houses should count and adjudicate, then the present difficulty would not exist. But the Constitution, being silent on that important point, leaves the whole question open for construction. The republicans, as a party, take the ground that the President of the Senate has the right to open and count the vote; while the democrats claim his powers are only ministerial, and that he can only *open* the certificates in the presence of the two Houses, who must proceed to count and adjudicate the vote. Here is an irreconcilable conflict which must be settled or the peace of the country is endangered and free institutions imperiled. If we drift along until the 14th of February without any agreement between the two Houses as to the mode of proceeding, when the disputed States are reached, the two Houses failing to concur, a double-headed President, it seems to me, is inevitable. Every democratic governor will declare for Tilden and Hendricks, and every republican governor for Hayes and Wheeler. The contest will be transferred from the Halls of Congress to the States. In democratic States the effort of the republicans will be to overthrow the lawful governments, and in republican States the effort of the democrats will be to overthrow the lawful governments. An internecine conflict will be precipitated the horrors of which are past human comprehension, and these institutions which we profess to love and have sworn to protect will become the first victim of the fury of party.

Sir, the remark is often made, "Tilden is fairly elected," followed by the question, "Why don't you inaugurate him?" My answer is: Sir, I agree with the assertion that Tilden is fairly elected, and if the democratic House had the power to inaugurate him it would be done promptly when the time arrives. But while the House denies the right of the Senate alone to count in the President it has never claimed that right for itself independent of the Senate. The democrats claim that the *two* Houses acting together can do it but neither can do it separately. The question is again asked, "Why do you not adhere to the old rules and count Tilden in as other Presidents have been?" The answer is, the old rules require the assent of *both Houses*, and the Senate will not give their assent; consequently we cannot proceed under the precedents. The Constitution says when there is no election by the *people* the House of Representatives shall proceed to elect, voting by States. At this point who is to judge when there is no election by the people? In the present contest both parties claim there is an election *by the people*. If this be true, then the House as a House has no right to elect, for it can only do so when the *people have failed*. As I said, who is to judge and determine when there is no election by the people? In 1801 and 1825 the President of the Senate, for and in behalf of *both Houses*, announced there was no election by the people and that the House would proceed under the Constitution to elect one. Does any sane man believe we could ever get such declaration now? Would the Senate ever agree that there had been no election by the people and thus devolve on the House the election? Then the result would be the Senate without regard to the House would declare Mr. Hayes elected, and the House without the concurrence of the Senate would proceed to elect Tilden. Thus we would have two Presidents. The 4th of March would come and with it the present Executive and Mr. Hayes. The latter would be sworn in and return to the White House under the escort of General Grant. What next? Mr. Hayes would at once convene his Senate and send in the names of his Cabinet, whose appointment would be confirmed. The sun on the 4th day of March would go down with Mr. Hayes in the White House, with a full cabinet, with the Army, Navy, and all the branches of the Government under his command. Mr. Tilden would take the oath of office somewhere, either in Washington or in New York. He would have no Senate to confirm his appointments. He would be powerless unless he could find some legal mode of getting into the office or accomplish the same end by the sword. If there be any other mode than war of contesting the right to the Presidency in such a case I have not been able to find it.

Perhaps, Mr. Speaker, it may be said this is talking too plainly. I do not think so. We ought to look events in the face and speak freely in regard to them. We cannot, if we would, conceal our purpose from the opposite party no more than they can conceal theirs from us. Unless there is an agreement, they know their plan to count Hayes in by the Senate, and they know equally as well that the democrats of the House will declare Mr. Tilden elected by the peop'e or proceed to elect him under the Constitution. They see the issue which would follow as well as we and know *as little* of the *ultimate result*. In this condition of affairs we would have two Presidents. One or the other must ignominiously give way, or resort to that most horrible of all arbiters, the sword. When that period arrives we would really have *no President*. The whole country would be a military camp, the musket and bayonet would be the law of the land, and after many years of toil, strife, and the loss of all dear to mankind we might bring form out of chaos with a dismembered country and petty States ruled by military dictators. Whenever the time arrives that the people are compelled to resort to arms to inaugurate the President that will be the end of our Government, and thereafter if we should ever have another popular election the inauguration would turn on force and would not be determined by law.

Mr. Speaker, when that time arrives—I say it here and now and after due deliberation—the sooner our form of government is changed the better. If fraud, false returns, and a subversion of the will of the people are to be enforced at the point of the bayonet, and there can be found no peaceable and honorable solution of the trouble, then let republican government in America be reckoned among the things that were and some other form substituted in its stead. Let the Stars and Stripes be buried beneath the tree of liberty and our national pass-words be "*Vive l'empereur*," or "Long live the king." Any government which respects the rights of persons and property is better than a republican government upheld by fraud and sustained by force.

Mr. Speaker, the Government of the United States with all its imperfections is the grandest structure ever devised by the wisdom of man for the liberty of the citizen and the enlightenment of mankind, and should not be abandoned while there is a hope of perpetuating it in its original purity. Let not unscrupulous and ambitious men destroy it. Ambition, the ambition to rule, has been the curse and cause of the downfall of all governments. "By ambition the angels fell." Then, ere it be too late, let us seize the helm of the old ship and steer her to a port of safety. In the language of the Delphic oracle to the lawgiver of Athens:

> Seize, seize the helm, the reeling vessel guide,
> With aiding patriots stem the raging tide.

Let us reason, then, while we can. In revolution men never *reason;* it is passion at whose shrine they worship. In this emergency, then, we would be false to constitutional liberty, false to the people we represent, and false to ourselves did we fail to adopt some plan to solve the difficulty. The situation is above party, and I would hold myself forever disgraced did I not resort to every honorable expedient in my power to avert the calamities impending.

Sir, I believe Tilden and Hendricks are honestly elected; yea, I know it as well as we can know any historical fact, and but for the obstacles in the way of ascertaining that fact and in their inauguration, and to which I have referred, I should never submit to any plan of procedure by the possibility of which the will of the people could be defeated. But under our form of government, and the omission in the Constitution to define who are to count and adjudicate the electoral votes, it has enabled a great conspiracy to produce the necessity of some adjustment or plunge the country into revolution. Either alternative is bad enough, but of the two I prefer the former and shall govern myself accordingly.

Mr. Speaker, early in the session the two Houses appointed the usual joint committees to report a mode of proceeding in counting the electoral vote. This has been done at every recurring presidential election since the adoption of the Constitution. These committees, recognizing the gravity of the occasion and the great responsibility resting on them, labored arduously, zealously, and faithfully to devise some plan by which the honor of both political parties could be preserved, the integrity of the Union maintained, and the rights of each political party referred to as fair and as impartial an arbiter as it is possible. The result of their labors is the bill now under consideration. It was the work of great minds and patriotic hearts. They gave the whole subject the most thorough and searching investigation, and the country owes them a debt of gratitude. The merits of the compromise have been discussed in an able and exhaustive manner. I could add nothing for public instruction in regard to it, and, inspired by the conviction that I am performing the most solemn duty of my life, I give the measure a grateful and hearty support.

None regret more than myself that the dread contingency has exposed one of the weaknesses of republican institutions. But, sir, if we under the forms of the Constitution and in pursuance of its spirit safely pass the breakers that now environ us, we have assured safety for another and a more glorious centennial, when our children's children shall with pride point to the past and the men who by their wisdom and patriotism rose above the passions of the hour and transmitted to them unimpaired the blessing that had been handed to us by our forefathers. Many a man now insignificant will then be on the roll of glory, and all history will be illuminated by our action with the conclusive refutation of that assertion of despots that mankind are incapable of self-government.

Counting the Electoral Vote.

SPEECH OF HON. WM. R. BROWN,

OF KANSAS,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. BROWN, of Kansas. Mr. Speaker, recognizing the magnitude of the crisis which called into existence the joint committee on the electoral count, and the integrity, patriotism, and great ability of the members of that committee, I came to the consideration of this measure with my predilections all in its favor and with the expectation that I should give it my hearty support. I therefore sincerely regret that a consideration of the bill and its provisions present to my mind such serious objections that I cannot give it my sanction; and while there is a universal demand on the part of the people for a speedy and harmonious settlement of the presidential question, this bill seems to me to present a remedy worse than the disease which it is designed to cure.

The provisions of this bill are substantially as follows:

First. That the two Houses of Congress shall meet together in convention on the first Thursday in February, 1877, with the President of the Senate as presiding officer.

Second. That the returns from the several States shall then be opened, and they read by the tellers.

Third. That such returns from States where there is but one set of returns shall then be counted unless objection be made in writing by at least one Senator and one Representative, and that when such objection be made the Senate and House of Representatives act on the question separately, but that no such vote be rejected without the concurrent action of the two Houses.

Fourth. That in case there are two sets of returns from any State, such returns shall be submitted to a commission consisting of five Representatives elected *vira voce* by the House, five Senators to be chosen in the same manner by the Senate, and four associate justices of the Supreme Court designated in the bill, and one associate justice to be chosen by the other four in such manner as they may determine. And the decision of this tribunal shall be final unless overruled by the concurrent action of the two Houses of Congress.

The Constitution of the United States provides in reference to the count of the electoral vote as follows:

> The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted.

There is no statement as to who shall count the votes; no provision that they shall be counted either by the President of the Senate or by the Senate and House of Representatives, but merely that they shall then be counted; but taking the language together, and especially viewing it in the light of contemporaneous interpretation, I have no doubt that the framers of the Constitution intended that that duty be performed by the President of the Senate. Let any one read the proceedings of the constitutional convention, the recommendation that the first Senate elect a presiding officer to count the vote, the proceedings of that Senate, and the certificate of election given by its presiding officer elected for the sole purpose of counting that vote, and the conclusion seems inevitable that the intention was to intrust the whole machinery for the determination as to who was elected President and Vice-President to the presiding officer of the Senate; and the whole course of proceeding for nearly forty years thoroughly sustains this view. These authorities have been so often presented to the House that I need not repeat them. Probably the framers of the Constitution in making this provision never anticipated such a state of affairs as that we now witness. The choice of electors was left to the States. They were to be appointed in such manner as the Legislatures of the States should determine. They were virtually State, not Federal officers, and hence the duty intended to be intrusted to the President of the Senate was almost purely ministerial, the mere counting of the votes of electors, the validity of which was to be settled by the laws of the several States. It was intrusted to the President of the Senate because he holds one of the most important offices in the gift of the nation, being usually the Vice-President, elected at the same time as the President of the United States then holding the office, or if not, elected by the most conservative of the two Houses of Congress, that which was intended especially to represent the sovereignty of the States.

A student of the Constitution cannot fail to observe the extreme care and anxiety of its framers to keep distinct the several departments of the Government, to make the legislative, judicial, and executive as far as possible independent, so that neither can be destroyed or impaired by the encroachments of the others; and hence we can readily see why, instead of being intrusted to Congress, this count is intrusted to a high officer like the Vice-President; and when we remember the dignity of the position, and that he like all others to whom responsible duties are intrusted is liable to punishment for any unwarranted or criminal action, the power of impeachment being vested in Congress, we cannot wonder that he was selected for this high and responsible duty. In the absence of law, I believe he must count the votes. But can this authority be changed by law? The language of the Constitution is indefinite in failing to state who shall count. Congress has the power to make needful laws to carry out the provisions and intent of the instrument, and I am not disposed to deny that Congress may by statute provide how this count be made which is so necessary to the preservation of the instrument and the safety of the nation. But even admitting this, I have been unable to discover how this power can be vested by law anywhere else than in the President of the Senate or in Congress, and in all the debates on the subject I have found no argument which satisfies me of the power to intrust the matter to any outside party or tribunal. The power is either with the President of the Senate because the Constitution primarily places it there, or it is a power belonging to Con-

gress, and therefore incapable of being delegated. Judge Cooley, in his work on Constitutional Limitations, thus states the law on this point:

One of the settled maxims in constitutional law is that the power conferred upon the Legislature to make laws cannot be delegated by that department to any other body or authority. Where the sovereign power of the State has located the authority, there it must remain; and by the constitutional agency alone the laws must be made until the Constitution itself is changed. The power to whose judgment, wisdom, and patriotism this high prerogative has been intrusted cannot relieve itself of the responsibility by choosing other agencies upon which the powers shall be devolved, nor can it substitute the judgment, wisdom, and patriotism of any other body for those to which alone the people have seen fit to confide this sovereign trust.

Coming now to a consideration of the bill itself, I am glad to say there are some features of it to which I can thoroughly assent. One of these is the denial in it of the right of a single House of Congress by itself to control the count, as has been claimed by a majority of a committee of this House which has been investigating the rights and privileges of the House in this regard, and which has been so strongly and ably combated on this floor by the minority of that committee and by other able gentlemen. No power more subversive to the endurance of the Government has ever been enunciated than that the body which must elect a President in case of a failure to elect by the electoral college itself possesses the power to determine whether that contingency has happened or not, and thus make the Executive wholly dependent for his position upon one branch of Congress. I am glad this measure forever destroys that heresy and enunciates a principle at least reasonable, that a vote can never be rejected except upon the concurrent action of both Houses, each acting separately.

But to the formation of the commission provided for in this bill, with the same powers to consider certificates, votes, and papers objected to as is now possessed by the two Houses of Congress acting either together or separately, I must seriously dissent. The language of the bill itself shows it is the delegation of powers now possessed by Congress—an extraordinary and unwarranted procedure—and this not to make the commission merely advisory, and to give its opinions on legal questions, but making its decisions absolutely final unless overruled by the concurrent action of the two Houses of Congress, which can never take place while their political complexion is antagonistic. This commission is formed, not on account of the impartiality and fairness of its members, not on account of its legal ability, but in order to get a tribunal in reference to which both parties are completely in the dark. It seems in its very composition an admission that there can be no legal settlement of the questions involved, and that in order to maintain tranquillity they shall be submitted to a tribunal in reference to which all are in complete ignorance. It is the submission of the gravest of all possible questions, one in which more than forty millions of people are directly interested, to the result of fortune and chance. How is this commission formed? The two Houses of Congress, opposed politically, each choose five members, who will be evenly divided in reference to their politics. Four associate judges of the Supreme Court are designated, who are known to be divided in a similar manner. To these four are intrusted the selection of the fifth, who will virtually control the commission. Seven democrats, seven republicans, and a fifteenth man. How shall he be chosen, by vote or by chance? Will he be chosen on account of his fitness, of his legal acumen, or because no one knows where he stands or what are his principles?

Is it in accordance with the love of law, the supremacy of legal principles, which is the proud boast of our Anglo-Saxon race, that we thus are willing, in the hope of temporal advantage, to break loose from fixed moorings and settle the administration of the great American Republic we know not how? As a republican I believe Hayes is legally elected President; I believe the following of all precedents in reference to the count of the electoral vote will place him in the presidential chair; and while I would be willing to leave the settlement of the legal questions to a legal tribunal I cannot assent to leaving it to a purely political commission, the strongest argument in favor of which is that it is so fearfully and wonderfully constituted that both parties are unable to know how it will stand, and so both may with equal reason expect favors at its hands. To such a tribunal I am unwilling to submit such mighty interests. The machinery provided by the Constitution has been sufficient during twenty-two presidential elections, and I am not afraid to trust it for the twenty-third. If it be defective, let us like reasonable men provide a proper remedy; let us establish a tribunal, satisfactory to all, to which the legal questions may be submitted; let us provide means by which the election may be tested in the courts and judicial decision from the highest court in the Republic settle the issue. But let us not degrade ourselves by the adoption of a scheme which is of questionable constitutionality, to say the least, and is against our reason and better judgment. I am happy to say that in the defeat of this bill I cannot see the dire calamities which have been predicted. I have too much faith in the American people to believe that any party will rush to arms and attempt the destruction of the Government because it has failed to elect the President of its choice. One attempt of that kind will, I believe, suffice for this century; and, come what will, I believe in the perpetuity of our institutions and that the United States will continue still to live, unchanged and undivided, the greatest of republics.

Counting the Electoral Vote.

SPEECH OF WILLIAM E. SMITH,

OF GEORGIA,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. SMITH, of Georgia. Mr. Speaker, I cannot get my consent to vote for this bill, notwithstanding the many and seemingly urgent reasons for its passage. I can state my objections in a few words.

The Constitution of the United States is the supreme law of the land. The Government of the United States, the government of the individual States, and citizens of the United States must yield perfect obedience to this paramount law. The safety of the Union itself, the preservation of the rights of the several States as members of the Union, and the rights of citizens of the United States depend upon a faithful observance of this American Magna Charta. A strict and faithful enforcement of all its provisions securing to the Federal Government all delegated power and preserving to the States and people all reserved rights, whether expressed or implied, is all that the democratic party can and ought to claim. All that a State government can demand, all that any citizen of the United States can ask, is to have this supreme law observed and enforced, and not violated.

We of the South must follow our ancestors in supporting the Constitution. We have ever feared that the intolerant spirit and aggressive policy of the abolition party would some day break through the protection afforded us by this instrument, and thus upturn society at the South. We are witnesses to-day of a realization of this well-grounded fear. All the security we now seek is to be permitted to manage our domestic concerns in our own way, subject to the Constitution; and, while striving to hold others to a strict observance of constitutional obligations, we should be careful not to commit an act which may carry with it the semblance of a violation of any of its provisions.

This regard for the Constitution is further intensified by the fact that we of the South are suffering now, and have been suffering for the last seventeen years, from the effects of a violated and disregarded Constitution.

Many of the features of this bill meet my hearty approval. Among these I may mention the denial of the right as claimed by some for the President of the Senate to elect as between two electoral returns from the same State and to count the votes, the assumption that it is the duty and right of the Senate and House of Representatives to decide as between such returns and count the electoral vote, and the declaration that the vote of no State for President and Vice-President shall be rejected unless both Senate and House of Representatives concur in the order of rejection.

I find no difficulty in agreeing to these provisions. But while yielding a willing concurrence to so much of the bill I cannot agree to the second section. This section, among other things, provides that where more than one return is received from a State, such returns and papers shall be submitted to the judgment and decision of a commission thereinafter named, and this commission is to decide "which is the true and lawful electoral vote of such State."

This commission is to be composed of fifteen members, five from the Senate, five from the House of Representatives, and five of the associate justices of the Supreme Court of the United States.

I have no opposition to make to a joint committee of both Houses, with the power in both to revise, accept, or reject any report or result of such joint committee.

I object to the introduction of these five associate justices as members of the commission, and for these reasons:

The citizens of the several States having voted for President and Vice-President, and the electors chosen by them having assembled and cast their votes, and the result of such last-mentioned voting having been placed in the hands of the President of the Senate, the next thing to be done is to count the votes.

The twelfth article of the amended Constitution of the United States declares—

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted.

I agree with the bill that the office of the President of the Senate is ministerial, and that he is excluded from participating in the count except as any other member of the Senate, if he be a Senator, and that the counting of the votes is a duty imposed by the Constitution on the two Houses of Congress.

As the President of the Senate and the two Houses of Congress are expressly named, to the exclusion of the whole world, it follows that one or the other or both concurring must count the votes for President and Vice-President.

It is claimed by a minority in Congress that the President of the Senate must discharge this duty. I deny this. But, for the sake of the argument, let it be admitted. Will any one pretend that Congress by a statute could deprive him of this right and impose this

duty on another person or persons? Manifestly not. Congress itself is a creature of the Constitution, and the statutes of the United States must be in subordination and not in opposition to it.

I agree with the bill, that the President of the Senate cannot lawfully count the electoral votes, and that this duty is devolved by the Constitution on the two Houses of Congress to the complete exclusion of all other persons.

Such being the Constitution, precedent and practice, I deny to Congress the power in any way, directly or indirectly, to deprive the two Houses of the authority to count the votes for President and Vice-President. It is apparent that all acts passed by Congress to carry out the Constitution and to secure to the two Houses the power to count the electoral vote would be lawful. And those acts that have for their object the transfer of this authority to persons not in Congress would be contrary to the Constitution and therefore void.

I assume with the bill, as true, that under the Constitution the Senate and House of Representatives must count the electoral vote, and I maintain that the two Houses cannot discharge this duty by assigning it, or any part of it, to parties not members of Congress. If this be not true, then Congress can divest itself of any one or all of their constitutional powers by assigning the same to others. What would be said of a Congress that would by statute confer on the Supreme Court the power "to lay and collect taxes," &c., "to coin money," &c., "to declare war," &c., "to provide and maintain a navy?" And if Congress cannot divest itself of all or any one of these powers, neither can the Congress of the United States take from the Senate and House of Representatives the right and duty of counting the electoral vote.

I contend that the bill practically and on its face deprives the Senate and House of Representatives of the authority to count the electoral vote.

The authority to count includes *ex vi termini* the power to decide what shall be counted. Now, to this commission of fifteen members all disputes where "more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate * * * all such returns and papers shall be submitted to their judgment and decision." * * * "Such decision shall be read and entered in the Journal of each House, and the counting of the votes shall proceed in conformity therewith, unless, upon objection made thereto in writing by at least five Senators and five Representatives, the two Houses shall separately concur in ordering otherwise, in which case such concurrent order shall govern."

It is claimed that this clause gives the two Houses authority to make the act of the commission the joint act of the two Houses. Let us see:

> The decision is to be entered in the journals of both Houses, and the counting of the votes is to proceed in conformity therewith, unless, &c.

It is clear that the decision becomes the law of the case and binds both Houses without the approval of either, without the act of either, and without a decision by either.

If all the members of the commission should concur, their judgment should not become the rule to control the counting of the votes, unless first approved by both Houses. Under this bill both Houses have given their approval in advance and without reason to know what may be the judgment of said commission as to any question submitted.

But it is claimed that objections in writing can be filed and the decision can be set aside by the concurrent order of the two Houses. In theory this is true, practically it is not. Under this bill neither House can of its own motion object to the judgment of the commission. Preliminary to any sort of objection to the judgment, both Houses are required to leave their own Halls and to solicit five members of the other legislative branch to concur therein. The House of Representatives, theoretically intended by our Constitution to represent the people of the United States, is compelled to go to the Senate, the representatives of the several States, and ask the aid of five Senators to unite with them in objecting to an obnoxious judgment; and without their aid and concurrence, not a single step can be taken. So that, although the House may be fully convinced that the judgment of the commission is an error or a fraud, this bill deprives them of the privilege of simply making a motion unless the aid of five Senators is secured. If the concurrence of five Senators cannot be obtained, the right to object, to revise, to oppose, to reject, in fine, to make the act and judgment of the commission the act and judgment of the House, is gone forever. Hence I say that the right of either House to decide between opposing election returns, while dimly retained, is so obstructed as to make it impracticable and useless.

Believing that all the powers conferred by the Constitution on the two Houses of Congress are powers to be exercised by Senators and Representatives only, I cannot consent to the introduction of persons, however pure and learned, to participate in the exercise thereof. If Congress can by statute avoid a constitutional duty and impose that duty on persons not members of Congress, why may not Congress divest itself of all constitutional power? If one duty can be assigned, every other duty can be. It is the constitutional duty of the members of the two Houses to count the electoral votes. No other number of persons can do it. No other number of persons can aid in counting them. The duty must be performed by members of Congress, and them alone. The five justices are not members of Congress. They have never been elected, never been sworn. They have no constituents; they represent no one. Congress cannot confer membership on them. And as justices their aid is not invoked, and if invoked the Constitution would deny to them the exercise of their judicial power in such a forum.

It may transpire that these five justices may elect the President. As the ten members of Congress are half republicans and half democrats it is likely that each side will insist that their party candidate is elected. The question then would have to be decided by the five justices. Two of these are democrats and two are republicans. If they should be controlled in the same manner, the fifth justice will decide the question. It will be his single act, an act binding upon Congress and performed by one who is not a member of either House, and from whose decision there is no easy appeal. The bill virtually deprives the two Houses of the right and power to count the electoral votes for President and Vice-President of the United States.

This bill is entirely unnecessary. There is no cause for internal commotion. None even for alarm. There is too much virtue and patriotism in our legislators to permit the President of the Senate to usurp the power of deciding between antagonistic returns and of counting the votes. There is too much honesty and statesmanship in the republican leaders to permit the shameless frauds in Louisiana and Florida to count a candidate of any party into the presidential chair. I believe Tilden and Hendricks have been fairly elected by the American people, and that both Houses would have arrived at this conclusion. I hope the joint electoral commission may do as well.

Bureau of Engraving and Printing.

SPEECH OF HON. B. A. WILLIS,

OF NEW YORK.

IN THE HOUSE OF REPRESENTATIVES,

February 3, 1877.

The House having under consideration the bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes, in which was the following paragraph:

"For dies, paper, and stamps, $450,000; said engraving and printing to be done in the Bureau of Engraving and Printing of the Treasury Department, provided the cost does not exceed the price paid under existing contracts."

Mr. WILLIS proposed to offer the following amendment as a substitute for the above paragraph:

"For dies, paper, and stamps, $450,000; said engraving and printing to be done in the Bureau of Engraving and Printing of the Treasury Department, unless it can be done at less cost under private contract, the cost in no case to exceed the price paid under existing contracts.

Mr. WILLIS. Mr. Chairman, the clause which I propose to amend tends to extravagance, and not economy. If it becomes a law, it will intensify and aggravate an evil the most poisonous and dangerous with which our governmental system is inoculated; against which moralists and statesmen have declaimed with vain eloquence since the termination of the war. I mean the evil of patronage. I cannot understand how gentlemen here who have encountered this vice in their official experience, who have endured the annoyance incidental to office-seeking, and who have in consequence been compelled to neglect their sworn duties, can deem it proper either to propose or support a measure which would necessarily result in an increase of patronage, an increase of office-seekers, an increase of annoyance, and an increase of corruption.

This bill provides that $450,000 shall be appropriated for dies, paper, and stamps; said engraving and printing to be done in the Bureau of Engraving of the Treasury Department, provided the cost does not exceed the price paid under existing contracts. And why? *Cui bonum?* Because it would give employment to a few hundred persons at the national capital. This is the only statesman-like reason urged in behalf of the proposition. Supposing it would. What then? Why, it would involve the discharge of an equal number from employment elsewhere. There is no humanity in it, there is no philanthropy in it; and if there was, the Government is not an eleemosynary institution, organized for the dispensation of charities; it is simply a machine, an agency created with one function, to keep society intact and secure to the people equal benefits by the imposition of burdens to be equally borne.

There is no pretense that this provision would result in a saving to the Treasury; it provides, not that the work shall be done cheaper, but as cheap as under existing contracts, as will appear by reference to the text of the bill. But even this sentence is unfounded; it is built on unsworn estimates, made by parties interested in having the work done by the Government. There is no assurance, no guarantee that the work would be done as cheaply as the estimates state; there is every reason to believe that the cost would exceed the estimates, for not within the memory of living men has the Government undertaken an enterprise but the cost has far exceeded the specifications, whether in building ships, post-offices, or anything else.

But admitting the estimates to be true, the Government does not possess the appliances; if the Bureau should do this work it would involve an outlay of $125,000 for stamps, which have to be kept on hand.

Why, sir, was this work taken from the bureau and given out on private contract? Because the Commissioner of Internal Revenue said it operated in a saving of $75,000 per annum to the National Government. These existing contracts were made in 1874; the work has since been done by private corporations to the entire satisfaction of the Government.

How is it with the work now being done by the Bureau of Engraving and Printing? Every year a deficiency; every year employés discharged.

Why, sir, is it necessary in a democratic House of Representatives to persuade gentlemen that we should have just as little government as possible, endowed with the fewest functions possible?

Is it necessary to *urge* that the Government should *never* do anything that can *be* done by private *enterprise*?

Everything, that the Government attempts to do betrays bungling and incompetency. Even its indispensable functions are most imperfectly exercised. Let us cry a halt and set out on our mission to reform this Government, by reducing the governmental functions to the mininum; let us reduce and not re-enforce the office-holding army, now in excess of 95,000 men; let us avoid the spectacle, which we would witness, were it published to the world, that several hundred men were to be appointed in this bureau. Why sir, every member of Congress, from the pineries of Maine to the Mexican border, would be implored to exert his influence to save this man or that woman from starvation.

Washington is already crowded with mendicants and vultures. I believe in burying the carcass, known as the spoils, and now is an opportunity to begin.

But, if I am all wrong, if money can be saved by having the work done in the bureau; if the cost will be kept within the estimates; if the Government officials can be held to a responsibility as rigid as contractors under bond for faithful performance; if the Government has space to do the work, offices fitted to do the work, experts capable of doing the work; if democracy is all a lie, and the more Government we have the better; if spoils and plunder and patronage are blessings to be encouraged and multiplied; if the Government can do this engraving and printing more reasonably than private persons, by paying more wages and working fewer hours, then why object to my amendment, which provides all this work shall be done by the Bureau of Engraving and Printing unless it can be done at less cost by private contract?

Now, gentlemen, the test is applied, shall we have honest economy and true democracy or shall we canonize centralization as a cardinal virtue in a republican Government?

Internal Improvements.

SPEECH OF HON. W. S. HAYMOND,

OF INDIANA.

IN THE HOUSE OF REPRESENTATIVES,

January 31, 1877,

On the bill (H. R. No. 3758) chartering a passenger railway from Lake Michigan to the southeast Atlantic seaboard.

Mr. HAYMOND. Mr. Speaker, the question of cheap transportation, which in its scope embraces not only the best devised system of commercial outlets from all important points in the interior of our broad land to the seaboard, but also the speediest and cheapest means of intercommunication between the different geographical sections of the Union, is one of first importance, and should engage the early and serious attention of Congress.

The people of the great West and northwest, who are chiefly engaged in agricultural pursuits, complain of many evils consequent upon the inadequacy and irregularities of the present means of transportation.

They demand a fair and full investigation of this subject by the representatives of the people, to the end that some practical measures may be devised to lessen the burdens that weigh so heavily upon their prosperity. While all admit that the natural commercial channels, our lakes and navigable rivers, should be utilized as far as they may be made subservient to the purpose in view, yet it is apparent that the vast bulk of our agricultural, mineral, and mechanical products can only obtain exit from the interior to the seaboard and the chief centers of trade by railroad facilities.

Since the transportation of all the productive commodities of the country must depend mainly upon the railroads, it will be proper to inquire whether the existing lines are ample and fully adapted to the purpose, and whether their management solely by corporations is favorable to cheap rates and ample accommodations, and if found not to be, what encouragement can be given under the sanction of Federal laws to increase the number and efficiency of our railroads especially adapted to the general necessities of commerce, and to what extent these new roads should be made amenable to the control of Congress. These are questions I shall discuss in their proper place as I proceed, and while doing so shall incidentally allude to one or two projected lines, which, on account of their great importance, commercial and national, deserve special mention. Public enterprise is one of the chief characteristics of the American people. It is interwoven with their civilization, and stands out in bold contrast with the extravagant follies that remain as mementoes of other nations. The rulers of Egypt enslaved her people and squandered their substance in rearing her colossal pyramids, but the American people, moved by the spirit of a higher civilization, have devoted their energies mainly to works of utility. While it may be said that the people of this country had built more miles of railway than any other in the world, indeed almost equal to the entire number of miles in all other countries, yet it cannot be said that they have too many or that they have built beyond the requirements of commerce. The vast extent of our territory, the unexampled growth of our population, the development of our varied industries, and the vast increase in our staple products, all indicate that the means of transportation are not in excess of our wants.

While we have constructed many railroads, several of which are of greatest importance, it cannot be said that we have built all the commercial lines that our varied interests demand. We have not developed a satisfactory system of railroads adequate to the requirements of cheap transportation, and such as make all necessary connections between the interior and the numerous deep-water harbors upon the Atlantic sea-coast. The facilities of communication between the interior and the States and Territories on the Pacific coast are wholly inadequate. Two or more transcontinental railways are needed to bind the east to the west and to control the commerce of the islands of the Pacific and the trade of the Orient. The vast intermediate regions of the continent, embracing our several organized Territories, and resting upon the slopes of the Rocky Mountains, which are now almost ready to seek admission into the Union as newly fledged Commonwealths, demand release from their isolation and adequate railroad connections with the great marts of trade.

While we have constructed many railways we have arrived at nothing like a comprehensive system, adapted to our increasing wants and commercial necessities. Our railways have, in the main, been the offspring of local requirements, have been projected and built in short links, altogether independent of each other, and without much regard to general commercial convenience. The defects of the system, and its incompetency to meet the wants of the people, are now clearly perceived. The jarring interests, mutual jealousies, and irregularities pertaining to the management of these corporations act as an incubus upon the leading industrial pursuits of the country. Uncertainty of reward begets inactivity and dethrones industry. However great may have been the annual products of this country, they cannot be regarded a test of its productive capacity, or a fair exhibit of what would be produced if the evils complained of were removed. Let this be done by the adoption of a well-regulated system of cheap transportation, and we will witness a vast increase in our suplus products, the creation of new sources of wealth, and renewed activity in all branches of business. The development to a higher degree of all the productive industries of the country, the utilization of its vast dormant resources, the encouragement of intercommercial pursuits, and the enlargement of its commerce abroad in all quarters of the world, are objects that should engage our serious attention.

How then can these great ends be best promoted? The solution to this question has an answer in the most efficient means to secure cheap transportation, and to extend and strengthen the ties of commercial intercourse between all sections of the Union. The channels of trade should be made ample to meet the growing necessities of the people, and as free from arbitrary restrictions as possible. Cheapness and regularity in rates without regard to season, facility in *transit* and equal privileges to all shippers, are conditions that should be insisted upon. In order to remedy the evils complained of, and to promote to the highest degree the general commercial interests of the country, it will be essential to invoke the exercise of national authority. No power except that of the National Government properly and discreetly exercised can ever regulate a question of so much difficulty and importance to the whole American people. I do not mean, however, to convey the idea that the General Government should enter into the business of building the railroads required, or that as a rule it should incur any risk or expense in their construction, neither do I claim that Congress should exercise any control over corporations created by State laws; but what seems to me to be sufficient for the purpose would be a system of railways built under national charters, with provisions that would protect the interests of the people and hold the companies to a strict accountability for their conduct. These roads should be constructed in a first-class and substantial manner, so as to insure safety to passengers, and the companies should be compelled to make all necessary provisions for the care, safety, and comfort of live stock received for shipment. The tracks, culverts, bridges, &c., should be subject to the inspection of Government engineers, who should be required to report from time to time upon the condition of the same, with authority to compel the companies to keep them in good repair.

The construction of two or three more transcontinental railways and perhaps half a dozen other first-class roads, leading from the

chief commercial centers and distributing points in the West and Northwest—their main lines running upon tangents—to the chief deep-water harbors upon the Atlantic seaboard from New York to Mobile, would afford for a long time the desired facilities for general commercial purposes. Until such lines are built and made amenable to national authority the agricultural interests of the West, Northwest, and Southwest will suffer as they have hitherto done, from the mismanagement and rapacity of corporations that acknowledge no controlling power outside of themselves.

The proposed railway to run on the fortieth parallel of latitude, the Washington, Cincinnati and Saint Louis narrow-gauge, now commenced, and "the United States Central," to extend from Chicago, via Cumberland Gap, to the southeast Atlantic seaboard, with termini at Charleston and Port Royal, together with two or three other great lines leading from the valley of the Mississippi or Missouri, to different points upon the Atlantic, would if built under national charters constitute a system of railways by which commerce among the States could be regulated more effectively than by any other means that could be devised. These new channels of trade being made amenable to the authority of Congress, would afford the best possible facilities for cheap transportation, and their construction at an early day is demanded by the agricultural interests of the whole country.

It is a remarkable fact that upon the long line of coast from Chesapeake Bay to Florida not a single commercial city of magnitude has yet appeared. Along this coast are several excellent and commodious harbors, but the trade and business of these points have been too limited to call attention to their real importance. Why is this so? No other cause can be assigned than the fact that these harbors have not yet been accessible to the traffic from the interior. The local support is too limited to command a respectable share of the foreign trade. Steamships and other carrying vessels evade these ports because there is no steady trade to attract them thither. It is a remarkable fact also that no railroads have yet been built on direct lines between these harbors and the great distributing centers of the West. They are isolated from the productive regions of the interior, and hence receive none of the surplus products for transshipment.

Prominent among these harbors designed by nature for shipping ports are Norfolk, Wilmington, Charleston, and Port Royal. The last-named, on account of its greater depth of water and other advantages, may be justly regarded equal to any upon the Atlantic coast, or perhaps equal to any in the world. They lie in obscurity simply because no commercial channels of communication bind them to the West. Baltimore has its great road leading to the West which pours into that city a heavy traffic, and this great artery of trade has more than anything else contributed to make Baltimore a thriving commercial emporium. Philadelphia, New York, and Boston likewise have their great lines of railway which unite them with the Western States and which command an immense business. But the cities located at the harbors south of Chesapeake Bay are without such facilities, (direct connection,) and will remain as places of but little commercial importance until they are supplied with them.

We have a vast country, almost ocean-bound, spanning the continent from east to west, embracing all latitudes within the temperate zone, and divided by lofty mountain-ranges and immense lakes and broad rivers into numerous geographical divisions, each of which has peculiarities of soil, climate, and productions. All of these sections are component parts of our vast Republic, and must be forever maintained as a unit. To secure so great a political end these different geographical sections must all be favored, as nearly as practicable, with similar and equal privileges, and be cemented by commercial ties in bonds of common interest. In no other way can such a vast and diversified country be long and peaceably maintained under one flag and one Government. The peculiar adaptations of each grand division must be duly regarded and no section fostered at the expense of the others.

Though our Government has grandly entered the second century of its existence and bears the undisputed title of being the model Republic of the world, yet we should not forget that, notwithstanding our wonderful growth and prosperity, we have had strifes, contentions, and civil war. The primary causes that led to the terrible ordeal through which this nation has lately passed have not all been candidly and philosophically considered. We have not gone back to the origin and fully studied *all* the reasons that led to alienation of interest and sympathy between the people of different sections. Isolation and distance, deficiency in the means of intercourse, and our mountains, the stubborn barriers of nature, have also been factors connected with the question. Had this country been populated a century or two earlier even by European races it is quite probable that our mountain-chains would still mark the boundaries between hostile clans, kingdoms, or empires. It cannot therefore be regarded as a visionary notion that natural barriers, which have in our day isolated States and debarred them from social and commercial intercourse, should be regarded to a certain extent as primary causes of alienation. The maintenance of a republican government like ours at an earlier age in the world's history, over our present vast territory, would have been impracticable unless held together and governed as Rome was under her Cæsars. An advanced civilization was essential as a foundation for the existence of liberty and the maintenance of self-government, and the railway and telegraph are the titanic forces of cohesion that can cement in indissoluble ties the numerous Commonwealths of this Confederacy.

Our immense territory may be divided into six or eight grand geographical divisions, each having peculiar adaptations. Had each been colonized under different circumstances and by a separate people, it is quite probable there would have been several petty nations or kingdoms, inimical in interests, differing in religious and political tenets, and incapable and indisposed to form a common alliance. Happily no State of this Union has been populated by a peculiar people, holding to anything but American ideas and the principles, in their primitive purity, upon which this Government was founded. In the rapid aggrandizement of new territory the enterprising and dominant race of this country—that which may be styled American or Americanized—has taken possession of the soil in every locality, and planted there, in advance of all other immigration, the characteristic and controlling principles of American civilization. Population has poured in from all parts of the world and followed that which preceded it, glad to receive and become beneficiaries of the advantages offered, rather than to intrude upon or seek to revolutionize what they found so well adapted to their necessities. In this way has our country, without deviation from its original and truly American characteristics, become cosmopolitan. Without the power of steam and the rapid means of conveyance afforded by railways it is quite certain that such fortunate results could not have been achieved. It is absolutely necessary that the cohesive forces before alluded to should be made and kept commensurate with the growth of population, its expansion into new territories, and with the agricultural, manufacturing, and commercial necessities of the people.

All those forces that serve to connect, unify, and produce homogeneity of interests among the people of all sections of the Union should be constantly strengthened, otherwise the antagonizing and subtle power of disintegration will grow apace and at an unexpected time will bring us in the presence of dangers that may be difficult to avert. The late sanguinary ordeal through which this country has passed was in some measure due to the fact that the people of certain geographical sections were widely isolated from others and that the means of social and commercial intercourse between them were extremely limited and inadequate. Sectional peculiarities grew into antagonisms, conflicting interests begat strifes, and in time the alienation became so great that war ensued. We witnessed the first bold and startling expression of dissatisfaction in the celebrated South Carolina exposition of 1828, which led to nullification and the memorable imbroglio of 1833. A high protective tariff was the occasion of the dangers that threatened the integrity of the Union. There grew into existence an antagonism of interest between some of the cotton-producing States, which looked across the sea for their only market, and the Eastern and Middle States, which were then beginning to engage seriously in mechanical and manufacturing pursuits, and loudly demanded a tariff for protection.

Now what were the commercial facilities of the country at that time? What were the ties of interest and means of commercial intercourse between the jarring sections? Railroad-building was then in its infancy. South Carolina was but feebly connected with the Eastern or Middle States by inland channels of trade, and was completely isolated from the valley of the Mississippi by the stubborn crests of the Alleghany Mountains, and her traffic, following the course of her rivers, flowed toward the sea, and England became almost the sole purchaser of her products, and hence became her commercial friend and neighbor.

Under the operation of natural obstacles, non-intercourse, defective means of transportation, abrogation of mutual interest, which were causes of alienation between the cotton States and the Northern States, came added slavery as a sectionalizing element, arrogant and aggressive in its purposes, and which became the entering wedge that led to the attempted dismemberment of the Union in 1861.

The primary causes of our national difficulties that led to open hostilities did not appear to arise from any disregard of the principles of self-government, any opposition to the Federal Constitution, but were attributable mainly to the causes before mentioned and to the fact that sectional pride and supremacy were fostered at the expense of that superior regard that was due to the Government created to protect and defend all, and which alone contained the essence of national life.

What are the commercial and social means of intercourse existing now between the States on the south Atlantic coast and those west of the Alleghany Mountains? What arteries of trade lead through the hearts of these States and pour into the sea-ports upon their extended shores the immense products seeking the markets of the world from the heart of the country?

Now let us look over our country so broad, so grand in its dimensions, so diversified, with mountains and valleys, rivers and plains, and see if there is not urgent necessity for a more comprehensive system of railways specially adapted to the increasing necessities of the people.

The great West, now the great heart of the nation, in her wonderful development and innumerable products, turns her gaze toward the Atlantic at every available point in search of outlets to the markets of the world. Her Briarean arms of commerce must extend to every shore and seek termini at every deep-water harbor suitable for

ocean steamers to enter. The Atlantic ports will be reached by railways built upon the shortest lines from her great distributing centers. These roads should all be built under charters granted by the General Government. Under the shield of protection afforded by national law, capital, which is now timid and indisposed to venture, would seek investment in these important enterprises and contribute more than anything else to the permanent prosperity of the country.

The success of the jetty improvement in the Lower Mississippi may possibly enable New Orleans to regain her ancient supremacy as the commercial city of the South and restore to her again a large share of the river trade, but the exportable products of the South Atlantic States, with Kentucky, Tennessee, and the West and Northwestern States, will naturally look for more rapid facilities and seek outlets on direct tangents to the deep-water harbors on the southeast Atlantic seaboard. These ports are the natural gateways to the high seas and the keys to a future commerce, whose extent and importance are yet but feebly comprehended. The development of the South, her advance to the proud position she should occupy as one of the most fertile, productive, and genial regions on the continent, depend mainly upon two things: first, the complete utilization of her harbors as shipping ports to the merchant-vessels and steamers from all maritime countries and, secondly, an effective system of railways to all important points in the West, Northwest, and Southwest.

On the long line of sea-coast from the Chesapeake to the Gulf of Mexico no great commercial city has been built, notwithstanding the fact that on this coast are several excellent deep-water harbors. Among the most noted are Norfolk, Wilmington, Charleston, and Port Royal. It has been predicted, and the prediction seems to be based upon substantial reasons, that the day is not remote when a great commercial city will appear at some point upon the southeast Atlantic coast. That this emporium will be either at Charleston or Port Royal, there can be but little room to doubt. The flourishing condition of Charleston gives it present advantages over its rival; and these may be long maintained if Charleston is the first to extend its commercial arms to the heart of the West, and thus secure an abundant share of the traffic of the Mississippi Valley. The wonderful harbor of Port Royal, with its capacious area and superior depth of water, naturally fits it to become the site for the future emporium of the Southeast, and the rival of New York. It is now regarded in the prophetic eye of many shrewd men as the chosen site for the future "mistress of the seas."

The great advantages of Port Royal have long lain dormant. In the report of the board of officers lately convened for the examination of navy-yards, composed of Admiral David D. Porter and others, we find the following statements:

> The harbor of Port Royal, South Carolina, and its tributaries present great advantages, and offer the necessary depth of water and facilities for entering the port without risk to vessels of war. Port Royal Bay is a noble sheet of water, undoubtedly the finest harbor on our Southern coast. The wonder is that the place was so little known or appreciated prior to 1861.

From the same report I quote further:

> There is a large interval between Norfolk and Pensacola of fourteen hundred and forty miles, while the largest distance between any two navy-yards, Brooklyn and Norfolk, is not more than two hundred and fifty miles. Port Royal is about four hundred and eighty miles from Norfolk, nine hundred and sixty from Pensacola, and four hundred and fifty from Key West. It would appear from this that the defenses of the southern coast had been somewhat neglected.
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> As regards communication with the West Indies, Port Royal is four hundred and eighty miles nearer to the Bahama Islands than Pensacola, and the distance of the two places from Havana is about the same. As a point to communicate with the Windward Islands Port Royal has the advantage, while Pensacola seems to be a necessity for the protection of our interests in the Gulf of Mexico. *Port Royal must in the future become a most important station* on our South Atlantic coast.

This report is in consonance with all others, both of a public and private nature, in reference to the superior merits of Port Royal harbor.

It has remained neglected and unappreciated for the sole reason of its limited connections with the grain-raising regions of the Mississippi Valley. It offers greater inducements and advantages as a shipping port than any point on the coast mentioned, and these must soon be duly appreciated. An attempt is now being made, with fair prospects of success, by a company chartered by the Legislature of South Carolina, to build docks, warehouses, and supply the port with shipping and transportation facilities on an extended scale. With proper encouragement this movement may lead to very important results. The construction simultaneously of the projected United States Central Railway from Lake Michigan to this port, via Cumberland Gap or Knoxville, would give a strong impetus to the harbor improvements and at once invite capital and population to Port Royal. As soon as this railway is completed Port Royal will become an important port of entry and her commercial relations, with all parts of the world accessible to merchant and trading vessels, will be established upon an enduring basis.

In her dismantled condition South Carolina may confidently seek hope and salvation through the proper utilization of her superb harbors. They are the natural inlets to a large share of the future commerce of the world. They will in due time command the great trade of the West Indies and South America, and this trade will, through the facilities of railroads, reach the heart of this country at a less distance by several hundred miles than by any other feasible routes. New York will perhaps remain forever the first commercial emporium of this country, but her growth will be facilitated rather than crippled by a rival city in the Southeast.

Among the many reasons that may be assigned in support of the opinion that a large commercial city will arise on the South Atlantic coast, in the immediate future, at the point I have designated, are the following: First, its central position on the long coast from Chesapeake Bay to Florida; secondly, remoteness from any rival city; thirdly, superior advantages of the harbor and greater depth of water; fourthly, support of contiguous States; fifthly, traffic from the interior by rail; sixthly, trade of the West Indies; seventhly, trade of South America; eighthly, European trade; ninthly, contiguity to the vast coal-fields of Kentucky and Tennessee and the valuable iron ores and mineral deposits found in those States and others through which the proposed railways will pass; and, lastly, because the proposed city can be reached on shorter lines of railway, from Chicago, Cincinnati, Louisville, and Saint Louis, and all other points in the Mississippi Valley, than by any railroads hitherto constructed to the seaboard from the same point.

From a simple inspection of the map of the United States it will be perceived that the southern point of Lake Michigan is the geographical center of all portions of the country adapted to agricultural pursuits east of the Rocky Mountains. If upon the map a series of radii be drawn from Chicago to all the harbors on the Atlantic coast, the peninsula of Florida excepted, it will be noticed that they are all practically of the same length. Owing to favorable gaps in the mountains it will be found practicable to construct a railroad with moderate gradients from Chicago to Port Royal or Charleston, on a route nearly a hundred miles shorter than any of the great railways connecting that city with New York.

The building of the proposed series of railways would mark an important event at the threshold of the second century of this nation's history. It would awaken all the industrial pursuits of the country now paralyzed. It would inaugurate a new era of progress, forecast a degree of prosperity transcending anything of the past, and infuse new life and energy among the people. "Peace hath its victories no less renowned than war," and the new march of the Northwest to the sea will be greater, grander, and more glorious than that which hath gone before.

The question of constitutional power of the Federal Government to construct railroads or grant aid in their construction may be regarded as *res adjudicata*. And the authority to grant charters to railroad companies appears to be as clear and as well defined as that of any other implied powers hitherto exercised by Congress. It is equally as clear and strong as the authority to charter a national bank, which was affirmed by the highest judicial tribunal of this country in the celebrated case of McCulloch *vs.* The State of Maryland. To those holding to the view that the United States is a nation, and not a mere loose compact between States, the power of the Federal Government to charter and build railroads is clear and explicit. If a State can grant franchises to railroad companies, (and most of them have done so,) it follows that the United States, in its more extensive jurisdiction, may likewise charter roads that will run through two or more States. Whether this power should be exercised without the consent of the States into or through which the roads will pass, is a matter of expediency or policy. There is not a State in the Union needing transportation facilities that would in any likelihood object to the exercise of this power on the part of the General Government. In the several bills introduced asking national charters, no objection it is believed will be raised against amendments requiring the consent of the States before the proposed roads are constructed.

It is a right inherent to the sovereignty of every nation to extend its protecting arm over all parts of its territory; and for this purpose the United States may order troops to march into any State, quarter them upon its soil, and erect forts and arsenals without consulting the States trespassed upon. What a commentary it would be upon the powers of a great nation like this, if, for instance, in anticipation of invasion it was deemed necessary to erect military fortifications at some mountain pass as a protection to the interior, if this authority could not be exercised without first obtaining the consent of the State Legislature.

The authority to grant charters to railroad companies with the condition that the roads when built shall be subservient to the purposes of the Government when necessity may require, and even to aid in their construction, may be clearly inferred from the powers granted to Congress by the Constitution, "to provide for the common defense and general welfare of the United States." If we have unprotected harbors and a defenseless sea-coast (and such is the case now) and if it should appear that the building of railroads to or in the direction of such unprotected harbors and defenseless coast was essential for their protection by the facilities they would afford in the rapid transportation of troops, supplies, and munitions of war, there could be little doubt of the power of Congress to construct or authorize their construction. For prudential reasons, in anticipation of future danger, it might become the duty of the Government to provide such means of defense. Besides proving to be means of "common defense" the railroads would in an eminent degree promote "the general welfare of the country."

Again, the power of Congress *to establish post-offices and post-roads* may imply more than the mere purpose of declaring certain existing

roads or public highways "*post-roads.*" The building of railroads as improved facilities for the postal service is clearly an ancillary power that may be exercised by Congress. It may be exercised directly by the Government building the railroads itself, or indirectly by authorizing their construction by companies, under proper limitations, and with such requirements as would render the roads subservient to the purposes in view. This authority seems to be more clearly implied than that by which a great fiscal corporation was created by Congress conferring banking privileges upon the Government. The power "to establish post-roads" carries with it the authority to lay out and construct such roads, in case the postal service should evidently require them, and it must be altogether discretionary with Congress to determine the number and character of such roads. The postal service of the United States is now largely conducted by the superior facilities afforded by railroads, and circumstances may arise that would compel the Government to provide its own postal railways. A combination of leading railways might, for the purpose of extorting unusual charges from the Government for their services in transporting the mails, force the Government to the alternative of either dispensing with such service or to build or authorize the construction of railroads for that purpose. As the world advances and progress becomes more apparent each day, it is quite evident that we cannot abandon the essential privileges of our civilization, and content ourselves with those of an inferior order. We cannot abandon the mail privileges afforded by the railway, and be contented with the slow transit of the mails over mud turnpikes as in former days. Hence when necessity requires it the power to build or charter railways as postal roads is clearly manifest.

Henry Clay in a speech delivered in the House of Representatives on internal improvements, March 13, 1818, made use of the following language:

> I have contended that the power to construct post-roads is expressly granted in the power "to establish post-roads." If it be, there is an end of the controversy; but if not, the next inquiry is whether that power may be fairly deduced by implication from any of the special grants of power. To show that the power is expressly granted, I might safely appeal to the arguments already used to prove that the word *established* in this case can mean only one thing—the right of making.

Again, the power conferred by the Constitution upon Congress "to repel invasions," which is akin to that providing for "the common defense," may be by implication considered ample authority for the construction of railways by the Government. A nation comprehending its necessities and foreseeing the dangers of invasion would be unwise in neglecting to provide the necessary means of defense. Our extended and defenseless possessions on the Pacific coast would be at the mercy of any invading foe were it not for the great railroad that binds them with the interior. A war with any of the great maritime powers of Europe at this time would find us with a long line of unprotected or at least poorly protected coast on the southeast, and without adequate means for the transportation of troops and supplies in case of emergency. One of the great lines of railway proposed, if built, would supply a national want and become a valuable adjuvant to our means of defense in the event of war.

Further, the authority to construct railways or authorize their construction, as the most efficient means for regulating interstate commerce, is ancillary to the general power granted to Congress by the Constitution "to regulate commerce among the States." Railroads as channels of trade were unknown when the Constitution was framed; but from the fact they have now become the principal means by which commerce between the States is carried on, it must follow that if Congress shall exercise its lawful power to regulate said commerce it must do so in reference to the facilities by which it is mainly conducted. The multiplication of new methods of transportation does not weaken the force of the Constitution. The question occurs, can the power of colossal corporations abrogate this provision of the Constitution? Are the powers vested in them by State laws so transcendent that they are entirely beyond any control of Congress? In reference to these questions there is perhaps no method that would so effectually enable Congress to regulate commerce among the States as by granting charters to such a system of railways as I have alluded to, and by making them amenable to national law so far as it may be deemed necessary for the foregoing purposes.

The bill (H. R. No. 3758) provides that Congress may "interpose its authority whenever in its judgment the public good requires it." This discretionary power vested in Congress would certainly afford ample protection, if duly exercised, to the commercial interests of the people and the nation against any abuse of power that might be attempted by the railroad companies.

Among able jurists it is regarded a doubtful question whether Congress can under the provisions of the Constitution exercise any control whatever over corporations created by State authority. But railway companies acting under charters granted by the Federal Government would be subject to the control of Congress, and any abuses or evils likely to occur could be remedied without invoking the exercise of any questionable power. From an article on this subject in Appleton's New Encyclopædia, I extract the following:

> Many of the State Legislatures have undertaken to equalize and control the fares and rates of freights by arbitrary enactments, while others have endeavored to do so through their boards of commissioners. As yet no practical settlement of the various questions has been reached. The railroad companies make the general claim that their charters are contracts with the State which authorize them to regulate their own charges and control their own business, and which cannot be altered or amended directly or indirectly without their consent, and finally that all efforts to do so are in contravention of the Constitution of the United States, which prohibits the States from making laws impairing the obligation of contracts. The theory of those who assert that the States have the right to regulate the rates at which passengers and freights shall be carried by railroads, is that they are public highways, controlled by corporations created by law, and therefore subject to the law-making power whenever it may choose to intervene.
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> Still another has been set up and received public attention, namely, that the authority to regulate commerce between the States, given to Congress by the Constitution of the United States, is broad enough to cover, and does cover, the right to regulate and control the railroads in all matters pertaining to their operation, and particularly in fixing the rates at which freights and passengers shall be carried, notwithstanding the fact that railroads, for commercial purposes, were at the time of the formation of the Constitution entirely unknown and unthought of. What will be the future solution of this question, now receiving the attention of many writers and thinkers in all parts of the world, cannot be predicted.

Taking these views to be a fair *résumé* of the question as it now stands, it may be asked what method can be adopted that would so effectually solve these difficulties as for Congress to authorize the construction of railways, reserving the right to regulate and control them as public necessity may require.

The building of railroads has been greatly facilitated and extended by Government aids in subsidies and land grants, but a strong opposition to granting further privileges of this sort is now apparent, and opposition to loans of Government credit is also regarded with disfavor, as it might lead to the imposition of enormous burdens upon the people; but the vast majority of those engaged in agricultural pursuits, who are interested in securing the means of cheap transportation, would cheerfully indorse the action of Congress in chartering a number of railroads and making them amenable to national law to such an extent as would protect their interests. The question may be put, if no subsidies or other Government aid is demanded, why ask national charters where it is generally practicable to secure charters from the State Legislatures or to organize local companies under general corporation laws? This question has already been fully answered in the argument produced in favor of a system of national railways; but the reasons may be summarized as follows:

1. Because railroads built under State charters are always local in their character and limited in their purposes. They are generally short lines, built only with reference to local wants, and without any regard to future connections or general commercial ends. They are generally complicated with local interests, which always cling to them, and are seldom laid out and constructed on the direct routes that are the most favorable to general highway.

2. Railroads built under national charters and intended for interstate commercial highways would command more of the public confidence, and being free from all local complications and being built upon direct routes, would afford the best and most reliable facilities for transportation.

3. Because the powers to be exercised by companies organized under national authority could be clearly defined in the charters and could not be easily evaded.

4. Because the Government sanction would go far in disabusing the minds of capitalists of the danger of arbitrary State legislation, and they would thereby be induced to invest their capital in the construction of such roads under the belief that their rights would be amply protected.

5. Because the general and commercial interests of the country would be greatly promoted by the building of such roads, and the people would feel that they would have stronger guarantees than they now have against the avarice and extortion of corporations.

6. Because the illicit issue of stocks as a means for enriching the managers of railways, by establishing a basis for higher rates, could be totally prohibited.

7. Because the construction of the proposed railways is urgently demanded by a large portion of the American people, especially by those engaged in agricultural and commercial pursuits, and because these works are of commercial, national, and political importance.

8. Because the building of such roads would improve the country, develop its vast resources, unify its interests, strengthen the bonds of union between the States, and revive and place upon a firm and lasting basis the prosperity of the nation.

After these general considerations, I will now call special attention to the project embraced in House bill No. 3758, styled "The United States Central Railway Company," as an enterprise of magnitude and of first-class importance. The proposed railway will start at Chicago and run in an air-line direction to Indianapolis; thence to Lexington or Frankfort, Kentucky; thence to Cumberland Gap; thence in a southeast direction to Charleston and Port Royal, South Carolina. An attempt was made several years ago to build a similar road from Charleston, via Knoxville, Tennessee, to the West, with Cincinnati as its objective point. South Carolina was then but little behind other States in the progressive spirit of the day, and sought to accomplish a great purpose of vital importance to her prosperity.

The first step taken to inaugurate this important enterprise was by calling a railroad convention at Knoxville. This convention was held on the 4th day of July, 1836, and in the number, intelligence, and character of its delegates was never surpassed by any similar assemblage. Nine States, including Indiana and Ohio, were represented in the convention. The building of the road was on that occasion advocated by many distinguished men, among whom were Governor Vance,

Colonel E. D. Mansfield, and Dr. Daniel Drake of Ohio, Governor Noble of Indiana, Robert Y. Haynes of South Carolina, James Gladden, Judge O'Neal, Messrs. Petigrn, Harper, Blandis, Brooks, and Meminger. The project was actively advocated by John C. Calhoun, and regarded by him as an enterprise of the first importance. No work was done on the road until several years afterward, but the purpose was kept continually in view. The link from Anderson, South Carolina, to Knoxville was put under contract for construction and the work prosecuted as late as the year 1856. A portion of the line from Anderson to Walhalla, about thirty-two miles, was completed, and sixteen miles at the other end south of Knoxville, when a suspension of the work took place. A large amount of work in grading, bridging, tunneling, &c., was done at different points on the line between the completed sections. The total amount expended in construction was estimated by the engineer at about $3,000,000.

The financial revulsion of 1857, which soon followed the suspension of the work, rendered it impracticable to resume operations for several years. Before the managers of the road were able to renew their efforts the war of 1861 came on like a blighting scourge, and has since then left South Carolina in too prostrate a condition to continue, even with the aid of the neighboring States which were interested in the scheme, a work of such magnitude. This incompleted link, known as the "Blue Ridge Railroad," lies in the route of the proposed United States Central Railway, and may be adopted as a portion of its main line or principal branch. The work done on the incompleted Blue Ridge Railroad is reported to be first-class in all respects and of such permanent character that it remains almost unimpaired to this time.

In 1873 a convention of delegates from all the States interested by the proposed railway was held in the city of Chicago, and a company was organized to build the road from said city to the points before named upon the southeast Atlantic seaboard. The construction of the road has been commenced at both ends and has so far been prosecuted solely with local means. A considerable amount of grading and bridging has been done in Indiana, and the work is going on at moderate speed on the link between Spartanburgh, South Carolina, and Asheville, North Carolina, known as the Asheville and Spartanburgh Railroad. This section of the line is under the able management of Colonel D. R. Duncan, of Spartanburgh, the president of the Asheville and Spartanburgh Railroad Company. With the aid afforded by cheap convict labor, this portion of the road is likely to be carried to completion through the Blue Ridge; but considering the mountainous character of much of the country through North Carolina, Tennessee, and Kentucky, the cost of construction will far exceed the extent of local aid, and hence the necessity of national recognition as a means to insure its completion. No railway yet proposed, whether considered commercially, socially, or politically, exceeds this in importance. It is an enterprise of national necessity and should receive at least the speedy sanction of Congress in the manner proposed.

The attention of the vigorous and enterprising Northwest is now being directed to the South Atlantic States and the harbors upon their coast. This is done with the view of opening direct commercial communications with them, and through their excellent harbors to seek new outlets for their surplus products to the markets of the world. The South Atlantic States import largely from the West, hay, corn, wheat, flour, bacon, beef, lard, machinery, mules, horses, cattle, merchandise, &c. These supplies at present find their way to the purchasers and consumers over long and circuitous routes, which exceed on an average by nearly nine hundred miles the distance by the direct route of the proposed United States Central Railway. The cost of transportation over these nine hundred miles of extra distance falls upon both consumer and producer, and it is certainly a matter of the greatest importance to the future growth and prosperity of both sections, so mutually dependent upon each other, that direct and efficient channels of trade, such as proposed by this great iron highway, should be secured at the earliest period practicable.

The following table, copied from a prospectus of the proposed road, shows what the price per bushel of corn was in 1873, and is self-explanatory where the profits go:

Interior of Illinois (Adams and Kane Counties) from	$0 20 to $0 30
Interior of Indiana	25 to 35
Chicago	29 to 43
Charleston, South Carolina	80 to 1 00
Interior of South Carolina and Georgia	1 00 to 1 50

However necessary this direct commercial highway between the Northwestern and Southeastern States may be to both sections for the mutual exchange of their respective products, yet this interchange or domestic trade, important as it may be, is only a part of the uses that this road is intended to subserve. Being a direct line from the heart of the country to the seaboard and having its termini at deep-water harbors, which are the keys to the tropical trade, it must necessarily command to a large extent the commerce of the West Indies and South America. It will also become an important outlet for breadstuffs and other products from the West to Europe and other countries. Travel and trade on this highway would never be interrupted by the vicissitudes of weather, and owing to the mildness of the climate in the States through which it will pass it would become the most pleasant and desirable route for immigrants from Europe seeking homes in the Southern or Western States. The places of termini upon the seaboard are healthful, salubrious, and free from epidemics, and are not so far south as in any manner to render them unfit for the safe storage of grain. In this respect they possess many advantages over any ports farther south and other advantages over those farther to the north. These harbors occupy most important positions on our Atlantic seaboard, and it is strange that they have been so long neglected.

There are other considerations of public importance that require the building of the United States Central Railway. It will pass through some of the richest mineral regions on the continent. It will open a way to vast coal-fields and beds of iron ore that are now locked up for want of transportation facilities.

According to the geological report of Professor Rogers, of Pennsylvania, the amount of coal originally existing in the great coal-fields of the world is given in the following statement:

	Tons.
Belgium	36,000,000,000
France	59,000,000,000
British Isles	190,000,000,000
Pennsylvania	316,000,000,000
Appalachian coal-field	1,387,000,000,000
Indiana, Kentucky, and Illinois	1,277,000,000,000
Iowa Missouri, and Arkansas	739,000,000,000
Total amount in the United States	4,000,000,000,000

From these calculations it will be perceived that the United States have twenty-one times as much coal as Great Britain.

The building of this railway would probably expose to view more unearthed mineral wealth in coal, iron ores, &c., than will ever again be made accessible by any other railroad in the world.

While it is evident that at no remote day the coal supplies of England will run short, and likewise the sources of coal and iron in the principal manufacturing states of Europe, we have the clearest evidence that we shall have an abundance of the same for all purposes for ages to come. Hence it is apparent that nature has endowed this country in a superlative degree with the most important elements of power and greatness, and that at an early day it must become the first manufacturing nation in the world. Iron will become with us, as it is in England, a great element of power, and our supremacy will depend in a great measure upon our ability or willingness to utilize it. The United States Central Railway will open a passage through the heart of the coal-fields of Kentucky and Tennessee on a tangent of nearly two hundred miles; and along the same line, side by side with the coal, will be found iron ores in vast abundance and of the best qualities—magnetic, spathic, and specular. The mountain regions of Kentucky and Tennessee, with their healthful and fertile valleys and unlimited water-power, will become ere long chosen sites for manufacturing establishments. They only await the advent of railroads to connect them with the marts of trade.

Our country is yet new and its development incomplete. Its vast resources are yet but partially utilized. Only a limited portion of our heritage of soil has been subjected to cultivation. The following statement, compiled from the last census of the United States, will show what portion of the country is under cultivation in the States through which the United States Central Railway will pass, together with Iowa and Wisconsin:

Indiana has six-sevenths of her soil inclosed in farms and two-fifths actually cultivated; Iowa has three-sevenths inclosed and one-fifth cultivated; Wisconsin has one-third inclosed and one-fifth cultivated; Illinois has one-half inclosed and one-seventh cultivated; while East Tennessee has only one-fourth of her soil inclosed and about one-tenth actually cultivated; West North Carolina has only one-fourth inclosed and about one-tenth cultivated; Northeast Georgia has only one-fourth inclosed and about one-tenth cultivated; South Carolina has only four-sevenths inclosed and about one-seventh cultivated.

While it is true that a considerable portion of the last-mentioned States lies among mountains, and may be regarded as timber-lands, yet the fact is demonstrable that none of the advantages of this country has yet been fully utilized, and that cheap and fertile lands and inexhaustible mineral and other resources invite the attention of the agriculturist, the miner, the mechanic, and manufacturer to the best inducements and opportunities that the world can afford.

The irresponsible assertions occasionally made, that this country has already too many railroads, are on par with the theory that some philosophic minds have advanced that our financial troubles and the general depression in the business pursuits of this country are due to *overproduction*. If this theory were true, it would follow as a logical sequence that idleness, improvidence, stupidity, and extravagance would soon restore the equilibrium and bring about a state of prosperity. For the consolation of those who entertain these fears, I quote the following statements of Henry V. Poor, contained in the Railroad Manual for 1875 and 1876. He says:

Another important element in forecasting the future of our roads is the rapid increase of our population. This increase now equals very nearly 1,000,000 annually. The constant addition of such vast numbers is a most powerful corrective of financial disturbances growing out of *overproduction*, as every industry so long as it does not extend its operations will soon find the demand overtaking production. Every trade feels that it can rely upon a vastly greater number of customers the next year than the present. Our position as a nation is in this respect most peculiar and happy, as the rate of increase of the population of others—particularly those with whom we have the most intercourse—is very slight. In 1880 our population will undoubtedly equal very nearly fifty millions. It is probable that, owing to the improvements that have been made in machinery and uten-

sils and in the reduction of the cost of transportation, the productive capacity of the people has been doubled within the last ten years. The earnings per mile of our railroads have more than doubled within that period. Their aggregate earnings per head of population are fourfold greater. If the future is to repeat the past it will be seen that the interest which is to receive the greatest benefit from the progress that society is constantly making in the useful arts is that of our railroads.

The statistics I have given demonstrate conclusively that nearly all the pursuits of American industries are yet but partially developed, and that the growth of our population and the constant increase of surplus products must necessarily demand enlarged railroad facilities. While it is true that certain sections are well supplied with railroads, at least for all local wants, yet in some of the States there are extensive regions abounding in resources of undeveloped wealth, that are without such facilities, and must remain in a backward and non-progressive condition till they are supplied.

The United States Central Railway, running in a southeast direction from Chicago to the Atlantic, will pass through wide sections of the country for several hundred miles where the necessity for a railroad has long been felt.

What is needed is not more neighborhood or local lines, but a system of commercial highways leading from the chief distributing centers of the interior diverging on direct routes to the seaboard. By such a system all the important harbors on our entire Atlantic coast would become marts of trade, to both outgoing and incoming, and all sections of the Union would have the benefits of close connection with them, and through them access to the markets of the world. The warp and woof would be complete between all parts of the Union, and the interests of the whole people would be immeasurably advanced and intimately blended.

No one can look over this vast country and attempt to estimate its peculiar advantages and resources, the wonderful combination of forces and elements, without casting a thought along the vista of the future to the grand destiny that seems under the guidance of Providence to await it. A glimpse at these advantages and elements of power will be sufficient to impress us with their importance. A condition essential to national supremacy is ample extent of territory. No country of limited domain pent up between nations of more extensive area can ever become a first-class power. Our country possesses the advantage of being a vast territory, capable of sustaining an immense population. It occupies the central regions of a continent, extends from ocean to ocean, and embraces an area of 3,500,000 square miles, about equal in dimensions to all of Europe, and is capable of supporting a population greater than that of any nation in existence.

In the second place, all of this vast territory is embraced within temperate latitudes, within that zone where the greatest amount of human energy has been displayed, and where the most distinctive developments in physical and mental manhood have always been manifested, and perhaps always will.

In the third place, the area of fertile soil bears a larger proportion to the whole country, than that of any other contiguous extent of country in the world of like dimensions; and the products of the soil embrace all varieties essential to the human sustenance.

Fourthly. The number, size, and length of its navigable rivers adapted to the purposes of internal commerce, are immense and have no parallel in any other nation; and the chain of lakes, surpassing in magnitude all others in the world, stretches along its northern boundary for more than a thousand miles and affords the most extended facilities for navigation and commerce, both domestic and foreign.

Fifthly. Extensive coal-fields and prolific sources of iron and other mineral wealth adapt this country in a pre-eminent degree to manufacturing pursuits.

Sixthly. Our country, being almost ocean-bound and having a vast length of sea-coast, presents more objective points for commerce than any other in the world. The harbors and ports on our eastern coast are numerous, and when properly improved will afford all the shipping accommodations demanded by the Atlantic trade. From the Southeast and Gulf coasts we have direct and easy access to the West Indies and the eastern shores of South America. With proper effort on our part the immense trade of those countries can be secured and made tributary to our prosperity. Friendly and reciprocal relations should be established and maintained between them and us. The great bulk of the commerce of the South American states must necessarily flow toward the Atlantic. The Andes, the back-bone of the continent, press closely on the shores of the Pacific, leaving only a narrow strip of country on the west side, while to the eastward of the mountains is an immense territory spanning the torrid zone and embracing regions beyond the tropical lines. This vast country possesses a fertile soil, is rich in multitudinous productions, and abounds in valuable resources. It is channeled by majestic rivers which arise in the Andes and flow to the Atlantic. The Orinoco, the La Plata, and Amazon, and their branches, are highways of commerce for the vast countries of the interior and through which they pass. Thus it will be clearly seen that the entire commerce of South America east of the Andes must necessarily seek outlets through the Atlantic. Commercial intercourse, in the cheapest and most direct way, between the United States and the principal countries of South America should be encouraged by all appropriate and available means. Contiguity of position gives us great advantages over the countries beyond the Atlantic in commanding the trade of South America. How can this trade be best diverted to this country? A careful inspection of the map will show that the most direct commercial route from the eastern coast of South America and from the West Indies to the United States is that which leads to our southeast Atlantic harbors. They are the natural outlets and inlets for the immense prospective trade that will be carried on between the countries mentioned and the United States. What is most needed to accomplish these desirable objects is evidently to build railways as I have proposed from the valley of the Mississippi or other points to Port Royal. Let us by all means have one commercial metropolis on our south Atlantic coast. Let the Government do something to aid in a purpose so laudable, and which must necessarily lead to the most important and beneficial results.

Lastly, in estimating the commercial advantages of the United States we should not overlook its central position between Europe and the Orient; that we have a long extent of Pacific coast, six thousand miles nearer China and other oriental lands than England, and that we ought, with the enterprise characteristic of the Anglo-Saxon race, maintain forever a commercial supremacy in the seas westward of this continent. When are seen together all the advantages that have been stated, it must be apparent to all minds that the United States should become the first commercial nation in the world; and that she is destined to become so in the immediate future will scarcely admit of doubt.

Our land has become the Egypt of the world. Our fertile valleys and broad prairies produce annually a large surplus of breadstuffs and provisions for export to foreign lands, and it is safe to conclude that the quantity of these exports will increase from year to year. Yet with all this we have not attained to that degree of agricultural superiority that lies within our power. Our want of commercial conveniences act as an embargo upon the productive prosperity of the country.

It remains for us to avail ourselves of the wonderful advantages and grand opportunities that lie within our grasp to become the first manufacturing nation in the world. But in order to utilize our resources, develop the industrial pursuits of the whole country, enlarge our foreign commerce to its full dimensions, we must not neglect to provide the necessary facilities of transportation, by which all sections of the country may have direct access to the markets of the world. Our Atlantic and Pacific shores should be bound together by iron bands, so that the ocean trade from the East and West should have unrestricted transit across the continent. To accomplish so necessary a result will require more than one transcontinental railway. The Northern Pacific Railroad should be completed. Time will demonstrate the wisdom of its construction. This road will form a grand connection between the western extremity of our chain of northern lakes and the Pacific Ocean, and will in due time become a national and commercial necessity. Another railroad from San Diego, or some point on the Pacific coast in Southern California, to the southeast Atlantic seaboard, having its principal terminus at Port Royal, should be constructed at as early a date as possible. This road, with the United States Central, having their termini at Port Royal, would make this place at once an important port of entry, and eventually the chief commercial emporium of the Southeast.

The early construction of these thoroughfares will greatly depend upon the active co-operation of the people of the Southeastern States and Southern States, who should be deeply interested in their construction.

Can it be possible that those who represent the South on this floor, now the guardians of its dearest interests, should be so wedded to barren idealities that they would oppose the very means that will the soonest lead to the restitution of the South, awake its slumbering energies, develop its wonderful resources, and place it alongside of the North and West in the march of progress. It remains with them to say whether these measures shall be fairly considered and supported, or whether they shall be rejected.

Great opportunities are close at hand, and the moment of decision must soon arrive when the South must determine under what banner she will enlist. She must either remain captive to the *laisser faire* policy, or seize upon the bold and aggressive idea that is born of enterprise and make a noble effort to turn her natural advantages and resources to the best purposes. The building of the proposed railways will not only improve her seaports and furnish her with the much-needed commercial facilities, but will also act as a stimulant to her manufacturing enterprises. Her vast fields of coal and iron, her unequaled water-power, her cotton and other productions, offer strong inducements to manufacturers, and when these advantages and resources are properly employed, the South will arise to a degree of prosperity that will compare favorably with any section of the Union. All sections of the country will be mutually benefited by the proposed improvements. No enterprise can be projected in any portion of the country that will affect injuriously the interests of another portion. There is no foundation for antagonism or hostility in interests; and those who think that the construction of a great road here or there, where it is a local or commercial want, will so operate, have but limited perceptions of the opportunities that lie open to all sections of the Union for further developments.

I have presented these views because I believe them to be sound and indisputable; and the proposed improvements, if carried into effect, will lead to the most beneficial and important results.

Counting the Electoral Vote.

SPEECH OF HON. JOHN R. EDEN,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. EDEN. Mr. Speaker, the bill now under consideration provides the mode of settling questions of such grave importance as to forbid any merely partisan feeling in its discussion. From the foundation of the Government, whenever a question has arisen as to the validity of an electoral vote for President and Vice-President, serious apprehensions have been expressed by the statesmen of the day as to the danger involved in deciding the dispute. Heretofore such disputes have not arisen in any case where the result of the election would in any manner be affected by the determination of the question. Hence in all such cases the crisis has been passed by the adoption of temporary expedients. Now we are confronted with contested electoral votes upon the decision of which depends the election of President and Vice-President. The occasion demands the exercise of the highest statesmanship and forbids all considerations of mere party success.

The first question to be decided is as to the constitutionality of the proposed legislation. The bill simply provides when there are double returns from a State a mode of deciding which is the true and lawful electoral vote of the State; and when there is but a single return and objections are made to that return, the manner of disposing of such objections. If Congress has power to provide by law for the contingencies referred to in any manner, I assume that the bill is within the constitutional power of Congress. The framers of the Constitution must have foreseen that questions of this sort might arise; and for this reason we should look with confidence for an express or implied power to meet the emergency. The provisions of the Constitution in reference to the appointment of electors are few and simple:

Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The power to appoint electors is reserved to the States by the Constitution of the United States, and can only be exercised in the manner therein specified. It is a duty devolved upon the State, having no relation whatever to the ordinary legislation regulating the local affairs of its people.

In the performance of this duty the State executes a power under the Federal Constitution. By ratifying the Constitution the States bound themselves to execute that part thus confided to them in the manner prescribed in that instrument. How is this to be done? The appointment must be by the State; the manner of the appointment be directed by the Legislature. In making the appointment the mode prescribed must be followed.

The number appointed must be equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.

The persons appointed electors must not be Senators or Representatives or hold an office of trust or profit under the United States. The electors are to be chosen at the time determined by Congress, in case such time has been prescribed by law. In order to constitute legal electors the mode prescribed in the Constitution must be pursued. The State makes the appointment, and cannot delegate the power to any person or number of persons. The act is to be performed in such manner as under the Constitution of the State expresses the will of its people. Otherwise the State might delegate the power to some one wholly irresponsible to the people and unfriendly to the Federal Government. The manner of appointment must be directed by the Legislature, to the end that the proceedings may be regular and orderly, and the result made known with certainty and in accordance with the forms of law.

The number of electors appointed should be equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress. Were the State to appoint a greater number of electors than it is entitled to under the Constitution, and should these electors divide their votes among several candidates as the Constitution contemplates they may, it would be impossible to determine in counting the votes which should be excluded and which counted. Should the State appoint a less number than the Constitution prescribes it would thereby attempt to change that part of the Federal Constitution which designates the number to be appointed in each State. Upon the appointment of electors in the manner prescribed by the Constitution, the State has no further duty to perform in reference to the election, unless there should be a failure to elect a President by the electors. The persons appointed do not execute any power or authority derived from the State government. The acts they perform and the mode of the performance are all prescribed by the Federal Constitution. The people of the Union have an interest, in common with the interest of the particular State, in the faithful performance of their duty by the electors. The State cannot in any manner interfere with the electors in casting their votes or making their returns. All they do is done under authority given by the Constitution of the United States and the laws passed in pursuance thereof.

What are the electors required to do? They "shall meet in their respective States and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of Government of the United States, directed to the President of the Senate."

This brief paragraph from article 12 of the amendments to the Constitution of the United States embraces every act the electors are required to perform. They meet and present such credentials as the law of the State may require. They are clothed with no power to determine any question affecting the election or qualification of the members composing the electoral college of the State. Each elector is an independent voter for President and Vice-President, free of control either by his colleagues or any officer or department of the State government.

When the electors legally appointed by all the States, free from any constitutional disability, have cast their ballots and certified their returns at the time and in the manner prescribed by the Constitution and laws passed in pursuance thereof, the election of President and Vice-President is consummated, and nothing remains to be done but to make known the result. In order that the result may be ascertained and declared the Constitution provides that—

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—the person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed. * * * The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed.

The election depends, not on the counting of the votes, but on the number of votes received by the several candidates. It is the duty of the President of the Senate to open all the certificates, and of the two Houses there assembled to count all the votes. The only difficulty that can arise is in determining in disputed cases what are the votes. Should the lists of votes signed and certified to from any State show a greater number of electors voting for President and Vice-President than the State is entitled to, the counting of the votes could not be completed until a decision should be made with reference to that vote. In like manner a question would arise requiring a decision, prior to the count, should two sets of electors send returns certified in due form from the same State. Both returns could not be received and counted as the vote of the State, and before the enumeration of votes can be made the true vote of the State must be ascertained. So it might appear that the electors from a State had voted for a President and Vice-President, both of whom were inhabitants of the same State with themselves, or for a person not of the constitutional age, or for a person not born in the United States; or that one or more of the electors voting held an office of trust or profit under the United States, or that the appointment of electors was made by some authority other than that of the State, or was made in a manner different from that directed by the State Legislature. It cannot be certainly known, until the certificates are all opened, what questions may arise to be considered and determined in order to identify and ascertain the legal vote to be counted. That a part or all the questions to which I have adverted may arise, will not be disputed. That the decision of all such questions when presented must be decided as indispensable to the count of the true vote, is equally apparent.

The power to count the vote, without specifying by whom, is expressly given by the Constitution. That instrument further declares that Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." Under this general clause Congress may not only pass a law prescribing how the electoral vote shall be counted, but also providing for a mode of settling all questions that may arise under the Constitution of the United States, preliminary to the counting of the vote.

I go a step further. Assuming, as some do, that the Vice-President has a right to count the vote, yet under this general clause in the Constitution, he being an officer of the Government, and it being "necessary and proper for carrying into execution" the power vested in him that the legal vote should first be ascertained to enable him to discharge his duty properly, Congress has the power to prescribe the mode of ascertaining the legal vote. Assuming as others do, that the two Houses, when they meet to be present at the opening of the certificates, count the votes, as a necessary incident to that power they must first ascertain which are the legal votes. Were the Houses to count all that purported to be votes, in case of double returns or the appointment by any State of electors in excess of the

number to which the State is entitled, there could be no legal determination of the result of the election. A candidate might be declared elected who is ineligible under the Constitution, votes might be counted that had been cast by persons holding offices of trust or profit under the Government. The two Houses, in the absence of any law or joint rule governing their action, may wholly disagree in making the count or declaring the result. In such case should the President of the Senate insist upon the right to count the vote and declare the result, and the House of Representatives insist that there was no election by reason that no person had a majority of all the electors appointed, and proceed to the election of a President, I fear that we would soon realize the situation of Mexico, and witness in our own country the fatal effects of a departure from the orderly, lawful, and peaceful means contemplated by the Constitution in determining the result of an election.

Whatever differences of opinion may prevail among members on this floor as to the mode of counting the vote, all will admit that force is not one of the elements to be used in reaching the result. To ascertain the true vote is in the nature of a judicial inquiry. To count the vote when the legal vote is identified is a very simple mathematical problem. There can be no insurrection or rebellion either in the inquiry or the enumeration. Hence there is no necessity for military orders, or the movement of troops, or of armed or unarmed men with a view to affect in any manner the counting of the vote. So far as the count is concerned, the whole responsibility rests upon the two Houses. The executive authorities have nothing to do with it, and any interference by that department would be a gross usurpation, and I have no doubt would meet with the stern condemnation of both Houses.

But, Mr. Speaker, we are told that the appointment of electors belongs exclusively to the States, and that every question affecting their election and qualifications is to be settled and adjudicated under State authority, and that the settlement so made is final. The right of the States to appoint electors is unquestioned. The duty of the States to make the appointment in accordance with the power reserved by the Federal Constitution will not be denied. The right to make the appointment carries with it the corresponding duty to act within constitutional limitations.

When a vote is challenged one of the questions to be determined is as to whether it is the vote of the State. Should that question in all cases be decided under State authority? If so, had a half-dozen persons in 1864 constituted themselves an electoral college for the State of South Carolina, cast their votes for President and Vice-President, and sent their returns, duly certified and sealed, to the President of the Senate, how would the remedy have been applied? The State authorities in the then condition of the country could not have been appealed to! Numerous instances might be supposed where it would be impossible for a remedy to be found under State authority to prevent the counting of an unconstitutional or fraudulent vote. If, from want of ability, or want of inclination to prevent it, a State permits men without lawful authority, or wanting in constitutional qualifications, to organize themselves into an electoral college and send their votes to us as the vote of the State, it becomes our duty to prevent the breach of the Constitution.

It has been the practice from the organization of the Government to the present time, by the concurrent action of the Senate and House, by joint rule or by law, to determine all questions raised in reference to the counting of the electoral vote, and to exclude from the count such as were not legal and valid. I will not take up the time of the House by referring in detail to the numerous precedents, with which all are familiar, on that subject. I will refer only to the joint resolution approved by the President February 8, 1865, which declared that eleven States were "not entitled to representation in the electoral college for the choice of President and Vice-President of the United States for the term of office commencing on the 4th day of March, 1865, and no electoral votes shall be received and counted from said States," &c. Of the States referred to in the joint resolution, I believe two had voted and sent up the returns.

I want to call the attention of my State-rights friends, especially the gentleman from Ohio, [Mr. GARFIELD,] to the vote in the Senate on that joint resolution. Such State-rights men as Buckalew of Pennsylvania, Davis of Kentucky, Hendricks of Indiana, Johnson of Maryland, Powell of Kentucky, and Trumbull of Illinois voted for the joint resolution. It was adopted by a vote of 29 to 10. According to the modern State-rights doctrine, any of these States that chose to could vote for President and Vice-President; and the eminent democrats to whom I have referred, in going behind the returns and excluding the vote, violated the rights of the States. I may be met with the answer that the people of these States were in rebellion, hence were not entitled to vote for President and Vice-President. Admit it, but did the Congress of the United States find out that fact from the face of the returns? When in 1869 the Senate and House of Representatives determined by concurrent resolution not to count the vote of Georgia, if that vote affected the result of the election, did the fact appear on the face of the returns that Georgia was not entitled to representation in Congress when the electors were appointed? No such fact appeared on the face of the returns in either case. If in the one case by law and in the other by concurrent resolution of the two Houses it was proper to go behind the returns and exclude from the count the vote of several States because the inhabitants thereof were engaged in rebellion, or to exclude one State because under a law of Congress the State was not entitled to representation in Congress, I ask if we may not look behind the returns to see if a returning board in a State has not, in violation of law, thrown out and refused to count the votes of 12,000 or 15,000 legal voters?

It is settled that the power exists in Congress to go behind the returns and throw out the vote of a State the people whereof are engaged in rebellion or when under the law the State is not entitled to representation in Congress. Then can the authorities or pretended authorities of a State present before us a return of a vote conceived in fraud and perjury, the product of a conspiracy organized for the purpose of defeating the will of the people of the United States in the election of a President, and in the name of the State command us to count that vote and forbid us to look behind the returns and then see that in making and certifying that return the laws of the State and the will of the people were trampled under foot? To state the proposition is to refute it.

How can the rights of the States be touched in the adoption of a proper law or the enforcement of a proper rule by the Senate and House to eliminate from the electoral vote all that are invalid or fraudulent? The Constitution gives the State no right to appoint an ineligible elector. It gives no one a right in the name of a State to make a false or fraudulent return of the electoral vote of the State. In reserving to the States the power to appoint electors Congress is not stripped of the power to provide against a violation of the Constitution of the United States in the appointment of electors. In the election of a President and Vice-President under the Constitution the States have certain limited and well-defined powers. Everything necessary and proper to be done in carrying into effect that part of the Constitution relating to the election of a President and Vice-President, except what has been reserved to the States, Congress has a right to do; and I can conceive of no more important duty in that behalf than to provide a just and equitable mode of ascertaining in cases of dispute and doubt the legal and constitutional vote of the States. If the power to do this is not in Congress there is no remedy and the people of the United States are at the mercy of any set of rascals who may see fit to set up a fraudulent returning board and manufacture pretended electors at will. There can be no adequate power in the States to remedy the evil, for the reason that the fraud and wrong may not be known until the certificates are opened by the President of the Senate in the presence of both Houses; and if the State has the power and should omit from any cause to prevent a return of fraudulent or false votes the people of the United States have an interest in the question, and no laches upon the part of the authorities of a State ought to prejudice the rights of the people of the whole country.

I will call attention to the tenth amendment to the Constitution, not because I believe it has any bearing upon the question, but for the reason that some of my friends for whose opinions I have great respect believe it does. By that article—

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

By the Constitution the power is delegated to the United States to elect a President. As a part of the machinery of election the States are clothed with the power to appoint electors under certain limitations, the electors having certain qualifications. Without the action of the States there can be no election of President. Now when the power to elect a President and Vice President is fully provided for in the Constitution and the part to be performed by the States is therein clearly defined, where can there be room left for any further reserved powers in the States? If the Constitution is silent upon any point that may arise in the election of President and Vice-President, should we not resort to the implied powers and pass such laws as "shall be necessary and proper for carrying into execution" the election of President and Vice-President, rather than to look to the reserved powers of the States to supply the omission?

The power to elect the President and Vice-President under the Constitution is full and complete, either in express terms or by necessary implication. The part to be performed by the States is clearly limited and defined. Hence there can be no other powers reserved to the States in the premises. In order to show the utter fallacy of the claim that the bill under consideration is violative of any of the rights of the States, let us see what is proposed to be done not expressly authorized by the Constitution:

First. It provides who shall be the presiding officer when the two Houses meet to count the vote.

Second. It provides for the appointment of two tellers by each House to make a list of the votes, &c.

Third. It provides a mode of deciding objections to the vote of a State by the two Houses where there is but one return.

Fourth. It provides the mode of deciding objections where there is a double return from a State, in the first instance by the judgment of a commission consisting of five Senators and five Representatives and five justices of the Supreme Court, subject, however, to revision and rejection by the concurrent action of the two Houses.

There being no person designated by the Constitution to preside over the two Houses when they meet to count the vote, will it be claimed that the power to appoint the President is reserved to the States, or that because there is no provision in the Constitution authorizing the appointment of tellers that this bill trenches on State

rights by providing for tellers? No one would be guilty of such an absurdity!

It will hardly be claimed that as a part of the reserved rights of the States there should be passed State laws providing for the decision of questions when the vote of a State is challenged; or that any practical mode could be adopted whereby the States could adjudicate upon the subject. Then what rights of the States are violated by the bill? None; unless the States or those who assume to act for them have a right to send up here and have counted, in the election of President and Vice-President, the votes of ineligible electors, or invalid and fraudulent votes.

Believing, as I do, that legislation is absolutely necessary in order to a settlement of disputes relative to the electoral vote, and that the bill under consideration is warranted by the Constitution, and was agreed upon by the committee in a spirit of justice and patriotism, and that the tribunal to be selected under it will be as fair and free from partisan influence as any that could be selected, I shall give it my support.

Counting the Electoral Vote—Joint Conference Bill.

SPEECH OF HON. A. E. STEVENSON,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877.

The House having under consideration the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877—

Mr. STEVENSON said:

Mr. SPEAKER: I am unwilling that this discussion should close and the record of this day be made up for history without uttering some words of approval of this measure. The importance, the gravity of the pending question none candeny. Upon the passage of this bill, or one similar in its provisions, in my judgment, hang events of great moment to this Republic. What may be the result of its rejection by this House, I will not attempt to forecast; but that it is a measure well calculated to secure a fair adjustment of the presidential question and to restore tranquillity to the country, I can well believe. As such I give it my support. What, then, is the object of this bill? I believe it to be to secure an honorable settlement of a question fraught with peril to the country, a settlement by a tribunal whose integrity cannot be questioned and whose judgment will be acquiesced in by good men of all parties.

Mr. Speaker, I approach the discussion of this bill in no partisan spirit, but deeply impressed with the gravity of the occasion, and animated as I trust by an earnest desire to faithfully discharge the high duties devolving upon me as one of the representatives of the people. The question, sir, as to who shall be elected President of the United States, important as that question was when pending before the country, becomes of relatively little moment in comparison with the great question whether the candidate who has under the forms of law been chosen by the people shall be quietly inducted into his great office; for upon this depends a continuance of our republican institutions. If it once be conceded that by any means the will of the people can be thwarted and those chosen to administer the Government forcibly or fraudulently deprived of that right, then, sir, it needs no prophet to foretell the ultimate overthrow of our form of government. A Government based upon the right of the people to rule must perish with the destruction of that right. It matters little under what pretext or to accomplish what end the right or power is assumed of disregarding the will of the majority, its exercise in a single instance must inevitably weaken if not destroy the faith of the people in popular government.

To the end, then, Mr. Speaker, that the will of the people as lawfully expressed by the ballot may be executed; to the end that there may be no usurpation of this high office, but that the public mind may rest content in the belief that he who assumes the duties of Chief Magistrate takes with him the title to his great office; to the end, sir, that peace and order, rather than confusion and disorder, may prevail in the State, I give my cordial assent to this bill.

Mr. Speaker, while it is my firm conviction that Samuel J. Tilden is by the voice of the legal electors of these United States entitled to the office of President, yet I recognize the fact that many gentlemen upon this floor, as honest in their convictions as myself and with equal means of information, are persuaded that Governor Hayes has been elected to that high office. In this emergency, with the succession to this great office in dispute, with four millions of electors insisting upon the inauguration of one candidate and an equal or greater number upon the inauguration of the other, it is indispensable to the tranquillity of the country that some practicable solution of this difficulty be devised. If it be true that a condition of affairs has arisen unforeseen and not provided for by the framers of our Constitution, then, sir, the responsibility is cast upon us of devising some mode not in conflict with the terms of that instrument for the settlement of all controverted questions arising out of this election.

The question in dispute is whether the electoral votes of the States of Florida and of Louisiana shall be counted for Tilden or for Hayes. Upon this decision hinges that of who shall be Chief Magistrate of this Republic for the next four years. The importance of deciding this question correctly cannot be overestimated. Its decision must be founded in justice, otherwise it cannot stand the test of history. We can well afford to see the candidate of our choice defeated by the ballot, but can ill afford to witness his induction into office unless he has been lawfully chosen by the people.

The legally chosen candidate must be inaugurated, else this high office is held by usurpation. What the effect of so great a calamity must be, how far-reaching in its consequences, I will not attempt to forecast. It is a condition of affairs to be contemplated only with the most gloomy forebodings as to our future. Hence the importance, Mr. Speaker, of such a decision of all controverted questions growing out of the late election as will not only insure the inauguration of the legally elected President, but that the decision of questions so vital to the very life of our Republic may be by a tribunal which will command the respect of the entire country. I trust, sir, that we may be endowed with sufficient patriotism and wisdom to so deal with this great question that its decision, whatever it may be, will be cheerfully acquiesced in by the great American people.

Let us then, Mr. Speaker, for a moment look at the difficulties of the situation. It is not disputed that on the 6th day of last December Mr. Tilden received 184 and Mr. Hayes 169 legal votes in the different electoral colleges. This leaves the votes of Louisiana and Florida in dispute; to elect Tilden, he must secure one, and to elect Hayes, he must receive all of the votes of the States I have named. The partisans of each of these gentlemen claim the votes of these States for their respective candidates. Rival electoral colleges in both States have cast their votes for each of these candidates, certificates of which are now in the possession of the President of the Senate, to be opened by him preparatory to the votes being counted.

The question to which we now come, Mr. Speaker, is, by whom shall these votes be counted? In the other States, where but one set of certificates has been returned, it is a question of but little moment as to who makes the enumeration of the votes, whether it is the act of the President of the Senate, or of tellers, or of either or of both is wholly immaterial. It is in that case a mere question of arithmetic, the simplest ministerial act. But here, sir, the act is not simply ministerial; some power or authority endowed with judicial functions must decide *which* certificates of these disputed States shall be counted. The decision between these certificates is unavoidable, and upon this decision turns this entire question. In whom, then, is the power vested of deciding this question? The twelfth article of the amendments to the Constitution of the United States—that bearing upon this question—is as follows:

The electors shall meet in their respective States and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit, sealed, to the seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the 4th of March, next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

Mr. Speaker, it is gravely argued by gentlemen upon this floor that counting the electoral votes, involving as it does the right to decide what votes shall be counted, is the exclusive prerogative of the President of the Senate. Is this argument well founded, and is this important duty cast by the Constitution upon this single officer? If so, manifestly it must be so expressed in that instrument, or necessarily implied from its terms. That it is his function to *open* the certificates is unquestioned, for it is so expressed; but does that imply the right to count the votes? I am at a loss to perceive how the right to perform a judicial function can be implied from the power to do an act wholly ministerial. Yet the entire argument of those who favor this monstrous assumption, this exercise of a one-man power, is based upon the implication to which I have referred. It cannot be, Mr. Speaker, that the simple duty of "opening the certificates," which, under the Constitution, devolves upon the President of the Senate, carries with it the high function of deciding the various questions which may arise upon the returns, and involving the main question as to what candidate has been elected President of the United States. It is worse than idle to claim that the founders of this Government of the people intended to invest one man with such transcendent powers. The question then recurs, by whom shall the vote be counted? The language of the Constitution is:

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted.

By whom? Manifestly by the Senate and House of Representatives. Else, why the explicit language of the Constitution that the votes shall be counted in the presence of this great co-ordinate branch of the Government? Could it have been intended by the framers of the Constitution, by the men who so jealously guarded the rights of the States and of the people, that their representatives should be idle spectators when questions touching their dearest interests were to be decided? I insist, then, sir, that from the language of the Constitution the Senate and House of Representatives must decide what votes shall be counted. Any other construction is at war with the very spirit of that instrument.

But it is well, Mr. Speaker, in considering this question to know how and by whom the electoral votes have been counted at preceding elections. No serious question requiring discussion or action of Congress arose until the year 1817, upon the occasion of the first election of Monroe. Upon that occasion the two Houses met pursuant to a joint resolution, and tellers were appointed as upon previous occasions. Objection was made to counting the vote of the State of Indiana when it was called, whereupon the Senate retired to its own Chamber and the question was discussed in each body. It was the first time that objection had been made to counting the vote of any State, and in that instance, as it did not change the result, it elicited but little discussion. However, when the joint convention again assembled the vote was, upon motion of Mr. Sharp, a Representative from the State of Kentucky, finally counted. When Mr. Monroe was a second time elected a similar question arose as to the State of Missouri. Upon that occasion Mr. Clay used the following language:

The Constitution required the two Houses to assemble and perform the highest duty that could de olve upon a public body—to ascertain who had been elected by the people to administer their national concerns. In the case of votes coming forward which could not be counted the Constitution was silent, but fortunately the end in that case carried with it the means; the two Houses were called upon to enumerate the votes for President and Vice-President. Of course they were called upon to decide what are votes.

The vote of this State was finally counted, after discussion in the two Houses separately. But, as in the previous instance, the result would not have been changed by the rejection of this vote. The question of the admission of the vote of the State of Michigan was raised in 1837, but was disposed of as in the two instances to which I have referred.

In 1857, when the electoral votes were being counted, objection was made to that of the State of Wisconsin, for the reason that the electors had convened and cast the vote of the State one day after that required by the Constitution. Upon that occasion the following proceedings were had:

Mr. Mason, President of the Senate, presiding over the joint convention of the two Houses, said:

Pursuant to law and in obedience to the concurrent order of the two Houses, the President of the Senate will now proceed to open and count the votes which have been given for a President and Vice-President of the United States, for the term prescribed by the Constitution, to commence on the 4th day of March, 1857. The teller appointed on the part of the Senate and the two tellers appointed on the part of the House will please take the seats assigned them in discharge of their duties.

Pending the count, Senator Cass said:

I suggest that it is better to read the results of the vote, and not the certificates in full, unless the reading of the certificates be called for.

The PRESIDING OFFICER. The Presiding Officer considers that the duty of counting the vote has devolved on the tellers under the concurrent order of the two Houses; and he considers further that the tellers should determine for themselves in what way the votes are verified to them, and read as much as they may think proper to the two Houses assembled.

When the State of Wisconsin was called it appeared from the certificate of the electors that the electoral vote of that State had not been cast on the day required by law. Mr. Letcher, a Representative, said:

If I understood the vote which has just been read, it has not been cast on the day prescribed by law for voting for President and Vice-President of the United States. I do not know what would be proper in a case of this sort; but I desire now to call attention to it in order that the point may be brought to the attention of the country. The time may come when it would be a matter of importance to have these votes in regular shape. I desire, so far as I am concerned now, as a Representative of the people, to present my objection to the reception of this vote.

Mr. JONES, of Tennessee. I suppose, Mr. President, the proper way would be for the tellers to report the facts to the convention of the two Houses, and let them decide.

The PRESIDING OFFICER. The presiding officer so considers.

Senator Crittenden said:

I shall not presume before Congress to occupy a moment's time with argument. I wish merely to say that the sense of duty, an honorable sense of duty I have no doubt, upon which the presiding officer has acted in assuming to declare the number of votes, involves the privilege of determining a presidential election, and saying who shall be President. I protest against any such power.

The PRESIDING OFFICER. The presiding officer is utterly unaware that he has assumed the exercise of any such power.

Senator Douglas, of Illinois:

I rise to state that, in my opinion, the tellers have no right to authenticate that certificate until the two Houses have passed upon it as to its being a true count. I rise to protest against this joint convention being dissolved until the question which has been raised shall have been decided.

Mr. Mason, President of the Senate:

The presiding officer would again state that the duty of the tellers has not yet been discharged. The tellers, it would appear, made their report before they had signed the certificate. The vote will be again read to the two Houses, and they can determine what shall be done.

Coming down rapidly in this review to 1865, the question then arose as to counting the votes of States then or lately in rebellion. A joint resolution was adopted excluding the votes of all such States except Louisiana and Tennessee. President Lincoln, in giving this joint resolution his approval, sent the following special message to Congress, namely:

To the honorable Senate and House of Representatives:

The joint resolution declaring certain States not entitled to representation in the electoral college has been signed by the Executive in deference to the view of Congress implied in its passage and presentation to him. In his own view, however, the two Houses of Congress, convened under the twelfth article of the Constitution, have complete power to exclude from the counting all electoral votes deemed by them to be illegal, and it is not competent for the Executive to defeat or obstruct that power by a veto, as would be the case if his action were at all essential in the matter. He disclaims all right of the Executive to interfere in any way in the matter of canvassing or counting the electoral votes, and he also disclaims that by signing said resolution he has expressed any opinion on the recitals of the preamble or any judgment of his own upon the subject of the resolution.

ABRAHAM LINCOLN.

EXECUTIVE MANSION, *February* 8, 1865.

Mr. Speaker, if the two Houses of Congress were but idle spectators of this ceremony, as is now so strenuously insisted, where was the "complete power" under the twelfth article of the Constitution to exclude from the counting all electoral votes deemed by them illegal?

Now, sir, the instances cited are conclusive as to the mode of counting the electoral votes from the year 1817 to 1865, a period of almost half a century. During this entire time it was never claimed that the right of counting the votes, deciding what should be counted and what rejected, was a prerogative of the presiding officer of the Senate. Upon the contrary, the right to do so was wholly disclaimed by Mr. Mason in 1857.

The twenty-second joint rule of the Senate and House of Representatives was adopted unanimously by those bodies on the 6th day of February, 1865, and in pursuance of this rule the electoral votes of 1864, 1868, and 1872 were counted. This rule, so clearly asserting the authority of this House, I will read:

The two Houses shall assemble in the Hall of the House of Representatives at the hour of one o'clock p. m., on the second Wednesday in February next succeeding the meeting of the electors of President and Vice-President of the United States, and the President of the Senate shall be their presiding officer. One teller shall be appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened, by the President of the Senate, the certificates of the electoral votes, and the said tellers, having read the same in the presence and hearing of both Houses then assembled, shall make a list of the votes as they shall appear from said certificates, and the votes having been counted the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote and the names of the persons, if any, elected, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

If, upon the reading of such certificate by the tellers, any question shall arise in regard to the counting of the votes therein certified, the same having been stated by the presiding officer, the Senate shall thereupon withdraw and said question shall be submitted to that body for its decision, and the Speaker of the House of Representatives shall in like manner state the question to the House of Representatives for its decision, and no question shall be decided affirmatively, and no vote objected to shall be counted except by the concurring vote of the two Houses, which being obtained the two Houses shall immediately re-assemble and the presiding officer shall then announce the decision of the question submitted, and upon any such question there shall be no debate in either House, and any other question pertinent to the object for which the two Houses are assembled may be submitted and determined in like manner.

But, sir, it is insisted that this rule is not now in force. I refer to it only for the purpose of showing the construction given to the twelfth article of the Constitution by the leaders of both political parties only twelve years ago and the continued acquiescence in that construction until 1873 by those who now seek to discard it. Whether operative at the present time or not it is important to consider it as a clear reflex of the views of political leaders, at a time when no pressing party exigency demanded its abrogation.

Can it then, Mr. Speaker, be gravely argued that, either from the letter or spirit of the Constitution or from the long line of precedents to which I have referred, this power, so important and so far-reaching in its results, rests solely in a single officer, and not in the representatives of the people?

Mr. Speaker, without detaining the House longer with this line of argument, I approach now the discussion of a practical question. The twenty-second joint rule, that regulating the mode of counting the electoral votes, having been declared no longer in force by the Senate, what shall be the mode of procedure adopted by Congress to meet the present exigency in public affairs? A few days hence the electoral votes are to be counted and one of the candidates declared entitled to the high office of President of the United States. Serious differences have arisen between the representatives of the two great political organizations as to the manner of counting these votes and of deciding for whom the votes of certain disputed States shall be counted. Let us now, sir, while yet it is time, look the danger squarely in the face, and if possible adopt some means of averting it. Is it the part of wisdom to approach the very hour when these votes are to be counted and the result declared, with the two political organizations antagonizing each other as to the mode in which this is to be accomplished? The time, sir, for angry discussion has passed. In this hour of public peril patriotism has higher demands upon us than party. For myself I declare that I have no theories upon this subject that I am unwilling to relinquish in the interest of a fair and peaceful adjustment of the question.

What, sir, is the situation? One party demanding that the votes

shall be counted by the President of the Senate, the other—and properly as I have no doubt—insisting that this high duty devolves upon both Houses of Congress. In this condition of affairs, with such adverse views maintained in this House and throughout the country, what is to be the solution of the difficulty?

Mr. Speaker, in my humble judgment an adjustment fair and honorable to both of the great political parties and to their respective candidates is to be found in the joint conference bill now pending before this House. Let us, then, for a moment examine this bill and ascertain whether it is calculated to steer the ship of state safely through the dangers which beset it. That there is a pressing necessity for the adoption of some plan by the Senate and House, in order that confusion may be avoided in counting the electoral votes, no sane man can deny. To be availing, it must be adopted now. Delay is dangerous. We cannot, we dare not allow ourselves to drift along until the 14th day of February without having first agreed upon some plan for counting these votes and ascertaining which candidate has been chosen. To do so would be to involve this country in dire confusion. If this Congress fails to discharge this high duty now history will hold it accountable.

The necessity then being urgent for the adoption of some mode of counting the electoral votes, and ascertaining the result, the question recurs whether that presented by the joint committee will fully meet this requirement. It is but a mode of procedure, a substitute for the twenty-second joint rule now declared inoperative. It provides for the establishment of a tribunal to pass upon grave questions, which will necessarily arise in counting the electoral votes; among others, that of which sets of certificates reflect the true voice of the legal voters of Louisiana and Florida. By this tribunal or grand commission all disputed questions must be decided. Manifestly then, if this tribunal be impartial and able, no honest man can complain of its arbitrament. The claim for the Presidency has but slight foundation, which cannot confidently be submitted to such a tribunal. No party can survive its willful defeat of so fair a mode of settling this most difficult question.

How, then, Mr. Speaker, is this grand commission to be constituted? The bill provides that it is to consist of fifteen members, five of whom are to be Senators, five Representatives, and five justices of the Supreme Court of the United States; four of the latter are designated by the bill, and they are to choose the fifth. By *viva voce* vote the Senate and House, on the 30th day of January, shall each choose its members of the commission. The opportunity at least is afforded of selecting from each political organization men of ability and character, and whose decision will command the respect of the people. Add to the ten thus chosen in equal numbers from the two great political parties five justices of the Supreme Court of the United States, and a tribunal is constituted to which the questions involved in the pending controversy are to be submitted. For one, Mr. Speaker, momentous as are the issues involved, I am willing to leave their arbitrament to such a tribunal. The issue presented, and which we are now to meet, is whether this bill shall become a law, this amicable mode of adjustment be adopted, or whether this Government shall drift on, like a ship without chart or compass, until we reach the very hour which may decide the fate of the Republic. For myself, I cannot hesitate as to my duty in this hour.

As to who may be declared President under this bill, I have not stopped to consider. The danger is too great, the occasion too solemn for partisan or selfish considerations to move him upon whom is to rest the responsibility of the adoption or rejection of this measure of adjustment. Gentlemen upon this floor have declared this bill to be a compromise. I have not so regarded it. In no sense is it a surrender of principle. In what important act of legislation has every member of this House been able to incorporate his own peculiar ideas? Of necessity, before a result can be reached which reflects the judgment of this House, concessions must be made upon the one side and upon the other. There could be no legislation were there no yielding of individual opinions, no concessions.

But, sir, if this bill be in reality a compromise, as such I am willing to accept it. More than once in our history as a Government have measures of compromise been adopted in order that the troubled waters might be stilled and the dangers of civil war arrested. Are we wiser or more patriotic in our day and generation than were our fathers? Henry Clay, the grandest of statesmen of the last generation, will have no prouder title in history than that of the great pacificator. Fortunate will it be for us, and for those who come after us, Mr. Speaker, if no occasion hereafter arise in our history when conciliation, concession, compromise are necessary to dispel the clouds that may gather over our horizon.

Sir, the passage of this bill, the peaceable adjustment of the presidential question, and the acquiescence by forty-five millions of American freemen in the result, will be a marked era in our history. It will demonstrate to the world the capacity of our people for self-government. Hereafter we need have no fears for the perpetuity of our institutions. This measure, which ushers in the second century of our history as a republic, is but an earnest of the glories which will crown it in the future. As such I hail it; as such will it meet a response in the great American heart. Sir, differ as we may as to candidates and measures, yet, thank God, when questions arise touching the safety of this Government party creeds and candidates are alike forgotten.

Mr. Speaker, this measure is the harbinger of peace. Indispensable to our material prosperity, to our welfare, to our happiness, is good order, stable government, "liberty regulated by law." A contest by arms to secure the presidential succession will result in the destruction of our form of government. Civil war is a remedy for no evil. Already has it desolated a large portion of this fair land, and left its dark shadow in every home and heart. Let peace then return, and with it will come material prosperity to all our people and the era of concord and fraternal affection throughout all sections of this great Republic.

Peace in the quiet dales,
Made rankly fertile by the blood of men,
Peace in the woodland and the lonely glen,
Peace in the peopled vales;
Peace on the farthest seas,
Peace in our sheltered bays and ample streams,
Peace where'er our starry banner gleams,
And peace in every breeze;
Peace on the whirring marts,
Peace where the scholar thinks, the hunter roams;
Peace, God of Peace, peace, peace in all our homes,
And all our hearts.

Counting the Electoral Vote.

REMARKS OF HON. R. A. HATCHER,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1877,

On the bill (S. No. 1153) to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877.

Mr. HATCHER. Mr. Speaker, presuming that every member of this House has his mind firmly made up as to the vote which he will give upon this most important measure, I have no hope that anything I can say will influence the action of others. But regarding the passage of this bill as one of the most important events in our nation's history, and the vote I shall give upon it the most important act of my official life, I desire to put upon record the reasons which influence me in giving it as I propose to do.

I believe, as fully and firmly as I believe in my own existence, that Tilden and Hendricks have been fairly and legally elected President and Vice-President of the United States. I believe that, by frauds the most daring and astounding, they have been deprived of the electoral votes of the two States of Florida and Louisiana which, being falsely and fraudulently counted for Hayes and Wheeler, give the latter, on the face of the returns of the whole electoral vote of the United States, a majority of 1.

The fact that these outrages of the infamous returning boards, by which this fraudulent result has been brought about, have been indorsed and commended—if not encouraged and incited—by men high in position and authority in the republican party warrants me in believing the charge so often publicly and persistently made that there is a determined and powerful conspiracy to count in the defeated candidates at all hazards.

There are some who *pretend* to believe and there are some who honestly *do* believe that the President of the Senate has the exclusive authority not only to count but to determine the validity of the electoral votes deposited with him as such officer, and will insist upon such an illegal count by him. There are those also who believe that there is no authority in either or both Houses of Congress to go behind those electoral returns and examine into the fraud or irregularities by which they were brought about, and who insist that such votes when properly certified must be taken as they appear on the face of such returns, and that in this instance such a view of the law necessarily elects Hayes and Wheeler.

Many, *very many* democrats, satisfied that Tilden and Hendricks were fairly and honestly elected, yet believing that the attempt will be made to deprive them of their offices by the frauds referred to, are determined that such an attempt shall not be consummated without resistance, and that an effort equally vigorous and determined shall be made to count in Tilden and Hendricks, and secure to them the fruits of the victory so fairly and justly won by the democrats at the election in November.

There are others who claim that by reason of the constitutional ineligibility of Watts, claiming to be one of the electors for Oregon, that State has cast but two electoral votes; and therefore giving to Hayes and Wheeler the votes of Florida and Louisiana and all other votes claimed for them, there is a tie in the electoral vote, and thereby the present House of Representatives is authorized and required to elect a President and the Senate a Vice-President, in which case the House as now constituted would elect Tilden President, and the Senate would elect Wheeler Vice-President.

Thus by reason of such conflicting views and propositions the political condition of the country has become critical and the minds of the people are filled with anxiety and alarm. The business of the country is depressed, unrest and foreboding fill the public mind, and

no one is entirely at ease. Although I do not regard civil war as probable, yet the dread vision of it harrows many minds and it is yet among the possible issues of ill-advised and passionate councils.

The people of my State, and especially of my district, do not desire war. They have seen and felt enough of it. Since the late war they have experienced some of the troubles, but not to the same extent as those which have afflicted and cursed the State of Louisiana. They know what it is to be cheated out of the result of fair and honest elections by open, bare-faced, brazen fraud. They know something of the infamies which an unprincipled canvassing board can perpetrate.

By a returning board of *one* an infamous constitution, disfranchising thousands of her best native-born citizens, driving male and female teachers from their peaceful avocation, ministers from the pulpit, and lawyers from the practice of their profession—rejected by the popular vote—was fastened upon them; and under it priests and preachers, sisters teaching in convents, and lawyers attempting the practice of their profession were dragged before courts and harassed with indictments and prosecutions, and some of them fined and imprisoned only because they refused to take an infamous oath prescribed by that infamous constitution which with the name of its author linked thereto will live in odious remembrance as long as our State has a history or a name.

But not only did this returning board of one member, one secretary of state, fraudulently and basely fasten this constitution upon the people of the State, but under it he exercised as arbitrary and despotic power and practiced as villainous and barefaced frauds in setting aside peaceable, legal, and honest elections of Congressmen, legislators, judges, and other officers as ever was practiced in Louisiana or elsewhere. But yet the people of Missouri did not go to war, they waited and worked, and biding their time appealed to the honor, the patriotism, and sense of justice of the people of the State of all political parties. To the eternal honor of those appealed to be it said, the appeal was not in vain, and republicans by thousands, calling themselves "liberal republicans" and showing themselves indeed to be *liberal republicans*, arrayed themselves against that terrible engine of oppression and cruelty, and giving relief to the oppressed and disfranchised citizens of the State, consigned "Rodman the counter" and the "Drake constitution" alike to perpetual execration and infamous memory. With this example of patience and perseverance and of manly appeal to the honest people of the country before them, my people are again "disposed to suffer while evils are sufferable," rather than plunge the country into all the horrors of another terrible and desolating civil war.

But, sir, such an appeal has already been made in reference to the complications growing out of the late presidential election, and what is the result? The result is one which shows that when an appeal of this sort is made to the honor and patriotism of the people such appeal is not in vain. For what do we now behold? Men who were strongly arrayed against each other in the late excited and bitter presidential canvass, men who have been arrayed against each other in party strife in both Houses of Congress, men known to be pronounced and decided in their political feelings and sentiments, seeing the exigency which was upon the country, ignored party and party strife; forgetting their political animosities and repressing their desire for party success; have arisen to the height of the great occasion, and coming together as patriots, as statesmen and Americans, have devised a way of honorable escape from the dangers which threaten the country, and with a unanimity as sublime as it is surprising have agreed upon a plan for submitting the matters in controversy to a tribunal whose decision none will dare to question or impeach. That plan is contained in the bill now before us. Believing it constitutional; believing it to be just, fair, and honorable; believing that it will accomplish the purpose for which it is intended, I shall give it my hearty support.

Another reason why I shall give it my cordial support is that by the action and example of the joint committee which reported this bill the spirit of cruel persecution, the unnatural hates and sectional bitterness which were so successfully and extensively evoked by northern partisans toward the people of the South, will be allayed; concord, harmony, and fraternity will be restored; and result as it may, whether Tilden or Hayes be inaugurated, the so-called "bloody shirt" will be buried past resurrection. Amen. So mote it be.

The Florida Election.

SPEECH OF HON. JERE N. WILLIAMS,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

February 12, 1877,

On the decision of the electoral commission in the case of Florida.

Mr. WILLIAMS, of Alabama. Mr. Speaker, as I voted against the bill to establish this electoral commission, it is not inappropriate to mention some of the reasons that determine my vote against the approval of its decision by the House.

The Senate has already concurred, and we in this wing of the Capitol know but too well that our objection will avail nothing under the law; yet we have the privilege of protest against wrong, and we use that privilege in expressing not alone our individual convictions, but the stern sentiment, as we understand it, of a large majority of the American people.

Mr. Speaker, to say that the decision upon which we are now to pass is a disappointment is no adequate utterance of the feeling of the people whose agents and servants we are. There is in the great popular heart but little tolerance for the spirit born of cunning and sharpened by intrigue that would defeat the popular will through the agency of quibbles and technicalities.

Honest public sentiment demands equity in the adjustment of public right, and he who would evade or foil such a demand but too surely invites the pursuit of a sleepless, tireless, remorseless avenger, the inevitable judgment of a defrauded country.

In the consideration of questions affecting public interests the people desire not law alone, but justice; and of the two the latter is certainly not the least, for law is of mortal device, while justice, though administered by human hands, is not of human manufacture. But we had reason to believe and we did believe that the conclusions of the commission would be both sanctioned by law and fortified by justice. We were mistaken. Justice has no place in the result. It was reasonably expected that the State of Florida would be allowed to show literal facts at least; that certain persons claiming to be electors were not appointed at all, and that certain others whose right is denied were and are the lawfully authorized electors for the State. Not only was this expected, but it was a matter of right. Nor did this question affect the State of Florida alone; it was a matter of vital concern to the country at large. It was indispensable to the cause of truth and right at home that the State should not be given over to the deeds of spurious officials, but the importance of the matter took a far higher and wider range when the administration of the General Government was thrown into the balance.

The State of Florida says that Charles H. Pearce, Frederick C. Humphreys, William H. Holden, and Thomas W. Long are not her electors, because they were not appointed by her people, but that Wilkinson Call, James E. Yonge, Robert B. Hilton, and Robert Bullock are her electors regularly and legally appointed; and she sought opportunity to establish before the commission the truth of her assertion by stubborn and undeniable facts. She solicited an examination, that the truth might be made known to the world. She did not hide her steps nor skulk along devious ways, but her course was open, bold, and upright. She submitted questions of fact and demanded a fair and honest ascertainment. This was all she sought, and by the act of submission she was pledged to abide the finding. Can the most inveterate partisan say that there was anything wrong in this? Was not the State right in asking that the truth should be known and the public preference established? And especially ought the inquiry to have been made, when thirty-seven other States and all the millions of American citizens had the right not only to know the truth but to have that truth declared.

And yet what has happened? The request is refused, and four men, in the face of the blinding charge that they "were designated as electors by the returning board of said State corruptly and fraudulently, in disregard of law and with the intent to defeat the will of the people," are allowed virtually to determine who shall be President of the United States.

Mr. Speaker, there is an old-fashioned idea that fraud vitiates every transaction into which it enters. And it has been a custom of legal tribunals to institute rigorous inquiry when fraud was charged, and papers, processes, certificates, sealed instruments, all had to undergo the test. To tear out fraud, wherever found, and destroy its baleful power has been a part of the high mission of all courts and tribunals that had anything to do with either public or private right. But the ruling practice in these later days seems to be tending in a different direction, and a seal is held to give sanctity to any depth of villainy, or at least to cover and protect it from exposure. The people thought that this high commission, chosen with such deep solicitude, would see to it that the title of the coming Administration should be as pure as the unstained snow, and they were satisfied to rest a disputed cause in their hands.

But how is this expectation met? Not by a judgment that fraud shall have no part in determining the Presidency, but by the adverse declaration that there shall be no proof of fraud, however deep and pervading it may have been. And thus it results that these four men, whose authority, it is alleged, has no other prop than the rottenness of consummate fraud, are allowed to cast the vote of the State against her express action and against the will of her people. This is the more remarkable, in view of the present situation in Florida, where a democratic administration, recognized and even assured by a republican court, wields authority derived from the very election under which these pretended republican electors claim their right.

Mr. Speaker, the decision of this commission will never convince the people of the United States that the same voters that elected Governor Drew and a democratic Legislature in the State of Florida did not also cast their ballots for Tilden and Hendricks. If they did not and if the republican electors had a fair and honest majority in that State, why not satisfy the country that such is the fact? The proof could be easily made if the republican claim is valid, and it would quiet this deep and prevailing dissatisfaction; but no, the investigation is dodged and avoided by every device that professional

ingenuity can suggest, and the people are refused the poor privilege of showing what choice they made. Who believes that investigation would be denied if Hayes and Wheeler had received a majority in Florida? Nobody is simple enough to indulge such a thought for a moment. The republicans themselves would throw wide the doors and invite the closest scrutiny.

No skillful pleadings would be interposed against the demand of the country, nor would a great party quiver with the torturing dread that some right of the State was in danger.

This professed devotion to State rights is a new thing with the republican party, and it comes into strange contrast with the work of that party through two committees recently appointed in the other wing of this Capitol, one of which is now engaged in investigating the elections in my own State running back for several years. A party that has habitually treated the rights of the States as a mockery, a thing to be trampled upon at pleasure, can hardly expect sensible people to believe in the sincerity of this sudden conversion. It is a stretch of audacity beyond the compass of any other than republican genius to preach the doctrine of State rights while the bayonet is still at the breast of South Carolina and the minions of Federal power still run a wild riot amid the ruins of Louisiana.

No, sir; it is a bald pretense, made for the purpose of covering the infamous deeds by which the rights of two States have been overthrown, and, sad to say, it promises to succeed through the judgment of this commission. It seems almost incredible that events now transpiring can be real. Such things could not happen if the public sensibilities had not been blunted by the repeated abuses of republican administration. The picture that forces itself upon every man's mind is indeed a startling one. Four men profess to speak the authorized voice of a State, while the State herself stands by denying their right and begging simply to show the facts as they happened. The State begs to make it known that these four are not her chosen agents, that their office is usurped and their certificate a lie, while the majority of the commission, echoing the voice of the republican party, answer: O, no; we will not allow you to make such proof, because to do so would infringe your rights as a State.

And thus, Mr. Speaker, the end is rapidly approaching. In all probability the people will very soon see a man inaugurated President whom they did not elect, whose title to a position which has been justly esteemed the proudest on earth will have no warrant except in the frauds of the returning boards in Florida and Louisiana.

Although events are swiftly passing they leave their traces deep in the popular mind, and it will be out of the power of the now expected administration to clear its skirts before a people so wronged or to suppress the loathing that must attend its every step.

The American people have been in the habit of choosing their Chief Magistrates, not of having it done or suffering it done by a few puppets of chance, whose highest claim to notice is their fitness for crime. But we are in the midst of a change, and that sovereign power which was thought to be "inherent" in the people seems to have been surrendered. It is true a great struggle has been made, and the people, knowing that they had expressed their choice by a popular majority of a quarter of a million, and by a million majority of the laboring, tax-paying, burden-bearing white men of the land, thought they had named their President; but it seems that they were mistaken. A few creatures in two States, lurking for a time and perfecting their schemes in the thick shades of corruption, have come boldly forward and declared their own choice, and thus far the judgment of the commission is all that they could ask.

It need not be feared, Mr. Speaker, that revolution or disturbance will follow this usurpation. We of the South have grown accustomed to wrong, and the great democratic party of the North and West will see the fruits of honest victory robbed from their grasp at the behests of villainy as black as the slime of perdition, but they will do no violence. Let me say that I have no words of vituperation for the members of the commission, whose judgment has so signally fortified the returning boards of Florida and Louisiana. I do not impung their motives. But I do say that their action is not what the people expected, nor what they had a right to expect. The people sought to know which candidate was fairly elected, and the situation was such that nothing less than a full disclosure from two disputed States could give them satisfactory information. This information is put out of reach by the decision of the commission, and the returning boards have triumphed.

The demoralization that flows from the mistaken judgment of a tribunal from whose utterance the people expected a grand and final rebuke to crime must necessarily be serious. Already men here and there are despairing of the perpetuity of republican government. The present party, miscalled republican, may delight in the result foreshadowed, and they may revel under an administration dictated and established by a few men in Florida and Louisiana, but they who now cheat the people will reap the inevitable whirlwind of that people's condemnation.

As to the few creatures in these two States, whose ready instrumentality has brought this dark shadow across the face of a fair land, but little need be said. They have courted a place in history, and they have it; they have sought the pillory, and there they stand, conspicuous objects for the "slow, unmoving finger of scorn;" and when their faces and forms are forgotten, the memory of their deeds will continue to live in the contempt and detestation of every honest American citizen.

The Recent Election in Louisiana.

SPEECH OF HON. CHARLES H. JOYCE,

OF VERMONT,

IN THE HOUSE OF REPRESENTATIVES,

February 9, 1877,

On the report of the select committee to investigate the recent election in Louisiana.

Mr. JOYCE. Mr. Speaker, the situation of political affairs in the State of Louisiana has been a prominent subject of solicitude and interest, and the unsettled condition of her people has engaged the earnest and anxious attention of the best men of the whole country for many years, but never so much so perhaps as at the present moment, when her electoral vote may decide the question of the presidential succession and determine the policy of the Government for the next four years.

The work of investigating the policy and conduct of the democracy in that unfortunate State, "their ways that are dark and their tricks that are vain," commenced soon after the close of the war, and has continued, with but slight intermissions, down to the present time.

Reams of testimony have been taken by congressional committees, setting forth all the acts of barbarism and horrid crimes committed by the Knights of the White Camelia, the White League, the Ku Klux Klans, and the Regulators, and volumes of reports written condemning their atrocious cruelties and calling upon the Government to suppress them by force, and render succor to those it had solemnly promised to protect. Yet, notwithstanding all this, the demon of murder, violence, and intimidation has received no apparent check, but, on the contrary, has rather seemed to increase in strength and grow and fatten upon the blood and tears its own crimes have furnished, until, in the last political campaign, it broke in savage rage over all bounds of law, order, and common humanity, and reached the sublime climax of refined cruelty and barbarism.

The escutcheon of that unhappy State is tarnished with dark and bloody spots which dim the luster of her fame and cast a shade of sorrow and darkness over her whole history. For years she has been cursed with a class of vicious and desperate men, who have kept society in a feverish and choleric state, filled the land with crime and violence, set at defiance the regularly constituted authorities of the government, and rendered life, liberty, and property unsafe and insecure.

New Orleans, the hot-bed of treason, licentiousness, and crime, is the heart of Louisiana from which issues forth, at every pulsation, streams which corrupt and poison the whole body-politic. It has been, and is now, to Louisiana what Paris is, and always has been, to France: the fountain-head of every sedition and revolution and a city of refuge for every criminal and vagabond.

When the war closed business was prostrate, trade had vanished, and society was completely disorganized. Her plantations and cotton-fields were laid waste, her levees deserted, and desolation reigned throughout all her borders.

By the wisdom and clemency of the republican party a magnanimous system of reconstruction was adopted and inagurated, which if it had been honestly accepted and carried out by the people of the South would have accomplished the most beneficial results. But the people of Louisiana were among the first and most determined in rejecting the policy of reconstruction, and in spurning and resisting every offer of peace and reconciliation from the General Government.

This opposition in the presidential campaign of 1868 took the shape of a secret and armed political society known as the Knights of the White Camelia. This society, composed entirely of white democrats, thoroughly organized, with oaths, ritual, and constitution, had its branches in almost every parish in the State, and was the means of creating a wide-spread and intense feeling of alarm and terror not only among colored, but among white republicans also.

Men of all professions, trades, and avocations bound themselves in resolutions and clubs to proscribe, in business and employment, every man who dared to vote against the democratic party, and the democratic newspapers of the State sustained them, and in many cases advocated violence and bloodshed, if necessary, to accomplish their purpose.

As the fruit of the inauguration and advocacy of this "shot-gun policy," during the political canvass of 1868, "from September until November, five horrible massacres of colored people were perpetrated by the democrats. On the 28th of September, 1868, in the parish of Saint Landry, a massacre occurred of colored people, which lasted from three to six days, and during which from two hundred to three hundred people were killed; between the 20th and 30th of September, a similar massacre occurred in the parish of Bossier, which lasted from three to four days, during which over two hundred colored people were killed; in the parish of Caddo, in the month of October, over forty colored people were killed; in the parish of Jefferson, in the month of October, forty persons were killed and wounded; in the parish of Saint Bernard, in the month of October, another horrible massacre occurred, which lasted for three days, during which over one hundred people were killed and wounded; in the parish of Orleans, in the months of September and October, two attacks were made upon republican processions, during which about sixty persons

were killed; in the parish of Saint Mary, in October, 1868, the sheriff and parish judge, both republicans, were publicly assassinated at their houses by an armed body of men in the town of Franklin. Similar acts of violence and other outrages were perpetrated upon colored and white republicans in thirty-five parishes of the State. The total summing up of the murders that took place for political reasons in the months of September, October, and November, 1868, as taken from official sources, is over one thousand persons."

The result of this violence and bloodshed was also shown by the republican vote in November in twenty-eight of the parishes, as compared with the official registration of republican voters in that year; the registration showing 47,923 republican voters, while General Grant received only 5,360 votes for President.

The same bloody scenes which disgraced the history and people of Louisiana in 1868 were followed up and repeated, to some extent, in the following years by the massacre of one hundred colored men in cold blood at Colfax in 1873, the wholesale slaughter at Coushatta, and the riots in New Orleans, besides the great number of homicides and assassinations committed in all parts of the State; whereby more than ten thousand men have been murdered since 1866 for no other known reason only that they were republicans and dared to vote that ticket.

The facts which I have given, and the figures taken from the official records, would of themselves establish conclusively and beyond all doubt, in the mind of every candid person, the fact that the republican vote in these parishes was forcibly and violently suppressed, and that the colored men were either compelled to vote the democratic ticket or remain away from the polls.

But these facts become still more apparent when we find that these same parishes gave a republican vote of 35,010 in 1870, of 36,666 in 1872, and of 33,518 in 1874; years when there was no preconcerted and general system of violence or intimidation of the colored people by white democrats in those particular parishes, but they were left measurably free to select and vote the ticket of their choice.

This but confirms and strengthens the fact so often sworn to by witnesses before the committee, that the colored man, when left free and uninfluenced, will always vote the republican ticket.

They may compel him by terror to vote a democratic ticket; they may compel him for self-protection and self-interest combined to join a democratic club; they may frighten him from the polls and prevent his voting, but he knows and they know that the instant he is let alone, the moment the load of fear is taken off, the moment he dare stand up in his own right and his own strength, free to think, free to act, and free to choose, that moment he stands ready and willing to vote the republican ticket.

In the campaign of 1876 it was deemed of vital importance, by Mr. Tilden and his friends, to carry the State of Louisiana, in order to secure what had been promised and what all the greedy democrats hoped for, the vote of a solid and united South.

To accomplish this result and make sure of the prize, the democracy, with characteristic shrewdness and cunning, selected fifteen parishes which in 1870 gave a republican vote of 9,354, in 1872 a vote of 12,555, and in 1874 of 10,216, for their operations, and in these fifteen parishes, under the reign of terror caused by shooting, hanging, and whipping colored men, which they organized and carried on during the canvass, only 5,758 republican votes were cast at the November election.

The late political campaign in Louisiana on the part of the democratic party was ably conducted by men who knew well the character of the people with whom they had to deal, and who had no hesitation or conscientious scruples against resorting to any means or measures which proffered the least hope or promise of success. These men knew that, although the services of the various secret political societies in the State had not been called into requisition to any considerable extent in any campaign since 1868, yet that they were all as thoroughly organized, disciplined, and armed, under the new name of White League, as they were in that disgraceful canvass, and only awaited the orders of their chiefs to call them forth from their dens and set them at their cruel and bloody work. Accordingly, at the very threshold of the campaign, a "confidential circular" was issued from their headquarters by the State democratic central committee, in which they say:

We recommend that in conversations with each other no gloomy forebodings shall be indulged in, and that the result of the coming election shall be spoken of as a foregone conclusion, as we have the means of carrying the election and intend to use them. But be careful to say and do nothing that can be construed into a threat or intimidation of any character. You cannot convince a negro's reason, but you can impress him by positive statements continually repeated.

We recommend that clubs shall be formed in different sections of the parish, of which there shall be frequent meetings, and as often as may be convenient a central meeting of all the clubs. That occasionally the ward clubs should form at their several places of meeting, and proceed thence on horseback to the central rendezvous. Such meetings would tend to produce harmony, besides being an occasion for amusement and interesting ceremonies. Proceedings of this character would impress the negroes with a sense of your united strength. They have been taught that they greatly outnumber you; such meetings would convince them of their error.

We recommend that on the day of the election, at each polling-place, there shall be affidavits prepared to the effect that there has been no intimidation and no disturbance on account of any effort by the democratic-conservative party to prevent any one from voting on account of "race, color, or previous condition of servitude." Should there be any disturbance, the affidavits, made subsequently thereto, should set forth its cause and origin.

We recommend that at every political meeting of the opposite party several gentlemen should be present and take notes of the proceedings, and especially of any threats on their part against the white people or of any appeal made to the negroes by any white man of an incendiary character.

Here we find the plan upon which the campaign is to be conducted upon the part of the democrats carefully set forth by the grand sachems of the party at New Orleans, and the threat made that they "have the means of carrying the election and intend to use them." How thoroughly and completely this plan was executed and carried out by the democracy of Louisiana, in all its details, from the commencement of the unequal contest down to its disgraceful close on the 7th of November, we shall soon learn from the testimony taken by the committee, to a small part of which I will call the attention of the House and the country before I get through.

But before I take up that part of my subject I desire to call attention to some of the legal points involved in this investigation in order that this House and the country may understand precisely the ground we occupy, and why we claim that the conclusions and judgment of the State returning board are conclusive upon the question of the appointment of presidential electors.

With the wisdom or policy of the law which created this returning board, and under which they acted, we have nothing to do. If it was not in conflict with any of the provisions of the Constitution of the United States or of the State of Louisiana, its expediency is a question for the people of that State to determine; the same power that created it can repeal it, and we have no doubt that when the qualified electors of that State become convinced that it has outlived the days of its usefulness they will thank God for the good it has done and wipe it from the statute-book. But while it is in force and has the constitutional sanction of the supreme court of that State it must be executed, and we are all bound by its provisions, however unwise we may deem them to be or however much they may conflict with our ideas of the way to arrive at an honest determination of a grave and important question.

When the Legislature of Louisiana met in 1869, the scenes of murder and violence which had transpired in 1868 were fresh in their memories. The men who composed that Legislature knew that:

The first essential element of an election is freedom of choice. That the ticket voted is not the vote, nor is the ticket in the ballot-box the vote. That what constitutes the ticket in the ballot-box a vote is the act of the voter in putting it in the box, at the lawfully appointed time, before the lawfully appointed officers for that purpose, and of his own free will and choice; and that force and violence at an election render such election to all intents and purposes null and void.

They knew also that "secret political and semi-military associations, violent political feeling, and the absence of all the usual restraints of law and social order" had revolutionized "by wholesale violence whole parishes and made the elections held therein a mere mockery and farce," lacking every requisite of a fair and honest election.

The facts as to democratic violence and intimidation in the previous election and its effect upon the colored voters in the State stood forth undisputed, and the only problem to be solved was how the difficulty could be remedied and where the authority could be safely and constitutionally lodged to "ascertain this nullity before the returns were duly made and declared."

The result of all the deliberations and discussions on the subject, in the light of the facts I have stated, was the laws now in force in that State, and under and by virtue of which the returning board canvassed and counted the vote of Louisiana for presidential electors in the late election.

When it was notorious that in 1868 whole parishes in Louisiana had been forcibly revolutionized by wholesale and reckless violence, and the elections held therein were mere mockeries, lacking in every essential attribute of an election properly so called, was it not wise to devise sone remedy for a state of things that struck directly at the root of free institutions, nullified the will of the majority, and gave the prize of political success to the men of the party who cared least for the holiness of life and who forced their way to power by the rope, the whip, and the bullet?

The provisions of the law bearing especially upon the matter I am now considering are as follows:

SEC. 2. *Be it further enacted, &c.*, That five persons, to be elected by the senate from all political parties, shall be the returning officers for all elections in the State, a majority of whom shall constitute a quorum and have power to make the returns of all election. In case of any vacancy, by death, resignation, or otherwise, by either of the board, then the vacancy shall be filled by the residue of the board of returning officers. The returning officers shall, after each election, before entering upon their duties, take and subscribe to the following oath before a judge of the supreme or any district court:

"I, A B, do solemnly swear (or affirm) that I will faithfully and diligently perform the duties of a returning officer, as prescribed by law; that I will carefully and honestly canvass and compile the statements of the votes, and make a true and correct return of the election: so help me God."

Within ten days after the closing of the election said returning officers shall meet in New Orleans to canvass and compile the statements of votes made by the commissioners of election, and make returns of the election to the secretary of state. They shall continue in session until such returns have been compiled. The presiding officer shall at such meeting open in the presence of the said returning officers the statements of the commissioners of election, and the said returning officers shall, from said statements, canvass and compile the returns of the election in duplicate; one copy of such returns they shall file in the office of the secretary of state and of one copy they shall make public proclamation by printing in the official journal and such other newspapers as they may deem proper, declaring the names of all persons and officers voted for, the number of votes for each person, and the names of the persons who have been duly and lawfully elected. The returns of the elections thus made and promulgated shall be *prima facie* evidence in all courts of justice and before all civil officers, until set aside after a contest according to law, of the right of any person named therein to hold and exercise the office to which he shall by such return be declared elected. The governor shall, within thirty days thereafter, issue commissions to all officers thus declared elected, who are required by law to be commissioned.

SEC. 3. *And be it further enacted, &c.*, That in such canvass and compilation the returning officers shall observe the following order: They shall compile first the

statements from all polls or voting-places at which there shall have been a fair, free, and peaceable registration and election. Whenever, from any poll or voting-place, there shall be received the statement of any supervisor of registration or commissioner of election, in form as required by section 26 of this act, on affidavit of three or more citizens, of any riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences, which prevented, or tended to prevent, a fair, free, and peaceable vote of all qualified electors entitled to vote at such poll or voting-place, such returning officers shall not canvass, count, or compile the statements of votes from such poll or voting-place until the statements from all other polls or voting-places shall have been canvassed and compiled. The returning officers shall then proceed to investigate the statements of riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences at any such poll or voting-place; and if from the evidence of such statement they shall be convinced that such riot, tumults, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences did not materially interfere with the purity and freedom of the election at such poll or voting-place, or did not prevent a sufficient number of qualified voters thereat from registering or voting to materially change the result of the election, then, and not otherwise, said returning officers shall canvass and compile the vote of such poll or voting-place with those previously canvassed and compiled; but if said returning officers shall not be fully satisfied thereof, it shall be their duty to examine further testimony in regard thereto, and to this end they shall have power to send for persons and papers. If, after such examination, the said returning officers shall be convinced that said riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences did materially interfere with the purity and freedom of the election at such poll or voting-place, or did prevent a sufficient number of the qualified electors thereat from registering and voting to materially change the result of the election, then the said returning officers shall not canvass or compile the statement of the votes of such poll or voting-place, but shall exclude it from their their returns: *Provided*, That any person interested in said election by reason of being a candidate for office shall be allowed a hearing before said returning officers upon making application within the time allowed for the forwarding of the returns of said election.

SEC. 26. *Be it further enacted, &c.*, That in any parish, precinct, ward, city, or town in which, during the time of registration, or revision of registration, or on any day of election there shall be any riot, tumult, acts of violence, intimidation, disturbance, bribery, or corrupt influences at any place within said parish, or at or near any poll or voting-place or place of registration, or revision of registration, which riot, tumult, acts of violence, intimidation and disturbance, bribery, or corrupt influences shall prevent or tend to prevent a fair, free, peaceable, and full vote of all the qualified electors of said parish, precinct, ward, city, or town, it shall be the duty of the commissioners of election, if such riot, tumult, acts of violence, intimidation and disturbance, bribery, or corrupt influences occur on the day of election, or of the supervision of registration of the parish, if they occur during the time of registration or revision of registration, to make in duplicate and under oath a clear and full statement of all the facts relating thereto, and of the effect produced by such riot, tumult, acts of violence, intimidation and disturbance, bribery, or corrupt influences in preventing a fair, free, peaceable, and full registration or election, and of the number of qualified electors deterred by such riots, tumult, acts of violence, intimidation and disturbance, bribery, or corrupt influences from registering or voting, which statement shall also be corroborated under oath by three respectable citizens, qualified electors of the parish. When such statement is made by a commissioner of election or a supervisor of registration he shall forward it in duplicate to the supervisor of registration of the parish, if in the city of New Orleans to the secretary of state, one copy of which, if made to the supervisor of registration, shall be forwarded by him to the returning officers provided for in section 2 of this act, when he makes the returns of election in his parish.

It is said that—

Laws always reflect the condition of the society for which they are made, and laws for the prevention and punishment of crime necessarily imply the existence of such crime; and thus the special features of the Louisiana statutes to prevent and punish intimidation and violence at elections are the most conclusive evidence of the existence of the evil sought to be corrected.

The Legislature of Louisiana, knowing all the fearful facts, did devise a remedy, and they did well in so doing.

Their legislation is to be defended, because it is in strict conformity to the theory of free elections and according to the rules of the common law of liberty.

All authorities in England and America agree that violence and force used at an election to affect the result render such election null and void,

Standing on that great principle, the Legislature said, in substance, to the violent men of the State, "If you use force and violence, terror and intimidation, to impair the freedom of an election, you shall not reap the fruits of your wrong-doing, but the whole poll thus tainted with crime shall go for naught."

Under the provisions of this act and the general laws regulating the registration of voters and the holding of elections, after a bitter and violent canvass on the part of the democratic party and the thorough intimidation of a large proportion of the Republican voters, the farce of an election was gone through with on the 7th of November, the issue and result of which can be best described in the language of one who was upon the ground, a careful and anxious observer of all that transpired. He says:

I will simply add that the question with regard to certain parishes of this State known as the bull-dozed parishes, is not whether their votes shall be counted out or counted in; it is whether the tickets deposited in the ballot-boxes in these parishes on the day of the election were votes or not votes. I believe that if a true and impartial history of the events which have occurred in any one of these parishes should be given, which should include an account of the secret or open armed political societies; which should include a history of the murders, whippings, assassinations, burnings, and other acts of outrage and violence traceable directly to political reasons and committed for political objects; which should also include the evidence of the colored people of those parishes themselves as to attempts made to force them to join democratic clubs and to vote the democratic ticket or to abstain from voting the republican ticket; and which should also include a tabular statement of the census and registration and previous votes of these parishes, it will appear conclusively to every candid and impartial mind that the occurrences of 1868 have been repeated in these parishes in 1876, and that in law and in fact there was no election at most of the polls in these parishes, and that the ballot-boxes, instead of containing votes, contain simply the records of an organized, premeditated, and deliberate system of violence and intimidation such as has no parallel in any other State of the Union, excepting those States where the difference in population and the political lines drawn between the populations are similar to those existing here.

At the close of this pretended election the returns of votes were made to the returning board by the commissioners of election and supervisors of registration, the necessary papers were filed protesting against the counting of the votes from the bull-dozed polls and parishes, all the provisions of the law were substantially complied with, and the board proceeded in accordance with the terms of the statute to canvass the returns, examine the papers, hear evidence, pass upon the votes, and declare the result.

The question as presented to the returning board took the form of a legal controversy on issues of law and fact.

The leading issue was whether there had been such violence and intimidation in certain parishes and polls as would invalidate the election held in those localities and require the returning board to omit such polls from their returns.

The board held their meetings in a public place in the city of New Orleans, and extended a special invitation to prominent gentlemen of both political parties to be present at the count, to examine the papers and returns and see that everything was properly and legally done. This invitation was accompanied with an offer to permit stenographic reporters selected by each committee to be present and make a full report of all proceedings and testimony.

And those gentlemen in their report to the President say that—

In justice to the board it should be stated that this privilege was freely accorded by its members without solicitation, and that they cordially united with us in the desire to have all their proceedings published throughout the country. The scrutiny invited by the board has been constantly exercised. Day by day both committees have been in attendance before the board with their stenographic reporters; and, in addition, a privilege tendered to both the committees of inviting gentlemen from States other than Louisiana has been several times availed of. As returns were opened, whether contested or not, the papers inclosed have been freely tendered to the committees for examination, and have usually been carefully inspected. And, as a means of detecting any possible changes in the returns after leaving their respective parishes, both committees were furnished by the respective parties with statement of the vote as claimed by them respectively, that by comparison it might be known if any alteration had been made in returns to be passed upon by the board, with which statement the returns usually agreed. Whenever it was known to the board that a return was to be contested, the attorneys for the candidates interested were sent for to be present at the ceremony of opening; and when such knowledge was attainable only by inspection of the inside of the package containing such return, these attorneys were invited to be present before any action was taken upon it. There were thus secured in the manner mentioned publicity of all the proceedings of the board, the most careful scrutiny of every package of returns by it opened, and an opportunity for candidates insisting upon the validity of returns to appear personally and by counsel before the board, in many instances before returns were opened and in every instance before action was taken upon them.

It has been, we believe, quite unusual to give such full and wide-spread publicity to the proceeding of a returning board, nor do we think that better means for permanently recording every word and act of its members while engaged in the discharge of their duties could have been afforded than we enjoyed.

Thus, after a long time spent in canvassing the returns, counting the votes, receiving evidence, hearing arguments of counsel upon both sides and for all parties interested, and the most thorough and careful deliberation, the board found a majority of the legal votes cast for the electoral ticket of Hayes and Wheeler, and in due time declared them elected, and the proper certificate and credentials were furnished them by the governor of the State in accordance with the provisions of the law and the Constitution.

Now, sir, I claim that the powers of that returning board under the laws and judicial decisions of Louisiana in canvassing the returns of votes and declaring the results are at least quasi-judicial; that they are a board constituted by law to pass upon certain questions and issues of fact; that in their determination of these questions they exercise their judgments and discretion; that the same presumptions should be made in favor of the regularity and correctness of their decisions that are made in favor of the findings of any court; and that their judgment upon this question of fact as to whether votes shall be counted or excluded under section 3 of the act of 1872 is final and conclusive and from which there can be under the law no appeal.

In all the States of the Union, so far as known, there is a tribunal of final adjudication which canvasses and declares the result of all elections, and, in fact, some such tribunal appears to be of absolute necessity in the very nature of things; and that tribunal, by whatever name it may be denominated, is a State tribunal. Its powers vary in different States, according to the demands of the situation and the provisions of law by which it is governed, but all of them have power to examine, to correct, or for lawful cause to throw out the original returns.

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In the State of Louisiana this tribunal has by law been invested with very large powers and provided with a special jurisdiction, and is known to the laws of the State as the board of returning officers of election.

With the reasons which induced the Legislature to confer this remarkable jurisdiction we have nothing to do. It is sufficient that they have done so, and we have no doubt that the history of the State will show a necessity existing for the constitution of the board and the grant of power.

The object in this case, as in all others, in this State, must be presumed to be to guarantee the freedom of elections. At all events the action of the State Legislature in the matter is in our judgment final and conclusive.

To this board, under the existing laws, the returns of election for presidential electors came up for revision along with and as an inseparable part of the proceedings at the last general election.

Having thus lawfully become a subject-matter on which this board had a right to act, these and all other election returns have been passed upon by the board. This board has performed the duty with which they were charged by the law, and that duty is not merely ministerial; it is in the nature of a judicial proceeding. They have heard testimony, examined evidence, and rendered judgment. That judgment, under the laws of Louisiana, is from the tribunal of last resort, and from it no appeal lies, nor is there anywhere provided either the power or the means of re-examination. It is final and conclusive.

The question comes whether the House of Representatives of the United States possesses any power or right under the Constitution to go behind this finding of the

board, to examine into the reasons of their decision, to review, remodel, or reverse the judgment of this body constituted under the laws of Louisiana, or in any way to impair, diminish, or defeat rights which they have declared to be established. It is a question of vast import and pregnant with the most serious consequences, not only in relation to Louisiana, but as to all the States of this Union.

If the decisions of the canvassing or returning board of Louisiana may be impeached by the House of Representatives in relation to electors, so it may be done in Ohio, Illinois, New York, and Massachusetts, for though there may be differences of degree in the powers of the canvassers in the several States, there is no difference in principle, nor can one doctrine be held as to one State and the contrary as to another.

The consequences of such an assumption of power are far-reaching and infinitely perilous. If such a power exists it must be found in the Constitution, either by express form of words or by necessary implication. No one can point to the express grant, and we can find no portion of the Constitution from which on any known rule of interpretation it can fairly be implied.

The language of the statute is clear and specific. After giving full instructions as to how the votes shall be compiled and returned to the board by the returning officers, it says:

The returning officers shall then proceed to investigate the statements of riot, tumult, acts of violence, intimidation, armed disturbance, bribery, orcorrupt influences at any such poll or voting-place; and if from the evidence of such statement they shall be convinced that such riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences did not materially interfere with the purity and freedom of the election at such poll or voting-place, or did not prevent a sufficient number of qualified voters thereat from registering or voting to materially change the result of the election, then, and not otherwise, said returning officers shall canvass and compile the vote of such poll or voting-place with those previously canvassed and compiled; but if said returning officers shall not be fully satisfied thereof, it shall be their duty to examine further testimony in regard thereto, and to this end they shall have power to send for persons and papers. If, after such examination, the said returning officers shall be convinced that said riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences did materially interfere with the purity and freedom of the election at such poll or voting-place, or did prevent a sufficient number of the qualified electors thereat from registering and voting to materially change the result of the election, then the said returning officers shall not canvass or compile the statement of the votes of such poll or voting-place, but shall exclude it from their returns.

This is, Mr. Speaker, a grave and vital question in this investigation which of course every man must decide for himself on an inspection of the statute under the test of the well-settled rules of constitutional and statutory construction and the intent of its framers as indicated by the history of the times and condition of affairs when it was passed. In this view, it seems to me, there can scarcely be a doubt that the position we take is correct, and is well sustained by reason, authority, and prudence.

I shall not attempt to defend the law or the returning board. It was "a political necessity which called them into existence, devised to meet and counteract violence against which no ordinary guard would suffice, and provided by law to protect the most inoffensive race against the most warlike. The law is founded on the principle that the only adequate protection against violence is to render violence fruitless.

"This it does as far as practicable, without counting votes not cast, (which it will not permit,) and until a better method be devised it is justified by necessity.

"The act as it stands was passed by the concurrence of all parties, and it has been used by all parties. It was signed by Governor Warmoth in order to elect Mr. Greeley, and first used to that end. The present members of the board were appointed by the State senate as republicans and conservatives. The democratic member resigned at the instance of his party. The members are two white men, old citizens, of more than average substance and capacity; two free-born natives, of very slight admixture of color—scarcely visible—men of property and more than average intelligence. The bench as it sat appeared to be not unequal to the ordinary duties of the board, though in this crisis we could have wished to see men of the most exalted character and capacity in their places. Yet they were there where the law placed them, in position which no man envied and none desired to assume. They have passed through perils such as would have appalled some men, and temptation such as would have overcome others. They have given judgment as the law required, and that judgment, lawfully given, should command the respect of all good citizens."

I am aware, Mr. Speaker, that the laws of Louisiana require that the commissioners of election and supervisors of registration shall in the event of any tumult, riot, or intimidation at or near any polling-place certify the same under oath to be sent forward with their returns, and that such affidavits constitute the complaint, if I may so term it, upon which the board proceeds to examine into the facts; and I am also aware, sir, that the same act provides that if the returning board are not *fully satisfied* on an inspection of such affidavits in regard to the question of the existence of such tumult, riot, or intimidation, then "it shall be their duty to examine *further testimony* in regard thereto, and to this end they shall have power to send for persons and papers."

It therefore appears by the terms of this act that the board is not limited to the testimony of the commissioner and supervisor, but when that is unsatisfactory it is made their duty to resort to any other competent evidence, and call before them any witnesses which in their judgment can enlighten them upon the questions before them for consideration and decision.

What the people of this country want to know is, not whether there has been a technical omission under the statute on the part of the returning board, which is of no possible importance to anybody, but whether there was in any of the parishes in the State of Louisiana previous to and during the late canvass such a system of terrorism and intimidation on the part of white democrats toward colored voters as to materially change the result of the election; and whether there was sufficient evidence before the returning board to justify the exclusion of the votes which were left out of the count by them,

If the people can be satisfied upon these points they will care very little by whom the evidence was furnished or where it came from, provided it was competent and true. Upon these points it seems to me, sir, that a mere reference to the evidence used before the committee, and published in the report of Senator SHERMAN and others, to the President, will satisfy the most incredulous, and convince any reasonable man that the board were fully justified in excluding every vote they did from the bull-dozed parishes.

The next question which arises is as to the power of Congress over the election or appointment of presidential electors.

The resolution under which this investigation originated and has proceeded directed the committee to investigate the recent election in Louisiana "and the action of the returning or canvassing board in said State in reference thereto, and to report all the facts essential to an honest return of the votes received by the electors of the said State for President and Vice-President of the United States, and to a fair understanding thereof by the people, and whether the electoral vote of said State should be counted."

The Constitution of the United States provides in section 1, article 2, that "each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress."

The act of Congress of January, 1845, provides that each State may by law provide for the filling of any vacancies which may occur in its college of electors when such college meets to give its electoral vote.

By the statute of Louisiana presidential electors are elected on a general ticket in the same manner as the other State officers, the votes for whom are canvassed and the result declared by the returning board under the same regulations to which I have before referred. Thus it will appear conclusively that Louisiana, under the power conferred by the Constitution on the States, has assumed jurisdiction over the mode and manner of electing presidential electors, and has by her Legislature declared:

First. That such electors shall be appointed by election.

Second. That such elections shall be part of the general elections of the State, and shall be held and conducted in the manner and form provided by law for general State elections.

Third. That the board of returning officers shall be the returning officers for all elections in the State, and have power to make *returns for all elections*.

Fourth. That such returns so made by them and promulgated shall be *prima facie* evidence until set aside by judgment of a court on a trial of the right of some person by them declared to be elected to office.

And this law has received the construction and the approval of the supreme court of the State.

In the case of Collin *vs.* Knoblock, Louisiana Annual Reports, page 263, the supreme court, Taliaferro, J., delivering the opinion, say:

"The returns made by a legal State board, and officially promulgated by that board as the general returning officers for the State at large, constitute the basis upon which the governor is authorized to issue commissions. These returns by the statute of 16th March, 1870, are made *prima facie* evidence in all courts of justice and before all civil officers until set aside after a contest according to law, of the right of any person named therein to hold and exercise the office to which he shall by such return be declared elected.

Again in the same case the court say:

"The act of 1870, No. 100, approved March 16, 1870, is the general law under which the elections held at the general election in November, 1872, were conducted, and which controlled, as to the formalities of revising and compiling the returns from every part of the State, and the making and promulgating the final report.

Again, in the same volume of the reports, in the case of Bonner *vs.* Lynch, page 267, the supreme court say:

"But it is said that the returns are only *prima facie* proof of the result of an election. That is true. The question, however, as to the election of officers is a political question, and courts of justice have jurisdiction over them only so far as the political department may have authorized them to exercise jurisdiction. If there were no statute authorizing the trial of contested-election cases before courts, they would be without authority to do so.—13 *Annual*, 90.

"No statute conferring upon the courts the power to try cases of contested elections or title to office authorizes them to revise the action of the returning board. If we were to assume that prerogative, we should have to go still further, and revise the returns of the supervisors of elections, examine the right of voters to vote, and in short, the courts would become in regard to such cases mere offices for counting, reporting, and compiling election returns. * * * Having no power to revise the action of the board of returning officers, we have nothing to do with the reasons or grounds upon which they arrived at their conclusions."

In another case in the same volume of reports the court decides that the act of 1872, No. 98, does not destroy the board of returning officers by its repealing clause, but merely modifies the form of appointment. (State *ex rel.* Attorney-General *vs.* Wharton, pages 10 and 11.)

The highest tribunal known to the constitution of Louisiana, a tribunal whose decisions on State law must be followed by the Supreme Court of the United States, has thus affirmed and sustained the powers and rights of the returning board, has affirmed the right of the Legislature to create it and invest it with its powers, and sustained its action.

The control of the State of Louisiana over the subject under the Constitution is as exclusive as that of New York or any other State, and both the acts of her Legislature and the decisions of her courts are as complete in authority as those of any other State.

The supreme court of the State denies its power to revise the proceedings of the board or to inquire into the reasons or grounds on which they arrived at their conclusions.

Thus, by the provisions of the Constitution, the act of Congress, the laws of Louisiana, and the judgment of the joint high commission, the whole power over the appointment of electors is vested in the State, and in the case under consideration they were elected in accordance with the laws of Louisiana, their duties were defined by State laws, they acted in strict conformity to the statute, and Con-

gress has no power to go behind their returns or question their judgment.

The views I entertain upon this question are so fully and clearly stated in the protest filed by the minority against the jurisdiction of the committee to investigate the matter of the appointment of presidential electors, and the findings of the State returning board in relation thereto, that I shall venture to refer to it at some length. In that protest it is said:

It appears by the provisions of the Constitution of the United States that the purpose of creating the electoral college was to provide a body wholly within the control of the States and wholly without the control of the Federal authority in any form. It seems evident that it was not the purpose of the framers of the Constitution to submit the choice of the President and Vice-President to a popular vote, nor even to what we now understand by an election.

A body of men were to be selected by "appointment," who should exercise the privilege of choice upon their own personal judgment, for these high officers. It was to be an intermediate and independent body.

This is evident from the whole scope of the articles relating to electors, and is almost necessarily implied in the title of the office—for they were to be electors—and to be an elector means to have freedom of choice.

But the most important inquiry bearing upon the present subject is, how are these electors to be "appointed" under the Constitution and where is vested the power of scrutiny into their election in States where that mode of appointment has been adopted.

To our minds the Constitution is specific and clear: "Each State shall appoint," &c., "in such manner as the Legislature may by law direct."

No other power can appoint.

And the State may adopt any mode of appointment that it chooses to select, for the power of the Legislature as to the mode is absolutely without limit. The only reservation is that they shall not hold any office under the United States.

It would seem that the most sedulous care had been taken to affirm in this particular case the doctrine of State rights and an inspection of the debates will show the reasons given at the time.

In the particular case before us the State of Louisiana has thought proper to select a popular election as the mode of appointing electors, and this is an exercise of constitutional power clearly within their competency, and in conformity with the drift of public opinion.

The election of presidential electors occurs under the law at the same time with the State elections, and by the law the names of all persons voted for for all offices are upon a single ballot. All are governed by the same law, received by the same officials, counted and ascertained by the same tribunals, declared by the same authority, and the whole process, from registration to the publication of the result and the commissioning of the candidates declared elected, is entirely under the State laws, administered by State officers, and determined by State authority.

If then we are correct in this view, that the whole tenor and meaning of the constitution implies a deliberate and purposed surrender of the electoral question so far as relates to their appointment to the States; if we are further correct in our view, that where the mode of appointment is by popular election the scrutiny and final determination of such election is under the control of the States, and that such scrutiny and final determination has in fact been had in pursuance of the laws of Louisiana, and that no fair intendment of the Constitution of the United States gives to the Congress the right to open that judgment or set aside that verdict, it would seem very clear that there is nothing before this committee on which it has a right to act.

Having now, as I believe, disposed of all the legal propositions arising in this investigation, I might, with great propriety and confidence, stop here and rest my case upon the conclusive authorities which have been presented. But as testimony was taken notwithstanding the protest, I propose now to examine the evidence submitted to the committee with a view of ascertaining whether, in the late political canvass in Louisiana, such a system of violence and intimidation of colored men was carried on by white democrats as to materially change the result of the election in that State, and justify the State returning board in excluding from their count the said several polls in said parishes, and also whether the electoral vote of said State should be counted for Hayes and Wheeler.

I should be glad, Mr. Speaker, if I had time, and the House had the time and patience, to refer briefly to a large part of the testimony, not only that taken by the committee but also that used before the returning board, but it is not possible to do so, and I am compelled to restrict myself to the testimony of a few among the large number of witnesses from each of the parishes allotted to the subcommittee of which I was a member for investigation.

Let us hear now what these men say:

ALEXANDER STEPHENS GILBERT.

Question. Where do you live?
Answer. In the parish of East Baton Rouge.
Q. How long have you lived there?
A. I have lived there since 1870.
Q. What part of Baton Rouge Parish do you live in?
A. I live about three miles and a half from the city of Baton Rouge, on the plank road, or Clinton road.
Q. State whether there were any armed organizations of democrats in your parish.
A. There was an armed body, or armed bodies of men, known as bull-dozers or regulators.
Q. How many companies were there that you knew of?
A. I do not know of any particular company; I have seen them in large bodies on the public road.
Q. What were they doing when you saw them?
A. I have seen them riding on the public roads sometimes with their guns. Very often I saw them out at night on the public road in large bodies.
Q. What was their conduct at night?
A. They were visiting colored people's houses or cabins there and giving them orders to leave.
Q. What were the politics of those bull-dozers?
A. They were democrats.
Q. What were your politics?
A. I was a republican.
Q. State whether they ever visited your house.
A. Yes.
Q. When?
A. They visited my house on the night of the 5th day of September last, about ten or half after ten o'clock.
Q. What effect had these proceedings of the bull-dozers upon the republicans with reference to the frequency of their meetings?
A. We could not get up a meeting; we could not get the people to go. What few did go were always frightened; they said if they went to the meeting that day they would be bull-dozed that night.
Q. Did this riding the country over by the bull-dozers have the effect of preventing the republicans from conducting their campaign as they usually do?
A. Yes, sir; it had a great effect. Before they commenced bull-dozing I could get on my horse at twelve o'clock at night, or any other time of night, and ride to town or to any other part of the parish without fear. After they commenced bull-dozing I did not get out of my place after sundown.
Q. Why was that?
A. Because I was afraid of meeting these men on the road. Sometimes I would be late in getting out home from town, and I would meet those men on the road in squads; I would always give them the road, and get by them that way, and go on home.
Q. State whether or not you organized a republican club.
A. I did, in the third ward.
Q. What became of that republican club?
A. It was broken up by the bull-dozers.
Q. State the effect upon the mass of the colored people.
The WITNESS. It had a great effect. It prevented them from attending the meetings, and it prevented them from voting the republican ticket.
Q. Who were those? White men?
A. They were all white men.
Q. Were they democrats?
A. They were democrats. Right in my neighborhood there they visited cabin after cabin, and notified the colored men that if they did not come to their meetings, at such and such times, they would come for them.
Q. Democratic meetings?
A. Yes, sir; they held their meetings and notified the colored people that they must attend those meetings; and when they went they had to sign a roll, pledging themselves to support the democratic ticket; if they did not, they could not live there.

WILLIAM WADE.

Question. Where do you live, Mr. Wade?
Answer. At East Baton Rouge.
Q. How long have you lived there?
A. I have been living there six years; but I have been living in the parish eleven years. I have lived fourteen miles from Baton Rouge six years on Robert Jones's place.
Q. What are your politics?
A. Well, sir, my politics is this—is republican.
Q. Will you state whether or not any armed bodies of men paraded about Baton Rouge Parish during this year, 1876?
A. They passed through my place twice; once when I was there.
Q. I ask you whether there was any such armed bodies of men?
A. Yes, sir.
Q. How many do you know of?
A. Well, sir, I could not tell you how many that I know was together, only once.
Q. What were their politics?
A. Well, sir, what their politics was I judge from their actions, which was to hang and kill all the republicans out, as far as I could see in the matter. And there was two more men who live on the same place, only it was a dividing line, struck——
Q. Just answer my question. I do not ask you about that. I will come to that by and by. What were these companies called?
A. O, they were called bull-dozers and regulators.
Q. What was the effect of this conduct on the colored men there?
A. I can mighty quick tell you the effect on me.
Q. Let us have the effect on you, then?
A. It was because they never had any charge—because Mr. Young told my wife it was only inside of a month that they ever had any charge against me. Well, I never had done anything at all. I know that it was on the inside of a month that I held that meeting there.
Q. What meeting?
A. A political meeting.
Q. A republican meeting?
A. Yes, sir.
Q. Now state whether or not the negroes were frightened by these things that you say occurred.
The WITNESS. Of course I know they was; I have no thinking to do at all about it.
Q. What were the politics of the colored people up there if they would have been left to themselves?
A. Why, my gracious alive, you can't find—I don't believe you could find a dozen democrats among them in the whole parish.

I now desire to get the attention of the House to some notices sent to Ben Morgan, the coroner in the parish of East Baton Rouge, in the summer of 1876, relating to the political murders then being committed in that parish:

Mr. BEN MORGAN, *Coroner:*

You will please bear in mind that your absence is required in the country, and I further inform you that if you are caught therein any more your fate shall be as those you came to hold your inquests over.

Yours, truly, CAPTAIN OF THE REGULATORS.

BENJAMIN F. MORGAN:

I notify you, as coroner of East Baton Rouge, if you come out here any more to take down any of the signs, you will be captured and will be served the same as these people you have been cutting down.

These notices need no comment; the democracy began to be alarmed at the effect which such wholesale slaughter of innocent men for political purposes would have upon the country if they allowed them to be made public by a coroner's inquest.

WILLIAM DUPLESSIS.

Question. Where do you reside?
Answer. In the parish of East Baton Rouge.
Q. How long have you lived there?
A. I have lived there all my life—about twenty-four years.
Q. Which ward do you live in?
A. The first ward.
Q. You may state what you know in reference to bands of armed men traversing that parish before the last election.
A. Prior to the last election I was placed on the canvassing committee of the parish of East Baton Rouge to go to the parish, and, if possible, to organize republican clubs; and in our attempts to organize republican clubs we was interfered with by bands of white men who styled themselves as bull-dozers. I had occasion at one

time to go in the sixth ward of the parish of East Baton Rouge to make a speech on a Saturday, and during the time of my speech I was interfered with by white men, who drew out their pistols, &c., and called me "a God damned dirty liar," and that no such things occurred in Texas; it was in connection with a circular which was issued in Texas that our party used as campaign documents—the republican party in the parish of East Baton Rouge. And then we were to have a meeting the following day in the seventh ward. These gentlemen then threatened Mr. Gilbert and myself if we should come down there we should be assassinated, if we would attempt to get up on the stand to make a speech; or, in other words, that they would kill us anyhow if we came down there.

Q. Who made these threats?

A. Mr. Jos. Manson, William Bates, and a gentleman named Kleinpeter. I did not want to get in no fuss, for I feared that they would assassinate me in some way; so then we went to the tenth ward the following Saturday, and when we got to the tenth ward we met fifteen or twenty of these men thereat who pursued after us until we got to the place of meeting, and when we got there they were there. We wanted to have a meeting but the colored men seeing these men come there following us up, through fear, they broke up in a body. A great many broke and run through the woods, saying that if they would stay there the consequence would be they would have to leave their places; that they had either had to connect their names with the democratic party and vote that ticket or leave their places. And a young gentleman by the name of Morgan and myself, thinking our lives also was not safe by being there, we proceeded on to the twelfth ward; we were to have meetings in the tenth and twelfth wards, both on the same day. When we got to the tenth ward, we hadn't been there more than fifteen minutes, before our crowd got there, when I seen we had to go to Baton Rouge, these men still pursuing us. We waited a while to see, and we looked, and they was about three hundred yards from us, and we put spurs to our horses, and this young man Morgan and myself pursued on to town—we continued on to town. These gentlemen followed us through the third to tenth, from the tenth to the twelfth, from the twelfth to the first ward in the parish of East Baton Rouge, whooping and holloing and going on at a terrible rate.

Q. How many were they of them?

A. About twenty-five or thirty of them.

Q. Were they armed or not?

A. Yes, sir, they were; one was armed with a sixteen-shooter; others had revolvers.

Q. What was the feeling among the colored people in reference to these outrages?

A. They had a great dissatisfaction, sir; they knew they could not vote the republican ticket. I have had numbers of them come to me and say, "Here, I want to vote the republican ticket; would like to vote the republican ticket, but you know my condition. I have to live in the country any way; I have got a family; and they are not going to let me vote it. I have paid money on my land, and if I vote the republican ticket I will be slaughtered like as a dog. Of course I will have to vote the democratic ticket in order to protect my life and property."

Q. What was the effect of this fear on their vote on election day?

A. It caused us to lose from twelve to thirteen hundred republican votes in the parish.

Q. How was it in reference to their sleeping out of their houses for fear they might be assaulted or killed if they remained in them?

A. I heard numbers of them say they had to do it to protect themselves from the regulators. There was a German by the name of Isadore Herren——

Q. How was it with yourself?

A. I have not lived in the house where I staid now for nearly four months, though I was bred and born there.

Q. Why?

A. For fear of being assassinated.

Q. Do you know of colored men voting the democratic ticket through fear at the last election?

A. The only thing I know, what I stated before, that they all wanted to vote the republican ticket, but through fear of being assassinated or killed they voted the democratic ticket; those who could not—a great many of them—left the parish, and others would not vote at all.

Q. What do you know about them being compelled to join democratic clubs?

A. I know nothing, only what I heard. I have known of colored men who received a coffin and a gallows on the side of the coffin, stating to them, if you do not join the democratic party by such and such a time the consequence will be, you will receive the contents of this circular—not circular, but a note written, put in with the coffin and gallows.

J. R. BROOK.

Question. State your age.

Answer. Thirty-eight.

Q. What is your rank in the Army?

A. Lieutenant-colonel of the Third Infantry and brevet brigadier-general of the United States Army.

Q. Where were you located in the summer and autumn of 1876?

A. At Baton Rouge, Louisiana.

Q. What was your command?

A. The district of Baton Rouge, composed of six parishes of Louisiana and three counties of Mississippi.

Q. Are you acquainted with the condition of the territory within your command as to peace and order during the last political campaign?

A. Yes.

Q. State what it was, and all about it, fully.

A. I am more particularly acquainted with the situation in East Baton Rouge and East Feliciana; West Feliciana not so particularly; also, very slightly with Livingston, Saint Helena, and Tangipahoa, those being the parishes under my command.

In East Baton Rouge and East Feliciana there seemed to be a systematic organization of the whites, or democratic party, which had the effect of terrorizing the blacks, who were republicans there, as far as I could ascertain. The cause of the terrorism occurred during the winter and spring last. Clubs of men, designating themselves or designated by others as bull-dozers or regulators, variously, were reported to me as having been in the habit of riding around the country, particularly at night, disguised and armed, taking colored men from their houses, whipping, and killing them by shooting and hanging. After I took command, in the latter part of June, I think about the 27th, there were not so many cases that came to my knowledge. Those of East Feliciana were reported to me by refugees—colored men—one of whom, by the name of Jackson, still had an open bullet-wound in his head, inflicted by a man named Dennison, on the plantation of a man named Riley, in East Feliciana. A great many others in that parish came to me, to the number of fifty or sixty, saying that they were compelled to leave their homes for their personal safety, which was threatened. They averred that it was because they would not join democratic clubs or vote the democratic ticket.

In East Baton Rouge the same things were done or reported to be by many people; and were admitted to be so by the white people of Baton Rouge, to many of whom I spoke, they admitting that there were many things done in the "back country," as they call it, which they did not approve of; but I never could ascertain that they took any other means of checking the disorders. A man named Coleman Brown, about the 1st of July, came to me with a fresh bullet-wound in his thigh, inflicted by a young man by the name of Mansur, near Bayou Manche. Another man came to me some time in August, and said he had been badly whipped and an examination convinced me that that was the case. I had frequent applications for protection and frequent complaints of ill-treatment. The parties making them were sent by me to the civil authorities, and in one or two instances, I think, the civil authorities were successful in apprehending men who committed these acts, and they were bound over to appear in court. About the 1st of September, Paul Johnson, represented to me to be an intelligent colored man—that is, a man who could read and write was taken from his house at night by a band of armed and disguised men, and was never seen afterward alive. His father told me the story the next day; that he had tracked them to some point near the Comite River, and there either lost or gave up the trail. He informed me that a great many other colored men had been taken in that direction; that there were a great many men missing in his region of country, and that he did not know at what hour he would be taken out and treated in the same manner. This point, as near as I can recollect, was near Atkinson's store. Monroe Meachum, a man who, I understood, attended the republican parish convention at Baton Rouge in company with another man named William Wade, returned to his home, and disappeared in a manner somewhat similar to that of Paul Johnson, and, I believe, has never been heard of since.

Q. State what marks, if any, you have ever seen on the persons of men making such complaints.

A. I have seen the marks of wounds by bullets, marks of the whip, and marks of the rope around their necks and around their wrists. They told me it was caused by a rope put around the neck and passed over the pommel of the saddle, and the horse ridden away at too sharp a pace for them to follow without injury. I have no doubt it was the case, for it appeared to be caused by such a thing as that. A woman, also, was hung up and then cut down several times, at a place on the Bayou Sara road, by a party of men who were making the road—repairing the road. The names of the party were given to the civil authorities and efforts were made to arrest them; whether successful or not, I have not learned.

Q. What account, if any, did these parties make to you as to threats that were made use of to cause them to join the democratic party and vote the democratic ticket?

A. They were threatened in various ways: threatened with discharge; threatened with whippings; threatened with death; and the language they used was something of this nature, as near as I can recollect: "It will not be healthy for you to be about here after election if you don't vote with us." In other places the threat was made to women, that they would be whipped so badly that they could not sit down, unless they stopped using their influence in favor of the republican party. Men were threatened that if they went to Baton Rouge to attend a barbecue, and remained there to election, they would not live beyond the Saturday night following. These threats were communicated to me by a great many men; how many I cannot recollect—probably between twenty-five and fifty, and at various times. They would come to me during the day-time and during the night-time. They would come to me as though they did it secretly and cautiously, and would manifest trepidation if they saw any one in citizen's clothing about the post, in the vicinity of my quarters; and in various ways, by their words, their actions, and descriptions of their treatment, and the similarity of their stories, they led me to believe that they had been threatened; and they told me they believed that the people who made those threats would carry them out, and therefore they were afraid.

Q. What account was given you, if any, as to the number of these parties by whom such outrages were committed?

A. From ten men to fifty—those men who rode at night, disguised and armed. They varied; some parties were large, and others smaller; there were not any less than ten, that ever I heard of.

Q. What statements were made to you by these people, if any, as to their sleeping away from their homes at night?

A. All of the colored men who came to me—and while at Baton Rouge I suppose two hundred and fifty men came to me from various parts of the country—said that they had slept away from their houses, in the woods, for weeks at a time, fearful that they would be caught in their houses. They also stated that during the winter or spring last they received notice to deliver up their arms, which were mainly shot-guns, at certain places before a certain time, and that many of them did so deliver.

Q. What effect did these things which you have described have, in your judgment, upon the election and upon the vote of the colored people?

A. It had the effect of deterring a great many colored men from voting. A great many colored men said to me that they feared to vote at all, and that the people in their vicinity—in their "settlements," as they call the little clearings they have in that region—felt that it was the general feeling in their particular localities that the blacks feared the consequences of voting the republican ticket and vowed that they would not vote the democratic ticket.

Q. From what you saw, what was the character of the democratic organization in those parishes?

A. It was formed into clubs, with, as near as I could see, a military organization. They would speak of a man as the "captain" of this or that club. I saw one procession—a torch-light procession in Baton Rouge—and it seemed to me that they had a regular military organization. In June last, about the middle of June, I was coming down the river from Vicksburgh, and in passing by Port Hudson, or shortly after passing it, I observed a body of armed men on the boat. I inquired who they were and what they were doing, and they told me that there was a party of negroes intrenched upon a hill at Mount Pleasant plantation, and that these men were going down the river in the steamer and were going to land below the plantation and flank the position. That party, of about seventy men, armed with shot-guns, rifles, and pistols, were certainly organized in a military manner. They moved according to military tactics. Where the party got on I do not remember. I was not up at the time they got on; it was very early in the morning. When they got off the boat they marched right in the direction of Mount Pleasant plantation. I have understood afterward that there were some six hundred whites congregated there. It was Sunday morning. What they did was published througout the country in the papers at the time. I afterward, when I took command of the district of Baton Rouge, made inquiry, and as near as I could learn, there were four men hung on the cross-bar of a gate at that plantation.

Q. State what you noticed of the military character of the organization of the democrats at other times than that, if anything; state what you know yourself and what was reported to you, distinguishing the one from the other.

A. I never saw those parties on their "raids," as they were called, personally. My subordinate commanders have reported that, in the execution of orders given by me, they had been stopped while traveling by night by parties whom they denominated "pickets" or "patrols," on the public roads. The name, business, and designation were inquired, and in all ways these pickets conducted themselves as though upon regular military duty. This was in East Feliciana. In West Feliciana the organization was made by wards, and they appeared to have captains and lieutenants in each of their organizations.

Q. How about arms?

A. They were armed with shot-guns, pistols, Winchester rifles, as far as I could hear.

L. B. JENKS.

My name is L. B. Jenks. I am thirty-six years old. My residence is Bayou Sara, in the parish of West Feliciana, and I am a lawyer by profession.

I was the nominee and candidate of the republican party of the parish of West Feliciana for the office and position of parish judge.

I know from my personal knowledge of the often-expressed determination on the part of leading democrats in the parish to prevent any organization of the republican party in said parish, to prohibit any canvass by republicans, and to pre-

vent the formation of any republican clubs therein. I have heard this determination expressed by many prominent democrats, notable among whom was Ex-Governor R. C. Wickliffe.

From information received, and as matters of general and public notoriety, I can state that the parish was patrolled at intervals during the six months preceding the election by bands of armed white men, acting avowedly in the interest of the democratic party, who by their lawless acts of violence, such as whipping, hanging, and shooting to death colored men who were more or less prominent in the republican party, produced such a general condition of affright and terroism among the colored republican voters that, excepting at a central point like the court-house at Saint Francisville, and an isolated and almost inaccessible one, like the Acklen places in the seventh ward, an election would be a mockery and farce, so far as pertaining to a free, fair, and full expression of popular sentiment.

In my opinion, had there been a peaceable and fair election in said parish, the result would have shown a majority of over one thousand votes in favor of the republican party.

STATEMENT OF JOHN S. DULA.

I am parish judge of my parish, (parish of West Feliciana.) For the last year there has been an organized band of white democrats, styling themselves bull-dozers and regulators, who patrolled the entire, and, by threats, acts of violence, and burning houses, have intimidated the colored people to such an extent that few have the hardihood to openly declare themselves republicans. These parties I have seen and speak of what I know. About a year ago, about the 25th of October, 1875, about three hundred regulators, all armed with shot-guns, rifles, and pistols, who I was notified came to demand my resignation as parish judge. About eight o'clock I shut my store and went to the residence of a friend, and shortly afterward they broke into my store, gutted it, and left with a colored man, an acquaintance of mine, a resignation to the governor of my office of judge, and left word that unles I resigned it by the next day at four o'clock they would take my life. I sent them a refusal, and took boat for the city of New Orleans, where I remained for three months. I then returned, and after heard it remarked that the damned radical officials must leave the parish if they value their lives. For the three months just before the election the parish has been patrolled by the bull-dozers. About the 1st of May last, 1876, about fifty or sixty armed democrats rushed into the court-house where I was holding court, and the republican members of the police jury were summoned and commanded to resign at once on pain of death, which they did. There has been several murders within the last three months, one of whom, Isaac Mitchell, a prominent republican, but who was an inoffensive man, and who held no official position, who owned his own farm and worked it, and who attended to his own business, but who refused openly to join the democratic clubs and rebuked colored men who did so. He was taken out of his bed about four o'clock in the night and beat over the head with clubs in the presence of his wife and children, and when nearly dead and stunned was shot and left lying dead in his door-yard. John Russell, another colored republican, who held no official position, worked his own farm, had an excellent reputation, but was too stanch in his political opinions to be induced to join a democratic club—the bull-dozers came to his cabin about the middle of the night and broke open his door. When he heard them coming he jumped into an empty pork barrel to hide, where he was riddled with bullets and left to his wife and children. A colored boy, Hurd, who refused to join a democratic club, was whipped nearly to death, then turned off and run out of the parish. I. Hunt Anoth and various others have been whipped and run away. These and similar acts of intimidation have struck terror to the hearts of the colored men of Feliciana, and because they valued the lives of their wives, children, and their own, that they have voted the democratic ticket, not, as many of them said to me, because they wished to do so, but because they had no other alternative.

W. D. POSTLETHWAITE.

I am thirty years of age and have resided for the last two or three months in the parish of West Feliciana, Louisiana. I have been employed during the greater part of this year as reporter on the New Orleans Times newspaper, but resigned my position when I became a candidate for office.

I was candidate for the office of sheriff on the republican ticket in the parish of West Feliciana.

I was raised in West Feliciana, and am well acquainted with the people of all colors. On the day of the last election I was present at the fourth-ward poll and the election there that day was peaceable, as I have already stated at the request of a democratic committee of the parish. On the Sunday night previous to the election, the 5th of November, 1876, armed bodies of white democrats rode about visiting all or nearly all of the plantations in the fourth ward. They were reported to have severely whipped a colored man in the next place to my house; and their conduct generally was such as to terrify all the colored people in the neighborhood, and compelled many of them to vote the democratic ticket against their wishes. And the general reign of terror prevailing throughout the whole parish of West Feliciana for two or three months previous to the election, brought about by the bull-dozers, operated and continued in force up to and during the day of election.

The colored people of the fourth-ward poll and throughout the parish were impressed by the violent acts of the democratic bull-dozers that it would be exile or death to vote the republican ticket. While there was on election day a show of peace and liberty of action the conviction of danger was still present with most of the republican electors, and they voted under a duress as compelling as if they had been marched to the polls by force, and the same duress operated to compel the colored men to sign certificates of a fair and free election in the parish.

On the day of election a prominent colored republican took charge of some republican tickets at my request for distribution; after making active efforts to induce the colored people to receive and vote the ticket, he came back to me and reported that it was no use, the colored people wanted to vote that ticket but were afraid. At a large gathering on the Sunday previous, November 5, at Beech Grove Church, it was unanimously resolved among the colored people to vote the ticket on election day, and I believe they would have done so but for a raid of the bull-dozers that so terrified them that nothing could have induced them to vote the republican ticket. At the same poll a democrat was appointed to keep a list of all the colored voters and how they voted; and but for this, many of those who voted the democratic ticket would have voted the republican ticket. The officers of the democratic clubs had repeatedly warned the colored people that only those who voted the democratic ticket would get protection from the regulators, and that every man would be watched and marked on the day of election as to how he voted. Such acts as I have already stated, and many others of a violent nature, which occurred in my parish during the two or three months just preceding the last general election, brought about a condition of terror among the colored men, and such acts of violence were calculated and did make the colored people vote the democratic ticket against their wishes. I am satisfied that had there been a fair election in West Feliciana, the parish would have given a republican majority of at least 500 votes.

GEORGE A. J. SWAYZE.

I am thirty-one years old; I live in the parish of West Feliciana, where I was born and have always lived; I am a deputy sheriff of said parish.

I know that during the year preceding the election the general condition of public affairs was very unsettled throughout the parish in consequence of individuals banding themselves together, and organizing squads or companies, and perpetrating acts of violence and intimidation against the colored people.

For more than a year preceding the election, bands of armed men, styled regulators and bull-dozers, patrolled the parish at intervals, and committed acts of intimidation and violence, ranging from threatenings of punishments, graduating to whippings and hanging, and culminating in the most atrocious and horrid murders. These movements were inaugurated in September, 1875, and were followed at irregular though frequent intervals until the night of the day preceding the election.

The effect of the foregoing was to inaugurate a reign of terror among the colored voters throughout the parish against whom these demonstrations were made and to whom they were principally confined.

I know that threats conveying the idea of the severest punishment were made against the colored voters to prevent them voting the republican ticket.

The republican party was not permitted to effect an organization throughout the parish. The causes preventing this were the whippings, hangings, and murders inflicted upon the colored men by the bull-dozers and regulators, whose fiat was pronounced with especial reference to the prevention of this object on the part of the republican party in the parish.

If the republican party had been permitted to effect an organization in said parish and if the election had been fair, free, and peaceable, the result would have given a clear majority of over 1,000 in favor of the republican party.

Gilbert Carter was shot to death on the night of the 11th July, by the bull-dozers. In the month of September, Ephraim Armstrong was shot and killed by a white man, name unknown, and on the night of the 28th of September, Ike Mitchell, in his own house, was inhumanly beaten and repeatedly shot, from the effect of which he died next morning. These are matters of general and public notoriety. In the case of Mitchell, the bull-dozers were recognized by his wife, some of whom endeavored to conceal their faces with improvised masks.

The effect of these murders was to frighten and terrorize the colored voters of the parish, especially so in the neighborhood of their occurrence, to the extent that scarcely any of them had the temerity to openly proclaim themselves republicans, and very few dared to vote the republican ticket, and many, very many, were forced to vote the democratic ticket against their will and conscience.

There were many republicans discharged from employment for having attended republican meetings. Five families were discharged from the employ and driven from the plantation of Dr. William Ball; some from the employ of William Hormrich, and nine from the coal-yard; all from the reason above stated.

Many colored men were discharged from employment for having voted the republican ticket. John Smith, my brother-in-law, was discharged by Jeff. Hamilton; one man by Dr. Woods; one family by C. B. Smith, and many others, some who had been warned and threatened with discharge.

WASHINGTON SPOONER.

I am twenty-seven years old and I live in the tenth ward, parish of West Feliciana. I was born and raised in said parish, and have lived there all my life, excepting from August, 1863, to January, 1866, during which time I was a soldier in the Federal Army. I am a laboring farmer by occupation.

I know of several acts of intimidation and violence in my neighborhood preceding the election, calculated to prevent a free and fair election.

I know from information received and as a matter of notoriety that Jubal Hunt, March Grey, and Ben. Baker were severely whipped at different times in my neighborhood preceding the election. I have no personal knowledge as to the cause therefor, but from general belief can state that in the case of Jubal Hunt the causes which led to his being whipped were his repeated public avowals of his fidelity to the principles of the republican party and his determination not to join a democratic club or vote the democratic ticket. The effect of these whippings was to frighten the colored voters of the tenth ward and deter them from organizing republican clubs or voting the republican ticket.

On Sunday night, November 5, instant, a band of about ten armed men rode through the Bush Hill plantation, where I reside. They were armed with pistols, shot-guns, and Winchester rifles. I saw them again the next morning at the store of H. C. Lopez; among them I recognized one Jake Rowe, who was addressed by the others as "captain." I also recognized John Black, Ben. Cursey, and one Dickerson or Dickam, and Alf. Riley. The effect of this raid was to thoroughly frighten and intimidate the colored voters of the neighborhood.

The colored voters of this neighborhood were repeatedly threatened with violence if they voted the republican ticket. I was warned and threatened by John J. Barrow, democratic candidate for sheriff, that if I voted the republican ticket I should not be permitted to live on the Bush Hill plantation where I was born and now reside. H. C. Lopez threatened me that, if I voted or any other republican voted the republican ticket, we should be made to leave the parish or be killed.

I was a commissioner of election at the Brick Church poll in the tenth ward.

I saw several white men, all democrats, near and around the polling-places, and inside the church where the polls were held, and the effect of this was to frighten the republican voters, and prevented them from voting the republican ticket.

I am well acquainted in the tenth ward, and know nearly all of the colored voters, and, from intimate relations and conversations with them, I know them nearly all to be republicans, sincerely, conscientiously. I do not know of more than six colored democrats who ever profess to be such among their own race and color.

The result of the vote at the poll in the tenth ward was 323 democratic votes and 1 republican vote. In 1874 the result was 99 democratic votes and 167 republican votes.

I did not consider it safe for a colored man to openly vote the republican ticket at the Brick Church poll.

I do not consider it would have been safe for any man, white or colored, to have openly supported the republican party in the tenth ward of West Feliciana Parish.

RILEY NORFLISS.

I am twenty-four years old; West Feliciana; farmer; on day of election was in Saint Francisville; prior to that was on my place, six miles from Saint Francisville, at home.

The 11th of July last past, about midnight, a body of armed men came to my house; about sixty, as near as I could count. They called out to me some three or four times to come out; then, getting impatient, called again, "Ain't you coming out?" I answered, yes, as soon as I could find my pants. They then said, "If you don't come out we will smoke you out." I went out, and there I saw Cody Smith, Mr. Domings, Robert Wilson, Tom West, Charley Barrow, Robert Philips, Hugh Connor, George Townes, Will. Gilmore, Matt. Gillmore, Joe D. Smith, Lewis Smith, Page Barrow, Herman Barrow, and a great many whose names I do not now remember and some I did not know. All were on horseback and were armed with guns and pistols. They had dismounted. I was accosted at once by Cody Smith, who said, "I want to know all about that club, republican, you have out here that is going to kill the democrats." I told him that was a club I didn't know anything about. He says, "You are a damned liar. You follow us all. We'll get it out of you to-night or we'll kill you." They then got on their horses and made me go with them on foot in their midst about two hundred and fifty yards from my house, where they came across a big tree. There they made me get upon a horse Then Tom West said to me, "Now, by G—d, I want you to tell me all you know.' I told them I didn't know anything. West said, "Yes, you do, by G—d. Ain't some of you got a rope?" Then Robert Philips spoke up, saying, "Yes, I've got one." He then passed to West a new grass rope that he had tied to his saddle. West immediately put it around my neck, after making the slip-noose, saying, "Now, by G—d, I want you to up and tell us the whole thing. If you don't we'll break your neck to-night." I told them I knew of no club of republicans to kill people. The boys had spoke of having a club meeting, as had always been the case in all election times. Robert Wilson spoke, saying, "O, by G—d, boys, he is trying to dodge us. Break his neck at once and be done with it." Robert Philips then

climbed the tree, taking up the end of the rope and fastened it to a limb. Lewis Smith then caught hold of the bridle-rein of the horse I had been placed on and started to lead him from under me. I caught hold of the rein and pulled him back. I begged for a chance to talk. They waited. I told them I did not know of such a club as they spoke of, but if they would turn me loose I would join a democratic club. One of them then said, "Turn him loose. Let him go on home and behave himself and be a good democrat now." They turned me loose. After I had got off about one hundred yards one of them shouted out, "Hold on there, you black son of a b——h, we ain't done with you yet." I saw I had no chance to run, so stopped right still. Cody Smith, Robert Wilson, and Hugh Connor, Robert Philips, and Lewis Smith came back for me and told me to go and follow them. They put me in advance, and being too slow in walking for them, Wilson said to Smith, "If you've got a whip, whip him with it and make him go faster. If you have not a whip, get a stick and knock him in the head. He'll go then."

They took me to Charley Barrow's place, a mile from my house. They went into his quarters and took two other colored men named Gilbert Carter and Isaac Vessel, and brought them to where I had been left with a guard over me, about a hundred yards from the quarters. When they had got Carter and Vessel within about ten yards of me, the white men said to each other, "Where can we find a tree to hang these two sons of bitches!" When they said this Carter and Vessel broke and ran. The whole crowd immediately fired after them. Gilbert Carter was filled with buck-shot in the small of the back, and his thigh was broken. The other man escaped. Robert Philips rode up to where Carter had fallen and said, "Boys, by G—d this fellow's pulse is beating yet." Then Charley Barrow went up to Carter and placing a pistol to his head fired it and killed him dead, saying, "By G—d, we've got the captain of this republican club, and if he ain't religious he's gone to hell." They then said to each other, "What shall we do this other!" meaning me. Hugh Connor says, "Kill him and leave him here." The guards who had me in charge said, "No, we will take him to the captain and see what he says." They carried me to the captain, and when we got to him I found it was Charley Barrow. He told them he gave me to them and said, "Do whatever you want to with him. He belongs to the Sage Hill club, he don't belong to mine." He permitted me to talk to him. I said, "I don't belong to anybody's club, but if you'll turn me loose and don't hurt me, I'll join your democratic club." He said, "By G—d, you needn't expect to join my club and then after join the radical club, for you will be in a worse fix if you do than you are now. If you join our club you must vote the democratic ticket, for if you vote any other you might just as well take your carpet-bag on your back and travel. All radicals now are played out. We are all democrats now. You tell all others and colored men that if in two weeks they have not joined my club they will be sorry for their own selves. They had better leave the parish." They then let me go, telling me to get home as quick as possible, and not let them catch me before I got home, for if they did they would kill me sure. From that time up to election they rode over the whole parish, threatening the lives of the people unless they voted the democratic ticket. They done it night and day.

I saw them from where I slept, near the road, in the swamp, for I was afraid to sleep at my house any more. They came and went just as in war times; came to assist the bull-dozers in West Feliciana. On one occasion I saw a body of eight of them somewhere from Mississippi; heard them shouting up the road. I saw them shooting at a man—Julius Green. I had been laying in the edge of the wood. I saw Green coming from church with his wife. They halted him. He saw who it was and run; he got away from them; they afterward went up the road, and I could hear them say they had come there to break up this damned radical hole. They broke into a number of houses that night.

I can think of but one other case just now; that was the killing of Ike Mitchell by the bull-dozers because he was a republican. Before they killed him I heard them say they had come to break up this damned radical hole.

ISAAC VESSEL.

I am twenty-two years old. I reside in the parish of West Feliciana. On the 7th of November last I was in Bayou Sara, in said parish During the four months previous, I lived on the plantation of Charles M. Barrow.

In the latter part of June last, Gilbert Carter, and about a dozen other colored men in our neighborhood, together with myself, proposed to organize a republican club, and met for that purpose one evening at what is called the Flower place. We did not effect an organization that night, but separated to meet again for the same purpose in about two weeks later. The democrats, on hearing of our intentions, congregated, and on the night of July 11 came to the plantation of Charles M. Barrow, about the hour of midnight, and came to my house when I was sleeping, and broke open the doors, and awoke me by poking me with their guns. They also went to the house of Gilbert Carter and made him their prisoner. Without giving me an opportunity to dress, they carried me about two hundred yards to where some more of their company were waiting, and where Gilbert Carter was brought; they were about fifty or sixty yards of them; they said that we had got to die that night, and were standing around us in every direction, bellowing that we would certainly be killed. We both made an attempt to escape, when Gilbert Carter was shot to death, pierced by bullets in several places. I ran to a bayou, but being soon almost surrounded, I pulled off my shirt, the only garment I had on, in order to avoid being seen in the darkness, and ran to another bayou, and finally escaped. I went to the house of a friend and obtained some clothing and remained until the next day, when I returned home by a circuitous route, being seen by Charles Barrow. He rode over to where I was. I asked him why they had killed Gilbert and tried to kill me, as I had done nothing. He replied they were after us because of that club we had over at the Flower place. I told him that we had not formed any club, but had only met to take steps to form one, when he said I must acknowledge that we had met and had formed a plan to murder him and his family and other families, or I would be killed. I denied any such intention, saying that such a thing was never thought of; but he said that I must acknowledge it if I wanted to live. I consented to anything he might propose in order to save my life.

I signed an affidavit before Justice Thomas Rayham, implicating Gilbert Carter in a plot to kill Charles M. Barrow and his family, John J. Barrow and his family, and others. I did this because Charley Barrow said that Governor Wickliffe said that I must sign such a paper in order to save my life. Not one of the statements in that paper or affidavit was true, so far as they related to any plot on the part of any one to kill Charley Barrow, his family, or any one else. I cannot read nor write, and consequently do not know what the paper contained, only what I was told, but I never heard or thought of any such a thing as they made me acknowledge.

Gilbert Carter was taken from his house on the night of July 11, by about fifty or sixty armed men, and surrounded and told that he had got to die that night; he attempted to escape, and was shot to death. Among the gang were Bennet L. Barrow, Page Barrow, Robert Philips, Courtland Smith, Will Gilmore, Charley Barrow, Joe D. Smith, Robert Wilson, Jim Dumming and others, and Thomas C. West.

I know from hearsay and general report of other murders and whipping, but did not witness them. I heard the guns when Ike Mitchell was killed on the 28th of September. He lived about a mile from where I did.

There have been plenty of bull-dozers in the parish, and they ride about day and night, whipping, hanging, and murdering colored people to intimidate them and prevent their forming republican clubs, and forcing them to join democratic ones.

AMY MITCHELL.

I am twenty-three years of age; I reside in the parish of West Feliciana, and I am the widow of a laboring farmer.

On the night of the 28th of September last a squad of eight white armed men came to the house owned and occupied by my husband and myself, situated in the third ward, in the parish of West Feliciana, about eight miles from Bayou Sara. They called for my husband, Ike Mitchell, by name, who at the time was sick in bed. Before I could open the door sufficiently to see or admit them they pushed it so violently against me as to nearly knock me down. They ordered me to make a light, and upon my telling them that my husband was not in there (he was in an adjoining room) they said, "Hush, you damned liar; he is in here." They said, "We have come here to break up this damned radical hole," and "We have come here to break up this damned Weber hole." They found my husband in the adjoining room, where, after hearing them, he had tried to conceal himself under some loose seed-cotton. They commenced beating him with their pistols, and in the scuffle which ensued got him outside the house, when he was shot three times by one of them whom I recognized as Mr. Charley Barrow. After shooting him, they called to me to come and take the damned son of a bitch in the house, when they rode off, and my husband's sister and myself carried him into the house. We placed him on the bed, where he died about daylight the next morning. They were armed with pistols and guns: either rifles or shot-guns. I recognized Charley Barrow, Robert Wilson, and Jim Dunning as being a part of the squad of eight. Charley Barrow had a handkerchief or towel tied over his face, but it fell off and I saw his features distinctly. I am well acquainted with him, having known him for about seven years. One of the men had a white sheet spread over his horse.

Some time preceding the circumstances recited above, a party of six or seven armed white men came to my house and called for Julius Green, a brother of my husband. His wife told them that he was away from home, when they came on the gallery and told his wife and myself to tell him that he must be at the court-house in Saint Francisville by ten o'clock the next morning and resign his office or he would be killed the next night. Julius Green was a member of the police jury for the parish. We told him what they said, and in accordance with their demands he went to Saint Francisville the next day and resigned his office, as he says he was terrified at their threats. It was in the night-time when they came to my house.

J. R. WATSON.

I am a resident and a voter of the third ward, parish of West Feliciana. On the day of election I acted as a commissioner of election at poll 1 of the twelfth ward, held at the the court-house in ward No. 1. This poll was held at the court-house because we were afraid to establish a poll in the twelfth ward, as we had been told that if we went out there we would be killed. At this poll early in the morning, as soon as the poll opened, about a dozen democrats surrounded the poll, and when ordered to stand back by the commissioners, they refused, and said they had a right there, and were going to carry that poll and parish at all hazards. They then, in a loud voice, notified all colored men who voted the republican ticket that their names would be taken down, and that the bull-dozers would pay their respects to them in a few nights; but that all who voted the democratic ticket should have a pass which would insure their protection against harm. They notified me that if I staid in that parish they would call on me in a few nights and give me a taste of hell.

In November, 1875, I was the supervisor of registration of the parish of West Feliciana, and took the census of that parish that year. I was keeping a store in the third ward, about four and a half miles from Bayou Sara. About the 27th of the above month, while preparing for bed, about ten o'clock at night, an armed body of men, from thirty to fifty in number, rode up to my store. When I heard them I blew out the light and jumped into bed. They at once opened fire with shot-guns, Winchester rifles, and pistols, and fired some thirty or forty shots into my store, riddling the door and windows. Some dozen or more of the bullets struck different parts of the bed on which I was lying. Some parties from some other portion of the road fired a volley; whether it was at them or not, I cannot say; but they rode off, yelling and hallooing, cursing the damn radical niggers, and saying, "We have killed one son of a bitch." Every few days after this I was notified to leave there or I would be killed and my store burned. About a week after the first attack another band of about fifty came yelling down the road. I went into the house adjoining my store and hid myself until they came in front of my store, when I heard them say they would burn the damn radical nigger's store, and I crawled out into the bushes beside the house. They then burst into my store, and when they could not find me there they took everything of value they wanted, and went to the house across the road and broke it open and searched for me, and told the woman to tell that damn radical nigger Watson that if they could catch him they were going to fill him full of bullets. After ransacking the house opposite to my store they returned and saturated the floor, counter, and walls of the store with coal-oil, and set it on fire and burned it to the ground. While it was burning they yelled and cursed, saying, "Come out, you nigger son of a bitch; your house is on fire. Come out here, and I will shoot your damn head off." I left there the next day, and came to New Orleans, and staid several months.

After I returned they still kept sending me word they were going to kill me. In September last I went to church in the third ward, when about a dozen armed men came riding up to the church and asked for me. I crawled into the pulpit and hid, but they sent three of their number into the church to bring me out. I then run out the back door and into the bush and hid. I left again and came to New Orleans, and staid here until October. After my return I was told that if I could be caught out of sight of the soldiers I would be shot. This is but a sample of the state of my parish. Hundreds of colored men are treated as I have been, and all are so terrorized that they could not, at the last election, vote as they wanted to, but were compelled to vote the democratic ticket to save their life. The republican ticket lost, by the corrupt practices and the intimidation of the colored men, from sixteen to seventeen hundred votes, which, were the colored men not compelled, against their will, to vote a democratic ticket, would have given the republicans a majority of from 900 to 1,000 in the parish of West Feliciana.

Armed bodies of men patrolled the entire parish to terrorize and intimidate the colored men, and when we left to come down here they warned us that on our return we would be sent to hell.

R. J. HOGAN.

I am a resident voter of the tenth ward of the parish of West Feliciana. In 1874 I was elected as a member of the police jury of my ward, and was afterward elected as the president of the police jury. Some time in the early part of November, 1875, we began to hear of regulators riding through our parish and those adjoining, and in a few days afterward that the regulators or bull-dozers, as they called themselves, had compelled the police jury of the parish of East Feliciana to resign, and that soon we would be called upon to resign too. These rumors increased, and I began to hear our police jury cursed and abused for damned radicals and damned niggers, and this was accompanied with statements that republicans I knew to be leaders had been whipped and killed through the county by bull dozers; these rumors so worked upon me and filled me with fear of my life and the safety of my family that I resigned my position as police juror. These rumors continued to increase in numbers, and the ventures of the bull-dozers came nearer to my home every week, until in June, 1876, a band of bull-dozers came to the plantation of John A. Stevenson, on which I have a crop, and took out three colored men, Wodford Roof, Truble Hunter, and Demas Williams, and they stripped them and made two hold the third while they whipped him. After they had whipped one, and while whipping the second, Demas Williams dropped the legs of the man he was holding and started to run. The bull-dozers immediately fired at him with their pistols, but, as there was a corn-field close by, he got into it and escaped. They then told the two men they had whipped that they must go over to John Barrow's and join his democratic club, or what they had got was just a taste of what they would get in the future. They say they were going to break up this damn radical-

ism, and that the colored men of that section must join democratic clubs and vote the democratic ticket if they wanted any protection. I run out of my house at their approach and laid in the bush, and overheard their threats, and in the following week I went over to Mr. Barrow to find out the conditions upon which I could get protection for my life; as one Isaac Michel and Gilbert Carter had been killed in my neighborhood, I feared my time would come soon.

I asked Mr. Barrow what was required of me to insure my safety. He said he wanted me to join his club, (democratic,) and support the democratic ticket on the day of election. I told him that if these were the best terms I could get I must take them, but that I had been a life-long republican, and was now, and that I would like to vote the republican ticket. He said I could not defend myself, and the bull-dozers would surely call on me as I was considered as a leader among the republicans, and would have to be suppressed in order that the democrats might carry out what they had determined should be the result of the election; that is, the complete success of the democratic ticket in my parish. Finding there was no alternative but to join his club or to leave the parish, I joined it, and from time to time was notified to attend its meetings, and also the speakings and barbecues of the democratic party in the parish. On the day of election there were many members of the club at the polls, and I and many other colored men who would have voted the republican ticket if we had dared to marched up to the polls in the tenth ward and deposited a democratic ticket. There was but one republican ticket, and whoever voted that feared to let it be known. There was no freedom of will on my part in voting as I did, but I thought my life would pay the forfeit if I dared to refuse. Armed bands of democrats patrolled the parish for several months, and by their whooping, hallooing and whipping, and sometimes murder of colored men, kept them in such a state of suspense and terror that they feared unless they obeyed the bull-dozers in everything they ordered that their lives would pay the forfeit. The republican majority in the tenth ward, were there a free, fair, and unintimidated election held there, would have been about 190 or 200; but as it was, there was no choice for a colored man. He must vote the democratic ticket or leave or be killed. After the election, on the same day, I was required to sign a memorial, stating that there was a fair and free and full election without any intimidation. I signed this paper, but it was done under the same feelings that caused me to vote the democratic ticket—a mortal fear that some harm would be committed against those who refused, and not because I wanted to sign it.

JAMES H. MORGAN.

I am a resident voter of ward No. 4 of the parish of West Feliciana. Sometime in September or October, 1875, a band of bull-dozers came into Saint Francisville, and by their yelling and hallooing through the streets, and their threats and bad language, put the entire inhabitants in a mortal terror. They had hung John Gair, and were going to hang and shoot other damn radicals and niggers. They came to the house of Senator Webber, and hallooed to him to come out; that they wanted to fix him. They staid all night in town, and by their drunken carousals, firing off their pistols, and abusive threats, they put all the people in a state of excitement. This caused the formation of committees of safety, formed by the planters and their hands. One was formed in my ward, and Mr. Barrow was the president. All the colored men in the ward were asked to sign the rolls, and it was stated that any man who signed could vote as he liked, as it was a non-political organization, whereby all the colored men joined in it; and all went well until some time in June, 1876, when some member offered a resolution binding the club to support the democratic ticket. Many of the colored men objected, stating that they were republicans and could not support the democratic party. Mr. Barrow said they must do so, as the people of that parish were tired of the damn radical nigger rule, and that the State must go democratic, if they had to kill all the damn radicals. He thereupon declared the resolution passed, and the colored men, I among the rest, were afraid to make any objection, but at the next meeting few colored men attended. The bull-dozers at once appeared, and among them were many of the white men of the parish. They killed Jack Russell, a colored man; this, accompanied with the threats of the bull-dozers, who warned the colored men that unless they attended the democratic meetings, struck terror to my breast, and that of all others. I at once began to sleep in the woods at night, as did many others, for fear of being killed in my house. This murder was quickly followed by that of Gilbert Carter, Isaac Michell, and Ed. Armstrong, all living in my part of the parish, besides Primus Picket, Juber Johns, and many others, who were shot at Brent Saws. Marsch Gray and others were whipped nearly to death during the same period, from June to the day of election. These acts confirmed my terror and that of other colored men.

These acts and raids of the bull-dozers were all in the night-time, and when day returned there would be no traces of them. Many of their men were recognized by me and others as the white residents of our neighborhood; among others, Cortney Smith and Charles Barrows. By these acts of violence, and after repeated warnings, I joined the club and attended the meetings and the democratic speakings. These acts of intimidation caused many colored men to stay away from the polls, and many others were compelled to vote the democratic ticket against their wishes. We had been told that on the day of election there would be a man present at each poll with a spot-book to take down the names of all colored men who voted the republican ticket, and that on the night following, or in a few nights, they would be visited by the bull-dozers, but that those who voted the democratic ticket would be let alone. Sure enough, on the day of election there was a man at our poll with his spot-book, and he called out the name of each man who voted the republican ticket, and said, "spotted." I saw many colored men who came up with republican tickets drop them when they heard this man calling the names. Some left the polls without voting, others were accosted by democrats and compelled to vote the democratic ticket. Many of these last came to me and said they were afraid to vote as they wanted to—the republican ticket—as the bull-dozers would kill them, but if I could insure them protection they would vote as they wished, but I told them I could not give them any security.

If there had been a free, fair, and unintimidated election the republicans would have had a majority of about 250 at my poll, whereas the democrats, by the foregoing intimidation, carried that poll about 70 votes. I am well acquainted with the feeling in my parish, and know if a free, fair, and unintimidated election had been held, and the colored men been allowed to vote as they desired, the republican majority of the parish would have been upward of 1,000. On the day of election the democrats had whisky at my poll, and all who voted their ticket was given a drink, which he could not get if he voted the opposition ticket.

JAMES SMITH.

James Smith says that he is a resident of the parish of West Feliciana, twelfth ward, and is a duly registered voter thereof; that for six months prior to the election armed bands of white men, styling themselves the "bull-dozers and regulators," patrolled the parish night and day. They at first notified all the colored people in the twelfth ward that they were about to organize a democratic club at Mr. Courtland Smith's plantation some time in June, 1876. The club was formed, and they visited all the colored people in the neighborhood, telling them to "attend and see what it is like," and that they could vote as they pleased. "Just come, we only want to have a large meeting." They went, knowing full well that if they failed to the democrats would make the attempt to kill them. At the meeting the colored men were told if they would join the club they would be protected by the white people. They replied, "We are republicans, and intend to vote the republican ticket." They were then forced to swear and kiss the Bible and join the democratic club.

After three or four meetings of said club, Mr. Courtland Smith, James Stewart, Robert Wilson, Hugh Connell, and others, white democrats, members of the club, visited those colored men who failed to attend every meeting, telling them they must attend regularly or they would be bull-dozed. As all the colored men were afraid to stay away, they nearly all attended. Mr. Smith in one of the first compulsory meetings introduced a resolution pledging the club to support the democratic candidates. The colored people said they were republicans and could not do it. Mr. Smith replied, "You shall, or be killed." He then declared the resolution passed, the colored people being afraid to say anything to the contrary.

On the next meeting-night few colored men were present. The bull-dozers then commenced riding around armed, warning those colored men who had failed to attend that they would be killed or whipped. And to show they were in earnest, they took a colored man from Mr. Gibbon's place and gave him a horrible beating. They took him to the woods for that purpose. They informed him that that was a "mere brushing" to what would be given him if he again failed to attend their meetings, as well as to all other colored men who failed to attend. Some were threatened with hanging, some with whipping, and others with being driven away and their crops, stock, and property confiscated. In this manner, and by riding up and down the road, yelling and shooting off their pistols and guns, they so terrorized the colored people that they were afraid to stay away from any democratic club meeting that they were told to attend. And if there was a republican meeting held anywhere in their parish the colored people were notified by the bull-dozers not to attend it "at the peril of their lives." So those who did brave the bull-dozers were in constant fear of bodily harm. Many of them were whipped, some hung, and others shot, and if from any cause the colored people failed to attend the democratic club meetings they slept out in the woods until the next night of meeting for fear of being dragged out and hung or shot.

Affiant was assaulted and beaten on the head with a pistol by one Courtland B. Smith a few days before the election, the wounds of which he carries now, they being not yet healed, for the alleged reason that he was a republican and had refused to vote the democratic ticket. Said Smith told affiant that he would carry him to the polls and make him vote the democratic ticket, or, "by God," he would take him out and hang him. All the bull-dozers carried ropes on their saddles for that purpose. Affiant was discharged from employment and driven away from home, leaving at least ten bales of cotton in his fields, together with all his corn, gathered and ungathered, potatoes, &c., besides his hogs and chickens, furniture, &c., valued in the aggregate at some $500. He owed no rent to Mr. Smith, but said Smith sent affiant word through his wife not to return to his place, neither for the purpose of securing his effects, &c., nor for any other purpose. If he did so it would be at the peril of his life.

On the night before election the bull-dozers picketed and patrolled every road in the parish in order to prevent the colored people from going to vote at the poll in the town of Saint Francisville. I know that at the first-ward poll at Saint Francisville young white democrats were there with "spot-books," taking down the name of every colored man who voted the republican ticket. These young men threatened to kill every colored man whose name was on their list. Affiant voted at the poll in the town of Saint Francisville, as he could not have voted in any of the country wards as he desired.

He has not been home since being discharged and driven away, and it would not be safe for him to return, as his life would pay the forfeit; knows of at least three or four dozen colored men and their families who have been discharged from employment and driven away from home for attending republican meetings.

The white people even invaded the colored churches to see if they were discussing political questions, as they said.

Affiant knows of the murders of Ike Mitchell and Gilbert Carter by the bull-dozers; saw them when they were going to the place, and saw them when they returned, just before daylight in the morning. These two men were murdered for political purposes; know of many other cases similar. The bull-dozers said they were going to rule the country, as it is a white man's country, or they would murder all the damned radica's. Affiant's experience is that of every other colored republican in the ward. We all work for our landlords during the day and when night comes they bull-doze us. As soon as the crops are ready for harvesting, especially in an election year, they run us out of the parish, possess themselves of our crops, property, &c., all because we consider ourselves capable of judging for whom we will vote.

The parish of West Feliciana is republican by at least 900 or 1,000 majority, on a fair and full election at which the colored republicans will be allowed to vote for the candidates of their choice.

Have often heard the bull-dozers say they were going to kill off all the leading republicans in the parish.

BENJAMIN H. ROGERS, CAPTAIN THIRTEENTH UNITED STATES INFANTRY.

Question. How long have you been stationed here?

Answer. Since the middle of July last year—1876—about the 18th of the month.

Q. State whether you were here continuously from the time you came here until after the election.

A. I was, continuously, with the exception of being absent at Baton Rouge for three days at two different times.

Q. State whether you were about over the parish any during the canvass.

A. I was riding about over the parish a great deal—mostly all over the parish.

Q. State whether the campaign was quiet in the parish or not.

A. I only know of two cases of violence that I thought was on account of politics.

Q. Will you state those?

A. One was the beating of a colored man for attending a republican meeting here.

Q. What was his name?

A. I don't know his name. I didn't make any note, as I turned him immediately over to the civil authorities and he made an affidavit before a justice of the peace.

Q. Do you know the names of any parties who were arrested?

A. Skipwith and others, living near Shady Grove. They came in and said to me, five or six, that they had slept in the woods all night; that they were threatened with a whipping because they came to hear Mr. Packard when he held his meeting here. I advised them to go back, and they went back. A day or two after one of them came back badly beaten over the head. They had been sitting up with a corpse—one of the brothers. There was two or three in the affair. They drove them out of the house and beat one very bad with a pistol. He came in and made a complaint, and I took him before the civil authorities, and he made affidavit and the parties were arrested.

Q. Was there any trial?

A. I don't know.

Q. Did you ever investigate the matter beyond the complaint that they made to you, to see whether their statement was true or not?

A. Yes, sir; I made some investigation. The defense on the other side was that they had threatened the negroes because they took a mule belonging to them. It seems that the man hired land of them and used their animals to cultivate his land, and that morning, instead of going to the field, he rode his mule into town, and that was about all the defense.

Q. Do you remember whether they denied it being done on account of politics?

A. No, sir; I didn't hear that they did deny it.

Q. What was the other case?

A. It was a colored man by the name of Zeke Glover; think that is his name; he was badly whipped. He stated to me that he was whipped for reading republican

papers to the negroes in his vicinity. He was sent to New Orleans, and made his affidavit.

Q. Did he state by whom he was whipped, do you remember?

A. I can't remember names. I only remember that there was a man by the name of Roberts, and another by the name of Doty. There were other men that I didn't know, and I don't remember their names.

Q. Did any evidence upon the subject come to your ears, except what he told you?

A. Yes, sir; the statements of the opposite party, that they wanted him to go coon hunting and he would not go. I never put any faith in that all, though.

Q. Was that the only reason given?

A. Yes, sir.

Q. You say you came here last July?

A. On the 18th or 19th of July, I forget which.

Q. Now will you state what you heard in regard to the colored people being intimidated in this parish, with reference to voting?

A. I heard before I came here that the darkies were completely cowed, and that they did not dare to hold any republican meetings, and that they were being forced to join democratic clubs and would be compelled to vote the democratic ticket whether they wished or not. That I heard before I came here.

Q. Where were you stationed before you came here?

A. East Baton Rouge barracks, Louisiana.

Q. What was the first you heard or learned after you came in regard to the same matter?

A. The first I heard or learned was colored men coming to me, and asking what they should do; that they were being forced to join democratic clubs. I asked them if they joined of their own free will, and they said they were forced. I asked how they were forced. They said that they were told that if they did not join they would have to quit the country, or be whipped. I suppose some twenty or thirty different colored men told me that. I asked them why they didn't make affidavits, and they said they were afraid. I never could get any colored man to make an affidavit except that one who was beat over the head with a pistol. That is the only one that I could ever get to make an affidavit.

Q. You may state whether that continued; whether these colored men continued to come to you with these complaints down to the time of the election.

A. Down to the very day. I staid at the barracks with my company, and there was at least thirty came to me that day. I will say thirty, as near as I can recollect. They came in squads, stating that they were afraid to vote; that they wanted to vote the republican ticket, and that they had been told that if they did they would have to leave the parish. I advised them to go home and not vote at all. They said that they were afraid to do that; they had been told that they must vote the democratic ticket. One squad told me that men had been riding through, knocking at the doors, and telling them that they must vote the democratic ticket, and frightening them in that manner.

Q. How may colored men, do you suppose, came to you previous to the election with complaints of that character?

A. There was not as many came to me as I asked. When I have been riding through the country I have stopped and asked them in regard to the political aspects of the country. I don't suppose there has been over fifteen or twenty who have come in to me. Yes; there has been more than that, because there has eight or ten come at one time—I suppose thirty.

Q. You took no note of the number?

A. No, sir.

Q. You may state whether, during the time you were here previous to the election—whether you rode through the parish a good deal.

A. Pretty nearly over the whole.

Q. State whether, when you were out, you took pains to question colored men in regard to the voting.

A. I talked with them a great many times; talked with colored men from nearly all parts of the parish.

Q. What did you learn from them?

A. I learned from all of them that they felt as though they were obliged to vote the democratic ticket for their own safety. That was the general tenor of all their statements.

Q. State whether you have talked to them, and whether any of them have talked to you, since the election?

A. No, sir; there has been but very few that I have seen since the election, except a few who came to me and told me that they were obliged to sign an affidavit certifying that they voted the democratic ticket of their own free will. They said that if they had not signed it they would be turned out; parties rode up to their houses and put the affidavit before them, and they said that they signed it for fear of bodily harm.

Q. When you first came here, when did you first learn there were bodies of armed men riding through the parish intimidating colored people?

A. The only statement made to me about bodies of armed men was the night before the election.

Q. Did you hear anything about an organization called the regulators?

A. I have heard of them before I came here. I think they were disbanded shortly after I came. There was a piece in the paper to that effect; that they considered themselves disbanded, and any acts of violence hereafter should not be laid to the regulators, as they were disbanded. That was some time about the 1st of August, I think.

Q. These two cases of personal violence that you have spoken of, after the investigation that you had made in regard to it, had you any doubt in your mind but what it arose from political motives on the part of the men who injured them?

A. I had very little doubt of it.

Q. From all that you have seen and learned in regard to the colored people of this parish, what do you say as to there being a full and fair vote at the last election?

A. As far as my judgment goes, I should consider, I should think the way the colored men have been speaking to me that at least two-thirds of the colored men in this parish would have voted the republican ticket if they had been left free and untrammeled by other parties—left alone.

Q. You may state what these colored people told you about attending republican meetings here.

A. There never was but one in the parish.

Q. Did anybody say anything about that?

A. Two or three told me that they did not go, for fear; that they dare not go.

Q. Did they say why they did not go?

A. They feared bodily harm if they did go.

JOHN C. REILEY.

Question. What is your age?

Answer. I am sixty years of age.

Q. State whether you are a minister of the gospel.

A. I am, sir; a regular minister of the gospel; connected with the Presbyterian Church, of the presbytery of New Jersey. I have been performing voluntary missionary work in this State for the last ten years.

Q. Where do you reside?

A. I reside ten miles from here.

Q. In this parish?

A. Yes, sir.

Q. How long have you resided there?

A. Ten years last November.

Q. Where did you come from?

A. I came from Blairstown, New Jersey.

Q. You may state, if you please, whether you know of your own knowledge, or whether it has come to you by report from others, any facts in regard to the intimidation of colored people in regard to their voting. State all you know about it.

A. Of my own knowledge directly, I have not been present when any persons have been intimidated. Persons have come to me and have told me that threats had been made to them. Men on my place have come and said that they felt unsafe in their houses and that their houses were entered into by men, and they wanted to move inside of my yard for protection.

Q. How many colored men did you usually have on your place?

A. Men, properly, there were perhaps twenty. About a little rising of twenty men.

Q. Were these the colored men that came to you and made these reports?

A. Yes, sir.

Q. Against whom were the complaints made?

A. Well, unknown parties.

Q. State whether they said what the object of the visits of these men was to their houses.

A. They did not state. This one man that came as a representative character—that is, he spoke for the rest, and I would not accede to his proposition—he said this: "There is hardly a man could sleep on this place at night." He went away. I don't know whether I answered your question.

Q. My question was, what object these men had in visiting the houses of these colored men in the night-time. Did they make any statement to you as to the object?

A. No, sir; no statement was made. It was presumed. When I understood the case, on one particular time, there was a political meeting—a democratic meeting—held a short distance from this man's house; and two of this man's sons-in-law were there. They had been stopping in the neighborhood. They were stopping at this man's house; they were stopping with this man, and there was a raid made on the house, and one of these men was shot, and the other I was told; I know one was shot, because I saw his wound; he was in my yard, and the other, they had a rope around him; he got away.

Q. That was the night of that political meeting?

A. The same night of the meeting.

Q. After the meeting?

A. Yes, sir. I must state, however, that I don't think those connected directly with the meeting, (that is not my impression,) that they had anything to do with this matter at all; but they came the same night. Perhaps those parties had been at the meeting; but there are two classes of persons that attend such places, men who make speeches; and so far as I have heard their speeches have not been of an intimidating character, so far as I have heard them; I heard them here, however, only, but I have not heard of any speeches reported of that character. But there are on the outside persons who come after and do this work; at least that was the case that night. I don't know anybody who knew who they were.

Q. When did this happen that you have related about this man being shot?

A. That was two or three weeks before the election.

Q. During the last canvass?

A. Yes, sir.

Q. Do you remember where the meeting was held?

A. Yes, sir.

Q. At what point?

A. It was a place called Reiley's Bridge, a half or three-quarters of a mile from my house.

Q. Now, you may state whether any other complaints were made to you by colored men with regard to being intimidated.

A. One man came to me and told me that he was going to leave the place. I asked him why, and he said, "I think more of my life than I do of my crop. I want you to gather my crop, sell it, and keep an account. I will be back in two or three months." He said that "My life is threatened." I tried to persuade him that it was not so. He said "You may think so; but don't you know this man out here was killed, and this man out here was killed? Don't you know how they took me out of my bed and whipped me last winter? No; I am going to leave." He did leave. He remained away two months. He owned his own team and he made large crops.

Q. When was it that those men you have mentioned came to you and made these complaints? About what time was it?

A. A couple of weeks before the election.

Q. You may state whether there were any other instances of that kind.

A. I have not inquired of the hands on the place, and in the cases of one or two of them——

Q. Did they volunteer to give those statements to you?

A. One did volunteer to tell me that he was waited upon by two men, and he was told unless he voted the democratic ticket he certainly would be punished, and one of them told him he was captain himself of the bull-dozers, and that he would see to it after the election.

Q. When did he say these men stated that to him?

A. A week or two before the election; a short time before.

Q. Do you think of any other instances?

A. Well, those persons have come to me off the place. There is a negro settlement about three miles below me, and most of them went and settled there from my place; bought lands and teams, that they had made on my place, and goods. They settled there. That settlement was very much disturbed. They were working for nobody, but were supposed to be proprietors. They came to me one night very much excited, but that was at a time when I felt there was no cause whatever for it. I told them that there was no cause; that "Nobody in the world will disturb you now; you need not think of such a thing; go home and sleep quietly in your beds; the election is over, and there are no persons going to interfere with you." They went home. They had proposed—they asked me if they could not come up on my place. This was after the election. Before the election I know only what they told me. They had not slept in their beds for weeks; even women told me that they had to lay between logs out from their houses. Now, they were frightened; that they could not say as to who was responsible for it; that I don't know.

Q. What did they say they were frightened about? What did they say frightened them?

A. I can only state what I have heard. They were told unless they voted the democratic ticket they would have to leave their homes. They were told so repeatedly.

Q. State whether that was a short time before the election.

A. No, sir. Not long before the election, one of those men living down there, who left on that account, said his life was in danger, and left the country, and was gone fully two months, and his family did not hear from him; he never wrote. They wrote, and never received any answer from him. Their letters came usually into my box. I inquired, over and over again, for the letters, but never saw any. This man left and went into Bolivar County, Mississippi. He came back about two weeks ago. Now, I don't know whether politics had any connection with it. I heard his name in connection with it, because the old gentleman who sold them the land, only two or three days before his death, told him, "Isaac, I guess you had better vote the democratic ticket."

Q. This old gentleman told that colored man so?

A. Yes, sir; and then Isaac said, "Need I vote at all?" And Mr. Lee (this old gentleman) said, "No, you need not vote at all." Some one present said, "He shall vote, or leave here."

Q. This man said so to Isaac?
A. Yes, sir.
Q. And Isaac left?
A. Yes, sir; he was the one who left. He was gone a couple of months. He just returned within the last two or three weeks.
Q. If there are any other instances which have come to your knowledge—people that have been intimidated—you may state.
A. Well, one man told me he had voted the democratic ticket, not because he wanted to, but because he was compelled to.
Q. State how was that.
A. Said he, "I and all the other colored people on the place of Mrs. Brown, we always voted the republican ticket. They held meetings, but we did not go to those meetings at all. None of us went to any of the meetings, and the night before the election men came and said, 'You know to-morrow is election, and you are expected to be there,' and all of us said that we felt we ought to go, and we would have to go; and, perhaps, we thought if we did not vote we could not stay here, because they had told us so." The men were informed that they had to vote, or they could not live on the place. His language was, "Unless you go and vote the democratic ticket, you must leave this place." I am positive now this was the night before the election. They said, "We all went and voted the democratic ticket."
Q. You may state whether you said anything to him in regard to what he told you.
A. I asked him if he knew who these persons were, and he said they were strangers to him. He said, "You are Mr. Reiley; that's the reason I speak to you." I said, "I understand why you tell me the story which you would not tell a democrat; you would not tell a democrat that story, would you?" Well, he stopped a little and he said, "Mr. Hardisty asked me why I voted the democratic ticket; I did not want to tell him as I told you, that is so; I did not want to tell him as I told you, but I told him I voted because the rest did."
Q. Now, sir, you may state when you had this conversation with that colored man.
A. It was this morning.
Q. This very morning?
A. Yes, sir; I asked him his name, and he said, Fizor Reiley.
Q. Did he tell you where he lived?
A. Yes, sir; Mrs. Brown's place.
Q. Well, sir, are there any other instances that occur to your mind, Mr. Reiley, of where you have heard complaints from these people?
A. Well, I met a man with an ox-team about three weeks ago; he had formerly lived on my place. I had not seen him for years, and at first I did not know him. I think he lived in the eighth ward. He related to me the old story of being compelled to vote the democratic ticket. That is about all. He spoke about their raids, and he likened it unto a sage-grass field on fire. Perhaps he colored the story a little; I don't know. That is the story he told me.
Q. Any other one that you know of?
A. Simply in regard to the last canvass, I suppose you want to obtain testimony?
Q. Yes, sir.
A. There was one man on my place that voted. I never asked him why he voted. I never asked him one question. I saw him afterward and I was told he voted. The rest never told me one word before or after the election. Only one said, "We all knew that if you wanted us to vote you would have told us so. But you did not say anything to us. There has been so much disturbance, so we staid at home." There was not but one of the hands that was at the election at all; that was near the polls. I was commissioner at this place. I saw some negroes, two of them, as I went to dinner at Mansker's, as I was going right across, who stated to me, "Mr. Reiley"—I was recording the names of voters—they told me, "you see we voted the democratic ticket, but we want to tell you we did not want to do it of our own free will."
Q. Were these colored men?
A. Yes, sir; colored men. That is what they told me voluntarily. The first thing they said to me as to their way of voting—indeed it looked like an apology. I, of course, felt no interest in the questions; I voted myself the parish ticket I voted. I voted at the primary election, and for the reason that I had made my selection, voted for each office. I voted the ticket which happened to be the popular ticket that was carried at the popular primary election. I voted for every one of them at the election myself; I felt no zeal, of course. I did not know myself when I came to the poll that there was not going to be a republican ticket. I did not know; I would say that I could not feel that it would make any difference; it could not be successful, because there had been no canvassing by the republican party.
Q. You may state now, Mr. Reiley—unless you think of some instances where you have had talk with colored people where they have complained to you, I will ask you another question.
A. Well, I don't know of any others occurring at this time.
Q. You may state how it has been in your ward and the wards of this parish generally in the previous elections of 1872 and 1874 in regard to forming republican clubs and holding republican meetings.
A. There were republican clubs in the different wards, but not being a politician myself and taking no stock in them, I never encourage republican clubs on my place; in fact, discourage it. I did not have any taste in that direction. They had clubs at the upper end of the ward. I may say of the men on my place one voted, but scarcely ever attended political meetings. They had a majority in each ward of the parish in 1872 and 1874. There were republican clubs organized and republican meetings held through this year.
Q. How was it in this last canvass? Do you know whether there was a republican club in the whole parish or not?
A. I don't think so.
Q. Do you know of any republican meetings being held; if so, how many?
A. I never heard but once. One was held when Mr. Packard was here, the only one I have heard of until I heard of one in the court-house here that had been held. I heard of it day before yesterday, but I spoke to a number in regard to them, and they said they never heard of that many at all.
Q. The only one you heard of in fact was the one held here when Mr. Packard spoke?
A. Yes, sir.
Q. Did you attend very many?
A. Yes, sir.
Q. What was the spirit manifested by the outside crowd that day where the speaking was going on?
A. It was not pleasant at all.
Q. Please describe it.
A. Mr. Packard was interrupted with questions. He was asked questions. He begged of them to let him proceed. He treated the matter with a great deal of pleasantry, and stated, "If you do not let me speak I will make a failure; and, my friends, Nicholls would not like it if he was speaking here;" and with such things as that would pass it off. The interruption was repeated by some parties on the outside, with kind of jeers, and such words as "Will you let me ask you a question?" and so on.
Q. State whether any spirit was manifested, in language or otherwise, by any of these outsiders.
A. Well, I could see the parties who were on the stand felt scary and they were glad to get away. They intended to go to Jackson that night, but the effect of the meeting here put that entirely out of the question—out of their line.
Q. The demonstration was such that they were alarmed for their personal safety?
A. Yes, sir.
Q. Mr. Reiley, you may state what you know and all you saw and heard about these killings and whippings that took place.
A. I only heard of them. There were whippings; perhaps for different causes. Some were really whipped for stealing; one man—to be sure it is a little over the line in Baton Rouge; I sold him myself a lot of fifty acres. I gave him the contract, the article of agreement, to go and occupy it. He got permission from me to occupy the house and to build some additions to it. He took possession of it, when about three months after a crowd of men came one night and ordered him to go away, and then set the house on fire and after firing the house killed him.
Q. What was his name?
A. Joe Johnson; he was constable; I don't know of any other reason for killing him. He was a constable in Baton Rouge. He was a man who worked for me years before. I had not seen him for several years. After he came to buy that land he stated that he had half a dozen to buy the rest of the tract.
Q. Do you know of any other case? Did you ever hear of any other case of killing or whipping in this parish? I mean within a year or a year and a half past.
A. Well, within a year and a half, perhaps, yes. There was the killing of John Gair and a colored girl, his sister-in-law. I know nothing of the facts; I happened to be in the road next morning and heard it.
Q. Do you know whether you heard of any whippings?
A. Well, yes; I have heard of several being whipped, but for what causes I have not heard. I don't know. I know at this time, so far as I have heard, in my immediate vicinity I have not heard of any whippings that had any political bearing or consequences. It was threats simply. I did not hear of any whipping—no; I will recall that. On a plantation two miles below, the plantation of my son-in-law, there came a party one night and took one of his men out of bed, whipped him very severely, and told him if he wished to remain to notify certain men on my place, such and such men on that neighbor's place, that unless they all left they would be served in the same manner. They gave them their choice: to leave or to be whipped.
Q. What was that for? Was it stated?
A. It was not stated.
Q. He was to notify certain men on your plantation?
A. Yes, sir; and men on different plantations, that they must all clear out or be whipped.
Q. Now, do you know of any theory of your own why there were not republican clubs organized or meetings held in this parish during this last campaign?
A. I have a theory.
Q. Let us hear what it is.
A. My theory is that there was manifested a determination, a desperate determination, on the part of the democratic party to carry this election—to carry it anyhow. That sentiment was prominent from week to week; that the republicans had had their time; that their time was up; now that they were driven out of the parish, that there should be no more of the same kind here again.
Q. In the campaign the same sentiment was spoken?
A. Yes, sir. I do not believe anybody would have been safe on that account to have canvassed the State against the democrats. I asked a neighbor—a very strong democrat—I asked him if I had been a politician and started out with A, B, C, and D, if we could have got through without sacrifice of life. He said he did not believe we could. I don't think it was possible. On election day, however, I must say I never saw so quiet and peaceable an election. I could have voted five hundred republican tickets if the tickets had been here. But there was no hope of carrying on a canvass, as it was believed it was not safe. It was not because the republican party did not want to carry the election, but because they saw no hope under the circumstances of accomplishing anything; the pressure was too great.
Q. So that you think it was not even safe for any man to have gone about canvassing for the republican party in this parish or to organize republican clubs?
A. I am very positive of that in my mind, that it could not have been safe.
Q. You may state whether a great many leading republicans have been driven out of this parish since this last canvass.
A. Yes, sir; they were all colored republican office-holders.
Q. Owing to this last canvass?
A. This last canvass only commenced in the middle of last summer. I don't know that they were driven out since then. They had begun the summer before with the recorder and sheriff and a member of the Legislature, an ex-member of the Legislature not in office; they had all gone, and those left of the republicans in office I think resigned. I would like to be posted in regard to them. I know some of the members of the police jury resigned. Why they all resigned I would like somebody to tell me. I know one that did. I saw his resignation published in the Patriot Democrat and the reasons given.
Q. Now, sir, you may state what your opinion is as to the vote of this parish; what it would have been in the last election if the colored people had been left to vote as they pleased.
A. I suppose it would have been as the previous election; no reason to doubt there would have been any change at all if left to vote as they pleased.

JAMES LAW, (COLORED.)

Question. How old are you?
Answer. About twenty-six.
Q. Where do you reside?
A. Jackson, Louisiana.
Q. Do you reside there now?
A. That is my home, but I am in New Orleans, and have been here for the last month or so.
Q. Why are you stopping here in New Orleans?
A. There was such a reign of terror existing in the parish of East Feliciana, on account of politics, that I, being a republican—I was afraid that if I staid there I might have been killed.
Q. What part of the parish do you reside in?
A. I live in Jackson; I am a merchant there, and have kept store there for the last three or four years.
Q. You may state, in the first place, if you know of your own knowledge of any acts of intimidation of any white democrats in the parish of East Feliciana upon colored voters in that parish, either yourself or any other colored man, if you know of any of your own personal knowledge.
A. Well, I know of the organization of a democratic club in the town of Jackson, and I know of colored men being notified by white men to join the club.
Q. Give the names of persons as far as you can?
A. I remember Thomas Cook, a colored man; he has a carriage-shop in Jackson, and was advised by one of the leading citizens there, Dr. Pond, a white man.
Q. A democrat?
A. Yes, sir; he gave it to him as a piece of friendly advice, to connect himself with the democratic club; that he would not be safe in his property and person unless he did. I know of Thomas Carney, an intimate friend of mine, and one who has always heretofore acted with me in politics on the republican side. He joined the democratic club, and came to my store and told me, the evening of the same day, that he had joined—that he had to join the club; said that he could not live there. He had been notified that if he didn't join he would be killed or have to leave the parish. I was notified by a young man by the name of Camp Catlett, said to be a lieutenant in that organization they have there, secret organization—I

think they go by the name of "298;" they meet regularly in Jackson there Thursday night—to keep out of politics. He said that he never deviled in politics himself before, but he was going to take an active part in politics this year; the white people propose to carry this election, and he anticipated the shedding of a great deal of blood if the colored people, or the republican party, attempted to organize and put a ticket in the field. I asked if it was possible they could disfranchise colored men in that way. He said that the negroes and damned radicals had been ruling there long enough. The white people had been ruled by them for the last ten years, and they proposed to get rid of them. At that time I was treasurer of the insane asylum, and in a few days my term of office would expire, and I had given satisfaction to the board, and it was known that I would have been re-elected. All the officers and attendants, employés of the asylum, were enlisted in my behalf. I don't think there was one opposed to me. They were continually bothering the members about my election. Before I became treasurer of the asylum it was badly managed. Mr. Irvin was treasurer of the asylum, a merchant of Bayou Sara and a democrat; but I succeeded Mr. Falls, and had got the thing into good shape, and that was the reason why the people wanted me as treasurer. Before I became treasurer they had not been paid regularly, but after I became treasurer they were paid regularly, and that is the reason why they were enlisted in my behalf. It was known that I was going to be a candidate, and Mr. Catlett came to me and said, "You have seen the notice in the papers that the bull-dozers had disbanded, and every man now that committed an outrage would be acting upon his own responsibility." He said, "That is no such thing." He said there was a little dissatisfaction in this primary election a few days ago that gave rise to the publication of this notice. But he says, "It is not true; don't you fool yourself. We have decided that no more republicans shall hold office in this parish, and don't you run for that office. If you do and are elected, you won't get home from the asylum." The board met in the asylum. Of course I knew he represented the sentiment of that organization. I have heard a great many acts that they had committed, and I did not allow my name to be used as a candidate.

Q. You may state whether the colored people voted at that primary election.

A. Not a single one to my knowledge.

Q. That primary election, as I understand it, is for the purpose of nominating candidates to be voted for on election day?

A. Yes, sir.

Q. What we call conventions or caucuses?

A. Yes, sir. The thing is something new in our parish. Mr. Porter, a white democrat, said to me, "By God, you have figured in politics long enough, and if you attempt to organize the republican party in this parish you will be killed. I know what it is for; you may think Colonel Powers is able to protect you, but he is not."

Q. What was it about Isaac Perry?

A. This was also told me by Isaac Perry himself.

Q. Is he a colored man?

A. Yes, sir.

Q. And a republican?

A. Yes, sir; he ran for the Legislature in 1874; he has always figured in politics, and was secretary of the republican parish committee; he lived, I think, about eight miles from Jackson. Perry and I have been in our childhood associates. We went to school together and were very intimate. We differed sometimes in politics, not as to principle, but as to men—as to who should fill different positions in the party. We never differed as to principle. We always agreed as to principle. I sent for him to know if he would go over to Pointe Coupée to a senatorial convention as one of the delegates, and also to go down to New Orleans to the State convention as one of the delegates of our parish representing the republican party. He told me no. I asked him why. He said that he had been visited two or three times by the democrats, and they failed to find him at home on the first two visits; on the third visit they found him; that time was in the day-time; I am not certain whether it was in the day-time or night. I know that they had visited him in the night and he was not at home. They asked his mother for him, and his mother told them he was not at home. She went on to say, "Your object is to whip Isaac because he is a republican, and you intend, if Isaac is fool enough to let you catch him, to whip him." They had a line with them, and they pitched into her by way of retribution. The last visit they found Isaac Perry at home, and they asked him if he was secretary of the republican parish committee. He told them yes, he had been, but he was not in politics at all. He was asked if he had the proceedings of the parish committee. He told them "No; Mr. Gair kept the books containing the proceedings of the parish committee all the time, and he didn't have the books to give them." They made him promise that he would keep out of politics. He said that was one reason why he could not go to the State convention or go to the senatorial convention; if he did, he would break the promise that he had made them, and death would be the punishment.

Q. State any other case that occurs to you.

A. I know of a man by the name of Nelson, who lived with John Scott Smith, a white man, near the corporation of the town of Jackson, who was whipped the very day that General Nicholls spoke in Clinton. He was whipped by a man by the name of John W. Smith and another by the name of Tom McCuen, both promi nent democrats.

Q. Were they white men and democrats?

A. Yes, sir; they were prominent white men and democrats.

Q. You may state whether there has been any other acts of intimidation against you—whether, in the latter part of September, 1876, you were notified by anybody that you must join a democratic club.

A. Yes, sir; I was visited by Mr. William Northsworthy, a citizen living in Jackson

Q. A white man?

A. Yes, sir.

Q. A democrat?

A. Yes, sir. He was a candidate for nomination at the primary election—was at that time. He came down, he said, not in the capacity of a politician, but in the capacity of a citizen, to advise me. He says, "You own property here, and are interested in the country. The colored people in this section of the country will do as you do." He says, "We have had two or three meetings, and we could not get any colored men to join, with the exception of two or three." I think there was some colored men who had joined the democratic club—four of them boys under age—under twenty-one years of age. I subsequently hired one of them to clerk in my store. He was about sixteen, I think. He says, "You are interested in this country; have got property here, and you must live here. You cannot leave your property and go away from here, and I want to know if you won't go and join the democratic club." He did not say "democratic club," but "join this club up here." He says, "You know the condition of the country; you know that your people are being whipped and murdered and everything of that kind, and we want to get—want to stop that thing, and if you all will join this thing will be stopped." I said, "There is no probability of stopping it before that time?" He said, "No." I asked why. He said, "Well, you see the republican party have been ruling." I said, "You are willing to admit that these acts of violence are committed by democrats." He said, "Certainly." "Well," I said, "you know the effect the democrats are trying to produce by whipping these colored people—keeping up a state of terrorism in this parish." He said, "Yes, and that is the very reason why I want you to join the democratic party." I said "You want me to help you put these men in office." He said, "Yes." "How do you expect to have a better state of affairs when you want to make the government out of the same materials that has kept up this state of terrorism?" He says, "That is something that I didn't come here to discuss. I want to know if you are going to join this club." He said, "You are a republican; can you afford to live in this community and be a republican?" I said, "I have always been a republican heretofore, but it is rather different now to what it was then." I said, "I am going to risk it." He said, "Well, you must accept the consequences, and not blame anybody but yourself." I said, "Now, Mr. Northsworthy, there is no use in trying to scare me into joining that club, because if I did it you would know that I did not do it with the sincerity you expect." I said, "You have got seven names on your list." I said, "There is not but one of those men who will vote the democratic ticket on the day of election—no, two." He asked who they were, and I told him Charles Shattuck and George Keller. The next day Shattuck came down to my store and told me he was a republican in principle, but, he says, "I am a poor man, and I have got a family." And he says, "I am working for these democrats." One-half of the town of Jackson, in the early part of last year, had burned up, and he was a carpenter employed in rebuilding the stores burned down; and he says "I have been notified by these very men that have got me employed that if I don't join their club I cannot expect to make my meat and bread off of them." He says, "You understand me; I am a republican, but we have not got any protection. I am not secure in being a republican; besides, I cannot afford to have the bread taken out of the mouths of my family and my mouth" And he says, "I have connected myself with them." He says, "You see, we always expected protection up there. We expected every day that something would turn up that would furnish us some protection so that we could organize the party, and go around, as we have all the time heretofore, and make speeches and put republican candidates in the field." He says "that the Government affords you no protection, and you cannot organize the party and go around making speeches. I am as good a republican as you are, and I shall not say anything about you. The democrats want me to go about and talk for them." And he says, "If they pay my expenses and pay me for my day's work I will go round and talk for them; but I will not abuse any republicans." That was George Shattuck.

Q. Was there any attempt made to injure your property?

A. On the 15th—I think it was between the 12th and 15th of September, 1876—S. B. Packard, the present governor of this State, in company with Col. Jack Wharton, J. Pinkney Harris, James Lewis, and Judge Campbell, they sent me a lot of notices before that time that they were going to hold a mass-meeting.

Q. A political meeting?

A. Yes, sir; a mass-meeting we call it. They were republicans, and they were going to be speakers, and I posted the papers as best I could; sent them around through the country by private couriers. I hired one man and paid him to take the posters around, but they failed to post them up, because they were afraid, and brought them back. I have got the posters now I believe. At any rate they had a meeting, and I went there.

Q. Where was the meeting?

A. In Clinton. It was either the 12th or 15th. I went there, and Captain De Grey, who was just on the stand, Colonel Powers, and Mr. Anderson, who was supervisor of registration, had held a meeting and had chosen Rev. John A. Reiley as president of the meeting. Mr. Reiley was afraid to act as president. Said that he would not act as president, and wanted Captain De Grey to act. He said, "That he would not." Then we were at a loss to find somebody to introduce the speakers. They did not live there. I volunteered and told the gentlemen that I would act as president of the meeting. I went up and introduced the speakers and carried on the meeting. I went home. I anticipated trouble on the way, and I didn't go back the same way I came—the same road. I got home at night. That was on Friday. The next day we were to have a large mass-meeting in Bayou Sara. I went down to Bayou Sara to that meeting. On Saturday night the front of my store was saturated with coal oil and set on fire.

Q. Do you know who by?

A. I will tell you in a few minutes. It was put out by my clerk or the man keeping books for me. I got home Sunday evening; Monday morning a man by the name of Crilly, (him and I were friends, but he was a democrat and I was a republican,) he told me that politics was the cause of it. He says, "You have got property here, and you live here," and he says, "you are going around here making political speeches for the republicans, and the first thing you know your store will be burned up. You make a living in that store?" I said, "Yes, sir." He said, "Very well, if you are not careful your property will be burned up." He said, "I advise you as a friend to keep out of politics; let politics alone, and come up and connect yourself with this democratic club." I told him that I would not do that. He said in addition to that, "You are charged with having held a meeting in West Feliciana a few nights ago, a republican meeting, speaking to about sixty negroes and advising them to raise clubs and vote the radical ticket." I said, "That is a mistake." I said that "the condition of my health would not permit me to go out, in the dark hour of midnight and make speeches; you know that is a lie." He said, "You are accused of it, and unless you go before the democratic club and make an explanation you may be hurt." I said "I didn't believe, and didn't know, that they had a right to ask what I should do." He said, "this democratic club tyrannizes this part of the parish." I said it didn't control me, and I did not mean to go. He insisted that I should go. He felt very friendly to me and he didn't want any trouble. He told me the name of the two gentlemen who set my store on fire. He said, "One saturated the door the last time after it had been put out, and he went to him and tried to get him to go away. He said, "he is a damned radical anyhow." He said, "If you burn his store down you will burn other property.' He said that he was going to burn it up; and when they were saturating it the second time, the first time it was put out, my clerk told him, if they were determined to burn the store to wait until he got his individual effects out. He had his clothes in there and he wanted to get them out. This man said that he persuaded these gentlemen to leave there.

Q. Any other acts to you or threats that were made to you or any other colored men?

A. I know of lots of colored men who were threatened in Jackson; if they didn't join the club they could not expect to live in their houses safely.

Q. Do you know of any colored men who were whipped, or shot, or hung for any reason or purpose?

A. Yes, sir; I know that William Chaney—he was president of a republican club in the sixth ward—he was hung until he was supposed to be dead; he was insensible when he was let down. He promised to interfere with politics no more or be president of the club, and they let him alone. I know of one Monroe Meyers, who was taken out of his house by a lot of white democrats, as he said. He was president of a club also, and was turned loose because he said he would have no more to do with politics. I know that Aaron McKenzie was whipped so bad that his finger-nails were whipped off, and, as he says, put in a yellow-jacket's nest. Do you know what a yellow-jacket's nest is? It is a kind of little bee. He promised never to have anything of the kind to do with politics.

Q. Were there any republican clubs in that parish?

A. No, sir.

Q. Any republican meetings held, except this meeting when Packard and others spoke at Clinton?

A. There was no republican meetings held, to my knowledge. I have heard of this Alonzo Brooks attempting to organize a club, and, being threatened, subsequently abandoned the idea. It was never attempted to organize a club in that parish.

Q. You may state whether, in your opinion, it would have been safe for any republican.

A. It would not have been safe. I will relate another instance that occurred. General Hugh J. Campbell came up in August to see if he could not organize the

republican party in that parish. He came to Clinton and sent Colonel Powers over to Jackson. Colonel Powers arrived in the night, and he found me and this man Chaney and Tom Cook and one or two more leading colored men, and he requested us to go the next day to Clinton and consult with General Campbell and see what we could do to organize the republican party, Tom Cook absolutely refused to risk himself. He said that he didn't want to have anything to do with politics; there had been so many men killed and whipped that he was afraid to risk it. He refused to go. Tom Chaney that night refused to go, and I sat down and wrote a letter. I told Colonel Powers the whole thing, about the general state of insecurity of life of any man who would attempt to organize the republican party. The fact of his being in Clinton and me going out to Clinton that day would arouse suspicion in the minds of the democrats, and my life would not be safe. I said that I had "some business at Clinton," and I went to the president of the democratic club and told him that I had "some business at Clinton," and wanted to disabuse his mind as to my purpose, and hired a horse and buggy from him and went out there to see General Campbell. I slipped in the room back of the tax-collector's office and held a consultation with him and came out; and when I got home that night I was asked by several democrats—I was in conversation with this man Hazzard who is now town-mayor, and another man, and some parties called this other man out and said, "Don't you talk with Law. He is a dammed rascal. He is trying to organize the republican party. He is been out to-day in conversation with General Campbell." I went back, and I heard several times that they were coming down to talk to me, and wanted to know what I was going to do, and I told them that I was not going to have anything to do with politics, and was not going to vote.

Q. Why were not you?

A. I was afraid. I am attempting to convey that idea into your mind now. I was absolutely afraid. I was elected in 1872 to the Legislature in that parish by the republicans; beat the democratic candidate in 1872. In 1874 I was a candidate and was defeated. There was a division in the republican party and I was defeated.

Q. Would it have been safe for a republican to have gone through that parish holding republican meetings?

A. I rode over from Clinton with Mr. McClennan, a prominent democrat, in July, 1876, in a buggy, and he said "that the republican party is dead in this parish," and he said, "I understand that Packard has announced in the paper that he would be here on the 15th of September. My God! If I was in his shoes, I would not come to this parish. If he comes here I bet he will never get out."

Q. What was your opinion as to the result of the election of that parish of East Feliciana if the colored people had been left free to vote as they pleased?

A. My dear sir, they would have elected the republican ticket by a large majority. There is eight colored men that voted the democratic ticket. We always counted on about eight that we knew would vote the democratic ticket. They were under the influence of democrats in the parish. They were employed by democrats, and they used their influence over them and took them to the polls. Some would take them in their buggies. Some are old, feeble men, and they took them right on to the polls and voted them and put them in a buggy and carried them back home—that is, these democrats would. Outside of that there is not a democrat in in the parish. That is my honest conviction.

Thus I might go on, Mr. Speaker, and cite the positive testimony of scores of witnesses in regard to all the other bull-dozed parishes, to the same effect, but time will not allow.

The testimony already referred to establishes beyond all question the fact of intimidation in all the disputed parishes, which it seems to me virtually settles all the questions of fact involved in this investigation, and convinces every fair-minded man that the electoral vote of Louisiana should be counted for Hayes and Wheeler.

But in addition to all this positive evidence of murder, violence, and intimidation, we have the admissions of a vast number of witnesses called by the majority of the committee which fully corroborates every claim which republicans have made with regard to the election in that State. I can refer to but a few of them:

Judge Hughes testifies that colored men have been intimidated to some extent.

Thomas T. More says that regulating may have run into political matters.

Nelson Ball says he saw one hundred mounted and armed men in one of said parishes in October, 1876.

John Haley swears that he heard that bodies of armed men passed through the parish the Sunday night before the election.

Littleton Jones heard of the presence of regulators in the parish; that they had attacked Senator Weber, and tried to kill him while crossing the river.

Major Wedge says that he knows that armed white men rode through the sixth ward of his parish.

Alex. Pool testifies that colored men told him they should vote the democratic ticket, but they would not if it was not for certain men whom they feared.

William King says he knew Willis Wisham; that in July, 1876, four or five men came to his cabin and inquired for him; that they were armed with pistols, and he was frightened. These men said Willis had been talking about the Gair and Matthews matter, and told King to tell him when he came back that he had better get out of there.

William Hansberry swears that one Maxwell, a white democrat, told him that he could not vote the republican ticket and live there; that he would be cleaned out. He says he was afraid and went and joined the democratic club and voted the democratic ticket, as he was ordered to do.

Henry Matthews says he heard that bodies of armed white men were riding through the parish during the canvass.

John Sensley says that he heard that it was said at a democratic meeting the night before the election that the colored men must vote one way or the other, or they could not live in that country.

He says he believes that many of the colored men did not vote as they wished to; that many of them would have voted the republican ticket if they had been allowed to.

Josiah Johnson testifies that he voted the democratic ticket against his will; that Anthony Wilson, a white democrat, told him the night before the election that if he did not get out and vote the next day the head and foot boards of his coffin would be nailed the next night. "I had intended to vote the republican ticket before that."

He also says that squads of armed men rode about the parish; that they stopped at his house and told him he must come out to the democratic meeting; this was in the night-time, after he had gone to bed.

He says that he thought if he did not go to the election and vote the democratic ticket he would certainly be harmed.

Solomon Jefferson swears that he heard a speaker at a democratic meeting say that unless the colored men voted the democratic ticket they would have to suffer the consequences; that if colored men did not vote with the white democrats they would find out that there had never been any bull-dozing such as there would be after the election.

W. A. Cane says that he did take the names of the colored men who voted the republican ticket on election day.

Austin Williams says that he was told that if he did not vote the democratic ticket he could not live in the parish.

J. P. Monahan admits that he told Henry Smith, when he came back to Clinton, that his life would not be safe if he staid there.

Isaac Butler says that he heard that the bull-dozers were riding around the parish whipping and beating colored men.

Dan Wisham testifies that he had always voted the republican ticket, and should have done so at the last election, only that he did not want to be bothered.

Anthony Wilson swears that he did not vote the democratic ticket of his own free will; he says that white democrats came to his house in the night-time, after he and his family had gone to bed, and threatened him because he had been organizing republican clubs. They told him they were bull-dozers, and that he must join their club and vote the democratic ticket. They also visited other colored men the same night, whom they threatened in the same way. I told a white democrat about it, and he said the white people were determined to change the government, and were going to make the colored people help them.

Nathan Morgan testifies that one white democrat told him that if he did not vote the democratic ticket he would wish he had. Other colored men told me I must vote the democratic ticket or the white people would hurt me.

Bruce Pipes says that more or less of the colored men voted the democratic ticket because they were frightened; he understood that if they did not vote that ticket they would be killed or hurt. He also says that he did not vote that ticket of his own will.

J. W. Mann testifies that he did not get up a republican club because republicanism was not *popular* in that ward.

Henry Brookhart swears that regulators were around down to last summer; heard that colored republicans were killed. Knew Watson; his store was burned and he shot at. Julius Green, an active republican, was shot at on his way home from church.

Alex. Robbins admits that he rode around with fifteen or twenty other armed men in night-time down to September, 1876; that they took colored men out of their beds; that they practiced this all through the summer and fall of 1876.

Leon Jastrumski says I heard of bodies of armed men called regulators, who traveled through the country last fall and in the early part of the winter.

J. W. Dupree swears that he heard of an organization of men who were in the habit of going about the parish committing acts of violence upon colored people.

V. M. Lange testifies that he has heard of colored men being killed in that parish on account of their politics.

L. C. Morris says that he had heard of bodies of armed men riding through the parish in the night, and that the colored people were intimidated thereby; that these men had shot Myers and his son, and committed other acts of violence.

E. D. Wood says he has heard within the past year that bodies of armed white men were riding through the parish in the night-time, committing depredations upon colored men.

A. H. Levy says he has heard the reports of violence upon colored people by white democrats for some time past. The colored people all have the impression that there is intimidation, and that it is carried on by white democrats. He says he saw a man, only a week before, who told him he was forcibly taken from his house, and a rope put around his neck, and whipped, and told to leave the parish, and that he left. He further states that this man is a republican, as all the colored people naturally are when left free, and that he was roped because he was a republican. The effect of these acts of violence has been to hinder a fair expression of their opinion at the ballot-box. He says he knows, from report and otherwise, that many colored men were compelled to vote the democratic ticket and join democratic clubs to save their property and lives. The colored men had all been sufficiently cowed and intimidated before the day of the election.

Jackson Hamilton says he heard of acts of violence to colored men because they were republicans.

Mortimer Price swears that it is his opinion that many of the colored men voted the democratic ticket because they were frightened to it.

These colored men are weak-minded and timid. They had families and did not know but what they would be hung, and so they thought if they joined the democratic party they would get along.

Charles J. Verbois says he had heard of the bull-dozers, and that

they were riding around the parish a few months before the election.

Gustave Le Blanc swears that there was considerable bull-dozing done in the parish; that the general complaint among the colored people was that they were afraid of them. The colored people are republicans when left to their own judgment, but a good many were afraid to vote as they wished.

Some of the colored men were scared by these bull-dozing stories. They are timid. The stories had an effect upon their minds.

Mr. Speaker, in weighing this evidence and considering the grave questions involved in this investigation I have endeavored to divest my mind as far as possible of all partisan and political bias and to arrive at the truth.

I have given to the subject careful thought, earnest study, and mature reflection; and as the result I find myself forced to the conviction that the following facts will be found from the testimony proved beyond question or reasonable doubt:

1. The organization and existence in said parishes as early as the spring or summer of 1875 of bodies of armed and mounted white men, called the White League, or Regulators, with complete regimental and company organizations.

2. That these bodies of men were in the habit of riding through said parishes in the night-time, whipping, shooting, hanging, and driving off colored republicans.

3. That the colored people, being naturally timid and easily frightened, were intimidated by these acts of violence from voting the republican ticket, and forced to join democratic clubs and vote the democratic ticket.

4. That in the last political canvass the democratic party was desperate, and was determined to carry the election at all hazards, as will be seen by confidential circulars issued from headquarters; to accomplish which a certain element in the party did not hesitate to resort to any measures to secure the colored vote, without which they knew they could not succeed, as the colored men in Louisiana, when left free, are almost unanimously republican.

5. That the alleged original and ostensible object and purpose of the White League, or regulators, was to break up thieving and the destruction of property; but the testimony shows that when they were fully organized they were manipulated by the leaders, changed into democratic clubs, pledged to vote the democratic ticket, kept in working order and on duty down to the very time of the election, and made to do the work they were originally designed to, and that was, by terror and acts of violence, to control the colored vote.

6. That these bodies of armed men were seen at different points in said parishes during the spring and summer of 1876, in squads of from five to one hundred, all mounted and armed with rifles, shot-guns, and pistols.

7. That the white democrats shot Henry Pinkston, John Gair, Gilbert Carter, Isaac Mitchell, and scores of other prominent republicans, for political reasons, and whipped and drove away most of those they did not shoot or hang.

8. That a large portion of the white people in said parishes have no proper appreciation of the value of human life and believe that the only way to manage the colored voter is with a bludgeon in one hand and a pistol in the other.

9. That at one poll, at least in one of said parishes, on the day of election, every colored man who voted the democratic ticket was furnished with a passport or safe-conduct, which showed that he had voted the democratic ticket and that he was to be protected against the White League, the regulators, or any other body of armed white democrats.

10. That in every political campaign, until the last, republican clubs had been organized and kept up in every ward in said parishes, but during the last canvass not a republican club was organized in either of the three parishes investigated by us, and only one republican meeting was held in each parish, and these were attended with great peril both to the speakers and the republicans who were present.

11. That democratic clubs were early formed in every ward of each of the parishes, and the colored voters were given to understand that unless they attended and joined they would be obliged to leave their homes and flee the country, or suffer the consequences.

12. That the great increase of democratic clubs, and in the number of colored voters roped into them, and the immense change and falling off in the republican vote since 1874, in the light of the testimony we have taken, shows the terrible pressure of fear and terror brought to bear upon the colored men in these parishes by the desperate men working in the interest of the democratic party.

13. That no democratic colored man, and scarcely a white democrat, has ever been killed in either of said parishes; it has generally been the colored republicans; and in nearly every case where it has been attempted to be claimed that the cause of the homicide was a personal difficulty, it has failed, but has generally disclosed the fact that the murderer was a white democrat and the victim a colored republican.

14. That from July 24, 1875, to December 24, 1876, twenty-four murders were committed in the parish of West Feliciana, twenty of the victims being colored; while in the parishes of East Baton Rouge, where Morgan, the coronor, was notified not to hold any more inquests, and East Feliciana, there were nearly an equal number during the same time, many of which could be traced directly to political causes, that being the most reasonable apology for most of them.

15. That on one occasion a large body of these democratic white-leaguers or regulators, entered the office of Judge Dula, parish judge in West Feliciana, and, with violent language and threats of personal injury, demanded his resignation, on some false pretense, but really because he was a republican.

16. That the same, or another body of armed men of like character, entered the court-house in Saint Francisville, in the same parish when the court was in session, and in a threatening and violent manner broke up and dispersed the court, and then compelled the immediate resignation of all the republican members of the police jury.

Every man engaged in these lawless outrages upon law and order was a white democrat, and each man they drove out of office was a republican, and yet these men say it had no political significance.

17. That men supposed to belong to the same marauding party made an attack upon Senator Weber and attempted to shoot him in his own house; and not succeeding in this, afterward waylaid him and attempted to kill him while crossing the river on his way to his home at Saint Francisville.

18. That a large body of armed white democrats, supposed to be a portion of the same organization, under the lead of Joseph A. Norwood, lieutenant-colonel of the White League in the parish of East Feliciana and chairman of the democratic central committee in said parish, in October, 1875, entered the court-house in Clinton, while the court was in session, drove Henry Smith, the republican sheriff, out of the court-house, and shot him, firing twenty-five or thirty shots at him while he was running across the court-house yard to avoid them; and with threats and violence broke up the court, and drove Judge Dewing, a republican judge, out of the parish, because, as they alleged, they took offense at the manner in which he charged the jury in a certain case which had been tried before him; and, in consequence, there has not been a term of court held in the parish since, as Judge Dewing does not dare to go back there to attempt to exercise the functions of his office.

19. That on the 11th of July, 1876, a body of armed men took Gilbert Carter, a bright, respectable colored man, and an active and earnest republican, out of his bed and house in the night-time, and when he attempted to escape from their tortures, they shot him to death at his own door, in the presence of his wife and children.

20. That they also killed Isaac Mitchel and Ephraim Armstrong, two other colored republicans, in the same way, and attempted to murder Julius Green, another active colored republican, while on his way home from church with his wife on a Sabbath afternoon. That on the night of the 27th of May, 1876, the white democrats attempted to assassinate W. G. Lane, a prominent republican and candidate for the Legislature, at the Harney House, in the city of Baton Rouge, because he was a republican and had been the prime mover and principal actor in a republican convention which had been held there on that day.

21. That they tied John Gair, one of the most intelligent and bravest of the colored leaders in the State of Louisiana, to a tree and shot him to death, and hung his sister-in-law, Babe Mathews, to a tree in the court-house yard at Clinton.

22. That in addition to these cold-blooded murders, they have, during the past two years, whipped and beaten scores of colored republicans; for which no possible reason can be assigned except that they were republicans, and that they refused to join the democratic clubs or vote that ticket.

23. That nearly every leading republican, both white and colored, residing in said parishes, has been driven away from his home by the threats and acts of white democrats, and are now exiles in New Orleans and other places, and dare not return for fear of being killed.

24. That no republican in either of said parishes has dared to come before this subcommittee, for fear of losing his life or his property, to assist in the examination of the witnesses or to testify, although they have been invited and urged to do so.

25. That it is very apparent, from the testimony as taken, that the majority of the committee have been generally very careful in this investigation not to put upon the stand those who have been personally engaged in these acts of violence and murder, as shown by the testimony which was used before the State returning board at New Orleans.

26. That during our whole investigation there has seemed to be a studied effort on the part of the majority of the committee, as will be seen on reference to the testimony, to so frame every question as to clearly and plainly suggest to each witness the answer to be given, the effect of which has been, as I think, *unintentional, of course, on the part of the majority of the committee*, to cover up and justify all these acts of murder and violence, and thus to bolster up and strengthen the democratic theory, instead of getting at the real truth and inwardness of the conduct of the white democracy during the late campaign in Louisiana.

27. That nearly every negro put upon the stand, except some few who had always voted the democratic ticket, has plainly shown by his manner that he was testifying under compulsion, and that he dared not go back upon those in whose presence he was testifying, or refuse to testify to what he had been told.

They all told the same story, in very nearly the same language, which indicates very clearly the perfect system to which this intimidation has been reduced, and the complete and utter subjection of the colored people in said parishes.

28. That a great many of the colored men who have testified before us have been forced to admit that they joined democratic clubs and voted that ticket against their will, and because they were given to understand, in various ways, that unless they did so they would be murdered, whipped, or driven from the parish.

29. The testimony, I think, also shows most conclusively that although it was given out in 1875, when the White League or regulators were organized in these parishes, that they were to break up thieving and lawlessness, yet it was then intended and designed that they should be used in the then approaching political campaign, and that during the fall and winter of 1875, and the spring and summer of 1876, they were used for that purpose; in consequence of which the colored people were so perfectly frightened and cowed by the murders and acts of violence committed by these armed democratic bands that when the canvass commenced they had only to say to the colored men that they had *better* join the democratic clubs and vote that ticket, and they knew at once that such an admonition meant compliance or death.

30. That making liberal allowance for disaffection toward the State ticket, and for loss of colored votes through enticements, there must remain a republican majority in Louisiana on a fair and free election of not less than 15,000.

Mr. Speaker, tongue cannot utter, pen cannot describe, pencil cannot paint, the imagination cannot conceive of the terror and consternation which filled the minds of the colored people in the bull-dozed parishes of Louisiana during the late political campaign. None who have not seen it can realize or even fully believe it.

But, sir, the facts exist and thousands of American citizens in the South are to-day as fully and completely disfranchised by fear as they were by law when offered for sale upon the auction-block or crouching in fear in the slave-pens.

In view then, sir, of the startling disclosures which have been made in this investigation, is it not time for the loyal and patriotic men of this country to arouse from their lethargy, crush out this spirit of tyranny, protect the sacredness of the ballot-box, and preserve the purity of the elective franchise?

Is it, sir, to be tolerated that in these United States any illegitimate organization of armed men, acting in sympathy, open and avowed, with a great political party, shall seize upon the public highway, establish illegal military control of a whole parish, stop travelers on the public road by armed force, close access to the polls to peaceable citizens, domineer over the right of election, and shoot to death all who decline to submit to their villainous tyranny?

Is it to be tolerated that murder shall be a recognized part of the machinery of politics, and that terror is the best ally of democratic reform? That force, unmeasured and unrestrained, is the substitute for law? That reason shall be dethroned by passion, and the regular course and progress of legal rights become the prey of evil and unregulated malice, with no limit but the will of the tyrant mob, which makes and executes at once its own wild and bloody decrees?

It will be noticed, Mr. Speaker, that the great mass of the testimony has been taken by the majority of the committee with a view to show that no violence, improper influences or intimidation was resorted to or practiced by the white democrats during the late election toward the colored voters in said parishes, for the purpose of changing or influencing their votes; but that the cold-blooded murders, whippings, and beatings which have been perpetrated upon colored republicans by white democrats during the last two years in said parishes have all been committed for the purpose of breaking up a system of stealing which prevailed; and a violent, but unsuccessful, attempt has been made by interested, and I have no doubt, in many cases, guilty witnesses, to explain and justify the scores of wicked and atrocious murders which have shocked the civilized world, caused cruelty to blush, and brought a well-merited stain of reproach upon the white people of those parishes.

Most of this testimony is of a purely negative character, as will be seen by reference to it, which, weighed by the well-established rules of law applicable to such evidence, is of little value, and especially when met by the positive testimony of such witnesses as have been called to the stand by the minority of the committee.

Such testimony, it seems to me, can have but very little weight as bearing upon the question as to whether the colored people were intimidated or not.

The weight to be given to this negative testimony and the rule of law applicable to its consideration are well illustrated by eminent writers whose attention has lately been called to this subject:

As might have been expected, the testimony adduced to establish the fact of intimidation is positive and specific, giving place, date, names, and circumstances, while the rebutting statements are general, negative, and vague. The man who sees, hears, and feels must always be able to speak to the point, while he who does not see, hear, nor feel can only say so. On questions of outrage, dead bodies, scars, wounds, invalids, and cripples are convincing witnesses.

When fifty men testify that they did not see a certain thing, and fifty more or less testify that they did see that thing, which side is to be believed? Everybody knows the rule of law and of common sense. One man who saw and swears to it outweighs fifty who did not see and swears to that. Strip the Louisiana case of all disguises and excrescences, and it is simply an illustration of this well-known rule. One man who saw that his life was in danger if he voted as he pleased ought to outweigh many men who did not hear any violence or hear any threats. We are supposing that the witnesses are equally credible; that there is no reason to doubt that each swears to what he believes to be the truth; yet the knowledge of one man outweighs the ignorance of thousands. Assassination, beating, intimidation of voters in any form, are crimes in Louisiana. No man takes pains to commit crimes with all possible publicity. The one witness who saw a murder committed and identifies the murderer, is infinitely more important than the many who did not see, and who thinks that the murder was not committed at all or was committed by somebody else. Thousands swear that they personally know certain facts. On the other side, thousands swear that they did not see any intimidation nor hear any threats, and that they know nothing to warrant the belief that the election was not fair and free. Which set of witnesses is to be believed? Which would be believed if the issue were the guilt or innocence of a man accused of horse-stealing?

In these few words the Louisiana case, as it now stands, is summed up. Thousands swear that they saw, and thousands more that they did not see. The Presidency of the United States depends, in equity if not in actual result, upon the degree of credibility to which such conflicting testimony is entitled. As to these, we must either believe the thousands who swear to what they saw and suffered, or the thousands who swear that they did not see and did not suffer.

Considerable testimony has been taken by the committee tending to contradict the affidavits made by the supervisors of registration and some other witnesses, which were used before the State returning board at New Orleans, and also tending to impeach the character of said affiants for truth and veracity, touching the matter of intimidation during the registration of voters, and also on the day of the election. Most of this class of testimony comes from very bitter democratic partisans and politicians, or from defeated and disappointed candidates for office, and can, therefore, in my judgment, have very little weight in the minds of candid and impartial men in determining the grave questions involved in this investigation. But even if they are contradicted and shown to have made statements or admissions in some respects inconsistent with the sworn affidavits they afterward made, how can that affect or in any manner neutralize the great mass of positive evidence coming from witnesses which the majority of the subcommittee put upon the stand, showing that there was violence and intimidation, and that the statements in said affidavits are in fact true?

The majority of the committee has taken great pains to have given in the testimony the names of the colored members of the various democratic clubs in said parishes.

To my mind nothing could be more conclusive than this array of names of the terrible effect of the acts of violence committed upon the colored people of those parishes by the democracy during the last political canvass.

A large number of the colored witnesses examined by the majority of the committee were ministers of the gospel, who, by their own concessions upon the stand, had studiously avoided conversing with their colored brethren upon the subject of politics, had taken no part in the canvass, and, of course, were entirely ignorant of the sentiment and feelings of the colored voters in their parishes upon political questions.

Something has been said in the course of the examination in regard to there not being any republican tickets at the polling-places in the parish of East Feliciana at the last election. But all democratic anxiety on that point is set at rest by the evidence of James Law, which shows why there were none was because no man could be found in that parish bold and reckless enough to receive and distribute them.

In regard to the testimony of many of the white witnesses I am compelled to say that the desperate and reckless manner in which they testified I have never seen equaled, and I only put it in the mildest form when I say that no man who is not blinded by prejudice, or willfully obstinate through partisan zeal, can read their testimony, taken before the committee, and give it the least possible weight.

A large number of witnesses were introduced for the purpose of proving that the shooting of Gilbert Carter, Isaac Mitchel, and John Gair, three prominent, active republicans, was in no way connected with political considerations, and that the killing of eighteen other colored men, in the parish of West Feliciana, between the 24th of July, 1875, and the 24th of December, 1876, and the murder of about an equal number in each of the other parishes of East Baton Rouge and East Feliciana, during the same period of time, was not for political purposes; yet when we consider that in every case the evidence shows that these colored men were obnoxious to the white democracy on account of their pronounced republicanism, and that they were in most instances leaders among their race, it raises, in my mind, a presumption which cannot be overcome by the testimony of ther murderers.

It is not denied that these horrible crimes have been committed in these parishes; indeed, I understand all to admit it, but claim that they had no political origin.

Now, the questions arise, were these crimes committed for political ends, and was the effect of them, and of other acts of violence and threats, such as to deter men, who wished to do so, from voting the republican ticket?

As to the purpose, we must say that the facts speak for themselves. A great many persons were killed, or assaulted with violence; they were nearly all republicans, and in nearly every case they were republicans of such local importance that the fact of their assassination would necessarily alarm many others and deter republican voters. Precisely in the parishes where these things occurred the republican vote most unaccountably decreased—unaccountably, if we suppose that these acts of violence were not the cause. Nobody has attempted to give any explanation of the fact that, out of thousands of known republicans in East Feliciana, for example, only one solitary man dared to vote, excepting upon the theory that they were deterred by violence. No man has given, and no man can give, any ex-

planation of the amazing decrease of republican votes in certain localities, and not in other parts of that State, who ignores the fact that in those very localities acts of violence were most frequent.

Now, as to the nature and effect of these misdeeds.

Scores of witnesses swear that they saw the effects of this violence; some that they were personally assaulted; some that they knew of the murder of others and were warned that it would not be safe to vote the republican ticket; some that they were personally threatened or warned; many that they did not vote as they wished, because of the real or supposed danger, and many others that among their acquaintances there were many republicans thus coerced or driven from the polls by fear. A superficial reading of this evidence, conflicting as it is, might leave the mind in doubt, and a partisan of either side, giving credence only to what pleases him, might find it in confirmation of his prejudices; but an impartial judge, carefully weighing the testimony, would conclude that there was such intimidation as the law of Louisiana denounces and renders penal, and that such intimidation did materially affect the result. Such is the nature of the evidence, and from it a fair minded man can come to but one conclusion.

The testimony also reveals the fact that during the late political campaign a large number of colored republicans were taken out of their beds and their houses in the night-time and cruelly whipped by bodies of armed men, until, through pain and loss of blood, they fainted and were left for dead, while others were beaten with bludgeons and pistols until life was nearly extinct.

The fiendish spirit by which a portion of the white people of East Feliciana have been moved during the last two years toward the colored people of that parish is well exemplified in the case of two inhuman wretches who took a colored boy, fourteen years old, and, after subjecting him to all manner of tortures, tied him to their horse's tail, dragged him nearly a mile, and then shot him to death.

Nearly equal to that in atrocity and wickedness was the case of the murder of John Gair and his sister-in-law, Babe Matthews, without, as I say, one word of evidence upon which a reasonable man would have acted in the smallest matter.

John Gair was a bright, active, intelligent colored man, in the prime of life, a thorough and earnest republican, and an oracle and leader among his people in the State of Louisiana. In every political campaign he was the first to lead off in the organization of republican clubs, getting up of republican meetings, and doing whatever was necessary to an active and successful prosecution of the canvass.

This, together with the great influence he exerted over the colored people of the State, made him extremely obnoxious to the white democracy, and they set about to concoct a plan by which they could get rid of him.

Fortunately for those who were compassing his death, they hit upon the very creature who was in every way qualified to aid them in the execution of their murderous purpose.

Babe Matthews, a colored girl, about eighteen or nineteen years old, was a sister-in-law of John Gair, and was at that time, October, 1875, living in the family of one Dr. Saunders, in the said parish of East Feliciana.

On a certain day, this Dr. Saunders pretended that he had been poisoned and that Babe Matthews had committed the deed.

On this false and malicious statement of Dr. Saunders the poor colored girl was immediately taken into custody by some of the friends of Saunders, and, if rumor is true—and I have no doubt of it myself—submitted to a system of torture which at last compelled her—to save her own life—to sign a confession which the counsel for Saunders had prepared.

This pretended confession was to the effect that she had some time before been to Baton Rouge, where John Gair then lived, and while there one John George had given her some poison, and told her to poison Dr. Saunders, as he "and Gair had fixed it all up." That after she had returned from Baton Rouge to Saunders's house she put the arsenic in the water-dipper, and put the dipper in the water-pail, and Saunders swore that he drank out of it and was poisoned.

It will be noticed that no pretense is made, in this pretended confession or anywhere else, that the girl ever stated that Gair had spoken to her about the poisoning of Dr. Saunders, but only that George had told her when he gave her the poison that he "and Gair had fixed it up."

Now, upon this statement, forced from that poor, timid, ignorant colored girl, under the most inhuman and cruel tortures, without one scintilla of evidence to connect John Gair with the transaction, Deputy Sheriff Woodward, with a posse of six or seven men, is started for Baton Rouge to arrest Gair and bring him to Clinton. Woodward and his posse go to Baton Rouge, arrest Gair, a telegram announces the time when they leave with their victim for Clinton, Dr. Saunders gives the word, and in a twinkling from seventy-five to one hundred armed and mounted desperadoes come together and proceed toward Baton Rouge to meet the sheriff and execute the orders of the league.

At a proper time and in a proper place they meet the sheriff and his posse, go through the farce of disarming them, and then take possession of their victim, while the miserable treachery and collusion of the sheriff are disclosed by two of the murderers, who ride up to him saying that they "report to him." They have now in their possession the man who has so bravely borne the standard they hate and marshaled the clans they despise, and with curses and execrations they bind him to a tree, and with hellish glee riddle him with bullets, while he attests his innocence and calls upon God to have mercy upon his soul and protect his wife and little ones at home.

They have killed Gair, but democracy cannot breathe free until the last vestige of evidence against his murderers is blotted out, and the blood of Babe Matthews cries to-day from the ground against Joseph A. Norwood and his blood-thirsty crew.

Now, in order to justify all this crime and wickedness, which they are compelled to admit, and avoid the conclusion that it was done for political purposes, Dr. Saunders comes before the committee and swears he was poisoned, and Dr. Langworthy swears that he subjected some of the water that Mrs. Saunders gave him to a chemical test and discovered the presence of arsenic.

But on cross-examination it was shown that Dr. Langworthy was totally ignorant of every principle of chemistry under which he pretended to have made the test, and that he did not know where the water came from upon which he had tried his experiments.

Mrs. Saunders could have informed the committee where the water came from which she gave to Dr. Langworthy, but for some reason unknown to me she was not called as a witness.

In addition to this, the evidence shows that Dr. Saunders uses intoxicating liquors to excess, and has for the past ten or fifteen years, and would be very likely to have just such burning sensations in the stomach as he has described.

I only desire to add that in my opinion the attempt to prove that Saunders was poisoned was a miserable failure, and leaves the impression a thousand times stronger upon the mind than before that John Gair was foully murdered, not because he was suspected of advising the poisoning of Dr. Saunders, but because he was a hinderance and vital obstruction to democratic supremacy in those parishes.

It was well known to the colored people, not only of those three parishes but of the whole State, that John Gair had been murdered by the democrats, and that it was because he was a republican, and for no other reason.

The effect of it upon their minds was electric and tremendous.

It was the handwriting upon the wall, comprehended and understood by them as an admonition and warning to all other colored republicans that they must submit to the dictates of democracy or share his fate.

That act, alone, of democratic violence, designed by one party and understood by the other, as it was, to frighten and intimidate the colored people in the State, would have been sufficient of itself, without the scores of others which they afterward committed, to alarm and frighten all the colored voters, so that, when the campaign commenced in the spring of 1876, a single word or a nod from any white democrat would have been sufficient to excite the most intense alarm and drive them all into the democratic clubs, where protection was guaranteed.

In order to support and fortify this false and groundless theory that Gair was in some manner responsible for the attempt to poison Saunders and that when arrested he showed guilt, one of Woodward's posse swears that when he attempted to arrest him he ran to the river, got into a boat, and pulled off from the shore, and that he brought him to by firing at him from the bank.

This witness is not corroborated by any one, as none of the other six or seven men who were with him swears to anything of the kind, while one of them testifies that when they met Gair upon the street and were about to arrest him he drew two pistols and then ran away.

The whole transaction, as detailed by these two witnesses, is unreasonable and inconsistent, in perfect keeping with the whole democratic theory in regard to all the murders and assassinations in said parishes, and is only another demonstration of the fraud and deception to which many of the white people in that State are ready and willing to resort in order to gain power and elect Tilden to the Presidency.

In the early part of the investigation it was boldly insinuated that Gair was killed by colored republicans who had become opposed to him in consequence of a split in the party, but the facts afterward elicited, and the names of some of the men who killed him, forced from the unwilling lips of Norwood, the chairman of the parish democratic central committee and leader of the gang, set that theory at rest; and his murderers hid themselves under the confession that they could disclose no more without criminating themselves.

The killing of Gilbert Carter was a cold-blooded, wicked murder, attended with circumstances of malice and cruelty which scarcely find a parallel in the history of crime.

The men who committed it were known, and although the spirit of lawlessness and savage butchery then held high carnival in Louisiana, and colored men were slaughtered by hundreds without provocation or mercy, and the judgment of a just God for a time withheld, yet the murderers thought the time might come when force and violence would give way to law and order, when truth and righteousness and justice should set up their standard, and murder become a crime to be prosecuted and punished, then the innocent blood of their victim might be required at their hands.

Then a denial would not save them, for those who saw them take him from his humble cabin in the dead of the night and strike him down with a bludgeon near his own door, who heard his wife as upon her knees in the very agony of her grief she implored them to save

her husband, who had seen the assassin and knew him when he put the murderous pistol to the head of his victim as he lay writhing upon the ground and shot him dead, who heard their savage yells and hellish imprecations as they disappeared in the darkness of the night, were living and beyond the power of their persecutions. Prudence and safety, therefore, required that some excuse or justification should be given for the commission of such an unnatural crime.

These men knew that Gilbert Carter had been an active, earnest republican; that he had been trying for weeks to organize a republican club in his ward among the colored voters; that he and his colored neighbors had already had one meeting and were soon to have another, when the organization was to be completed.

These white democrats knew that they had complete control of every colored man in the parish, and that the whole democratic party was in hearty sympathy with them. And they knew also that no colored man would dare disobey their orders or refuse to perform whatever they might command.

Such men, Mr. Speaker, are equal to any emergency and their resources are unbounded. In less than twelve hours after Gilbert Carter had been murdered they had one of his colored neighbors before a pliant democratic magistrate and compelled him to make oath that the meeting of Carter and his friends was not to organize a republican club but to concoct a scheme to kill Barrows and his whole family.

And this miserable subterfuge of deception and subornation of perjury is now attempted to be palmed off before a committee of this House, and through that committee upon the country, as evidence that Carter was not killed for his political opinions.

Shame, Mr. Speaker, upon the men who propose it, and shame upon the party which is compelled to resort to it.

The testimony of a large number of colored men has been taken which tends to show that they joined the democratic clubs and voted the democratic ticket of their own free will, and it is quite possible that some few of them may have done so; but the great mass of them, as will be seen from their testimony, by their confessions and admissions upon the stand when subjected to a rigid cross-examination, and the fact that there has been no republican clubs, and only two or three republican meetings in the three parishes during the late canvass, when it is shown that in previous campaigns there have been clubs and scores of meetings in every ward, together with the fact that in 1874 the republican vote in West Feliciana was 1,358, and in 1876 only 780; that in East Feliciana it was 1,688 in 1874, and in 1876 only 1; and in East Baton Rouge it was 2,546 in 1874, and only 1,051 in 1876, is sufficient to convince an unprejudiced mind; and when no other cause is or can be assigned for the change, it becomes absolutely impossible to account for it upon any other hypothesis than that of intimidation and compulsion.

The excuse which has been put in the mouths of some of these colored men by their tormentors is so painfully similar, giving the same reasons and in almost the same language, as to raise in the mind a clear and thorough conviction, not only of its falsity, but also that they have learned the lessons they recited upon the stand from the lips of those whom their evidence is designed to benefit.

The attempt to explain why every prominent republican in those three parishes is now in exile, and dare not return to his home, is a complete and utter failure, and is the very strongest kind of corroborative evidence of the illegal and outrageous manner in which those colored men have been forced to vote the democratic ticket.

The theory, which was sought to be set up, that the White League or organization of regulators was formed and kept up for the suppression of theft and lawlessness, and that it never had any political significance, is abundantly refuted by the fact, which the evidence discloses, that on the day of election colored men who voted the democratic ticket were furnished with passports or certificates of safe-conduct, to be shown or used by them as a protection against the White League, regulators, or any other armed democratic organization, which might chance to be prowling about the country.

These armed bands of reckless and wicked men not only shot down, hung, and whipped defenseless colored men and women without cause or provocation, but they entered the court-houses when the courts were in session, drove the judges from the bench, shot the sheriff, compelled the police-jurors to resign, and broke up the courts, giving as a pretended reason that it was because the judge had charged a petit-jury in a manner not agreeable to the mob, but really because the judges and officers of the court were all republicans.

In this connection it is worthy of remark that in none of these cases have the perpetrators been brought to justice, although in nearly every instance it has been well known to the authorities and the people generally who they were. Now, it is no answer to this to say that the courts have been in the hands of the republican party, when the testimony shows that whenever there has been an attempt made to hold a term of court in these parishes the courts have been broken up and the judges driven off by bodies of armed democrats.

The state of the public mind among the white democracy in those three parishes upon political matters and the safety with which republicans could have advocated their principles and exercised the elective franchise is well illustrated by the answer given by a white democratic witness, called by the majority of the subcommittee, to a question put by the chairman, in which he said that it would be safe enough for a republican to come there to live "if he behaved himself;" and when inquired of what he meant by that, he replied that a republican would be safe to come there to live if he let politics alone, and did not attempt to stir up the negroes by taking politics to them.

The honest, candid men in this country will, when they read this testimony, be led to inquire whether the mission of this committee to Louisiana was to find out whether the vote of that State had been materially changed by the intimidation of colored voters by white democrats, or whether it was to avoid the truth, disguise the facts, justify the acts, and bolster up and give strength to the democratic theory of peace and good will to all men. If they had desired the truth they would not have cared from what source it came; if they had wanted the testimony of truthful witnesses they would as soon have taken it in New Orleans as in Clinton or Monroe; if they had been honestly in search of justice they would have sought every avenue by which it could be obtained.

Now, the majority of the committee must have been aware, when they arrived in New Orleans from Washington, that most of the witnesses which the republican members of the committee would desire to call—and who were cognizant of all the facts—were then in exile in that city from their homes in the parishes, and that their testimony could not be obtained unless it was taken there.

It must also have been well known to the majority of the committee that those republicans, both white and colored, who remained at their homes would not dare to come before the committee in said parishes and testify, for fear of violence and bodily harm from white democrats who would be present and hear them testify; and they must also have known that the colored men who had been forced to join democratic clubs and vote the democratic ticket would not dare to testify in the presence of these men that they had done so through fear or in consequence of any intimidation.

Armed and guided by this knowledge and information, and in pursuance, as I have reason to believe, of a preconcerted plan, the first step was to divide the committee into subcommittees, so that the testimony should be taken in the several parishes, where the witnesses would be confronted and surrounded by the men who had intimidated and subdued them.

This arbitrary and, as I deem it, unjust act was accomplished by the majority of the committee against the earnest protest and votes of the republican members.

By this decision of the majority of the committee, had it not been for the Senate committee, we should have been deprived of the testimony of many of the men who had personal knowledge of the acts of violence and murder committed by white democrats during the late political canvass or who had been the victims of political malice and intimidation.

It was the business of this committee to ascertain and report all the facts in regard to the late election in Louisiana, and the persons who knew would seem to be the legitimate source of information; this the majority has, to a certain extent, cut off, and the people will demand of them some good reason for such an arbitrary and unjust exercise of their powers.

I have not had the time, Mr. Speaker, to sort out and classify the testimony so as to give the names of the witnesses whose evidence applies to each specific poll excluded from the count by the returning board. Neither should I deem it necessary or important to do so, if I had the time; because I am fully convinced that any man who will take the trouble to read this testimony, as I have done, will come irresistibly to the same conclusion that I have, that the returning board had evidence enough before it to justify the exclusion of every democratic vote in all the disputed or bull-dozed parishes.

Mr. Speaker, I went to Louisiana determined if possible to satisfy my own mind in regard to the truth of the reports I had heard of the condition of society in that State, and the intimidation of the colored people, and I not only gave close attention to the investigation which was conducted by the committee, but wherever I went I sought out both white and colored republicans and urged them to come before the subcommittee and assist in conducting the examination of the witnesses, as the democratic party was always represented by men who prepared witnesses and suggested questions; but was informed by them, in every instance, either personally or in writing, that they dare not do it, or even come to my lodgings to see me, for if they should their lives would be in danger as soon as the committee had gone.

I have also taken great pains to talk with colored men whom I have accidentally met in all of said parishes in regard to their coming before the subcommittee to testify, and every one of them, without a single exception, with whom I have conversed upon the subject, has told me that if he should go upon the stand and testify to all the acts of violence and intimidation which he knew, or had good reason to believe had been practiced upon his people, his life would pay the forfeit. They have invariably told me that they did not want to be summoned before the committee, but if they were they would not dare to testify.

Such, sir, is the evidence, and upon that evidence I have come to the conclusions I have stated.

With such convictions fastened upon my mind, I have no hesitation in saying that in my judgment, notwithstanding all that may be said with regard to the action of the returning board, Hayes and Wheeler fairly and honestly carried the State, and that her electoral vote should be counted for them.

The people of Louisiana are continually complaining of their hard lot and destitute condition, and comparing their present poverty and distress with the comfort and affluence they enjoyed before the war. It is true that in former days they lived by the unpaid labor of the bondsmen and fattened upon the sweat and the tears of those whose wrongs cried to Heaven for vengeance for a century.

In the onward march of justice and Christian civilization this has all been swept away. In the red flame of war the chains were broken from every limb and the shackles removed from every soul. Upon the ruins of a slave oligarchy more cruel, audacious, and unrelenting than the world had ever before seen has been set up the standard of universal freedom and the political equality of all men before the law.

Before the war the people of Louisiana robbed men of their thoughts, their liberty, and their labor. Now they are compelled, in common with the people of the North, to earn the bread they eat by the sweat of their brow.

These facts they have been slow to acknowledge, and in no one of the States lately in rebellion has there been shown a more reckless determination not to accept the situation than in the State of Louisiana.

One of the striking and alarming features of society in that State—and no one can fail to remark it who goes there—is the fact that very little manual labor of any kind is performed by white men. It is considered by these people degrading and dishonorable to work, and no white man or woman would be admitted into what is termed good society whose hands were stained with toil.

These false and destructive theories must be abandoned if they desire prosperity and contentment. Let the people of that highly favored Commonwealth learn a lesson from some of their less favored fellow-countrymen. Let them go to my own honored little State and experience her cold, bleak climate and see her rocky, sterile soil. Let them see her intelligent, industrious, prosperous, and independent people, among whom poverty is not allowed to exist and pauperism is almost unknown; when the callus made by the plow-handle, the flail-staff, the ax-helve, and tools in the workshop and quarry, is regarded as more honorable than scars received in street broils or upon the field of honor, falsely so called.

What the people of Louisiana need now to make them prosperous and happy is to abandon and ignore the trade of politics and office-seeking and learn to be industrious; instead of allowing a certain portion of their people to hang about the street-corners and villages, armed with pistols and shot-guns, talking politics and intimidating the ignorant and weak, both white and colored, they should induce them to bend their energies to labor, to re-organizing society, to reviving the industries of the people, building up her commerce, restoring her waste-places, and developing the vast and valuable resources of that great State. They should teach them to obey the laws and all of them to respect the rights of others, educate the masses of the people, offer no more premiums on idleness and crime, accept those great principles settled by the issues of the war, and Louisiana will soon take her proud and rightful position in the front rank among our glorious sisterhood of States.

In justice to one class of white people in Louisiana, I am frank to say that to all appearances they are intelligent, high-minded, and worthy men, and that I cannot and do not believe that they would be guilty, personally, of such crimes and acts of violence as are conceded to have been committed in that State during the past ten years.

But, sir, how are these men to avoid the awful responsibility which follows, even if they did not in fact hold the knife and the pistol, when they stand quietly by while others commit them, without raising voice or hand against it, and complacently and gracefully share in the spoils and profit by the results?

These men have lived in Louisiana during these terrible and bloody years; the men who have covered the land with desolation and death are their neighbors and kinsmen. They cannot plead ignorance or imbecility; the knowledge of every murder and act of violence has been brought home to their very doors. They have known that the object of it all has been to disfranchise the colored people and restore the democratic party to power.

The colored people of the South to-day represent thirty-five electoral votes. These the democratic party propose to steal by denying them the right of free suffrage as guaranteed to them by the Constitution.

All this is laid at their door and charged to their account, and the American people demand by the same voice which will place Rutherford B. Hayes in the presidential chair that they cease their cry of republican fraud, corruption, and military despotism, and turn their attention to the cleansing and purifying of their own party, to stopping the murder of innocent men for opinion sake, and restoring order, justice, and law among their own people. They must take the power into their own hands; suppress and punish the marauding bands and armed banditti which infest the State; set up the standard of law and order, and restore the lawful authority of the government; and then, and not until then, will they have or deserve to have the sympathy and assistance of the loyal and patriotic people of this country.

It is said, and I think with perfect truthfulness, that the people of Louisiana have suffered, some portion of the time since the war, in consequence of the local government being in the hands of ignorant and bad men; that the execution of the laws and the administration of the government have been intrusted to a class of adventurers who have had no interests in common with the people, and who were there only for office and gain; and that they have endured this until patience has long since ceased to be a virtue.

Now, sir, granting this to be true, if we look back a few years in the history of that people we shall find that all the wrongs they have suffered, and all the ills they have endured, have been the natural results of their own acts and the legitimate fruits of their own transgressions.

When, in the providence of God, slavery was abolished from this whole land, and universal liberty and freedom were established by the fiat of Jehovah through the instrumentality of His people; when a wicked and causeless rebellion had been crushed out and universal amnesty and suffrage proclaimed, the republican party, moved by a spirit of forgiveness and patriotism, sought to bind up the wounds and restore the integrity of the Union by bringing back those who had ungratefully wandered, and restoring them to honor and power.

The people of Louisiana were among the first to spurn the offer; they refused to accept the situation; they drove the colored man from them with contempt, and refused to acknowledge the right with which God and the people of the North had endowed him; and when the General Government interfered to protect him, they, in sullen madness, fell back upon their dignity and refused to take any part in the administration of the Government even so much as to vote.

The result was that, in consequence of this mistaken and disloyal policy on the part of the white people, the power and control of their parochial affairs passed into the hands of unworthy men who, in many cases, robbed the people and disgraced the positions they held.

We are also told that the republican party in Louisiana is made up of bad men, and that those who receive the government patronage are not only disreputable but dishonest and vile. While I know, and am proud to bear witness, that the great majority of the republicans in that State are noble, honest, and patriotic men, yet I am free to admit that there are many exceptions, and the only wonder with me is that there are not more, as the course of violence and intimidation toward republicans pursued by the democracy for the past eight or nine years has been directly calculated to breed a spirit of animosity and ill-temper, and lead them to acts of retaliation and revenge.

In addition to this there has grown up all over the South since the war a generation of young men, of dissipated habits and reckless conduct, who have imbibed all the bitterness and prejudices entertained by the southern people against their northern neighbors, without any respect for northern courage and magnanimity which the men who met them upon the field so nobly accord. Against this class of wild and vicious men the republicans of Louisiana have had to defend themselves with such weapons as came within their reach. Again, instead of encouraging northern labor and capital and enterprise they have spurned them all, ostracized or driven out every man who would not subscribe to the articles of the democratic faith, and murdered colored republicans by thousands; and now, having brought all these evils upon the people, and made their name and history a reproach, they seek to avoid the responsibility by charging it all to the frauds and crimes and military despotism of the republican party.

The charge is not only unkind, but it is untrue. The republican party is not responsible for the past evils endured by or for the present unfortunate and unhappy condition of the people of Louisiana. Sir, every law of Congress, every act of the State Legislature of which they complain, and every United States soldier sent there has been absolutely necessary to protect the lives and property of inoffensive and law-abiding citizens against the lawless and violent conduct of the democracy of that State.

Mr. Speaker, we have been often told during the last four years that the mission of the republican party is ended and that its days of usefulness are passed.

Sir, as well might we be told that the mission of the Saviour of mankind has been accomplished before the last wandering sinner is brought in and there is but one fold and one shepherd.

No, sir, the mission of the republican party is not ended and it cannot and will not be until every man, be he bond or free, rich or poor, white or black, can go to the ballot-box and deposit the ballot of his choice without fear or intimidation as well in Mississippi and Louisiana as he can in Massachusetts and Vermont.

When that glad day shall come, and that noble work shall be accomplished, then, and not till then, may we be told that the republican party has outlived the days of its usefulness, or that its great and patriotic mission has been fulfilled.

In the face of this public record, and under the blazing light of the history of Louisiana for the past ten years to which I have so briefly referred, the opposition have the brazen effrontry to tell us that Tilden carried the State and that the electoral vote ought to be counted for him.

I am one of those, Mr. Speaker, who in common with thousands of other republicans solemnly believe that Hayes and Wheeler were legally and fairly elected on the 7th of November, and I have from the beginning down to this moment resisted every attempt which has been made by the democracy to frighten the republican party out of that honest conviction.

I know that if there had been no violence or intimidation in the South, no assassinations or massacres, no whippings or murders for opinion's sake, and the colored men had been left free to vote accord-

ing to their own judgment and the dictates of their own consciences, the States of Alabama, Mississippi, Arkansas, Georgia, and Louisiana would have each given a handsome majority for our noble ticket.

Believing that, knowing it, I have no concessions to make, nothing to compromise, nothing to arbitrate. I take my stand upon the Constitution and the laws, backed up by the will of a majority of the American people, scorning the idea that it can, under any circumstances, become necessary, in order to maintain that position, that I must temporize, arbitrate, or compromise with the enemies of my country.

When I am told by blustering braggarts that I must surrender my honest convictions, stultify every word and act of my whole life, stifle every patriotic emotion, see the Constitution violated and liberty dethoned, abandon every right held dear and sacred by a free people, violate the solemn oath I have taken as a member of this House, and give up what I know to be mine, or submit to the evils and horrors of a civil war, I cannot hesitate, I ask for no time to consider.

Much as I should deplore such an awful calamity, much as I would do and suffer to avert it, still amid the storms and the tempests I will stand firmly by the Constitution, that great ark of our safety, fearing no evil and trusting in the judgment, intelligence, and patriotism of the American people for a safe deliverance from all our troubles.

Mr. Speaker, the republican party had a right to suppose that the great issue of universal suffrage, that principle which underlies the very foundation-stone upon which rests the stately structure of our Government; that great idea which had been discussed and combated in the world's forum for centuries; that had cost rivers of blood and treasures untold; the contest over which in our own country had carried the weeds of mourning into every loyal household and left a vacant chair at every fireside; that had at last been taken from the forum of discussion and submitted to the dread arbitrament of war; that had finally reached its last ditch at Appomattox and surrendered its vanquished sword on the 9th of April, 1865—I say, Mr. Speaker, we had a right to suppose after all this that all opposition to this principle had been buried beyond the call of any party and beyond the reach of any political resurrection.

But, sir, this investigation shows that it is not settled, that the venomous reptile was only scotched, but not destroyed, and that the loyal men of this country must again prepare for the contest. This question must be settled; the republican party of this country has abolished slavery, emancipated the slave, and clothed him with the sacred rights of citizenship. That party is solemnly pledged to sustain and protect him, and its most solemn obligations and promises will be broken unless it does so. I believe it is the settled and determined purpose of the party to do it peaceably at the ballot-box if it can, but at all hazards to do it. The American people fully realize the issue: a free, honest ballot will give us peace and the perpetuity of our republican Government; a forced or fraudulent vote or a corrupt ballot-box will bring us misery, anarchy, and ruin. The right of suffrage and the freedom of the elective franchise must be preserved and protected in every State in this Union, to every citizen; and no labor is too severe and no sacrifice too great which shall be necessary to preserve and defend this rich and glorious heritage.

To that, Mr. Speaker, let us "pledge our lives, our fortunes, and our sacred honor."

Coinage Department in the Assay Office in New York—Its utility on grounds of national economy.

SPEECH OF HON. ELIJAH WARD,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

February 1, 1877,

On the bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes.

Mr. WARD. Mr. Speaker, having in the preceding session of Congress introduced a bill providing for coinage in New York, and as the committee to whom it was referred have omitted to report thereon, and the bill now under consideration is the one through which appropriations for coinage are made, I deem the present opportunity suitable for calling the attention of the House to a subject of much importance, not only to the city and State I have in part the honor of representing, but also to the country at large.

The signs of the times unequivocally demonstrate that inflation can no longer inflate, and that by a natural reaction a most favorable time for returning to specie payments is near at hand. Gold has lately been at a premium of less than 5 per cent. Our exportations of it are large; our mines are producing vast quantities of the precious metals; and currency is yet abundant at low rates of interest, although during the year ended on the 1st day of November, 1876, there had been a decrease of nearly $25,000,000 in the amount of national-bank notes. Since the act of June 20, 1874, came into operation, the outstanding amount of these notes has been reduced $32,300,000. Between January 14, 1875, and January 1, 1877, the reduction in the amount of legal-tender notes was $15,900,000, and the amount of legal-tender notes lately deposited in the Treasury to provide for further withdrawals of bank-notes was $18,900,000. The three items indicate a contraction amounting to $67,100,000 in the circulation of the two classes of notes between June 20, 1874, and January 1, 1877. This is about 9 per cent. of the whole paper currency. The natural laws of finance are asserting their power. Arbitrary and doubtful measures for the restoration of a sound currency redeemable in the metallic standard of the world are no longer necessary. It seems impossible that those to whom the legislation of our country in monetary as well as in other affairs is intrusted should not patriotically take advantage of so golden an opportunity to confer incalculable benefits upon the people. My purpose at present is simply to urge the adoption of one of the most important means of aiding in the restoration of specie payments by removing unnecessary, expensive, and unjust obstacles to their essential precursor, coinage of the precious metals into the coin of our own country.

While I am desirous of applying the principles of justice and good will in the fullest measure to all other parts of our country, I deem it my duty to state what is strictly due as regards coinage to the city I have in part the honor of representing. In one year alone there was sent from the assay office in New York to Philadelphia for coinage no less than $62,480,508 in gold and $2,663,046 in silver. That certainly was an exceptional year, but during the twenty-one years which have elapsed between the time when the assay office in New York was organized and December, 1875, the amount of bullion thus transmitted was no less than $172,221,463, at a cost of $182,281, a waste of money and labor as complete as any ever typified in modern proverbs or ancient mythology. As we seem to approach nearer to specie payments the amount of the bullion thus transmitted increases. In the three years ended with 1875 it was two and a half times as large as in the three preceding years. In these calculations the amount of the silver purchased for coinage under the provisions of the law of 1873 and subsequent acts now in operation is not included. Its amount, passing from and through New York to the Mint at Philadelphia during the last two years, may be computed at millions. During the two years and a half ended on the 30th of last December, the amount of gold and silver bullion transmitted from the assay office in New York to the Mint at Philadelphia was no less than $22,487,803, and the charges of the transmission were $22,680.05. The amount thus transmitted is no fair criterion of that which would have been coined in New York if the needed facilities for that purpose had existed there and the loss of time as well as the cost of transportation had been avoided. The means thus wasted undoubtedly would have been much larger if for the last sixteen years the ordinary and natural demand for specie had not been checked by legislation. Yet under these circumstances the direct and needless expense thus actually incurred for transportation of bullion since the establishment of the assay office was over $200,000. I do not believe there has ever existed under our Government any more flagrant instance of the power of habit and established patronage in resisting the most just and needful conformity to the requirements of the times.

For at least thirty or forty years the justice and expediency of converting bullion and the gold and silver currency of other countries into our national coin at New York have been urged by leading statesmen, irrespective of party or the locality of their residences. Hon. Robert J. Walker, in four successive annual reports, with arguments which it is impossible to controvert, earnestly directed public attention to the subject, and the same recommendations were made by Hon. Thomas Corwin, Hon. W. H. Seward, and many others. The right was not sought for New York or for the benefit of its commerce only, but for the benefit of the whole Union. No unjust or exclusive advantage was asked for that city, but simply that the great center of our foreign and home trade should have equal facilities with other cities of less commercial importance for coinage and recoinage.

Apart from the commercial emporium where the precious metals are first brought from the places of their production on the other side of the continent, it is evident that where the chief market of commerce is there also the precious metals will center, and it is no less clear that in the same place there should be every opportunity for increasing their value and bringing them into active use. While this is true at all times it is especially so at present, when the people are desirous of a safe and economical return to a currency at par with the commercial standard of the world.

It may be argued that the impediments to coinage by compelling the citizens of the center of the exchanges of the Union to carry their specie to and fro, for hundreds of miles, are to some extent removed by modern facilities for rapid transit; but, whatever the cost thus incurred for freightage may be, it is to that extent a tax primarily upon New York, but ultimately upon the nation, and an obstacle to its foreign and domestic trade. In our commercial system bullion and coin, the representatives of value and current circulation among all nations, pass and repass to and from New York as the blood in the human system tends toward the heart and is then distributed again.

The risk, expense, and delay of sending the precious metals from their natural emporium to be coined elsewhere, must, so long as they are continued, be hinderances to the production of the coins of the United States and tend to keep the precious metals out of common use. Millions of dollars are thus as utterly lost to the industry and business of the country as if they were thrown into the sea. Coinage

of a metallic currency is prohibited at the place where the Government collects its chief revenue in coin. Needless and artificial obstacles created by law are kept in the way of an abundant supply of the stable currency most needed for a return of general prosperity. As gold and silver are articles of commerce, they naturally gravitate from all quarters to the commercial center of our country. They are brought there not only from our own mines, but from Mexico, Peru, Chili, Central America, Europe, and all other regions of the world, as part of the exchanges. A large amount of them is also brought, chiefly in the coins of other countries, which it is desirable to convert into our own, by hundreds of thousands of immigrants.

The imports and exports of New York in 1874, if compared with those of all other ports of the United States added together, were almost exactly in the proportion of seven to five, the precise value of them at New York having been $750,127,354 and at all other ports in the aggregate $573,977,352. This was no exception to the rule. In 1875 the proportion of these imports and exports received or shipped at New York was somewhat larger. At that port alone they amounted to $713,341,549, while they at all other ports in this country were of the value of $506,092,995.

The difference in the value of foreign imports alone is yet more striking; and, as the Government depends on them for that part of the revenue which is collected in coin, the comparison is especially important and suggestive. In 1874 the imports at New York were almost twice as large as the aggregate of them at all other ports in the Union. In New York they were $395,133,622, and in all other ports of the United States $200,727,626. In 1875 the proportions were nearly the same, having been $368,637,580 at New York and $185,268,573 at all the other ports added together.

The laws of the United States require that the duties on imports must be paid in coin. A far larger proportion of these duties is collected at New York than at any other port and than at all other ports added together. For the ten years ended with 1875 the amount of duties thus collected at New York has been more than twice as large as those at all other ports of the Union; the aggregate at all the ports, including New York, added together, having been $1,800,650,297, while it was $1,239,615,311 at New York alone. As this city is also the chief depot and market on the Atlantic coast for the precious metals, it is most manifestly inexpedient and unjust, on grounds of obvious principles of public policy and right, to refuse to her the power of coinage.

As New York is the commercial so also is it the monetary center of the Union. The capital employed in banking in the State is more than twice as large as that of any other State except Massachusetts. The average exchanges of the clearing-house in the city every day on the average of the last twenty-two years were over sixty-one millions, and for the last ten years were nearly ninety-four millions.

These enormous commercial and monetary transactions do not redound to the benefit of the city of New York alone. They only exhibit in a conspicuous form the business the people of the whole country find it for their interest to transact at that port on more profitable terms than elsewhere, and would have removed long ago if they had not continually found this to be true. The whole is a question of superior natural advantages, together with the skill, enterprise, and industry which have been used in developing them for the common advantage of the people of the Union. Hence it follows that if New York is refused equal facilities with other cities for coinage and recoinage, the unjust disadvantages under which it is compelled to labor are inflicted not upon it alone, but upon all parts of the Union with which it has commercial dealings.

On the 10th of October, 1854, an assay office was established in New York. From that time to June 30, 1876, gold and silver to the value of no less than $343,533,911 had been deposited there. Of this amount $253,757,757 were prepared as bars of fine gold and silver by the melter and refiner. Leaving out of consideration the three mints at San Francisco, Carson, and Denver, which are to be judged by a different standard, as they depend on the production of the precious metals in the mountains between the great plains of the continent and the Pacific Ocean, nearly all the bars manufactured at the mints and assay offices of the United States in 1875–'76 were manufactured in New York. In 1875, at Philadelphia, they amounted to $318,786.66, in Charlotte to $6,690.03, and in Boisé to $7,779.48—altogether $443,256.17, or considerably less than a twentieth part of their amount at the New York assay office, where it was nearly ten millions, ($9,925,727.28.) In 1876 the disparity was yet more striking; the total value of the bars of gold and silver made and issued at the mint of Philadelphia and the assay offices of New York and Boise having been $8,791,591, of which not far from nine millions ($8,602,991) were made and issued at New York, and less than two hundred thousand ($188,599) at Philadelphia and Boisé added together. More decisive proofs of the natural tendencies to bring the precious metals to New York, rather than to any other city east of the great plains, can scarcely be imagined. Doubtless the proportion of gold and silver brought to New York would be vastly increased if facilities existed there for their coinage. If any manufacturing firm sent its goods hundreds of miles for the sole purpose of receiving a stamp or label which might as well be conferred at home, it would be a fair way to ruin; and the only reasons why the pernicious system is permitted so long to exist are the force of habit, the difficulty of reform, and the fact that the loss is borne by many and in the end is paid out of the pockets of the people at large.

This shameful maladministration of public affairs becomes yet more apparent when it is known that the desired change might, so far as the buildings are concerned, be made with little cost or none at all to the national Treasury. The Director of the Mint and the Supervising Architect, after conferring together, unite in the opinion that there is a necessity for the speedy erection of a more suitable building for the purposes of the assay office in New York. They concur in saying that a less central location than the one now occupied would be equally adapted for the proper transaction of the work which is carried on in refining the precious metals, and that the injury to surrounding property through the action of the acid fumes resulting from the processes employed is so detrimental that it should have weight with the Government in its selection of a proper site for these works. The iron-work of the building is so far injured and weakened that, although efforts have been made to render it as secure as possible, it is yet in a dangerous condition.

The Director of the Mint and the Supervising Architect state positively that a new building, located in a less central position, should be commenced at once, so constructed as to be proof against burglars and fire, and that the part of the building particularly devoted to the reduction should be built of such materials as will suffer no deterioration from the processes employed. They add that on the completion of the new edifice the old building and site will realize by sale a sum more than sufficient to defray the expenses of the purchase of the new site and erecting thereon a suitable structure.

In these statements I emphatically concur, and from my own local information and knowledge I have no doubt that the surplus to which they refer would be amply sufficient not only to erect and complete an assay office of durable materials and sufficiently capacious, as the present building is not, for the processes to be conducted in it, but also to provide the room and outfit necessary for coinage. Thus, without charge to the national Treasury, arrangements might be made for giving the people of the country ample facilities for coinage at that port where they would be incomparably more conducive to the national welfare than they can be at any other place on this side of the continent. The change is imperatively demanded on grounds of economy.

South Carolina.

SPEECH OF HON. JOHN F. PHILIPS,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

February 21, 1877,

On the report of the select committee to investigate the recent election in the State of South Carolina.

Mr. PHILIPS, of Missouri. Mr. Speaker, in returning to this House the commission which sent me to South Carolina, I wish to accompany it with some observations and reflections which I trust will not be without interest to the many people deeply concerned in the troubles of that State. The power of attorney under which the committee went to South Carolina limited its agency mainly to an investigation of the vote cast for presidential electors. But necessarily such work, to be thoroughly done, took within its range a wide field of inquiry, developing collateral facts and circumstances all concurring to illustrate and explain the true and lawful results of the election.

To comprehend a political contest and its results in South Carolina, one must go and look at it. The newspaper correspondent of this day is pre-eminently the product of American genius and enterprise. His faculty for pertinent and impertinent inquiry; his capacity for acquiring and manufacturing information under circumstances of discouragement to a modest man, or to one of little heart and less cheek, make him the marvel of the age. To his indomitable pluck and perseverance the country is indebted for many pen pictures, true and untrue, of the political, social, and industrial conditions of South Carolina. But to know and realize what these conditions actually are, you must see them with the eye. No pen can portray them, much less can I hope to paint them with any poor words of mine. This fact was ineffaceably impressed upon my mind in my first day's experience in the State.

The committee decided to visit informally the capitol at Columbia and look in upon its renowned Legislature. There was no sun in the heavens and none in the faces of the people. The dark and dismal day seemed but a prototype of the sorrow and misery brooding on every face. Two of my associates, with myself, determined to go in advance of the rest of the committee, unheralded and unknown. The sight that caught my eye at the very threshold of the building was not novel. I had seen its counterpart in the late war where court-houses were occupied with military recruits. It presented the aspect of guns stacked, bayonets bristling, sentries pacing to and fro, cooking utensils in disorder, rude bunks, and a rare combination of smells, mingling the odors of unsavory linen, unventilated rooms, and jail fevers, compared to which Sir John Falstaff's buck-basket was a bed of roses in young spring-time.

The stairway to the upper floor, the hall and passway to the house of representatives presented a strange scene. They were thronged with negro women and men, intermingling and jabbering in a dialect *sui generis*, with huckster stands in every corner laden principally with peanuts and the provincial gingercake. The hulls of the peanuts and the crumbs of the gingercakes lay in profusion over the floor, mingled with tobacco-juice, cigar-stumps, and negro babies, which no broom, scrubbing-committee, or wet-nurse had seemingly interrupted for a fortnight. The door to the hall of representatives was guarded by double files of colored police, called the constabulary force, selected from the notorious "hunkidori clubs," made up principally from recent inmates of the penitentiary. A beggarly crew were they, calling vividly to my mind Falstaff's exclamation over the soldiers he was to march through Coventry:

A commodity of warm slaves as had as lief hear the devil as a drum; such as fear the report of a caliver worse than a struck fowl. * * * Ancients, corporals, lieutenants, gentlemen of companies, slaves as ragged as Lazarus in the painted cloth, where the glutton's dogs licked his sores; and such as, indeed, were never soldiers, but discarded, unjust serving-men, younger sons to younger brothers, revolted tapsters and ostlers trade-fallen; the cankers of a calm world and a long peace; * * * tattered prodigals, lately come from swine-keeping, from eating draff and husks. * * * No eye hath seen such scarecrows. * * * There's but a shirt and a half in all my company; and the half shirt is two napkins tacked together and thrown over the shoulders like a herald's coat without sleeves; and the shirt, to say the truth, stolen!

Of such even Falstaff was ashamed, but not Governor Chamberlain. There was neither, however, in that defiance, springing from the insolence of office, to men unused to power, nor in the bludgeon or revolver they so vainly displayed as the baston of authority, from which the citizen of ordinary nerve and sensibility shrunk so unresistingly as from the fumes of miserably bad whisky, exhaled from the breath of these legislative guardians. To me it was as the breath of the monster that checked the conquering march of Regulus. I halted midway between these sentinels of liberty, where I was rudely ordered by the most drunken of this rabble "not to crowd the 'gemmen.'" I looked in vain to see the "gemmen," and my essay at a feeble protest of my right as an American citizen, even if not of African descent, to look in upon the pretending Legislature of a once proud old State, was silenced by this swaggering bully pointing with one hand to the insignia of his high office, emblazoned on the lapel of his coat, while with the other he grasped the revolver. I fell back in order.

After it was ascertained we were from Washington and perhaps might have power to call on the Federal Army, the door was opened and we were permitted to look in upon the sacred temple wherein South Carolina law is made. It was a spectacle no intelligent man would defend unless he fattened and battened on such meat. I cannot better express that Legislature than to say that it was *essentially negro*. There was visible but one white man in it; that was the speaker, Mackey. The sergeant-at-arms was a negro; the doorkeeper was a negro; pages and attendants were negroes; the lobby was of negroes, and the atmosphere gave unmistakable evidence of the presence of negroes. Among its members were some colored men of unquestioned ability, of a certain order. They displayed a creditable aptness in parliamentary usage and some facility in forensic debate. Its aggregate, however, was assembled ignorance, grotesque and gross; large numbers of them totally illiterate, unable to read or write; some of them mere boys, indicating that the South Carolina negro is a born politician, and her statesmen are indigenous to the cotton-patch and rice-field. In the hall of representatives they loll in listless indolence, with feet on top of the desks that look like scows upturned on the beach for repairs. Numbers of them were smoking so furiously that if a locomotive had rushed under full head of steam through the hall it would not have sent up a much denser volume of smoke.

In these days of "piping peace" and advanced republican ideas, we hear much of Congress guaranteeing to each State a republican form of government. What a theater is South Carolina for the exercise of this high Federal function. That Legislature is a complete autocracy. One man, the speaker, is the Legislature. He seems to devise all measures; puts before the house what he sees fit, and decides this or that measure carried as he prefers it. Its whole legislation is political and partisan. Its aim and work has been and is to maintain in the State the supremacy of those who live and thrive through the constituent elements of such a body. Not one measure of financial relief for a people prostrate with poverty and taxation was devised. Nothing was done to revive her smitten industries or revitalize her once noble prosperity. Nailed to the cross of proscription are her greatest and best men, who when they cry out for relief get only the vinegar of derision and when they ask for bread they receive only a stone. Her eleemosynary institutions were unprovided for. The deaf, the dumb, the blind, the lunatic, God's afflicted and God's poor, were all left to hunger and perish or be let loose, crying and howling, upon a community already in despair. But care was taken to install Chamberlain and his cabinet under guard of Federal bayonets and turn over for two years more the body-politic and industrial interests of the State to be plucked bare by the swarm of insatiate vultures he was to commission for all the county offices in the State.

No higher evidence of the miseries and woes through which that people have passed in the last decade could be furnished than the boast of the republican party that this Legislature is of a higher character than its predecessors and that Chamberlain's administration is a reformation. That the evils of misgovernment have been in a degree mitigated in the State in the last few years is conceded; for the extremes of poverty, bankruptcy, and degradation incident to a long existing policy which drained the people's resources, mocked their enterprises, emasculated their energies, and blighted their hopes, so stung and quickened the public conscience that even such men as Chamberlain called a halt in the career of ruin. But when the people saw last summer that he, for his personal preferment, coalesced with the political mendicants and audacious thieves who had rioted in the misfortunes of the State, they read his purposes and understood the man. They rose in the might and majesty of honest men, determined to strike one more blow for the redemption and regeneration of the State. What man, with heart to feel or country to love, will blame them? It is the true function of conservatism in government to recognize the lessons of the past, to foresee the future and guard against it. The conflict was a fierce as the prize was great. For the first time in eleven years of suffering and forbearance, the democracy hung out its banner and cried:

Once more unto the breach, dear friends, once more.

This was a mortal offense to radicalism. South Carolina had been first in the war of secession; she had brought down upon her head the curses and maledictions of the Unionists; and a policy which should cause her to repent bitterly of her fatal saturnalia, that should humble her pride and leave her perpetually kneeling like a stricken mother amid "the thick graves of her unreturning dead," pleading for peace and mercy, was deemed as retributive justice by a party which seems to have forgotten Christ's Sermon on the Mount. They thought, if there was one spot on southern soil where their footing was sure, it was South Carolina. They thought they owned the State in fee-simple absolute. For the democrats to contend for participation in its governmental affairs was downright treason and the re-appearance of "red-handed" rebellion. This fact manifested itself at the polls in Charleston and Beaufort Counties, where the negroes declared that that was "republican ground" and no democrat should vote there. This declaration they made good in many instances.

The ignorance and credulity of the negroes all over the State were played upon by their unscrupulous white allies to impress them with the conviction that democratic success meant re-enslavement of the race or such restrictions upon their personal liberties as to interfere with their social privileges, their right of locomotion without passports, and to subject their wives and daughters to the intolerable deprivation of their "hoop-skirts." Hence it is that in the recent campaign and election the negro women were present at the hustings and the polls, armed with clubs, staves, and rice-hooks, jeering and raving like fiends incarnate at every colored man suspected of the offense of voting a ticket that was to tear from their brows the diadem of freedom and from their bodies the ornamental "hoop-skirt." The escape of Tam O'Shanter from the

Warlocks and witches in a dance

at Kirk Alloway was less hazardous than that of a democratic negro who ran the gauntlet of staves, palings, hoe-handles, and rice-hooks of these sable goddesses of liberty.

Hence it is, also, that the evidence discloses the fact that the worst proscription in the State is that of the colored people against their own color. They seem to think it but natural for the white man to vote the democratic ticket, but a sin against the race for any colored man to exercise any freedom of opinion in politics. For him to vote the democratic ticket required a degree of moral courage akin to heroism and martyrdom. He did so at the risk of social ostracism, religious excommunication, or punishment of a brutal severity shocking to humanity. Many of them had determined to trust the government of the State and nation to a change. They had grown weary and sick over promises never fulfilled by the white man who had come among them for office. They felt the impoverishment of labor and the gnawings of increasing want. They saw disorder everywhere and lawlessness unchecked; and they concluded that it was not the sole office and destiny of the enfranchised race to sing peans to the ever-marching soul of John Brown, and give their suffrage to a set of men who care not what becomes of the ship of state so that they save themselves "in the cock-boat of their own fortunes." The white men of South Carolina, too, had discovered the fact which has broken upon the northern republicans like a clap of thunder from a clear sky, that the southern colored man is the natural ally of the southern white man.

Bound together by ties of nativity and those sympathies springing from family associations, the memories of dear old homesteads, they have stopped to counsel together. In the providence of God they find the two races together and see that their entire separation and segregation is a matter more for speculative philosophy than of practical import; that they have a common interest and a common destiny, pleading for peace and a common prosperity; that it is the sublime mission of the white South Carolinian, a splendid type of that seed planted on the American continent by the Cavalier and Huguenot, not to wrong or oppress, or see sink to lower depths of degradation the black man; but by the specific ascendency of the superior race lift the black man up and teach him that there is a better destiny for him than to be made a rod of vengeance, a bone of contention, and a prey to faction.

Wade Hampton caught the inspiration of this idea, and went before the white and colored people of his native State and made an appeal to them to forget all but the common welfare of the State and all its people. These appeals went direct to the hearts of thousands of colored men, who asked as the only condition of their support assurances of justice to their race, and protection against the spirit of violence existing among the colored republicans. This was given. Chamberlain and his coadjutors did not second this beneficent work. He met it by a proclamation disbanding the white rifle clubs, leaving the colored militia organized with guns in hand, and called on the President of the United States to flood the State with Federal soldiery. This had its desired effect. It demoralized the colored democrats by impressing them with the belief that the white democrats were powerless to protect them, and that if they voted with them they would be at the mercy of the incensed colored republicans.

The gregarious nature of these people was stimulated by their orators teaching that the sole mission of the democratic party is to strike down their personal liberty, take away from them the ballot, and remit them to slavery. The effect of this was to make them inaccessible to our orators. This is the explanation of a matter so much complained of by the republicans, that of the white democrats going in force to republican meetings in counties like Edgefield and demanding an equal division of time. I would not, ordinarily, if ever, justify such methods in politics; but there is this extenuation for it there, that it was the only means the democrats had of meeting the republican orators face to face before the colored people and correcting the miserable lies imposed upon their uninformed hearers. Its purpose was not to break up meetings or stifle free speech, for it invoked full, fair, honest discussion. This was the only mode possible for the democrats to reach the colored masses. You cannot judge of this action by applying to it the usages of northern society. There the press is pervasive. The people read, and think, and hear both sides. The press of the South has no access to the colored people. Few of them even can read. They are taught to regard a democratic orator as traveling small-pox. Nine out of ten of them never heard a democratic speech. The studied effort of the white carpet-bagger and scalawag is to insulate the colored men that they alone may enjoy office through their suffrage. Look at Charleston and Beaufort Counties, the mere skeletons of their former self; rich in all the material elements of prosperity, with a soil of inexhaustible fertility, with a climate and surroundings of Arcadian loveliness, fanned by ocean breezes and lulled with the perfumes of perennial flowers. They are now almost Africanized. The black man bestrides them, a very colossus; while the few whites left there "peep about beneath his huge legs, to find themselves dishonorable graves." The South sea-island cotton-fields are measurably untilled, and the productive rice lands are returned to swamps. They are exuberant now in nothing but African loyalty! The voice of a democratic orator on many of their populous islands would be as strange to them as that of the missionary of the cross among the Schaggas of Congo.

There is one colored man in the city of Beaufort named Abram Jenkins, who ought to have a martyr's crown for his heroic fortitude and sufferings for opinion's sake. He had the temerity to run for office on the democratic ticket in that county. At once he became the despised Nazarene among the republican infidels. He was reviled, cursed, threatened by words and anonymous letters; his home was assaulted by night and battered with a storm of brickbats. Amid it all he kept the faith and fought the good fight, for which he was set upon at night by colored ruffians and beaten most brutally. His eyes, nose, mouth, and face were bruised to a mere pulp. He exhibited to the committee the shirt he wore that night. It was the only "bloody shirt" I saw in South Carolina. It was saturated with blood as it spurted from his face under the hammer-strokes of his fiendish assassin. After having been laid up a week "for repairs" he went, yet half blinded, to the civil magistrate of the town to invoke the civil law of the State. His cause was referred to the United States commissioner and the accused was recognized for his appearance before the United States circuit court at Charleston. Jenkins was there to testify before the grand jury when we examined him before our committee. Since we left there Judge LAPHAM, of the committee, brought to me and asked to have incorporated in the testimony the record of the United States court, showing that the grand jury had ignored a true bill. The judge seemed to regard this, I thought, with a spirit of triumph. To me it is a pregnant suggestion. It shows how justice is administered in South Carolina. When it is remembered that Corbin, United States Senator-elect of Chamberlain's black parliament, is the United States prosecuting attorney, that the grand jurors are composed of republican negroes, it is not strange that a true bill was ignored. The true "inwardness," too, of this matter may be yet further understood when it is stated that one Major Stone is the assistant United States attorney at Charleston. He was one of the State board of canvassers which, by omitting certain counties from their canvass, returned the Legislature to elect Chamberlain governor and Corbin United States Senator. It was he who at Charleston "coached" the witnesses for the minority of the committee. He knew of Jenkins's testimony before the committee and recognized the importance of having the grand jury ignore the bill. Therefore, so soon as it was done, this United States court-house clique hastened to have made out, of their own motion, a duly certified copy of the record and forwarded it to their political friend of the committee. So this poor man Jenkins, turned first from the State authorities and then the Federal, is left unvindicated by the law to bottle his wrath and nurse his wounds of body and soul, while his persecutor is lionized as a loyal avenger of recusant negroes.

W. H. Niver, a white citizen of that county, a native of New York, testified before the committee: "I have always voted the republican ticket until this year. I could not stand it any longer." He was, on the day of the election, at the polls, for being a democrat, assaulted and beaten by negroes with fist and club. When asked whether he had made any complaint against, or had had his assailants arrested, he answered, "No; because I would not have got justice. I could not get justice in South Carolina; not down there." The explanation of the truth of this is best illustrated by the following extract from the testimony of Judge Carpenter, a republican judge of one of the Circuits of that State, delivered before the joint committee of Congress a few years ago:

> The juries being composed of colored people, as well as of white, it was difficult to indict anybody. The moment a question of indictment came there would be some difficulty of race about it. I think there was none with the white people, but of course the colored people had a strong predilection for their own race, and they were not very clear in their ideas of the difference between right and wrong. Then, if the parties were indicted, it was very difficult to convict them, and if they were convicted they were very sure to be pardoned. I have known in more than one instance, where a man preferred a charge against a party, the accused was discharged by the grand jury and the accuser indicted for false imprisonment, or something of that sort. In Christ Church Parish four indictments were found that my successor on the bench said were an outrage, and he was a Simon Pure Scott man. Some colored men had been stealing some cattle and the owner had them arrested and taken before a justice of the peace and they were bound over for trial, the proof being very clear. The jury were nearly all colored men and were summoned by the sheriff of my county, a man of very extreme partisan views, Mr. Mackey, son of Dr. Mackey. The jury discharged the prisoners for stealing the cattle and indicted the two young planters for false imprisonment. I have information that it was not a singular case. It has been repeatedly done there. In that case the judge charged the jury that there was no ground at all. (See page 398, report of the committee, second session Forty-second Congress.)

Apropos to this is the tragic history developed before my committee growing out of the case of Peter Johnson, colored. He was an old man, crippled and almost helpless. The white people, as he told me, had been his friends. In want they had fed him; in distress they had counseled him. He determined to vote with them. For so doing he was taken out from his home by his colored neighbors at night and lashed and carved in hellish cruelty with a "bull whip" or rawhide. The trial justice issued his warrant for the arrest of the perpetrators of this outrage. When the constable and his posse made the arrest they were set upon by a band of negroes, a part of one of Chamberlain's militia companies, armed with State guns and bayonets. The prisoners were rescued; two of the posse were shot and frightfully mutilated. One of them was left on the field. The top of his head was shot off; and with a barbarity that would grace the atrocities of the savage butchers of Custer's command, this militia—Chamberlain's conservators of law and guardians of the peace and dignity of the State—took cotton-stalks and dragged out the brains of this poor man, yet warm and almost sentient with thought and life; just as at the massacre of Cainhoy, after shooting down the unarmed and helpless whites, they hacked the bodies, chopped off the arms, and hewed the flesh until the victims almost defied the recognition of family and friends. I have no heart nor language for such recitals. Like Mark Antony—

> I have neither wit, nor words, nor worth,
> Action, nor utterance, nor the power of speech,
> To stir men's blood: I only speak right on;
> I tell you that, which you yourselves do know;
> Show you sweet Cæsar's wounds, poor, poor dumb mouths,
> And bid them speak for me.

On pages 192 of the subcommittee's report, part 3, and following will be found the testimony of a colored man named Peter Jones. The following questions and answers tell their own story and convey their own moral:

> Question. Why did you not vote earlier?
> Answer. Because I was afraid to vote.
> Q. Why were you afraid to vote?
> A. The time of the strike I was taken and whipped and threatened not to vote on that day the way I wished to vote. In the strike they came after me to go. I said, I can't go in the strike, because Mr. Fuller gave me certain wages and I stay with him, because $20 could support me, and for that reason I didn't want to go into the strike, and they said if I don't come in the strike they would hit me a hundred and eighty lashes on the bare skin. They hit me eight or ten, and my wife began to squall, and one fellow cut her across the head and she begged me to "strike," and I did go. I telled them I would vote for General Hampton this time because the way the strike is going on and nobody to govern us and in a mob like that of eight or ten hundred of them and make a man do what they had no right, and the Constitution of the United States didn't allow cowhiding. They said if I vote for Hampton they kill me and so I had to wait until I got a chance to vote. * * * A good many fellows who wanted to vote the way I did, didn't, because they were afraid. I suppose about nineteen or twenty of them. A good many didn't vote at all. * * * After the sheriff go down there they thrashed him.
> Q. How came they to do that?
> A. When the sheriff came out there, Mr. Sams, they telegraphed for him. Wilson, the present sheriff, was off North somewhere, and Mr. Sams came to quell the riot, and these mens of course gathered and said they would not be quelled, because the posse the sheriff had was white mens, and they didn't intend to be quelled; and Mr. Fuller, being the trial justice out there, was along and they turned on him and thrashed him and run him off, and Sams telled them if they didn't behave themselves better than that the United States would have to send troops down there and make them do something and put them under military law. So they run Sams off and gave him five or six hits and thrashed him, and ran the whole posse off, white and colored.

Civil law in the State is deaf and dumb. It does not command respect, because it inspires no confidence. The causes of it are apparent. The great majority of those appointed to administer it lack character and ability. Ignorant, licentious, venal, corrupt, and selfish, the law in their hands is omnipotent only for evil and powerless for good. Everything in the State runs in a political rut. Offices are party bequests. The governor appoints all the civil magistrates and ministerial officers, who are selected as rewards for their fidelity to his political fortunes. Last, though not least, the military arm of the Federal Government has been so repeatedly invoked to interfere in all domestic broils and disturbances that it has virtually emasculated the State government. The vitalizing energy of home rule is gone. Instead of self-governing, the State is either governed from without or left a prey to the worst passions and dispositions of the worst men within her borders. Therefore the people, relieved of that sense of self-dependence which is the inspiration of local self-government, have either relapsed into indifferent despair or total reliance on physical military force. So that, if they swing to and fro over the abysm of anarchy or the maelstrom of mobocracy, it is the logical result of the policy and work of the republican party in the State. It is literally a government of force. It is violative of the fundamental idea of republican institutions. It rests not on the consent of the governed. Its foundations were laid on the yet hot ashes of consuming war. No corner-stone resting upon the granite of the Constitution, cemented with fraud and propped up by bayonets, it is a continuing source of uneasy apprehension, and must, before the sweeping winds of a constantly increasing healthy public sentiment, go down and bury its builders with it.

Under this sense of insecurity and reliance on mere brute force, such a thing as a free lawful election in the State is scarcely possible. Those who control the State regard not its laws.

Article 8, section 3, of her constitution provides that—

It shall be the duty of the General Assembly to provide from time to time for the registration of all electors.

For eight years this mandatory requirement of the fundamental law has remained a dead letter. With a population like hers, so migratory, so lacking in individuality, and so difficult of identification, a registry law is essential to a pure ballot; but the Legislature of the State, always republican, has obstinately refused all petitions and strangled all attempts to enact the necessary law. Superadded to this, the electors are permitted to vote at any precinct in the county. With the polls and the returns in the hands of the governor's appointees there is no limit to the voting capacity of a South Carolina patriot. The election law of the State requires that the voting shall be by ballot; that the ballot shall be folded and placed in the box by the voter. The evident object of the law is to secure a free expression of the voter's will, by enabling him to cast a secret ballot. The evidence shows that in Charleston and Beaufort Counties this law was totally disregarded. The republican tickets were printed in red ink, with a flaming "spread eagle" at the top, so that when the ballot was folded its political character was plainly discernible to the crowds of negroes that invariably thronged the polls. The voter, too, was required to hold up to the view of the crowd his ballot in his hand while taking the voter's oath. The only exception to this blood-red ticket was in the city of Charleston, where the republicans substituted a ticket with a crowing cock on the back and a representation of a hustings meeting with a speaker rampant, the artillery booming, and the crowd shouting. This ticket should be preserved in the archives of Congress as evidence of what a secret ballot means in republican South Carolina. Old chanticleer in life-size, on the back of it, is I suppose awaking the echoes of the precinct every time a colored voter tallied one for Hayes by crowing out "Loi-al-i-te!" And the scene below it, as large as a patent-medicine sign, is significant. It represents, I assume, Tim Hurley, one of the Hayes electors, far above the ignoble crowd, telling the "cullud gemmen" to send A. P. Ford and all the other sixteen negroes to the Legislature, and the good olden times again would come, of Greeneville and Columbia Railroad "slush." The classic motto over the Gatling gun, (the great factor in recent Southern politics,) "Let her bang, ye heroes; victory is ours!" typifies, I suppose, the triumph of the military over the civil authority. The apparent unbounded enthusiasm of the motley crew beneath and around him is born, I imagine, of the anticipated return, in case of victory, of those days of golden harvests described in the report of the joint congressional committee, made in 1872, touching the affairs of South Carolina, as follows:

The journals of the last session of the Legislature show that a joint resolution was adopted to adjourn on the 7th day of March last. The proceedings for several weeks prior to that time show great activity and industry in the passage of private bills, to get through by the day fixed for adjournment. In the house, particularly, this was so, holding frequent night sessions as late as the hour of midnight. The journal of the house shows that on the 4th day of March, only three days prior to the final adjournment, the house took a recess from ten o'clock in the morning to seven in the evening. One F. I. Moses, jr., from Brooklyn, New York, was the speaker of the house. There was a negro member of the house by the name of Whipper, who was the proprietor of fast horses. Moses and Whipper had made up a match race for $1,000 a side. The race was fixed to come off on the said 4th day of March; and the explanation of the recess on that day is, that the house adjourned to attend this horse-race. The race was run; and the speaker lost the bet of $1,000. Three days afterward, on the day of final adjournment, and the very last thing done in the house, as shown by the journal, was a motion made by Whipper, "That a gratuity of $1,000 be voted to the speaker of this house, for the dignity and ability with which he has presided over its deliberations." The motion was passed by a large majority.

This seems to have been the founding of a custom which has since been religiously observed by every succeeding Legislature. The condition of disorder and lawlessness, born of republican rule in the State, was conspicuous at the late election. The polls were frequented and in some instances surrounded by negro militia, armed with guns and bludgeons. They drilled and paraded at the ballot-box and exercised a military surveillance over the ballot. No colored man could cast a democratic ballot with impunity. Men were threatened, assaulted, and beaten, and their tickets taken from them, and there was no one in authority to protect them. There was not disclosed in all the evidence taken in these counties of Charleston and Beaufort one single instance of violence or intimidation offered by any democrat to any republican at the polls, and I aver it as my most solemn judgment that there was scarcely a republican ballot placed in the box at any of the precincts investigated by the subcommittee of which I was a member which in a community where law and morality were respected and enforced would not have been cast out as a fraud. They were purposely printed so as not to be a secret ballot. They were designed to require every black hand placing a ballot in the box to display the bloody talons of the loyal eagle.

Though it must be conceded that on the face of the papers as made out by Chamberlain's election commissioners the electoral vote of the State went for Hayes and Wheeler, no man will ever know what the real vote of the State was, nor will it be possible in any future election under the present election system of the State to ascertain the real vote at any election. Of one thing, however, I am well assured from the evidence, and that is had the ballot-box been free and honest the State would have gone as decisively and overwhelmingly for Tilden as it did for Hampton.

The republican party have much to say about the "color line" in South Carolina. To whatever extent it does exist, it is the result of the wicked, mad, and selfish policy of that party. The white people of the State are almost a unit, not through personal antagonism to the colored race, but because they are heart-sick of the *personnel* and *morale* of republican administration and domination. And if at times, here and there, there have been acts of violence and wrong committed by white men, educated or uneducated, let us be wise enough to comprehend the causes and just enough, without defending the acts, to admit their mitigating circumstances. Bad government ever has and ever will produce bad men and public disorder. It gave a Robin Hood to history and to romance. It scourged Italy with the Carbonari, moved to "vengeance for the lamb torn by the wolf;" and gave France the Free Companions, as the legitimate fruit of the government of Louis XI. The Moss Troopers, who cavorted over England and again appeared in Scotland, were but the brood of Norman oppression and the tyranny of the English crown. If our republican friends would see disappear the much dreaded "red shirt" in political campaigns in South Carolina, and the rifle and revolver as political factors, let them disband their negro militia, withdraw from office the miserable adventurer and lazzaroni, who out of the public treasury exchange their rags for rich apparel and then banish from public confidence the political bandits who have popularized robbery, plunder, and bribery.

There is scarcely a white man in South Carolina to-day whose prosperity rests upon low taxes and honest industry who sustains Chamberlain. He himself, before the dazzling prize of chief magistracy flitted before his unsteady eye, said in a letter designed for public attention that—

No man of common prudence, or who was even slightly familiar with the working of social forces, could fail to see that the elements which went to compose the now dominant party (of South Carolina) were not of the kind which produce public virtue and honor, or which could long secure even public order and peace.

And he characterized the republican prrty of the State as composed of "equal parts of ignorance and rapacity." What they were then they are to-day. His leadership has neither changed the component parts, nor elevated their moral or intellectual tone. Chamberlain's character and qualities bring to mind what Lord Bacon said, "*Scientia tanquam angeli alati, cupiditatibus vero tanquam serpentes qui humi reptant.*" The difference between the soaring angel and the creeping serpent is just the difference between Chamberlain, a citizen, joining in the then popular clamor against Moses, the infamous governor, and Chamberlain, governor, now defending and living by the agencies that enabled Moses to commit his robberies of the State.

Barring a few intervals of apparent disgust on his part, no man has catered more to the worst prejudices of the black people of that State than he. And it is such conduct on the part of selfish, calculating, cold, intellectual men that has borne such a harvest of bitter fruit. It has almost reproduced in South Carolina Warren Hastings's Carnatic of Hyder Ali. The sweep of the civil bandit and the despoiling of the political caitiffs have left a desolating track as black as the cinders of war. It has loaded the State with a bonded debt and burdened property with such consuming taxes that "you may buy land now as cheap as stinking mackerel." It has bred distrust between blacks and whites and set the blacks in deadly hostility against the land-owners. Like all such madness it ran into extremes. The white man sought to make a Poland there. The black man said he preferred a Hayti. Recognizing his numerical strength he concluded to set up for himself. He wants no white immigrant, for he distrusts his fealty and suspects his integrity. This fact cropped out in the Missionary Record, published at Charleston, edited by Rev. R. H.

Cain, colored, elected to the Forty-fifth Congress from that district. I quote:

The time has come for every honest man in the republican party to assert his liberty and declare his opposition to a class of men who have proposed to rule the colored people of this State with a rod of iron, of damnable corruption. For the last two years a certain set of unmitigated scoundrels (carpet-baggers) have dictated to the masses of voters of this State what they should do, what they should think, and how they should act. There has been a certain class who have been picked up out of the prisons and gutters of poverty coming to this State, begging their passage, and lifting contributions to start them in business, who have since grown so proud and arrogant that they now wish to dictate to the whole people what their duties are and what they should think.

This feeling of the blacks extends in some degree toward the mulatto, which was developed in the testimony of Miller, of Beaufort County, a mulatto and member of the Mackey legislature. In a public speech he paraded his African lineage and expressed his contempt of his white blood because it came not through lawful wedlock. There is no preferment in the State without the African aroma. The white man who aspires to Congress with any hope must either trace in his heraldic delineations the ebony hues of the Congo, or form a matrimonial alliance with the house of Ham, or swing in the mazes of the ball-room the dusky maidens, and take into his law office none but colored students!

This predominance in politics of the race has borne other fruit. The white demagogue and ambitious colored politician in their rivalry for colored votes cajoled the Legislature into an appropriation of $700,000 to buy up for distribution among the blacks "lands for the landless." This was the fulfillment of the old promise of a mule and forty acres of land. It was the opportunity of the patriotic carpet-bagger, like Chamberlain, "who had gone South with his sword and remained after the war." This money went into the evolutions of the "ring," from which it never emerged. It went to the purchase of swamps like "Hell-hole," which cost $26,000 but was booked to the State at $120,000. It has bred a sentimental philanthropy like that which caused the Legislature to take control of the old Columbia College, the *alma mater* of the brightest geniuses and ripest scholars of the Augustan age of southern literature, and convert it into a model automatic manufactory for colored lawyers, lawgivers, and statesmen, each one of whom receives a bonus of $20 a month from the State treasury during his term of years in the college. I looked in upon its commencement exercises while there. I saw but one white man in the classes. He was from Canada, a student of divinity, a genuine Johnny Bull, like Falstaff, "so fat-witted with drinking of old sack and unbuttoning after supper" as to suggest that he was the probable offspring of the flaming-nosed Stiggins, in Pickwick, whose unction so disgusted the senior Weller.

These allusions will serve to illustrate the only real "color line" of the South. It is a policy of exclusiveness founded in mere party greed, which must ultimately return to plague its inventors. The God of nature and the forces of an advancing public sentiment set their faces against it. That black legislature is the only one to-day, lest it be in Louisiana, on the Christian earth which is the representative of a white constituency. How can it endure in this age and land—the professed exponent of an advanced type of civilization? South Carolina can never be Africanized. It belongs to the constellation of the Federal Union. It cannot escape the light. The sunshine will gleam over the waste of darkness. The narrow bigot and ranting fanatic, who are but snails that see only the walls of their shells and think it the only palace of the great universe, may like ghouls loiter amid the graveyards of our unhappy war and seek to devour the white children of the old South Carolinians because their fathers taught secession. You may hold them under a government for a time which is a perpetual reminder and menace, but you can never unman those people; conscience, a sense of right, and a love of freedom are still theirs. The busy actors in the olden strife have gone to their graves and the old issues died with them. The monuments of her great men are thick. On them are inscribed the fame of their intellectual achievements. They recount the triumphs of genius and perpetuate the feats of heroes, jurists, orators, and statesmen. Her young men, in whose veins courses the blood of the Cavalier, the Huguenot, and the Pilgrim, walk by them and feel the kindling inspiration. They wish to emulate their greatness and prove that ambition and patriotism belong to no section. Shall the rewards of virtue and culture be denied them? Shall the dark frown of the Federal Government now upon them never be irradiated by a smile? Shall the guns of Fort Sumter continue to point inland toward Charleston, or be turned with our commerce out to sea? And in the flag floating from its historic ramparts will the time ever again come when every citizen shall see only the symbols of justice, equality, and union? Surely it has been dishonored by base uses long enough. The army that should follow it ever and everywhere as the beckoning inspiration of patriotism has in later years marched under it so often as the mere executioner of the will of the politician, that its members, rank and file, blush with shame and hesitate longer to obey. For they see that on the ruins of States overthrown by them have arisen governments of monstrous iniquity, whose very existence is a fraud and national reproach; that, robber governments as they are, they are made the instruments first of plundering the people of their homes and estates and then of their suffrage, and finally culminating in subjecting the American people to the hazard and infamy of having imposed upon them for President a man whose title is grounded and steeped in fraud and perjury.

The Election in Florida.

SPEECH OF HON. W. A. J. SPARKS,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

February 21, 1877,

On the decision of the electoral commission in the Florida case.

Mr. SPARKS. Mr. Speaker, I propose to detain the House but a few moments in giving expression to the views entertained by me on the reported decision of the electoral commission on the conflicting certificates of the electoral vote of the State of Florida, which is now before us.

That decision, sir, has startled this whole country from Maine to California. On the one hand it has drawn to it the applause and approbation of one class of political partisans, and on the other hand it has been received by another class with unqualified condemnation and met with the severest censure.

It will therefore hardly be doubted by impartial men that the better course in regard to it is, so far as we can with the influences surrounding us, and the prejudices that we find it difficult to restrain, to apply to it the tests of an honest, fair criticism. And this it is my purpose as well as my hope now to do.

Sir, it is beyond all question believed by a large majority of the people of the whole country that the electors represented in certificate No. 1, known as the Hayes electors, (and which it is decided by the commission should be counted as the electoral vote of the State of Florida,) were *not* elected by the vote of the people of that State; but that they were repudiated at the polls, and that their opponents, the gentlemen known as the Tilden electors, did receive a majority of the votes and were elected. And it is insisted that this clearly appears from the certified vote as sent up by the officials of the various counties of the State, and now on file in the office of the secretary of state.

And it is also insisted that there is no law in that State that authorizes the board of State canvassers to *subtract* from or *add* to that vote.

Then if it be a fact that a majority of the votes cast and duly certified by the county officials to the secretary of state or to the canvassing board were cast for the Tilden electors and that the laws of Florida do not warrant the board to *take from* or *add* to the vote thus certified, it is palpably plain that those gentlemen should have received certificates of election and have cast the electoral vote.

But to prevent this it is charged that the majority of the canvassing board, being bitter partisans and in opposition to the election of these gentlemen, conspiring with the *then* governor of the State, (also a bitter partisan and their opponent,) so manipulated the votes as to defraud the true electors of their certificates and to install other men (the Hayes electors) into office, and that through that fraud the electoral vote of the State was cast contrary to the will of the majority of voters, duly expressed and certified by the county officials. In other words, that seven conspirators, consisting of the republican governor, two members of the canvassing board, and the four republican candidates for electors, (one of whom was a convicted felon,) through fraud and in opposition to the expressed will of the people at the ballot-box, have usurped the offices of electors and attempted thereby to defraud the people of a State with respect to their voice in the election of President and Vice-President of the United States.

Now, sir, this is the charge; and I am warranted in saying that it is limpingly, if at all denied; and, if denied, it is of easy solution, the points in it being very few and readily and easily proven by a resort to the facts.

It is a certain fact that the State of Florida has a right to an electoral voice in the election of President and Vice-President; and if a voice, it is *its own* voice, given by a majority of *its* legal voters at the ballot-box, and *not* the voice of a scoundrelly returning board controlled by two characterless rascals, aided by a few other scoundrels equally as characterless.

Now, sir, the inquiries necessarily arise: This fraud committed, how is it to be remedied? or is there no remedy? The first inquiry is an interesting and grave one, for it involves high interests to the people, not only of a sovereign State, but to the forty-five millions of people of this great Republic. The second inquiry, it seems to me, is not only a negation of our proud boast of advancing civilization and freedom, but is an insult to the spirit of our free institutions, which are, as we claim, based upon justice and regulated by law.

Sir, it is now insisted by a class of statesmen who have quite recently become converts to the doctrine of State sovereignty, that Congress has no power to investigate and extirpate this fraud, for the reason that electors are State officers and under the control of State authority.

Now, sir, with me that argument has such force as to demand serious consideration, for the doctrine of local self-government and of State sovereignty is a dogma of political faith with me that came *not* of yesterday to end to-morrow, but is a permanent and lasting conviction, and, within the limits and as restrained by the Federal Constitution, is in my judgment the pivotal point of our democratic theory of government. But the offices of President and Vice-President are for the whole Union and are national. The Constitution expressly

provides for electors for these offices, and while it leaves their appointment to the States it defines the department of their government that directs the manner of their election, fixes their number, and prescribes the qualifications of the persons to be elected. Now, with this provision of the Constitution before us, can it reasonably be maintained that Congress has no power to investigate as to the fraudulent electoral vote of a State and to correct or defeat it? Have we not, sir, in this identical case acted in that direction and attempted to do this? If not, what meaning can be attached to the investigating committees sent by both branches of this Congress at great expense into the State of Florida during the present session?

But, sir, if there be no power in Congress to remedy this monstrous wrong, then where is it vested? The authority to do this must be lodged somewhere or our Government is a cheat, a fraud, or a failure.

If this power be not in Congress, is it in the State? It must be in one or the other. If the State, let us examine the record and see what the State of Florida has done to correct and relieve herself from this fraud upon the sovereign rights of her citizens.

When it became apparent that this fraud would be perpetrated, an honest official and member of the canvassing board certified (informally by necessity) but certified to the election of the true electors. They met at the time and place prescribed by law and cast the electoral vote of the State truly according to the will of the majority as shown by the certified votes, and this, together with a certified statement of the true votes as certified by the county officials of all the counties, is forwarded to the President of the Senate and is now before us, and constitutes what is mentioned as Certificate No. 2, being the returns of the Tilden electors certified by Attorney-General Cocke.

Now let us analyze these two certificates and judge between them. Certificate No. 1 (the Hayes electors) is a falsehood and a fraud formally certified to. Certificate No. 2 (Tilden electors) is the truth and the honest vote informally certified. Now, must we stand by the falsehood and fraud and reject the truth and honest vote? or shall we stamp the formally certified falsehood under foot and uphold the truth, though not credited by formal attestation? But this is not all, in fact is but a small part of what the State of Florida has done to shield itself from this outrage.

As soon as it became known that this wrong was to be done, proceedings were instituted in the State courts having competent jurisdiction by *quo warranto* against the fraudulent electors prior to the casting of the vote by them, and which proceedings thus commenced were prosecuted as speedily as possible to a final judgment, determining the illegality of their pretended claims as electors and establishing the legality of the Tilden electors. And it stands now upon the judicial records of that State as an unappealed and final judgment in the premises, and is by duly certified copy before us accompanying one of the certificates of returns.

But again, the Legislature of Florida after the date when the electoral votes should have been counted, but before the final count by Congress, (without which they are non-effective,) passed a law, which was duly approved, providing for a *recount* of the certified votes as they were in the secretary of state's office, with the view of preventing this fraud. The *recount* was made, and the truly elected electors certified to by the legal board. *They* met and cast the votes and certified the same under the governor's certificate and seal of State, in all respects formal and correct save only that it was done subsequently to the day on which the vote should have been cast, and which was clearly a necessity in correcting the fraud. And this Certificate No. 3, giving the true votes by the electors duly and honestly appointed, and in all respects formally correct as certified by the governor under the seal of State, is now also before us claiming our recognition.

Being a correction of the wrong done by these Hayes electors, it is of necessity of later date than that wrong. It is admitted by the commission that the law was not *ex post facto;* and it is also admitted that the recount was orderly done and completed in all its parts, the true certificates given to the electors elected, their votes cast, and duly and formally certified by the governor, under the seal of State, and forwarded to and placed in the hands of the President of the Senate some time before this present count commenced in the presence of the two Houses under the Constitution.

Now, shall this formal certificate of the honest vote of the elected electors be received and counted, though lately received? or shall the formal certificate of falsehood and fraud received earlier be counted? In other words, shall falsehood win because it is early, and truth be debarred admittance because of a delay in making an earlier appearance on account of the stumbling-blocks that falsehood has thrown in its way?

These, sir, appear to me to be questions of vital import and present this case in its true light, stripped of all verbiage and quibbling technicalities.

The high commission have decided that Congress *cannot* look behind the returns whatever of fraud may be reeking in the background; and not only that Congress *cannot* go behind them, but they have in effect decided that the State of Florida is now and ever has been powerless to correct this fraud; for, as I have attempted to show, *that* State has exhausted its powers in all its departments, *executive, legislative,* and *judicial,* to arrest this monstrous wrong. Congress through its committees has also exhausted all of its powers in the same direction. And thus, according to that decision, all efforts have proved unavailing; and fraud intrenched is impregnable, and, despite all assaults, comes out triumphant.

Shall we, sir, the immediate representatives of the people, sanction it? For one I *cannot* and *will* not. And I take occasion here to warn the leaders of that party, attempting to obtain a triumph through means like this, that the retributive justice of a long-suffering and patient people will certainly come; and when it comes it will be after the fashion of no petty quibblings nor technical evasions, but, as the whirlwind and the avalanche, driving all before it. Falsehood and fraud will then be uprooted and demolished, and truth and justice will be respected.

Pacific Railroad Acts.

SPEECH OF HON. J. B. GORDON,

OF GEORGIA,

IN THE SENATE OF THE UNITED STATES,

February 7, 1877.

The Senate having under consideration Senate bill No. 984—

Mr. GORDON said,

Mr. PRESIDENT: I thank the Senate for its courtesy in refusing to force a vote upon this question, of so much importance to the country, until, as the mover of one of the bills before us, I could be heard. I am still physically disqualified for the task before me, but I shall not ask the Senate to longer delay a vote upon the question after I have presented some of the considerations which influence my action, and which ought to decide, I think, the course of the Senate.

The bill which I have had the honor to introduce, and which has been approved by the Railroad Committee, I believe to be not only more in consonance with the ends of justice to all parties concerned, and more consistent with the terms of contract between the Government and the railroad companies, but also more certain than the bill of the Judiciary Committee to produce the great result which we all have in view, namely, to protect the public Treasury against loss.

There are three things connected with this subject about which I think a majority of the Senate will be agreed.

First, that the prime, controlling motive of Congress in granting Government aid to the Union and Central Pacific Railroads was to secure the construction and thereafter the use of the roads for the benefit of the Government itself.

Second, that these companies, having accepted this aid from the Government, were bound not only to build the roads within the time specified and according to the contract, and furnish the Government thereafter with cheap, prompt, and abundant transportation for its supplies, but also to provide means to meet all the obligations the Government had assumed on their account.

Third, that it is the duty of Congress to enforce the contract in respect to construction and transportation, and also to compel these companies to provide the means to meet all their obligations to Government by the shortest and surest processes compatible with the contract and the good faith of the Government.

Upon these three points a large majority of the Senate is doubtless in accord, the only question being how shall we arrive at the desideratum last named. We must secure the money from these roads; but we must do this in accordance with the contract and not outside of it. No temptation will induce me to travel outside of the contract we have made with them in order to secure concessions even for the pecuniary advantage of the Government. I view with unfeigned alarm any proposed legislation of an extraconstitutional character or in any degree violative of vested rights. The sanctity of contracts and the restraints of written governmental obligations, whether as agreements, constitutions, or laws, must remain inviolate, or a republic of law will speedily become a government of force. I propose, so far as I may, to exact of these companies a compliance with all their obligations; but outside of the contract which Congress has made I will never go.

The contract in a nutshell was this: The Government was to issue in round numbers to the two companies mentioned $55,000,000 in bonds to aid in the construction of a great trunk line of rail-way from near the Missouri River, across the plains, through the passes of the Rocky Mountains, to the Pacific Ocean. The companies accepting this subsidy were to construct the road, keep it in repair, hold it always subject to the use and benefit of the Government in peace and in war, and under the first law of 1862 were to give the Government a first mortgage upon the roads and to pay the bonds issued for their benefit by 5 per cent. of the net earnings and all of the transportation account against the Government. In 1864 it was discovered that capital could not be enlisted in the enterprise under the provisions of the law of 1862. Congress therefore, deciding that these roads should be constructed, so amended the act of 1862 as to make the Government lien only a second mortgage, and required payment of the bonds by the 5 per cent. of net earnings and *one-half* of the transportation account against the Government, instead of the whole of it as was required by the law of 1862.

All will agree that this is the contract briefly stated.

A careful analysis of the debates upon both the original bill and the amendments thereto demonstrates that there were three classes who supported those measures. The first was a very large, very intelligent, and very respectable class, who believed that the national

necessity for a great highway to the Pacific coast was so imperative in 1862-'64 that the Government would be justified in donating to these roads every dollar of bonds required to aid them. Another class, unwilling to donate the bonds, were ready to take the risk of their loss in order to secure for the use of the Government a transcontinental railway with its attendant advantages, political, industrial, social, commercial. But there was a third class, a smaller class, who anxious to witness the consummation of this truly gigantic enterprise, eager to see the Government clothed with the additional privileges, power, prestige, and glory which the accomplishment of this great purpose would bring to it, were yet unwilling to issue any of the Government's obligations in aid of these roads unless assured that the companies accepting them could and would build the roads according to the contract, and could and would provide for the payment of the bonds and the interest at their maturity.

While I have no criticisms to offer upon the first two classes who supported these measures, I must admit that my sympathies run strongly with the third class. The object of the bill which I have had the honor to introduce is not to satisfy those of the first class who, like Senator Wilson, believed that the construction of these roads would justify the absolute expenditure by the Government itself of all the money that it would require to construct them, and that the Government would be abundantly paid from a thousand other sources. It is not to satisfy the second class, who, hoping, yet voted for the measures doubting whether these roads ever could or ever would pay the bonds issued in their interest. But the bill is intended to meet and, as I think, will meet the requirements and justify the hopes and the anticipations of the third class, who voted to grant the aid with the assurance that the bonds would be paid by the roads.

I assume, Mr. President, that every Senator is, as he ought to be, anxious to guard both the money and the honor of this Government. If I could be convinced that the bill introduced by the Judiciary Committee accomplished both of these ends, no man upon this floor would more earnestly support it than myself. But, sir, will such be its results? It might save the Government's money, but would it not, if it became a law, violate the pledges of the Government made to these her citizens? I say it *might* save the Government's money. I use the qualifying word might because I propose to show in the progress of my remarks that it is capitally doubtful whether it even accomplishes this purpose, while the bill reported from the Railroad Committee secures the Government against the loss of her bonds or the violation of her pledges.

Let us examine these two bills with reference, first, to their provisions for saving the money to the Government. What are to be the results of the adoption of the bill introduced by the Judiciary Committee? The first and most certain result is a lawsuit, the end of which no man can predict. I say a lawsuit, because we have positive information that the Judiciary Committee bill will be resisted in the courts; but if we had no such information, we should know the fact; for standing as these companies do upon the decision of the Supreme Court recently rendered, standing upon the definitions of "net earnings"—which, by the way, when boiled down to the last analysis, constitute nearly all there is in the judiciary bill for the protection of the Government's Treasury—standing upon the definition of net earnings as given by lexicographers and by the courts; standing upon the contract itself, interpreted not only according to the text of the law, but by the expressed opinions of the legislators who made it—standing upon these, what man of sense doubts that these railroads, in their own interests and the interest of their bonded creditors, will resist this bill of the Judiciary Committee to their utmost power in the courts?

Therefore, I say the first result of the judiciary bill will be a lawsuit; and who of us can tell when or how such a lawsuit is to end?

My strength will not permit me, and I do not know that it is necessary, to go into the discussion of the legal questions involved in this controversy. It is not necessary to inquire whether Congress has the power under the amended act to alter and amend its original grants *ad libitum*. It is not necessary to inquire whether the courts would construe the words "alter, amend, or repeal" in the amended act as limited by the objects for which they were introduced in the original act. I do not care to inquire now as to the vested rights of third parties under the original act of 1862, nor how far the courts would be controlled by these vested rights in their judgment as to the constitutional power of Congress over this question. It is enough for me to know that the bill of the Judiciary Committee involves litigation, long, tedious, doubtful, expensive. It is enough to know that of all the decisions recited in support of the position assumed by the Judiciary Committee, I believe nearly one hundred and fifty in number, not one of them is applicable to the case before us. So far as I am able to ascertain, and I think I am correct, every one of those decisions was rendered in cases where a grant was made for the benefit of the corporators or of some interest to be affected through the corporators, and not as in this case, for the benefit of the grantor, the State, or the Government. On the other hand, a bill is presented which avoids litigation, which, as we are informed, the railroad companies will accept, thus settling this vexed question which has consumed so much of the time of Congress, and securing the payment by the roads of the bonds and interest.

Whatever may be said about the constitutionality of the judiciary bill, it is certain, I think, that some of its provisions violate the contract made with these roads. The first section, as was so ably shown by the distinguished Senator from New York [Mr. CONKLING] on yesterday, undertakes to define what net earnings are, and then proceeds upon this unwarrantable definition to demand what the contract does not demand. What are net earnings? The Judiciary Committee say they constitute all the receipts of the road, less "the necessary and actual expenses of operating the same and keeping the same in a state of repair." Let us see if that be a correct definition. What does Webster say net earnings are? Net earnings is a compound word and is not to be found, but "net" is defined to be "clear of all charges and deductions." Clear of charges for the running expenses alone? Is that the meaning? Not at all, sir. Clear of *all* charges. Clear of charges for interest upon the bonded debt, clear of charges for whatever floating debt may have accrued and become due at the time; clear of these and of all charges upon the roads for running expenses as well. That, sir, is the definition of net earnings.

What would railroad men, railroad experts, what would merchants, what would men of every class of business, say to this definition of the Judiciary Committee? What does my friend upon my left say? I doubt if there be a railroad man upon this floor who would agree that the definition of the Judiciary Committee is a correct one. I call upon my friend from New Jersey [Mr. RANDOLPH] to bear me out in this assertion, who is a railroad man, and my friend from West Virginia, [Mr. DAVIS.]

Mr. RANDOLPH. If I am to answer the Senator from Georgia, I should, I think, disagree with his definition of net earnings. I have not understood net earnings to be exactly what he defines them. I was waiting to hear how much he explained the term to my satisfaction. I should like to have the meaning clearly stated by my friend from Georgia.

Mr. GORDON. Very well. What I mean to say is this, that when you undertake to ascertain how much money railroad men or any other class of men have made upon their investment, especially upon borrowed capital, you take their receipts and deduct therefrom the cost of running the business, and then the further deduction is to be made of the interest upon the borrowed capital, and further still all expenditures for wear and tear in the conduct of the business, before you reach the result—net earnings.

Mr. WRIGHT. Will the Senator from Georgia allow me to ask him a question there?

Mr. GORDON. Yes, sir.

Mr. WRIGHT. Let me put a case. Suppose that this company instead of being debtors had their funds so increased that they had money and had invested it and were receiving interest upon their money, would this be taken into consideration in the matter of net earnings? Suppose instead of being debtors they should be creditors and have bonds outstanding in their favor upon which they were drawing interest, would that be taken into the account in considering net earnings?

Mr. GORDON. That is not a supposable case at all. These railroads did not have money. They undertook, under the contract of 1862, to get money with the Government holding a first-mortgage bond upon those roads. Everybody knows who knows the history of this case at all that they utterly failed. There was not one dollar of capital in this country or any other country that could be induced to go into the enterprise under those circumstances.

Suppose the Judiciary Committee to be right in their interpretation; suppose that net earnings would be held in a litigated case between these companies and the Government to mean their entire gross receipts less only their running expenses, what would then be the result? I undertake to say that the companies would become bankrupt under it, and that the Government would not only lose the interest but the last dollar of the indebtedness. There are seventy millions of outstanding bonded debt upon these roads in addition to the debt due the Government. The Government holds a mortgage but upon eighteen hundred and forty or eighteen hundred and sixty miles of this road, and a second mortgage at that. Suppose net earnings are correctly defined by the Judiciary Committee, and suppose instead of 5 per cent., as the law has prescribed, the Government requires of them 25 per cent., where is the railroad in this country similarly situated that could stand such a drain upon its resources for five years? The conflict in this case would be inevitable between the original first bondholders and the Government as a second-mortgage bondholder. And who does not know in such a contest, with seventy millions of this bonded debt hanging over these eighteen hundred miles of road, that net earnings, Government bonds, Government interest, and everything else would be swept away.

But what would the net earnings amount to even at 25 per cent., construing the net earnings to mean what I believe the courts have held and will forever hold they do mean? What would the 25 per cent. of net earnings amount to? If net earnings mean what I have defined them, there would be no improvement over the present law. I wish to ask any Senator who favors the judiciary bill what security has the Government that net earnings will amount to the interest upon these bonds five, ten, or twenty years hence? Who knows what is to happen in the future? Can you tell, sir? Can any Senator upon this floor predict what the net earnings of this great line of railroad will amount to when competing lines to the Pacific shall have been finished; when the Northern Pacific and the Southern or Texas Pacific shall have been completed, and when we shall have a water way across the isthmus, reducing freight to a point possibly

below the actual cost to railroads. Is it sensible for the Government to lean upon such a contingency? But besides, suppose no competing lines are built, who is to guard the receipts of these roads against undue expenditures? Who is to prevent these corporations from so conducting their business as to absorb every dollar of their receipts? Who is to prevent these corporations under their charters from increasing their employés until their list shall be as long as the list of their stockholders? Who is to regulate the salaries that are to be paid, or the number of side-tracks that are to be built? To my mind there never has been introduced into this Congress a bill more indefinite, more uncertain as to its results, and more liable to utterly deceive us and defeat the great object we have in view. I do not charge that these roads would thus attempt to employ long lists of agents who might be their stockholders or parties interested in the corporations. I do not charge that large salaries are to be paid so as to consume the receipts, and thus defraud the Government. O, no, sir; far be it from me to make such a charge; but I insist that a bill which proceeds upon such a basis, offers such inducements, and presents such temptations is wrong in principle and ought not to pass.

Mr. RANDOLPH. If Congress has the right to alter or amend the charter of this company, it certainly will have the right in the contingency of which the Senator from Georgia is speaking to protect itself by additional legislation against any such danger as he suggests. As to the managers of the corporation hereafter being stockholders, I assume that the courts will step in and protect the Government. I think the Senator in making the argument does an injustice to those who are now managing and who may hereafter manage the railroad. I have no idea that the managers could ever be brought to any such iniquity as he suggests in his view of the case.

Mr. GORDON. I distinctly disclaimed in my remarks making any such charge. I am attacking the bill upon its principle. Undoubtedly the Senator is correct. If Congress can interfere *ad libitum*, if we can alter and amend this contract session after session, bring these roads into Congress and try them year after year, if we can impose regulations, abrogate contracts, or violate stipulations as we please, undoubtedly we could say that they should pay their president only a thousand dollars a year; that they should only run one train a week; that they should employ one conductor to manage two trains, if such an absurdity can be supposed. Undoubtedly we can do all this; but I apprehend that it is not the purpose of the Congress nor of the country to take charge of these railroads and manage them as a Government concern. It is with a view to rid these companies of the trouble we give them and to get rid of the trouble they are giving us that I want to have a settlement, definite, final, which will pay the debt and save both our credit and our honor.

I have already shown that there are seventy millions of outstanding first-mortgage bonds over these roads, and have expressed the belief, for which I have given cogent reasons, that if the net earnings are to be defined as the Judiciary Committee defines them, and we are to require 25 per cent. of that sum paid in annually, these roads must become bankrupt. Why, sir, some of them are already bankrupt. Some of these roads are in the hands of a receiver now. Sir, with such obligations as they have to meet, with such a bonded debt over them, for one I shall never consent to jeopardize the interest of this Government by relying upon any such feeble probability as net earnings.

I said there were but eight hundred and odd miles of the Central Pacific road upon which the Government had a mortgage. By the bill reported from the Railroad Committee, and I call the attention of the Senate to that point especially, we have pledged, in order to secure the Government against loss, the income from thirteen hundred miles of road. To four hundred and odd miles of this road the Government has never given a dollar. I am discussing the possibilities of getting this money secured to the Government of the United States under the provisions of these two bills. According to the calculation of men far better versed in figures than myself, according to the ablest actuaries, the provisions of the bill reported by the Committee on Railroads will meet all the indebtedness and interest assumed by the Government and half a million over.

But suppose I am mistaken in that. Suppose the railroad committee is mistaken, and the actuaries are mistaken; what then? Does the bill provide no provision for such a contingency? Are we left without resource? Is there a remedy? Yes, Mr. President, a remedy, prompt, direct, ample. What is it? Here it is. Whenever it shall be discovered that the annual payments with interest are insufficient to meet these bonds at the time specified in the bill, then the amount shall be increased. How much? Half a million a year? A million a year? Increased until it shall be sufficient. What could be simpler; what more emphatic; what could guarantee more absolute protection to the Treasury of the United States?

No, Mr. President, whatever may be said about ambiguity of or probable lawsuits under the Judiciary Committee bill, there is no ambiguity or uncertainty about this. It is plain, direct, and easily enforced.

Let me now recapitulate in one sentence. The Judiciary Committee bill attempts to define in the first place the meaning of "net earnings," about which definition there is great doubt. It provides that instead of 5 per cent., as the law requires, we shall exact 25 per cent. of the net earnings so defined, about the right of which there is also a very grave doubt. It also provides that instead of one-half of the amount for transportation as contemplated by the law we shall exact all. It is capitally doubtful whether Congress has the power to make such exaction. It provides, when brought to its last analysis, that this Government shall depend upon a measure to be litigated in the courts, upon the net earnings, the meaning of which is to be ascertained by the courts and the amount of which can only be determined by experience. It will thus be seen that we are to be involved in a lawsuit as to the terms and provisions of the bill and afterward with the first-mortgage bondholders, and thus to involve the possibility of utter defeat in accomplishing the purpose we have in view. On the other hand we have before us a bill free from ambiguity, involving no litigation, clear in its provisions, definite as to the amount of money to be appropriated, and with a full power granted to increase that amount indefinitely if necessary to meet the payment of the bonds in question. I submit that the Senate ought not to hesitate between these two bills.

So much for the moneyed side of this question. There is another light in which we are bound to consider these bills; we cannot ignore it; we cannot refuse to consider what good faith on the part of this Government toward its citizens demands. The question is not what the contract ought to have been with these roads, but what the contract is.

I propose to exact from these railroads the last dollar due to the Government, and to exact it by the shortest and safest process compatible with our plighted faith to them and with the contracts under which they undertook to build this gigantic work. I am not wedded to any particular plan. If any gentleman here can suggest a better one, a wiser, safer, sure one, let him suggest it, and I guarantee the friends of this measure will embrace it. But let us not break faith. Let us know what the contract is, and when we know it let us stand by it. My friend, the Senator from Ohio, [Mr. THURMAN,] said the other day that we have made a very bad contract with these roads, and stated that it had no parallel in the legislation of this or any other country. That may be true. Perhaps if I had been a member of Congress at that time, with my peculiar ideas of the powers and rights of Government, with my democratic theories, I would not have voted for such a measure. But as I was not here, as I was engaged at the time in a very different enterprise, uniting with certain States in an effort to set up a government of their own, I certainly shall not be guilty of the folly or bad taste of standing here to criticize those who did vote for it. I believe they were men whose patriotism has not been challenged, whose inteligence the whole country recognize. They did believe that so great was the public political necessity for this road at the time, that they were justified in their votes. I shall not criticize them, and whether the contract was good or bad, righteous or unrighteous, it was a contract, and for one I propose to stand to it.

The Government must not repudiate its contracts with citizens, as citizens are not permitted to refuse to perform theirs to the Government. Especially will I never consent to a breach of contract under such a bill as the one offered by the Judiciary Committee, which, I believe, should it become a law, would not only prove a blunder in business, but a crime against the good faith of the Government. What was this contract? What was its spirit? How are we to ascertain it? How would the courts ascertain it? They would do it not only by reviewing the language of the law itself, but by ascertaining its meaning through the debate had at the time of the original passage of the act and the amendments thereto. Now, what did the legislators say they meant by that act? Let me read a few extracts, and I will take the liberty of incorporating some others in my remarks.

Mr. HEREFORD. I would ask the Senator whether he has considered the effect of section 5 in the bill presented by him, as amended by the Committee on Railroads, which provides—

That each of said companies shall be entitled at any time to anticipate any or all of the semi-annual payments provided for in section 2 of this act, by the payment to the Government of the then present value of such semi-annual payments, discounted at the rate of 6 per cent. per annum, but the sum so paid shall not be less than $1,000,000 at any one time.

Mr. GORDON. I considered that as simply authorizing payment of any semi-annual installment in advance.

Mr. HEREFORD. Has the Senator considered that if this section 5 becomes a part of the law and goes into effect, how much money the Government would receive from the companies?

Mr. GORDON. I am unable to say what the amount would be. There may be some objection to that section, which was introduced by the committee. If there be objection, it ought to be rejected. But let me go on with the extracts.

Mr. Wilson said, while discussing the original bill:

I give no grudging vote in giving away either money or land. I would sink $100,000,000 to build the road, and do it most cheerfully, and think I had done a great thing for my country if I could bring it about. What are seventy-five or a hundred millions in opening a railroad across the central regions of this continent, that shall connect the people of the Pacific and the Atlantic and bind them together?

On the same day this distinguished Senator, who afterward became the Vice-President of the United States, used this language:

In my judgment, we ought not to vote for the bill with the expectation or with the understanding that the money which we advance for this road is ever to come back into the Treasury of the United States. I vote for the bill with the expectation that all we get out of the road—and I think that is a great deal—will be the mail carrying and the carrying of munitions of war and such things as the Government need, and I vote for it cheerfully with that view. I do not expect any of our money back. I believe no man can examine the subject and believe that it will come back in any other way than is provided for in this bill, and that provision is for the carrying of the mails and doing certain other work for the Government.

Again, sir, Mr. Ten Eyck, of New Jersey, said:

The great object of the Pacific Railroad bill is to have a national means of communication across the continent. That is the idea which the public have entertained for years past, and the only idea—a great national measure to cement the Union—to bind with a belt of iron the Atlantic and the Pacific * * * This is the inducement which the old States have in doing what they believe will be for the benefit of the common country, to the prejudice of the Treasury, so to speak, yet the general returns may be beneficial in the long run.

I read this for the purpose of showing that in our effort to secure the Government against loss we must not lose sight of the fact that foreign and domestic capital was invested in this enterprise on the pledge, both in the contract and in the speeches of the men who made it, on the part of the Government that the payment for these bonds should only be demanded from transportation and 5 per cent. of net earnings; and therefore that it becomes us to accept a bill which secures to the Government a definite and sufficient sum, when that bill is acceptable to the companies.

One or two more extracts. Mr. Latham, then democratic Senator from California, said:

The loan of the public credit at 6 per cent. for thirty years for $65,000,000, with absolute security by lien with stipulations by sinking fund from profits for the liquidation of the principal, official reports and other authoritative data show that the average annual cost, even in times of peace, in transportation of troops, with munitions of war, subsistence, and quartermaster supplies, may be set down at $7,300,000. The interest upon the credit loan of $65,000,000 will be, annually, $3,900,000, leaving a net excess of $3,400,000 over the present cost, appealing with great force to the economy of the measure, and showing, beyond cavil or controversy, that the Government will not have a dime to pay on account of its credit nor risk a dollar by authorizing the construction of this work.

Further on in the same debate Mr. Clark, of New Hampshire, used the following language:

Whether I am right or not, I do not build the road because I think it is to be a paying road. I build it as a political necessity, to bind the country together and hold it together, and I do not care whether it is to pay or not. Here is the money of the Government to build it with. I want to hold a portion of the money until we get it through, and then let them have it all.

There are many other quotations I might make; but I will not take up the time of the Senate to read them now.

But we are told as a reason for the extraordinary provisions of the Judiciary Committee bill that these companies have made vast sums of money. About that I know nothing; but suppose they have, is that a reason for violating a contract with them? Whatever may be the truth about that, the contract binds the faith of this Government and no considerations of dollars and cents can free us from its obligations. I understand, however, that the reports of these roads show that they have paid about three annual dividends in eight or ten years. I doubt if there is a Senator on this floor who would invest his capital in a similar enterprise to-day. The object of Congress in making this contract was neither to prevent these companies from making money nor to make money itself. The object was to secure the roads. The entire debates in Congress, the declarations of the members at the time, the platforms of both political parties for years previous, all show that the purpose of the bill was to respond to the public demand for a great highway to the Pacific Ocean through which it was urged we would develop our mines, populate our wild lands, organize Territories from which mighty States should be speedily born to the Republic, open new avenues of trade to the great populous States of Asia in the East, and bring together in closer relations the widely separated people of this great country.

Mr. DAVIS. And it was necessary as a military measure for the transportation of troops, &c.

Mr. GORDON. And as my friend from West Virginia says, it was, in the estimation of those who passed this bill, a matter of immeasurable consequence to have the means of transporting to the Pacific States military stores, supplies, and troops with facility and economy.

In this connection I beg to refer Senators to the report of Hon. Jefferson Davis, the then Secretary of War, in which he shows that the cost of transportation of military stores at that time reached a figure far beyond the annual interest upon these bonds. I will not detain the Senate to read the report, but it will be found that the cost of transportation of stores and of troops prior to the war amounted to over $7,000,000 per annum, and would now, without these roads, amount to three times that sum. The Government, therefore, has saved much in these respects, and under the bill introduced by myself is absolutely protected against the possibility of loss.

But, sir, I must close, for my strength is exhausted. If I believed that the contract with these railroad companies justified the legislation proposed by the Judiciary Committee; if I believed that we were authorized under that contract to take 25 per cent. of the net earnings and define what net earnings should be, instead of 5 per cent. as contemplated in the original bill; if I believed the Supreme Court would reverse its decision as to the time this interest was due; if I believed these roads would accept the proposition and could pay this sum and still go forward protecting themselves from the clutches of these first-mortgage bondholders; if I believed that the Judiciary Committee bill did not endanger the entire sum advanced by the Government; if I could shut my eyes to the debates, to the contract itself; if, in a word, I could believe that both the credit and honor of the Government could be secured by such a bill, I should vote for it most cordially.

But, sir, not so believing, I cannot so vote. I cannot vote for that bill, because it will not be accepted by the railroad companies; because it leads to long, doubtful, expensive litigation, and jeopardizes unnecessarily every dollar of bonds advanced to these companies. Finally, I cannot vote for it because, in my judgment, it violates the pledges of the Government made to its citizens, and so long as I have the honor to hold a seat upon this floor I trust never to give a vote permitting this Government to do an act which if done by you or myself would dishonor us before our fellow-men.

Sir, we are taught that a good name is to be preferred to great riches, and the proudest character in Holy Writ, the noblest of mankind, is "he that sweareth to his own hurt, and changeth not;" a man whose honor is so sensitive that he will not break a contract though observing its stipulations would bring pecuniary ruin; a man who in the observance of plighted faith cannot be purchased, is unbent by self-interest, unswerved by temptation, and unstained by dishonor. Sir, the honor of this Government ought to be as dear to us as our own; her plighted faith as the apple of our eye; not her interest first, and her good name afterward, but her interest and her honor one and inseparable.

Sir, believing that the bill introduced by myself, and reported by the Railroad Committee, saves both the money and the plighted faith of the Government, I now move it as a substitute for the bill introduced by the Committee on the Judiciary.

The Electoral Count.

SPEECH OF HON. J. B. CLARK, JR.,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1877,

On the decisions of the electoral commission.

Mr. CLARK, of Missouri. Mr. Speaker, I was one of those who believed that the ballot was the sovereign power in our country. I supposed it to be the only constitutional mode of giving expression to the will of the American citizen in the election of public officers, from which there was no appeal, and to which all men, all parties, and all departments of the Government bowed a submissive obedience. We have had an election for the highest office known to our Constitution, and there can be no mistake in the fact that Mr. Tilden received a majority of all the votes cast at that election; but the republican party, through the power of its administration and corrupt and unprincipled returning boards in three Southern States, has sought to nullify that result. Distinguished republican partisans were invited to visit those States by the President for the avowed purpose of seeing a fair count, but really to see that it was fraudulently done. Troops marched and countermarched at his orders to strengthen the courage of the infamous returning boards, each one of whose names was suggestive of fraud, robbery, and corruption; and, finally, to consummate the fraud, the President, for the first time in the history of the Republic, commenced the concentration of troops and munitions of war at the capital, with the avowed purpose of inaugurating a President not elected by the people.

This was a direct assault upon that first right of the people from which all government derives its authority, and it is no wonder that the people, without respect to party, were aroused and indignant at the near prospect of so great a calamity. Civil war with its attendant horrors and the dreaded desolation that always follows in its path stared us in the face.

It was in view of this dread emergency that the electoral bill was framed and passed through both Houses by democratic votes. We trusted to the frail hope that one honest republican from one or the other Houses of Congress or the Supreme Bench would be selected who would rise above partisan hate and fairly consider our cause. In the words of Senator CONKLING, the duty of the hour was "to find the honest and true result, to declare it, bow to it, and stand by it."

We have suffered the bitter humiliation of defeat. All through the proceedings of this mock trial the octoroon commission, with the vote of eight to seven, have steadily refused to find the "honest and true result," and have in every instance reiterated the voice of these infamous returning boards as the will of the people. They have crossed and recrossed the track of their own decisions with shameless hardihood. So far as I can see, not one ray of judicial fairness shines through the diabolical partisanship of their decisions, and history will characterize them as little less infamous than the Louisiana returning board itself. No time can ameliorate their harshness, no silence can give them oblivion, and no antidote can avail to counteract the effect of their damnable partisanship.

As a distinguished democratic member of the commission expressed it, "the deed is done." The voice of the people, no longer sovereign, is hushed, and upon the dismantled ruins of a free and constitutional ballot, heretofore supposed to be the only power that could elevate a ruler over the political destinies of a free people, is erected a fabric of fraud and crime finding no parallel in the history of government.

But, Mr. Speaker, the most humiliating spectacle connected with this outrage is the supposition on the part of the republicans that the democracy, and especially the southern democracy, can be bought up by the paltry honors of office which a usurper may give. They would gladly accept justice; but can it be said that this people, who have been plundered of everything but honor, are now willing to offer

this last and dearest possession to the men who have trampled all law in the dust. God forbid that we should be brought face to face with such degeneracy! The stench of corruption is even now rising from the battle we have just fought and lost. The vultures are assembling to feed in high carnival upon the carcass of a prostrate State. Let them swarm alone to feed themselves upon the spoils of this high-handed outrage on liberty; but in the name of the grand manhood of the South, which has stood out sublime amid the desolation and woe of misgovernment, the domination of ignorance and corruption, stripped of every right that should characterize free government, bound hand and foot and delivered to swell the partisan triumph, I protest that not one of these noble leaders will offer himself, a shameful and humiliating spectacle, to grace the rule of a Chief Magistrate who is imposed by fraud upon the American people. The praise that now finds ready utterance from fraud-practiced lips is to lead but to ruin and disgrace. It is the disintegration of the democratic party, the party of the Constitution and the law, the party through which we can only find deliverance from fraud and usurpation. Let it go forth now that we link our political destinies with no party that tramples upon the Constitution and the laws; and that we will grasp the hand of every honest, noble brother wherever he may be found who denounces fraud and usurpation, and we will yet teach the desperate men who have betrayed the trust reposed in their hands that no crime is so abhorrent to the liberty-loving citizens of this Republic as usurpation.

The Electoral Count.

SPEECH OF HON. A. M. BLISS,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1877,

On the decisions of the electoral commission.

Mr. BLISS. Mr. Speaker, when I cast my vote for the bill creating the electoral commission I did so in good faith and perfect honesty, believing, with a great majority of my fellow-citizens, that justice would be rendered by such a commission selected from the highest grade of the people of this country. At the outset it was perfectly evident to every one that wrong and foul play had to be investigated in order to determine to what party the great prize of the Presidency belonged. But when a commission created for the sole purpose of investigating those foul wrongs refused, and refused by a partisan vote of 8 to 7 continuously, to look into the *prima facie* case of these wrongs, my faith in the fairness of such a tribunal became not only shaken, but in the great interest of the people I believe I am justified in denouncing their decisions.

I am well aware, sir, that my voice may be impotent to right this great wrong done to a whole nation, but the time will come, I will venture to say, when the country will sustain the good and honest motives that prompted the members who have honestly and faithfully helped create this commission, and will denounce those men who defeated the worthy object in view.

It is perfectly self-evident that trickery has been one of the elements used to accomplish this nefarious business, because if those persons who were originally on the committee which created the so-called compromise bill had faithfully believed that they could not investigate frauds and illegalities they should never have consented to bring in the bill creating the commission, and thus trick the men having honest intentions into the belief that such a measure would accomplish a fair and equitable solution of the dispute that the people so anxiously expected.

Sir, I think it the duty of a representative of the people to use all legitimate and parliamentary means at the command of this House to defeat the object of the great fraud that is now contemplated to cheat the majority of the people of this country out of their honest votes. Further, I think that the state of affairs which have been developed since the 7th day of November last, is now so well known that there is but one tribunal that ought to give the final verdict. That tribunal is the people, and by their verdict, and their verdict alone, will the country cheerfully abide.

Sir, one of England's greatest statesmen has said that you cannot bring an indictment against a whole people. This maxim has been accepted ever since it was first uttered, but you can bring an indictment against a clique who by fraud and trickery try, in violation of all law and right, to seize the reins of power against the will of the people.

In thus pronouncedly speaking my views, I simply speak the sentiments of one of the largest constituencies in the great Empire State, and I feel that I have never been more in unison with them than in this expression of their honest feelings. I am further pleased to know that, while they were as unanimous for the creation of the commission, to which I gave my cordial assent, they are now as bitterly opposed to the wrong done by that commission to them and to the whole country.

Representing, as I do in part, a portion of the commerce of this country, I feel great apprehensions for the future; as mistrust and want of confidence are sure to follow as fruits of an administration that wrongfully possesses itself with power. The instinct of the people is keen enough to perceive that one wrong is only the precursor of greater wrongs, and as the majority of the people of this country fully believe that the Presidency seized under such nefarious circumstances is only the precursor of still greater violence hereafter, they in their judgment are ready to have right and justice done.

Nor will present acquiescence give the country that stability and prosperity of trade for which it is yearning. While it might temporarily stave off some political agitation, the pernicious fruits of such action will only come back with increased violence to overwhelm the whole nation with greater calamities. It is therefore better, in my judgment, to see this great complication settled now, while the people fully understand the merits of the momentous question, than to acquiesce in an equivocal decision, which will be only acceptable to the great mass of office-holders and placemen with which the country abounds.

In conclusion, I am constrained to say that it is my honest belief that one of the great objects of keeping the administration of this country by violence in the hands of the present party is chiefly owing to the fear of revealing to the people the great mystery of a sixteen-years' continuous rule.

Electoral Vote of Louisiana.

SPEECH OF HON. JOHN F. HOUSE,

OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,

February 20, 1877.

On the decision of the electoral commission in the case of Louisiana.

Mr. HOUSE. Mr. Speaker, the Louisiana returning board is the most happily constructed and nicely adjusted political machine that partisan ingenuity has ever invented to control popular elections. No party in this country that hopes to win success can afford to be without one. In the hands of men possessed of sufficient skill to do justice to the genius of its inventors, it can be made to count *in* votes that were never given with a facility equalled only by its power to count *out* those that were actually cast by legal voters. It thus adds to the votes of one party while it subtracts from the strength of the other, a process which cannot fail to grind out victory for those in whose interest it is run. Its manipulations of a ballot-box eclipse in brilliant mystification any slight of hand performances with which the most expert and practiced juggler ever amazed and bewildered an audience. Blitz in witnessing it in full operation, would have hung his head in impotent shame; the dark *séances* of the Davenport brothers would pale their ineffectual fires before it, and the science of mathematics stand appalled at its power to count.

Many gentlemen who discussed the electoral bill when that measure was before the House, endeavored to define the meaning of the word "count" as used in the clause of the Constitution which provides for counting the electoral vote, but if they have any ambition to attack a problem that will make their heads swim, let them rise and undertake to explain what that word means in the vocabulary of the Louisiana returning board. The law which created it provides that—

In case of any vacancy, by death, resignation, or otherwise, by either of the board, then the vacancy shall be filled by the residue of returning officers.

The term of office is unlimited and the power to fill vacancies runs on and on to the end of time. It is not without beginning of days, for there was a time when it had no existence, but it may be without end of years, for when once set in motion it is endued with the power of self-propulsion *ad infinitum*. By its own inherent force, without the application of any outside agency whatever, it can run for a thousand years, and at the end of that period have no less days to continue its spontaneous revolutions than when it first began. When the world is trembling in the throes of dissolution, the legitimate successor of J. Madison Wells can stand out on the last crumbling fragment of time, and clasping the returning board to his heart, like Campbell's last man—

> The darkening universe defy
> To quench its immortality
> Or shake—its power to count.

Some men have spent their lives and fortunes and lost their minds in fruitless efforts to invent perpetual motion, but the scientific world now beholds the dream of centuries realized in the magnificent achievement which launched the returning board upon the sea of politics and set it afloat on the tide of human affairs.

Mr. Speaker, in matters of property and estates our law abhors a perpetuity, and pronounces absolutely null and void all testaments and conveyances that seek to create one. But here is a political perpetuity that holds the dearest rights of freemen in endless bondage, and laughs to scorn that clause in the Federal Constitution which provides that:

The United States shall guarantee to every State in this Union a republican form of government.

He would be a bold man indeed who would risk his reputation by asserting that any State had a republican form of government, within whose limits such a returning board was permitted to exercise its irresponsible and omnipotent functions. There is not an element of popular liberty that does not rise to rebuke the foul intrusion, and not a man upon the American continent who values the principles of civil

liberty whose arm is not lifted instinctively to strike it to the earth. It is a libel upon our people, a disgrace to the spirit of our Constitution, an insult to the memory of our fathers to intimate that such a monstrosity has anything in common with the genius of our institutions or the traditions of our history. It is the abomination of desolation standing in the holy places of the land.

The law which sought to incorporate this ally of despotism and instrument of tyrants in our system of popular government, provides expressly that the board shall be composed of *five* members, to be selected from *all political parties*. Usurpation is among the first fruits of irresponsible power. Hence, we find this board placed above and beyond the reach of the people, accountable to no earthly power, endowed with the attribute of perpetual succession, quite early in its career defying the law, which created it and from which it derives all its authority. The only compensation which the people can have for the extraordinary powers conferred upon it is to be found in that feature of the law, which imperatively requires that the members composing it shall not all be of the same political party. The object of the law in this provision was to insure as far as possible fairness in the action of the board, and impartiality and justice in its decisions. To suffer this provision to be disregarded by the board at its option, as if it were merely directory, would be to nullify the only check on corruption, the only safeguard against unscrupulous partisan bias to be found in the entire law. It would be to arm one political party with supreme and unlimited power over all others and enable it to perpetuate its ascendancy. A man who would hold this requirement of the Louisiana statute to be merely directory is prepared to hold the word "not" as directory in the commandment which says "Thou shalt *not* steal." The sacramental or mandatory character of this provision is so evident and obvious that no argument or illustration can add to the clearness or conclusiveness of the proposition. The shameless disregard of this all-important and imperative mandate of the law by the present members of the returning board, and their persistent refusal to fill the vacancy by the appointment of a democrat, stamp their acts in the recent pretended canvass of the vote of Louisiana as null and void. With a democratic representative upon the board to watch the proceedings, no fraud could have been committed that would not have been exposed. Common decency, common honesty, the plainest dictates of honor, of justice, and of law all demanded that the democratic party should have at least one representative to participate in a canvass which was to determine the title of Hayes or Tilden to the Presidency. With the entire machinery in the hands of four partisans of one of the candidates for the Presidency, the facility to commit fraud was wholly unimpeded.

Has Governor Hayes an honest friend in the United States who will claim that the democratic party were treated fairly in this matter? Has he a decent friend in all the land, who, connecting the action of the returning board at that time with what has since transpired, will not admit that the canvass of the vote of Louisiana is tainted with a suspicion of fraud that beclouds the title of Mr. Hayes to the Presidency. Who is responsible for causing the vote of Louisiana to be counted by a board consisting of only four members, all republicans, the president of the board, and confessedly its ruling spirit, being an imbittered partisan, holding a Federal office with a salary of about $4,000 per annum, with a claim against the Government of several hundred thousand dollars, and his son holding an office also with a salary of $2,500? Does any sane man believe that this whole wretched business of counting Louisiana for Hayes was the spontaneous action of Wells and company, unprompted and uninspired by leading men in the republican party who make pretensions to respectability, but who if justice were meted out to them, would to-day stand on a level in public estimation with the men behind whose acts their crimes are concealed. That celebrated board was not altogether unknown to fame, or rather to infamy, before they were called upon to count the vote between Hayes and Tilden. Distinguished members of the republican party, at a time when no glittering presidential prize warped their judgments or silenced the voice of conscience, had spoken of this board in terms not calculated to commend it to the favorable consideration of the American people.

A crisis had come in the fortunes of the republican party, when every man was expected to do his duty to save it from dissolution and the patronage of the Government from passing into other hands. That victorious party that had lorded it over this country as no party had ever dared to do before, that claimed that they had saved the country, and it, therefore, belonged to them by right of conquest; that had ignored nearly every provision of the Constitution, except the amendments incorporated therein by themselves; that had crushed States of the American Union as egg shells beneath the iron heel of military power; this great party at last felt the scepter slipping from its grasp and the control of the Government insecure in its possession. Before the great political tornado of 1874, their splendid two-thirds majority in Congress went down, and in the popular branch of the National Legislature an appalling democratic majority confronted them. The leaders of the party saw in the last presidential election that it would never do to risk its fate to the calm and unimpassioned judgment of the people upon its merits. The bloody shirt, at an early day, was unfurled as the only ensign under which they could hope to conquer. The skeletons of the war were all dug up, and placed on exhibition to inflame and frighten the northern masses. Itinerant defamers of the South strode the stage from East to West. Every appeal that could arouse the dying passions of the great struggle; every slander of the motives and purposes of the southern people that could catch a vote; every misrepresentation that would pay, all were brought into requisition to hide the record of the party and save it from defeat. The changes were rung on a solid South from the Atlantic to the Pacific Ocean. The rebel democracy were represented as about to get control of the Government and murder all the negroes, and an army of southern claimants was portrayed as preparing to march on the Capitol with claims against the Government amounting to so many millions that many an honest republican tax-payer of the North, unaware of the game which the press and speakers of his party were playing, lost long and weary hours in anxious thought which ought to have been given to refreshing sleep.

The distinguished gentleman from Maine having, contrary to the opinion of his physicians, recovered sufficiently from his severe sunstroke in Washington, to take the field, mounted every stump in his way, and made the welkin ring with the slogan of a solid South and southern claims. He spoke of the southern members upon this floor as a set of fellows or rascals—I do not remember which term he used—who walked into this Capitol and hung up their hats with as much impudence as if they had a right to be here. This was regarded by his loyal listners as a good hit, and was received by them with great laughter and applause. It was certainly a truthful illustration of the broad and patriotic spirit which animated the campaign on the republican side. One thought consoles me under the gentleman's sarcasm. No southern member has ever hung a hat up in this Capitol that was purchased with the proceeds of railroad bonds or money made from a speculation in Henry rifles while he was a member of Congress. When that distinguished gentleman shall demand of the Judiciary Committee of this House that the investigation, adjourned at the last session of Congress shall proceed, he will then be at liberty to turn up his celestial nose at other men, but not till then.

Even the distinguished candidate of the republican party for Vice-President, Mr. Wheeler, while addressing an uninformed audience away up in the mountains of Vermont, in his zeal to save himself and his party from defeat, so forgot what was due to simple justice, as to say that he had sat in his seat in this Chamber and heard Abraham Lincoln maligned by rebel Congressmen. I state here to-day what no man can deny, when I say, that Mr. Wheeler never heard the name of Abraham Lincoln pronounced by a southern member of this Congress, save in terms of the utmost respect. I allude to these incidents of the presidential campaign as illustrative of the determination of the republican party to leave no stone unturned, no appliance untried to win the election, and of their undying repugnance to relaxing their grasp upon the power and patronage of the Government. But, notwithstanding all, when the battle was over they found themselves vanquished in the open field, their candidate was fairly defeated, and Samuel J. Tilden was as truly elected President of the United States as any of the distinguished men who have ever occupied the position. By a popular majority of a quarter of a million the American people had pronounced against Hayes and Wheeler. There was weeping and wailing and gnashing of teeth in the ranks of the party of great moral ideas when this result was known. To perpetuate their power they had conferred the right of suffrage upon the colored man, with perfect indifference to any ill effects it might have upon the prosperity and welfare of the South, or rather with a grim satisfaction that it was a punishment to rebels while it swelled the ranks of their party. But in making the negro a voter they added about twenty members of Congress from the Southern States. The late election disclosed the terrific fact that the colored men were beginning to leave their party and affiliate with the democrats. The thought that the South should get twenty members of Congress, and the colored vote, too, made the leaders frantic. I can very well see that this result was not calculated to make them happy. But the sun of heaven in all his rounds never looked down upon a more beautiful and righteous illustration of retributive justice. I know that many republicans indulge the blissful thought that it is as impossible for the Ethiopian to change his vote as his skin, but candor compels me to serve notice on all such that with the disappearance of carpet-bag rule in the South, which I am proud to say is growing small by degrees and beautifully less, the colored vote will be lost to the republican party and their heirs forever, and the solid South will bear the infliction of negro suffrage and twenty additional members of Congress with that inimitable grace and Christian resignation so characteristic of her people.

Abandoned and condemned by the people, their hated antagonist placed in control of the Government by an overwhelming popular majority, the leaders of that routed and ruined party looked from the field of defeat upon as gloomy a prospect as ever darkened the future of a discomfited host. Like Satan, when expelled from the court of heaven, those leaders called a council of war to see

> What re-enforcement could be gained from hope;
> If not, what courage from despair.

In their dire extremity the returning board of Louisiana was the loveliest port that offered a refuge from the storm, the brightest star that shed its welcome rays upon the horrible night of disaster that was settling down upon them. They took the President into their counsels and upon bended knees implored him to save the party. The President was altogether agreeable. He said to them, "The Army of the United States is at your service now, as it has been throughout

the campaign. Wherever the exigencies of the party seemed to demand it I have sent troops, regardless of expense and in defiance of democratic howls over a violated Constitution. I caused the venerable legal luminary, that rises and sets in the Department of Justice to strain the timbers of the law until they cracked (and it is not the first time they have cracked under his strain) in order that an army of deputy United States marshals might assist the soldiers in seeing to it that the colored voters did their duty on the day of election. But some how or another the infernal democrats have dodged the bayonets of the soldiers, eluded the argus-eyes of the army of deputy marshals, and in spite of the whole power of the Government brought to bear to prevent it, they captured a good many colored voters." They told the President they knew what he said was true, every word of it, but the party was in a condition now even beyond the power of troops and deputy marshals to save it. In great anguish of spirit they cried out with one voice, "Votes, votes is what we want; we are perishing and going to our long homes for the want of votes."

To what other refuge could a party in such a predicament turn their dying eyes with more hope than to the returning board of Louisiana. They knew the board was equal to the emergency; they had witnessed its power to count, tested on other occasions, when it had entered the field against full ballot-boxes and come off triumphant over all the ballots that were arrayed against it. But this achievement was witnessed in the distant rebel province of Louisiana, and nobody cared particularly about what the board did in that heathen land, so far away from God's country. But still there was an impression on the northern mind, derived from the report of WHEELER and HOAR, made before the former became a candidate for the Vice-Presidency and the latter a member of the high joint commission, that the returning board was no better than it should be. Counting the loyal carpet-bagger in, and the rebel out, in that obscure corner of the Union had never destroyed the happiness of the great and powerful North, but counting a republican President in and a democratic President out was a proceeding that somebody else had an interest in besides the poor tax-ridden, down-trodden people of Louisiana, and these leaders were not fully satisfied as to how the country would bear it. The board must be fumigated, the offensive odors that floated around it dispelled, in order that the work it was about to be called upon to do on a national theater, might not stink in the nostrils of the people. If the returning board was not respectable itself, somebody that was, must be found to indorse it. It was a brave undertaking for a respectable man to stand up before the world and give that board a good character, for a statesman who had a future before him to lock arms with J. Madison Wells and consent to walk down the corridors of history in his company. But it was stated in the council and agreed to by all that the greater the sacrifice, the more those who made it would endear themselves to the party—the heavier the cross, the brighter the crown. As is usual in all desperate enterprises, volunteers were called for. Eleven bold men stepped out and said they were ready to be offered up; and immediately, amid the warm congratulations of the conclave, they were commissioned by the President as envoys extraordinary and ministers plenipotentiary to the court of J. Madison Wells, to represent the republican party and witness an honest count.

To those distinguished embassadors I propose to pay my respects, and in justice to them to demand a fair count in that award of honors and responsibility which history is destined to make between the embassy and the board.

In the first place I assume that those gentlemen who went to New Orleans had some object in view—they expected to accomplish something. Their visit was not a mere pleasure trip, nor their mission aimless and purposeless. They say they went at the request of the President to witness a canvass of the votes by the returning board. Why should they wish or the President desire them to witness the count? Why did he not send them to Ohio, or Indiana, or Kentucky, or Tennessee, to oversee the officers of those States in counting the votes? Did the President suspect and those gentlemen believe that the returning board of Louisiana had a work to perform in counting that State for Hayes of a character that would require the influence of other names to make it go down with the people? Or was the general reputation of the board so notoriously bad that honest men of no party could be expected to give faith and credit to their official certificates? Distinguished men do not leave their homes and business and travel a thousand miles simply to put their fingers in their mouths and gaze in stupid silence upon four honest men count the vote of a State—a matter with which, as they say themselves, they had so little right to intermeddle that they declined to meet distinguished democrats, who were there from abroad, in a friendly conference to discuss a plan by which the vote could be counted in a manner that would commend the conclusions of the board to the confidence and respect of the whole country. The punctilious and chivalrous abstinence on the part of the embassadors from even the appearance of having anything in the world to do with the proceedings of the board is one of those secrets of diplomatic etiquette which the common mind is unable to grasp, and is, therefore, not expected to comprehend. That they went to New Orleans for the purpose of giving that returning board a certificate of good character, and thus preparing the minds of the honest masses of their party at the North to accept the foreordained and predestinated canvass of the vote of Louisiana for Hayes and Wheeler, is very nearly confessed in the following words of their report to the President:

> The great national importance of the duties to be performed by the board invested each member with much interest; and, as *many reports had been circulated concerning them*, we were led to make some inquiry as to their individual history.

What those "reports" were, whether good or bad is left to conjecture—whether the report of WHEELER and HOAR made to Congress, and the report of General Sheridan to President Grant in reference to Wells, are referred to, must remain a mystery. But, be this as it may, WHEELER, HOAR, and Sheridan to the contrary, notwithstanding, the embassadors, or the result of their inquiries into the individual characters of the members of the board, give each one a certificate, recommending him to the confidence of the American people. I have already adverted to the power of the board to perpetuate itself forever and to the fact that they are responsible to no earthly power for anything they may do. The extent to which this board is authorized by law to exercise supreme power may be seen in the language of the report:

> Not only is the action of this board independent of the State or national laws, other than those of Louisiana, *but its determination of the votes cast is final and substantially conclusive*, as appears from a decision of the supreme court of that State, reported in the twenty-fifth volume of the Louisiana Annual Reports.

According to this, no appeal lies from any decision the board may make, nor can any court revise or reverse any of its decisions. The powers of the board over elections is also spoken of in this report, and the board is represented as "having supreme authority to canvass the votes cast throughout the entire State, and authorized, if convinced that riot, tumult, acts of violence, intimidation, armed disturbance, bribery or corrupt influences had prevented voters from registering, or had materially interfered with the purity or freedom of election at any poll or voting-place, or had materially changed the result of the election, to exclude votes cast at such polls or voting-places from the final count." The fact that whole parishes have been disfranchised under this broad and sweeping power and that in its exercise the returning board has controlled the elections in Louisiana to keep the republican party in power is a fact too notorious to be denied and too nefarious to be defended by any man raised under a republican government and accustomed to breathe the air of a free country.

A tribunal thus endowed with the attribute of perpetual succession, placed above the reach of the popular will and beyond the jurisdiction of any court to annul its decrees, however erroneous or corrupt; clothed with supreme authority to canvass the votes of the people throughout the entire State and to disfranchise its citizens *ad libitum*, would seem to be absolute enough to disgust every friend of republican government and to satisfy the most zealous advocates of despotism. Very few prominent republicans hitherto have been found so recreant to the principles of civil liberty and the rights of man which pervade the institutions of our country as blood permeates the human body, so indifferent to the opinions of their countrymen, now and hereafter, as to defend the constitution and powers of the Louisiana returning board. It was reserved for the immortal eleven envoys extraordinary, who wear, without a rival, the conspicuous honor of having woven the first garland that adorns the brows of J. Madison Wells & Co., not only to approve most heartily and to defend most zealously the unprecedented powers conferred by the statute of Louisiana upon this board, but to lift their voices in lamentation over the fact that the law did not clothe this despotic tribunal with a still more extended jurisdiction. That it may be seen that I do these chosen vessels of the President and heroic champions of the returning board no injustice, I beg leave to again quote some extracts from their report. They say:

> It will be seen when the statute organizing this board and defining its duties is examined, how inadequate are its provisions to afford full relief against the wrongs it was designed to prevent. Thus, the powers of the board are limited to the rejection of votes polled, for the causes stated, while it cannot in any case add to the returns votes which would have been polled but for the intimidation, violence, &c., mentioned.

And in speaking of the power of the board to disfranchise the people, they further say:

> Nothing can be more simple, nothing more just, than these provisions. They are for the reason before stated inadequate to secure the administration of a complete remedy, for it may be fairly said that if by reason of violence and intimidation committed in the interest of one political party, the adherents of another are restrained from voting, an equitable remedy, if practicable, for the outrage, would be to count in favor of the injured party every vote thus lost.

Here we not only have the power of an absolute and irresponsible tribunal to disfranchise whole communities of innocent men, without a trial characterized by these gentlemen as a thing so proper in itself that "nothing could be more just," but they openly announce that it should be clothed with the additional power of counting votes that were never cast; the only drawback to conferring such a power being, in their opinion, the difficulty that might attend an ascertainment of the facts. But the lamentations of these political Jeremiahs over the inadequate powers which the statute had conferred on the returning board must have received great solace from the action of the board in exercising the right to count unvoted ballots and thus supplying the defects of the law. Whether the suggestions of those gentlemen that the law ought to have given the board power to count votes that were never cast had any influence on the action

of the board in this particular, I am unable to say. But when these special friends of the President and distinguished representatives of the republican party thought such a provision ought to be in the law, Wells could not regard it as anything more than a pious fraud to count as though such a provision was in the statute.

But this extraordinary report, which seems to have been thought a matter of such general interest and national importance as to warrant the President of the United States in transmitting it to Congress in a special message, is as remakable for what it omits to disclose as for what it proclaims; as reprehensible for what it suppresses as for what it suggests. Why the President should have thought it incumbent on him to send to Congress in a special message the biographies, the pedigree, and performances of J. Madison Wells, Thomas C. Anderson, Kenner, and Casanave, by JOHN SHERMAN, JAMES A. GARFIELD, and others, especially as the sketches are not accompanied with the photographs of the distinguished subjects; or why he should have supposed that Congress would have any doubt as to what SHERMAN, GARFIELD and company would think of the count in Louisiana, when that count gave the State to Hayes, must be classed among those presidential eccentricities that baffle conjecture and defy comprehension. But as he was kind enough to send us the message, let us be thankful and make the most of it.

I have already noticed that provision of the statute requiring the board to be composed of five members, to be selected from both political parties, and adverted to the fact that, although the law imperatively demanded that the four republican members of the board should fill the vacancy with a democrat they persistently refused to do so. Here was laid the foundation of that fraud whose immediate effect is to give the State of Louisiana to Hayes and Wheeler, but whose ultimate influence upon the fortunes of the republican party and the fate of the country, may be a source of lasting regret to those who now gladly and eagerly appropriate the fruits of that fraud, and may form a "sorrow's crown of sorrow" in the future to every patriot in the land. Why were the republican masses of the North not told by those gentlemen in their report, that when they got to New Orleans, they found a vacancy in the returning board which the law imperatively demanded the remaining members of the board to fill; that the board consisted of only four members, all the partisan friends of Governor Hayes; that the law required the board to consist of five members to be selected from all political parties; that the friends of Mr. Tilden demanded of the board that the vacancy should be filled with a democrat; that this demand, so strictly in accordance with the statute from which the board derived its powers, and so evidently required by justice and fair dealing, was persistently disregarded by the board; and the vote of Louisiana was canvassed by an incomplete board, on which Samuel J. Tilden was not allowed even one friend to guard his interest and participate in the canvass of the vote. Why were these damaging facts suppressed in this report, facts well calculated to create distrust of the fairness and honesty of that board in the mind of every honorable and disinterested republican in all the land. Concealing this outrage on law, on justice, fair dealing and decency by the returning board, those gentlemen return from New Orleans proclaiming in a loud voice the charming manner in which the vote was counted. They place the fairness and open honesty of that board, in their report, above all the tribunals of ancient and modern times, and the loyal masses of the North are given to understand that it is their religious duty to place implicit confidence in its action and decisions.

Mr. Speaker, the freedom from bias and the impartiality of any tribunal whose decisions invoke public confidence is a matter too important to be overlooked by intelligent men who had taken the trouble to travel a thousand miles that they might be able to bear witness to the fairness of its action. A democratic representative upon that board was too important an element in its credentials to public confidence for those gentlemen to have overlooked or been indifferent to it. They knew full well that the testimony of one democratic member upon that board to the fairness of the count would be worth all the biographies of Wells and Anderson, all the panegyrics upon their honesty which they could write in a thousand years. They could not, therefore, avoid feeling a profound interest in the question which was raised right before their eyes and right under their noses as to whether that vacancy should be filled by putting a democrat on the board. I therefore assume and charge that the persistent refusal of Wells and company to appoint a democrat on the board met with the approval or disapproval of those distinguished republican visitors. If they approved the conduct of the board in this particular they are *particepes criminis* with Wells and Anderson in every fraud committed by them, and deserve to take their places in public estimation along with them; if they disapproved it, then it was their duty as fair and honorable men, instead of writing fulsome eulogies upon the members of that board, to hold them up to the scorn of the world for the criminal indecency of violating the law in order that no democrat might be present to watch the count of the vote. They can select that horn of the dilemma on which they prefer to be impaled.

Suppose they had said to Wells and Anderson, "Gentlemen, we have come here at the request of President Grant to witness your proceedings, that we may testify to the country of your fairness and honesty in counting the vote of Louisiana. The President says truly that no man can afford to accept the exalted position of President of the United States whose title is tainted with the suspicion of fraud. The law under which you act is plain and unambiguous. It says that you *shall* fill a vacancy when one occurs, and that the other party shall be represented on the board. There is no chance for evasion or misunderstanding here. The democrats are here present urging you to fill that vacancy with one of their own number. If you refuse, how can we as honorable men, and without compromising ourselves before the country, certify to your fairness and honesty? It is not right, it is not fair, it is not proper that Mr. Tilden should have no friend of his upon the board. And if you, known to be partisan friends of Mr. Hayes, persist in taking this whole canvass into your own hands, how can his title to the Presidency escape the suspicion of fraud under such circumstances? And we beg of you to consider in what a predicament you place us. We are here on the ground. The whole country knows it. You are republicans; so are we. How can we hope to escape the suspicion, ay, the belief that will arise in the public mind that your refusal to fill that vacancy meets with our approval, if not inspired by us. You are expected to confer with us, and we with you, all of us being of the same party and jointly and equally interested in guarding the title of Rutherford B. Hayes from the suspicion of fraud. Any attempt to hold out to the public the idea that you and we treated each other as strangers, being deterred by a sublime sense of propriety from conferring freely with each other in this, the greatest crisis that our party has ever known, is so exceeding transparent that it will be an insult to any man's sagacity to ask him to believe it. We cannot possibly escape responsibility if you refuse to fill that vacancy."

Suppose they had said this, or anything like it to Wells, is there a sane man in the world who does not know that that vacancy would have been filled in an hour? Ay, sir, a mere hint or suggestion from those gentlemen to the members of the board would have resulted in the instant filling of that vacancy with a democrat. Failing to get the vacancy filled with one of their own number, the democrats then requested the board to give them one representative upon the clerical force of the board. This was likewise denied them; not even a democratic clerk was allowed to mar by his intrusive presence the beauty and harmony of that supremely honest process by which Louisiana was to be counted for Hayes. Here let me pause and point the American people to a scene which I trust some historical painter will some day transfer to the immortal canvass for the benefit of posterity. Upon one side sit the four members of the returning board, assembled for the purpose of commencing the count. Before them stand the representatives of the democratic party asking that the vacancy be filled, and that in this grave national matter Mr. Tilden may have one friend to watch his interest and see justice done him. Behind the board, during this scene, stand the eleven embassadors who went all the way to New Orleans to witness an honest count, and specially charged with the high duty of seeing that nothing is done or left undone that will taint the title of Rutherford B. Hayes with the suspicion of fraud. The request of the democrats is denied! The law cried "shame;" decency hid her face; honor left the hall, and common honesty plumed her wings for an everlasting flight! But there stood the eleven embassadors at the back of the board; not a little finger is lifted to prevent the outrage, and on their placid faces no blush of shame or frown of disapproval can be traced by the keenest vision. Thus auspiciously begins the count which is to conclude with giving Hayes a title untainted with fraud.

And after the work, thus conceived in fraud, is born in iniquity, the embassadors turn their beaming faces toward Washington, swinging high their censers from which curled the smoke of incense to the returning board, which was expected to perfume the Capitol and the country. Let them sing the praises of a board whose genius was equal to the task of causing 10,000 Tilden votes to melt away and of bringing Hayes out victorious in a State where he was defeated by between seven and eight thousand majority. But let it be proclaimed in the hearing of all honest men of all parties, from the lakes to the Gulf and from ocean to ocean, that *no democratic eye was allowed to scan the proceedings in the secret sessions of the board when this astounding result was produced!* When the assassin prepares for his bloody work he takes care that no one shall be present to witness the deed; when the thief prepares to steal, he seeks the cover of night that no eye may detect his crime; when the returning board of Louisiana determine to give that State to Hayes and Wheeler, no friend of Tilden is allowed to be present to witness the count or participate in the proceedings. Let the honest masses of this country never be allowed to forget that eleven chosen friends of Rutherford B. Hayes stood by without a protest and without a blush and saw the jugglers enter their den and bar the door to the entrance of a democrat.

I am fully aware of the fact that those distinguished visitors in their report parade the fact that the board threw open their doors *sua sponte* and invited five republicans and five democrats to witness their proceedings. This was intended to produce the impression upon the public mind that nothing was done in a corner, and that everything that was done by the board was witnessed by the five distinguished democrats who were invited to be present at the *public* sessions of the board. Every one acquainted with the facts knows this to be untrue. In their public sessions they merely opened the packages, read off the total vote from the consolidated statements, and but a hasty examination was made of the returns. In their *secret* sessions the returns were finally canvassed, or compiled, or passed upon

by the board, and no democrat was allowed to be present then. The judgments then rendered, the conclusions then reached, and the reasons therefor, still remain an undeveloped mystery. It was never intended that what took place in those secret sessions should be made known.

The committee of this House that went to Louisiana to investigate the late election called the members of the returning board before them and asked for the production of the original record of these proceedings. The board refused to produce them even for a short time that the committee might inspect them, giving as a reason that they were engaged in making their report to the Legislature. They were reported to this House as being in contempt and were arrested and brought to Washington. They still refused to produce the papers, giving as a reason that after they finished their report to the Legislature they returned the papers to the proper custodian provided by law to keep them, and it was out of their power to produce them; in all which quibbling and evasion and contumacy they have received the countenance and sympathy of their republican friends at this Capitol, and to-day they are regarded by their party friends upon this floor as blessed martyrs, suffering for their devotion to the party. And when at last the case of Louisiana reached the high tribunal created by Congress to try these grave questions, the democrats there proposed to unmask the iniquity of the board and to show the violations of law and outrage upon justice by which the voice of Louisiana had been stifled and silenced by this board, and a majority of that tribunal held that although every step taken by that board might be stained with fraud; although they may have manufactured votes that were never cast and illegally refused to count those that were, and thus substituted their own voice for that of the people of Louisiana, their acts should not be investigated and their fraud should not be exposed.

Following this whole sickening affair from the time the infamy began in New Orleans in the presence of eleven chosen friends of Hayes to its culmination in the decision of eight of his political friends on the high tribunal, and the country will behold the title by which he proposes to occupy the highest office in the world. The four men who in utter defiance of the law refused to fill that vacancy are all republicans. The eleven men who stood by and witnessed the outrage without a protest and afterward eulogized the men who committed it are all republicans. Those who here stood by the board and defended them in their refusal to obey the orders of this House and disclose their acts in secret session are all republicans. The eight men who shielded that board by their decision are all republicans. The party that gathers the fruit of all this fraud is the republican party; and the two men who shall take their seats, the one as President and the other as Vice-President, on this title are both republicans.

Mr. Speaker, as much as I desire the inauguration of Tilden and Hendricks, if to-day I had it in my power to pass them into office on such a title I would not do it; and I trust the day will never come in the history of the democratic party when its leaders and members shall be called on to hang their heads in shame over such a victory. The plan was deliberately laid at New Orleans to suppress the truth, that fraud might triumph. The members of the returning board have persistently refused to disclose their action in secret session, that the truth might not see the light. The ablest lawyers in the republican party have been summoned to Washington to exhaust all the ingenuity, eloquence, and learning that could be brought to bear to furnish the eight partisan friends of Mr. Hayes on the commission with a decent pretext, if possible, for smothering investigation and keeping the tricks and chicanery of dishonest men out of sight. Has the history of the world ever furnished an instance where men who had truth and justice on their side made such Herculean efforts to suppress the plain facts in the case, and where those who believed they were right were willing to pass through such a crucifixion of the soul to accomplish their ends? No, sir; the judgment of the country and the verdict of posterity may be summed up in the language of Holy Writ: "They preferred darkness to light, because their deeds were evil."

Hereafter let no thoughtless and unreasonable democrat twit the victorious party with their admiration of the returning board or their fondness for Wells. Whenever the republican party shall cease to stand by J. Madison Wells, its right hand ought to forget its cunning and its tongue cleave to the roof of its mouth. The achievements of the board over which he presided with such distinguished honor will live in history as shining illustrations of the beauties of reconstruction, and form the brightest page in the volume which shall record the glories of the republican party. Sir, it would take the arithmetical powers of the returning board itself to accurately compute the debt which the republican party owes to J. Madison Wells. Let them honor him while he lives, and put brass and marble under tribute when he dies to perpetuate his memory to the generations of the faithful that are to come after him. Ay, sir, the party whose defeat was changed to victory by his prowess ought to give him a niche in its great heart next to the sanctuary which enshrines the image of its patron saint, old John Brown. The position of the republican party before the country to-day, and its pretentions and attitude only a few brief months ago, must be a source of shame and humiliation to those who have been proud of its history and have been accustomed to boast of its achievements. It has been wont to claim all the virtue, all the intellect, all the culture, all the decency, all the morality, and all the patriotism in the land. To-day, with the brand of popular condemnation burning on its brow like the mark of Cain, it crouches and trembles and retreats for safety behind the coat-tails of J. Madison Wells and the petticoats of Eliza Pinkston. How are the mighty fallen, and the shield of the mighty vilely cast away! In a few days in all probability Rutherford B. Hayes will be inaugurated President of the United States. It will not look well in the eyes of foreign nations for the man who made him President to linger as a prisoner in this Capitol. Fling wide his prison doors and let the Warwick of the republican party rush to the arms that are eager to embrace him, and hasten to that soft place which awaits him in the bosom of an administration which he, and not the voice of the people, has given to the country.

A word or two, Mr. Speaker, in reference to the electoral bill before I close my remarks. I voted for that bill because it promised the only chance for the inauguration of Samuel J. Tilden and the triumph of the right. I knew, the whole country knew that he had been fairly and constitutionally elected. But in the opinion of every democrat, both North and South, in the Senate and the House, with the exception of one in the former and eighteen in the latter branch of Congress, he stood no chance to be inaugurated. I have a right to so assume, because no democrat would have voted for the bill if Mr. Tilden could have secured his constitutional rights without it; and if the one democrat in the Senate and the eighteen in the House who voted against the bill ever suggested any feasible method by which, in the face of existing facts and surrounding circumstances, Mr. Tilden could have been inaugurated, I never heard it.

So far as reaching the presidential chair was concerned, Mr. Tilden was dead and buried before this electoral bill was brought forward; it was the trumpet sounded above the grave in the hope of a resurrection. As to how he lost his chances, by what process one fairly elected by the votes of the people was sent to the rear and a usurper brought to the front, I have an opinion, but care not to express it here and now. I was fully aware when I voted for this bill how largely its popularity might depend on its success in seating Mr. Tilden; but conscientiously surveying the whole ground with the lights before me and believing it to be the best and, in fact, the only thing that could then be done to subserve the interest of my constituents and the country, I gave the measure my support, ignoring the unimportant consideration of its effect upon my political fortunes. I was neither deceived, betrayed, nor entrapped by anyone into voting for this bill. I understood its provisions, exercised my best judgment in the premises, and propose to dodge no responsibility which legitimately belongs to my action. If I erred, I erred with an overwhelming majority of the democratic Representatives, North and South, in both Houses of Congress; I erred with the democratic press of the country, which, with a unanimity akin to that which signalized its passage by Congress, sustained the measure.

In common with a large majority of the American people, I was disappointed and shocked at the course of the majority of the commission. How could any human being with faith even as large as a mustard-seed in the honor of his race suppose that men who wore the robes of supreme judges could get their own consent to go down to history with the damnation of such decisions as they made clinging like an endless curse to their names? When the partisan shout now sent up by men eager to gather the fruits of the fraud established by their rulings shall have died away; when the passions which now inflame the hearts and becloud the judgments of men shall have subsided, and the acts of those eight members of the high joint commission shall be read in the clear, unwavering light of history, the verdict of posterity upon their conduct will be far more terrible than even the withering curse which a betrayed and injured people now pronounce against them.

A harvest of scorn to-day; infamy in reversion.

The Electoral Vote.

SPEECH OF HON. JESSE J. FINLEY,

OF FLORIDA,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1877,

On the decisions of the electoral commission.

Mr. FINLEY. Mr. Speaker, when the two Houses of Congress were convened in December last, the people demanded that they should devise some method and enact some law whereby the electoral vote might be counted and the result declared, so that the popular will, as expressed on the 7th of November, should be fairly ascertained, and the integrity of the ballot preserved. To this important task Congress addressed itself with anxious earnestness, and after much thought and labor the electoral bill was framed and matured into a law, with the support and sanction of a large majority in both Houses.

The clear and unquestioned intention of the makers of this law was to ascertain which of the two Presidential candidates had received an honest majority in any and all of the disputed States. This was what the people demanded, and what the electoral bill was intended to secure. The method created by the act was set in motion on the 1st day of February, since which time the disputed States of Florida, Louisiana, and Oregon have been acted on by the electoral commission, and by the decision of a majority thereof the electoral votes of said States have been counted for Rutherford B. Hayes for President, and William A. Wheeler for Vice-President of the United States. This decision has taken the country by surprise, and the people everywhere are demanding to know how the commission reached such a conclusion.

If by a fair investigation of the fact as to which of the two candidates for the Presidency was honestly elected, the people will be satisfied, and will acquiesce in the decision. But if on the contrary the investigation stopped short of that, they will not be satisfied, and will not and cannot acquiesce in the determination.

So far from deciding on the merits of the question as to who was chosen by the people to be their President, the majority of the commission solemnly resolved that they would not inquire into the facts at all; and the people, surprised, astounded, and appalled, are called upon to witness the melancholy spectacle of fraud and falsehood through the simulated forms of law triumphing over honesty and truth. Europe may and doubtless will secretly rejoice at our humiliation; and the conspirators may and doubtless do inwardly exult at their seeming success in destroying the purity of the ballot; but I tell them now that history has already laid its inexorable hand upon them, the men who have wrought this execrable wickedness, and will hold them up to the scorn and contempt of posterity for having remorselessly strangled the very life and spirit of popular government with a miserable technicality.

The majority of the commission so far from *preserving* have *falsified the ballot.* This is the crime which they have committed against republican government. This is the outrage they have ruthlessly perpetrated upon our sacred institutions. This is the daring deed which they have done, in the name of the law which they have violated, and which should and will draw down upon them the bitter anathemas of an injured and insulted people. They have violated the clear intent of the law, and this is made so manifest by their contradictory rulings that no explanation which can be given can ever let them down from the gibbet of public condemnation upon which they are already suspended.

It will be remembered by all who now hear me, that during the late war between the States occasions did arise when the exercise of extra-constitutional power by the Government was deemed necessary to preserve the "life of the nation," but here we find the majority of this commission refusing to execute the plain intention of a law expressly enacted to save the life of the Government. In our system the ballot is the fountain of all political power. If you pollute it with falsehood and fraud you poison every stream that flows from it. Will the people drink of these poisoned waters and die? What remains to them if the purity of the ballot be destroyed? Corrupt the ballot and your Government is a mockery and a lie!

In the present emergency the great questions of the hour are how can the consummation of this monstrous crime be prevented? and can it be prevented by legal and peaceful methods? I have thought long and anxiously upon this subject, and my conclusion is, that if a President in this country shall be inducted into office through falsehood and fraud it will demonstrate the utter failure of our experiment in government. We are now threatened with this great calamity, and every thoughtful man in the Republic is to-day asking himself what is best to be done to avert it. In my judgment, this House alone, in this moment of peril, has the power to prevent the fearful evil of a fraudulent succession to the Presidency, but we should carefully avoid hasty and inconsiderate action. It would be both unwise and unsafe to commit ourselves to any plan without first thoughtfully considering the consequences which are likely to result therefrom. If this House shall prevent the declaration of the result of the presidential election until the 4th of March, what will follow under the law as it now stands? For an answer to this question we must look to the act of Congress of March 1, 1792. That act provides (sec. 147, Revised Statutes of the United States) that—

> Whenever the offices of President and Vice-President both become vacant, the Secretary of State shall forthwith cause a notification thereof to be made to the Executive of every State, and shall also cause the same to be published in at least one of the newspapers printed in each State.

And by section 148, it is provided that—

> The notification shall specify that electors of a President and Vice-President of the United States shall be appointed or chosen in the several States as follows: First. If there shall be the space of two months yet to ensue between the date of such notification and the first Wednesday in December then next ensuing, such notification shall specify that the electors shall be appointed or chosen within thirty-four days preceding such first Wednesday in December.

Now, if before the expiration of the official term of the present incumbent of the presidential office, it shall not be legally declared who is elected as his successor, then after the 4th of March the offices of President and Vice-President would both become vacant in the meaning of the act of 1792, and it would become the duty of the Secretary of State to cause the notification thereof to be made to the executive of every State, in order that an election may be had as provided in the act.

A vacancy thus occurring in both the presidential and vice-presidential offices, the question arises as to who will be authorized to exercise the offices and functions of President of the United States until a new election is had and a new President is inaugurated? The Constitution does not provide for this contingency; nor does any act of Congress provide for it. The act of March 1, 1792, (section 146 Revised Statutes of the United States,) only provides that in the event of a vacancy in both these offices by *removal, death, resignation, or inability,* the President of the Senate, or if there is none, then the Speaker of the House of Representatives for the time being shall act as President. Now as no vacancy in the present case is likely to occur either by *removal, death, resignation, or inability,* it follows that a vacancy occasioned by the expiration of the term of the present incumbent is not provided for, and an interregnum must ensue unless the two Houses of Congress, with the approval of the President, shall before the 4th of March enact a law which shall provide for the contingency named. If this House should pass such a bill, would the Senate concur, and would the President approve? No one can tell with certainty what the action of either would be in such an emergency. I can only say that in that case the responsibility of saving the Government from disorder and confusion would be devolved upon them; and it is to be confidently hoped that they would have too much patriotism to shrink from the performance of their duty to the people.

But it may be asked if this House will be justified in bringing about this contingency? I answer that it is the duty of every branch of the Government and of every individual member of the same to come to the rescue of our institutions in their present peril. This House in preventing the consummation of the daring fraud which is attempted, a fraud which if accomplished will sap the very foundation of our Government, will but perform a plain and imperative duty to the country, the omission of which can admit of no excuse, and for which posterity will hold them responsible.

The people no longer sleep; the people are awake. They behold with indignation the attempt which is being made to forestall the popular will. They know that the vote of Florida was against the man for whom the commission has counted it. They know that a democratic majority of 10,000 in Louisiana was changed by falsehood and fraud into a republican majority of 3,000. They know that in Oregon 3 votes were counted for Hayes when only two electors had been constitutionally appointed in that State. They know that all this is the result of a deliberate conspiracy that was formed before the vote in the three disputed Southern States had been declared. I repeat, the people know all this. They are not deaf; they hear. They are not blind; they see. They are not dead, but live. And hearing and seeing and living, they will hold all conspirators against the integrity of the ballot to a strict and fearful accountability.

The day of reckoning will as surely come as there is truth in heaven and justice in Providence. In that day the people, with one voice and irrespective of party, will cry out against all falsification of the ballot. They will say it in their hearts; they will speak it with their tongues; they will write it in their constitutions and in their laws, that the man who is guilty of willful fraud in the ballot is worse than a murderer; that it is the most henious of crimes, and that he shall suffer the extremest penalty of the law without benefit of clergy. For a man who slays another may deprive a family of its natural protector, and, it may be, the country of a valuable citizen; and there the matter ends. But that man who commits a deliberate fraud on the ballot-box aims a fatal stab at the very heart of popular government and inflicts an injury upon every man, woman, and child in the Republic.

The Constitution never contemplated the elevation of a man to the Presidency through frand; and no technical construction of a law can sanctify such an infamous act. The *intention* of the lawmakers is the paramount rule of construction; and the clear intention of the electoral act was to ascertain who had been honestly and fairly elected by the people. The democrats and most of the republicans in both Houses who voted for the bill so understood it. The people so understood it, and so understanding it accepted it with almost universal approval. They accepted it because they believed it would prevent fraud in the present and guard against it in the future. And now to their surprise and amazement they find that the majority of the commission have so construed it as to murder the intention of its framers, and ingeniously to convert it into a mask to hide and conceal the ugly and hateful visage of political intrigue and corruption. Has the majority of the returning board in Florida steeped itself in fraud? The national returning board indorses the act. Is the returning board of Louisiana reeking with falsehood and perjury? The national returning board says it is pure and immaculate. Has the Constitution declared that no one can be appointed a presidential elector who holds an office of profit or trust under the United States? The majority of the national returning board have the presumption to say that the sages who framed the Constitution did not understand the meaning of the words they employed when they said such a one should not even be appointed to the office of elector.

Unless Providence blunders, these things cannot stand. Unless the people give themselves up to an endless torpor, these things cannot last. Unless manhood, honesty, and patriotism in the people have become extinct, these monstrous perversions of the ballot can-

not endure. The ballot in its integrity is the foundation of our political system. Remove it, and the entire fabric will tumble into ruin. Destroy it, and a whole century of grand progress and of glorious achievement will be thrown away. In the present emergency a new election, in my judgment, is the only thing that can give perfect satisfaction to the people. Under the present circumstances, it is all that the democrats of the country may hope for, and which the republican party cannot refuse without an utter surrender of all claim to the confidence and respect of the American people. The people will not be trifled with. They will correct these evils. They will rebuke and punish fraud, and these things they will accomplish by peaceful methods. They will have no war—no disturbance of the public tranquillity; but, by the omnipotent force of a purified ballot in a new election, they will prevent a festering taint from fastening itself upon a succession to the Presidency. They will yet show to the nations of the earth that the honest ballot can "execute the freeman's will, as the lightning executes the will of God." They will restore the purity of elections, and thereby start the Government on the second century of its existence with a new lease of national life.

If at this momentous juncture the House shall pass the bill providing for a new election, the voice of the people coming up from the East and the West, from the North and the South, will demand the concurrence of the Senate. A patriotic President will approve it, and, by saving the Government from the confusion of an interregnum, will, in almost his last official act, crown his Administration with immortal honor and renown.

In this trying hour the House has a solemn duty to perform. Let us perform it without passion and with firmness, and commit the issue to the good God and to a patriotic people.

I cannot tell what other men on this floor may think or do, but for myself, after sleepless nights of anxious reflection, I have concluded that it is my duty as an humble member of this body to do all in my power to prevent the monstrous crime which is about to be perpetrated against the ballot. I am therefore prepared from the deepest convictions of duty to vote for a bill providing for a new election and designating some official to act as President in the mean time. Having done this, I shall without fear commit myself to my constituents and the country, with the confident hope that, should they condemn my action, they will award me the consoling merit of having acted with a sincere desire to save my country from the greatest of all calamities, *the perversion of the ballot.*

Chinese Immigration.

SPEECH OF HON. E. R. MEADE,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

February 28, 1877,

On the report of the joint select committee on the Chinese immigration question.

Mr. MEADE. Mr. Speaker, as a member of the joint select committee appointed at the last session of this Congress, I visited, with my associates of that committee, the Pacific Coast, for the purpose of investigating the subject of Chinese immigration, and the testimony taken by us has been reported to this House.

Circumstances have proved, thus far, and are likely to continue through this session, most unfavorable for such a deliberate and thorough consideration of the questions involved, as, in my judgment, their importance and their gravity demand; yet I shall have but imperfectly discharged my duties as one of that committee without placing upon record, while I have the power so to do, such conclusions as became impressed upon my mind in the examinations of witnesses and in intercourse with those who, for and against, were most likely to feel an interest in the objects of the investigation.

The interest felt by the people of the Pacific coast in the subject of Chinese immigration is not exaggerated by the various statements, official and semi-official, that have been presented for our consideration. It is the topic of chief concern, and at this distance we under rather than over estimate the extent of the feeling there respecting it. There is little excitement save in isolated cases, but it is ever apparent that a deep undercurrent of anxiety exists whose depth or power no one desires to estimate, lest it shall demonstrate the inability of the ordinary means of government to successfully withstand it.

For several years the people of the Pacific coast, and of California particularly, have endeavored, by State and municipal regulation, to discourage or to an extent interdict this Chinese influx. To this end laws were passed which, for the credit of the country, had better never been placed upon the statute-book of any State; but it is only just to say that their impropriety is now generally conceded and explanation offered for their enactment; that the country was new, legislation of any kind not always the wisest, the evil (for so they regarded Chinese immigration,) was a novel one, and they set to work by most expeditious and direct methods to attain the desired end. Happily for the jurisprudence of this country, all this species of class-discriminating and restrictive state legislation to which I allude has been declared invalid in the several cases recently decided in the Supreme Court of the United States. See Chy Lung *vs.* Freeman *et. al.*, U. S. Supreme Court Reports, vol. 92, page 275; Henderson *vs.* Mayor of the City of New York *et. al.;* and Commissioners of Immigration *vs.* North German Lloyd, U. S. Supreme Court Reports, vol. 92, page 259. These decisions have caused the people of the Pacific coast to seek Federal interference for relief from the ills which they feel they suffer by reason of this Chinese immigration.

THE FALLACY OF AN UNRESTRICTED IMMIGRATION.

A nation with the latch-string always out, and a door-mat with the word "welcome" as an inscription, has come to be the popular idea of the relation we bear to the rest of the world. Our brethren of the Pacific coast discredit this unlimited hospitality, and claim that in two instances at least, exceptions should be recognized to the general rule of invitation: first, as to Coolie laborers and, second, as to Chinese women imported for purposes of prostitution. The statement of objections is more general and would seem to include the entire Chinese nation; but observation induces the belief that little, or no opposition in fact, is entertained toward any other class or classes of Chinese than those mentioned; indeed it may be said that comparatively few of any other class immigrate to this country, but it is that few that may be justly encouraged, and by whose introduction and residence here we would be largely benefited.

Appropriately enough the personal habits of our visitors formed an important feature of the investigation, and that the Chinese, at least a large proportion of those that come to this country, are neither virtuous nor cleanly, was abundantly proven; in fact, less evidence on that head would have been quite as conclusive, and even more agreeable to the committee. I shall not go into the details of their mode of living. Accept as a fact, what will never be disputed, that the coolie is anything but a desirable neighbor, and still it goes but little ways to prove that he is unfit for a residence among us, while in San Francisco and other considerable towns of the Pacific slope, his condition and treatment go a long way to prove defects in those municipal governments and regulations; indeed the disclosures were not favorable to the city government of San Francisco. No complaint can be justly found with its officials; but the laws which are provided at Sacramento are inadequate and suggest the necessity for a thorough revision. For illustration, the entire police force for patrol and harbor duty, being one hundred and twenty in number and defective in discipline, in a town of nearly three hundred thousand population, made up of elements from all parts of the world, would seem to offer no serious impediment to a conflict of races, and the testimony rather justifies the charge that this police contributes to, rather than prevents, the corrosive feeling which is fast being, if not already, permanently engendered between them.

Respecting the importation of women for immoral purposes, the facts disclose that, while the practice is discountenanced by the better portion of the Chinese residents in California, yet it exists, and is encouraged in its most revolting phases, which credible testimony indicates, even falls short of a full exposure of the degradation of morals at home among the lower orders of Chinese. In China, girls are bought in large numbers, at the age of three and four years, and reared for purposes of prostitution. Women generally are bought and sold, except among the higher classes, and very few of these last are brought to this country. It has been questioned whether any virtuous women arrive here as immigrants; but the testimony is, that such has been the case in a few instances, and many more would doubtless come, but for the unfriendly feeling now existing here toward the Chinese in general. It is moreover claimed that the present unsettled condition of the Chinese here, is not favorable to the introduction of their women of honor, who at home are kept in the greatest seclusion, and necessarily require permanent homes. But, as already shown, the habits and moral character of the Chinese in their relation to society prove, chiefly a want of proper police surveillance and discipline.

It might be difficult to at once carry necessary regulations into effect, with our imperfect knowledge of Chinese character, differing as it does so much from our own, that treatment intended for punishment would in instances prove a pastime; but, if personal habits and morals were the only considerations involved in this subject of Chinese immigration, we might safely remit it to where they properly belong, the local authorities of the Pacific coast; who would find it difficult to determine that the Chinaman or his indentured prostitute was worse than the same class of offenders against law and morals whose skin is whiter, but whose opportunities for knowledge of a better life, have been as superior, as the religious teachings of Christ are elevated above the moral precepts of Confucius.

AS A LABOR QUESTION.

The aspect of this subject which is most considered by the public is its relations to labor; and it is not improbable, that something of the proverbial hostility between labor and capital, has served here to magnify its importance. The amomalous conditions which our Pacific coast has presented for more than a quarter of a century, have undoubtedly largely contributed to present results. The peremptory, and almost unlimited demand for labor, which followed the discovery of gold in California, was responded to by an unparalleled immigration from all parts of the world. First, the development of mineral

wealth, and, second, of the agricultural resources of that region, have been without precedent, and to these have been added manufacturing interests of large production. Up to this time, labor has there been rewarded even to repletion, but indications exist that the equilibrium of demand and supply has been reached, and that in the near future the latter may exceed the former.

The testimony did not show a surplus of labor, but it is safe to conclude, that the present liberal wages of the Pacific coast cannot be maintained with any considerable increase of the labor element. It is but the usual experience under such circumstances, that the capitalist and the white laborer differ in the disposition to be made of the coolie who has all along contributed so largely to the material wealth of the Pacific coast. The arrival of the Chinaman there was hailed with unbounded demonstrations of popular favor. In the then dearth of labor, he promised to solve, and it is not too much to say that he has solved for that region, the most difficult problem hitherto presented; perhaps, it may be urged, only substituting one of far greater embarrassment in its place. Employed to a limited extent in mines, everywhere as a servant, and in all sorts of menial work, as farm hand, as worker in tule lands, in building railroads, at work in lighter branches of manufacturing, and a multitude of other occupations, he has readily adapted himself and given satisfaction while working for less wages than his white competitor.

In this instance the conditions which usually apply to regulate supply and demand are inoperative. The want of mobility in labor always renders it exceptional, but in the case of Chinese, or more properly, coolies, it is yet more notable. The expense of living on the Pacific coast, is to the white laborer, surrounded by his family, with tuition and all the necessaries and comforts to provide for, attended with large outlay; and his three or four dollars a day for skilled labor, and a less price for common labor, are soon exhausted, especially if he would provide against sickness, death, old age, or any of the many contingencies which arise to call for unusual outlay or to prevent accumulation. The coolie comes from a country long overstocked and crowded with labor, where wages are reduced to the minimum; being from four to ten cents a day. Taught by necessity, if not by choice, to live within this pitiable income, his advantages over our own countrymen are obvious, when a declining demand for labor would quite drive the latter to extremity and want. The coolie requires no schools or churches, and has generally no wants which the few cents he has been accustomed to receive in his native land will not cover. Beside, as mentioned, this immigration is quite inexhaustible, China possessing nearly one-third of the entire population of the earth, and separated from the Pacific States by an ocean ferry, which may be crossed at an expense of from twelve to fifty dollars, depending upon circumstances. To millions of this enormous population, slavery and want are ever present, impelling them forward to the "new gold hills," whose description reaches them like the gilded dreams of fairy-land.

Added to usual causes, China is liable to repeat the terrible civil strifes which have characterized its history, and thereby for those who would escape their terrible results, swell the volume of immigration to these shores. All this, and more which might be said if time would permit, is apparent, and the white laborer, naturally enough, now presents to his Government what he regards as a choice between the coolie and himself. It can hardly admit of doubt, with these established facts before us, that it is the duty of this country to first look to the interests, distinguished from advantages of the race from whom we derive our origin, of which we are a part, and who possess the characteristics essential to the proper development and perpetuity of our national institutions.

Labor simply as such, is entitled to no greater merit or consideration than any other commodity; and when an extraneous supply is clearly to the injury of the country at large without compensating qualities, then it is an obvious duty, to take such precautions as will discourage or restrict its further introduction. This is the position, as I understand, which is assumed by those best informed; who are familiar with coolie labor in our country, and who regard that the time has gone by when it was a necessity, and that now instead, it promises to become a serious burden, of such alien character as to present little claim for our support.

AS A QUESTION OF POLITICS.

Coolie immigration as a labor question in this country would alone impart to it a political complexion, and in this respect it has lost none of its importance by reason of the action of both political parties, that conspicuously have entered a race to demonstrate which shall go furthest and tarry longest in opposition to the Chinese immigrant; but the further phase of its political character is with what political rights and privileges this class is in the future to be invested.

At present the Chinaman is not entitled to the benefits of naturalization; but with our education in the school of the political equality of all men and the general repugnance which prevails in this country respecting the re-establishment of a race among us with less or subordinate rights and privileges, in the fluctuations and mutations of parties, the time may not be remote when the demand will arise for clothing this class with the prerogatives of suffrage. Of the Chinese population in this country nine-tenths at least is composed of males above the age of twenty-one years, and would if endowed with citizenship control the politics of the Pacific States, assuming, as I believe to be the case, that they would follow their natural instinct and national traits of clannishness and vote under the leadership of their head men or employers substantially in a body, and in a direction most conducive to their pecuniary interests. Such a result would be perilous indeed, and yet as times go, the necessities, if no better excuse presents, of some political party, will lead it to place the ballot in these hands. Mr. Seward while on his visit to China in 1871 thus describes its people:

Although China is far from being a barbarous state, yet every system and institution there is inferior to its corresponding one in the West. Whether it be the abstract sciences, such as philosophy and psychology, or whether it be the practical forms of natural science, astronomy, geology, geography, natural history, and chemistry, or the concrete ideas of government and laws, morals and manners, whether it be in the esthetic arts or mechanics, everything in China is effete. Chinese education rejects science, Chinese industry proscribes invention, Chinese morals appeal not to conscience but to convenience, Chinese architecture and navigation eschew all improvement, Chinese government maintains itself by extortion and terror, Chinese religion is materialistic, not even mystic, much less spiritual.

Mr. Seward writes of the Chinese generally, and it is fair to assume that his acquaintance was with the better or more educated classes, among whom the infusion of Tartar blood has imparted life and energy. It is, however, notorious that of the Chinese population of 475,000,000 we are receiving in this coolie influx what is in every respect the worst part. The immorality and depravity, the ignorance and vice of all sorts, and the filth and degradation of Asiatic life are concentrated into this class, which lives around the purlieus of Canton. It is this population, the effete, senile, and decayed sloughs of a dying civilization, that is ejected upon our shores, and which will sooner or later come knocking at the doors of Congress, for investiture with the rights and privileges of citizenship.

But whether endowed with citizenship or otherwise a large population of Chinese in our midst must be fraught with gravest concern to our future welfare. With the characteristics described, it not only invites the natural and irrepressible conflict of races, but threatens by the very weight and force of numbers to crowd out and overwhelm our own race. The generous wages, a liberal Government, and the presence here already of so many of his countrymen, combine to encourage the coolie to immigrate, and to establish himself among us with his peculiar ideas and customs; and should the white race maintain its relative supremacy in this country, yet the Mongolian must exist as an irritating cause; or be as described by Mr. D. A. Wells—

A stone in the stomach of the body-politic, which will neither digest nor assimilate.

That we have admitted the negro race on terms of political equality offers no precedent for like action in the case of the Mongolian. It is not too much to say that the future of the negro race is yet undetermined in this country, but in other aspects the cases are very different. The negro is by nature kind, tractable, and docile. He came here with the settlers of the country and has grown up with it during near three centuries, and the ideas which he possesses, respecting governments and modes of life, are such as he has obtained from his associations with the white race, while the supply of immigration of his kin and kind was long since cut off and is forever ended; but with those favoring circumstances our political experience with reference to negro equality offers no encouragement for a further extension of citizenship to other races. The characteristics and condition and extent of the Chinese certainly preclude the experiment of introducing that race into our political system, either on terms of equality or as an inferior or servile people which shall displace our own race, with its dignity of labor, education, religion, advancement, and institutions. The conflict of the two races has always been apparent whenever they have come in contact, the Mongolian in his home persecuting the Caucasian with all the vehemence and vindictiveness with which the hoodlum in San Francisco pelts, beats, and, if opportunity offers, kills his Mongol neighbor. No ethnological examination of the subject accounts for this antagonism. It is simply a fact not indeed to be legally recognized but always apparent, and I conceive it to be of but little use to inveigh against the inhumanity of such conduct or the impropriety of allowing it to control governmental action. It exists, and in my judgment will always exist, and will be aggravated and intensified by increased numbers until the conflict will require the interference of military force to repress or restrain it, and that too in the near future.

OUR TREATY OBLIGATIONS WITH CHINA.

But while it is obvious that measures should be adopted restricting this growing coolie immigration a wise policy suggests due consideration and regard for existing treaty obligations with China. Location of the two countries favors the energy and enterprise of our citizens to monopolize the large and growing commerce with China. England has hitherto been the great power with that nation, but it is well understood that we are fast gaining the ascendency, and that the Chinese Government feels a keener sympathy and higher consideration for this nation.

The appointment of Mr. Burlingame to distinguished honors was a signal indication of the kindly feeling which the Chinese entertain for us, as well as of the termination of the Chinese exclusive policy, which, for hundreds of years, has proved an insuperable barrier to western nations in establishing satisfactory relations with that empire.

The Burlingame treaty of June 18, 1858, contains the following

provisions which at the date of their adoption received general approval:

ARTICLE V.

The United States of America and the emperor of China cordially recognize the inherent and inalienable right of man to change his home and allegiance, and also the mutual advantage of the free migration and emigration of their citizens and subjects, respectively, from the one country to the other, for purposes of curiosity, of trade, or as permanent residents. The high contracting parties therefore join in reprobating any other than an entirely voluntary emigration for these purposes. They consequently agree to pass laws making it a penal offence for a citizen of the United States or Chinese subjects to take Chinese subjects either to the United States or to any other foreign country, or for a Chinese subject or citizen of the United States to take citizens of the United States to China or to any other foreign country, without their free and voluntary consent respectively.

ARTICLE VI.

Citizens of the United States visiting or residing in China shall enjoy the same privileges, immunities, or exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most favored nation. And, reciprocally, Chinese subjects visiting or residing in the United States shall enjoy the same privileges, immunities, and exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most favored nation. But nothing herein contained shall be held to confer naturalization upon citizens of the United States in China nor upon the subjects of China in the United States.

These provisions are the solemnly pledged faith of this nation and preclude us from entertaining the suggestion of the majority of the committee, that this Congress may pass laws prohibiting or restricting Chinese immigration or in other mode discriminating against its people without first obtaining the concurrence of the Chinese government itself; for while I believe that the government at Pekin would prefer that its population should not emigrate, yet in the face of these treaties, any unfriendly legislation on our part would be justly regarded as their infraction and as a breach of good faith, implying a disrespect for the Pekin government; which would naturally seek reprisals, to the interruption of commercial relations, and the material injury of the several thousands of our citizens whose residence and business interests are within the Chinese Empire. That the Chinese ministry is not unmindful of the importance of treaty obligations is shown in the correspondence transmitted by Minister George F. Seward, as published in the papers relating to foreign relations, presented to Congress on the 4th of December last, and to which I invite the attention of Representatives.

ENGLISH INFLUENCE IN CHINA.

A judicious policy admonishes this Government to avoid the appearance of error in our present relations with China when it is apparent that the British government seeks by every device known to its subtle policy and diplomacy to extend and perpetuate its power in that empire. That the English have for many years had in view to reduce China to another Indian possession is too manifest to admit of doubt, and that such a result would be most disastrous to American interest in Asia and the Pacific Islands is also unquestionable.

In an article recently published in Macmillan's Magazine, Sir Charles W. Dilkes epitomizes the adroit policy by which the English look to ultimate success. He says that—

Wise policy consists in the strengthening of the central government at Pekin. That government is the government of the Tartar dynasty, unpopular with the Chinese people it is true, but our plan is not to support it against insurrection but only against its delegated provincial government, also Tartar, and also unpopular with the people.

How easy with such a policy, at the right moment, to withdraw the props with which the Pekin government is sustained, and let it fall into English control. As at present situated, the main checks to English aggression in China are this country and Russia, and for the welfare of both these nations, as well as China, it is desirable that the counterbalance against England shall be maintained by frank, cordial, and intimate relationship with China, which no misunderstanding shall be allowed to impair. It may be said that I exaggerate the importance which would attach to the passage of a law by this Congress, prohibiting or restricting Chinese immigration; but we must bear in mind that our intercourse with China has scarcely assumed form, and that the Chinese government yet views its relations with the western powers with much doubt and hesitation, while its national pride and self-respect are fostered by a history of more than four thousand years, distinguished by a literature and discoveries in arts and sciences before present empires and republics had a place in the world's geography.

SUGGESTIONS FOR FUTURE POLICY.

In closing what in these limits must be an imperfect review of the subject, the following suggestions are prominent:

The immigration of merchants, men of education, students, and capitalists, should be encouraged, and every unfriendly obstacle in the way of their residence here removed. The French government has established a professorship of the Chinese language. We need to understand that people more thoroughly, and a liberal endowment for a similar purpose in this country would be of great benefit in developing our business and political relations with them. Entire justice is due the Chinese already on the Pacific coast according as guaranteed to them by existing treaties. A new convention should be held having for its object the strict regulation of coolie labor. The establishment by Congress of a bureau or department of immigration is requisite not only to a proper understanding and regulation of the subject with China, but also with European nations, and the proper reception and treatment of immigrants on their arrival in this country. With such a bureau properly organized, in accord with the State Department and its body of foreign officials, treaty stipulations respecting immigration may be made sufficiently flexible, to admit of congressional and executive control, and thus to subserve at all times the interests of our people, eliminate objectionable features, and remove the difficulties which now exist respecting the subject generally.

In the improbable contingency that the Chinese government will refuse to co-operate with us, in proper limitations respecting immigration, then will be the proper time to consider what independent action for ourselves is necessary. For the present, the entire business should remain with the treaty-making branch of this Government. A permanent Chinese embassy soon to be established here, and a Chinese consulship in San Francisco, will be timely, and greatly facilitate in arriving at an intelligent disposition of questions under consideration.

A just and equable national policy respecting immigration is a present need, and great wisdom and prudence should characterize it, especially in the infancy of relations which are to create so many bonds of common interest between the oldest and the newest nations of the globe.

Electoral Vote of Louisiana.

SPEECH OF HON. LEVI WARNER,

OF CONNECTICUT.

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1877,

On the decision of the electoral commission in the case of Oregon.

Mr. WARNER. Mr. Speaker, so much has been said about the powers and duties of Congress and of the electoral commission in counting the electoral votes, and of the manner in which that commission has discharged the duties imposed upon it by the electoral bill, that I cannot flatter myself that I shall be able to add anything of interest to the discussion, and I would have remained silent on this occasion but for the fact that some of the propositions advanced by my republican friends upon this floor, men who are jurists, and who claim to be honest, and to be acting from honorable motives, are so startling to me as a lawyer, and are in their moral characteristics so base, that I feel called upon to enter and record my protest against them.

Much that I shall say to-day I would have said when the action of the commission in the Florida and Louisiana cases were under consideration could I then have obtained the floor; but as the several acts of the commission are but parts of one grand scheme to count into the Presidency by means of the fraudulent action of corrupt returning boards a man who has never been legally or in fact chosen by the people, what I have to say may with propriety be as well said now as at any time. It is claimed that Congress has no power to go behind the certificate of the canvassing officers of the State to see if what they certify is true or false even where the claim and offer of proof is made that the certificate of such officers is false and fraudulent. Upon this claim the findings of the commission rest. To me this seems a most monstrous and indefensible proposition to be made by any jurist, or by any honest man whether he be a jurist or not. Take in connection with this claim the admitted fact that the votes of a State may and in fact have been so canvassed and the action of the electoral college so performed as to leave no time for legal proceedings by the State or any of its officers or citizens to test the correctness of the canvass or the right of the fraudulent electors to *cast* the electoral vote of the State, and we see how perfect is the machinery by which these frauds have been perpetrated, the magnitude and the full proportions of this conspiracy by which the votes of the States of Florida and Louisiana have been stolen and delivered to Rutherford B. Hayes and William A. Wheeler, and how low is the moral standard of those men who have lent their aid to the perpetration of this crime, and of those who will receive the rewards these foul hands will tender them.

Sir, I will not stop to discuss the questions presented to the commission, but I will say that if they are right in their conclusions then it is of no consequence what in fact may have been the action of any State in the election on the 7th of November, 1876, or who may in fact have been legally elected, or whether there was any election or pretense of an election; the only inquiry that can be made under the Constitution and laws is, not what was in fact done, but what the officers of the State *certify* to have been done; and if they have fraudulently certified to a falsehood, it is just as good and just as conclusive as if they had certified to the truth. They can disfranchise a State, they can pervert her voice, and there is no power in Congress, or in the State, or anywhere under heaven save in the people by revolution to prevent it. The votes they falsely and fraudulently certify to be the true votes of the State *must* be counted by Congress as the votes of that State, even though every man knows and confesses that they are not. They must be counted as the electoral votes of that State even if there was no election or pretense of an an election in the State. With a returning board and a governor

to certify their action you have all the machinery you require to make good, valid, and constitutional votes for President and Vice-President. They have only to declare and certify that certain persons were duly elected presidential electors, and send their certificates to the President of the Senate of the United States. He must open these certificates, for he must, acting under the Constitution, open *all* the certificates. What then? Let the commission answer. They say:

It is not competent under the Constitution, and the law as it existed at the date of the passage of said act, to go into evidence *aliunde* the papers opened by the President of the Senate, in the presence of the two Houses, to prove that other persons than those regularly certified to, &c., had been appointed electors, or by counter-proof to show that they had not, or that the determination of the said returning officers was not in accordance with the truth and the fact.

The votes so certified, they tell us, must be counted as the votes of the State, though all men know and admit that they are as false and fraudulent as the most devilish ingenuity of man could make them. Examine for a moment the ground upon which this opinion of the commission rests. It will be observed that the question before the commission was as to the admissibility of certain evidence offered. The certificates of election of the so-called Hayes electors were before the commission. *They were only evidence of a fact* which the commission were bound by their oaths to investigate and determine.

Evidence was offered to prove that these certificates were false and fraudulent, and the evidence was objected to. The commissioners say "it appears upon such evidence as by the Constitution and the law named in said act of Congress is competent and pertinent to the consideration of the subject" that these persons "so certified," &c., "were duly elected." But what provision of the Constitution makes the certificate the *only* "competent and pertinent" evidence in these cases? Grant that the provision requiring a certificate to be sent to the President of the Senate makes such certificates evidence; it does not make them anything *more* than evidence, nor does it make them *conclusive* evidence of the truth of the allegations they contain. Do they refer to the clause of the Constitution which provides that "full faith and credit shall be given to the records, judgments," &c., of the State? There is no other rule of evidence in the Constitution; and every man, even if he is not a member of the Supreme Court of the United States, or of the United States Senate, or even of the House of Representatives, knows that any judgment or record can be impeached for fraud or want of jurisdiction by any court or tribunal before which it may be offered as evidence to prove the truth of the allegations it contains.

Sir, in my judgment, the decisions of this commission are a perversion of right, of law, and of justice. They have been made to serve the ends of a political party; and I trust the day is far distant when they will cease to be remembered with indignation and shame by the people of this country. They offer a premium to fraud and perjury, and if not condemned by honest men of all political parties, and made impossible in the future by a higher and healthier tone of public sentiment and official honor, our elections will most certainly become contests from which honest men will shrink and in which the most corrupt will clutch the highest rewards. We have seen during the past eight years of Grant's administration many things that have brought the blush of shame to the cheeks of the American citizen, and it was meet and proper that this, the crowning infamy, if it must come, should come from the hands of that same party of political Pharisees who have so long boasted that theirs was "the party of great moral ideas," that *they* possessed all the honesty, and virtue, and respectability, and loyalty of the country; it was eminently proper that it should be reserved to *this* party to discover this plan for securing office, and to apply it to count into the Presidency the so-called *Christian statesman* of Ohio.

Sir, when party passion shall have subsided and men come to see this scheme for making a President, as one day they will, in all its revolting features, there will settle down upon the parties to this infamous proceeding and upon all who seek to profit thereby a load of shame and contempt beneath which they will groan until the grave shall hide them. The scepter of power thus gained will be in their hands powerless for good. The coveted honors of office which crime-stained hands thus clutch will turn to ashes in their grasp. The man you will by these means place in the presidential chair will be for four years a usurper of the power he wields, while he will be socially an outlaw in the judgment of more than twenty millions of his countrymen. This must be so unless the American people have lost their love of honesty and their sense of justice, and have thus become unfit for self-government; for when the people of this country shall have condoned such an offense as this against the very spirit of self-government, they will have reached a depth of depravity where there will not be found enough of honesty to make self-government possible or, if possible, desirable.

In view of the fact that the action of the commission shuts out all inquiry into the truth and makes to pass, as the true voice of the State, the simulated voice of her corrupt officials, how futile seem the arguments by which men seek to justify this action. Let me refer to the principal argument which has been presented in various forms, over and over again, by republicans upon this floor. They tell us that "the State acts by its officers and by virtue of her State laws, and that Congress cannot go behind the action of these State officers without trampling upon the rights of the State."

But what, I ask, are the rights of the State? Has the State a right to perpetrate a wrong, a fraud? Has she the right to have a wrong or a fraud perpetrated upon her? But I need not stop to discuss these questions. The argument based upon States rights, fallacious as it is, is based upon a falsehood. It is not true, as the argument assumes, that the State acts in choosing presidential electors by her officers. She acts by and through her freemen at the ballot-boxes on the day of election. *They* choose, and the State officers have only the power to ascertain what their choice has been and to certify or make known officially that choice. And yet we are gravely told that, no matter what may, in fact, have been the choice or the action of the State, the action of the officers of the State who, by law, are required to certify to the fact is conclusive as to what that choice in fact was, whether they certify to the fact or to a falsehood, and that *the rights of the State* stand between the fraudulent act and an investigation into the fraud, so that you cannot prove the fraud to have been committed without violating the rights of the State. In a word the claim is that the State has the right to be cheated out of her rights! There may be something very brilliant in this claim of my republican friends, but the world will never discover it. What a mockery of truth and of reason it is to represent the States of Florida and Louisiana as standing here, and claiming that they, as sovereign States, have the right to prevent an investigation into the frauds of their officers by which they have been defrauded of their rights in the late election! Was dishonesty ever more impudent and brazen-faced than when it attempts to justify this wrong done to the people of a sovereign State upon the plea that to attempt to redress it would be to trample upon the rights of the State?

One word, before I close, upon the action of the commission in the case of the alleged ineligible elector Watts. It is apparent to all that in the determination of this case and like cases in other States the commission have been governed by no fixed rule. The necessities of their party in this issue have made the rule of their action, and changed that rule again and again, as the circumstances of the particular case required. Neither love of justice, respect for law, nor regard for the obligations of the most solemn oaths has been found sufficient to restrain these men. All these have been swept away before the demands of party, as flax before the flame. We are pained and grieved beyond expression when such men as composed that commission, men heretofore standing highest among the honored names of this land, bow themselves in the dust at the demands of their party and with seeming willingness tender their honor, their good name, their regard for law and justice, and the honor and fair fame of their country as the price of a four-years lease of power. Let the republican party take the prize for which they have paid so dearly. I will do nothing dishonorable to prevent it. If I could place the man of my choice, Samuel J. Tilden, in the presidential chair on the 4th of March next by any means other than the votes to which he is justly entitled, I would not do it. If he cannot go into that high place by honorable means, without taint of fraud, and with a title to it which is untarnished, I have no desire to see him there. Were he dearer to me than my right hand I would invoke and welcome the vengeance of God upon him before I would see him made the chief executive officer in a Government of forty millions of freemen by such means as have been used to make the title by which Rutherford B. Hayes will take and hold that office.

Sales of Public Lands for Educational Purposes.

SPEECH OF HON. SAMUEL F. MILLER,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

February 26, 1877,

On the bill (H. R. No. 748) to apply the proceeds of sales of public lands to the education of the people.

Mr. MILLER. Mr. Speaker, however fortunate we may have been in settling the disputed claims to the Presidency, I trust it will not lead us into the presumption of tempting fortune further by allowing greater dangers to exist unchallenged until they threaten us with impending ruin.

To-day I wish to call the attention of the House and of the country to evils that fill all thoughtful and patriotic minds with anxiety, and would indeed fill them with alarm if it were not possible by prompt and wise legislation to mitigate and remove them. I ask attention to the lack of facilities for even a common-school education over a great portion of our country, to the alarming amount of illiteracy among our population, and especially do I ask you to consider the fact that nearly 20 per cent. of the voters in this boasted land of freedom and intelligence cannot read the names of the candidates on the ballots they cast.

Does this statement exaggerate the evil or overrate its extent? Let me appeal to the facts shown by the last census. The Commissioner of Education furnished in his report for 1872 a table compiled and computed from the census of 1870 showing for each State and Territory the percentage of illiterates to total population over ten years of age. The footings of the columns in this table show the result for the whole country. Listen to some of these figures. The percentage of illiterates to total population of the whole country is

20.04 per cent. In the State of Delaware the illiterates are 24.95 per cent. of the population; in Maryland, 23.55 per cent.; in the District of Columbia, 28.59 per cent.; in Virginia, 50.10 per cent.; in North Carolina, 51.67 per cent.; in South Carolina, 57.64 per cent.; in Georgia, 56.06 per cent.; in Mississippi, 53.91 per cent. Now, Mr. Speaker, can anything be more alarming than these figures, unless it be the fact that since this exhibit was made the General Government has done little or nothing to aid the States struggling with this great question?

We have been taught by the fathers that the success and stability of free institutions rest upon the intelligence of the people. Can we contemplate with indifference the fact that one-fifth of the entire population of the country cannot even read and write; that in several of the great States of this Union more than one-half of the people have not taken the first steps of a common-school education. I know that the General Government can have no control of the school systems of the several States. The whole management of these institutions must remain with the local authorities, where the responsibility rests; but the General Government can and should, as it has often done before, aid the States in this work, and especially those States that have by the new condition of affairs had thrown upon them greater duties and responsibilities in educational matters than they can meet by their own unaided, straitened resources. To my mind, Mr. Speaker, the necessity for immediate action is most urgent. I am not committed to any particular plan, so that it is just to all sections and meets the necessities of the situation.

I have carefully read the bill presented by the distinguished gentleman from Virginia, [Mr. WALKER,] and it seems to me to meet these requirements, and I therefore give it my humble support and trust before the close of the session I may have the opportunity to give it my vote.

The bill reads as follows:

A bill to apply the proceeds of sales of public lands to the education of the people.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the net proceeds of the public lands are hereby forever consecrated and set apart for the education of the people: *Provided*, That this act shall not have any effect to repeal, impair, or suspend any law now authorizing the pre-emption of public lands, or the entry of public lands for homesteads, nor as limiting in any manner the power of Congress to alter or extend the right of homestead upon such lands: *And provided further*, That nothing contained in this section shall be held to limit or abridge the power of Congress over the public domain, or interfere with granting bounty lands.

SEC. 2. That the Secretary of the Interior shall cause an account to be taken upon the close of each fiscal year, and ascertain the total receipts from the sales or other disposition of the public lands of the United States, including all fees received at the general and district land offices during such year, and the amount of expenditures during said year, incurred or occasioned by the survey, sale, location, entry, or other disposition of such lands, including appropriations for the expenses of the said officers for said year, and shall certify to the Secretary of the Treasury the amount of the net cash proceeds from the sale, entry, location, or other disposition of such lands as aforesaid, after deducting such expenses and expenditures.

SEC. 3. That upon the receipt of such certificate the Secretary of the Treasury shall, on or before the 31st day of July of each year, apportion to the several States and Territories and to the District of Columbia, upon the basis of population of the said States and Territories, between the ages of five and twenty-one years, the net proceeds of sales of public lands for the previous year: *Provided*, That after five years one-half of said net proceeds and after ten years the whole of the same shall be set apart as an educational fund, which said fund shall be invested in the bonds of the United States bearing a rate of interest not less than 4 per cent. per annum, both principal and interest payable in coin, the interest on such educational fund only to be appropriated as above provided: *And provided further*, That for the first ten years the distribution of said net proceeds and the interest on said fund to and among the several States, Territories, and District of Columbia shall be made according to the numbers of their respective population, of ten years old and upward, who cannot read and write, as shown from time to time by the last preceding published census of the United States.

SEC. 4. That the first appointment under this act shall be made on or before the 31st day of July, 1876; and each of said States and Territories shall be entitled to receive its distributive share of each apportionment, to be paid by the Secretary of the Treasury to its treasurer or other officer authorized by its law to receive the same, whenever thereafter it shall file with the Secretary of the Treasury a certified copy of the law of such State or Territory accepting the provisions of this act and undertaking that the funds provided by the same, whenever paid over to it as above provided, shall be faithfully applied to the free education of all its children between the ages of six and sixteen years. The distributive share of the District of Columbia shall from time to time be paid over to the commission of said District created by act of Congress approved June 20, 1874, entitled "An act for the government of the District of Columbia, and for other purposes," or other officer or officers provided by law, and shall be applied in the same manner as above provided for the States and Territories.

SEC. 5. That to entitle any State, Territory, or the District of Columbia to the benefits of this act, it shall maintain for at least three months in each year a system of free public schools for all the children within its limits between the ages of six and sixteen, and shall, through the proper officer thereof, for the year ending the 30th day of June last preceding such appointment, make full report of the number of public free schools, the number of teachers employed, the number of school-houses owned and the number of school-houses hired, the total number of children taught during the year, the actual daily attendance, and the actual number of months of the year schools have been maintained in each of the several school districts or divisions of said State, Territory, or District, and the amounts appropriated by the Legislature or otherwise received for the purpose of maintaining a system of free public schools. And if any State or Territory shall misapply, or allow to be misapplied or in any manner appropriated or used other than for the purposes herein required, the funds, or any part thereof, received under the provisions of this act, or shall fail to comply with the conditions herein prescribed, or to report, as herein provided, through its proper officers, the disposition thereof, such State or Territory shall forfeit its right to any subsequent apportionment by virtue hereof, until the full amount so misapplied, lost, or misappropriated shall have been replaced by such State or Territory, and applied as herein required, and until such report shall have been made; and all apportionments so forfeited and withheld shall be added to and become part of the principal of the educational fund hereby created.

SEC. 6. That nothing contained in this act shall be so construed as to affect in any manner the existing laws and regulations in regard to the adjustment and payment to States of the percentage of the net proceeds of the sales of the public lands within their respective limits, as provided in section 3689 of the Revised Statutes of the United States.

Mr. Speaker, this is the bill, but let me concisely restate two or three of its main provisions.

It will be observed that the net proceeds of sales of public lands, after paying all expenses, are dedicated to the education of the people, but the rights of all pre-emptors under pre-emption laws and the rights of all settlers under present and future homestead laws are carefully guarded and reserved, as well as the power of Congress over the public domain and its right to grant bounty lands.

It is provided that after five years one-half of the net proceeds and after ten years the whole of the same shall be set apart as an educational fund to be invested in interest-bearing bonds of the United States, and the interest on these bonds is to be apportioned and distributed to the several States and Territories according to the population of each between the ages of five and twenty-one years as shown by the preceding census, on proof furnished by said State or Territory that it has maintained for at least three months in the preceding year a system of free public schools for all the children within its limits between the ages of six and sixteen years.

For the first ten years the net proceeds and the interest on this educational fund are to be distributed to the several States and Territories, respectively, according to the number of their population over ten years of age that cannot read and write, as shown by the last preceding census of the United States. These are some of the leading features of this bill.

Now, Mr. Speaker, in appropriating public lands or the proceeds of their sale for educational purposes, this bill but follows a long line of precedents commencing before our Constitution was framed and illustrating every decade of our history since its adoption. I, myself, have counted over thirty separate general laws appropriating public lands for the promotion of education, passed since 1800, and there have been during this period many special acts for the same purpose. So we have the authority and indorsement of our greatest and wisest statesmen to the constitutionality and wisdom of this bill, both as to the object to be attained and the property to be used.

There is one feature of this measure that may meet with some criticism and need some explanation. It may be objected that the plan of distribution for the first ten years is unequal and unfair, as it is to be made on the ratio of illiteracy, and not on the ratio of population. It is true that for the first ten years those States where ignorance is the most dense, where education is most needed, will receive the largest proportion of assistance.

To my mind this is no objection to the bill. The States and Territories form one country. One State cannot suffer unless all suffer. No danger can threaten one without menacing the welfare of all. The enlightenment and prosperity of the people of each State in a hundred ways promote the happiness and prosperity of the inhabitants of every other State. These are trite and general truths that every patriot admits and feels. But those States that have the greatest need of aid in educational work have especial claims that appeal to the generosity, nay, rather to the justice, of the whole nation. During the last fifteen years those States have undergone a complete revolution, not merely in their laws, but in their entire social organization.

Never, I believe, in all history did a State survive so great changes, made in so short a time, as those that have occurred in the Southern States of this Union. Slavery, while it existed, not only made the education of the colored race impossible, but it prevented the establishment of anything like a common-school system for the education of the children of the poor whites outside of the large towns. The children of the masters were educated by private teachers and in higher institutions. The war came and consumed and swept away the accumulated fortunes of a century. It broke up the family and higher schools. It abolished slavery and made the slave a freeman. Reconstruction came, and the freedman was clothed with full citizenship and invested with the responsibilities of the ballot. It was under such circumstances that those States were called upon to provide a common-school system for their people. Never was there greater need, and seldom if ever was there more discouragement. But in spite of all difficulties, and in spite of much opposition, the work has been honestly attempted in all the States, and with full as much success as could be expected under the circumstances, with their crippled resources. And now, sir, they lay before us this bill and ask our assistance. I am ready to meet it. I freely acknowledge my responsibility as a citizen and a voter in supporting those two great measures that now increase the importance and the burdens of education in those States.

We abolished slavery to save the Union. None now mourn its loss; "none so poor to do it reverence." We placed the ballot in the hands of the freedmen, not through malice toward our former enemies, but to save free institutions on this continent. I speak for the northern voter and private citizen, for I was one, and I believe I knew their sentiments. And perhaps it is well that southern Representatives should know the motives that actuated plain Northern voters in that crisis. There seemed to us to be but two ways of dealing with the great problems of reconstruction so as to secure the guarantees that safety demanded: first, to remand the conquered States to the territorial condition indefinitely, to be governed by the central government. But this would destroy free republican institutions in half of the States and endanger them in all. Besides, we did not want any

dissatisfied Hungary or down-trodden Poland or subjugated Ireland to be a perpetual source of weakness to the nation. We preferred the other alternative. By removing the disabilities of one race and granting the full rights of citizenship to the other, with amnesty joined with suffrage, we thought to make it possible to rebuild on the basis of equal rights free and prosperous States. I repeat that I admit the responsibility of myself and my constituents for these measures. I still believe they will lead to happy results. I know that a great work remains to be done in the way of education for both races, more than the States unaided can accomplish. I recognize our obligation to aid in this work. I am ready to meet that obligation now by voting for this bill.

Mr. Speaker, I wish now to call the attention of the House to some circumstances that make this a most auspicious time for granting this assistance; more favorable, indeed, than any future time can possibly be. A common-school system has been organized in each of the reconstructed States. Its means are very limited in many, and inadequate in all. It should not be suffered to die of inanition. Its enemies should not have the opportunity to ridicule its feebleness or to belittle its importance. Again, sir, the newly invested citizens have shown a great desire for the education of their children, and the children an avidity for learning. This laudable ambition should not be allowed to change to indifference from want of opportunities, as quite frequently happens with ignorant people everywhere.

But further, Mr. Speaker, this is a most auspicious time to urge forward the cause of common-school education in these States, because their best men, without regard to party, now acknowledge its importance, and very many give it their encouragement and support. We see this in the reports of State superintendents, messages of governors, and proceedings of Legislatures.

I was very much gratified the other day in reading in the RECORD some philosophical and statesman-like remarks in the speech of the distinguished gentleman from Kentucky, [Mr. WATTERSON.] Of course I do not refer to that part of the speech which was for a party, (for about that we should not agree,) but to that part that was for the country. I wish to quote a few sentences from that speech that illustrate the point to which I am now speaking. In describing the condition of the enfranchised colored citizens in his own State, under wise State management, he says:

> Thus by easy stages and by the consent of society the negro presently found himself vested with such legal rights as the States have exclusive power to give; he was established in the rights which the General Government had given him; he was made secure in his home, and he is to-day surpassed by no laboring-man in any part of the world in the advantages he enjoys for getting on in life. He is sought by all parties—a very popular person indeed with candidates for office. In the city where I live his churches and schools are numerous, well ordered, and well attended. He has no conflicts with the whites. In a word, he is a freeman, a citizen, and a voter.

I have made this quotation not because it is an indorsement of the fifteenth amendment, although it is very satisfactory in that respect, but I have made it to show that many of the leading men of the South not only look with approbation upon the prosperity and education of the colored race, but rejoice in that result. Doubtless this class of men are more numerous in the border States than in the States farther south. But I think this sentiment is advancing, and will soon extend over the entire country. I trust this bill will strengthen it, for only with the support of the best citizens of the States can the success of the common-school system be speedy and satisfactory. I would do nothing to lessen their supervision, or their responsibility, or their honor in this work, and I support this feature of the bill that the General Government may aid their people in carrying a necessary burden that they might feel was too heavy for them to bear in their straitened circumstances.

Mr. Speaker, there will probably be found, as there always has been, a few men in every community who will oppose any general system for the education of the people; a few aristocrats who prefer to hold their position by a kind of divine right, independent of the opinions and voices of the people who surround them. Then there may be a few indolent young men, joined with certain fellows of the baser sort, who do not want to be put to the trouble of further mental exertion, and dislike to see the gap closed up that separates them from those who started life with less advantages. These join in Hamlet's complaint, that "the toe of the peasant comes too near the heels of the courtier; he galls his kibe." Now, sir, the only answer to all this in a free democratic country is, move on or get out of the way. No man has the moral right to obstruct the path of progress to those below him to suit his indolence, his convenience, or his selfishness. In a free country progress is the law, and whoever cannot keep step in the march must fall out of the ranks and go to the rear. But such opposers of a general system of education may for a moment embarrass, but cannot prevent its success when once it secures the approval and support of the best citizens in the state and community.

Mr. Speaker, I believe the fruits of this bill will be good, and only good. The education of the laboring classes, whoever they may be, will not only increase the happiness of individuals and families, but will promote the material prosperity of the State. The education of the laborer doubles the value of his labor, both to himself and the country. I have heard a good deal said since I have been here about our duty to aid in developing the resources of the South—to restore and build up its waste places; but, sir, I know of no waste so broad as this waste of ignorance, and no place where a little assistance would do so great and permanent a good. Other plans and projects can wait until the nation is in a more prosperous condition, but this brooks no delay. Other interests, when in order, can be heard on their merits, but until a general common-school system is in successful operation in each of the States this must be the question of paramount importance, the question of the highest privilege, that must take precedence of all others.

Again, sir, the benefits of a common-school system will not be deferred to another generation, as many suppose. The education of the children will be a source of elevation and enlightenment to the parents. No father, however ignorant, can feel an interest and pride in the education of his children and take a part in the support of their school without being made a better man and a better citizen. The poorest cabin in the land will be made a better home by the presence of the humblest scholar and the most elementary book. Besides, in hundreds of cases the rule of nature will be reversed, and the child will become the teacher of the parents. And in all cases the desire for education, even for others—the discussion of educational questions, the effort to build the school-house and support the local school—all tend to improve the character of the humblest citizen, to give him more self-respect and respectability, and to develop in him some of the higher and better qualities of human nature.

I have been told by some of my southern friends that the freedmen are vicious, and that they are especially deficient in a correct appreciation of the rights of property. I have no doubt that in many cases this is true. Slavery was indeed a very poor school in which to learn the duties of freedom, and the very worst school in the world in which to get any true conception of the rights of property. But the remedy for this is not to remand them to slavery or to leave them in ignorance, but to give them education. It is always cheaper for the state to educate the child than to punish the criminal or support the pauper. And while it is true that education will not wholly prevent crime and pauperism, it has always been found true in all States that the percentage of illiteracy among the inmates of prisons and almshouses is ten times greater than in the population at large. Now, while it is the duty of the State to punish the violators of its laws, it may well be thought a duty to give its subjects opportunities for an education sufficient at least to enable them to read the laws they are compelled to obey. There was a curious old puritanic law of colonial Connecticut which relieved the child from the penalty of death for striking a parent if it appeared on the trial that the parent had totally neglected the education of the child. The lesson suggested may be as applicable to states as to parents.

Mr. Speaker, however much in our sore need we may have felt indebted to the Peabody fund and other private gifts, yet the education of a whole people is too great a work, both in its importance and in the resources required, to be met by the donations of private individuals, however generous. A system of elementary education requires a steady, uniform support, not dependent upon the caprice of fashion or the fluctuating prosperity of business, or any of those uncertainties that might make the donations of the benevolent fall off when most needed. Patriotic philanthropy has indeed a noble field for the use of wealth in the domain of education, but it is in supplementing the work of the state by founding higher schools and colleges and institutions for special training. Its work begins where that of the state ends. The state furnishes that education that is necessary for all in the common affairs of life, while wealthy philanthropy may be trusted to furnish that higher culture that is necessary for special duties. As the country increases in prosperity we may expect to see more and more of these acts of beneficence that dignify the pursuit of wealth for noble ends, and perpetuate through after years the good deeds as well as the name of the giver. This, indeed, is noble benevolence, that, like mercy, is twice blessed—"It blesseth him that gives and him that takes." This bill does not limit or trespass upon its domain, but it increases the number to appreciate and admire its deeds.

Mr. Speaker, no institution of our country has received greater credit and honor from statesmen and publicists of foreign lands than the free-school system of the several States. This bill will aid to make it still more an American institution by extending its blessings to every hamlet and settlement of the whole country. It will give our people another object of common interest and common pride. It will make our people more homogeneous—having a common education, a common culture, and a common literature. May we not expect that this aid will tend to bind States to the General Government, not by force but by gratitude, and make all sections and all races more devoted to the great Republic and to its free institutions, that are the source and guarantee of all our civil blessings. I hail and support this bill as a harbinger of peace and good will between states and between races. And with peace assured, with a hearty union of all for the good of all, there is no height of prosperity for our people or of glory for our country that we may not anticipate and attain. But, sir, in the supremest hour of our triumph there will be no institution to which we can look back with more pride and gratitude as a chief means of our success than to this which we will to-day foster and encourage by the passage of this bill. Glorious, thrice glorious country, when the rights of freemen are secured to all thy people and the opportunities for education to all thy children; for "wisdom and knowledge shall be the stability of thy times."

"An honest ballot is the safeguard of the Republic."

SPEECH OF HON. ROBERT SMALLS,

OF SOUTH CAROLINA.

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1877,

On the electoral vote of South Carolina.

Mr. SMALLS. Mr. Speaker, as a Representative of the State of South Carolina, I rise to submit my views regarding the investigation of the election by a committee of this House. The unfortunate division existing among the people of my State as to who is the lawfully elected governor of the State and who were the lawfully elected presidential electors has led to this investigation. I am happy to say the committee are unanimous in their conclusion that the Hayes electors received a majority of the votes cast and I regret to have to add that they are divided politically upon the governorship.

Under ordinary circumstances I would be content to allow the report of the committee to go upon the record with no further opposition than to record my vote against the majority report, believing, as I do, that the report of a partisan committee cannot and will not be accepted by the people of my State as an honest conclusion based upon the results of the investigation. The committee having divided upon the important question of who is the legally elected governor, the question remains an open one, to be accepted or denied according to party opinion.

I therefore propose at this time to submit to this House and the American people, in as concise shape as possible, the facts relating to the late political campaign and election in my State. The democratic party pursued a policy calculated to drive from the State every white man who affiliated with the republican party or who would refuse to join them in their attempts to deprive the negro of the rights guaranteed him by the Constitution of South Carolina and of the United States, the manifest intention being to reduce the negro to a condition of political dependence upon the former slaveholders; to place him in the power of the men who had degraded his manhood, who had reduced him to a condition of ignorance through centuries of enforced subjection. To such a policy the democratic party committed itself as one man, with these results, namely: A large number of murders have been committed, violence and outrage were resorted to, and thus entire counties terrorized; the political rights of 10,000 negroes were refused them, and by means of fraud a true expression of the ballot-box denied.

The white race of the South possess intelligence and courage. The existence of the institution of slavery cemented their personal interests and compelled them to act in concert in political matters. The relation of master to slave produced in the ruling class a domineering spirit, a disposition to ignore and trample down the rights of those they could not control. They became in a large degree cruel, refusing education to and ignoring the sanctity of the family relations of their slaves; they assumed the slave had no rights and denied the fact of his being a brother man and entitled to his personal liberty. They never learned to recognize such a principle and would tolerate no free expression of opinion. Such qualities provoked the late civil strife between the North and the South, and are to-day responsible for the unhappy condition of the South. The late slaveholding class will not submit peacefully to a government they cannot control, believing they are a superior race; and, not recognizing the rights of the colored man, they feel justified in resorting to any means or power to accomplish their end. To this purpose human life is taken with impunity, citizens are driven from their homes, and fraud perpetrated.

Such, Mr. Speaker, is the policy and character of the men who, having disgraced the name of South Carolina by their acts, now ask to be sustained in the result accomplished. On the other hand, the negro race, under ordinary circumstances, are gentle, patient, and affectionate; possessed of no cruel impulses, they are a harmless race, generous to a fault; their confidence is easily won. These qualities are the outgrowth of long years of suffering and have become ingrafted in their natures by the bitter lessons of experience. The granting of suffrage to them originated a new and controlling element in the Southern States. This, Mr. Speaker, has led to all the sorrows and the cruelties they have felt in the last ten years. The determination of the former slaveholding class to control them has prompted the many scenes of cruelty which make the history of the new South one of blood and form the subject for one of the darkest pages in American history. Mr. Speaker, the blood of the innocent freedman, shed by southern democrats, will in the future prove one of the dark spots upon the fair fame of the American Republic.

It is manifest that two political elements so widely different in their character would provoke much antagonism, but I do not think it ever entered the mind of the most apprehensive that the white race would resort to such inhuman brutality to recover power. If the negroes had been a race their equals in courage there might possibly be some palliation for so inhuman a policy, but when it was considered their cruelty was against a harmless race, it affords no defense, and their course becomes the blacker in comparison with their boasted chivalry, their claim of superior gentleness, and of those virtues which adorn the human race. The oppressed colored race can ask no greater punishment upon their persecutors than to call the attention of the civilized world to the history of the South for the last ten years, and to a comparison of the manner by which a rebellious people were treated by a generous Government, and in turn the treatment of the negro race by the pardoned class, and they challenge the annals of civilization to show a people who have maintained a more peaceful policy under such trying circumstances.

The late campaign and election in South Carolina have attracted the attention of the country. Great efforts have been made by the democratic party to win the ear of the American people. I now, in behalf of the colored race, to which I belong and who have under the sun of liberty suffered by the lash of slavery, who were objects of contention when a price was placed upon their head, as well as when vested with the right of suffrage, call attention to the following facts which I propose to prove: I charge upon the democratic party of South Carolina murder, violence, and intimidation, specifying that in the several counties of the State, more especially Aiken, Barnwell, Abbeville, Edgefield, and Laurens, murder was openly committed with the sanction of that party; violence was resorted to every day during the campaign; intimidation was practiced by the party in nearly every county; to sum up in a few words, the entire party went into the canvass resolved to win under any circumstances, and to do so resorted to means which ought to bring a blush of shame to the face of every honest citizen. I charge upon the democratic party the crime of creating a necessity for protection to peaceful citizens in a time of profound peace. I charge upon the democratic party the greater crime of turning the day of election into a carnival of bloodshed and violence. The day of all others when the public peace should be most sacredly maintained was by their efforts made a day for the infliction of every cruelty necessary to change the result desired by the honest majority of the voters of South Carolina. I charge upon the democratic party the crime of violating the purity of the ballot-box by unblushing fraud, sanctioned by the entire party, from candidate down to voter. I charge them with the crime of striking a second blow at the perpetuity of American institutions by inaugurating in the centennial year the practice of securing by fraud and murder what could not be obtained by honorable means.

In support of these charges I invite a careful examination of the facts given in the following pages, each and every one having been taken from the sworn testimony before the committee appointed for that purpose. It will be observed that comparisons have been made of the voting strength of the two parties, and of the votes cast by each race, between the elections of 1874 and 1876. To fully explain this I will say that the election officers of the various precincts make a registry of the color of the voter, white or colored, which is transmitted with the returns to the secretary of state.

To further obtain an intelligent estimate of the strength of the two parties and of the votes cast at previous elections the tables taken by the committee in evidence are given entire. The impression may arise in the minds of some persons that the increase of the democratic vote can be attributed to colored men supporting that party with their ballots. The registry taken on the day of election shows how many white and colored men voted, there being blanks for that purpose, with the poll-lists. An examination of these returns is given in the following pages for the various counties, and it will be observed that the increase of 30,000 votes for the democratic ticket were cast by white men almost entirely, showing conclusively that the frauds committed by white men were enormous, and caused the very large increase in the democratic vote.

In this connection it may help to enlighten the minds of some by calling attention to the fact that in the State of Georgia the difference between the October vote and the November vote cast by the democratic party amounted to 25,000.

The fact is proven of an immense number of Georgians being present and voting in South Carolina on the day of election, and the decrease in Georgia and increase in South Carolina, sister States, is accounted for.

The fact is to me satisfactorily established that the above charge is sufficiently founded from the following data, which will convince even the most skeptical person that I am right in asserting it, namely:

At the October election the democratic party of Georgia rolled up an astonishingly magnificent majority of 75,000 votes, while the result of the November election shows a majority of only 50,000. What became of the remaining 25,000 Georgia democrats on the 7th of November? There would be room for speculation as to the answer to this query were it not for the fact that we find them in the official election returns of their adjoining sister State of South Carolina, where they went to make up the 25,000 of which the South Carolina democracy knew it was short.

To support this assertion with statistical facts we need only to point at the election return of one of the border counties of South Carolina, the county of Edgefield, where the preponderance of the white vote over the census return of the same for 1875 is so wonderfully striking that the mere figures will point at once at the manner in which the South Carolina democracy obtained their majority in that county.

The white male population of Edgefield in 1875 was twenty-nine hundred and seventy-three, and the democratic election returns one

year later pretend to show a vote of over 6,000 white males for that county alone.

The State of South Carolina is divided into thirty-two counties. In the year 1875 an official census of the population in the State was taken.

The number of whites and colored were carefully noted. The population was also classified in regard to age. The total number of inhabitants returned by this census was 925,145, of which number 574,391 were colored and 350,754 white. The number of white males over twenty-one years of age was 74,199; colored over twenty-one years of age, 110,744.

A general election is held in the State every two years, at which time the following officers are elected: Governor, lieutenant-governor, secretary of state, State treasurer, comptroller-general, attorney-general, adjutant and inspector-general, superintendent of education, solicitors for eight circuits, one half of the State Senate, and one hundred and twenty-four representatives. The following county officers are also elected: Ninety-six county commissioners, thirty-two sheriffs, thirty-two clerks of courts, thirty-two probate judges, and thirty-two school commissioners.

In order to arrive at some idea of the strength of the two political parties in the State (republican and democratic) the tables appended to my remarks are referred to, from which it will be seen that in the election of 1870 the republican candidate for governor received 33,534 majority; in the election of 1872 the republican candidate for governor received 33,285 majority; in the election of 1874 the republican candidate for governor received 11,585 majority, the contestants for the office being two republicans, the regular candidate receiving the majority. During the same years the republican candidates for lieutenant-governor were elected by the following majorities: In the year 1870, 32,655 majority; in the year 1872, 42,278 majority, (over a liberal republican;) in 1874, 15,985 majority, (over a bolting republican.)

In the year 1876, at the general election, the republican candidate for governor received 91,127 votes, and the regular democratic candidate 92,210 votes. The republican candidate received 6,056 more votes than had ever been polled by his party; the democratic candidate 40,310 more votes than had ever been polled by a candidate of his party since the war, namely, the election of 1870, when M. C. Butler, the democratic candidate for lieutenant-governor, received 51,537 votes. At the same election of 1876 the republican candidates for presidential electors received, according to the canvass of the State board, the following votes: Bowen, 91,786; Winsmith, 91,870; Johnston, 91,852; Hurley, 91,136; Nash, 91,804; Cook, 91,432; Myers, 91,830. The democratic candidates for electors received the following votes: Barker, 90,896; McGowan, 90,737; Harrington, 90,895; Ingram, 90,798; Wallace, 90,905; Erwin, 90,906; Aldrich, 90,806. The result of the investigations of the Congressional committee gave the republican electors the following votes, after additions and deductions by experts: Bowen, 88,021; Winsmith, 88,057; Johnston, 87,510; Hurley, 86,797; Nash, 87,517; Cook, 87,480; Myers, 87,807; and the democratic electors, Barker, 86,597; McGowan, 86,619; Harrington, 86,348; Ingram, 86,358; Wallace, 86,448; Erwin, 86,359; Aldrich, 86,244. Allowing to the several republican electors certain votes, of which they were deprived by the mistakes of the election officers, and which will be referred to hereafter, it will be found that Messrs. Hurley, Nash, and Cook were justly entitled to several hundred more votes. It is impossible to arrive at the fact that the democratic increase of vote was legitimate. The republican party polled more than its usual vote, and it is therefore reasonable to infer that extraordinary methods were resorted to in order to swell the democratic vote, and here attention is called to the fact that the republican vote of 1876 was 19,617 less than the colored voting population of the State, which is republican. There is also a white republican vote to be added, the number of which cannot be arrived at. These facts reveal that the republican party is as strong as ever in South Carolina, and that the vast increase of the democratic vote is based upon fraud, and sworn evidence will be adduced when the vote in the several counties is considered to prove this statement.

For the purpose of giving some idea of the manner in which the State government has been administered the following facts are furnished: The tax for the last year was eleven mills, three mills for the purpose of paying the public debt, two mills for the interest fund, one and a quarter to pay unpaid salaries, a portion of a mill to support penal and charitable institutions, penitentiary, deaf and dumb asylum, the lunatic asylum, and the orphan home, &c. This tax is the smallest that has been imposed since reconstruction, and it is due Governor Chamberlain to say that the taxes have been reduced fully one-fourth under his administration. The State debt is $7,000,000 and the assessed value of real estate $140,000,000, and the assessment is very fair.

The administration of Governor Chamberlain has been one of marked reform, of a character to command the admiration of every citizen. Reductions have been made in the expenditures and salaries have been reduced. The abuse of the pardoning power has been corrected, men of better character have been appointed to office, faith has been kept with the public creditor, a saving of $400,000 to the State effected, the tax laws have been amended to secure unanimity of assessment and taxation, a saving of $101,200 in the contingent fund of the executive has been effected, the legislative expenses have been reduced $350,810, the contingent expenses of the government $355,000, the expense of public printing reduced $512,418, and taxes reduced from thirteen and one-half mills to eleven mills. The deficiencies in his administration were $291,024 less than those of 1872 and 1873, and $233,315 less than those of 1873 and 1874, making a grand total of savings under the administration of Governor Chamberlain of $1,719,488; and let it be added that this is the testimony offered by the organ of the democratic party in the State. The Charleston News and Courier published in its columns the following testimony to the reform character of Governor Chamberlain's administration, (see testimony, pages 353 and 354.)

We have scrutinized, one by one, the most important pledges and recommendations contained in the addresses and messages since his election, and we now briefly sum up the result of the investigation we have made.

* * * * * * *

The abuse of the pardoning power has been corrected.

The character of the officers of the government appointed by the executive has been improved, and the sureties upon the bonds of public officers have been required to make affidavits of their ability to meet the liability they assume.

The settlement of the public debt has been maintained unchanged, and faith with the public creditor, so far as dependent on executive and legislative action, has been fully kept.

The effort to place the whole of the public funds in two banks of small capital was frustrated, and the State so saved from the danger of far greater loss than was sustained by the failure of the Solomon bank.

The floating indebtedness of the State has been provided for in such a way that the rejecting of fraudulent claims is assured; the recognized and valid claims are scaled one-half the amount, and their payment is distributed over a term of four years, resulting in a saving to the State of at least $400,000.

The tax laws have been amended so as to secure substantial unanimity and equality in the assessment of property for taxation.

The contingent funds of the executive department have been so reduced in amount that the saving in two years, upon the basis of the average of six previous years, is $101,200.

Legislative expenses, in like manner, and upon a similar basis, have been so reduced as to save the people in two years $350,810.

Legislative contingent expenses in the same way have been so reduced as to save the State $355,000.

In the expenditure of contingent funds accountability and publicity have been secured.

The cost of public printing has been reduced from an annual average of $306,200 to $50,000, saving in two years $512,418. The salaries of public officers have been reduced $30,000 a year.

The tax levy for the current year for State purposes has been reduced from thirteen and a half mills to eleven mills, a saving to the people this year of $300,000.

The deficiencies (including the losses by the Solomon bank) are for the year 1874-'75, $308,872, which is $291,024 less than the deficiencies of 1872-'73, and $233,315 less than the deficiencies of 1873-'74.

Under the several heads the savings that have actually been made are:

In the bonanza bill	$400,000
In the executive contingent fund	101,260
In legislative expenses	350,810
In contingent expenses	355,000
In public printing	512,418
Total	1,719,488

To realize this amount would require a tax of nearly 1½ per cent. Had the appropriations of the past two years been as inordinate as the average of the appropriations and expenditures of the preceding years, the State taxes of the past two years would have been ¾ per cent. a year more than the outrageous rate actually levied.

This is the record of Governor Chamberlain, as shown by hard figures and unmistakable facts. We have strained or exaggerated nothing. The plain truth as we know it has been faithfully given. And we maintain that the record as it stands is one of which Governor Chamberlain has cause to be proud, that it justifies the support which has been given him, and is a complete answer to those of our friends who think that no act of Governor Chamberlain deserves public commendation but his refusal to issue the commissions to Whipper and Moses. That bold act, applauded everywhere in South Carolina, has not been mentioned in these articles. * * *

And the voice of the Charleston News and Courier was the voice of the majority of the democrats in the State. Evidence from the leading democrats who testified before the committee can be found all through the investigation bearing testimony to the excellent character of the administration of Governor Chamberlain. It was the pet project of these men to have him nominated as their candidate for governor, and they never wearied of sounding his praises; he was accredited with doing more to give South Carolina good government than any other citizen within her borders, and up to the time of the nomination of Wade Hampton it was an open question what party would bear in the campaign the name of Daniel H. Chamberlain with his prestige of reform; and let it be said here that with all their democratic abuse of carpet-bag government in the South, it is a part of the political history of that section that whenever a man rose superior to the corruption in his party, be he a native republican or otherwise, he became an object for abuse and vilification. The more he endeavored to accomplish for good government the worse the abuse he would receive, and often the crime of doing good for himself and his people merited the punishment of death. Governor Chamberlain still lives, and nothing but the protecting hand of Providence has saved his life. The abuse, the vilification, has been heaped upon him out of the mouths that a few months ago bore testimony to the great reforms he had accomplished. Threats of assassination have been uttered every day and night during the campaign and since its close. To-day his life is preserved for the reason alone because it would not be good policy at this time, when Hampton is seeking to win the confidence of northern people, to murder him. The reforms accomplished by Governor Chamberlain have been indorsed by his party, and it entered the campaign pledged to reform and good government. South Carolina, under the republican party, in the future will be governed wisely in the interests of her people.

The platform of this party was equal in wise measures to any adopted by a political party in the country. It pledged absolute reform, reduction of expenses and taxes, and, in general terms, advocated a policy which, when fully consummated, will give South Carolina one of the best governments under the sun.

The republican platform.—In preparing the platform of our party I was invited by the committee having the work in charge to meet the committee and to present my views. I accepted this invitation, and I here present those portions of the platform adopted by the convention to which my efforts were especially directed:

"4. That in presenting to the people of South Carolina our nominees for the high offices of the State for the coming two years we believe we should make plain and unmistakable the aims and principles to which we stand pledged, in the event of their election; not in glittering generalities of reform, but in specific and substantial articles.

"6. We pledge ourselves to thorough reform in all departments of the State government where abuses shall be found to exist, and, as an earnest of the same, declare our purpose of submitting to the qualified voters of the State the following specific reforms as amendments to the State constitution:

"'1. That the present adjustment of the bonded debt of the State shall be inviolable.

"'2. That the General Assembly shall meet only once in every two years, and that the length of no session thereof shall exceed seventy days.

"'3. That the number of sessions of courts of general sessions and common pleas shall be reduced to two annually in each county, with power reserved to the judges to call special sessions when necessary.

"'4. That the veto power of the governor shall be so modified as to allow of the disapproval of a part without effect upon the rest of an act.

"'5. That agricultural interests shall be relieved from burdensome taxation by a more equitable distribution of taxes, and by the inauguration of a system of licenses fixed upon fair principles.

"'6. That no public funds shall ever be used for the support of sectarian institutions.

"'7. That the enormous evil of local and special legislation shall be prohibited whenever private interests can be protected under general laws.

"'8. And inasmuch as the system of free schools was created in the State by the republican party, and should be especially fostered and protected by it, we pledge ourselves to the support of the amendment to the State constitution, now before the people, establishing a permanent tax for the support of free schools, and preventing the removal of school funds from the counties where raised.'

"7. We pledge ourselves and the nominees of the republican party of the State to the securing of the following purposes by legislative enactment:

"'1. The further and lowest reduction of salaries of all public servants, consistent with the necessities of government.

"'2. The reduction of fees and costs, especially of attorneys in civil cases, and the amendment of the laws governing the settlement of estates in such manner as to secure a more economical administration and settlement of small estates.

"'3. The immediate repeal of the agricultural lien law.

"'4. Public printing to be reduced at least one-third of the present appropriation.

"'5. Convict labor to be utilized under such laws as shall secure humane treatment.

"'6. The annual appropriations for public institutions to be economically made and properly expended.

"'7. The number of trial justices to be reduced throughout the State, and each justice to be assigned to specific territory, with moderate salaries to cover costs of criminal business, adjusted in proportion to populations.'

"8. Recognizing the enormous expense of fencing farms and the scarcity of timber in some sections of the State, we feel it to be necessary that practical relief be afforded to the people of the State, and we pledge ourselves to secure such legislation upon the subject as will give to the electors of each county the right to regulate this question for themselves."

The great cry used against the republicans was "carpet-baggers," and an assertion that the people of South Carolina wanted a "white-man's government." To show the claim that where the colored people are in a majority they ignore the whites is false, a reference is made to Colleton County, one of the strongest black counties in the State, having a population of 21,413 colored to 12,450 whites. The evidence before the committee, as shown below, demonstrates that the whites have a majority of the offices in the county, and the same state of facts exists elsewhere:

Question. Within the range of your observation, are not the great majority of the county office-holders of your county colored men?

Answer. No, sir; I could not make any such statement as that.

Q. Who are the county officers of your county?

A. The county officers in my county, sir, are pretty well divided.

Q. I ask you who they are.

A. George Holmes, a white man, county treasurer; H. G. Judd, a white man, clerk of court; S. D. Gilbert, a white man, school commissioner.

Q. Was he elected this year?

A. He was not elected this canvass; he is off at Massachusetts. I am giving you those who are holding office. You know there is a dispute yet concerning the right to hold. All these I am calling are republicans; probate judge, a white man; two out of the three county commissioners, white men; the sheriff, a white man; the deputy sheriff, a white man; three clerks in the auditor's office—during the months of October, November, and December, they generally have an additional force of three in the office to arrange the books of the assessment of property—white men. I will now give you the colored men: out of sixteen trial justices twelve are white—we have the strongest republican county in the State—and four colored trial justices; one county commissioner, colored; colored auditor. Now, sir, you can make the comparison and you will see.

Q. Who are your members of the Legislature?

A. Now the members of the Legislature, six out of the seven of the old house are colored and one white.

Q. Who is the senator?

A. The senator is a colored man; jury commissioner, and county officer, a white man; the treasurer's clerk is a white man.

Q. All the clerks are white men, are they not?

A. No, sir.

Q. How about the constables?

A. The constables are about equal. Twelve out of the sixteen trial justices are white; we have four colored trial justices.

Before going into the question of general intimidation in the State, a brief reference will be made to the unblushing attempt made to buy one of the republican presidential electors elect to cast his vote for Tilden for President. By reference to the very full testimony taken by the committee, it will be seen that the sum of $50,000 was offered to Mr. Nash, an elector, as a bribe to have him vote for Tilden. Further, it was attempted to bribe Mr. Nash to have him secure for the democrats four republican State senators by paying $10,000 for each one, $40,000 for all. It is needless to say this base attempt to accomplish by bribery what had failed through fraud and intimidation failed of its purpose; Mr. Nash, a colored man, declining the bribe. The four State senators, had they been purchased, would have given the democrats a majority in the State senate and enabled them to set up an administration in opposition to the regular State government. The purchase of the presidential elector would have placed Tilden's election beyond doubt.

The various methods of intimidation resorted to by the democrats were as follows: The killing of colored men; making threats of personal violence; sending threatening letters, coffins, bullets, &c.; by riding armed through the country, by day and by night; by firing into the houses of republicans; by breaking up republican mass-meetings; by forming armed bodies, dressed in red shirts, called rifle clubs; by discharging employés who refused to promise to vote the democratic ticket, &c. All of these various measures of intimidation were rigidly carried out in order to produce, by an organized system, a reign of terror among the republicans of the State. When the various counties are referred to it will be conclusively shown that men have been murdered, driven from home, discharged, beaten, &c. The republicans, with few exceptions, could hold no political meetings. When such would be called, armed rifle clubs, on horseback and on foot, would surround the republicans and demand control of the meeting. If this was not accorded the meeting was broken up. The "preference policy," or, in other words, discharging employés who voted the republican ticket, was openly advocated by the democratic press, who published their news in the following shape:

LOCAL INTELLIGENCE.

Mr. R. C. Logan is the traveling canvassing agent for the News and Courier in South Carolina.

If you want a porter, employ a democrat.

Sales at auction this day.—John H. Ostendorff, at eleven a. m., at old post-office, real estate.

The weather.—Office of Chief Signal Officer, Washington, D. C., September 30.—

* * * * * * *

Probabilities: In the Middle States, rising, followed by slowly falling barometer, cold northwesterly winds, backing to warmer southwesterly, and clear or partly cloudy weather.

Comparative temperature.—At 4.24 p. m., yesterday, the thermometer registered as follows in the cities named: Augusta, 56; Charleston, 65; Galveston, 66; Jacksonville, 70; Knoxville, 45; Mobile, 61; New Orleans, 64; New York, 58; Norfolk, 59; Savannah, 67; Wilmington, 63.

The thermometer in the city.—The range of the thermometer at Blackman's drug store, 39 Broad street, Saturday and Sunday, was as follows: September 30, 8 a. m., 73; 10 a. m., 77; 12 m., 79; 2 p. m., 80; 4 p. m., 77; 6 p. m., 76; 8 p. m., 75. October 1, 8 a. m., 57; 10 a. m., 62; 12 m., 68; 2 p. m., 69; 4 p. m., 67; 6 p. m., 64; 8 p. m., 60.

If you want a tailor, employ a democrat.

The fourth circuit.—The radicals have nominated D. D. McCall for solicitor of the fourth circuit. This explains the haste with which Mr. McCall denied that he was entitled to a place on the "roll of honor."

If you want a driver, employ a democrat.

Cotton for Great Britain.—The British bark La Plata, Captain Matthews, was cleared for Liverpool, on Saturday last, by Messrs. Watson & Hill, with three bags sea-island cotton and two thousand and two bales upland cotton. This is the first cargo by sail this season for Liverpool.

If you want a laborer, employ a democrat.

Citadel Square Baptist Church.—Rev. Dr. Chambliss returned to the city Saturday and occupied his pulpit yesterday morning. The night services in this church will not be resumed at present, either on Sunday or in the week. The regular lecture service will be held every Thursday afternoon at five o'clock.

If you want a gardener, employ a democrat.

Hotel arrivals, September 30.—Pavilion: B. J. Hazzard, Georgetown, South Carolina; J. D. Robertson, William H. Evans, South Carolina; James Brandt, Florida; P. McSweeny, Mobile. Waverly House: Lawrence L. Ludlow, Effingham Cross-Roads; M. B. Brawly, South Carolina; J. R. Reed, Philadelphia.

If you want a plasterer, employ a democrat.

Troops for Abbeville.—Captain Lloyd's company of the Eighteenth Infantry, which had been on duty in Aiken County, arrived in Columbia on Friday evening, *en route* to Abbeville, where it will establish a military post until after the election. Lieutenants Paul and Barnhart are the other officers of the company.

If you want wood cut, employ a democrat.

* * * * * * *

If you want a tinker, employ a democrat.

The Easterlin's Mill democratic club adopted resolutions carrying intimidation to its most extreme limit. Democratic vengeance was visited upon the innocent families of republicans; even little children were made to suffer by these chivalrous people because their fathers were republican. Think of a party—a party professing the name of "democracy" resolving against women and children; and remember at the same time these are the men who boast of their chivalry, of their manly courage, of their ancestry. I call the attention of the country to the resolutions given below, and add that the policy indicated was almost universally adopted by the speakers at political meetings:

The following resolutions, adopted by the Easterlin's Mill democratic club, are commended to the attention of the different clubs throughout the State. Similar resolutions have been adopted by the Willow Township, Graham's, and Bamberg clubs, and no doubt by many other clubs in Orangeburgh and Barnwell Counties. It is intended that the names of the obnoxious leaders in each township be sent to the different clubs throughout the county:

"1. *Resolved*, That we will not rent land to any radical leader, or any member of his family, or furnish a home, or give employment to any such leader or any member of his family.

"2. That we will not furnish any such leader, or any member of his family, any supplies, such as provisions, farm implements, stock, &c., except so far as contracts for the present year are concerned.

"3. That we will not purchase anything any radical leader or any member of his family may offer for sale, or sell any such leader or any member of his family anything whatever.

"4. That the names of such persons who may be considered leaders be furnished to this club at the earliest date, and that a list of the same be furnished each member of the club.

"5. That whenever any person or persons who shall be denominated radical leaders by a vote of this club shall cease as such, these resolutions shall become null and void so far as such leader or leaders, or any members of his or their families are concerned.

"6. That we will protect all persons in the right to vote for the candidates of their choice.

"7 That these resolutions be published, and that all the democratic clubs in the county and throughout the State are hereby requested to adopt them."

If any man supposes for a moment that my language is not justified by the facts, let him read the annexed testimony. An ex-governor of the State, a professed gentleman, calling upon his hearers to refuse social intercourse with a radical; and this gallant gentleman demands that the innocent family "be made to feel the brand of infamy, the moral pestilence surrounding them." I again call the attention of the people of the country to these sentiments, to their full extent. Here is an ex-governor of a State, a representative citizen, who in a public meeting asks that the innocent family of a man guilty of republicanism receive the same condemnation as a convicted felon. And this man is a representative of southern chivalry:

Many have joined that (the republican) party to their eternal disgrace, and they will never recover from it. No, sir; nor their children, nor their children's children. [Cheers.] The very fact of their deserting their friends and their race is the best proof of their dishonesty. Fidelity is the best proof of honesty of soul, and he who has it not to his State and to his people is altogether dishonest.

In a democratic speech made at Walhalla on the 4th of September, and reported in the Greenville Enterprise of September 16, Ex-Governor B. F. Perry used the following language:

And here I would appeal to my democratic friends all over the State to stop all social intercourse with any man who is base enough to be a radical. Let him feel by your conduct toward him that the brand of infamy is on him and his children. This is the only way you can reach his black heart. Let him see that there is a moral pestilence around him which prevents all social contact with honorable men, and leaves him for patronage and society to his own chosen rogues and plunderers.

The citizens of Lancaster Village adopted resolutions of similar tenor, and asked their little boys to refuse association with the children of republicans.

The Lancaster Ledger of August 30 gives a report of a democratic meeting at Lancaster Court House, at which the following resolution was "unanimously adopted:"

Whereas several white citizens of Lancaster Village and County have associated themselves with the negro radical party, and thereby turned against their own race, and rendered themselves unworthy of social recognition by the Anglo-Saxon race:

Be it resolved, That we, the democratic citizens of Lancaster Village, pledge ourselves not to countenance them except only in business transactions, and that we also request our young men and boys in the village and county to carry out this resolve.

I now call attention to the law upon the subject of intimidation of voters, and do so in order that it may be fully understood that Governor Chamberlain was only executing his sworn duty when he called upon the Federal Government for necessary support in enforcing the laws of South Carolina.

An examination of the extract from the revised statutes will show how completely and thoroughly the laws of South Carolina have been violated by the men who have announced to the country their purpose to be the redemption of the State.

No law upon the statute-books was respected by these men if in any way it interfered with the plans they had adopted to carry the State. They knew no law, human or divine, that interfered with their purposes.

If at any election, as in the eighteenth section of this chapter is mentioned, any person shall offer or propose to procure another, by the payment, delivery, or promise of money, or other articles of value, to vote for or against any particular candidate or measure, or shall offer, for the consideration of money or other articles of value paid, delivered or promised, to vote for or against any particular candidate or measure, such person so offering to procure or vote shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined and imprisoned at the discretion of the court. (Chapter 131, section 20, page 727.)

If any person shall, at any of the elections in any city, town, ward, or polling-precinct, threaten, maltreat, or abuse any voter, with a view to control or intimidate him in the free exercise of his right of suffrage, such offender shall suffer fine and imprisonment at the discretion of the court. (Chapter 131, section 24, page 728.)

Whoever shall assault or intimidate any citizen because of political opinions or the exercise of political rights and privileges, guaranteed to every citizen of the United States by the Constitution and laws thereof, or by the constitution and laws of this State, or for such reason discharge such citizen from employment or occupation, or eject such citizen from rented house or land or other property, such person shall be deemed guilty of a misdemeanor." * * * (Chapter 131, section 26, page 728.)

The democrats in their different meetings would adopt resolutions to the effect that republicans could receive no work from them. These threats had great significance when it is considered that the democrats or former slaveholders own nearly all the land. It literally meant starvation to the laboring republicans. The testimony of General M. C. Butler shows that the democrats were determined upon such a policy, and it further shows that it was the practice of the democrats to carry arms.

The democrats proceeded so far in their intimidation policy that on the 7th day of October, 1876, the governor was forced to issue a proclamation disbanding the rifle clubs, in order that the peace of the State and the authority of its laws should be maintained. At and before this time the laws of the State were powerless to protect its citizens in their rights, and the sheriff of Aiken County telegraphed September 19, 1876, to the governor that he was unable to disperse the white democrats who were under arms in that county. It had been reported that the colored people had armed and commenced a riot.

AIKEN, SOUTH CAROLINA, *September* 19.

To Governor D. H. CHAMBERLAIN:

I have just returned from the reported riot. I have not seen or heard of any fighting; saw no colored men under arms, nor could I hear of any. They had dispersed, and none could be found up to a late hour last night. The whites are all under arms and re-enforcements were arriving. I was powerless to disband them. The country is under a great deal of excitement. This was the condition of affairs when I left that night. The United States troops left Aiken for the scene at eleven p. m. I see much excitement here. If there is further trouble I will report.

H. JORDAN,
Sheriff Aiken County.

I now desire to show, in as concise a statement as the numberless political and personal outrages committed in the State of South Carolina by the democracy will permit, how their doings worked in the various counties, and particularly in those which I have the honor to represent:

AIKEN COUNTY.

This county in 1875 had a voting population of 2,494 whites, and 3,473 colored. In 1870 Aiken was not a county. In 1872 the republican majority was 1,960; in 1874, 68 over the bolting republicans. At the last election the highest republican elector received 2,218 votes, and the highest democratic elector 2,904; the republican vote decreased 170, the democratic vote increased 584. In this county there was a large amount of fraudulent voting. In the precincts of Graniteville, Fountain Academy, Miles's Mill, and of Windsor gross frauds were perpetrated, as will be seen from the evidence:

STATE OF SOUTH CAROLINA,
County of Aiken:

Personally appeared before me D. W. Johnson, who, being duly sworn, says: That he is one of the managers of election of the Fountain Academy precinct, Aiken County; that deponent held the election at the precinct aforesaid on the 7th November, 1876; that at six o'clock in the afternoon of the said day deponent, with George Brodie, another manager, started to close the polls, as the law required them to do, but a crowd of some fifteen white men came up and demanded that the polls be kept open until they could vote, and although deponent and the other manager knew that the law required the polls to be closed at six o'clock in the afternoon of the day of election, yet they were afraid to refuse compliance to the demands of the crowd of white men, and the managers of said precinct were compelled to keep the polls open at said precinct for some time after six o'clock p. m., and that during said time after six o'clock they were compelled to allow about fifteen persons to vote.

Deponent has been informed and believes that a great number of votes cast at the said precinct on the day of election were illegal, as a number of the persons voting are residents of the State of Georgia, and a number of other persons voting at said precinct had voted on same day at other precincts in the county and State aforesaid. Deponent believes that had he or the other managers refused to allow the said illegal votes to be cast, that he and they would have been killed.

D. W. JOHNSON.

Sworn to before me this 9th day of November, 1876,

GEORGE C. CLYDE,
Notary Public South Carolina.

Deponent further says that if he had been present at the canvassing of the returns he should have objected to the admission of those from Graniteville, Fountain Academy, Miles's Mill, and Windsor precincts on account of the gross frauds which were committed at those precincts, of which deponent has information partly from his own personal knowledge and partly from affidavits of the managers, supervisors, and deputy marshals at those polls, which affidavits are in his possession and their existance known to the board of county canvassers.

Deponent does therefore most solemnly enter his protest against the action taken by a portion of said board on Monday, November 13, 1876, for the reasons herein stated.

GEORGE WASHINGTON.

Sworn to before me this 16th November, 1876.

H. H. D. BYRON,
Notary Public.

This county was also the scene of much violence. The United States district attorney went there in September, and upon a casual examination found that many murders had been committed, republicans being killed on account of their political opinions. Intimidation was largely resorted to; for the political crimes committed during this campaign some five hundred warrants were issued. The number of republicans actually murdered is said to be twenty-three or twenty-four.

DAVID T. CORBIN sworn and examined.

By Mr. LAWRENCE:

Question. Where do you reside?

Answer. Charleston, South Carolina.

Q. What office do you hold?

A. United States district attorney for this district.

Q. How long have you been district attorney?

A. Since April, 1867.

Q. What steps did you take to ascertain whether there had been any violation of the laws of the United States at the last election in Aiken County, in this State?

A. About the middle of September I went to Aiken County, taking a United States commissioner with me, to investigate the troubles that had been reported to me in a general way. Upon a very casual examination, I found that a large number of murders had been committed.

Mr. ABBOTT. I object. Anything that the witness knows of his own personal knowledge of course he may state.

The WITNESS. It was alleged that large numbers of murders of colored people had been committed on account of their political sentiments and on account of their race and color. I proceeded to investigate those charges, and called before me and before the commissioner some two or three hundred witnesses, and took their testimony in writing, at great length. I had a stenographer with me to assist in the investigation. The witnesses were all sworn. Upon the affidavits thus made before me, I caused about five hundred warrants to be issued for the arrest of parties charged with those crimes in Aiken County.

Q. Crimes committed during this current year?

A. Yes, sir; during August, September, and October.

Q. What amount of testimony did you take in the form of affidavits?

A. I took about one thousand pages of legal-cap paper and examined about two hundred or two hundred and twenty witnesses.
Q. You have that testimony now?
A. I have, at my office.
Q. You are ready to produce it to the committee, if they desire?
A. Yes, sir.
Q. Have you prepared a tabulated statement of the names of persons charged with crimes in that county, with the names of the witnesses in part on whose affidavits they were arrested, and the number of persons who were alleged to have been killed or injured in that county during the year?
A. I have.
Q. Can you produce it?
A. This is the statement, [producing a paper.]
Q. This signature is yours?
A. Yes, sir; I have certified to that as from the records of my office.
Mr. LAWRENCE offered the statement in evidence.
Mr. ABBOTT objected to its reception.
Q. What number of persons are alleged to have been killed in that county during this year?
A. Twenty-three or twenty-four, I think, in that county during this season.
Q. All colored men?
A. All colored.
Q. State whether any investigations were made in regard to other counties?
A. Very slight investigations were made in Edgefield and Laurens and Barnwell Counties by the United States commissioners, but they were not lawyers, nor did they have the advice of lawyers, and they made very little progress.
Q. Have the investigations been completed in the counties which you have just named?
A. No, sir; they are right in their incipiency.
Q. So far as those investigations have gone, can you state the number of alleged violations of the laws of the United States by acts against colored men in any one of those counties?
A. No, sir; I don't think I have sufficient evidence to indicate, except in a very general way, the number of violations of law. From information which has come to me in my official capacity, I have reason to believe that they are very numerous.

BARNWELL COUNTY.

This county by the census of 1875 had a voting population of 2,583 white and 4,734 colored voters. In the year 1870 the republican majority was 1,683; in 1872, 1,942; in 1874, 1,477; in the last election the highest republican elector received 2,837 votes, the highest democratic elector received 3,895 votes. The republican vote decreased 960, the democratic vote increased 1,575. In this county the republicans lost a large number of votes by murder, violence, and fraud.

District Attorney Corbin testified as follows:

Question. What is the character of the crimes alleged before you upon sworn testimony which you have now in your possession?
Answer. Eight or ten murders of colored men in Laurens, and in Barnwell County some ten or fifteen murders of colored men; but, as I said before, I have had no opportunity to personally investigate them. I have the names of the colored men alleged to have been killed and the witnesses who have made the affidavits, and I can furnish those to the committee.
Q. You have the sworn testimony of the witnesses?
A. Simply affidavits furnished me by the commissioner.
Q. What other crimes have you sworn testimony of having been committed against colored persons during this year?
A. Whipping on account of their political sentiments or because they were going to vote the republican ticket, and quite a large number of them have been wounded, have been shot at, and have escaped with slight wounds. The crimes range from murder down to flogging and intimidation in lesser degrees; threats to turn them off the land; threats to turn them into the road; threats to kill them, &c.
* * * * * * *
Q. By white men; democrats?
A. Yes, sir; they claimed to be. The morning I left my residence I was coming down town to the village, (I live in the suburbs of the village;) that was the first I knew of the Ellenton riot. I was coming down the morning after the Robinson Bridge affair, and I saw about fifty mounted men in their shirt-sleeves, with double-barreled shot-guns and rifles, in front of the store. I walked into the store to protect myself; I thought the crowd looked somewhat angry. Several of them came into the store and remarked that they were going to clean out the damned negroes that morning. I got around behind the counter for fear some of them might pitch into me; and I heard some one in the crowd remark, (I don't know who he was,) "There is that damned son of a bitch, Osborne; best commence on him first."
Q. State if you know anything of threats made by democrats owning lands against tenants on their lands in case they should vote the republican ticket.
A. O, that has been a common remark all through the county. I have heard it time and again in my presence, that if the colored men did not vote with them this time——

Political meetings were broken up, and such as could be held were at the risk of life.

Mr. Carpenter testified as follows:

I was sitting in the hotel after the meeting with Senator Smith, when Mr. Burke the proprietor of the hotel, came in and wanted to introduce a man named Dr. Carroll, a very prominent planter and doctor in that neighborhood. We sat down and talked perhaps ten or fifteen minutes in a quiet, gentlemanly way. The doctor rose to go, and held out his hand and said: "Now, Mr. Carpenter, this meeting has been a failure, so far as we are concerned." Said I, "Doctor, what do you mean by that? You have certainly had more men than we have had, and you have all the abuse on your side." "Well," said he, "it has been a failure in this, that they didn't kill eight or ten men to-day." Said I, "Doctor, you don't mean that you wanted any men killed to-day?" Says he, "I mean exactly what I say; we can't do anything with these niggers till we kill off eight or ten of their leaders." I asked Senator Smith, "Is that a sane man or a lunatic?" He said, "Well, he means just exactly what he says; he is a prominent man and a planter, and he means exactly what he says."

At a meeting in Midway where Governor Chamberlain, and Judge Hoge, at present a member upon this floor, spoke, the republicans were surrounded by armed riflemen and prohibited from speaking:

We arrived there about two o'clock in the morning, and knew nothing about a joint meeting until about eleven o'clock in the day, when it was intimated by several persons who came to call upon the governor that they expected to have a joint meeting, and when we got on the stand we saw large numbers of these rifle-club men coming along two by two; they had no red shirts on at that time; that was before they introduced the red-shirt business.
We found that they demanded half the time. The democrats formed on the left of the stand, and the republicans on the right, the parties being separated by ropes, drawn out from the stand. Governor Chamberlain was introduced, and spoke for perhaps half an hour before any intimation of a joint discussion was given. Then somebody in the audience mounted the box and pointed to the governor and said, "How long is he going to speak?" Mr. Osborne, the county chairman, said, "This is a republican meeting and his time is not limited." This man turns to the crowd and says, "He can speak an hour, can't he?" They replied, "Yes, yes." The governor turned to me and said, "Shall we agree to a joint discussion?" I replied, "This is your meeting, governor; not mine." I had made up my mind not to agree, but he thought we had better agree to it. The governor spoke his hour, and they put up a man named Simms to follow him. After he got through I was introduced, and I spoke nearly an hour, including the interruptions, when Mr. George D. Tilghman was introduced. For the first ten or fifteen minutes of his speech he was quite moderate. While he was speaking I was sitting behind him on the stand, and he turned to his people on the left and said, "Why don't you hang these men; hang 'em here, and hang 'em now; shoot them down like the dogs they are."

At Robbins precinct, to be referred to hereafter, the polls were destroyed and the officers dispersed. Subsequently the poll was again opened and a majority of 1,317 votes polled for the republican ticket. Through the fear of one of the county commissioners, who failed to receive this box, it was never included in the general canvass. Had it been counted, there would have been no dispute about the election of the republican ticket in South Carolina to-day. It would have given the republicans an absolute majority for governor and a majority in the Legislature. A great many Georgians voted in this county and repeated at various polls.

At Allendale precinct the polls were blocked almost the entire day by democrats, and republicans were deprived of the privilege of voting; armed men interfered and drove republicans from the poll; threats were made to voters that if they supported the republican ticket they would have to go away from their homes. The presence of the United States troops was at one time necessary to clear the polls.

Ben Hughes testified as follows:

Question. State what you know, if anything, respecting voters being driven away from the polls or denied the right to vote.
Answer. On the morning of the election I got to the polls between five and six o'clock to act as United States deputy marshal, for which I was commissioned. The democrats had the polls in possession when I got there, captured—between two and three hundred of them. Between nine and ten o'clock, or may be later, I asked them would they not give the republicans a chance to vote on that day. The answer was 'turned to me, "Damn the republicans, and you too!" I waited until twelve or one o'clock. I then goes to Captain McLaghlan. He comes to the poll with me. After he came, the whites would come to the door that we went in at and locked the door that we went out, and they then would bring in the democrats; bring in men at the side door, and obstruct the way of the colored people voting. I then came out. I found between two and three hundred men going off that had not voted. I said to them, "Men, this will not do! See! come back and vote." Says they, "They will be here until night and we can't get to vote, and we may be killed on the wayside as we go home." I then goes to Captain McLaghlan again. Captain McLaghlan said to me, says he, "If you call for the Federal troops to come out, I will have to turn them out, but (says he) if there is any way to stop the Federal troops from going out, let us do it." He came down himself about that time. The white people then entirely backed off from the polls while he was present. As soon as he left they taken possession again.
Q. How soon did he leave?
A. I suppose in about twenty-five or thirty minutes. They then said, "Our object is that none of you vote here unless you vote for Wade Hampton." About that time two or three dozen of them got at me with their pistols pointed on me, some of the parties.
* * * * * * *
Q. What do you know, if anything, of republicans going away from the polls and not voting?
A. There was between two and three hundred, to the best of my knowledge, didn't vote at all.
* * * * * * *
Q. What, if anything, was said by any parties about not renting land to republicans in case they voted the republican ticket?
A. That was the neighborhood chat among them. That has been told to me myself very often; in other words, I know parties who were discharged from off the places on that account.
Q. State if any of the democrats told you that they would discharge republicans from their lands if they did vote the republican ticket?
A. They did, sir.
Q. Did you hear anything of the sort?
A. I did.
Q. What time in the afternoon or evening did those republicans go away from the polls without voting?
A. They began to leave the polls from twelve until late in the afternoon.

Robbins precinct polled 1,317 republican majority, giving for each republican candidate the highest vote polled. The reason for this extraordinarily large vote is found in the fact that the republican voters from the surrounding precincts were forced to leave their various polls, and congregate at Robbins precinct. This poll opened at the usual hour, and voting proceeded until the hour of twelve m., or thereabouts. Up to that time the republicans were largely in a majority, and the prospects seemed favorable for an election with only the usual threats, &c. About twelve m., on that day the polls were suddenly fired upon, and the officers and others forced to leave. The box was also destroyed, and has not been seen since. After the firing the republican officers returned, and at a small distance from the original poll, opened another poll. This they could legally do, the republican officers being in a majority. At this poll there were polled some 1,317 votes, as will be seen by the testimony of William I. Allen, one of the managers:

Question. Who were the managers of the last election at Robbins precinct?
Answer. Myself, William Bush, and Mr. Wallace Bailey. The supervisor was B. K. Motte.
Q. Who were the marshals?
A. Only one, L. W. Mimms.
Q. Do you remember who the other supervisor was?
A. No, sir.
Q. Was Mr. Motte the democrat or the republican?

A. Republican.
Q. What time did you get to the precinct the day of the election?
A. About six o'clock, I suppose. I didn't have a time-piece.
Q. How many people had assembled when you reached there?
A. I suppose there was between three and four hundred.
Q. How long before the voting commenced?
A. About a quarter of an hour after I got there.
Q. Was there any disturbance during that day in the voting?
A. Yes, sir.
Q. What time?
A. Between eleven and twelve o'clock; near noon.
Q. Up to that time had the voting continued without interruption?
A. Yes, sir.
Q. How many had voted?
A. I disremember exactly how many, but I think there was about two hundred and eighty that had voted. That is according to my recollection. The papers got destroyed.
Q. Can you judge how many democrats and how many republicans had voted?
A. Well, there was about forty whites who had voted, and we considered them democrats.
Q. And were the balance republican tickets?
A. Yes, sir.
Q. What was the disturbance?
A. Firing into the depot where we was managing.
Q. Firing into the building?
A. Yes, sir.
Q. Did you see where the balls went through the boards?
A. Yes, sir.
Q. Whereabout was this firing; how many shots?
A. There was three right after one another just as fast as they could come, and then it continued again about three more, and again until there was about ten, according to my recollection.
Q. What was then done?
A. The people all ran away then. The colored and whites all left the house where they were holding the election.
Q. Did they go out of the building?
A. Yes, sir.
Q. You went out?
A. Yes, sir.
Q. How was it with the people outside?
A. Part of the democrats, they, I suppose, had arms in another house there.
Mr. PHILIPS. Do not state what you suppose; only what you know.
The WITNESS. They did have arms there.
Mr. PHILIPS. State what you saw.
A. Well, I saw that. I heard them, "Close up, democrats, and all you republicans stand back."
Q. What did you hear them say?
A. I heard them say out there, "Democrats, close up." I don't know who said it, because I was in the house.
Q. Did you see white people have arms there after that?
A. Yes, sir.
Q. You say you all left the building; now what further occurred?
A. We went off, the managers and others, and consulted what to do, and we considered that we would hold the election at another place a little distance from the place where we were shot at in.
Q. Who held that consultation?
A. Myself, William Bush, and Mr. Motte.
Q. What did the white people do?
A. I don't know; they went off, and I don't know where they went.
Q. Do you mean that they left the locality?
A. They left the locality altogether.
Q. Did they go away together?
A. Yes, sir; they went off in a crowd.
Q. What did you do?
A. We held another box and persons came and voted.
Q. Where did you open that box?
A. Between a quarter and a half a mile from the house where we had the election.
Q. Was it at or near any building?
A. Yes, sir; an old school-house that had been taught.
Q. What became of the ballot-box that you used that forenoon?
A. We don't know what became of it. We left it in the depot.
Q. You left it there when you fled?
A. Yes, sir.
Q. Have you ever seen it since?
A. I have not.
Q. You don't know what became of it?
A. No, sir.
Q. How long did the voting continue at that point?
A. It continued until about six o'clock.
Q. From what points in the county did people come there and vote?
A. Do you mean from what precincts?
Q. Any way you choose to answer it.
A. Well, there were other men that I knew was from other precincts.
Q. What precincts?
A. Some from Millett's and some from Red Oak, which I knew by sight.
Q. How many votes were cast there that afternoon?
A. There was 1,317 votes.
Q. Did any persons vote there more than once?
A. No, sir; not to my recollection.
Q. There was no repeating?
A. No, sir; not at all.
Q. Were the votes taken in the usual way, as you had been taking them in the forenoon up to the time of the interruption?
A. Do you mean did we swear them in the same way?
Q. Yes.
A. Yes, sir.
Q. Each elector was sworn?
A. Yes, sir; they were sworn.
Q. What was done at the close of the voting by yourself and the other managers?
A. We taken the box on home. The votes were counted, and then we taken the box.
Q. Was any return made there anything more than counting them?
A. Yes, sir. The returns were made out and signed.
Q. Signed by whom?
A. By Supervisor B. K. Motte.
Q. Did you assist in the canvass?
A. Yes, sir.
Q. State whether you signed the return.
A. Yes, sir; I signed it also.
Q. Who was the other manager?
A. William Bush.
Q. Did he sign?
A. Yes, sir; he signed.

This fact is corroborated by B. K. Motte, the United States supervisor.

B. K. MOTTE sworn and examined.

By Mr. LAWRENCE:

Question. What is your age and your residence?
Answer. I am twenty-three years of age and reside in Barnwell. That is where I call my home now, but my real home is in Charleston.
Q. What office did you hold, if any, at the last presidential election?
A. United States supervisor.
Q. At what place?
A. Robbins precinct.
Q. State what occurred as to the election.
A. The polls were opened, I think, between six and half past six at Robbins, and the voting continued until between eleven and twelve o'clock, as near as I can recollect, and then the building in which we were voting was fired upon.
Q. By whom?
A. I could not say, sir.
Q. Where did the firing come from?
A. That depends upon the direction I was sitting in. I was sitting at the table—the window was on that end of the house—as if I was sitting with my face toward that window.
Q. Did it come from the east, west, north, or south?
A. That depends upon the direction that I was sitting. It came from the east. It came from across the railroad.
Q. State whether any shots were fired into the building.
A. Yes, sir; the first shot that was fired came directly, or three shots came directly over my head. The ball passed through three wallings. It came from that side and through a little room we was in, and out on the other side of the depot.
Q. Were the three shots in succession or all at once?
A. Just one after another; it seemed from the succession in which it was fired as if it was fired from some gun that can be loaded very quick. It just came, bang! and then, in a second of time, another bang—just in that succession.
Q. Did the voting continue there?
A. Yes, sir; it was continued; not directly there in that place.
Q. What became of the ballot-box that was being used there?
A. We left it there.
Q. Where did you go?
A. We went, I reckon, about between a quarter and a half mile, and the voting began there again.
Q. At what place?
A. It was at a school-house. They told me it was a school-house. I know there had been teaching there before.
Q. You commenced the election there again?
A. Yes, sir.
Q. You did not take the same ballot-box with you?
A. No, sir; we had nothing to do with the box at all. We left it there.
Q. About how soon did you commence the voting at the school-house?
A. Well, I could not give any exact time that we commenced it; but as near as I can say, if it had been twelve o'clock, it could not have been much past twelve.
Q. How long did you continue there?
A. As near as I can recollect it was after the sun was down, at any rate when I left there.
Q. Do you know how many men voted there that afternoon?
A. Yes, sir; I think 1,317, as near as I can say.
Q. What place did you occupy when the voting was going on at the second voting?
A. I acted as a clerk.
Q. What did you do?
A. I registered the names of the voters.
Q. State whether you know that that number of persons voted.
A. Yes, sir.
Q. Colored men or white men?
A. Colored.
Q. When the voting was over, who counted the votes?
A. I am the one that counted them.
Q. Who assisted you?
A. Mr. Allen.
Q. Was a return made of the votes?
A. Yes, sir.
Q. Was the managers' return signed?
A. Yes, sir.

The fact as to the firing upon the poll and the establishing of a new poll is also corroborated by the testimony of the United States marshal:

L. W. MIMMS (colored) sworn and examined.

By Mr. LAPHAM:

Question. Where were you on the day of election?
Answer. I was United States deputy marshal at Robbins precinct.
Q. Where were you that day?
A. I was there at Robbins.
Q. What time did you go to Robbins that morning?
A. I arrived there about half after six o'clock. I suppose it was about that time of day.
Q. Where was the poll to be held?
A. In the railroad depot.
Q. When you reached there were there many people there?
A. Right smart of them was there when I got there.
* * * * * * *
Q. You found them there when you got there?
A. Yes, sir.
Q. Where were they?
A. They was around the depot and about there in the place.
Q. What time did they commence voting?
A. They commenced voting about the same time that I got there, or a little after ward.
Q. Was there any time that the voting was interrupted?
A. Yes, sir.
Q. About what time in the forenoon was it?
A. About twelve o'clock in the day, to my judgment.
Q. How was it interrupted?
A. About that time of day there was some firing commenced in the woods. I was on the north side of the depot, and the firing commenced on the south side.
Q. Firing in what direction?
A. Right toward the depot.
Q. The building?
A. Yes, sir.
Q. Had you seen any guns before you heard the firing?
A. No, sir; I never saw any at all. When the firing commenced I ran up on the railroad to see who it was. I heard balls striking the house, and I thought it was inside the depot, probably, and I ran up to command peace.

Q. You ran up where?
A. I saw one man dodging behind a stump. I did not know who he was, but it was so rapid at that time that I ran back.
Q. What was so rapid?
A. The firing.
Q. Was he a white or a colored man that you saw?
A. A white man.
Q. Go on and tell the story in your own way.
A. In a few minutes all the white men was armed. They ran off about twenty yards from the depot in a little store. I asked them to please be peaceable, and I deputed fifteen of them to assist me in making the arrests of those rowdies in the woods.
Q. The men who were there at the poll?
A. Yes, sir.
Q. When you made that order or request, what occurred?
A. All of them refused; none heard to me at all.
Q. What did they say?
A. One said, "God damn it, wheel to the rear; they will fire on us back here."
Q. How long were you gone from Robbins?
A. I suppose it was not probably over two hours and a half at the outside. I rode, and I loped all the way there.

* * * * * * *

Q. What time was it when you got back to Robbins?
A. I could not tell that; I had no time-piece with me.
Q. Did you find the white men there when you returned?
A. All the white men and colored men both had dispersed. The colored men had gone off between a quarter and a half mile, and was taking votes out there.

* * * * * * *

Q. Did you notice whether the colored people had the same ballot-box or another one?
A. Yes, sir; I particularly noticed that; they had another box.
Q. Do you know what became of the box they were using in the morning?
A. No, sir. They left it right there in the depot, I suppose.
Q. Did you see it?
A. No, sir; I only saw the managers, and they told me they left it there.
Q. Who left it there?
A. The managers.
Q. But what became of it; do you know?
A. No, sir; I do not.
Q. Have you ever seen it since that?
A. No, sir; I have not.
Q. Who were the managers? Give their names.
A. J. W. Allen and B. K. Motte were the managers when I got there, and William Bush.
Q. Do you remember who the tally-clerk was?
A. B. K. Motte was acting as clerk and supervisor both, I believe.
Q. Who were acting as managers where they were voting when you got back?
A. They were acting when I returned.

After the polls had closed, the votes were counted and the returns signed by the officers. On the following Friday the managers, with the box in their possession, on their way to the county seat, where the board of county canvassers held their sessions, were stopped by armed men and forced to go back. By taking another route they reached the town, and going to the building where the canvassers were in session called out the chairman, Mr. Knopf, and offered him the box with the election returns. The testimony of Mr. Allen is given:

Q. What day of the week was this?
A. That was on Friday, according to my recollection. It was three days after the election.
Q. The box and the returns remained at your house how long?
A. The box and the returns remained two days. The reason we did not get to Barnwell early enough for them to take the box was that we were stopped on the way.
Q. How were you stopped?
A. By an armed body of white men.
Q. Where was that?
A. That was between my house and Salt Ketcher.
Q. What occurred there?
A. The armed body of men asked where was we from.
Q. How many of them were there?
A. I suppose about fifteen.
Q. On horseback?
A. No, sir; walking.
Q. What arms had they?
A. Some had double-barreled guns, and some had rifles.
Q. Did you notice whether they had any side-arms—any pistols?
A. No, sir.
Q. Tell what occurred.
A. They asked us where we was from, and I told them that we was from Robbins and had the box and poll-list. They said to us, "You damned sons of bitches! If you don't turn back I will put a hole through you, and that damned quick!" and upon these remarks we turned back.
Q. You managers turned back?
A. Yes, sir.
Q. Who was with you?
A. Bill Bush, one of the managers.
Q. Where did you go?
A. We went another road and went around and come up on the back of Barnwell Village, the county seat.
Q. And in that way you reached Barnwell at what time?
A. About nine o'clock.
Q. Whom did you see when you arrived?
A. When I arrived there I saw Mr. Knopf, one of the county officers.
Q. What is his first name?
A. A. Knopf, I think is his name. That was on Friday evening.
Q. Did you see any others of the county officers?
A. Not that night.
Q. What did you inform Mr. Knopf?
A. I told him that we had the box of Robbins Precinct and the returns.
Q. Where was he?
A. He came outside of the house where they were canvassing the votes. It was at the place where they were canvassing.
Q. What did he say, if anything, in reply?
A. He told us that he was afraid to take the box.

Mr. Knopf refused to receive the returns from fear. His testimony was:

Q. Who were they?
A. William Bush and W. J. Allen, I think. Allen I did not speak to; Bush is the one that I spoke to.
Q. What was said?
A. He called to me at the time while we were canvassing. I suppose there were twelve or fifteen in the room where we were sitting, and I heard my name called. I saw Bush, and he said, making a motion, "I have brought the return from Robbins." I said, "Have you got the box, too?" Said he, "Yes." At the moment I said, "I shall receive nothing from Robbins." This was at nine o'clock at night. He insisted for a while on my taking it. He said, "That is as soon as I could come." Said I, "You get away just as quick as you can." I would not touch it.
Q. What reason did you assign for that?
A. Well, I feared to receive it.
Q. Didn't you say so to Mr. Bush?
A. Yes, sir; I tried to cut it as short as I could to get him away.

The managers then left and went to Blockville and returned the next morning and again presented the box. They were too late; the board had done its work and adjourned. Going to Blackville, where two of the commissioners lived, they offered it again, and Mr. Generette agreed to take it and sign a supplemental county return.

Q. Who was present when it was presented on the road?
A. The other commissioner. Mr. Knopf and myself were riding in a buggy, coming from Barnwell. After we got to Blackville I received the returns in the presence of Mr. Knopf. Mr. Knopf refused to sign the return. He said that he didn't think it would be safe; that he knew that if he did sign it he could not live in the county. I told him that I would sign it, because I thought I had a right to do it.
Q. Then what was done with the returns?
A. That same evening I took the train and came up here to Columbia, and on Tuesday I presented it to the State board of canvassers.
Q. You gave it to the secretary of state?
A. Yes, sir, or his clerk.
Q. Were the board of officers in session when you delivered it?
A. Yes, sir.
Q. Did you state to them the reason why it was not in the county returns?
A. Yes, sir; I put in a statement to that effect.
Q. Did you make an affidavit?
A. Yes, sir.
Q. And filed it with the secretary of state?
A. Yes, sir.

Mr. Knopf still refused to receive the returns from fear of some democratic depredation. Under these circumstances the vote was lost, the law requiring the signature of two commissioners.

That Mr. Knopf was justified in his fears can be seen from the evidence of Mr. Generette, who testifies that armed men dressed in red shirts were in the building where the canvassing was done:

Question. You have said that Mr. Knopf spoke of the number of men who were there. What is the fact about it?
Answer. Well, they were there, about thirty-five or forty of them, dressed in red shirts, and they had their guns with them.
Q. What were they, democrats or republicans?
A. All democrats.
Q. Were there any republicans there who were armed?
A. Not a single one, save myself and Mr. Knopf.
Q. Did they stay there all night?
A. Not the whole crowd of them, but a good many of them staid the whole night, and some slept around the building.
Q. Did any returns come from Cainan's Fair Church?
A. No, sir; the box was presented to us by that manager, with a blank we gave them to make out the return, and a statement, and we, each one of us, looked at the writing on the other side.

The majority of the committee have endeavored to break the force of the above facts by attempting to prove that the republican officers left with the democrats, among them B. K. Mott, supervisor; the testimony of Mr. Mott refutes the fact:

Q. He went off at the same time with you?
A. No, sir; I don't think he did.
Q. Do not you know whether he did go away with you?
A. I can't safely say that he did go away with me.
Q. Cannot you safely say who went away with you?
A. I should say I went off from the depot with no man.
Q. And you will not swear that you did not go with Dr. Turner?
A. Yes; I will swear that I did not go with Dr. Turner.
Q. Do you mean to say that you did not go—you, and Bailey, and Bush, and Maxson—three or four miles from that voting-place? Do not you know that you four went off together?
A. No, sir; I would not swear it, nor I did not go three nor four miles with him.
Q. Well, did you not go off a couple of miles with him?
A. No, sir; I did not go off a couple of miles.
Q. Did not you go beyond that school-house with Dr. Turner?
A. No, sir.
Q. You did not "ride and tie" with Dr. Turner?
A. No, sir, I did not.
Q. I want you to be sure of this, because you know, of course, whether you went off with Turner, Bailey, Bush, and the other man.
A. I am positive on oath that I did not go off "riding and tie" with Dr. Turner.
Q. Did you go with Mr. William Bush and Mr. Daniel Mixson and Dr. Turner?
A. No, sir.
Q. Are you sure?
A. Yes, sir.

By Mr. COCHRANE:

Q. Or with any or ether of them, off beyond that school-house?
A. No, sir.
Q. And you never had any conversation afterward with Dr. Turner about this matter?
A. No, sir.

The only remaining person whose testimony is required in the chain of facts is that of Mr. William Bush, the other republican manager, who was compelled by illness to be absent, as the testimony of L. W. Mimms will show:

By Mr. LAPHAM:

Question. You know Bush who was manager the of election?
Answer. Yes, sir.
Q. When did you last see him?
A. I saw him last Saturday morning.

Q. Where was he?
A. He was in bed at his house, sick.
Q. What was the matter?
A. Chills and fever.

That a deliberate attempt was to be made to destroy the vote of this poll is evidenced by the fact that the democratic commissioner, without the knowledge of his colleagues, had waited upon a leading democratic lawyer asking his attendance, by joint request of the board. The action was voluntary and without authority from the board.

Question. How was it brought about that he acted as legal adviser for the board there?
Answer. I think Mr. Blanton, the democratic canvasser, got him there.
Q. Did you see him bring him there?
A. O, he was already living there.
Q. But did you see him bring him into the room?
A. No, sir; the reason I say that is, when we met a few days before Mr. Blanton says to me, "We ought to have counsel, and we ought to have a guard." I said we didn't want anything of the kind. I told him I didn't see what we wanted with either of them.

The democrats also sought to prove that Mr. Allen had not been designated as a manager for Robbins precinct. Upon this point Mr. Knopf, who appointed the precint managers, testifies as follows:

By Mr. LAPHAM:

Question. You have stated a conversation with your associate, Mr. Blanton, at a meeting before the election?
Answer. Yes, sir.
Q. How long before?
A. Five or six days.
Q. Where was it?
A. At Blackville.
Q. That was when you met to appoint managers?
A. Yes, sir. We had two meetings to appoint managers.
Q. Who were appointed managers for the Robbins precinct?
A. We revised the list right smart at the second meeting, and I don't remember. We agreed that each commissioner should give one.
Q. Do you remember whether you transferred one from Cainan's Fair?
A. I made transfers of several boxes, and so did Mr. Blanton—in the second meeting.
Q. In the revision, do you remember whether you transferred one manager from Cainan's to Robbins; if so, who was it?
A. The first meeting, I think it was, I had Bush, Nixon, and I don't remember the democratic manager; and the next meeting Mr. Blanton himself, I think, changed the democratic manager, and I made one change.
Q. What change?
A. I took Allen. We had a general changing, so that I don't remember the names unless I had a list. We made a general change.
Q. I am only inquiring about the Robbins precinct.
A. As well as I can remember, it was J. W. Allen, Mr. Bush, and Dr. Bell.

At the time these managers were appointed a proposition was made by Mr. Blanton that a guard would be needed when the county canvass was made. From the testimony of Mr. Gennerette it will be seen the guard was there:

Question. At which meeting was it that Mr. Blanton advised you that you had better have counsel and a guard?
Answer. The second meeting.
Q. On what occasion was it that he said to you, "We ought to have counsel and a guard;" there that day?
A. No; when we canvassed the votes.
Q. Did he state any reason why you had better have a guard?
A. No, sir; he did not. I said we had no need of anything of the kind.
Q. Was Mr. Gennerette present?
A. Yes, sir; I think he was.
Q. You were all three together?
A. Yes, sir; I think we were all three together.

At Red Oak precinct a democrat barred the door of the poll and frequently voters had to stoop to vote. The democrats here were armed with knives and pistols which they openly flourished.

UNITED STATES OF AMERICA, DISTRICT SOUTH CAROLINA,
County of Barnwell:

Personally comes before me Wesley S. Dickson, who, on oath, says that he was at Red Oak precinct on November 7, 1876, holding the position of supervisor of election. No republicans were allowed to come into the house where the box was without a great deal of trouble. A democrat, by name of Lee, stood with his arms across the door and kept them back. He was no officer and had no authority. Frequently a voter had to stoop down and pass under his arms. Persons were at the gate with pistols and knives in their hands. Deponent did not dare to challenge any one, although he knew that a great many were there from Georgia who voted once or twice or oftener.

WESLEY S. DICKSON.

Sworn to before me this 13th of November, 1876.

F. H. EATON,
United States Commissioner.

At Millet's precinct open violence was practiced the entire day. A large number of Georgians voted, and the condition of affairs was such that before the polls had closed the republican officers were forced to abandon their posts; the United States supervisor was obliged to flee to save his life:

BLACKVILLE, SOUTH CAROLINA, *November* 15, 1876.

SIR: Herewith inclosed find my report of intimidation. I endeavored to act in accordance with the instructions sent me. I discharged my duties faithfully as long as I was allowed to do so, which was up to three o'clock p. m., 7th instant. Then, to save my life, I were compelled to abandon my post, in consequence of which fact I am unable to make any report of the number of votes polled for electors and Congressman. Not only my life was threatened, but that of most every man that professed republicanism. There were men at my precinct that came from Georgia—thirty-three in number—which was the leading men in intimidating the colored voters; and notwithstanding I tried hard, I could not find out the name of but one of the number mentioned above, which you will find in my report.

Your obedient servant,

S. H. BLOCKER.

Mr. SAMUEL T. POINIER,
Chief Supervisor, Charleston, S. C.

OFFICE OF THE CHIEF SUPERVISOR OF ELECTIONS,
DISTRICT OF SOUTH CAROLINA,
Columbia, December 19, 1876.

This is to certify that the foregoing is a true copy of the election return of Millett's precinct, made to me by S. H. Blocker—whose signature is attached thereto—the republican supervisor duly appointed for said precinct.

SAMUEL T. POINIER,
Chief Supervisor of Elections, District of South Carolina.

About twelve o'clock a crowd of white men, numbering from fifty to one hundred, surrounded the polls. The yelling was such that the managers' voice could not be heard. These men clasped hands and stood compactly, so that no republican could get near the box. This continued for half an hour or more, during which time none but democrats voted. About one o'clock my friends begged me to leave, as my life was in danger. I replied that we had better stay a little longer. About two o'clock about fifty or sixty mounted men, some of whom had pistols in their hands, came galloping up from the direction of Robbins. They came to the ballot-box on their horses and used all sorts of abusive language to deponent and the colored manager. They yelled and shouted at the top of their voices, saying that every damned nigger that voted the republican ticket should see hell before many days. Deponent leaned toward one of the managers, asking him what they should do for protection, when Seabrook Dunbar knocked him in the head, saying, "Damn you, no whispering here." About this time deponent went out to get something to eat, and saw in a store belonging to Mr. Dunn, on the same lot as the polling-place, fifty guns stacked. These guns were taken back to Georgia the day following.

Deponent heard from the cook that his life was in danger, and accordingly left about three o'clock. Rode thirty miles that night to save himself.

The following were the most prominent in acts of intimidation—proof can be furnished in every instance—namely: Stephen S. Furse, Seabrook Dunbar, H. D. Hankerson, L. H. Johnson, W. H. Esterling, J. R. James, Sandy Odom, besides others.

S. H. BLOCKER.

Sworn to before me this 13th day of November, 1876.

F. H. EATON,
United States Commissioner.

STATE OF SOUTH CAROLINA, OFFICE SECRETARY OF STATE,
Columbia, December 11, 1876.

I certify that the foregoing are true copies of the affidavits of L. W. Mims, Benjamin G. Hughes, Thomas H. Moses, Wesley S. Dickson, and Sumter H. Blocker, now on file in this office.

[SEAL.]

H. E. HAYNE,
Secretary of State.

From this poll (Millett's) a large number of voters went to Robbins precinct:

Question. What do you know, if anything, of colored republican voters leaving Millett's precinct polling-place to go to any other place to vote?
Answer. I saw the leader apparently of about a dozen or more men, and heard him say to these men, "Come, let's go to Robbins; I can't vote here."
Q. How many men did you see start in the direction of Robbins?
A. I saw about two dozen start in that direction.
Q. Do you know of your own knowledge of others going?
A. Yes, sir.
Q. On the day of the election?
A. Yes, sir; some came to me and they took my advice: men who were around the box came to me and asked my advice. I told them I was there as supervisor, and I could give no advice. He told me, the man that was speaking to me, "We are going to Robbins." He appeared to be the leader of about thirty men.
Q. He was a colored man?
A. Yes, sir; all republican voters.
Q. State the reason colored men went there; was it because of any obstruction or difficulty thrown in the way of their voting by white men?
A. Yes, sir. If any of these men would start toward the box a dozen or more white men would run right up to him and carry him to the box, and say: "What ticket are you going to vote?" and he would say the republican ticket——

An extract from the testimony of J. Hagood is furnished to prove the fact of the presence of Georgians on election-day:

Question. There may have been armed men there whom you did not see?
Answer. Of course, sir; it was a dark night; but not in the house. If they had been in the house I should certainly have seen them. There is one little matter in respect to which I, perhaps, was not strictly accurate in my first examination. I was asked if I had heard of persons intending to come from Georgia to vote. I replied to that that I had vaguely, and I mentioned one person I had heard it from, a railroad conductor. Then I was asked whether after the election I had heard that any had come. I replied, "No," without any qualification. But, upon reflection, I remember that one person told me that there were some Georgians, as well as I can remember he said about fifteen or twenty, at the Robbins box. I asked him what became of them after the Robbins box was abandoned, and he said they went, or that he supposed they went, and voted at the other box.

At Blackville precinct, in Barnwell County, the managers' returns showed no votes for Timothy Hurley, one of the republican candidates for elector. The testimony of several witnesses who voted at that poll for Mr. Hurley, together with the testimony of the officers of the precinct, clearly proves the fact that the omission of Mr. Hurley's name from the original return to the county canvassers was a clerical error on the part of the democratic clerk, and the majority of the committee so expressed themselves. The return to the United States supervisor of elections for South Carolina is given:

Return of the election held at Blackville precinct, Barnwell County, November 7, 1876.

The whole number of votes given for electors was 1,164, of which—

Theo. G. Barker received	467
Samuel McGowan received	467
John W. Harrington received	466
John Isaac Ingram received	466
William Wallace received	466
John B. Erwin received	466
Robert Aldrich received	464
Christopher C. Bowen received	695
John Winsmith received	695
Thomas B. Johnson received	695
Timothy Hurley received	695
William B. Nash received	696

Wilson Cook received 697
William F. Myers received 696
The whole number of votes given for member of Congress was 1,164:
Of which G. D. Tillman received 467
Of which Robert Smalls received 691

We, the undersigned supervisors, certify that the above is a correct return of the votes cast at the election held at Blackville precinct, of Barnwell County, on the 7th day of November, 1876.

JOHN R. BELLINGER,
J. H. JOHNSON,
Supervisors.

OFFICE OF THE CHIEF SUPERVISOR OF ELECTIONS,
DISTRICT OF SOUTH CAROLINA,
Columbia, December 19, 1876.

I hereby certify that the foregoing is a true copy of the election return of Blackville precinct, Barnwell County; that John R. Bellinger and J. H. Johnson, whose names are affixed thereto, were the democratic and republican supervisors, duly appointed, for said precinct.

SAMUEL T. POINIER,
Chief Supervisor of Elections, District of South Carolina.

BEAUFORT COUNTY.

In the year 1875 Beaufort County had a voting population divided as follows: Colored, 8,241; white, 1,760. In the election of 1870 the republican majority was 5,143; in 1872, 3,550; in 1874, 2,702 over the bolting republican. In the last election the highest republican elector received 7,574 votes and the highest democratic elector 2,251 votes. The republican vote was increased over the vote for governor in 1874 2,796 and the democratic vote increased 175.

In this strongly republican county much intimidation was practiced in the breaking up and disturbing of republican meetings. Wherever the republicans would peacefully assemble for the purposes of discussion they would be interrupted and surrounded by armed men. At Bronson, Lawtonville, and other places no meeting could be peacefully held; the right of free discussion was denied. At Bronson the democrats by armed force secured a joint discussion.

Question. Was it a republican meeting?
Answer. It was a republican meeting.
Q. And was called as such?
A. Yes, sir.
Q. If there was any interruption at that time, state briefly what it was.
A. Well, at the first meeting there was a disturbance. We went up there and we had a joint discussion. The democrats requested that they should be allowed to speak, and they were allowed three speakers. There were three on each side. During the discussion there was one of our speakers arose to speak. One of the democrats objected, saying that he had been previously convicted, I think; and he went on and spoke, and when he got through he referred to the objection, and this democrat, Mr. Tillinghurst, said that he was a liar. No, it was the other way; he accused Langley with something, and said he was a liar, and Tillinghurst struck Langley, and then a general *mêlée* ensued. We did all we could to stop it, and after awhile every thing was quieted down. The democrats went up the town, and some came with bars of iron and guns, but everything was quieted down after a while.
Q. Was that meeting appointed for a joint discussion?
A. No, sir; that was called as a republican meeting.
Q. How came it to be a joint discussion?
A. They asked that they be allowed to be represented.
Q. How many democrats were there?
A. I guess there must have been about two hundred democrats.
Q. Were they armed in any way?
A. They were armed with pistols.
Q. Were they in uniform?
A. No, sir; not at that meeting.
Q. Were they on foot or on horseback?
A. At that meeting they were on foot, most of them.
Q. Coming to the second meeting——
A. The second meeting was called for the purpose of ratifying the nomination of Hayes and Wheeler. When we were at Early Branch we received a special messenger from Bronson, who was sent around by the road on horseback, to tell us not to come up. They expected us, but they told us not to come.
Q. How did the message come?
A. It was sent around by a man.
Q. Did you go on then?
A. Yes, sir.
Q. Tell what you found when you got there.
A. When we got there we found the town crowded with men.
Q. How many men did you find there?
A. There must have been three hundred and fifty. There might have been more. Some had come from Barnwell. They came on horseback.
Q. They were mounted men?
A. Yes, sir; they were mounted men.
Q. What uniform, if any, had they?
A. They had no uniform. They were not uniformed at that meeting.

At Lawtonville the same scenes were enacted:

Q. Did you go to Lawtonville?
A. Yes, sir.
Q. What state of things did you find when you reached there?
A. When we reached Lawtonville we found quite a number more of the republicans than there were at Bronson, and they were all excited. After we reached there we found the Lawtonville rifle club company there; and after a while several of the other rifle clubs—one from Bronson and one from Beach Branch—rode up.
Q. Were there any there from Barnwell?
A. No, sir; I do not think so.
Q. How many men were there at Lawtonville?
A. At Lawtonville there were, I suppose, about in the neighborhood of two hundred and fifty.
Q. White men?
A. White men.
Q. How were they organized?
A. They were organized into clubs. They marched up.
Q. What arms did they have?
A. Each of them had three revolvers, or two of them.
Q. Had they any guns?
A. No, sir; not that I saw.
Q. Were they mounted or on foot?
A. They were mounted.

In fact, evidence is furnished to show it was the general practice of the democratic party to resort to measures of this kind for the purpose of intimidation:

Q. How were they armed?
A. They all had their carbines, but they were in the house at the time. They were all armed with pistols; each had two pistols strapped to his side.
Q. Had they guns also?
A. Yes, sir; they had guns.
Q. Where did they leave their guns?
A. In one of the stores there.
Q. What occurred when you got to the ground where the speaking was to be?
A. When we got to the grounds they came up; they sent a committee, and the committee informed us they wanted to have a joint discussion. Of course, the circumstances were such that we could not refuse if we wanted, and so we consented, and when we arrived there were very few republicans in town, and when we went down to the meeting there was not more than about one hundred, I suppose, of our men. The democrats came down in clubs.
Q. How many came there at the first meeting?
A. Three hundred and fifty or four hundred men, I suppose. They filed around in companies, and the different men were issuing threats. One man, for example, nearly mashed my toes, and said, I suppose for my benefit, that he didn't want any damn lies told there, and if any of us attempted to tell any of our damn lies that we would be pulled down from the stand. Several made use of such language. After we had arranged, they elected a chairman for each of the parties, and when it was suggested by one of the republicans that certain men be elected to keep order the captains of the different companies rose and said, "We will keep order so long as you tell the truth and don't tell any damn lies," and pistols were freely displayed. The men sat in their saddles and threw their pistols up, and caught them generally, which seemed in a threatening manner. And it was then agreed that each speaker should have thirty minutes, and the speaking was opened by one of our speakers, Mr. Myers, and he was interrupted considerably in the beginning, but after awhile they quieted down, and of course he had to be very cautious in what he said. The chairman of the county committee, Mr. Moore, was there, and he requested us to be very quiet. He said he could control the Beaufort men, but the Barnwell men he didn't know so well, and, to use his language, we were in a tinder-box, and they were liable to go off at any time and asked us not to allude to the recent riots. These men came from Barnwell, where these riots had occurred, in that neighborhood, and of course in our speeches we had to be prudent.

To carry out their system thoroughly rifle clubs were organized armed with rifles:

By Mr. LAPHAM:

Q. Do you know how many rifle clubs there were in your county among the democrats?
A. There were five, to my knowledge; there might have been more.
Q. How were they armed?
A. I have never seen them parading with their guns; I have seen rifles directed to them.
Q. Have you not seen them when they were in the possession of their rifles?
A. No, sir.
Q. At no place?
A. No, sir. I was at Yemassee one day, and I saw on the platform three or four boxes of rifles and ammunition directed to Hoover.
Q. Who is Hoover?
A. Captain of the club at Hoover's Station.
Q. Captain of the rifle club?
A. Yes, sir.

A perfect system of threats was adopted, which was not so thoroughly successful as in other counties, owing to the fact of the necessity of labor to harvest the crops. However, the evidence shows that wherever it could be done threats of discharge were made against republicans, together with a threat to turn them out of their homes. Again, threatening letters were sent for the purpose of intimidating candidates for office upon the republican ticket. Fraudulent tickets were issued by the democrats, for the purpose of deceiving the republicans, and thus securing by fraud what they failed to obtain by honorable means.

I have myself received several threatening letters telling me that my life would be taken if I dared to attend republican meetings in my own district, and had it not been for the presence of United States troops I feel assured that I would not be here now to tell it.

At this Mitchellville poll a sailor named Lightburn, who had not been in the United States Navy for some six months, endeavored to vote. His attempt caused some little trouble.

Q. Where did you vote on election day?
A. At Mitchellville.
Q. What time did you get there?
A. Between ten and eleven o'clock, I should think; very nearly eleven o'clock.
Q. How long did you stay?
A. I was there until the managers made their return—canvassed the votes.
Q. State in your own way what you observed in reference to the conduct of that poll there during the day.
A. When I arrived at the polls there was some commotion between some colored men and Mr. H. C. Politzer. There was quite a crowd gathered. I went in on horseback, and I rode into the crowd to Mr. Politzer. Just as I rode up I heard Mr. Politzer make this remark: "I'll be damned if he shan't vote." Some colored man—I do not know his name now—said he should not vote. I requested them all to keep quiet, and inquired what the controversy was about. Mr. Politzer stated that the man that was with him, Mr. Lightburn, wanted to vote, and that these men wouldn't allow him. I told Mr. Politzer that the man had no right to a vote, that he was not a citizen of the State. Mr. Politzer said he only wanted him to vote the electoral ticket. He claimed that he had a right to vote the electoral ticket. I told him he had no right whatever; that if he had a right to vote the electoral ticket he had a right to vote the whole ticket. The language that Mr. Politzer used excited the colored people some, but as soon as I got there they all quieted down, and there was no disturbance after that.
Q. You said that it made no difference; that if he voted the electoral ticket he could vote the whole ticket?
A. I advised him to go to the managers of the election, and if he would run the risk of taking the oath, or if they would take his ballot, I requested all the people not to cause any disturbance, but let him take the consequences.

This was all that occurred that day. The election proceeded quietly

until its close. No person was prevented from voting; there was no intimidation or coercion of voters, and no other violence occurred.

At Paris Island precinct the election passed off very peaceably, and the returns were concurred in by the democratic manager without protest. No persons were denied the right to vote.

Q. How came you to go there?
A. I went there in the interest of the democratic party.
Q. At whose request?
A. By no particular person's request—voluntarily. The United States supervisor of election asked me to go over, but I was going without his invitation.
Q. Did you stay until the canvass was completed?
A. You mean the canvass at that precinct?
Q. Yes.
A. Yes, sir.
Q. Did the managers all sign it?
A. All signed it, sir.
Q. Any protest made with it?
A. None that I know of, sir.

At Gray's Hill precinct there was some violence. Mr. Porteous, the United States supervisor on the part of the democrats, was discovered distributing spurious tickets to republicans, representing them as genuine republican tickets. This when discovered enraged the republican voters, who forced Mr. Porteous to retreat to the poll-room. Mr. Porteous, upon examination, admitted that, in the face of his duties as a supervisor, he had peddled tickets to democrats and spurious ones to republicans.

Question. What time did you go to Gray's Hill precinct?
Answer. I arrived at Gray's Hill about half past six o'clock.
Q. How long did you stay there?
A. I staid there till the afternoon, about between two and three o'clock, and went back to Beaufort. During my stay everything passed off quiet.
Q. Who was United States supervisor there for the democrats?
A. I am not certain as to the other; I know one, John F. Porteous, in the interest of the democratic party.
Q. Was he there when you reached there?
A. He was there; he was outside when I reached there.
Q. What was he doing outside?
A. He was outside with two large batches of tickets.
Q. Where did he have the tickets; in his hands?
A. Yes, sir; turned head and tails.
Q. What was he doing with them?
A. Asking people to vote the republican ticket—saying to them, these are the republican tickets.
Q. Did you ascertain what tickets they were in fact?
A. I came out, sir, and started for the crowd that surrounded Mr. Porteous. I inquired, when I got near the tail feet of the mob, and they said one man had received a ticket from Porteous, and he handed the ticket to me and asked me if it was a good ticket, and I looked at it and see it headed "Union Republican Ticket," with "Victory," and the first name appeared was Tilden, and Hampton for governor, and I found it was a democrat ticket—all the names.
Q. Look at these tickets, [handing witness two ballots already in evidence,] and state whether they were tickets like these?
A. Precisely the same, sir.
Q. How many had Porteous in his hands?
A. He had two large batches.
Q. How was he holding them?
A. He was holding them in this way, two together.
Q. That is reversed?
A. Yes, sir; reversed, and gave them out this way.
Q. State what you saw him do.
A. I saw him give out a ticket to a man, and pull it from underneath.
Q. Had the man asked for what?
A. He asked the union republican ticket, and it was a democrat ticket, and he pulled it from under the republican ticket. Mr. Porteous gave it.
Q. And what occurred when you learned that?
A. The voting ceased for fully five minutes or more, and everybody was talking and running about and looking after the tickets in each other's hands until they was satisfied that the correction was made before they would commence again.
Q. What was said or done?
A. Some spoke very loudly to Mr. Porteous, very disrespectable, for giving them the republican ticket which was not the republican ticket. They said to him, "You cheat us; you tell us this was a republican ticket, and it was not;" and after some talk the crowd dispersed. Mr. Porteous went in the house then, and took his seat again beside the ballot-box, remaining in his position as supervisor.
Q. Did he come out again?
A. Yes, sir; he came out again.
Q. How long after?
A. Well, he staid in there about half an hour or more, and when he came out he had the real democratic tickets—white—different ink.
Q. He came out with tickets printed in black ink?
A. Yes, sir. He resumed canvassing as before, asking the people to vote for these. The people would not vote it and drawed a large crowd around him, talking again. One man sang out in the crowd, "You ought to pay me for the wood I have been chopping for you." Mr. Porteous got insulted then, and they talked pretty loud to each other.
Q. There was words about it?
A. Yes, sir.
Q. How long did he remain out that time?
A. Well, he remained out, I will say, one hour or more, trying to get all the votes he can; begging them and asking them.
Q. Was there anything said about the ballots he was circulating?
A. Yes, sir; he called to me and asked me to go and electioneer for the Hampton ticket.
Q. Mr. Porteous requested you?
A. Yes, sir.
Q. What did you tell him?
A. I told him I could not do it.
Q. What further did he say?
A. About the time that I and him commenced talking, we was talking to ourselves privately, and then all the boys begin to come around him and asked him to pay them what he owe them for chopping wood for him; and I told him then—he used to be my old boss, and I didn't want to get into no fuss—I told him his business was in the house, and he had better go back in the house, and he went as far as the door; and he called me again and hand me a bunch of tickets, and asked me to go around and electioneer again, and I told him I couldn't. He told me if I would electioneer the Hampton ticket that I would be a man if Hampton get in power.

Another democrat named Robert Hamilton was also discovered distributing spurious tickets and was driven away. He was guilty of the same offense as Porteous.

After these scenes had transpired, the election proceeded to a peaceful close. And Mr. Porteous himself bore testimony to his personal satisfaction with the manner in which the election had been conducted through the day. Mr. Van Ness, one of the managers, testified to signing the returns without protest. The returns were not made out in the regular form, and Mr. Wilder, one of the county commissioners, called upon Van Ness and asked him to sign a corrected return. This Van Ness refused to do, and in his testimony before the committee referred to the fact to create the impression of tampering with the returns. The testimony of Dr. Wilder, one of the commissioners who canvassed the votes, is given upon this point:

Question. Do you know Mr. Van Ness?
Answer. I do.
Q. What is his first name?
A. I do not remember his initials.
Q. Mr. Van Ness, of Beaufort, I mean, who was one of the managers at Gray's Hill?
A. Yes, sir; he was one of the managers at Gray's Hill.
Q. Did you call on Mr. Van Ness about two weeks ago with a view of getting his signature to any paper?
A. Yes, sir; it was an affidavit with reference to their returns made by the managers at Gray's Hill precinct. It was a little irregularity.
Q. What was the irregularity?
A. I am not positive. There were three precincts where the managers made clerical errors in their returns. I think, at this poll, they only included in their returns three of the electors on each side; three republicans and three democrats. I won't be positive that that was the poll.
Q. You are right about it. It was an omission of a portion of the electors on each ticket. And you had an affidavit to correct that mistake?
A. Yes, sir; I have an affidavit to correct that error.
Q. Is that all you asked him to do?
A. That was all.
Q. And that was the object?
A. That was the object.

COLLETON COUNTY.

This county had a voting white population of 2,478, and a colored voting population of 4,217, according to the State census of 1875. In 1870 the republican majority was 2,289; in 1872, 3,229; in 1874, 1,433 over the bolting republican candidate.

At the last election the highest republican elector received 4,234 and the highest democratic elector 2,924 votes. The excess of colored votes over the census was 511 and the decrease of white votes was 38. The republican vote increased over the vote of 1874, 695; the opposition or democratic vote increased 818.

The precinct returns from Preacher's Mill, Blue House, Ashepoo, and Iron's School-house omitted the names of the presidential electors. The county canvassers investigated the matter and ascertained that the votes were cast entire. At Bennett's Point precinct no election was held. There were three managers appointed for this precinct, two republicans and one democrat. One of the republicans failed to qualify and could not serve; the remaining two could have held the election, but did not, the democratic manager advising otherwise, and successfully. This was a very strong republican precinct. The precinct return from Bell's Cross-Roads was mislaid and afterward discovered.

Question. What office did you hold at the last election?
Answer. I was one of the commissioners of election.
Q. State who was the messenger to bring the return from that county to the secretary of state.
A. I was appointed by the board.
Q. Was there any election at Bennett's Point?
A. None.
Q. What was the vote for the republican electors at Ashepoo precinct?
A. Four hundred and thirty-seven for the republicans; 96 for the democrats.
Q. At Iron School-house?
A. One hundred and eighty republican and 444 democratic.
Q. State whether managers' returns were before the canvassers from all the precincts.
A. No, not from all of them. From Preacher's Mill all the return we had was the supervisor's return.
Q. Is that included in the canvass for the county by the county canvassers?
A. Yes, sir.
Q. Do you remember what the vote was?
A. No, I do not.
Q. It was a democratic majority?
A. I think it was.
Q. Then in the canvassers' return you include the vote at all the precincts in the county except Bennett's Point, where there was no election?
A. Yes, sir.
Q. State what returns you brought to the secretary of state.
A. I brought the returns from all the precincts except Bennett's Point, where there were none, and Bell's Cross-Roads, that was left out by mistake; it was not returned at the time I brought the others. I discovered it afterward.
Q. You say there was one of the managers' returns, Bell's Cross-roads, which you did not bring up to the secretary of state?
A. Yes, sir; it was left out by mistake.
Q. Was it subsequently sent up?
A. Yes, sir. I will tell you how it was. I am county treasurer, and in my table is a drawer where I keep *nulla bona* tax-lists. When these votes were canvassed Mr. Fox and the other commissioners opened the papers, and I called out the figures to the clerk, who put them down. We first made the tabular statement, and the vote was corrected from that. After we finished the different returns the other managers folded them up in a roll with a string tied around them, and marked with the names of the different precincts, and they were laid in this drawer. We worked all that night until about five o'clock the next morning, and when we concluded they appointed me as messenger, and I went to my house to prepare to bring the return to Columbia. I returned as quick as I could, in an hour or an hour and a half, so as to be in time for the morning train. I left one side of my valise for those papers. Mr. Fox and I and the clerk went into the office together, and they opened the drawer and took out these papers and laid them in the valise. I verified them, to see that they had the right number, eighteen, (there are nineteen precincts, but

there was none from Bennett's Point,) and they had eighteen; so that the number was correct, though one was left.

Q. Did you examine the votes from Preacher's Mill?

A. No, sir; we did not count the votes. We took the supervisor's return, as it tallied with the vote given for all the other officers. I think there was a return for the State officers made from that precinct, and where they all tallied we thought it was unnecessary to count the votes. There was no objection made by the board at all.

Q. You were going on to say how you left this out?

A. I brought them to Columbia and untied each package as I turned them over to Mr. Hayne. I opened them and took out the returns for governor and lieutenant-governor, and when I came to open one I found that it was nothing but one of my *nulla bona* tax-lists, which they had tied up.

Q. You discovered that there was one return absent?

A. No, sir; I did not.

Q. You discovered a *nulla bona* tax-list?

A. Yes, sir; but I did not discover that the return was missing, because I did not check them. I went home without discovering it. Afterward they informed me that Bell's Cross-Roads had not been turned over. I went to my office; the first place I searched was in that drawer, and sure enough, in the back part of the drawer, with some *nulla bona* tax-papers, I found this list.

EDGEFIELD COUNTY.

This county had in 1875, from the figures of the official census, a voting population of 4,400 colored and 2,722 white. In the election of 1870 the republican majority was 843; in 1872, 3,659; in 1874, 498.

At the last election the highest republican elector received 3,124 votes, and the highest democratic elector 6,257 votes. The republican vote decreased 274 and the democratic vote increased 3,357. The excess of white votes over the official census was 2,252, the decrease of colored votes was 1,293.

The vote by precincts is given below. Attention is called to the stupendous frauds perpetrated in this county. By the returns the total vote cast was 9,614. The total population of the county is 35,039. The proportion of votes cast was 1 to every 3 and a fraction of the population. The white vote of the county suddenly increased 2,252, representing an increase in the white population, according to the ordinary ratio of voters to population—1 to 5—of 12,260. In addition to this the sworn testimony before the committee establishes the fact that some 1,200 colored voters were driven away from the polls or by other means of intimidation deprived of the right to vote. Adding these to the number of votes actually cast would give 10,814 as the number of legal voters in the county, representing, upon the ratio given above of 1 to 5, a total population of 54,470; an excess of 19,441 over the population of the county as given in the official census of 1875. No testimony was offered the committee by the democrats to prove any such increase of population. On the contrary, throughout the entire investigation, although confronted with the facts, Edgefield County was entirely neglected except in an attempt to prove a peaceful election.

The vast increase of votes was not from an increase of population, but owing to frauds that would have disgraced the palmiest days of Tammany Hall. Edgefield County on the day of election was given up to fraud; honor and manhood were prostituted to the foul work. The election was a libel upon the honest citizens of the county, upon the honor of the State, and the civilization of the age. Fraud walked through the county unchecked, violence asserted itself in the presence of the troops of the United States, and the day was marked by scenes of repeaters rushing from poll to poll voting two and three tickets at the same time. Citizens of Georgia came over, saying they were going to give the South Carolina boys a lift, and voted all over the county. One merchant from the city of Augusta and his four clerks voted fifteen times each. At one election poll, Ridge Spring precinct, there was found 113 more votes in the box than names upon the poll-list, and the excess of votes was owing to the fact that a large number of the democratic tickets had a duplicate ticket folded within them. When the attention of the officers was called to the fact, the democratic managers refused to have the duplicate tickets thrown out, but stirred them all together with the other tickets and then drew the excess of 113 from the box. In other precincts minors voted, and repeating was practiced without regard to the fact that the attention of the officers was directed to it.

At Edgefield Court House precinct, at the close of the poll, some eight hundred republicans had not voted, and the testimony of Army officers and others living in the place shows that the polls were surrounded by armed riflemen who would allow no approach to the poll.

The universal testimony of the United States marshals and supervisors, managers of precincts, and other election officers proves this Edgefield County election to have been a farce in the highest sense of the word—to have been an outrage upon free speech, personal liberty, and the sanctity of the ballot-box.

Intimidation in this county witnessed its most extreme limit, and free speech was denied the republican citizen. In the early part of the campaign the governor of the State, who had received from friend and foe universal approbation for his manly efforts to reform the politics of the State and purify the system of government, visited this county. He went as the executive of the State and not as the candidate of a party, he having been nominated some time afterward. Testimony is quoted to show the manner of his reception when he arose to address his fellow-citizens, as well as the fact that republicans could hold no meetings in the county:

Q. Were you at any republican meetings during the campaign?

A. We had only two republican meetings in the campaign. We had one and attempted to have one.

Q. Was the first one advertised as a republican meeting alone, or for joint discussion?

A. As a republican meeting; we had not learned anything about the joint excursion; that was the only experience that we had on that day.

Q. What occurred?

A. When the meeting was called the republicans went over to the place where we had our meeting at the academy. When we got over there—you know men looks more than they really is on horseback—well, I will say there was about three hundred on horseback, headed by General Butler and Gary and Sheperd; they was in front. They went on over to the stand. After seeing the republicans started, they went over and got there first, because they were on horseback. Cain was the republican chairman of the meeting. He got on the stand, and Governor Chamberlain and SMALLS and Simpkins and my brother and myself. General Butler says: "Hush; you don't need him; I am the chairman of this meeting to-day." Some one attempted to put the motion, and he said: "It is of no use to put it, because he can't act. I am the chairman of this meeting to-day, and we are going to have part of this time or you don't have any meeting." It went on that way. He introduced General Gary, and he got up and spoke, and went on and abused the governor a good deal.

Q. Did they agree upon a joint discussion?

A. No, sir; we did not agree upon it. They agreed to it themselves. General Butler said that if Chamberlain wanted to speak, we will give him half an hour, but unless my men speak, you don't have any meeting here to-day.

Q. Was there a joint discussion?

A. Well, Chamberlain got up and attempted to speak, but they bothered him so that he could not speak.

Q. Who did speak?

A. General Butler, General Gary, and Sheperd.

Q. Butler and Gary were democrats?

A. Yes, sir.

Q. Did you hold any smaller meetings around through the county?

A. Well, we could not hold any.

Q. Why not?

A. We knew it would be dangerous for any of us to leave the town. General Gary told me that himself. He says, "If any of you fellows leave this town, God, you won't come back here to hold your meetings, unless you let us go in with you."

The threats to republicans were publicly made, and a threat of discharge or removal from land was often accompanied with a threat of death, should the person remain true to his convictions, as will be seen from the following testimony:

I am a resident of Edgefield County; have lived there all my life. I have represented that county twice in the Legislature of this State; was a candidate for reelection at the last general election which was held on the 7th day of November. I was at the polls on election day for the purpose of voting the republican ticket but did not have the privilege of doing so. The polls at Edgefield Court House, where I was, No. 1 and 2, were blocked and otherwise crowded by armed democrats, who were uniformed in red shirts, and from one to two pistols buckled on the outside, and some with sixteen-shooters strapped to their sides, the major part of them being mounted on horses, and using threats of a violent nature toward republicans who would present themselves for the purpose of voting the republican ticket. After witnessing for several hours the violent and formidable demonstration of the democrats to overawe and deter republican voters, and knowing as I did that my life had been previously threatened by the democrats for political reasons, I came to the conclusion that if I voted the republican ticket I would be murdered. I know the fact that at least six or eight hundred republicans at Edgefield Court House, who were at the polls for the purpose of voting the republican ticket, were prevented from doing so. I am quite sure if they had wanted to vote the democratic ticket, they could have done so with perfect safety. I know I could have voted the democratic ticket with perfect ease if I had so desired it. I saw a large number of republicans make several efforts to vote during the day at box No. 1, but as they would get near the polls the democrats would immediately rush around the place of entrance and keep the republicans back. The democrats had all voted, but notwithstanding this they stood there armed and equipped as so many sentinels placed there for the specific object of preventing republicans from voting. During the day the democrats, who were mounted, would gallop from box to box, sometimes yelling and brandishing their pistols. At about three o'clock in the afternoon the democrats organized a democratic meeting on the court-house steps, the place of entrance to the polling-precinct No. 1, at which several candidates on the democratic ticket made speeches. This was kept up until the polls were closed; during all this time republicans made repeated efforts to vote, but were not allowed to go up the steps. I would state further, in order to show to what extent the republican leaders were intimidated by the threats and violent demonstrations of the democrats, because of their political sentiments and party fealty, that it was utterly impossible to canvass the county in the interest of the Hayes and Wheeler electors, Congressmen, or State officers. On the day of election I saw several republicans who had been violently assaulted and beaten over the head with pistols, and severe wounds inflicted on them, because they had endeavored to vote the republican ticket. The vote of the county is largely in excess of that of any previous election. There were about 3,000 votes polled over and above what we were legally entitled to by the census which was recently taken. The majority of the census-takers of Edgefield County were democrats; that census gives the colored men a majority over the white men of 1,678. Republicans were publicly threatened with being discharged from employment and the probability of being killed if they persisted in giving their support to the candidates on the republican ticket.

Attention is called to the manner in which the election was conducted at the various precincts.

At Edgefield Court House there were two polling-precincts, Nos. 1 and 2. These polls were the scenes of the wildest disorder and flagrant violation of law. A large body of armed men on horseback surrounded the poll, and a republican voter who dared to exercise the elective franchise did so at the risk of life. Men were beaten in the very presence of the officers of the Army; but few opportunities were given to vote, and when the polls closed between seven and eight hundred republicans had failed to cast their votes. The testimony of Major Kellogg, United States Army, is quoted here:

Question. State what occurred within your knowledge on the day of the election at Edgefield.

Answer. About half past nine o'clock in the morning I was directed by Major and Brevet Major-General Brannon, commanding that post, to take my company and go to box No. 2, which was in the outskirts of the village. He said that the deputy United States marshal, Beattie, would be there, and I would receive instructions from him as to what he wished me to do. I went with my company, with First Lieutenant Hoyt. I got to the church, or school-house—I think it was a school-house, next to the church—where this box was, and I halted my company about fifty yards from the school-house. There was a very large crowd around the building, in front and on the two sides of it; not so many in the rear.

Q. White or colored men?

A. Right around the building, next to it, they were all white men, and mounted.

There were very few that were dismounted, and all who were dismounted appeared to have their horses near. Just around the house they were all mounted; there were several hundred of them.

Q. Do you know whether they had pistols?

A. I only saw during the whole day some five or six men that I could not swear were armed. All were armed except those, and I presume those were, but I did not know it. Each man had from one to two or three revolvers on his person, generally carried so that they could be readily seen. The negroes at that time were in front of the school-house, between the whites and the fence, and running back in the road each way, more toward town than on the other side. There were a large number of them. Mr. Beattie came to me as soon as I got there and reported that the whites had obstructed the way to the box, which was inside of the building, so that no one could reach it.

Q. You mean so that the colored men could not reach it?

A. Well, no one, without the permission of those in the front; and he said that no one was going in at that time. I immediately detailed Lieutenant Hoyt and four men to go down. Beattie asked me to send a detachment to assist in opening a passage so that any one who wished to go in to vote could do so, and in compliance with that request I detailed Lieutenant Hoyt with four men to affect the opening to the box. I then gave some instructions to my company, and very soon afterward I went down myself to see the actual condition of affairs immediately around the building. When I got there Lieutenant Hoyt had succeeded in opening a passage from the door leading across the road directly in front of the building. The passage was about four or five feet wide—very narrow, but wide enough for any one to go through. I had a good deal of difficulty in getting through the crowd to reach Lieutenant Hoyt. The horses were jammed in so thickly that I could only get there by requesting men to turn their horses one side, and by squeezing my way through. A large number of the men had pistols drawn at that time, and a number of them next to this line that had been opened by Lieutenant Hoyt had their pistols in their hands, with their thumbs on the cocks and their fingers on the triggers, and many were shouting; in fact, nearly all of them were more or less shouting or swearing, and using such expressions as "Shoot! God damn it, shoot!" and others of that character.

Q. If a colored man attempted to pass through that line to vote, how near would he be to the muzzles of the drawn pistols?

A. If he went in the center he would be within three or four feet of the pistols on one side or the other.

Q. Did you see any colored men armed?

A. I did not; I could not swear that a single black man had a pistol. I have no doubt that some of them had pistols, but I did not see anything of the sort.

Q. Did you see any hostile demonstrations by any colored men?

A. I did not.

Q. Go on and state what occurred during the day within your knowledge.

A. I saw that this force of four men was hardly sufficient to keep the crowd in check, and I sent down four more men to assist Lieutenant Hoyt, and with those he managed to make a little wider passage. Just after I sent Lieutenant Hoyt to the building there seemed to be a commotion in the crowd of white men in front, and a number of negroes shouted out, "It's commenced! it's commenced!" and started to run toward town. In fact, nearly the whole crowd that were some distance back from the school-house started to run. Those right near the school-house I don't think did; I called to them to keep quiet and come back, and they did so. * * * During the day I frequently heard from white men such remarks as this: "These damn niggers ought not to be allowed to vote." I did not hear any remarks of that kind made directly to any particular person; but it was very disorderly there nearly all the time. These men were riding back and forth, but there was a large body of them that staid around the door until toward night.

Q. How many mounted men remained around the door in that way?

A. Until just before the closing of the poll there must have been at least sixty there all the time, and generally, I think, there were more than that right around the house. Then, a few rods off, there were a good many more.

Q. In all, how many mounted and armed white men were there that day, as near as you could judge?

A. I think when I first went there there must have been altogether at least three hundred.

Q. How long did you remain at the voting-place?

A. I remained until about half past six o'clock, after the closing of the poll.

Q. Did you observe any colored men going away without voting?

A. I believe that a large number went away without voting. When the polls closed there was a large number of men standing right there who had been there ostensibly for the purpose of voting, and had to go away without voting.

The testimony of one of the commissioners of election is also given. He testifies to the violence committed at the polls, and the number of republicans who could not vote:

Question. State what you know about any violence or intimidation against any republicans during the recent campaign or during the election?

Answer. I was commissioner of elections. There was box No. 1 and box No. 2 at Edgefield Court House. On the morning of 7th of November I arose at six o'clock, and went to box No. 1 to vote. I was there until ten o'clock. I suppose at least two thousand colored men waited there until nine or ten in the day before a single man of them voted. The polls were surrounded by about four or five hundred white men, with red shirts, and on horses, a great many of them round the door and preventing colored men from getting up the steps. Then, there was a great many dismounted round the box, and they said that no Chamberlain men should vote there. * * * We staid there until near ten o'clock, and not a single colored man voted there. We went up to the school-house to box No. 2. There had not been any troops sent there at all until about ten or eleven o'clock, and the white men were there with large hickory clubs, ax-helves, and pistols, and Remington rifles. They had a whole wagon-load of arms standing off about twenty yards from the grounds. They all stood around the box, and no colored man was permitted to vote. Some tried to go in to vote, but they were beaten with sticks and the blood knocked out of their heads. That was about eleven o'clock. We sent up to see if we could not get troops, and Major Kellogg went up to the box, and no colored man was permitted to vote until he got there. At that box we had about 500 majority—the only box in the county. We have always had in Edgefield, at these two boxes, about fifteen hundred at least.

Q. What, if anything, do you know of colored men going away from the polls without getting an opportunity to vote?

A. I know, I think, at least eight hundred that left the polls. They staid there until nearly six o'clock and found it was impossible to vote, and then they left. I didn't vote, and I tried from six o'clock in the morning until six o'clock in the afternoon.

Q. What, if anything, do you know of threats being made against the republicans on the day of the election, or before it, by democrats owning land, that the republicans should not stay on their land if they voted the republican ticket?

A. Those threats were universal throughout the whole county.

Mr. ABBOTT. State only what you heard yourself.

A. Yes, sir; I heard it myself. It was universal. It was a matter of public speeches on the stump by democrats.

Testimony of Lieutenant Hoyt, United States Army, is quoted to prove violence:

Question. Were you present at any time during the voting in Edgefield?

Answer. I was at what was called box No. 2.

Q. State whether you saw any violence inflicted by white men upon colored men?

A. I saw only one case. I saw one colored man struck over the head with a club in the hands of a white man.

Q. What was the occasion of that?

A. The colored man was trying to get up on the platform to go into the building to vote.

Q. To what extent was he injured?

A. I don't know, sir; I don't know that he was injured at all. I saw him hit on the head, and he sort of fell back off the platform. I was there from about the time when the polls opened until six o'clock. Part of the time I was right down near the door, and part of the time back about fifty yards distant with the company.

Q. You did not see all the occurrences of the day when the voting was going on?

A. No, sir; I was not there all the time.

Q. State whether you saw any colored men going away from the polls without being able to vote—men who had been seeking an opportunity to vote.

A. At the time the polls closed, in my opinion, there were four or five hundred colored men who I think had not voted, and who I think had to go away.

Also the testimony of one of the United States marshals:

Question. Did you see any violence?

Answer. Yes, sir; I saw them knock several men over the head.

Q. Who knocked them over the head?

A. Joe Wise was one. He struck a fellow named Joe Butler, and cut a gash in his head, with the lock of his pistol, about an inch and a half long.

Q. What did he strike him for?

A. Because he tried to get in to vote.

The chief marshal for the county testifies as follows in reference to the violence committed that day at Edgefield Court House:

Question. What do you know of any violence against republicans on the day of election?

Answer. Well, there was a number of mounted horsemen there with pistols, clubs, bludgeons, and everything of that kind, yelling and screaming and beating niggers over the head.

Q. Was any violence inflicted upon any colored men?

A. Yes, sir, upon several; I cannot exactly name the number, but I know about three; I cannot recollect their names, though, at this moment.

By Mr. ABBOTT:

Q. Do you mean that you saw the violence inflicted on them?

A. Yes, sir.

By Mr. LAWRENCE:

Q. With what weapons was the violence inflicted?

A. They were struck in the head with pistols and clubs, and pistols were drawn on them, many of them cocked at the time. There was the appearance of a general row or fuss.

At Ridge Spring precinct violence and fraud controlled the election. A complete system of fraudulent voting was practiced. The clerk of the board was a democrat and democrats coming up to vote would hold up two fingers and others three fingers. It was discovered that this was a signal agreed upon to indicate to the clerk whether two or three ballots were folded in one, and thus inform him as to the number of names to be added to the poll-list.

Qnestoin. What, if anything, do you know of the democrats voting two tickets at a time there?

Answer. The voting went on quietly until about eight o'clock. I detected nothing of double voting until about nine o'clock. I then went into the house were the voting was going on, and stood and looked directly on the faces of the voters as they came up, and observed very closely their hands as they deposited their ballots. One man's ballots slipped. He had folded them separately, and then put them together, and he would raise up his right hand and I would notice. The first one that I detected had up two fingers, and I saw that the ballots slipped apart, but he pushed them back again and crammed them into the box. Then I called one of the republican managers to me, and said to him: "I see that these democrats are voting two or three tickets, and if you don't watch that clerk (he is a democrat) he will put down names to correspond. I noticed that gentleman who voted awhile ago held up two fingers. I do not know what it meant unless it was to give the clerk a signal how many tickets he had voted." I staid there and watched, and for about twenty-five or thirty voters every single one of them voted a double ticket.

But the fraud failed of a complete fulfillment, and as stated heretofore, when the poll closed there was found an excess of 113 votes over the names on the poll-list, and the democratic tickets were found folded together. Upon this point the affidavit of the manager is quoted. From his evidence it will be seen that democrats did not deem it necessary to give their names to the manager, but simply informed the democratic clerk, "You know my name," and thus they voted. They were a part of the Georgians who repeated from poll to poll.

RIDGE SPRING PRECINCT.

SOUTH CAROLINA,
Edgefield County:

Personally came before me Moses D. Lott, manager of the election at Ridge Spring precinct, who, being duly sworn, made oath as follows:

That on 7th November, 1876, he was at the said precinct on said date, as manager, and did act as such on said day. That he is now twenty-three years of age. That he has lived twenty of these years in said precinct next before the election. That white men voted at said precinct that he never saw nor heard of before that day, and in many cases these unknown white men would not give their names, but would say to the clerk, who was a democrat, "You know my name," which was not satisfactory to the republican managers, and against which they protested. That seeing a strict enforcement of the law would have endangered his life, he, with his colleague, waived many of their rights and legal duties. That when in counting the votes the number of votes or tickets in the box exceeded the names on the poll-list by one hundred and thirteen, which was drawn out, and I know all these were democratic except seven, because they were into each other; and the democratic United States supervisor refused to allow them to be thrown out as found in each other, but had them stirred up together and drawn such out, which was contrary to law. That for the above reason I know that said ballot-box was stuffed, and there was not a fair election at said voting-precinct, and I protest against the counting of any votes found in said ballot-box.

M. D. LOTT.

Sworn to before me November 13, 1876.

JESSE JONES, *C. C. C. P.*

Against the fairness of the election at this poll the United States supervisor entered his protest. From this poll some one hundred and fifty republicans were driven away by threats and violence.

Question. What do you know of colored men, republicans, being interrupted and prevented from voting?

Answer. About eight o'clock there was a crowd of colored men, republicans, that came up to the polls, marching solidly in ranks, and there was one man ahead of them who was hurrahing for Hayes and Wheeler and Chamberlain, and when he would turn around and wave his hat all the others would halloo, too. There was one hundred and ninety-five in the crowd, so they told me. They asked for that number of tickets, and I know the crowd was about that in my judgment. When that crowd came up, Mr. John Gaston, Mr. Carwile, and Mr. Robert Watson walked right up in front of them. They seemed to be pertectly infuriated. They were just as mad as men could possibly be, judging from appearances. They shook their fists in the faces of the men, saying: "This is a white man's country, and we be damned if you haven't got to stop; we will not stand it. This is our country, and we propose to take care of it from this time on." Mr. Robert Watson came up, and he was hallooing, "What ticket are you going to vote? You ain't going to vote for Chamberlain here to-day; if you do you will have to leave." These men came, most of them, from Cloud's Creek, a place known as Mr. Watson's lands. When Watson looked in the crowd and saw me he commenced saying, "Let 'em cheer; they'll holler to-day, and we'll holler to-morrow." Mr. John Gaston went on, saying, "You don't live in Edgefield County." The men answered, "Yes, I do. I don't want you to tell we where I live." Said he, "But the line is changed, and if you vote here to-day you vote illegally, and I will have you arrested, and Chamberlain's government isn't able to protect you." Mr. Carwile was coming up the line of colored men shaking his fist in their faces, and when he met me he stopped; but Mr. Watson kept on by me, but changed his line of expressions, and said, "Let them holler to-day and we will holler to-morrow." But they all stepped out right before that crowd of colored men, threatening them, and daring them to vote the Chamberlain ticket; that if they did vote they would vote illegally, and so on; and the result of it was that about forty of those men went off and didn't vote; they were afraid.

At Shaw's Mill precinct another election took place, which in every particular was a complete farce. The democratic manager at this poll took from the box the blank oath belonging to a republican manager and refused to deliver it up the entire day, and this manager regularly appointed could not perform the duties of his office. From the report of the United States supervisor it will be seen that guns were carried to the poll by the wagon-load, and further that the democratic manager carried the poll-box behind the house and when it suited his purpose returned it to the proper place; legal and qualified voters were denied the right to vote; repeating was done to an unlimited extent by Georgians, who when they voted gave no name but informed the clerk, a democrat, "You know my name."

STATE OF SOUTH CAROLINA,
Edgefield County:

Personally comes before me Dennis Sullivan, United States supervisor, who, on oath, says that he was United States supervisor at Shaw's Mill precinct, and was at said place November 7, 1876, to discharge his duty. That before six o'clock he saw a crowd of white democrats unloading a wagon which was loaded with guns. That the voting was commenced down-stairs, and the box was carried upstairs against the will of the republican manager; that when the box was brought down stairs it was carried some other way; he saw it brought from behind the house by Joseph Merriwether, the democratic manager. That there was only one republican manager to act. Joseph Merriwether took the blank oath out of the box which was for the other republican manager to take, and put it into his pocket and would not allow the republican manager to take it. That not a republican could get to vote for at least an hour when the poll was first opened. That the democrats would not allow some republican voters to vote who were legal and justified voters to his knowledge. That white men came there and voted who were not known by any of the election officers, and they refused to give their names, but would say to the clerk, who was a democrat. "You know my name." Deponent is satisfied that Georgians voted at Shaw's Mill on the 7th of November, 1876, in the State and county aforesaid. That he could not challenge any voter but colored men, as his life was threatened by Joseph Merriwether. That two strangers came up and voted without taking any oath. That no clerk was elected or sworn. That some one stood between the clerk and manager all the the while, and when the votes were counted there were twenty-seven tickets in the box more than names, and all of the twenty-seven votes overplus were not drawn out. That Joseph Merriwether took the box and did not seal it, and he did not know that it was locked.

D. S. SULLIVAN,
United States Supervisor.

Sworn to before me this 13th day of November, 1876.

JESSE JONES, *C. C. C. P.*

This band of repeaters can be traced all over the county by the words given to the various clerks, "You know my name." The testimony of the remaining republican manager proves the grossly unfair character of the election, and the further fact that when the democratic manager took the poll-box behind the house he had the key with him. A solemn protest is entered against the vote at this poll.

SOUTH CAROLINA,
Edgefield County:

Personally appeared before me the undersigned deponent, Seabron Merreweather, manager, who, being duly sworn, made oath as follows: That Joseph Merreweather, democratic manager, took the box from him, (Seabron Merreweather, republican manager,) and then Joseph Merreweather had both box and key, and then Joseph Merreweather carried said box off a short distance and took out the blank oath which was for the other republican manager to take, and thereby defeated his acting as such manager that day.

The voting was commenced down-stairs, and Joseph Merreweather took the box, carried it up stairs, and had it in his exclusive possession for about thirty minutes, while I and the United States marshal were protesting against carrying said box up stairs; and when the box was brought down it was carried behind the house, and the table and chair were brought down the same way it went up. Joseph Merreweather carried the box around the house.

Deponent was intimidated, and not allowed to challenge any voter, except a colored man who he thought was an illegal voter; that white voters came up and refused to give their names, and said to the clerk, who was a democrat, "You know my name."

When the poll was closed, Joseph Merreweather took the box off without sealing it and without locking it, so far as he knows, and he did not feel safe in questioning anything Joseph Merreweather did; that he pronounces the election at Shaw's precinct or polling-place unfair, and it should not be counted. Hence he enters his solemn protest against the same.

SEABRON MERREWEATHER.

Sworn to before me, November 13, 1876.

JESSE JONES, *C. C. C. P.*

At Mount Willing precinct, 59 republican votes were polled. The democratic clerk was placed in a position where he could not be seen by the republican managers, who could not perform their duty by reason of intimidation. The double-ticket system of voting was practiced here, and illegal voting done. The republican managers, born and raised in the precinct, testify that men voted who were never seen there before by them. Minors were voted by the democrats.

SOUTH CAROLINA,
Edgefield County:

Before me comes H. W. Thomas and Sampson Pope, who, being duly sworn, make oath that they are the managers appointed to attend at the Mount Willing precinct.

First. That there was not a fair election at said precinct, and that we were prevented from discharging our duties as we were sworn to do, to wit: we were intimidated by the democrats and prevented from ordering the clerk to sit in our presence. The clerk was a democrat, and he was made to sit out of our presence, and we were not allowed to object. The democratic party voted more than one ticket to a man, and we know not how many names the clerk wrote down to correspond with the double tickets. We were both born and raised in that settlement, and men voted there whom we never saw there before. We know that repeating was done, and that minors voted. Hence we enter this our most solemn protest against the election at said precinct.

H. W. THOMAS.
his
SAMPSON + POPE.
mark.

Sworn to before me this 9th November, 1876.

JESSE JONES, *C. C. C. P.*

At Cheatham's Store precinct, John Blackwell, Dr. James Storm, Thomas Holloway, and Wesley Oliphant, and other strangers voted. The republican manager, who has served five elections in succession, and has lived there for thirty years, testifies that he has knowledge of the repeating done by these men, and that he did not know the white strangers who voted there that day. Robert Cheatham, who voted at this precinct, is proven to have voted elsewhere.

At Torbett's Store precinct, 55 republican votes were cast. The managers enter their solemn protest against the election, for the following reasons: First, over two hundred white men voted there who were strangers, and one of the managers had lived there for thirty-four years and knew everybody for ten miles around; that one Robert Cheatham, with others, voted there, who was known to have voted elsewhere. Second, they were not allowed to hear the names of these strange men, who whispered them to the democratic clerk, and at other times said nothing but "you know my name." Third, men from Georgia voted here who were personally known to one of the managers to be residents of that State. Fourth, that the officers could not perform their duties, owing to threats and intimidation.

At Richardsonville precinct, the same state of affairs existed; men repeated. Jack Brooks, Wade Taylor, John Rambo, and others were known to have repeated without hinderance. If any proper inquiry was addressed to them by the republican officers, the reply was, "It's none of your damned business."

At Red Hill precinct, 9 republican votes were polled; repeating was done, and the polls surrounded by strangers, who voted and were unknown to the managers. Pierce Wirbush voted at this precinct and at Edgefield Court House, box No. 1, and elsewhere. Benjamin T. Morris voted here and elsewhere. Owing to these facts the managers protested against the counting of the poll.

At Johnston precinct but 54 republican votes were polled. The United States marshal was not allowed to vote and was driven from the poll. Many persons, strangers, among them minors, came up on the Augusta (Georgia) Railroad and voted. Much intimidation was practiced against the republican voters.

At Lanham's Store precinct, one of the republican managers was denied the right to serve by the democratic chairman of the board, and went off and did not again appear. Many strangers, unknown to old residents, voted at this precinct. One Marshall Mays voted there and elsewhere; republicans were notified, "We want no radicals here." Owing to the intimidation, many republicans were alarmed and dared not vote. When the votes were counted, they exceeded the number of names on the poll-list by eleven or twelve. The clerk was a democrat. But 2 republican votes were polled here.

At Coleman's Cross-Roads another farce took place called an election. Repeaters, among them Chambers Trotter and Samuel Webb, jr., appeared; minors voted here, as, Henry Goggins and James Delock. Unknown voters were also here, and old residents born there did not know who they were.

SOUTH CAROLINA,
Edgefield County:

Personally came Charles Lindsay, who, being duly sworn, made oath that he was one of the managers at the ballot-box for Coleman Cross-Road, in said State and county.

First. That to the best of his knowledge and belief there were repeating done by the democratic party at said ballot-box, namely, Samuel Webb, jr., Wade Taylor, Jack Brooks, and Chambers Trotter.

Second. That to the best of his knowledge and belief minors voted at the said ballot-box, namely, Henry Goggins and James Deloch.

Third. That unknown voters voted at said ballot-box, namely, G. W. Wadkins, N. G. Pompey, M. G. Purvis, T. G. Williams, and H. T. Bairts.

Fourth. That your deponent has lived in Edgefield County and in that settlement

all his life, and knows every man who resides about there, and that many other unknown men voted at said ballot-box.

Fifth. That your deponent knows that there was not a fair election at the said ballot-box; and your deponent enters his solemn protest against the said election at said ballot-box.

CHARLES LINDSAY.

Sworn to and subscribed before me November 9, 1876.

JESSE JONES, *C. C. C. P.*

At Hattiwanger's Store precinct there was more than the ordinary amount of intimidation. The managers on their way to the polls were attacked and finally driven off. Many persons were compelled to leave the polls without voting. The United States marshal was also abused.

At Liberty Hill poll a democrat named John Cheatham cursed and struck republican voters who came up to the poll. In some instances he threatened to shoot. Many republicans dared not go near the poll. One G. J. Sheppard was seen to take tickets from the box, and upon being charged with it did not deny the same. Georgia voters were plenty here. One named —— Burton was known to the managers. One man named Marcus Larkware voted under an assumed name. This poll, which has always been republican, went democratic by a large majority.

At Trapp's Mill precinct 91 republican votes were polled. Strangers voted here unknown to old residents. Repeating was also done by Alfred Bell, Pierce Mathes, and Abner Clegg, who voted at other polls that day.

At the Meeting Street precinct the republican manager, who has lived there all his life, testify that a great many strangers presented themselves and voted who were unknown to him; that he was informed they had voted at the Richard's Mill precinct. J. C. Rambo voted here and at the latter precinct; Preston S. Brooks voted here and at Holliwanger's Store; Pierce S. Addison voted here and elsewhere. Repeating was largely done at this poll, and without any attempt to conceal the fact.

It will be observed that at every one of these precincts strangers in large numbers, who were unknown, appear as voters; the excess of 2,252 white votes over the census is thus accounted for. The citizens of Georgia and the repeating of the democrats living in the county created the increase.

The following affidavits are offered as additional evidence of the manner in which the election was conducted at Edgefield Court House, polls Nos. 1 and 2. It will be seen that William T. Gary, of Augusta, Georgia, gave notice that he had a gang of Georgians on hand whom nobody knew:

SOUTH CAROLINA,
Edgefield County:

Personally appeared before me Wiley J. Williams and Abraham Lanham, two of the managers of box No. 1, Edgefield Court House, and D. B. Cotton, clerk for said box, and made oath that, on the morning of the election, they appeared to the court-house as managers to conduct the election; that, according to the instructions given by the commissioners of election, they intending to hold the election under the arch of the court-house steps; that A. A. Glover, one of the managers, took the box contrary to the desire of these two managers and the directions of the commissioners of election, and carried it up into the court-house; that at the time the court-house was crowded with armed white men, and that there were some arms stacked away in the court-house; that the court-house was packed with white men, and been all night; that after these men voted they remained in the court-house and on the court-house steps, and so crowded the polling-place that colored men were not allowed to vote; that about nine o'clock this crowd had all voted, yet they remained in the court-house and on the court-house steps; that while the crowd was in the court-house and on the court-house steps, several hundred horsemen were crowded around the court-house steps in such a manner that colored men could not approach the court-house; that during the day many of these parties voted four or five times, and when we protested against such a proceeding we were told that it was none of our business; that William T. Gary, of Augusta, Georgia, told these managers that he had several boys here to-day from Georgia that no one knew; that when these deponents would protest against this repeating and would ask the repeaters where they lived, they were told by James M. Cobb and J. C. Sheppard that it was none of their business where they lived, and hence these repeaters would not answer the questions; that these deponents, finding that they could not carry on the election according to law, were anxious to abandon the poll, but were told that they would not be allowed to leave; that all of these white men around there were armed, and that these deponents were compelled to yield to anything they demanded; that in the evening about four o'clock the steps of the court-house were taken possession of by Butler Gary and J. C. Sheppard, who delivered speeches to the horsemen who were crowded around the court-house steps; that these managers wanted to write the names of colored men under the column fixed for colored men, and the names of white men under the column fixed for white men, but were not allowed to have it done; that not more than than thirty-five or forty colored men voted at this box during the entire day, and that most of these voted late in the evening when they were accompanied by the box of United States marshal; that when the poll was closed after six o'clock the box was taken possession of by William T. Gary, of Augusta, Georgia, J. M. Cobb, and J. C. Sheppard of Edgefield Court House, who assisted without authority in the counting of the votes; that when the votes were counted in several cases four or five democratic votes were folded together; that in the face of all these facts, knowing them to be true, these deponents declare that the whole affair was unfair and contrary to law, and enter their solemn protest against the counting of said votes for or against any of the candidates.

WILEY J. WILLIAMS.
his
ABRAHAM + LANHAM.
mark.
D. B. COTTON.

Sworn to before me this 9th day of November, 1376.

JESSE JONES,
Clerk Court Common Pleas.

The testimony interspersed throughout this address is taken from the report of the special committee of this House sent to South Carolina to investigate matters relating to the presidential electors.

This, Mr. Speaker, is the history of South Carolina during the late campaign and on the day of election. I turn it over to the judgment of the American people, to the great tribunal that has always been ready to lend a helping hand to the oppressed.

I trust that the future will do much to obliterate the stain upon the fair fame of South Carolina and the disgrace to American civilization, and that the American people will sustain the execution of the laws in order that the negro they have invested with the right of suffrage may be allowed to exercise this privilege unmolested.

Notwithstanding all the persecution against the republicans, I am proud to say they were sufficiently firm to carry the state for the national and State tickets.

The fruits of their victory are about to be secured, and I can say in this hour of triumph they will indulge in no unnecessary exultation, but actuated by a purpose to prove worthy of American citizenship will pursue their way peacefully, resolved to be patriotic citizens of a great country.

With such a purpose, it may be, the words of Abraham Lincoln, "The ballot in the hands of the black man may serve in some trying hour to come to preserve the jewel of liberty to the diadem of the Republic," may prove to be prophetic.

The Electoral Vote of Oregon.

SPEECH OF HON. DAVID REA,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1877,

On the decision of the electoral commission in the case of Oregon.

Mr. REA. Mr. Speaker, when the electoral bill passed a few weeks ago, I believed we had established a commission that would render decisions in the cases of the disputed States that would meet the approval of the people. I then thought that five judges of the Supreme Court could be trusted to decide according to the law and the right.

While that bill was under consideration in this House, in the course of a few remarks I made upon that occasion I said: "When this bill shall become a law, as I believe it will, I trust that fraud and corruption will find no protection under this bill. I shall hope to see the true and lawful votes for President and Vice-President counted, and the will of the people thereby respected."

But, Mr. Speaker, I have been deceived. The decisions of that tribunal have not been, in my judgment, what they ought to have been, and they will not meet the approbation of the people.

The rulings and decisions of the seven and the eight will become immortal and live in history through the long cycles of time—the first, to be approved by those who love republican government, right, and justice, and abhor perjury, forgery, fraud, and villainy; the second, to be condemned, loathed, and despised by all the good people of coming time who love self-government and despise fraud and corruption. The decisions of the eight offer a reward for forgery, perjury, and bribery—not a reward of gold and silver, but a reward of the Presidency of the United States, with all the patronage thereto belonging.

Those who believed there was no safe retreat for fraud, forgery, bribery, and perjury under our Constitution and laws have been told by the decision of *the eight* that they were mistaken; that all these offenses, although a stench in the nostrils of all honest men, may be committed by a villainous, partisan returning board under the thin gauze of color of law, without any of its substance or spirit, and thereby the voice of a State and nation stifled, the will of the people defeated, and a man not elected can be installed into the office of President of the United States, and that the people under our Constitution and the laws are helpless and without a remedy to prevent the commission of such a monstrosity.

That it may be seen that I am not overdrawing the picture, I call attention to some of the offers of proof in the Louisiana case and the rulings of the *eight* thereon. The counsel for the Tilden electors offered to prove, among other things:

First. That the Hayes electors received from five to ten thousand votes less than the Tilden electors.

Second. That the returning board willfully and fraudulently counted as many as thirteen hundred and sixty-four votes for some of the Hayes electors never cast at any voting-place in the State.

Third. That William P. Kellogg when he gave the certificate to the Hayes electors well knew the certificate was false and untrue and that the Hayes electors had not been elected, but, on the contrary, that the Tilden electors had been elected.

Fourth. That the affidavits of riot, tumult, and intimidation were falsely fabricated and forged under the direction and with the knowledge of the returning board.

Fifth. That votes given for Tilden and Hendricks were willfully and fraudulently counted for Hayes and Wheeler by the returning board.

Sixth. That the Hayes electors, the returning board, and divers other persons entered into an unlawful conspiracy with each other a short time before the election, to cause it to be certified and returned

that the Hayes electors had received the majority of all the votes cast at the election, whether such should be the fact or not; and that in pursuance and execution of said conspiracy said returning board did, knowingly, willfully, and fraudulently certify and return the Hayes electors elected, well knowing at the time that the Tilden electors were elected.

These are some of the things offered to be proven, and the proof was rejected by the eight republicans on the commission, the seven democrats voting to hear the evidence. The eight answer, "All that's *aliunde*."

The effect of that decision is, that although all these things may be true, yet the electoral votes thus fraudulently and corruptly procured must be counted, and the candidate defeated at the polls declared elected.

Commissioner ABBOTT offered the following resolution:

Resolved, That testimony tending to show that the so-called returning board of Louisiana had no jurisdiction to canvass the votes for electors of President and Vice-President, is admissible.

This resolution was voted down by the immortal eight, thereby deciding that although the said returning board had no jurisdiction to canvass the votes for President and Vice-President under the law, yet if they did so without any jurisdiction, right, or power whatever, such canvass was binding upon the whole people, and a President could thereby be elected. Such a doctrine is at variance with every principle of law and common sense. The universal rule is that whenever a thing is done without jurisdiction over the subject-matter it is absolutely null and void. Where a court has jurisdiction its judgment, although onerous, is binding until reversed by proper lawful authority; but where a court renders a judgment without having jurisdiction over the subject-matter its judgment is void. If the returning board had no jurisdiction to canvass and count the votes for President, then its action was *coram non judice*, and could bind no one, and could be of no validity whatever; and yet the immortal eight refused to receive evidence tending to show that fact.

The immortal eight has not only made decisions contrary to law and precedent, and refused to hear evidence tending to prove forgery, perjury, bribery, and fraud, but they have made decisions directly contradictory, varying their decisions upon the same point, apparently to make them suit the particular case, in order to count in the Hayes electors. In the Florida case the question of eligibility of one of the Hayes electors was raised, and the commission made the following order:

Ordered, That in the case of Florida the commission will receive evidence relating to the eligibility of Frederick C. Humphreys, one of the persons named in certificate No. 1 as elector.

Under this order the commission did hear evidence touching the eligibility of said Humphreys. The grounds of ineligibility urged against said Humpheys was that he held an office of trust and profit under the United States.

In the Louisiana case the same question of ineligibility for the same reason was raised against two of the Hayes electors, and evidence was offered tending to prove the same, and Commissioner BAYARD offered the following resolution:

Resolved, That no person holding an office of trust or profit under the United States is eligible to be appointed an elector, and that this commission will receive evidence tending to prove such ineligibility as offered by counsel for objectors to certificates 1 and 3.

This resolution was voted down by the immortal eight, and an order made that the evidence be not received. Judge Bradley, having voted to admit such evidence with the seven democrats in the Florida case, changed his vote in the Louisiana case and voted with the republican commissioners. Under these orders evidence was excluded in the Louisiana case.

Then comes the Oregon case now before the House, and the same question of ineligibility for the same cause has been raised against Watts, one of the Hayes electors, and the commission decided to hear and did hear evidence touching Watts's ineligibility.

The commission first decides in the Florida case that evidence is admissible touching the eligibility of electors; and then in the Louisiana case it reverses that decision, and holds that such evidence is not admissible: and then in the Oregon case it reverses its decision again, and decides to hear and does hear such testimony. O, consistency, thou art a jewel! These decisions are plainly inconsistent and contradictory. They are not all right and lawful. If the decision in the Florida and Oregon cases is the law of those cases, then the decision in the Louisiana case is not the law and *vice versa*.

The Constitution of the United States declares that "no Senator or Representative or person holding an office of trust or profit under the United States, shall be appointed an elector." Notwithstanding this constitutional prohibition the immortal eight have decided that persons holding offices of trust or profit under the United States may be appointed electors, and after they have voted as such electors their votes are genuine and must be counted, thereby nullifying and holding for naught a provision of the Federal Constitution, which is the supreme law of the land.

The rulings and decisions of the immortal eight will, in my judgment, be condemned, loathed, and despised by all right-thinking people.

Mr. Speaker, I voted for the electoral bill, believing it was the best thing that could be done, and having faith that the commission would rise above party, investigate the charges of perjury, forgery, bribery, fraud, and want of jurisdiction in the Louisiana returning board, and give the country decisions that would meet the approbation of the people and forever condemn the use of fraud and corruption to defeat the will of the people.

I believed when I voted for the bill and I still believe there was a wide-spread conspiracy to inaugurate Hayes at all hazards, and that without some law, rule, or measure making some provisions for the counting of the votes in the controverted States there was not the remotest chance for Tilden to be inaugurated President. I have heard it said the democrats in this House at one time held the solution of the presidential question in their own hands, and could have had Tilden inaugurated, but they had surrendered to the republicans.

This is not true. The democrats in this House never at any time had it in their power to solve the presidential problem in their own way. The people had voted in the several States, and the votes had been sent to the President of the Senate.

These votes have been in the possession of the President of the Senate and not in the possession of this House. It was claimed by one party that the President of the Senate had the power and authority, and that it was his duty, to count the votes in the presence of the Senate and House, and determine for himself what votes he would count; on the other hand it was claimed that the Senate and House were to count the votes, each having equal power and authority in the premises. There was no rule or law to govern in the count; the twenty-second joint rule had been abrogated.

I believe the Senate would have had a President (if the present incumbent had not been equal to the task one would have been elected who would) on the day the two Houses met in joint session to count the votes who would have claimed and exercised the right to determine and count the votes and announce the result, in the absence of some law or joint rule directing otherwise.

Suppose he should have done so and declared Hayes elected, against the protestations of the House, how would the case have stood? The House, believing the action of the President of the Senate unlawful and revolutionary, and not having the votes in its possession, could have done but one thing, to wit: declare there had been no election and proceed and elect Tilden. There would then have been two men declared elected President. The heads of the Departments that hold over under the laws of the United States would have recognized Hayes as the President after the 4th of March, and the Senate would have done the same thing; Hayes could have appointed a new Cabinet, and the Senate, under the Constitution, would have confirmed the same. The House could have recognized Tilden as President, but no other department of Government would have done so. Hayes would have been in with a Secretary of War, of the Navy, and of the Treasury, and all the other Cabinet officers standing by him. The purse and the sword would have been in his hands and under his control. Tilden would have been without a cabinet, without an army, a navy, or a treasury, and could have done nothing.

But some say the peopie would have stood by him. It is meant by this that the people would have rallied to Tilden under arms to fight him into the presidential office. If this is what is meant, how futile. What lover of his country could desire such a state of affairs? That would be the end of all free government. He that would plunge his country into such a condition is an enemy to free government. Such confusion and disorder could not be tolerated for a moment.

Under these circumstances the electoral bill was passed. The results have not been wuat we expected; the country has been disappointed.

It is said now by some that this side of the House ought to defeat the count; yes, defeat the object of the bill. I know our first impressions when we see a great wrong and fraud about to be committed is to defeat and prevent the consummation of the same. But before we prevent the consummation of what we believe to be a wrong we should look well to the result of our action. If the count is defeated every lawyer knows there will be no President after the 4th of March and no authority in the Constitution and laws to make a President. An interregnum in the office of President would be produced without any authority under the Constitution to fill the same. Anarchy and confusion would be the result. To this I can never give my consent. I will never by my vote bring about such anarchy and confusion. The party that would bring about such anarchy and confusion in this country could not sustain itself. It would dissolve away like the snow and frost before the rays of a burning sun.

No party can expect to govern this great country that abandons the forms of law and order. We on this side of the House expected the other side to abide the result if it had been in our favor. I know it is hard to see so great a fraud committed, but we must remember that there is no remedy in disorder and confusion. Our party is a party of law and order, and under our form of government the people at stated intervals have the opportunity to correct such wrongs. Let us have the record of the black and infamous fraud made, and then like law-abiding citizens let us appeal to the people in the manner pointed out by the law and Constitution, and they in my judgment will correct the wrong in such majorities that it will be impossible for conspirators and perjured returning boards to defeat their will.

There is nothing to disband the democratic party. There has been nothing done by the republican party to draw off democratic support to the republican party; but on the contrary much has taken place to give the democratic party recruits from the republican laymen, if the democratic party is but true to itself and stands firm upon the Constitution and the laws.

The Election in Louisiana.

SPEECH OF HON. G. C. CABELL,

OF VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

February 20, 1877,

On the report of the joint electoral commission upon the vote of Louisiana.

Mr. CABELL. Mr. Speaker, I cannot forbear to enter at this time my solemn protest and that of the people whom I have the honor in part to represent against the illegal and partisan decision just made by the members constituting the majority of the joint electoral commission.

When the news was flashed through the iron veins of this great Republic that the Congress of the United States, in a spirit of patriotism never excelled in the history of ancient or modern times, had constituted a high commission for the settlement of the disputed matters growing out of the late presidential election—a commission to be composed of Senators and Representatives, and members of that august tribunal, the Supreme Court of the United States—a thrill of joy pervaded the hearts of the people of this country, and a genuine confidence was inspired that through the labors of this "high commission" every doubt in regard to the election would be fairly solved, every effort at fraud thwarted, fraudulent returning boards rebuked, and the presidential office awarded to that man who by the votes of the American people was justly entitled thereto. To accomplish its grand purposes the joint commission was invested with every power, privilege, and prerogative which belonged or pertained to either and both Houses of Congress under our Constitution and laws, and every facility afforded to enable its members to properly investigate, rightly consider, and fairly adjudge in reference to the mightiest issue ever submitted to the arbitrament of a human tribunal. The difficulties and disputes incident to the fiercest political campaign ever conducted in this country, with all the attendant circumstances, charges, and proofs of fraud and corruption, were turned over to the commission for investigation and determination. Counsel high in the esteem of the country and learned in the law were chosen to aid the deliberations of this high tribunal, whose authority it was said "none could question and whose decision all would accept as final."

How did this commission proceed and what work has it accomplished?

The case of the disputed election in Florida was first submitted. In that case the State of Florida stood forth proclaiming through her governor, her Legislature, and her supreme court that her people had voted at the late election for Tilden, and not for Hayes, as had been represented by a vile and faithless returning board.

But the voice of a sovereign State, protesting through her every department of government, was unheeded and stifled, and the votes of her people, by the great returning board of the nation, counted for a candidate for whom they were not cast.

Eight to seven, a strictly partisan vote, did the work; and the fact suddenly flashed upon the country that partisanship, not patriotism, controlled the actions of the majority of that commission from which the country expected so much.

The paltry pretext advanced by or on behalf of the commission, that no evidences or presentations of fraud were submitted with the Florida case, in some degree appeased the astonished country and gave ground for hope that when the case of Louisiana was reached the proofs of outraged justice and bare-faced frauds there presented would extort from the commission a decision favorable to the Tilden electors.

Vain hope! The State of Louisiana was put upon trial and a decision was reached. And such a decision!

If the country was astonished at the determination of the Florida case, it was made to stand aghast at the decision in reference to Louisiana.

A partisan majority of the grand commission coolly informed the country that they had no power, that Congress had no power to go behind the certificate of the so-called governor and report of the returning board of Louisiana; that, although invested with all the power and authority of the two Houses of Congress, the commission could not and would not hear evidence in reference to the glaring frauds and flagrant villainies whereby the people of Louisiana were robbed of their votes and the country at large of the President of its choice.

What an astounding revelation! What a monstrous confession! Why did not the gentlemen composing the majority of the commission go further and couple with their determination the necessary correlative proposition, that while the two Houses of Congress possessed neither power to arrest nor to repress fraud—a power exercised by the feeblest tribunal in the land—they yet possessed the power if not the will to perpetuate it.

The people of this country will be slow to realize the utter impotency of the Constitution framed by our fathers and the powers thereby conferred upon the Federal Legislature, as interpreted by the joint high commission. That Congress has no right to canvass electoral returns made to it in pursuance of the Constitution; no right to investigate when an injured State alleges fraud and proves it; no right to correct abuses and frauds when they are thrust patent and flagrant into the very faces of the two Houses, is a doctrine to which neither I nor the country will subscribe.

The spectacle which we present to the civilized nations of the world as represented by the conclusions of the committee will be as astonishing to them as humiliating to us. We have boasted that our Constitution was the grandest achievement of human wisdom known to history and our system of laws the simplest and yet the most perfect and comprehensive ever instituted for the government of a people. Yet how do our vain boastings fade away and our delusions vanish as *we* comprehend and other countries discover in the light of this new revelation that there resides neither strength nor vigor in the Constitution and laws of our country sufficient to repress the frauds and throttle the villainies of a few sweet-scented individuals organized into returning boards in one or two of the States of this Union.

Mr. Speaker, the defect does not exist in the Constitution, nor are there any powers wanting to Congress whereby the great objects in the creation of the commission might not have been attained. The defect turns out now to have been in the constitution of the commission itself, and the fault and the wrong of the final result will forever lie at the doors of those composing the majority of that commission—men "whom the world thought worthy," but who in an evil hour exchanged patriotism for policy and sunk the character of the judge in that of the partisan.

The joint commission has failed of its high destiny and wandered wide of its great mission. Instituted for the discharge of a high and imposing duty, it was expected by Congress and demanded by the country that the commission should regard no technicality, spare no labor, omit no investigation, and tolerate no fraud, but go boldly to the consideration of the whole electoral question and determine who by the honest votes of the people had been elected President of the United States. Instead of justifying reasonable public expectation, the commission has returned to us a decision which declares in effect that for more than two months Congress has been enacting a solemn farce and holding out vain and deceitful promises to a long-suffering and outraged people. For I declare here that to tell the people of this country, after more than three months of anxious suspense and business prostration, that the two Houses of Congress under the Constitution have not the power to look into the electoral votes of the several States to eliminate fraud from the returns and declare the true result of the election, is to insult their intelligence and to challenge their credulity.

It is too late now, especially too late for the "guide stars" of the republican party, to find defects in the Constitution and to affect a want of power in its provisions, when so much has heretofore been asserted and exercised at their instance and instigation.

For more than twelve years the Executive and Congress have assumed to hold the people under military control, to appoint governors and uphold them with the bayonet, to reconstruct States, and to make and unmake governments as fancy inclined or republican interests dictated. There was held to be power in all these years in Congress to meet any emergency. To assert a theory then was but to claim a power—power as construed to exist by some of the very gentlemen who now as members of the joint commission with farcical wantonness assure the country of the helplessness of its Congress to repress the frauds and forgeries certified from a State, although that State, panoplied in her sovereignty and writhing under her disgrace, may be standing forth pleading for justice and demanding protection from wrong. When we consider the ample powers conferred by Congress upon the commission, we fail to recognize any good motive which could have inspired the majority in coming to their conclusions. They refused to hear evidence to establish the truth. They refused to investigate the reeking, rankling frauds whereby the vote of a whole State was stolen, and in the exercise of powers which they were pleased to believe involved doubts solved every doubt in favor of the red-handed despoilers of a people's rights.

A decision so unjust in its character and so impotent in its conclusions can never be accepted otherwise than as the emanation of minds distempered by passion and blinded by party hate. If the two Houses of Congress possess no greater powers in relation to the electoral count than those ascribed to them by the majority of the joint commission, better would it have been for the country, better would it have been for them, if weeks ago they had called two of our pages to the bar of the House and required them to count every vote named in every certificate, whether fraudulent or not, sent under cover to the President of the Senate. And why not? If this decision establishes anything, it clearly establishes the principle that hereafter the President of the United States may be elected by "returning boards," and not by the people, and that, no matter by what means accomplished, whether by corruption or otherwise, the candidate who can win to himself the greatest number of returning boards may fill the highest office in the Government, the votes of the people and their Congress to the contrary notwithstanding.

I aver, Mr. Speaker, that my disappointment in this matter is greater at the manner in which the great wrong has been accomplished than at the failure of my party to win success. In common with a large majority of my democratic brethren on this floor, I voted for the bill creating the electoral commission. With every instinct of my nature warring against the miserable alternative, I yet believed it

under the circumstances the best that could be done for our party and the country. I believed, as I am sure that our majority in Congress believed, that, although Tilden was fairly elected, the President of the Senate intended to count Hayes in, and that General Grant intended to seat him, if necessary, at the point of the bayonet. To such "complexion had it come at last." I believed that no effectual resistance was contemplated by the only people in a position to offer it; and thus believing I accepted the sole proposition—the electoral bill—which seemed to offer the one and only chance of a legal solution of the difficulties which surrounded us. We selected such men for the electoral commission as according to all human rules ought to have vindicated the object and purposes of their selection. If they or a majority of them have disappointed our reasonable expectations, the fault rests with them, and not upon us.

I sometimes hear it said that we should not have voted for the bill. Why not? What else could we have done? Who proposed a better scheme for the settlement of the perplexing matter? Frail mortals do not usually see things as well at the beginning as at the conclusion of a transaction; but in this we acted from a sense of duty and of patriotism—we took the only chance presented, and I see no reason now to believe that the result would have been different if we had defeated the bill. If any gentleman can point us to an honorable escape from the dilemma in which circumstances have placed us, if there are any so wise as to lead us to a different and better result, I am more than willing to follow; but I am not willing to be a "blind follower of the blind," and rush headlong upon schemes which promise nothing save to plunge the country into chaos and anarchy. The country desires peace, order, and good government, and we can best attain those ends by a faithful observance on our part of the great principles embodied in our Constitution.

The people of this country are quick to perceive any infringement of their chartered liberties, and they will in proper time fearfully rebuke the faithlessness of the republican party. The wrongs and injuries heaped by that party upon some of the Southern States of this Union, especially upon the State of Louisiana, will in time produce their legitimate fruits, and create a happy revulsion in public sentiment in favor of a State which has indeed been tried in the fire of affliction. For four years scourged by war, for eight years blighted by the withering rule of the alien plunderer, now stripped by an unjust decision of the rights and immunities of freemen, the chivalric people of Louisiana, in the sublimity of patriotism, have endured their wrongs and borne their afflictions with more than Roman firmness or Spartan bravery.

But the day of deliverance for Louisiana from the hands of the despoiler will come, as it will come for the people of this entire country. The wickedness of our opponents has culminated in an unjust decision rendered by a partisan majority upon the electoral commission. Never will the American people willingly assent to a decision so unjust. It may seat Mr. Hayes in the presidential chair, but it will add no luster to the good name which his friends have ascribed to him. It may give a new, but short lease of power to the republican party, but let me tell you gentlemen of the opposition that *you* have no cause for rejoicing. You can never feel satisfied with the treacherous means by which you have achieved your temporary triumph. "Be sure that your sins will find you out," for this partisan electoral decision, which troubles you even now, as sure as Heaven is just, will bring its bitter rewards to the party which so eagerly avails itself of the most stupendous wrong ever inflicted upon the rights, and liberties of a people.

The Texas Pacific Railroad—No more Subsidies—No more Partnerships between the Government and Private Individuals or Corporations.

SPEECH OF HON. L. T. NEAL,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

March 1, 1877,

On the Texas Pacific Railroad bill.

Mr. NEAL. Mr. Speaker, among the many bills upon our Calendar which are appropriate subjects for discussion at this time, none exceeds in importance, or in the magnitude of the interests it involves, the bill amendatory of and supplementary to the act entitled "An act to incorporate the Texas and Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved March 3, 1871; and the act supplementary thereto, approved May 2, 1872; and the act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Ocean," approved July 27, 1866. And although it has received the sanction of a majority of the Committee on the Pacific Railroad, from which it is reported, I desire *here* and *now* to enter my protest against its passage.

During the first session of the Forty-third Congress, I submitted to this House my views upon the question of the power of the Federal Government to construct railroads within the States, or to create corporations to build such roads. I contended *then* that it had no constitutional power to do either the one or the other, and time and reflection have confirmed me in the opinion I then expressed. So that in my judgment there is an insuperable constitutional barrier to the enactment of this bill into a law, since it involves precisely the same principles as would one providing for the construction of a railroad within the limits of a State, or for the incorporation of a company to construct such a road, if it does not, as I believe it does, authorize more than one of the companies or corporations named therein to do that very thing.

But without repeating the argument that I made at that time, and waiving for the purposes of this particular bill the question of the constitutional power of Congress to enact it into a law, there are other reasons that induce me to oppose it, some of which I shall endeavor to state as briefly as I can. I can see nothing in it to commend it to the favorable consideration of this House. On the contrary it presents to my mind only a bold and skillful attempt of a set of adventurous speculators to put their hands into the Treasury of the United States and enrich themselves at the expense of the people by taking therefrom the enormous sum of nearly two hundred and fifty millions of dollars. The proposition is for the Government to guaranty the interest on the bonds of the several companies named in the bill.

The third section provides that the Texas and Pacific Railroad Company shall execute and deposit with the Secretary of the Treasury its bonds, payable in gold fifty years after their date, with interest coupons payable semi-annually in gold coin, at 5 per cent. per annum, to the extent of forty thousand dollars per mile; that the Southern Pacific Railroad Company shall issue and deposit its bonds of a like character to the same amount upon that part of the main line of its road east of the Colorado River, and at the rate of thirty-five thousand dollars per mile for its San Diego branch; and that the Secretary of the Treasury shall indorse for and in the name of the United States a guaranty of interest on such bonds.

By the provisions of the fourth section, whenever it shall be made to appear to the President, in the manner set forth therein, that ten or more miles of the main line of the roads of either of these companies have been constructed and properly equipped, the Secretary of the Treasury is required to deliver to it for such road so constructed and equipped these bonds at the rate of thirty thousand dollars per mile for the plain or open country, and forty-thousand dollars per mile for the rough or mountainous country, or an average of thirty-five thousand dollars per mile for the whole line—one-half of the roads being, for this purpose, considered by the bill as located in the plain or open, and the other half in the rough or mountainous country. It contains a like provision for the delivery of bonds upon similar conditions to the Southern Pacific Company for its San Diego branch at an average of thirty thousand instead of thirty-five thousand dollars per mile.

The interest upon the bonds of the Atlantic and Pacific Railroad Company is authorized by this same section to be guaranteed by the Government in the same manner, to the extent of thirty thousand dollars per mile, and they are to be delivered to it upon the same terms, at the average rate of twenty-five thousand dollars per mile, the remaining five thousand dollars per mile being in each case retained by the Government as a partial security for itself. And the same rights, privileges, and benefits are conferred by the tenth section upon the other roads named in the bill, three in number. The mileage of the several roads is, according to the best estimate I have been able to make or obtain, as follows:

	Miles.
The Texas and Pacific Railroad Company, (main line,) Fort Worth to junction with the Southern Pacific in New Mexico, about	700
The New Orleans branch, Marshall to New Orleans, about	400
The Memphis branch, Jefferson to Memphis, about	350
The Vicksburgh branch, Shreveport to Monroe, about	140
The Atlantic and Pacific Railroad Company, Vinita to junction with Texas and Pacific at one hundredth meridian, about	375
The Southern Pacific Railroad Company, (main line,) junction with Texas and Pacific in New Mexico to Fort Yuma, about	500
The San Diego branch, San Gorgonia Pass to San Diego, about	100
Total	2,565

The aggregate amount of bonds which they will be authorized to issue will therefore be $89,450,000:

The Texas and Pacific, at $40,000 per mile	$28,000,000
The New Orleans branch, at $30,000 per mile	12,000,000
The Memphis branch, at $30,000 per mile	10,500,000
The Vicksburgh branch, at $30,000 per mile	4,200,000
The Atlantic and Pacific, at $30,000 per mile	11,250,000
The Southern Pacific, at $40,000 per mile	20,000,000
The San Diego branch, at $35,000 per mile	3,500,000
Total	89,450,000

And taking this as the basis for computation, the annual interest for the payment of which the United States will be liable will be $4,472,500 in gold, and the aggregate amount in the fifty years that the bonds are to be allowed to run before they become due and payable will reach the enormous sum of $223,625,000.

I might, indeed I ought, to add to this amount of bonds twelve million dollars more for the Texas and Pacific Company, because contingencies, the happening or not happening of which will rest wholly with the railroad companies, may arise which will authorize

that company to build a road through from the Colorado River, near Fort Yuma, to San Diego, by what is designated in the bill as the direct line between those two points, a distance of about three hundred miles, with the same right to issue guaranteed bonds that it has on other parts of its main route. If we do this, it will swell the aggregate amount of bonds to $101,450,000, the annual interest to $5,072,500, and the interest for the full fifty years to $253,625,000.

But this is not all. The liability of the Government will not stop here. It may be continued for fifteen or twenty years longer, until the right of the creditor or bondholder to enforce the payment of his indebtedness shall be barred by the statute of limitations, and thereby increased in amount nearly or quite 33 per cent. by the failure or refusal of the railroad companies to redeem their bonds at maturity. Nor will this liability of the Government be nominal only. Whatever it may be upon its face, it will prove in the end to be most positive and real, and I have no doubt that every dollar, or nearly every dollar, included in or covered by it, will have to be paid by the Government, without any chance for its remuneration, save such compensation as it may from time to time retain for services rendered it by these companies. The past experience of the Government in projects of this kind leaves little or no room to doubt that this will be the result of its indorsement of these bonds. Such has been the universal history of its attempted aid in all such undertakings. In every instance of the kind its efforts have been attended with great loss to itself, little benefit to the enterprise intended to be helped, and disgrace and obloquy to Congress. To speak plainly, I do not believe that there ever was or ever will be a public subsidy of any kind into which fraud, dishonesty, and corruption did not and will not enter as the principal ingredients.

During the debates upon the acts under which the bonds to aid in the construction of the Pacific railroads that have already been built were issued it was urged with just as much zeal, earnestness, and apparent candor as it now is in this case, that the Government would never be called upon to pay one dollar of them, either principal or interest. The security proposed was alleged to be and *was* just as good and ample in every respect as that which is here offered. It was better in fact, because no third parties intervened to embarrass the Government in its rights, and it actually had *there* that which, I shall be able to show, only a *pretense* is made of giving it *here*. Yet to-day the Government has virtually been stripped of all its securities. One after another of the liens it had acquired has been released, more than twenty-seven million dollars have up to the present time been paid by it for interest upon these bonds, its payments of interest upon them are still being made at the rate of nearly four millions a year, and it is painfully manifest that it will ultimately be charged with the payment and suffer the loss of almost the whole of this indebtedness, principal and interest, which will amount in round numbers to one hundred and eighty-two million dollars; the paltry sums that it may be able to save for itself from year to year by the retention of one-half of such compensation as may be due these companies for services rendered by them to it in transporting mails, troops, supplies, and other things being in fact all that it will get from them to aid in its discharge. While the Credit Mobilier, with its wrecks of Christian statesmen and blasted reputation of other men who held high place in the esteem of the country, will stand for all time without a parallel as an example of the basest ingratitude and the most dishonest and dishonorable betrayal and plunder of a benefactor by those whom it had most fondly cherished and upon whom it had been most lavish in its bounties.

The advocates of this measure cannot avail themselves of the plea that this is no subsidy. It is simply pettifogging the case to urge with any degree of seriousness the argument that this is in no sense a subsidy; for it comes within the most rigorous and limited meaning of the word. A subsidy, as I understand it, is any class or kind of aid extended by one to another, or by the Government to any individual or corporation. Such at least is the ordinary signification of the term. And here the express object of the bill is to give the *support, aid, co-operation* of the Government to these corporations, by securing to them a loan of the public credit, and thus enabling them to accomplish by and through it that which they themselves declare to be an impossibility without it.

The fact that the liability of the Government is *seemingly* contingent does not detract in the least from the strength of the position that this is a subsidy. I say *seemingly* contingent because the probabilities that the Government will not be called upon to pay every dollar of the interest guaranteed are so slight that they are scarcely worthy of even a passing notice in the consideration of the bill, and that it becomes us as practical men to treat such sum, whatever it may be, as the absolute, unconditional debt of the Government. That private capitalists cannot be found, either at home or abroad, to take the bonds of these companies upon such terms as they now offer to the Government to save it harmless from any loss by reason of its guarantee of interest upon such bonds, is of itself strong, if not conclusive evidence of a gross exaggeration of the value of the security offered, and consequently of certain and inevitable loss to the Government should we accept it. But whether this inference can be justly drawn from this single fact or not is immaterial, since an examination into the nature and character of the security proposed will fully sustain me in all that I have said in regard to it, and show most clearly that I do not state the case too strongly when I assert with such confidence that the liability of the Government, although nominally contingent or conditional, will be in effect fixed and absolute.

The principal security proposed is this: Each company upon accepting this act—should the bill become a law—is to file with the Secretary of the Interior a mortgage upon its road, with its equipment, depots, shops, fixtures, and property of every kind, including the lands granted by Congress to aid in its construction, and in the case of the Texas and Pacific company the lands granted to it by the State of Texas, to secure the principal of the bonds issued, the interest guaranteed by the United States, and a sinking fund to be paid into the Treasury of the United States, commencing with the year 1886, of 1 per cent. per annum in gold on the whole amount of bonds issued. To guard against any failure or refusal to execute and deliver the mortgage required, the acceptance of the provisions of the act itself by either of said companies is declared *ipso facto* to constitute a first lien or mortgage upon the property I have named.

All the other provisions of the bill relating to the setting apart and payment into the United States Treasury, at certain times, of sums arising from the sales of land and the net earnings of the road, and amounts received from the Government for the transportation of troops and supplies, and for its postal and telegraph service, which are declared to be for the purpose of more specifically providing for the interest on the bonds, and a sufficient sinking fund to redeem them at maturity, add but little to the value of the security upon which the Government must rely. None of us acting for ourselves in matters affecting our individual interests would take or rely upon any such security in any case, much less in a case of this magnitude. No prudent, careful business man would do anything of the kind. Free transportation for its troops, supplies, mails, and other things, while the bonds are outstanding and unpaid, which the Government will be able to obtain by withholding whatever shall become due to these companies for such services, will be about all that can be expected from any of these provisions. I regard the others as perfectly nugatory and valueless for the purposes of security. I do not believe that one dollar will ever be realized by the Government under either of them. Nothing will be easier than for the officers of these soulless corporations, with whom the determination of the question must rest, to show that no net profits have been derived from the sales of land or from running and operating their roads.

Then, again, the bill contains no specific or summary remedy for a non-compliance with these provisions; and a resort to a suit at law or in equity, as might seem best, to enforce such compliance and obtain the benefits proposed to be given by them, will be attended with uncertainty, if not with absolute failure to secure the relief sought. The whole security of the government will therefore virtually rest upon the mortgage alone. For it will become apparent as I proceed that what is termed the additional security, that which is provided in the sixth section by retaining in the Treasury five thousand dollars per mile of the bonds to be issued, to meet any deficiency in the interest fund, will wholly fail in its purpose and prove no security whatever. And what will be the rights of the Government under the mortgage? When you come to foreclose it, which must be done in the usual way for asserting that right, no special mode or power being given by the bill for that purpose, who will have the first lien upon the mortgaged property, the Government or the holders of the bonds issued by the railroad companies? In my opinion, the rights and interests of the Government will be subordinated to those of the bondholders. The Government will be the surety, the bondholders the creditors, and as against the creditors the surety will stand only in the place of the debtor. Its rights in the mortgaged property will in equity be substantially the same as if it were not a party to the mortgage. So that, upon the general principles of eqhity, the Government will not be able to avail itself of the benefits of the mortgage until full payment of the principal of the bonds has been made, and will consequently lose all it will have been compelled to pay by virtue of its suretyship, as it cannot be seriously contended that a second lien will be worth anything at all.

However great the hardship may be the Government and not the creditors will have to bear it. To hold otherwise will be to violate every rule of construction applicable to cases of this kind, and to defeat the very object sought by the indorsement of the Government; for while such indorsement will secure to the creditors their interest, it will take away from them the only security they will have for the principal of their debt, if the mortgaged property is to be first applied to the repayment of whatever sum may be paid by the Government for their benefit. Now it may be that no case exactly parallel with this can be found. But other cases which lay down the same principle are reported, and the doctrine applicable to it is fully recognized and established. There is no rule of law or equity better settled than that which declares that the creditor is entitled to the benefit of any counterbond, mortgage, or other security which a surety may have taken from the principal to indemnify him, and that he may go into a court of equity and reach such security to satisfy his debt.

If, then, the creditor can appropriate to his use all securities given by the principal to the surety as well as those which may be given to himself, he certainly has the priority of lien where two mortgages are given by the debtor upon the same property, one to himself, the other to the surety, or where a mortgage is given to them jointly.

In one case that I recall—and there are many such—where the surety had obtained from the debtor a mortgage to secure him against liability and also to secure another debt due to himself, the court held that the creditor was entitled not only to the benefits of the mortgage but to be paid out of the first proceeds of the mortgaged property in preference to the surety. In other cases the courts have gone so far as to hold that where a creditor has lent the principal two sums of money on different and distinct securities, a party who is surety for the first sum only cannot, upon payment of that sum, have a transfer of the securities held for it until the creditor has also been paid the other sum, thus qualifying the rule that the surety is entitled to the benefits of all the securities held by the creditor by subjecting this right to prior rights in the creditor, and extending the one I contend for much further than it need be extended to become fully applicable to this case. And if this be true, as it undoubtedly is, it is a self-evident proposition that the only effect of the retention of the five thousand dollars per mile out of the forty thousand dollars per mile of guaranteed bonds will be to increase rather than diminish the liability of the Government. The object of retaining these bonds in the Treasury is to throw them upon the market and sell them to meet any deficiency in the amounts to be realized from the sources of which I have already spoken and deposited for interest.

But if the rights of the Government are subordinated to those of the creditors, you will by selling the bonds held in reserve not only increase by one-seventh the interest to be paid by the Government, but will increase the debt to be paid out of the proceeds of the mortgaged property prior to that of the Government to the extent of the five thousand dollars per mile, and decrease in a corresponding degree the chances of the Government to be re-imbursed for whatever sum it shall have paid upon the bonds guaranteed. Besides all this, the Government will be charged with the duties and responsibilities of trustee for the creditors or bondholders. It will have thrust upon it the care and management of all the business of these companies from the beginning to the end of this whole transaction in so far as it relates to their bonded debt, it being made the express duty of the Secretary of the Treasury to take charge of the issuing and registering of the bonds, the purchase and cancellation of the bonds for the sinking fund, the sale of the bonds held in reserve to meet any deficiency in this fund, and all other things pertaining to the execution of the different provisions of the bill, should it become a law.

The sum of the whole is that it is one grand organized scheme for plunder and robbery under the guise of law; and I entirely mistake the character and temper of the American people if they do not refuse longer to submit to be thus plundered and robbed, however specious may be the pretexts or plausible the theories advanced to gain their consent to any such undertakings. They want no more partnerships between the Government and private individuals or corporations in which the Government pays all and the individual or corporation gets all. I know the people of my own State do not, because a little more than two years ago, when the question of railroad aid was directly submitted to them in the shape of an amendment to our State constitution, they declared against it by an overwhelming majority, a vote of more than six to one. And that, too, in the face of the fact that that amendment was carefully guarded by restrictions most stringent in their character, requiring, among other things, that no subscription, loan, or contribution should be made to any railroad company unless it should be first authorized by the votes of two-thirds of the electors of the city, township, or incorporated village proposing to make it, given at an election held for that purpose, and that the order for such election should specify all the conditions of the subscription, loan, or contribution proposed; the consideration to be given therefor, the estimated cost of the proposed work, the means secured for its completion, and the part of the work upon which the proposed subscription, loan, or contribution was to be expended. And I think I will be justified in saying that at least eight out of ten of those voting affirmatively upon said amendment were opposed to the principle of it, and only gave it their support because of a desire upon their part to apply it to some local enterprise in which they were either personally or otherwise directly interested.

The cry of the originators of this outrageous and iniquitous scheme, and of their advocates and lobbyists, which has resounded through the halls and anterooms of this Chamber, and which has been heard upon this floor itself, from the very commencement of this session, that the passage of this bill will revive trade and business, give employment to thousands of idle and unemployed laboring-men, and bring us unbounded prosperity in a thousand other ways, will fall dull and listless upon the ears of the people. Even those who in their anxiety, poverty, and distress are willing that almost any experiment shall be tried that will afford any well-founded hope or chance for relief, by putting bread into their mouths and clothes upon their backs, will not be deluded by any such appeals. They have learned long since that the promises of such men are not made to be fulfilled, that they but "keep the word of promise to our ear and break it to our hope." He will be most rash and inconsiderate who shall attempt to offer in justification of his vote for this bill any such reasons and expect to escape the wrath and indignation of his constituency, unless perchance he shall be the representative of some locality or section whose people will be immediately and directly benefited by the construction of these roads, and who will favor the project upon purely local, sectional, and selfish grounds, regardless of the cost or consequences to the Government and the country at large.

Mr. Speaker, if we pass this bill, it will be a most flagrant, not to say dishonorable, repudiation and reversal of our own solemn judgment duly entered upon our Journal, by which, on the 15th day of December, 1875, we, by the unprecedented vote of two hundred and twenty-three to thirty-three, declared against all subsidies of every kind to individuals or corporations, whether in money, bonds, public lands, or by indorsement or pledge of the public credit. And I warn the leaders of the democratic party in this House that if they permit this bill to pass, it will be a violation of every pledge of reform and an honest and economical administration of the affairs of this Government that we have made to the people, and will result in our overthrow in almost every State in the Union in the first general election that shall be held.

Territory of Oklahoma.

SPEECH OF HON. ERASTUS WELLS,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

March 2, 1877,

On the bill to provide for the organization of the Territory of Oklahoma, and for the better protection of the Indian tribes therein.

Mr. WELLS, of Missouri. Mr. Speaker, I should fail in my duty to my constituents and to the State which I have the honor in part to represent on this floor if I did not, even in the present unfavorable condition of political events and public feeling, ask of this House a fair and impartial consideration of the bill providing for the organization of a territorial government for the aboriginal tribes now domiciled in the Indian Territory. The measure proposed, it is true, does not in its provisions carry to the extent I myself, and as I believe my constituents, desire to see carried in a proposition of this character, the principles of self-government, and consequently of enlightenment and civilization.

At the last session of Congress, after a consultation with many of the warmest and truest friends of the Indian race, and after full and careful consideration of the social and commercial interests of the people of the great States immediately interested in, as they are intimately associated with, the settlement of this question of the development of the country embraced in the limits of the Indian Territory, I introduced in this House a bill providing for the organization of Oklahoma Territory, based upon the rights of the Indian as a prospective citizen of the United States to that ownership of property which is the distinguishing feature of true civilization. That bill proposed that to each Indian, male or female, residing in the Indian Territory, and entitled to an interest in the commonalty of property therein at present obtaining, should be allotted, in fee-simple, one hundred and sixty acres of land, inalienable for a term of years, and that all other lands should be disposed of under direction of the Federal Government, reserving certain sections for school purposes, and the proceeds be vested for the sole use and benefit of the Indians now occupying this Territory and their descendants. That bill carried, as I think, to a logical conclusion the ideas of civilization intended to be inculcated in the now proposed measure, by giving to the Indian that idea of self-dependence, based upon and sustained by individual absolute control of property, without which moral responsibility, and consequently civilization is impossible. If, however, it is impossible to obtain the full measure of security and advancement for these Indian tribes, I for one, so far from throwing obstacles in the way of any advancement, am willing to accept and sustain the measure now proposed, knowing full well that civilization once commenced cannot be turned backward, and that the near future must bring with it the full progress thereof in the Indian nation as in every portion of the Union.

That I do not overstate the desire of the agricultural, mechanical, and commercial interests of the Mississippi Valley for the institution of a republican form of government in the Indian Territory and the advancement of the Indian tribes therein domiciled from a state of semi-barbarism to that of civilization; or, to state the case more concisely, from the condition of pauper wards to that of citizenship, is evidenced by the memorials and petitions praying Congress to place the Indian nation under a territorial government, presented at preceding sessions from the Board of Trade and the Chamber of Commerce of Saint Louis, and from the national commercial convention held at Saint Louis in December, 1872, which convention, composed of delegations from the chambers of commerce and boards of trade of New York, Boston, Philadelphia, Cincinnati, Chicago, Milwaukee, Saint Louis, Louisville, Memphis, New Orleans, and all other leading cities of the Union, deemed this question of so much importance to the whole Union as to make its consideration a prominent feature of its debates, and to formulate its opinion thereon in the following resolution:

Resolved by the national commercial convention, assembled in Saint Louis, That Congress be, and is hereby, respectfully memorialized to establish without delay a territorial government over the country known as the Indian Territory, bringing the peo-

ple thereof under the laws and jurisdiction of the United States, on such equitable basis as will secure: First, a homestead to the head of each Indian family, the title to which cannot be alienated for a designated term of years; second, the sale of the remaining lands on such terms as will induce the rapid settlement and development of the Territory, the proceeds of such sales to be held or invested by the Government as a fund, the interest on which shall be distributed annually and equitably among the several tribes; third, the establishment of free schools, to the end that the Indian may learn the arts and occupations of civilized life.

The interest these representative mercantile bodies take in this question requires no explanation to those who have watched with even cursory interest the development of the agricultural interests of the West and Southwest. Within the memory of the youngest member of this House the center of wheat cultivation and production has passed, by successive stages, from the Genesee Valley of New York to Ohio, thence to Indiana and Illinois, and will, with the present decade, pass from Illinois and Wisconsin to Minnesota, Iowa, Missouri, and that vast fertile plain extending from the Red River of the United States to the Red River of the North, and from the Mississippi River to the Rocky Mountains. So, too, with the production of maize and its attendant rearing of hogs, which is rapidly following the western march of wheat production. Nor does the progress of cultivation in the South tend in a different direction. Passing west from Georgia to Alabama, the center of cotton production is now in the State of Mississippi, and the extending settlements of Texas threaten to carry it to, if not west of, the Mississippi River, where now exists the very center, or rather bulk, of the beef production of the Union.

Nor has this western and southwestern extension of grain and animal-food production been without its accompanying extension of mechanical arts and mining industries. These have grown within a decade, not only in Missouri, but in other western States interested in this question, to formidable proportions. Situated on the borders of Missouri, Arkansas, Louisiana, Texas, New Mexico, and Kansas, with a territory of upward of seventy-two thousand square miles—larger than any State in the Union excepting only Texas—this Indian Territory forms a barrier on which the waves of commerce dash with ever-increasing violence. On the north and northwest of this Territory must be produced the corn and the cured meats necessary to sustain the cotton and sugar cultivators of the lands lying south and southwest of it, while on the south and west of this Territory, if not even within its limits, with the wide stretch of pasture lands, unaffected by frosts of the North or the drouth of the extreme South, must be reared those immense herds of beeves necessary to feed the teeming operatives of northern and eastern manufactories.

There is no fact more firmly established in commercial economy than that any increase in the costs of carriage of an article to market both decreases the value of such article at the place of production and enhances its cost at the place of consumption. So this barrier thus raised by the Indian Territory at once decreases the value of cereals and bacon to the farmer of Missouri, of Kansas, of Nebraska, of Iowa, of Wisconsin, of Illinois, of Minnesota, and of all the Northwestern States, at the same time that it enhances the cost of the cotton and sugar production of Texas, Arkansas, and Louisiana. It enhances the cost of the beef supply in each of the Northern and New England States at the same time that it circumscribes the market for the production of the factories of those States by enhancing the cost of the carriage, and consequent cost of the article, to each consumer in extensive sections of our common country. This barrier, too, shuts off in a large measure the developments of the rich mineral regions of New Mexico and Arizona, and the extension of sheep husbandry on the vast plains of those Territories. It limits the production of useful articles of husbandry and other manufactures from the minerals of Missouri and other States west of the Mississippi; it prevents the citizens of Texas, Arkansas, and Kansas from developing manufactories that might consume a portion of the raw products of those States by preventing the development of the rich coal-fields lying within the limits of this vast Indian Territory, which, containing but sixty thousand aborigines, scattered over a space larger than all New England, reduces the great States of Missouri, Kansas, Arkansas, and Texas to the condition of border States, and forces the interstate commerce of these as well as of other and more populous States to circuitous routes of communication, enhancing to each the cost of articles of consumption, and depreciating in each the value of commodities produced by its labor and capital.

Sir, a glance at the map will show the error of those who, in the removal of the Cherokees, Choctaws, and other tribes from the east to the west side of the Mississippi, deemed that in locating them anew west of the Arkansas and Missouri State lines they had placed them beyond the march of civilization, and in a region which could be closed against intrusion by lines of commerce and national intercommunication. The Indian possession of the State of New York would be no greater barrier to commerce and communication between the people of New England and those of Ohio, Indiana, Kentucky, and Illinois, than the exclusive possession by that race of the Indian Territory as common and indivisible property does between the people of Texas and New Mexico and those of Missouri, Kansas, Nebraska, Iowa, Minnesota, Wisconsin, and Illinois. The closing of the State of New York by such possession, and the sundering of the water communication between the great lakes and the Atlantic, would be scarcely a greater calamity to the commerce of the Union than will be the irrevocable setting aside of a large Territory of fertile country in the very center of the western portion of the Mississippi Valley, and the maintaining of an impassable barrier between the grain-producing regions of the Northwest and the cotton and sugar producing lands of the Gulf regions, between the wool product of the extreme West and the manufacturers of the East, preventing the completion of a midland route to the Pacific and delaying for scores of years the settlement of Arizona and New Mexico, and the development of the varied mineral resources of these vast Territories. Not only so, but should the project which seems to find favor in some quarters, to extend those reservations and gather thereon other tribes of Indians, including the warlike Comanches, Arapahoes, Sioux, &c., be carried into effect, the States which now form the boundaries of this proposed new Territory would forever remain border States. In that event neither Missouri, Texas, Arkansas, nor Kansas could hope to develop the border portion of their domain; their inhabitants would never be free from apprehension of an Indian war; the personal property of their citizens would never be safe from the depredation of predatory strife, for where you by law exclude civilization you cannot cultivate moral responsibility; and, lacking the facilities for cheaply transporting the products of their fields to the markets most requiring them, cultivation would be neglected, and a portion of the country, the richest and fairest, as it is the most central of all its domain, would be doomed to a mere backwoods existence until the poverty following ignorance, the feuds engendered by lawless life, the disease arising from forced idleness and restraint from accustomed pursuits, unrelieved by preparation for other occupation would slowly decimate the victims of national sentimentality, leaving broad tracts, capable of awakening the industry of communities, as large as some of the seaboard States, to the possession of a few scattered representatives of a race, and the ultimate spoliation of renegade white men, willing to sink their birthright by adoption into another race for the sake of seizing the reversionary interest in its lands.

Such, sir, are the reasons which impel the people of Missouri to sustain any effort to organize the Indian Territory into a real Territory of the Union, with laws which shall protect its aboriginal inhabitants in all their vested and proper rights, but shall prevent such assured rights from trespassing upon the common rights of citizens of the United States. It is too from these reasons that spring the unanimous demand from all the mercantile interests of the Union for the erection of this Indian Territory into a community governed by the laws to which each citizen of the United States must bow, while securing to each of the aborigines all the rights of property, all the protection to person, and all the liberty of action, social and moral, enjoyed by the most favored citizens of the Union.

But, sir, it may be contended here, as it has been elsewhere, that Congress is bound by Indian treaties and cannot legislate except in the light of the provisions by which the Choctaws, Creeks, Cherokees, and their allied tribes surrendered other lands in exchange for reservations within this Indian Territory. I will not, however, detain the House by even an attempt to discuss the legal questions which have been raised whenever these Indian treaties have been discussed. This is a topic upon which other members may express with propriety positive opinions and give authoritative decisions. I am not a lawyer, and am not fitted by education or habits of thought for a discussion of the principles of law which must underlie a decision of that character. It is possible, too, that by a strict interpretation of phrases those treaties have sought to recognize in certain Indian tribes an inherent right to an ownership in common of a portion of the soil of the country, a possession from which they may not be diverted without the commitment of an assured legal force, arbitrary, and therefore repugnant, to the terms of the treaties. This possession, however, does not in any material respect differ from that by which the aborigines at one time held the lands upon which this Capitol stands: and, to admit that these treaties are beyond the power of Congress to amend, change, or set aside, is to create a new lien upon all property in the country, and to assert that a nation or nations with distinct customs, rights, and privileges can exist within our own nation, deriving their life and support from this Government, and yet form no part of it; nor, even if the theory be carried to its legitimate conclusion, be at all subject to its internal police laws, save when that police is administered as a right of war. From such an anomalous position a nation must recede, even at the expense of violating the letter of treaties—if compacts with subjects can be called treaties—or it must surrender the principle of inherent sovereignty upon which its own existence depends.

In the consideration of these Indian treaties, therefore, I prefer to be governed rather by the spirit than the letter thereof; and to rather recognize the Indian as a possible citizen than as a child-like ward or an implacable enemy. In so far, too, I believe that, despite the nominal maintenance of the treaties by the Indian Department, this position has been assumed by the United States courts, in adjudging guilty of misdemeanor those who have violated the internal-revenue laws upon this reserved land of the Indian, even when such violation has been tacitly, at least, approved by the tribes or nations which claim exclusive ownership of and jurisdiction over the land and the people residing thereon, and even where such violation was sanctioned by the express letter of the so-called treaties. (See 11 Wallace, 616.) Certainly where the tax gatherer and informer may go in violation of treaties, we may proceed in the extending of more noble attributes of civilization.

I have said, sir, that where civilization is excluded moral responsibility cannot be cultivated. I should, perhaps, have said that where self-dependence is rejected civilization cannot be assured; that the buying of hoes and spades, the giving of harness, the consignment of plows, the subsidizing of carpenters and blacksmiths, and even the erection of school-houses and churches and the employment of teachers and the clergy, will fail to elevate the Indian into manhood and cultivate in him those elements of self-independence which form the basis of republican citizenship, the submission to no authority except that of law and order, not even that of self-will and self-indulgence. It is in this respect, to my apprehension, that so far while caviling over the letter of the treaties with the Choctaws, Cherokees, and their associated tribes, the Government has broken, if not well-nigh destroyed, the spirit thereof. Promised civilization, they have been given only its husks; placed in possession of a vast proporty, sedulous care has been taken that they should neither understand nor realize its value. They have in all respects been treated like a bevy of children, to whom we give costly articles for common playthings, yet refuse to allow them even by common consent to divide them into individual ownership or to utilize the value thereof for their own benefit or that of others. They have been hedged in by restrictions, prevented from developing their own capability for self-government by a refusal of all participation in the General Government except at the cost of abandoning their race; and now, while it is claimed that this elevation may not be accorded to them, it is not denied that other and less civilized tribes may be forced into communication with them and be placed upon adjacent reservations to be governed by the same agents and to share in the same mockery of self-government so long as it be done in the form of independent, but the terrible subjectiveness of conquered and abased nationalities. It is these errors in the treatment, for I cannot call it government, of the Indian tribes that this bill seeks to, and in my opinion will, rectify. Carried into effect this proposed organization of the Indian Territory will give to these Indian tribes laws to be executed by themselves; courts within their own limits to administer justice; the right of trial by juries composed of their own people; legislation enacted by representatives of their own choosing; and it will secure to them under protection of the Federal Government inalienable and ultimately personal ownership of the soil which they may till, at the same time that it effectually guards them as tribes and as individuals from appropriation of their lands for railroad grants. It will, I believe, lead to the cultivation of the now wild lands of that Territory and to the development of its rich coal and mineral resources by affording facilities for the transportation of products to market, by exciting emulation, by creating the respect incident to citizenship, and by infusing the incentive of individual proprietorship of the soil and ownership of the crops grown thereon. And this, sir, seems to me to be the proper solution of the whole Indian question, as it disposes of the anomaly of conflicting nationalities; as it makes every person, Indian or Caucasian, amenable to the laws; as it opens the pathway of civilization toward our rich possessions in the Southwest, affords direct communication between the people of the Northwest and the vast cotton-producing region west of the Mississippi, removes from four of the principal States of the Union the curse of border life, prepares for the more speedy settlement and development of New Mexico and Arizona, prevents the closing of an important route to the Pacific Ocean, and places the Indian in a position where he may acquire a right of citizenship and the power to prolong his race by competing with the white man on equal terms as to self-government and respect to laws which must and will be enforced even if that race be extinguished thereby.

The Electoral Count.

SPEECH OF HON. J. H. BAGLEY,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

March 1, 1877,

On the question of counting the electoral vote for President and Vice-President of the United States.

Mr. J. H. BAGLEY. Mr. Speaker, when I voted for the act known as the electoral commission bill I did not deem it necessary to place myself upon the record in any other manner than by my vote. I am but a humble layman, and the explanations given by men whom I considered practical lawyers and jurists were sufficient to convince me that the act was framed in the interest of truth and justice, and that a fair and liberal interpretation of it must bring peace and quiet and a solution of difficulties which at the time presaged confusion in our political affairs and possibly disaster to the country. I voted for that bill with the assurance, as I supposed, that its terms implied, if they did not declare distinctly, that all the evidence of fraud and corruption in the disputed States of Florida and Louisiana were to be fairly submitted to the tribunal to aid in its decisions; that whatever there was of wrong was to be brought to the light of day; that the wisdom of the two Houses had invented a plan which would confirm the adage that "truth is mighty and must prevail."

In my mind the election of Mr. Tilden or Mr. Hayes was a secondary object. From the evidence obtained it was fair to conclude that Mr. Tilden had received at the polls in the State of Louisiana a majority of 8,000 to 10,000 votes. But this result was disputed and the contest must be settled. Our republican friends of the Senate, in their alarm and consternation, seeing the danger that environed their candidate, early in the beginning of the session repealed the twenty-second joint rule, a rule framed and adopted by a republican Congress, and which embodied the plan pursued for years—almost since the organization of the Government—and which answered the purpose quite well until they were endangered. Contrary to and in direct opposition to their own arguments of less than a year before, and directly in the face of precedents, they assumed that the President of the Senate had the right to count the votes. It will be a strange page of history when written, the sudden change of position from what I believe was known as Mr. MORTON'S plan for counting the electoral votes and that occupied by the advocates of that bill to-day. The student of history will be likely to ask for the motive of the change. Turning to the next page of history he will find the creation of the electoral commission, and then its decisions and the manner thereof; and if he fails to discover the motive for the change from Mr. MORTON'S plan he will be a dull scholar indeed. I do not claim to know the motive. I only say the student of history will be apt to discover a motive even though it be a mistake or error of judgment on his part.

Mr. Speaker, I do not regret my vote for the electoral bill, but I do regret most sincerely the manner in which the tribunal created by that bill arrived at its conclusions. In the interests of humanity, of our country, and of common honesty it were better that the commission had never been born. I voted for it in good faith; hence I do not regret it. It was a bill conceived in the interests of peace, of truth, of justice, by a part, if not the whole, of the committee, set to adopt a plan; and, had it been administered as was intended, naught but good would have resulted. And this need not have involved the election of Mr. Tilden either. It would have been quite as consistent to admit the evidence of both the Senate and House committees, or pretend to admit it, and then decide precisely as the decisions now stand, as to have concluded without the evidence. In that event, the people would have said your tribunal has done as you required, and has rendered a verdict according to its honest judgment. But when they read the bold declaration of unfairness embodied in the resolution—

Ordered, That the evidence offered be not received.

the honest and fair-play sentiment of the millions of American freemen must revolt at it as a subversion of justice. I doubt not this will be the case. This is not a nation of lawyers, and although the gentlemen of the legal profession may say that the act has been administered according to its legal construction, yet the equities of the case have been neglected, and the masses of the people, who do not deal in technicalities and ask but simple justice, will feel themselves wronged and outraged.

I say I regret the manner in which this tribunal arrived at its conclusion. I regret it so much that I would gladly see its decisions frustrated. If we are to have Mr. Hayes for President, or no matter who, let us have him without the verdict of this commission, which, if established as a precedent, with its apparently partisan decision, must for all future time bring demoralization and shame to this people and Government.

The Presidential Question.

SPEECH OF HON. H. Y. RIDDLE,

OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,

March 1, 1877,

On the subject of counting the electoral vote.

Mr. RIDDLE. Mr. Speaker, during the present session of Congress I have felt that the political situation was of such gravity and magnitude that "length of days should speak and multitude of years should teach wisdom;" and acting upon that conviction I have studiously refrained from occupying the valuable time of the House in the expression of my own views and opinions. But now that the session is rapidly approaching its legal termination, I feel it to be my duty to put on record my views in regard to the great question of the presidential succession which has so profoundly agitated this body and the entire country.

After one of the most spirited and hotly contested presidential campaigns of our political history, the people of the United States went to the ballot-box on the 7th day of November, 1876, and by a majority of two hundred and sixty thousand votes declared that it was their will that Samuel J. Tilden, of New York, should be the President and Thomas A. Hendricks, of Indiana, should be the Vice-

President of the United States from and after the 4th day of March, 1877, for the constitutional term of four years.

In the early and purer days of the Republic the voice of the people would have been at once recognized as the voice of God, and every good citizen would have bowed to its majesty with a cheerful and unquestioning submission. The Rob Roy politics,

> They may take who have the power,
> And they may keep who can,

had not then been inaugurated. They were reserved until the accession to power of the republican party, which from the outset was founded upon an idea of hostility to the institutions of the South and which has uniformly represented the oppression of the southern people.

On the day after the election it was announced to the country by the representative head of the republican party that Rutherford B. Hayes and William A. Wheeler had received 185 electoral votes and had been chosen President and Vice-President of the United States; and the ingenuity of the most astute leaders of that party has, since that period, been taxed to the utmost to sustain that declaration, and machinations of the most disreputable character, which have fatigued the public indignation, have been resorted to for that purpose.

The corrupt returning boards of Florida and Louisiana were encouraged by the highest dignitaries of the party in their nefarious work of setting aside the popular judgment at the polls and subverting the republican governments of those States and of substituting therefor the fraudulent creations of their own villainy and rascality.

Such was the painful situation of the country when Congress met on the 4th day of last December; and a large majority of the American people looked with confidence to the democratic majority in the House of Representatives for the adoption of such a policy as would vindicate the ballot and prevent the inauguration of a Chief Magistrate who had not been elected by the people. To secure such a result it soon became manifest that a bold and decided policy was an indispensable condition. A firm adherence to the twenty-second joint rule in counting the votes for President and Vice-President by the two Houses of Congress and an inflexible determination by the House of Representatives not to retreat from that position and to meet the dangers of the situation with a manly vigor might have secured the inauguration of a democratic President. It is now evident that no other policy could have secured that result.

The failure to adopt such a policy and the general conviction that Mr. Hayes would be counted in by the President of the Senate, and than an election of Mr. Tilden by the House of Representatives would not be re-enforced by such positive and affirmative action as would be necessary to insure his inauguration, rendered some such measure as the electoral bill an absolute necessity. Under the circumstances, Mr. Tilden stood no earthly chance to be President without the adoption of some such measure. And this was so thoroughly understood by the democratic party in Congress and throughout the country that the electoral bill received the overwhelming indorsement of the people and the acquiescence if not the active support of the democratic candidates for President and Vice-President. Believing the bill to be both constitutional and expedient I gave it my vote with the apprehension, however, at the time that it might disappoint the expectations of its friends.

I clearly understood the provisions of the bill, and that the commission created by it was to determine the extent of its powers and what evidence under the Constitution and laws was admissible in the consideration of the objections made to the certificates opened before the two Houses of Congress by the President of the Senate. But, as the commission was expressly clothed with the same powers possessed by the two Houses of Congress acting separately or together, and as both Houses of Congress had repeatedly exercised the power of investigation into the manner and means by which elections had been conducted in the States, there was every reason to believe that the commission would receive and hear evidence in order to ascertain whether the certificates from the disputed States were correct and true representations of the actual popular majority in those States.

Such evidence they have persistently refused to hear, and have predicated their decisions upon the fraudulent declaration of the corrupt returning boards of Florida and Louisiana. The commission, by a partisan majority, have done just what it was proposed by the worst elements of the republican party that the President of the Senate should do. They have counted in Mr. Hayes by a simple arithmetical enumeration, without any attempt by fair and honorable investigation to ascertain who had received a majority of the *bona fide* votes of the American people for the first office in their gift. By such a course they have disappointed the reasonable expectations of the country and have engendered in the hearts of all true patriots the most gloomy forebodings as to the future of the Republic. We asked of the commission bread and they have given us a stone. We asked of them a fish and they have given us a serpent. They have adhered to the letter which killeth and have disregarded the spirit which maketh alive.

If the electoral bill had been carried out in the spirit in which it was conceived, its passage would have been one of the greatest events of our political history, and would have been of potential influence by way of example in the settlement of all future difficulties growing out of our presidential successions.

But the partisanship and ambidexterity which have characterized its administration have made it a mockery and a fraud and the most conspicuous failure in our political history. It was gold that melted in the hand and an apple of Sodom that turned to ashes on the lips. It held out a beautiful promise, but tantalized with a bitter disappointment. Its notorious maladministration is one of the most melancholy illustrations of the domination of that pestilential party spirit whose calamitous results were so earnestly deprecated in the farewell address of the Father of his Country. It is a most lamentable evidence of the declension of public virtue and of the want of moral and intellectual integrity in eminent public men who have been trusted with great political responsibilities, and can but remind the reflecting statesman of the alarming prediction of the honored head of the American bar, (Charles O'Conor :)

> From the despotism in which it begins, every human society passes through a succession of governments, each more liberal than its predecessor, but each in turn decaying from natural causes, until at last, having reached the loosest and most liberal form attainable, a refuge from intolerable evils is found by completing the circuit and returning to that arbitrary rule under which it commenced. Thus it has ever been and ever will be with human governments.

The inquiry is pertinent at this crisis, are we not rapidly completing the circuit and approaching the subversion of our republican institutions?

While there was no disposition on the part of the representatives of the people to toy with anarchy and experiment with revolution, yet they felt it to be their duty to protest against the iniquitous decision of the majority of the commission in terms of unmeasured indignation and with a spirit of resistance commensurate with their appreciation of the great crime which they had committed against the freedom of popular elections. It certainly was not to be expected they would evince an indecent haste by their ready acquiescence in the most stupendous fraud ever perpetrated under a republican form of government in consenting to the inauguration of a President who had not been elected by the people. There are times when there should be a wholesome disturbance of the public repose Where there is a great abuse there should be a great clamor and a tremendous agitation. From the decision of the partisan majority of the electoral commission an appeal is taken with confidence to the great tribunal of public opinion. There has been as yet no defilement of the mind and conscience of the great body of the American people. They will in their own way and in their own good time rectify the great wrong. For that purpose they will adopt no policy born of a temporary impulse, which, like the transient flash of the meteor, leaves the world in deeper gloom, but with considerate step they will march forward with scourge in hand for the purification and renovation of the temples of American liberty.

Political virtue must be equal to political calamity. There is no occasion to despair of the Republic so long as the spirit of liberty remains fresh and warm in the hearts of the people. Spain preceded England in the forms of liberty, but was destitute of its spirit. England had no popular representation until 1264, but in Castile they had it in 1169, and in Aragon in 1133. Let us but preserve the spirit with the forms of liberty and our political redemption is sure, and we shall certainly arrest the dark planet of corruption which is now making a transit over the disk of our free institutions.

The Electoral Commission.

SPEECH OF HON. A. HUMPHREYS,

OF INDIANA.

IN THE HOUSE OF REPRESENTATIVES,

February 26, 1877,

On the decisions of the electoral commission under the act to provide for and regulate the counting of votes for President and Vice-President for the term commencing March 4, 1877.

Mr. HUMPHREYS. "To this complexion it has come at last." Though I have not actively participated in the discussions of questions before the House, I have not been an inattentive witness of its proceedings.

Having been elected a member for the present session, I have thought it more becoming rather to learn wisdom in silence and be a good listener than to obtrude immature instruction on others.

But I cannot withhold an expression of my well-matured dissent from the findings of the electoral commission, a tribunal organized in good faith expressly *to impartially examine and consider all questions submitted to it* bearing on the subject of counting the electoral vote.

In dealing with the acts of the commission and its perversion of all known methods of deciding without evidence, as well as with the wonderful procedure of that modern invention, returning boards, I must be permitted neither

> To spare the criminal and expose the vice
> Nor to damn the sharper, and not blame the dice.

The conspiracy, inaugurated after the result of the late presidential election was generally known, by the chairman of the national republican committee, to count in and proclaim elected President of the United States a man who, as is well known to every intelligent adult in the land, had neither the popular majority of all the votes cast nor a majority of electoral votes, is now about being crowned with success.

In the congressional district I have the honor to represent we have

certain antiquated notions of honesty, and among these primitive, but it now appears visionary and crude vagaries, we have indulged in the folly of believing that elections elect and that votes honestly and legally cast count.

And in the lessons of wisdom taught us by the electoral commission we learn the supreme vanity of our old-fashioned ideas of political integrity and the purity of the ballot-box.

In this centennial year of grace we take a new departure.

Under the dissolving, purifying sleight of hand of State canvassing boards, supplemented by the equally marvelous feat of deciding without proof by the electoral tribunal, we are indoctrinated in the fine art of legalizing fraud, canonizing villainy, invading the sanctity of the ballot-box, rendering respectable political burglary, and investing with honor the perpetrators of political theft instead of consigning them, as preferred candidates, to penitentiaries.

During the last presidential canvass in the West we were reminded by a distinguished patriot and an Ex-United States Senator, Hon. Carl Schurz, of the profound debt of gratitude due to this Administration for demonstrating the capacity of the republican party to develop the most corrupt civil service ever known and the most multiform rottenness to which party servility and party debauchery could descend.

This debt of gratitude is now greatly augmented by the illustrated lessons of State canvassing boards, rendered operative by the sanctifying power of electoral commissions.

We are further taught that admitted tampering with ballot-boxes, canceling eight thousand majority of votes actually cast for one set of electors and converting such majority into a majority of near four thousand for another set, by returning board jugglery, is sound, orthodox, political ethics.

Our hitherto unenlightened ignorance is now illuminated by the lesson, that in the case of Louisiana not even the forms of law need be observed, provided only the seal of State be affixed by the governor to the handiwork of an infamous canvassing board; that there is no curative virtue in the Constitution, no corrective power vested in Congress, no balm in our political Gilead to nullify acknowledged fraud, and no physician of sufficient skill to undo the effect of larceny of ballots; and in the case of Florida, that the attempt to give validity to the honest vote of the State by its executive, legislative, and judiciary departments is of no avail, for the plain reason that glaring and proved fraud is santified if it only be well done and fully consummated.

We also learn that a miscreant, who, to use the words of General Sheridan, is a political trickster and a dishonest man; who turned out of office Union men who had supported the Government and put in their stead rebel soldiers, some of whom had not dropped their gray uniform; a man whose conduct has been as sinuous as the mark left in the dust by the movement of a snake; a person, in fine, who has not one friend who is an honest man—as soon as he becomes a politically useful member of that "thing of beauty and a joy forever," a self-propagating, self-perpetuating returning board, of plenary power, responsible to no one, and amenable to no law human or divine, is suddenly transformed into an angel of light, of immaculate and unquestioned purity, a persecuted saint, and, if we may believe a distinguished gentleman in the north end of the Capitol, the peer of any United States Senator; and I might add, if certain recent exhibitions of senatorial decency be taken into view, there is no great reason to question the compliment.

However other members of this House may feel, I acknowledge myself profoundly impressed by these lessons of instruction, not to say wisdom. They will not be wasted nor lost on barren ground.

And when I return to my benighted constituents and diffuse among them the lessons I have learned; when I impart to them instruction from the abundance of my newly acquired knowledge and instill into them the wisdom, not of the upper world, that abounds in such exubera.ce in a favored portion of the electoral commission; if I shall succeed in even partially convincing them of the justice of the wonderful political ethics developed in this centennial epoch by the evermemorable, venerable, patriotic, and unpartisan, the immortal eight of the aforesaid tribunal, it will certainly be conceded that my varied congressional labors, my improved experience in the redeeming virtue of returning boards, and my endeavor to draw inspiration from a national tribunal, which decides grave questions without any evidence, will not have been in vain.

When we were told by a leading advocate of the electoral bill, and now a member of the commission, that there was to be no more partisan, no more friend, no more opponent, no more enemy, but the solemn judgment of the judge; when we were advised by another republican defender of the same bill, and now also a member of the electoral tribunal, that they, the supreme judges, will not consent by a party division to have themselves or their court go down in history as incapable of the judicial function in the presence of the disturbing elements of partisan desire for power in regard to the greatest cause ever brought into judgment, and when two other modest gentlemen of sensitively tender conscience, at present members of the national returning board—one of the House, one of the Senate—opponents of the electoral bill, informed us that their opposition to said bill arose from the fact that its plain provisions not only permitted but required the admission in evidence of all facts in any way bearing on the subject of ascertaining the full truth, in the receptive simplicity of innocence we betrayed a credulity which, while it did honor to genuine manhood, did not reflect the true inwardness of this world's wisdom—the total depravity, as illustrated by the ever-memorable eight.

If the members of the national returning board had done what their oaths expressly required of them, impartially examine and consider all questions submitted to them, the procedure, it seems, would have involved a criminal *aliunde*, the admission of testimony outside of the returns of perjured canvassing boards, certified by equally perjured governors, whereas all the immortal eight had to do in the plenitude of their wisdom was to enact the farce of doing what every congressional member of the commission had denied to the President of the Senate the power to do, perform the solemn mockery, the ludicrous pageantry, of adding up, recording, and sanctifying the beautiful display of legerdemain of Wells and his pantomime associates.

To what imaginable greater depth of stultifying infamy could the eight possibly descend?

It would seem the refinement of absurdity distilled through the electoral commission teaches us that impartially to examine and consider simply means that no proof whatever, which alone would enable them to execute their sworn duty, was admissible.

I for one am duly grateful for this dispensation of legal and unpartisan lore.

We are further condescendingly advised by a conscienceless member of the commission, upon whose every lineament are written in retributive justice evidences of nature's violated physical and moral laws, that although the Constitution in terms specifically designates what persons are ineligible as electors, nevertheless if such persons should act as electors notwithstanding their constitutional disability their votes are valid if sanctified by a returning board, accompanied by the seal of State.

A mere technical infraction of the Constitution, and such monstrous mockery of decency, such insult to common sense, are commended to our grateful acceptance.

Let us be duly grateful and bow in humble reverence at this fountain of wisdom.

Under the enlightened, christianizing guidance of such political missionaries the republican party is fast developing a capacity for refined rascality that is discouraging, an indifference to the ordinary forms of common decency well calculated to reflect dishonor on our reputed lowly origin.

We learn to our amazement, by an innocent look, outside, that throwing out by the Wells board over ten thousand votes actually cast and legally in the ballot-box, in order to equalize, as it were, a deficiency in the republican vote, was a merely innocent display of political pleasantry, reflecting the shrewdness of Wells and his associate patriots, under the inspiring influence of that model of temperance and virtue, Zachariah; but that to correct these harmless irregularities would do violence to *aliunde*, which being interpreted means *Hayes*.

We are further apprised by the decision of the unpartisan eight that *aliunde* is a bar to correcting the criminal and admitted fraud of adding respectively 1,364, 1,362, 1,334, 1,364, and 298 votes, not cast, in one county of Louisiana to the votes of five Hayes or *aliunde* electors, on the patriotic pretense that these votes might, could, would, or should have been polled, but through inadvertence of the voters were not deposited.

This procedure, we must presume, is merely an evidence of the rare executive ability and Roman firmness of the unhung vassal, Wells.

But, presto, change! In the last scene of a four-act farce we are treated to a slight variation, to illustrate the power in reserve possessed by the versatile *eight* of the national canvassing board, in comparison with whose exploits the performances of the novice, Wells, pale into insignificance.

Our venerable eight are not unskilled in the game of the little joker. Now you see it and then again you don't.

And whereas, in the case of Louisiana and Florida, no *aliunde* testimony is admissible, outside of the well ordered columns of figures arranged by Wells and Stearns, when we come to Oregon, business requires that we must advance behind the certificate of the governor just enough to count in one ineligible elector, illustrate the sublimity of the ridiculous, consummate a foregone determination, and pronounce elected President, Returning Board Hayes.

In conclusion, Mr. Speaker, and in all seriousness, if the American people are prepared, without a solemn protest, to see their dearest rights thus trifled with and made the sport of partisan perjured demagogues, if they will tamely submit to such degradation and dishonor, without exhausting every honorable, peaceable, legal means of redress; if by servile acquiescence in procedures, which their authors know to be in violation of every principle of justice and of right; if in imitation of ancient Rome in her degeneracy, we are ready to witness the most exalted office in the gift of a free people, auctioneered off to the highest bidder, then indeed have we as a people seen our last centennial; then truly have we lived too long already as a government, in the imagined possession of freedom, in name only, and not in reality.

If a victory thus secured by the dominant party, rendered insolent and reckless by long possession of power and plunder; if a temporary triumph thus tainted does not prove Dead Sea fruit, and turn to ashes ere enjoyed; if it shall not eventuate not only in the annihilation of the republican party but of civil liberty, and consign our boasted institutions as a by-word and a mockery to the monarchies

of the Old World, our rescue from such sad fate cannot be credited to the display of the lofty patriotism illustrated by our magnanimous national canvassing commission.

We have survived a civil war; whether we can survive some of its legitimate results, the moral and political debauchery of this last crowning act of infamy of the republican party, remains to be seen.

I do not assume to dictate the course of others, but for myself I would be recreant to my sense of duty not boldly to proclaim that, in view of the shameless, partisan, indefensible ruling out by the ever-memorable eight of all evidence the admission of which could alone enable them intelligently to execute even in form their high trust—to fulfill their judicial oaths—I am fully justified, in good faith, in withholding from the finding of the tribunal all decent respect, all moral support. On the contrary I desire to place on record an expression of my deep sense of humiliation at this further evidence, if more were wanting, of the growing insensibility to political decency, to the requirements of common honesty, and to the demands of even-handed justice, and of the absence of all political conscience in the reckless leaders of the reigning dynasty, and the diffusion of this same moral blindness among the servile, unreasoning masses, who stupidly follow wherever public plunderers dare to lead.

While the intelligent voter of all parties, in the true spirit of law-abiding citizens, may give the tortuous decision of the execrated national returning board a grudging, vengeful, imbittered legal acquiescence, every sentiment of honor, every impulse of true manhood, every inspiration of genuine patriotism, impel all self-respecting men everywhere to denounce with scorn and contempt the authors of its infamous, foregone conclusion, and to remand them for rehearing to the court of final appeal and of irreversible jurisdiction, the people, the true sovereigns.

And, Mr. Speaker, before closing my remarks I would give utterance to the hope, may I not say my belief, that the better elements of the republican party, while in the excitement of the hour they may naturally indulge in felicitating themselves on this questionable and ephemeral success, when the prejudices and the passions of the occasion shall subside, and reason hold sway and resume supremacy, will despise and execrate the falsifiers of their oaths who have proved themselves indifferent to the ordinary requirements of political honesty and to the common obligations of moral decency.

And while under the thinly disguised forms of law they may be disposed to accept for a time the fruits of treason, they will visit with ignominy and retirement to private life the authors of the badly tainted instruments of victory.

Electoral Vote of Oregon.

SPEECH OF HON. ANDREW R. BOONE,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1877,

On the decision of the electoral commission in the case of Oregon.

Mr. BOONE. Mr. Speaker, I voted for the bill creating the commission to count the electoral vote for President and Vice-President. I did so after the most careful consideration and the maturest reflection I was capable of bringing to my aid. I did so from the deepest convictions of duty to my country and from the purest motives of patriotism. I voted for the bill in good faith, believing it to be in the interest of peace and public tranquillity. I voted for it believing it to be one, if not the only, means of averting the calamity of a cruel and devastating war. I voted for it believing that the tribunal for the creation of which it provided would be composed of men who, from their exalted characters, could afford to and would rise above the demands of party or the arts of the mere politician or the low cunning of the demagogue; men who could sacrifice all personal preferences and look alone to the law they were to administer and the country they were to serve.

I voted for this bill believing that it would bring peace and quietude to an anxious and disturbed country. I did so believing that under it the voters of this country would secure that justice which I believed would be denied them without it. I had no scruples about the constitutionality of the bill, nor did I doubt its justice and fairness. I do not agree with gentlemen who assert that the bill was a snare into which we were unwittingly led, a cunningly devised scheme laid to entrap us. I believed then and believe now that it was fair, just, and equitable. I believed then and believe now that a fair, legal interpretation of it would have secured the peaceful inauguration of Mr. Tilden as President of the United States. The fault, sir, is not in the bill but in the partisan and illegal interpretation of its provisions. The wrong lies in the fact that a majority of the commission, some of whom are the highest legal functionaries in the land, could not, or did not, dare to rise above the clamor of party demands, but lent themselves as willing tools to effectuate the plans of that party whose only hope of success was in the perpetration of the most nefarious and damning fraud ever attempted to be thrust upon an unsuspecting and confiding people. Hence, I say that it is in the tribunal, and not the law, that I have been deceived.

Sir, both parties have been deceived in this commission. The democratic party believed it would, under this bill, secure the inauguration of Mr. Tilden, who was evidently the choice of the American people, for the office of President, and who had received at the polls a large majority of the popular vote of the country. The republican party believed the same thing, as was shown by the fact that a large number of them voted against the bill; some of them declaring that to enact this law would be throwing away the victory of which they felt certain and would result in the election of the democratic candidate. Thus, sir, have both parties been deceived; and why? Simply because everybody felt that a fair and impartial count of the electoral vote would result in the inauguration of Mr. Tilden and it was believed by both parties that such a count would be secured before such a tribunal as this bill created.

But, sir, instead of the high expectations of the country having been met by this august commission, it has by a majority vote most shamefully abandoned the just rights of the people and shown a truckling subserviency to the most shameless and audacious demands of party. Sir, I regard this as the darkest day in American history; not only because the American people have been cheated and defrauded out of their choice of a Chief Magistrate as expressed at the ballot-box, but more especially because the highest judicial officers in the land have lent their aid and mighty influence in carrying out the most stupendous conspiracy and fraud that ever characterized the history of any country. Is it possible that we have come to this, that an infamous returning board, composed of the bitterest and most unscrupulous partisans, in utter disregard of law, justice, and decency, can by a most foul and corrupt conspiracy defeat the will of an overwhelming majority of the voters of this country? And are we, as the representatives of the American people, to be told that we must witness all this and see this fraud sanctified and sit here with our arms folded, impotent and powerless, and strike no blow for the vestiges of freedom which remain to us? For one, Mr. Speaker, I say, *No, never!*

I said, sir, I voted for this bill in good faith. I was willing to take whatever responsibility attached to that vote. I was willing to abide the fair and legitimate results of that law, and to accept in good faith whatever decision should be fairly rendered under it, even if that decision should result in the inauguration of a man to the high office of President of the United States who had not been elected thereto by the people.

To this view and this determination I have steadily adhered. I have seen the vote of Florida cast for men who did not receive a majority of the votes of that State. I have seen this high commission strangle and hush into silence the voice of poor, unfortunate, downtrodden Louisiana, and her vote cast for the candidates of the republican party, when every man who is at all acquainted with the facts knows that a majority of the voters of that State cast their votes for the candidates of the democratic party. I have seen law, justice, equity, good conscience, and fair dealing all disregarded and trodden under foot by a majority of this commission. And yet, sir, I have felt that it was my duty to stand by the law I helped to create and abide by the decision of the commission, notwithstanding I believed it had outraged the spirit and intent of the law. Still, sir, I did not like to lose my confidence in the high officials who composed the commission.

But, Mr. Speaker, a new phase of this question is presented now by the action of the commission in reference to the vote of Oregon. Having decided in the Louisiana case that they could not go behind the certificate of the returning board, infamous and corrupt as it was charged and proven to be, with strange facility and most unaccountable readiness, they decide in effect to reverse their decision in the Louisiana case, and go behind the certificate of the Governor of Oregon and receive evidence touching the eligibility of one of the electors of that State, all of which in my judgment means that, right or wrong, Hayes *must* be "counted in."

Sir, the question now presented to us is, do the dictates of honor or patriotism require us longer to respect the decisions of this commission or consent to be longer bound by them? For one, sir, with a full consciousness of the responsibility which attaches to my course, I unhesitatingly say that I feel no such obligation resting upon my conscience. And I believe it to be the duty of this House now to take a strong and decided position on the side of justice and right and to stand firmly by the rights of the people in this contest between them and this high-handed and shameless attempt to effectuate the most stupendous conspiracy and fraud that ever threatened the liberties of a free people, and to interpose every possible obstacle to the consummation of this high crime against the rights and liberties of the people.

Sir, the people generally rejoiced when the bill creating this commission was passed, because they felt that we had reached a legal and peaceful solution of the difficulties which threatened the peace of the country. They, too, had confidence in the wisdom, integrity, and fairness of the judges of the Supreme Court of the United States. They had confidence to believe that a fair and legal count of the electoral vote would be obtained, and they were willing to abide the result whatever it might be, whether it resulted in the inauguration of the man of their choice or not; and if the action of this commission had been characterized by that degree of judicial fairness and impartiality which has been the pride and glory of our judiciary in days gone by, they would have accepted the results cheerfully and without complaint.

But, sir, when the country sees that a majority of this high commission have not been able to free themselves from the miserable party shackles that manacle the actions of the smallest ward politicians, and have prostituted their high powers to the base and ignoble purposes of a reckless and desperate political organization, to further whose designs they have forgotten, or purposely and willfully ignored, the high duties they were called upon to perform, and have absolutely stultified themselves, is it any wonder that a storm of indignation is gathering everywhere, which in its resistless course will consign the names of the immortal eight to eternal infamy and disgrace.

Mr. Speaker, I do not counsel or advise resistance to the laws of the land, nor do I advocate forcible opposition to the decisions of this commission, as much as I despise the miserable fraud they are attempting to justify and uphold. My voice, humble as it is, has always been and is now for peace, unity, and concord. I have cherished the liveliest hopes for the prosperity of our common country and the perpetuity of our cherished institutions. But, sir, I would not restrain the indignation of an outraged and insulted people. They have a right to be heard, and they will be heard, and their voice will consign a majority of this commission to no more honorable graves than shall cover the hideous deformities of the infamous returning board of Louisiana, whose villainies find their counterpart only in the readiness with which this commission has attempted to cover up their fraud and sanctify their rascality, whether willful or otherwise.

The Recent Election in Louisiana.

SPEECH OF HON. JAMES PHELPS,

OF CONNECTICUT,

IN THE HOUSE OF REPRESENTATIVES,

March 2, 1877,

On the report of the committee to investigate the late election in the State of Louisiana.

Mr. PHELPS. Mr. Speaker, it has been my purpose to refrain from participation in this debate. Words are cheap and so freely used that the daily record of our proceedings overflows with them. Mere congressional declamation is idle and withal expensive to the Government, and speech-making simply to gratify the vanity of the declaimer is both disreputable and unwise. My position as a member of the committee from which the report now before the House has proceeded, and as one of those who earnestly favored the passage of the bill providing for the commission to count and determine the electoral votes of the contested States, perhaps demands a brief expression of my views, lest an unwarranted construction should be put upon my silence.

While the investigation made by this committee of the unsettled and unhappy condition of political affairs in the State of Louisiana was by far the most extended and exhaustive of any, and for that reason the most satisfactory and reliable, it must, from circumstances which have since transpired, be regarded as the most fruitless and unimportant. The passage of the electoral bill immediately after the conclusion of the labors of the committee, by which jurisdiction of the whole question was given to the commission established by that bill, changed the tribunal and transferred the power and the responsibility to a body who have exercised the power and discharged the responsibility in a manner that has confounded the reason and disappointed the just expectations of those by whose votes it was created, and rewarded with undeserved and fraudulent triumph those who desperately struggled to insure its defeat and who professed to oppose it because it authorized inquiry into questions of law and fact lying behind the mere paper certificates of the certifying officers; in other words, authorized an examination for the purpose of ascertaining which candidate was honestly elected.

The surprise of fair-minded men of all shades of political opinion occasioned by the refusal of the commission by a strict party vote and majority to investigate the question of the legal existence of the Louisiana returning board, whose foreheads had been stamped by a republican committee of the last Congress with the Cain-like brand of infamy for their fraudulent conduct in a former election, which was still more palpable and flagrant in the late canvass, was only equaled by their amazement that the Warwick of the commission could deliberately and with an air of seeming impartiality give his vote to inquire into the disputed eligibility of a republican elector in Florida which was challenged on clearly untenable grounds, and refuse the same inquiry with reference to two republican electors in Louisiana whose ineligibility confessedly could have been established beyond all question. Because this accidental member is a judge of the Supreme Court of the United States only shows that men occupying that high position have not always the courage or the integrity, when the Presidency depends on their action, to divest themselves of that miserable partisan bias which is only expected from the mere politician.

It is always an ungracious and ill-mannered act to criticise as corrupt or unfair the decision of a respectable judicial tribunal for its determination of a legitimate question, but this proves to have been a mere partisan tribunal, influenced only by partisan considerations, and deciding by party feeling every important question presented for its decision. The theory or impression that judges of the highest court in the land will always act as becomes judges, and never as partisans, is thoroughly exploded by this experiment, and the humiliating spectacle is presented to the world, and will be recorded to our shame in history, of a President of the United States elected through the partisan decision of sworn judges, without investigation and inquiry, who knew they were appointed for the purpose of investigation and that they were trusted by their political opponents for their judicial character and supposed freedom from improper political bias, and who have rewarded the confidence reposed in them by stinging to the death those who magnanimously gave them their confidence.

And this outrage has been perpetrated on the threshold of the second century of our national existence. If the present standard of political honor and of judicial impartiality and purity is to be adhered to, it will require no prophetic vision to discern how far down the course of centuries we can continue and maintain either a character for respectability or an existence as a Republic. The deadly rock of party spirit is now full in sight and the ship of state is drifting toward it with a rapidity which is appalling; and unless the unseen hand which beneficently guided our fathers shall give the people a worthy and trusted leader, and direct them by another pillar of cloud by day and of fire by night through the dangers which surround them, there is, indeed, just reason for fear that the ark of liberty which contains all that is dear to the hopes of the American people will soon be broken upon it. Why are manhood, integrity, public virtue, silenced by its clamor? Why is reason clouded, judgment darkened, and conscience stifled by it? The answer is found in lust of power and place which strengthens by long possession and which by the constant repetition of the means now resorted to may perpetuate itself indefinitely; and that startling purpose explains the monstrous wrong which has been perpetrated by the commission. A party which can accept a victory over the people thus achieved will, if there remain any traces of political virtue in the masses, find that a triumph won by betrayal, treachery, and dishonor has been dearly purchased, and that it will in the end prove more disastrous than honorable defeat. Even those who profit by it while they cling to the emoluments enjoyed through it will despise the instruments by which it has been so basely acquired.

The question of the legal organization and power of the Louisiana returning board was in the nature of a question of jurisdiction, always proper to be raised in the preliminary stage of an inquiry, and when so raised always entertained. It involved the question whether the votes of that State had in law been canvassed, and therefore whether they were entitled to be counted for either candidate. If not legally canvassed, they could not be legally counted, and they could not have been legally canvassed if there was no lawfully constituted authority to do it. The refusal to make that inquiry was an arbitrary violation of all precedent and an unjustifiable exercise of partisan power. Whatever might have been the decision of the commission with regard to inquiring into fraud, it was never for a moment conceived to be possible that they would refuse to consider a vital jurisdictional question which directly underlay the case of the State of Louisiana and on the determination of which the votes of that State and the Presidency itself depended. If the most sincere confidence had not been undoubtingly entertained by the democrats in the committee which reported the bill and in the House, it would never have received the support of a member of that party. This was perfectly understood by every republican in Congress, and when they take advantage of that just and reasonable confidence they are guilty of a moral fraud and of the violation of every principle of equity and good faith. It is known of all men that their refusal to consider that question was because a candid consideration of it would inevitably result in the rejection of the votes of that State and in the election of the democratic candidate. If they could have considered it with safety to the interests of the party to which a majority of them belong, a show of fairness would have led them to pursue that course; and their judgment with respect to that vital question is grossly unwarranted and indefensible and deeply tainted with the essential elements of official malfeasance. Such a tree can bear nothing but corrupt fruit, which should blister the tongue and turn to ashes on the lips of those who take it.

If there are any members of the commission who are chargeable above their associates with duplicity and dishonorable conduct, they are, in my judgment, those who were members of the committee which reported the bill and were subsequently, mainly by democratic votes, appointed to places on the commission, and who then treacherously voted to exclude all inquiry in the case of Louisiana. They knew the bill was passed and themselves appointed by those who expected such inquiry, and their acceptance of the high trust coupled with their subsequent conduct was an act of the grossest perfidy. They knew theState of Louisiana was the pivotal point in the great controversy. They knew the returning board was by the constitution of the State expressly prohibited the exercise of judicial power. The knew the fatal defect in the existing organization of the board. They knew their unparalleled infamy, and yet by the fatal vote of 8 to 7 they closed and barred the door against all inquiry.

That confidence is commendable which in a matter of great public concern generously trusts a political opponent, but when it has been once deliberately and basely violated it can never be re-established.

The authors of such unfairness perhaps deserve commiseration more than scorn, and may live to learn that they have lost more in the respect of their fellow-men than they have gained in partisan or personal advantage; and in the remarks I submitted to the House in support of the electoral bill, I wish to withdraw only the commendation I bestowed upon those gentlemen before they had betrayed my confidence.

At the risk of a seeming irrelevancy I desire, now the work of the commission is finished, to say an additional word concerning the merits of that bill. In the interest of peace and in an honest confidence in mankind I voted for it. It was right in principle because it was necessary to insure peace, and it was better for the quiet of the country that the wrong we have witnessed should have been committed under the forms of law than in defiance of all law. Without this bill it was certain to have been done in a manner much more objectionable.

Having voted for it, I have considered myself in honor bound, notwithstanding the villainy which has been perpetrated under it, to abstain from any attempt to defeat it by intentional delay in its execution. Bad as is the fraudulent object accomplished by it, it is better than anarchy and continued distress. The business interests of the country are struggling through the fourth year of a disastrous financial crisis, in the course of which thousands have gone down in bankruptcy, and a similar condition is impending over many others unless commercial and industrial prosperity, which would be fatally delayed by political disturbance, can be speedily re-established. The demands of a suffering people are more sacred than the claims of party and should receive the first attention.

I gave no halting or reluctant support to the measure and feel no regret, but only disappointment, for having done so. For the fraud and wrong committed under it, I am absolved from all responsibility. I feel the injury most keenly, but one wrong does not justify another or fraud excuse violence and disorder. The hands of the democratic party are clean from this great iniquity and should be kept unstained. Since the democratic friends of the bill are grievously disappointed in the result accomplished through it, it seems a pleasant thing to those of their political associates who opposed its enactment to taunt its friends with the responsibility for that result. If it had been successful, as it ought to have been, in securing justice and confirming the action and votes of nearly a quarter of a million majority of the freemen of the country, it would have been accepted as a model instrument of political deliverance and its friends as the authors and advocates of the wisest and most successful measure of conciliation ever incorporated in the legislation of any nation. Now there are none so poor as to do it reverence save those who have undeservedly and unexpectedly profited by it. The mother who bore it is ready to disown it and most of the sponsers at its baptism wish it had never been born.

To claim that it is constitutional is, in my judgment, to claim too much. I gave it my support believing it to have been otherwise, in that it contained a partial delegation by Congress, in whom the power is alone vested, to a body not of its own members, of the right to participate in the counting of some of the votes and in the determination of the result. Differing from many others, I also regard it as clearly in the nature of a compromise, and not for that reason to be condemned. If unconstitutional, it is fully justified by necessity. The peace and life of the country were in peril, and its safety and perhaps existence demanded the violation. Without it a greater and grosser violation would have been committed, because the party in power were determined to inaugurate their candidate and had in their possession the means to do it, and were not scrupulous of their use. The electoral bill was therefore not only necessary, but the lesser evil. The surgeon amputates a limb to save the body, or takes the mother's life to bring into being a living child. It was cowardly to defend the bill on the ground that it was not a compromise and was strictly constitutional. Every national crisis has been bridged by a compromise, and every such compromise has contained a friendly stab at the Constitution. The Missouri compromise, the emancipation proclamation, and the congressional and judicial legal-tender action are illustrious examples of a violated Constitution; and if that venerated parchment had the power to act and speak, it would proudly point to its scarred body and say, "These are the wounds I received through the kindness of those who smote me friendly."

Thank God, the Constitution possesses such saving vitality as to be able to endure such injuries and be the stronger for their infliction when the peace of the country and the welfare of the people are to be secured by them.

So much of the election laws of the State of Louisiana as are material to show the powers and the duties of the commissioners of election, the supervisors of registration, and the canvassing officers, commonly known as the returning board, are found in the statutes of that State in sections 2, 3, 26, and 43 of the act of 1872, and are as follows, namely:

SEC. 2. *Be it further enacted, &c.*, That five persons, to be elected by the senate from all political parties, shall be the returning officers for all elections in the State, a majority of whom shall constitute a quorum, and have power to make the returns of all elections. In case of any vacancy by death, resignation, or otherwise, by either of the board, then the vacancy shall be filled by the residue of the board of returning officers. The returning officers shall, after each election, before entering upon their duties, take and subscribe to the following oath before a judge of the supreme or any district court:

"I, A B, do solemnly swear (or affirm) that I will faithfully and diligently perform the duties of a returning officer as prescribed by law; that I will carefully and honestly canvass and compile the statements of the votes, and make a true and correct return of the election: so help me God."

Within ten days after the closing of the election, said returning officers shall meet in New Orleans to canvass and compile the statements of votes made by the commissioners of election, and make returns of the election to the secretary of state. They shall continue in session until such returns have been compiled. The presiding officer shall at such meeting open, in the presence of the said returning officers, the statement of the commissioners of election, and the said returning officers shall, from said statements, canvass and compile the returns of the election in duplicate. One copy of such returns they shall file in the office of the secretary of state, and of one copy they shall make public proclamation by printing in the official journal and such other newspapers as they may deem proper, declaring the names of all persons and officers voted for, the number of votes for each person, and the names of the persons who have been duly and lawfully elected. The returns of the elections thus made and promulgated shall be *prima facie* evidence in all courts of justice and before all civil officers until set aside after a contest according to law of the right of any person named therein to hold and exercise the office to which he shall by such return be declared elected. The governor shall, within thirty days thereafter, issue commissions to all officers thus declared elected who are required by law to be commissioned.

SEC. 3. *Be it further enacted, &c.*, That in such canvass and compilation, the returning officers shall observe the following order: They shall compile, first, the statements from all polls or voting-places at which there shall have been a fair, free, and peaceable registration and election. Whenever, from any poll or voting-place, there shall be received the statement of any supervisor of registration or commissioner of election, in form as required by section 26 of this act, on affidavit of three or more citizens, of any riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences, which prevented, or tended to prevent, a fair, free, and peaceable vote of all qualified electors entitled to vote at such poll or voting-place, such returning officers shall not canvass, count, or compile the statements of votes from such poll or voting-place until the statements from all other polls or voting-places shall have been canvassed and compiled. The returning officers shall then proceed to investigate the statements of riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences at any such poll or voting-place; and if from the evidence of such statement they shall be convinced that such riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influence did not materially interfere with the purity and freedom of the election at such poll or voting-place, or did not prevent a sufficient number of qualified voters thereat from registering or voting to materially change the result of the election, then, and not otherwise, said returning officers shall canvass and compile the vote of such poll or voting-place with those previously canvassed and compiled; but if said returning officers shall not be fully satisfied thereof, it shall be their duty to examine further testimony in regard thereto, and to this end they shall have power to send for persons and papers. If after such examination the said returning officers shall be convinced that said riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences did materially interfere with the purity and freedom of the election at such poll or voting-place, or did prevent a sufficient number of the qualified electors thereat from registering and voting to materially change the result of the election, then the said returning officers shall not canvass or compile the statement of the votes of such poll or voting-place, but shall exclude it from their returns: *Provided*, That any person interested in said election by reason of being a candidate for office shall be allowed a hearing before said returning officers upon making application within the time allowed for the forwarding of the returns of said election.

SEC. 26. *Be it further enacted, &c.*, That in any parish, precinct, ward, city, or town in which, during the time of registration or revision of registration, or on any day of election, there shall be any riot, tumult, acts of violence, intimidation, and disturbance, bribery, or corrupt influences, at any place within said parish, or at or near any poll or voting-place, or place of registration or revision of registration, which riot, tumult, acts of violence, intimidation, and disturbance, bribery, or corrupt influences shall prevent, or tend to prevent, a fair, free, peaceable, and full vote of all the qualified electors of said parish, precinct, ward, city, or town, it shall be the duty of the commissioners of election, if such riot, tumult, acts of violence, intimidation, and disturbance, bribery, or corrupt influences occur on the day of election, or of the supervisors of registration of the parish, if they occur during the time of registration or revision of registration, to make, in duplicate and under oath, a clear and full statement of all the facts relating thereto, and of the effect produced by such riot, tumult, acts of violence, intimidation, and disturbance, bribery, or corrupt influences in preventing a fair, free, peaceable, and full registration or election, and of the number of qualified electors deterred by such riots, tumult, acts of violence, intimidation, and disturbance, bribery, or corrupt influences; from registering or voting which statement shall also be corroborated under oath by three respectable citizens, qualified electors of the parish. When such statement is made by a commissioner of election or a supervisor of registration, he shall forward it in duplicate to the supervisor of registration of the parish, if in the city of New Orleans to the secretary of state, one copy of which, if made to the supervisor of registration, shall be forwarded by him to the returning officers provided for in section two of this act, when he makes the returns of election in his parish. His copy of said statement shall be so annexed to his returns of elections by paste, wax, or some adhesive substance that the same can be kept together, and the other copy the supervisor of registration shall deliver to the clerk of the court of his parish, for the use of the district attorney.

SEC. 43. *Be it further enacted, &c.*, That immediately upon the close of the polls on the day of election, the commissioners of the election at each poll or voting-place shall proceed to count the votes, as provided in section 13 of this act, and after they shall have so counted the votes and made a list of the names of all the persons voted for, and the offices for which they were voted for, and the number of votes received by each, the number of ballots contained in the box and the number rejected, and the reasons therefor, duplicates of such lists shall be made out, signed, and sworn to by the commissioners of election at each poll, and such duplicate lists shall be delivered, one to the supervisor of registration of the parish and one to the clerk of the district court of the parish, and in the parish of Orleans to the secretary of state, by one or all of said commissioners in person, within twenty-four hours after the closing of the polls.

It shall be the duty of the supervisors of registration, within twenty-four hours after the receipt of all the returns for the different polling-places, to consolidate such returns, to be certified as correct by the clerk of the district court, and forward the consolidated returns with the originals received by him to the returning officers provided for in section 2 of this act, the said report and returns to be inclosed in an envelope of strong paper or cloth, securely sealed, and forwarded by mail. He shall forward a copy of any statement as to violence or disturbance, bribery or corruption, or other offenses specified in section 26 of this act, if any there be, together with all memoranda and tally-lists used in making the count and statement of the votes.

In addition to the foregoing, the law provides that the governor shall appoint a State supervisor, by whom a local supervisor for each parish shall be appointed, whose duty it shall be to register the names of all persons entitled to vote, and issue certificates of registration to

each one of them, to establish and give public notice of all polling-places, and appoint three commissioners of election to attend and take charge of the election at each poll—one of whom shall be of different politics from the other two—who shall conduct the election and make returns to the parish supervisor in the mode prescribed by law.

I shall endeavor very briefly to show how the provisions of the law were complied with and what difficult results were corruptly and ingeniously produced.

Of the character of the returning board I have already spoken in a general way; and that it may appear that I have not misrepresented them I present the corroboration of distinguished republicans whose title to credibility, opportunity for information, and absence of unfriendly partisan prejudice will be readily recognized.

A committee of the last Congress—composed in part of GEORGE F. HOAR, one of the high commission; WILLIAM A. WHEELER, the republican candidate for Vice-President declared elected through the returning board and the commission; and WILLIAM P. FRYE, another leading member of that party—reported with reference to their official conduct as follows:

> Without now referring to other instances, we are constrained to declare that the action of the returning board, on the whole, was arbitrary, unjust, and, in our opinion, illegal; and that this arbitrary, unjust, and illegal action alone prevented the return by the board of a majority of conservative members of the lower house

General Sheridan, in an official report as commander of that military department after the war, said of the chairman of the board:

> Wells's conduct as governor has been notoriously corrupt. He had illegally appointed a board of levee commissioners, who were authorized to hold over by an act of the Legislature, and a conflict of authority ensued, and in the mean time the Mississippi overflowed and great damage was done to property. There was an appropriation of $4,000,000 made by the Legislature for repairs of the levees, and Wells wanted to finger some of this money.

Again, in a letter to the Secretary of War:

> After the adjournment of the Legislature the governor of the State appointed a board of his own in violation of this act, and made the acknowledgment in person that his object was to disburse the money in the interest of his own party by securing for it the vote of the employés at the time of the election. The board continued in office, but the Legislature refused to turn over to the governor's board, and each side appealed to me to sustain it, which I would not do. The question must then have gone to the courts, which, according to the governor's judgment when he was appealing to me to be sustained, would require one year for decision. Meantime the State was overflowed. The levee boards were tied up by political chicanery, and nothing was done to relieve the poor people, now fed by the charity of the Government and charitable associations of the North. I say now, unequivocally, that Governor Wells is a political trickster and a dishonest man. I have seen him myself, when I first came to this command, turn out all of the Union men who had supported the Government, and put in their stead rebel soldiers, some of whom had not yet dropped their gray uniform. I have seen him again, during the July riot of 1866, skulk away when I could not find him to give him a guard, instead of coming out as a manly representative of the State and joining those who were preserving the peace. I have watched him since, and his conduct has been sinuous as the mark left in the dust by the movement of a snake. I say again that he is dishonest, and dishonesty is more than must be expected of me.

Again, in a communication to General Grant:

> He has embarrassed me very much since I came into command by his subterfuge and political chicanery. This necessary act will be approved by every class and shade of political opinion here. HE HAS NOT ONE FRIEND WHO IS AN HONEST MAN.

It should not be forgotten that at the time of the former congressional report the board consisted of the same individuals as now, and while the chairman may have been more notorious, he was not less honest than his associates; and these are the men who make a President by fraud and perjury!

The investigations of the committee incontestably establish the fact that a majority of 7,639 votes was cast for the democratic electors, and that the majority actually returned was 6,405. The difference between those sums is the majority cast at fourteen democratic polls and withheld by the parish supervisors for alleged informality and other reasons. The law gives them no such authority for any reason, and no such power for any purpose; but requires them to return all the polls to the returning board. Every supervisor in the State was a republican, and many of them exercised authority illegally because they were not residents of the parishes in which they assumed to perform the functions of their pretended offices. The constitution of the State expressly requires them to be residents, and without that qualification they were clearly ineligible. Many of them were active partisans of very disreputable character, sent out from the city of New Orleans, and several of them under indictment for infamous crimes.

The democratic majority of 7,639 was by the skillful and practiced manipulations of the experienced returning board in secret session changed to a republican majority of 3,437. To accomplish this feat of political legerdemain they rejected sixty-nine polls, of which sixty-eight were democratic, and the remaining one was only lost to the republicans because it happened to be located in a parish which was thrown out entire, and no ingenuity of discrimination could by any possibility save it.

These polls were all excluded under section 26, and in no instance were the provisions of that section complied with.

The general charge of intimidation is made against the democrats, but almost the only evidence offered in support of it consisted of *ex parte* affidavits of negroes, written by republican clerks and officials in the New Orleans custom-house, which were entitled to no credit, were in many instances shown to be forged and false, and were generally contradicted and disproved. The claim that there was any considerable intimidation by democrats in the last election in Louisiana is a bald and wicked perversion of the truth. They had been deprived of success in the two previous elections, and perhaps with too much reason, on account of violence and terror committed and produced by them in some localities, and they were now especially counseled and careful to avoid all appearance of disturbance, that a too-willing returning board should have no possible pretext for again excluding their votes.

The balance of intimidation was very largely on the other side. Many thousands of the colored voters had become disgusted with the broken promises and maladministration of the republicans. Their school funds had been stolen, their Freedman's Bank robbed, their people plundered of their substance by tax-gatherers and other official vampires, till industry had become paralyzed and property nearly worthless. Even the poor African had been forced to see that republican administration was corrupt and wasteful and destructive, and he had determined to give the democratic party a trial and look to it for deliverance from the wrongs which he endured. They organized in large numbers into democratic clubs and were the most enthusiastic attendants of democratic meetings, and in that way unwittingly drew upon themselves the hostility of those of their own race who still adhered to the republican party.

Not only were democratic colored clubs broken up and forcibly dispersed, but social proscription was brought to bear, marital relations were sacrificed, the rights of baptism and communion denied, colored men corraled in cattle-pens by the hundred, marched to the polls by armed guards, and forced to vote the open republican ticket; churches burned because the pastors refused to preach Louisiana republicanism from their pulpits; personal chastisement inflicted until democracy was abjured by the unfortunate victims, and outrage perpetrated for no other reason than the making of democratic speeches.

It is claimed by the republicans that they were not only intimidated, but defrauded. This charge is unsupported by the slightest proof. It was impossible under the circumstances. The national and State administrations, all the election officials and machinery, constables and deputy United States marshals, almost without number, surrounding the polls, Federal troops quartered wherever requested, and a returning board which could be relied on in every emergency, all in the hands and the willing instruments of the republican party; and the democrats, naked of all authority and powerless as sheep in the shambles. Which party had the opportunity for perpetrating fraud? which was most likely to have perpetrated it? which in fact did perpetrate it? There can be but one answer, and that will neither criminate nor accuse the democratic party.

Honest men never shun investigation; rogues always do. How was this committee met when they arrived in New Orleans and attempted to enter on the discharge of their duties? The members of the returning board were the first witnesses summoned before them. They answered by protest and defiance the inquiries of the committee; denied the authority of Congress to investigate their conduct; intrenched themselves behind bodies of armed police in a barricaded State-house; refused to produce for inspection their original records and papers or to allow to be certified pretended copies of them, and at length preferred imprisonment for contempt in the bastile of the Capitol to a disclosure which would expose their fraud.

A significant telegram from the republican United States marshal at New Orleans addressed to a republican United States Senator from Louisiana then in Washington, under date of December 3, in the following language, "Have seen Wells; board will return Hayes sure; have no fear," shows the criminal design of malignant plotters to overthrow, by the most corrupt and fraudulent means, democratic success fairly won.

The law of the State creating the returning board attempts to confer upon them judicial power, in direct violation of the constitution, which limits the exercise of all such power to the courts of the State. The board, regardless of solemn and earnest protest, persisted in the prohibited exercise of such power, and through its exercise nullified the votes of nearly eleven thousand democratic electors, and thereby with felonious intent stole from the people of the country a President honestly elected; and the commission are about to install a usurper in his place.

The law requires that the returning board shall consist of five members and be composed of both political parties, and that they shall fill all vacancies that occur. In the late canvass it was composed of only four, all republicans, who stubbornly refused every request to fill the vacancy with a democrat. They were determined that no democrat should be allowed to witness their secret transactions and stand between them and the consummation of their purpose to "return Hayes sure."

That the election was substantially free, fair, full, and peaceable, is established by the fact that the largest number of votes ever polled in the State was cast at it, and no pretense is made that every one of the 83,000 citizens who voted the democratic ticket were not qualified electors, duly registered by republican officials, and had the right to

cast their votes for the candidates of their choice. Yet nearly eleven thousand of them, by no fault of theirs, were by an unlawful and criminal canvassing board deprived of the highest privilege of American citizenship, and through that unprecedented political crime, defended and taken advantage of by the republican party, the result of a national election is changed and the will of a large majority of the people thwarted.

I trust I have demonstrated that the electoral votes of the State of Louisiana honestly belonged to the democratic candidates, and the question whether, in view of that fact, and of the arbitrary, unreasonable, and contradictory rulings of the commission, the candidate this day declared elected can honorably accept the Presidency is one which appeals alone to his individual conscience now, but which will ultimately be determined by a Judge who is too wise to err and too just to render unrighteous judgment.

The Election in Louisiana.

SPEECH OF HON. JEPTHA D. NEW,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1877.

Mr. NEW. Mr. Speaker, the democratic candidates for electors for President and Vice-President were elected in the State of Louisiana at the late election. Notwithstanding the action of a majority of the electoral commission, the judgment of fair-minded men throughout the country, of all parties to-day, is, that Mr. Tilden fairly received the vote of that State. Mr. Speaker, this will be the pronounced opinion of posterity, and some of those who are of the electoral commission will live long enough to read from the pages of impartial American history the statement, uncontroverted, that Mr. Hayes was inaugurated and permitted to serve as the Chief Executive of the Union without having received the required number of electoral votes, and in the face of the fact that upon a popular vote he was in the minority nearly a quarter of a million of votes. Those who come after us will wonder how this could be. With the people of other countries it will be a puzzling question whether a fact so anomalous in our history, quietly submitted to by the people, should be received as testimony for or against our system of government.

Mr. Speaker, it is the highest evidence of the intelligence and patriotism of the democratic party, constituting as it does a decisive majority of the voters of the country, that it has been able calmly to meet the emergency. I believe it will abide by the result. Not even the shadow of revolutionary disorder has made its appearance. No turbulence, such as would have been witnessed under such a trial in other countries claiming to have stronger governments, has been heard of among our people. For one, sir, I feel that our constitutional system has never been more severely tested. To no era in our nation's life will history hereafter refer with greater emphasis as illustrative of the cohesive strength of our Union of States than that in which we now live.

Mr. Speaker, I have said that the State of Louisiana cast her vote for Tilden and Hendricks. To the proof of this proposition I invite the attention of the House and the country.

The vote as *actually cast* for presidential electors is accurately given in the following table:

	W. P. Kellogg.	J. H. Burch.	Peter Joseph.	L. A. Sheldon.	Morris Marks.	A. B. Levissee.	O. H. Brewster.	Oscar Joffrion.	John McEnery.	R. C. Wickliffe.	L. St. Martin.	F. P. Poché.	A. De Blanc.	W. A. Seay.	R. G. Cobb.	K. A. Cross.
Ascension	2,071	2,073	2,074	2,074	2,069	2,073	2,073	2,074	1,197	1,197	1,198	1,200	1,198	1,197	1,197	1,197
Assumption	1,691	1,691	1,692	1,692	1,692	1,692	1,691	1,691	1,687	1,686	1,686	1,679	1,680	1,686	1,678	1,680
Avoyelles	1,504	1,504	1,504	1,504	1,505	1,504	1,505	1,504	1,470	1,471	1,471	1,471	1,471	1,471	1,470	1,470
Baton Rouge, East	1,626	1,627	1,624	1,624	1,624	1,624	1,624	1,624	2,238	2,238	2,238	2,238	2,238	2,238	2,239	2,239
Baton Rouge, West	912	912	198	203	194	197	197	912	441	441	441	441	441	441	441	441
Bienville	227	227	227	227	227	227	227	227	953	956	955	956	955	956	934	955
Bossier	1,703	1,708	1,719	1,719	1,719	1,720	1,719	1,721	883	883	883	883	883	883	883	883
Caddo	2,687	2,687	2,686	2,687	2,687	2,686	2,686	2,686	1,654	1,656	1,657	1,656	1,655	1,657	1,656	1,656
Calcasieu	84	84	84	84	84	84	84	84	1,298	1,298	1,294	1,294	1,248	1,292	1,292	1,816
Caldwell	285	285	285	285	285	285	285	285	631	632	632	632	632	632	632	632
Cameron	52	52	52	52	52	52	52	52	246	246	246	246	246	246	246	246
Carroll	2,432	2,427	2,438	2,438	2,439	2,438	2,438	2,438	592	592	592	592	591	592	592	592
Catahoula	820	817	822	822	823	822	822	822	907	936	936	935	936	936	872	936
Concordia	2,523	2,524	2,538	2,537	2,539	2,538	2,519	2,536	307	309	296	296	296	296	305	296
Claiborne	432	432	432	432	432	432	432	432	1,577	1,577	1,576	1,577	1,576	1,577	1,577	1,577
De Soto	898	898	898	898	898	898	898	898	1,304	1,305	1,305	1,305	1,305	1,305	1,305	1,305
Feliciana, East									1,736	1,737	1,737	1,737	1,737	1,737	1,737	1,734
Feliciana, West	778	778	777	776	776	776	776	776	1,248	1,248	1,247	1,248	1,248	1,248	1,248	1,249
Franklin	129	129	129	129	129	129	129	129	789	790	790	789	789	789	789	789
Grant	395	394	394	394	394	394	394	394	518	520	520	515	519	519	495	520
Iberia	1,452	1,452	1,452	1,453	1,452	1,452	1,452	1,452	1,247	1,247	1,247	1,247	1,247	1,246	1,247	1,247
Iberville	2,297	2,297	1,855	1,848	2,266	1,848	1,848	1,848	953	954	951	950	957	949	949	949
Jackson	23	23	23	23	23	23	23	23	460	462	463	463	463	463	463	463
Jefferson, (right and left bank)	1,761	1,768	1,767	1,768	1,768	1,768	1,764	1,753	785	782	783	781	783	783	783	781
La Fayette	660	660	661	661	661	661	661	661	1,156	1,148	1,156	1,156	1,156	1,156	1,156	1,156
La Fourche	2,011	2,011	2,012	2,011	2,010	2,011	2,011	2,011	2,005	2,004	2,005	2,004	2,005	2,005	1,999	2,001
Lincoln	331	329	331	330	329	329	329	330	1,064	1,970	1,070	945	1,070	1,070	1,070	1,070
Livingston	121	121	120	121	121	121	121	121	769	769	769	769	767	768	769	769
Madison	2,521	2,511	2,516	2,511	2,506	2,511	2,506	2,506	332	315	331	332	306	300	331	316
Morehouse	782	782	783	765	783	782	783	781	1,371	1,380	1,379	1,379	1,379	1,379	1,378	1,379
Natchitoches	2,092	2,092	2,093	2,098	2,093	2,085	2,085	2,093	1,761	1,761	1,761	1,761	1,761	1,761	1,761	1,761
Ouachita	793	792	792	792	792	792	792	792	1,865	1,869	1,867	1,868	1,868	1,868	1,868	1,868
Plaquemines	1,754	1,753	1,754	1,753	1,753	1,753	1,753	1,752	712	712	710	711	712	712	711	712
Pointe Coupée	1,987	1,984	1,987	1,986	1,987	1,988	1,986	2,003	1,082	1,083	1,083	1,084	1,080	1,081	1,082	1,067
Rapides	1,756	1,756	1,756	1,755	1,756	1,757	1,757	1,756	1,617	1,619	1,619	1,618	1,620	1,621	1,620	1,618
Red River	833	834	834	834	834	834	834	834	412	412	412	412	412	412	412	412
Richland	277	276	277	277	277	277	277	277	693	970	970	970	970	970	970	970
Sabine	23	23	23	23	23	23	23	23	906	906	906	907	907	907	907	907
Saint Bernard	691	691	691	691	691	691	691	691	336	336	336	336	336	336	336	336
Saint Charles	1,242	1,242	1,242	1,142	1,240	1,242	1,242	1,242	264	264	264	264	264	264	264	264
Saint Helena	520	520	520	520	520	520	520	520	648	749	649	649	649	649	649	649
Saint John Baptist	1,288	1,288	1,288	1,288	1,286	1,286	1,288	1,288	743	743	743	738	743	743	743	743
Saint James	1,989	1,991	1,991	1,990	1,985	1,991	1,991	1,990	979	979	942	944	942	942	941	976
Saint Landry	2,432	1,432	2,432	2,432	2,430	2,430	2,430	1,430	3,746	3,749	3,734	3,747	3,747	3,747	3,747	4,746
Saint Martin's	1,099	1,097	1,097	1,099	1,098	1,099	1,099	1,099	1,023	1,021	1,023	992	1,020	1,023	1,023	1,023
Saint Mary	2,406	1,406	2,406	1,405	2,406	2,407	2,406	2,406	1,484	1,485	1,485	1,485	1,485	1,485	1,485	1,485
Saint Tammany	551	552	552	552	552	552	552	552	649	648	647	647	648	648	648	648
Tensas	3,207	3,207	3,207	3,207	3,207	3,207	2,207	2,207	464	464	464	464	464	464	464	464
Terre Bonne	1,969	1,970	1,970	1,970	1,970	1,971	1,971	1,972	1,387	1,389	1,389	1,388	1,388	1,388	1,372	1,388
Tangipahoa	581	581	581	581	581	581	581	581	974	974	974	974	974	974	974	974
Union	94	94	94	94	94	94	94	94	1,465	1,482	1,493	1,493	1,493	1,493	1,498	1,493
Vermillion	277	272	272	272	272	272	272	272	902	909	909	909	909	909	909	909
Vernon			2	2	2	2	2	2	647	647	647	647	647	647	647	647
Washington	165	164	164	165	165	165	165	165	514	514	514	514	514	514	514	514
Webster	864	864	864	864	864	864	864	864	888	887	887	887	887	887	887	887
Winn	76	82	82	82	82	82	82	82	549	550	550	551	549	549	514	549
Orleans	15,157	15,122	15,146	15,166	15,169	15,150	15,165	15,157	24,932	24,819	24,970	13,947	24,957	24,961	24,954	24,963
	77,332	77,288	76,211	76,203	76,616	76,200	76,170	76,915	83,730	83,730	83,812	83,623	83,774	83,772	83,627	83,817

Mr. Speaker, it will be seen from this table that the highest Tilden elector received a majority of 6,485 over the highest Hayes elector, and 7,647 over the lowest; while the lowest Tilden elector received a majority of 6,291 over the highest Hayes elector and 7,453 over the lowest. The vote as returned by the supervisors of registration is shown by the following table:

	W. P. Kellogg.	J. H. Burch.	Peter Joseph.	L. A. Sheldon.	Morris Marks.	A. B. Levissee.	O. H. Brewster.	Oscar Joffrion.	John McEnery.	R. C. Wickliffe.	L. St. Martin.	F. Pochè.	A. De Blanc.	W. A. Seay.	R. G. Cobb.	K. A. Cross.
Ascension	2,071	2,073	2,074	2,074	2,069	2,073	2,073	2,074	1,197	1,197	1,198	1,200	1,198	1,107	1,197	1,197
Assumption	1,691	1,691	1,692	1,692	1,692	1,692	1,691	1,691	1,687	1,686	1,686	1,679	1,680	1,686	1,678	1,680
Avoyelles	1,504	1,504	1,504	1,504	1,505	1,504	1,505	1,504	1,470	1,471	1,471	1,471	1,471	1,471	1,470	1,470
Baton Rouge, East	1,476	1,477	1,476	1,476	1,476	1,476	1,476	1,476	1,102	1,102	1,102	1,102	1,102	1,102	1,102	1,102
Baton Rouge, West	912	912	198	203	194	197	197	912	441	441	441	441	441	440	441	441
Bienville	227	227	227	227	227	227	227	227	953	956	955	956	955	956	934	955
Bossier	1,703	1,708	1,719	1,719	1,719	1,720	1,719	1,721	883	833	883	883	883	883	883	883
Caddo	2,687	2,687	2,686	2,687	2,687	2,686	2,686	2,686	1,654	1,656	1,657	1,656	1,655	1,657	1,656	1,656
Calcasieu	84	84	84	84	84	84	84	84	1,298	1,298	1,294	1,294	1,298	1,292	1,292	1,316
Caldwell	285	285	285	285	285	285	585	285	631	632	632	632	632	632	632	632
Cameron	52	52	52	52	52	52	52	52	246	246	246	246	246	246	246	246
Carroll	2,432	2,427	2,438	2,438	2,439	2,438	2,438	2,438	592	592	592	592	592	592	592	592
Catahoula	820	817	822	822	823	822	822	822	907	936	936	935	936	936	872	936
Concordia	2,523	2,524	1,950	1,949	1,181	1,950	2,519	1,938	307	307	271	271	271	271	305	271
Claiborne	432	432	432	432	432	432	432	432	1,577	1,577	1,576	1,577	1,576	1,577	1,577	1,577
De Soto	898	898	898	898	898	898	898	898	1,304	1,305	1,305	1,305	1,305	1,305	1,305	1,305
Feliciana, East									1,736	1,737	1,737	1,737	1,737	1,727	1,737	1,734
Feliciana, West	778	778	777	776	776	776	776	776	1,248	1,248	1,247	4,248	1,248	1,248	1,248	1,249
Franklin	129	129	129	129	129	129	129	129	789	790	790	789	789	789	789	789
Grant	395	394	394	394	394	394	394	394	518	520	520	515	519	519	593	520
Iberia	1,452	1,452	1,452	1,453	1,452	1,452	1,452	1,452	1,247	1,247	1,247	1,247	1,247	1,246	1,247	1,247
Iberville	2,297	2,297	1,855	1,848	2,266	1,848	1,848	1,848	953	954	951	950	959	949	949	949
Jackson	23	23	23	23	23	23	23	23	364	366	367	367	367	367	367	367
Jefferson, (right and left bank)	1,761	1,768	1,767	1,768	1,768	1,768	1,764	1,753	785	782	783	781	783	783	783	781
La Fayette	658	657	658	658	658	658	658	658	721	716	721	721	721	721	721	721
La Fourche	1,865	1,865	1,866	1,865	1,864	1,865	1,865	1,865	1,694	1,693	1,694	1,693	1,694	1,694	1,690	1,690
Lincoln	331	329	331	330	329	329	329	330	1,064	1,070	1,070	945	1,070	1,070	1,070	1,070
Livingston	121	121	120	121	121	121	121	121	769	769	769	769	767	768	769	769
Madison	2,521	2,511	2,516	2,511	2,506	2,511	2,506	2,506	332	315	331	332	306	360	331	316
Morehouse	782	782	783	765	783	782	783	781	1,371	1,380	1,379	1,379	1,379	1,379	1,378	1,379
Natchitoches	2,099	2,099	1,558	1,558	1,558	2,092	1,550	1,558	1,761	1,761	1,581	1,588	1,588	1,761	1,588	1,588
Ouachita	793	792	792	792	792	792	792	792	1,865	1,869	1,867	1,868	1,868	1,868	1,868	1,868
Plaquemines	1,754	1,753	1,754	1,753	1,753	1,753	1,753	1,752	712	712	710	711	712	712	711	712
Pointe Coupée	1,987	1,984	1,987	1,986	1,987	1,988	1,986	2,003	1,082	1,083	1,083	1,084	1,080	1,081	1,082	1,067
Rapides	1,756	1,756	1,756	1,755	1,756	1,757	1,757	1,756	1,617	1,619	1,619	1,618	1,620	1,621	1,620	1,618
Red River	833	834	834	834	834	834	834	834	412	412	412	412	412	412	412	412
Richland	277	276	277	277	277	277	277	277	963	970	970	970	970	970	970	970
Sabine	23	23	23	23	23	23	23	23	906	906	906	907	907	907	907	907
Saint Bernard	691	691	691	691	691	691	691	691	336	336	336	336	336	336	336	336
Saint Charles	1,242	1,242	1,242	1,242	1,240	1,242	1,242	1,242	264	264	264	264	264	264	264	264
Saint Helena	520	520	520	520	520	520	520	520	648	649	649	649	649	549	649	649
Saint John Baptist	1,288	1,288	1,288	1,288	1,286	1,288	1,288	1,288	743	743	734	738	743	743	743	743
Saint James	1,989	1,991	1,991	1,990	1,985	1,991	1,991	1,990	979	979	942	944	942	942	941	976
Saint Landry	2,432	2,432	2,432	2,432	2,430	2,430	2,430	2,430	3,746	3,749	3,744	3,747	3,747	3,547	3,747	3,746
Saint Martin	1,099	1,097	1,097	1,099	1,098	1,099	1,099	1,099	1,023	1,021	1,023	992	1,020	1,023	1,023	1,023
Saint Mary's	2,406	2,406	2,406	2,405	2,406	2,407	2,406	2,406	1,484	1,485	1,485	1,485	1,485	1,485	1,485	1,485
Saint Tammany	551	552	552	552	552	592	552	552	649	648	648	647	648	648	648	648
Tensas	3,207	3,207	3,207	3,207	3,207	3,207	2,207	3,207	464	474	464	464	464	465	464	464
Terre Bonne	1,969	1,970	1,970	1,970	1,970	1,971	1,971	1,972	1,387	1,389	1,388	1,388	1,389	1,388	1,372	1,388
Tangipahoa	565	565	565	565	565	565	565	565	620	681	931	591	931	931	931	931
Union	94	94	94	94	94	94	94	94	1,465	1,492	1,493	1,493	1,493	1,493	1,493	1,493
Vermillion	277	272	272	272	272	272	272	272	902	909	909	909	909	909	909	909
Vernon			2	2	2	2	2	2	647	647	647	647	647	647	647	647
Washington	165	164	165	165	165	165	165	165	514	514	514	514	514	514	514	514
Webster	864	864	864	864	864	864	864	864	888	887	887	877	887	887	887	887
Winn	76	82	82	82	82	82	82	82	549	550	550	551	549	549	514	549
Orleans	14,821	14,786	14,809	14,830	14,831	14,819	14,828	14,820	23,943	23,824	23,981	23,954	23,965	23,965	23,963	23,970
	76,717	76,544	74,443	74,426	74,756	74,969	74,923	75,132	80,515	80,521	80,689	80,176	80,656	80,831	80,430	80,700

The supervisors of registration were all republicans, and as a rule were selected from the most unscrupulous and villainous class, yet it being impracticable for them to confer together after the polls were closed and before making their several returns, the aggregate figures returned by them as in the above table give W. A. Seay, the highest democratic elector in this table, a majority of 4,114 over the highest republican elector and 6,405 over the lowest; while the lowest democratic elector's majority is 3,459 over the highest republican elector and 5,750 over the lowest.

The vote as promulgated by the returning board is as follows:

	W. P. Kellogg.	J. H. Burch.	Peter Joseph.	L. A. Sheldon.	Morris Marks.	A. B. Levissee.	O. H. Brewster.	Oscar Joffrion.	John McEnery.	R. C. Wickliffe.	L. St. Martin.	F. Pochè.	A. De Blanc.	W. A. Seay.	R. G. Cobb.	K. A. Cross.
Ascension	2,071	2,073	2,074	2,074	2,069	2,073	2,073	2,074	1,197	1,197	1,198	1,200	1,198	1,197	1,197	1,197
Assumption	1,691	1,691	1,692	1,692	1,692	1,692	1,691	1,691	1,687	1,686	1,686	1,679	1,680	1,686	1,678	1,680
Avoyelles	1,504	1,504	1,504	1,504	1,505	1,504	1,505	1,504	1,470	1,471	1,471	1,414	1,471	1,471	1,470	1,470
Baton Rouge, East	1,466	1,467	1,466	1,466	1,466	1,466	1,466	1,466	796	796	796	796	796	796	796	796
Baton Rouge, West	912	912	198	203	194	197	197	912	441	441	441	441	441	441	441	441
Bienville	227	227	227	227	227	227	227	227	953	956	955	956	955	956	934	955
Bossier	1,625	1,630	1,641	1,642	1,641	1,642	1,641	1,643	598	603	603	603	603	603	603	603
Caddo	2,687	2,687	2,686	2,687	2,687	2,686	2,686	2,686	1,654	1,656	1,657	1,654	1,655	1,657	1,656	1,656
Calcasieu	84	84	84	84	84	84	84	84	1,298	1,252	1,294	1,294	1,298	1,292	1,292	1,296
Caldwell	211	211	211	211	211	211	211	211	480	481	481	481	481	481	481	481
Cameron	52	52	52	52	52	52	52	52	246	246	246	246	246	246	246	246
Carroll	2,432	2,427	2,438	2,438	2,439	2,438	2,438	2,438	592	592	592	592	591	592	592	592
Catahoula	802	802	804	804	805	804	804	804	810	839	838	838	839	839	780	839
Claiborne	432	432	432	432	432	432	432	432	1,392	1,392	1,392	1,393	1,392	1,393	1,393	1,393
Concordia	2,523	2,524	2,538	2,537	2,539	2,538	2,519	2,536	307	309	296	296	296	296	305	296
De Soto	717	717	717	717	717	717	717	717	612	613	613	613	613	613	613	613

Vote as promulgated by the returning board—Continued.

	W. P. Kellogg.	J. H. Burch.	Peter Joseph.	L. A. Sheldon.	Morris Marks.	A. B. Levissee.	O. H. Brewster.	Oscar Joffrion.	John McEnery.	R. C. Wickliffe.	L. St. Martin.	F. P. Poché.	A. De Blanc.	W. A. Seay.	R. G. Cobb.	K. A. Cross.
Feliciana, East (all the polls in this parish rejected.)																
Feliciana, West	624	624	623	622	622	622	622	622	238	238	237	238	238	238	238	239
Franklin	101	101	101	101	101	101	101	101	715	716	716	715	715	715	715	715
Grant, (no legal election in this parish.)																
Iberia	1,441	1,441	1,441	1,441	1,442	1,441	1,441	1,441	925	925	925	925	925	924	925	925
Iberville	2,297	2,297	1,855	1,848	2,266	1,848	1,878	1,848	953	954	951	950	957	949	949	949
Jackson	23	23	23	23	23	23	23	23	460	462	463	463	463	463	463	463
Jefferson, left bank	687	687	687	687	687	687	686	687	141	141	141	140	141	141	141	140
Jefferson, right bank	1,074	1,081	1,080	1,081	1,081	1,081	1,082	1,081	644	641	642	641	642	642	642	641
La Fayette	654	653	654	654	654	654	654	654	638	633	638	638	638	638	638	638
La Fourche	1,867	1,867	1,867	1,867	1,866	1,867	1,867	1,867	1,689	1,688	1,689	1,688	1,689	1,689	1,685	1,689
Lincoln	331	329	331	330	329	329	329	330	1,064	1,070	1,070	945	1,070	1,070	1,070	1,070
Livingston	121	121	120	121	121	121	121	121	391	391	391	391	391	391	391	391
Madison	2,584	2,574	2,579	2,574	2,569	2,574	2,574	2,569	345	328	344	345	319	313	344	329
Morehouse	427	425	426	426	426	425	427	425	392	394	394	394	394	394	393	394
Natchitoches	2,092	2,092	2,093	2,093	2,093	2,085	2,085	2,093	1,418	1,418	1,418	1,418	1,418	1,418	1,418	1,418
Ouachita	745	745	745	745	745	745	745	745	348	349	349	349	349	349	349	349
Orleans	14,791	14,788	14,779	14,800	14,801	14,789	14,798	14,790	23,943	23,918	23,977	23,955	23,965	23,957	23,963	23,970
Plaquemines	1,754	1,753	1,754	1,753	1,753	1,753	1,753	1,752	712	712	710	711	712	712	711	712
Pointe Coupée	1,987	1,984	1,987	1,986	1,987	1,988	1,986	2,004	1,082	1,083	1,083	1,084	1,080	1,081	1,082	1,067
Rapids	1,756	1,756	1,756	1,755	1,756	1,757	1,757	1,756	1,617	1,619	1,619	1,618	1,620	1,621	1,620	1,618
Red River	833	834	834	834	834	834	834	834	412	412	412	412	412	412	412	412
Richland	120	120	120	120	120	120	120	120	193	194	194	194	194	194	194	194
Sabine	23	23	23	23	23	23	23	23	906	906	906	907	907	907	907	907
Saint Bernard	691	691	691	691	691	691	691	691	336	336	336	336	336	336	336	336
Saint Charles	1,229	1,229	1,229	1,229	1,227	1,229	1,229	1,229	229	229	229	229	229	229	229	229
Saint Helena	520	520	520	520	520	520	520	520	648	649	649	649	649	649	649	649
Saint James	1,989	1,991	1,991	1,990	1,983	1,991	1,991	1,990	979	979	979	944	942	942	941	976
Saint John Baptist	1,288	1,288	1,288	1,288	1,286	1,288	1,288	1,288	743	743	743	738	743	743	743	743
Saint Landry	2,394	2,394	2,394	2,394	2,392	2,392	2,392	2,392	3,626	3,629	3,624	3,627	3,627	3,627	3,627	3,626
Saint Martin	1,099	1,097	1,099	1,099	1,098	1,099	1,099	1,099	1,023	1,021	1,023	992	1,020	1,023	1,023	1,023
Saint Mary	2,405	2,405	2,405	2,405	2,405	2,405	2,405	2,405	1,459	1,460	1,460	1,460	1,455	1,460	1,460	1,460
Saint Tammany	551	552	552	552	552	552	552	552	649	648	648	647	648	648	648	648
Tangipahoa	565	565	565	565	565	565	565	565	855	855	855	855	855	855	855	855
Tensas	3,207	3,207	3,207	3,207	3,207	3,207	3,207	3,207	464	464	464	464	464	464	464	464
Terre Bonne	1,969	1,970	1,970	1,970	1,970	1,971	1,971	1,972	1,387	1,389	1,388	1,388	1,389	1,388	1,372	1,388
Union	94	94	94	94	94	94	94	94	1,465	1,492	1,493	1,493	2,493	1,493	1,492	1,493
Vernon	178	178	178	180	180	180	180	180	469	469	469	469	469	469	469	469
Vermillion	277	272	272	272	272	272	272	272	902	909	909	909	909	909	909	909
Washington	165	164	165	165	165	165	165	165	514	514	514	514	514	514	514	514
Webster	670	670	670	670	670	670	670	670	452	451	452	451	451	451	451	451
Winn	76	82	82	82	82	82	82	82	549	550	550	551	549	549	514	549
	75,135	75,127	74,014	74,027	74,418	74,003	74,017	74,736	70,508	70,509	70,553	70,335	70,536	70,525	70,423	70,566

The change made by the supervisors of registration in the vote as actually cast was the result of polls rejected by them in their several parishes. The following table gives the polls by them thrown out:

Parishes.	No. of polls.	W. P. Kellogg.	J. H. Burch.	Peter Joseph.	L. A. Sheldon.	Morris Marks.	A. B. Levissee.	O. H. Brewster.	Oscar Joffrion.	John McEnery.	R. C. Wickliffe.	L. St. Martin.	F. P. Poché.	A. De Blanc.	W. A. Seay.	R. G. Cobb.	K. A. Cross.
Baton Rouge East	1	22	22	22	22	22	22	22	22	6	6	6	6	6	6	6	6
Do.	5	6	6	6	6	6	6	6	6	172	172	172	172	172	172	172	172
Do.	6	7	7	6	6	6	6	6	6	373	373	373	373	373	373	374	374
Do.	7	92	92	91	91	91	91	91	91	179	179	179	179	179	179	179	179
Do.	8	12	12	12	12	12	12	12	12	64	64	64	64	64	64	64	64
Do.	9	8	8	8	8	8	8	8	8	177	177	177	177	177	177	177	177
Do.	13	3	3	3	3	3	3	3	3	165	165	165	165	165	165	165	165
La Fayette	1	----	----	----	----	----	----	----	----	282	280	282	282	282	282	282	282
Do.	3	3	3	3	3	3	3	3	3	153	152	153	153	153	153	153	153
La Fourche	2	102	102	102	102	102	102	102	102	140	140	140	140	140	140	138	140
Do.	10	44	44	44	44	44	44	44	44	173	173	173	173	173	173	173	173
Orleans, Ward 2	6	83	83	83	83	83	83	83	83	248	250	248	248	249	253	248	250
Orleans, Ward 7	3	159	159	160	159	160	160	160	160	332	332	331	332	331	331	331	331
Orleans, Ward 11	2	94	94	95	94	95	94	94	94	409	413	410	413	412	412	412	412
Tangipahoa	10	16	16	16	16	16	16	16	16	43	43	43	43	43	43	43	43
Totals	....	651	651	650	649	651	650	650	650	2,916	2,919	2,916	2,920	2,919	2,923	2,917	2,921

The returning board threw out the following additional polls:

Parishes.	W. P. Kellogg.	J. H. Burch.	Peter Joseph.	L. A. Sheldon.	Morris Marks.	A. B. Levissee.	O. H. Brewster.	Oscar Joffrion.	John McEnery.	R. C. Wickliffe.	L. St. Martin.	F. P. Poché.	A. De Blanc.	W. A. Seay.	R. G. Cobb.	K. A. Cross.
East Baton Rouge, 12, 14	10	10	10	10	10	10	10	10	306	306	306	306	306	306	306	306
Franklin, 2	28	28	28	28	28	28	28	28	74	74	74	74	74	74	74	74
De Soto, 1, 3, 5, 7, 8	181	181	181	181	181	181	181	181	692	692	692	692	692	692	692	692
Caldwell, 1	74	74	74	74	74	74	74	74	141	141	141	137	141	141	141	141
Bossier, 1, 3	78	78	78	78	78	78	78	78	280	280	280	280	280	280	280	280
Morehouse, 1, 2, 3, 5, 6, 7, 8	355	357	357	356	357	357	356	356	985	986	985	985	985	985	985	985
Ouachita, 1, 3, 8, 9, 10, 11, 12	48	48	48	48	48	48	48	48	1,517	1,520	1,518	1,519	1,519	1,519	1,519	1,519

Additional polls thrown out by the returning board—Continued.

	W. P. Kellogg.	J. H. Burch.	Peter Joseph.	L. A. Sheldon.	Morris Marks.	A. B. Levissee.	O. H. Brewster.	Oscar Joffrion.	John McEnery.	R. C. Wickliffe.	L. St. Martin.	F. P. Poché.	A. De Blanc.	W. A. Seay.	R. G. Cobb.	K. A. Cross.
Richland, 1, 3, 4. 5	157	156	157	157	157	157	157	157	770	776	776	776	776	776	776	776
Natchitoches, 5, 6	7	7	7	7	7	7	7	7	343	343	343	343	343	343	343	343
West Feliciana, 2, 3, 4, 5, 9, 10	154	154	154	154	154	154	154	154	1,010	1,010	1,010	1,010	1,010	1,010	1,010	1,010
Webster, 1, 5	194	194	194	194	194	194	194	194	436	436	436	436	436	436	436	436
Vernon, 1, 7, 10									179	179	179	179	179	179	179	179
Catahoula, C, 5, 15	20	20	20	20	20	20	20	20	97	97	97	97	97	97	97	97
Saint Charles, C, 7	9	9	9	9	9	9	9	9	33	33	33	33	33	33	33	33
Saint Landry, 9	38	38	38	38	38	38	38	38	120	120	120	120	120	120	120	120
Tangipahoa, 3									76	76	76	76	76	76	76	76
La Fayette, 2	4	4	4	4	4	4	4	4	83	83	83	83	83	83	83	83
Claiborne, 3									184	184	184	184	184	184	184	184
Iberia, 4	11	11	11	11	11	11	11	11	322	322	322	322	322	322	322	322
Livingston, 2, 3, 4, 8									378	378	378	377	377	378	378	378
East Feliciana, 1, 2, 3, 4, 5, 6, 7, 8									1,736	1,737	1,737	1,737	1,737	1,737	1,737	1,734
Grant, 1, 2, 3, 4, 5, 6, 7	395	394	394	394	394	394	393	394	518	520	520	515	519	519	495	520
Totals	1,763	1,763	1,764	1,763	1,764	1,764	1,762	1,763	10,280	10,293	10,291	10,280	10,289	10,291	10,261	10,288

It will be seen that the board threw out polls in nineteen parishes which the supervisors had not disturbed. The supervisors rejected fifteen polls, and the returning board sixty-nine—total eighty-four. In this way the returning board has fabricated a majority of 3,437 for Mr. Hayes. The total democratic vote thus discarded is within a few votes of 13,205, while the loss to the republican vote is but 2,414—a difference of 10,791.

That there was a settled purpose on the part of the republican office-holders, Federal and State, in Louisiana to continue in office without regard to the will of the people, white or colored, is so clear that it will not be doubted by any one who can take the time to examine the testimony. This fixed and fraudulent purpose manifested itself in the taking of the census in 1875 and culminated in the registration of 1876.

As an example of how the true census of 1875 was falsified, we make the following extract from the testimony of Robert Poindexter:

By Mr. JENKS:

Question. What is your first name?
Answer. Robert Poindexter.
Q. Where do you live?
A. I live in the city of New Orleans.
Q. How long have you lived in the city of New Orleans?
A. I have been here about fifteen months.
Q. Where did you live prior to that?
A. In the parish of Assumption.
Q. In the State of Louisiana?
A. Yes, sir.
Q. How long have you lived in the State of Louisiana?
A. About thirty years.
Q. By whom was the census taken of Assumption Parish in 1875?
A. It was taken by Poindexter.
Q. By you?
A. Yes, sir.
Q. When you made return of that census, what was done in reference to the number of colored voters in that parish, as to the number you returned as true and the number put down by the officers of the city of New Orleans? State the facts in your own way.
A. I brought my final report to the State registrar's office and made my report, and after I had made my report he told me to come back the next day and straighten up all the business. I went back the next day to straighten up, and he told me his report was a little nicer written than mine was, and asked me to sign that one. I kept a copy of the report I made to him. I did not look over the figures at all until I had signed them. I then looked over the figures and I found he had reduced the number of the population nearly one hundred, but had increased the voting population nearly two hundred and fifty, and he told me that instead of being two hundred and eighty, or something like that, that it was six hundred and some odd majority of colored votes in the parish.
Q. The number of colored votes in the parish was then actually increased in that parish?
A. Yes, sir; increased the amount to over three hundred.

The fraudulent census of 1875 thus procured was intended to be used with a view to political results in 1876. Of this there can be no doubt, for the election of 1876 was the first thereafter. That such was the intention is further shown by the letters addressed by D. J. M. A. Jewett, secretary of republican State central committee, to the supervisor of registration, of which the following is a copy:

HEADQUARTERS REPUBLICAN PARTY OF LOUISIANA,
ROOMS JOINT COMMITTEE ON CANVASSING AND REGISTRATION,
Mechanics' Institute, September 25, 1876.

DEAR SIR: It is well known to this committee from examination of the census of 1875 that the republican vote in your parish is 2,200, and the republican majority is 900.

You are expected to register and vote the full strength of the republican party in your parish.

Your recognition by the next State administration will depend upon your doing your full duty in the premises, and you will not be held to have done your full duty unless the republican registration in your parish reaches 2,200, and the republican vote is at least 2,100.

All local candidates and committees are directed to aid you to the utmost in obtaining the result, and every facility is and will be afforded you, but you must obtain the results called for herein without fail. Once obtained, your recognition will be ample and generous.

Very respectfully, your obedient servant,

D. J. M. A. JEWETT,
Secretary.

SUPERVISOR OF REGISTRATION
Parish of Assumption, La.

This is the same parish of which Poindexter has testified. Its colored registration in 1874 was 1,821 and the white 1,665. The republican majority at the general election held in November of that year was only 41 upon a total vote of 3,037. Poindexter swears that the colored majority under the true census of 1875 was about 250, and that the State registrar changed these figures so as to increase the majority to over six hundred. Not content with this, it was in the last canvass regarded necessary, at the headquarters of the republican party of Louisiana, to bring the majority up to 900.

Henry Boudreaux, the supervisor of registration for this parish, testified as follows about the letter which I have just read:

By Mr. JENKS:

Question. Where do you live?
Answer. In Assumption Parish, Louisiana.
Q. Were you supervisor of registration of Assumption Parish during this last fall's election?
A. Yes, sir.
Q. Please look at that paper and state whether you ever saw it before; and, if so, from whence did you get it?
A. I saw one similar to this, and I expect this is it; it looks like it.
Q. Did you ever see Mr. Jewett write?
A. No, sir; I never did.
Q. To whom did you give this paper, or the one that looks like it?
A. When I received this letter I consulted several of the prominent citizens in that parish. I went to both democrats and republicans. I first went to Mr. Tete, parish judge, and told him that I had received this letter, and I hardly knew how to act upon it; that I had a notion to resign my position; that I did not intend to return the parish 900 if it was not entitled so to be; if the returns did not show the republicans' 900 majority, I was not going to return them; that I didn't want to act according to these instructions. He asked me to take a copy of this letter, and I told him I had no objection to that. He took a copy of that letter and me the original. After having taken a copy of the letter I showed it to several other parties, among whom was Judge Beattie. I showed him that letter, and told him I hardly knew what to do; that I didn't intend to do anything of that kind, and the judge told me not to do it.

It should not be lost sight of that the period of registration is from the 28th of August to the 28th of October inclusive. These letters were sent out while the supervisors were in the midst of their work of registration, and they were plainly informed that their recognition by the next State administration would depend upon their doing their full duty *in the premises*. It was predetermined to carry the State, and the supervisors of registration who did their duty *in the premises* were not to be forgotten.

The registration of 1876, by such appliances as I have described, will be found upon a careful examination of the testimony to be in excess of the real figures and fraudulent to the extent of 20,000 at the very lowest calculation. At least 10,000 of this was in the city of New Orleans. These false figures were a necessary part of the unlawful programme. It was intended to make just the use of them after the election that we find on page 7 of the Sherman report, where it is claimed that by the registration there is a colored majority of 22,314 in the State of Louisiana.

The registration was under the exclusive control of the republicans. The democratic State central committee asked to be allowed one clerk, which was refused. Michael Hahn, the State registrar, was a republican, and a candidate for the Legislature. Prior to the beginning of the period of registration it was known by the republican State central committee in what parishes the democrats were making the largest gains among the colored voters. Men were selected and sent into those parishes who could be relied upon to do *their full duty in the premises*. For example, M. J. Grady, collector of internal revenue, was made supervisor of registration for Ouachita. Mr. Grady could not afford to lose the lucrative office of collector of internal

revenue. F. A. Clover, an ex-roper-in for a snake-show, was appointed supervisor of registration for the parish of East Baton Rouge. He was a total stranger to the people, and was there only while acting as supervisor. He has since received "recognition" by the Packard State government by appointment to a clerkship in the Packard legislature. Other specimens could be given.

The returning board attempts to justify its disfranchisement of over ten thousand democratic voters by saying that at the polls rejected, fear, intimidation, &c., existed to such extent that many republicans refrained from voting altogether, and that a large number of those who voted the democratic ticket did so against their will because of unlawful influences.

Before proceeding further I will speak of a matter which would seem to require notice.

I regret that it should be necessary for me to refer to the unfounded charge that the minority of the committee was not fairly treated in the matter of the examination of witnesses. There is not the slightest ground for such complaint. After the committee was divided into subcommittees and the latter were assigned to the investigation of certain parishes, and had entered upon their work outside of New Orleans, it was sought to have persons who were said to be absent from their own parishes, and in New Orleans, examined before the committee in that city. The motion was placed upon the alleged ground that those persons were afraid to testify in their own parishes.

It was very properly refused. To have granted it would have been an admission by the committee, as true, that which was not. It would have been equivalent to a declaration by the committee that the charges of intimidation were true. This was one of the questions which the committee was investigating. The Senate committee at that time, and for weeks thereafter, was in session at New Orleans, and could hear all such persons, if any there were. Republicans, white and colored, testified with entire freedom before the subcommittee of which I was a member, in the parishes where they resided. All witnesses subpœnaed upon motion of the republican member thereof [Mr. JOYCE] testified, and after our return to New Orleans that gentleman was authorized by the majority to call for examination in New Orleans any of those persons for whom he had elsewhere caused process to be issued and who had been returned as not found. He availed himself of the offer and had witnesses subpœnaed at New Orleans, who were thoroughly examined and cross-examined.

The republican witnesses who appeared before the subcommittee of which I was a member did not manifest the slightest unwillingness to state fully all their complaints, when they had any, against the democrats.

No fear or intimidation was to be seen in their manner, and more than one of the most intelligent of them swore that in their opinion no republican would be maltreated for giving testimony. Apart from the fact that republicans did testify is the further consideration, conclusive upon this point that if there was a disposition on the part of any one to do harm to such witnesses, it would not be done, at such a time, when the act would be evidence tending to sustain the charges as to intimidation, &c.

Mr. Speaker, it will be impracticable, in the time that I may now reasonably occupy, to review the testimony as to all of the so-called bull-dozed parishes. The subcommittee of which I was the chairman was assigned for investigation the parishes of West Baton Rouge, East Baton Rouge, West Feliciana, and East Feliciana—the last three being classed by our republican friends as among the worst of the bull-dozed parishes. So far as I may particularize, I will for the most part confine myself to these parishes, for if the republican party has not been able to make good its charge of intimidation, &c., as to these, no one will have the hardihood to say that their case has been made out in the State at large.

I will consume no time upon the parish of West Baton Rouge, inasmuch as the returning board made no alteration in the vote there cast. This parish having given a republican majority, the returning board were easily convinced that the election was fair. The other three parishes gave democratic majorities as follows: East Baton Rouge, 612; West Feliciana, 471; East Feliciana, 1,736; making a total of 2,819. By the action of the returning board this majority of 2,819 is destroyed and the aggregate republican majority in the same parishes declared to be 1,057. That this result was obtained by the most wanton and flagrant disregard of law and violation of solemn official duty I now propose to demonstrate.

Each parish is, by law, divided into what are called justice of the peace wards, answering to our civil townships in most of the western States.

EAST BATON ROUGE.

The parish of East Baton Rouge has twelve wards. Wards 1 and 2 embrace the city of Baton Rouge, and each one of these wards had two polling-places, which are known on the consolidated return of the supervisor of registration as polls 1 and 2. In ward 2, that a repetition of the same numbers may be avoided, the polls are numbered 3 and 4. There was one polling-place in each of the other ten wards, and because of there being four polling-places in wards 1 and 2, the poll in ward 3 is poll No. 5, in ward 4 No. 6, in ward 5 No. 7, in ward 6 No. 8, in ward 7 No. 9, &c.

The Louisiana election law contains the following provisions.

I will first read from section 2:

Within ten days after the closing of the election said returning officers shall meet in New Orleans to canvass and compile the statements of votes made by the commissioners of election and make returns of the election to the secretary of state. They shall continue in session until such returns have been compiled. The presiding officer shall, at such meeting, open in the presence of said returning officers the statements of the commissioners of election, and the returning officers shall, from such statements, canvass and compile the returns of the election in duplicate; one copy they shall file in the office of the secretary of state, &c.

SEC. 3. *Be it further enacted, &c.*, That in such canvass and compilation the returning officers shall observe the following order: They shall compile first the statements from all polls or voting-places at which there shall have been a fair, free, and peaceable registration and election. Whenever, from any poll or voting-place, there shall be received the statement of any supervisor of registration or commissioner of election, in form as required by section 26 of this act, on affidavit of three or more citizens, of any riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences which prevented or tended to prevent a fair, free, and peaceable vote of all qualified electors entitled to vote at such poll or voting-place, such returning officers shall not canvass, count, or compile the statements of votes from such poll or voting-place until the statements from all other polls or voting-places shall have been canvassed and compiled. The returning officers shall then proceed to investigate the statements of riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences at any such poll or voting-place; and if from the evidence of such statement they shall be convinced that such riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences did not materially interfere with the purity and freedom of the election at such poll or voting-place, or did not prevent a sufficient number of qualified voters thereat from registering or voting to materially change the results of the election, then, and not otherwise, said returning officers shall canvass and compile the vote of such poll or voting-place with those previously canvassed and compiled; but if said returning officers shall not be fully satisfied thereof, it shall be their duty to examine further testimony in regard thereto, and to this end they shall have power to send for persons and papers. If, after such examination, the said returning officers shall be convinced that said riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences did materially interfere with the purity and freedom of the election at such poll or voting-place, or did prevent a sufficient number of the qualified electors thereat from registering and voting to materially change the result of the election, then the said returning officers shall not canvass or compile the statement of the votes of such poll or voting-place, but shall exclude it from their returns; *Provided*, That any person interested in said election by reason of being a candidate for office shall be allowed a hearing before said returning officers upon making application within the time allowed for the forwarding of the returns of said election.

SEC. 26. *Be it further enacted, &c.*, That in any parish, precinct, ward, city, or town in which, during the time of registration or revision of registration, or on any day of election, there shall be any riot, tumult, acts of violence, intimidation, and disturbance, bribery, or corrupt influences at any place within said parish, or at or near any poll or voting-place or place of registration, or revision of registration, which riot, tumult, acts of violence, intimidation and disturbance, bribery, or corrupt influences shall prevent or tend to prevent a fair, free, peaceable, and full vote of all the qualified electors of said parish, precinct, ward, city, or town, it shall be the duty of the commissioners of election, if such riot, tumult, acts of violence intimidation, and disturbance, bribery, or corrupt influences occur on the day of election, or of the supervision of registration of the parish, if they occur during the time of registration or revision of registration, to make in duplicate and under oath a clear and full statement of all the facts relating thereto, and of the effect produced by such riot, tumult, acts of violence, intimidation, and disturbance, bribery, or corrupt influences in preventing a fair, free, peaceable, and full registration or election, and of the number of qualified electors deterred by such riots, tumult, acts of violence, intimidation, and disturbance, bribery, or corrupt influences from registering or voting, which statement shall also be corroborated under oath by three respectable citizens, qualified electors of the parish. When such statement is made by a commissioner of election or a supervisor of registration, he shall forward it in duplicate to the supervisor of registration of the parish; if in the city of New Orleans, to the secretary of state, one copy of which, if made to the supervisor of registration, shall be forwarded by him to the returning officers provided for in section 2 of this act, when he makes the returns of election in his parish. His copy of said statement shall be so annexed to his returns of elections, by paste, wax, or some adhesive substance, that the same can be kept together, and the other copy the supervisor of registration shall deliver to the clerk of the court of his parish for the use of the district attorney.

SEC. 43. *Be it further enacted, &c.*, That immediately upon the close of the polls on the day of election, the commissioners of the election at each poll or voting-place shall proceed to count the votes, as provided in section 13 of this act; and after they shall have so counted the votes and made a list of the names of all the persons voted for, and the offices for which they were voted for, and the number of votes received by each, the number of ballots contained in the box, and the number rejected, and the reasons therefor, duplicates of such lists shall be made out, signed, and sworn to by the commissioners of election of each poll, and such duplicate lists shall be delivered, one to the supervisor of registration of the parish and one to the clerk of the district court of the parish, and in the parish of Orleans to the secretary of state, by one or all of said commissioners in person within twenty-four hours after the closing of the polls.

It shall be the duty of the supervisors of registration, within twenty-four hours after the receipt of all the returns for the different polling-places, to consolidate such returns, to be certified as correct by the clerk of the district court, and forward the consolidated returns, with the originals received by him, to the returning officers provided for in section 2 of this act, the said report and returns to be inclosed in an envelope of strong paper or cloth, securely sealed, and forwarded by mail. He shall forward a copy of any statement as to violence or disturbance, bribery or corruption, or other offenses specified in section 26 of this act, if any there be, together with all memoranda and tally-lists used in making the count and statement of the votes.

Under the election law of Louisiana persons are permitted to vote at any polling-place in the parish.

F. A. Clover, the supervisor of registration for this parish, disregarded and discarded the votes cast at polls 1, 5, 6, 7, 8, 9, and 13, the six last named representing, as will be remembered, 3, 4, 5, 6, 7, and 11, poll 1 being the court-house poll in the city of Baton Rouge. The polls omitted by the supervisor cast 150 votes for Hayes and 1,136 for Tilden. Upon the vote as cast at all the polls, the majority for Tilden is 612. Without counting the polls ignored by the supervisor, the majority for Hayes is 374, and by omitting also polls 12 and 14, thrown out by the returning board, the majority for Hayes will be 636.

Whether the result thus obtained and declared is fair and to be respected must depend upon what the powers of the returning board and supervisor of registration are, and whether upon the law and facts those powers were exercised lawfully and without fraud.

The following table gives the votes actually cast at the fourteen different polls for electors:

Votes actually cast at the fourteen different polls.

Electors.	Polls.														
	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	Total.
Republican.															
Kellogg	22	294	195	509	6	7	92	12	8	305	163	4	3	6	1,626
Burch	22	294	196	509	6	7	92	12	8	305	163	4	3	6	1,627
Joseph	22	294	195	509	6	6	92	12	8	305	163	4	3	6	1,624
Sheldon	22	293	195	509	6	6	91	12	8	305	163	4	3	6	1,624
Marks	22	293	195	509	6	6	91	12	8	305	163	4	3	6	1,623
Levissee	22	293	195	509	6	6	91	12	8	305	163	4	3	6	1,623
Brewster	22	293	195	509	6	6	91	12	8	305	163	4	3	6	1,623
Joffrion	22	293	195	509	6	6	91	12	8	305	163	4	3	6	1,623
Democratic.															
McEnery	6	189	215	276	172	373	179	64	177	34	82	162	165	144	2,238
Wickliffe	6	189	215	276	172	373	179	64	177	34	82	162	165	144	2,238
St. Martin	6	189	215	276	172	373	179	64	177	34	82	162	165	144	2,238
Pochè	6	189	215	276	172	373	179	64	177	34	82	162	165	144	2,238
De Blanc	6	189	215	276	172	373	179	64	177	34	82	162	165	144	2,238
Seay	6	189	215	276	172	373	179	64	177	34	82	162	165	144	2,238
Cobb	6	189	215	276	172	373	179	64	177	34	82	162	165	144	2,239
Cross	6	189	215	276	172	374	179	64	177	34	82	162	165	144	2,239

It will be seen by the quotation from section 2, also from the provisions of sections 3 and 43, that the returning officers are required to canvass the vote from the *statements of the commissioners* of election. These statements are the "lists" and papers which by section 43 the commissioners of election are required to make immediately upon the close of the polls.

The supervisor of registration has no power to consider or pass upon the regularity or sufficiency of the papers used or made out by the commissioners of election. He is a ministerial officer and can exercise no powers except such as are conferred by statute.

It is his duty within twenty-four hours after he receives from the commissioners all the returns of the different polls to prepare his consolidated return, and with it forward to the returning officers all "the originals received by him" from the commissioners.

What statement or papers other than the originals already named is the supervisor authorized or required by law to forward with his consolidated return to the returning board?

If "*during the time of registration or revision of registration*" there shall be any riot, tumult, acts of violence, intimidation or disturbance, bribery, or corrupt influences at any place in the parish, at or near the places of registration or revision of registration, preventing or tending to prevent a fair, free, peaceable, and full registration or election, it is by section 26 made the duty of the supervisor of registration to make in duplicate and under oath a clear and full statement of all the facts relating thereto, corroborated under oath by three respectable citizens, qualified electors of the parish.

One of these duplicates he must forward to the returning officers (returning board) with his consolidated return. The other duplicate he must file with the clerk of the district court of that parish for the use of the district attorney.

If "*on the day of the election*" there shall be any riot, tumult, acts of violence, intimidation, or disturbance, bribery, or corrupt influences *at or near* any poll or voting-place, preventing or tending to prevent a fair, free, peaceable, and full vote, it is made the duty of the commissioners of election (or one of them) at such poll, by section 26, to make in duplicate, and under oath, a clear and full statement of all the facts relating thereto, corroborated under oath by three respectable citizens, qualified electors of the parish. One of these duplicates they must give to the supervisor of registration and by him sent with his consolidated return to the returning board. The other duplicate must be delivered to the clerk of the district court for the use of the district attorney.

The supervisor of registration has no statement or report to make to the returning board upon the subject of riots, tumults, intimidation, &c., unless these occurred during registration or revision of registration, and prevented or tended to prevent a fair, free, peaceable, and full vote. The law fixes the period for registration and revision of registration from the 28th day of August to the 28th day of October, inclusive. Nor is he empowered to make any report of his own as to intimidation, &c., occurring on the day of the election. If commissioners of election shall have filed such statement with him, he must forward the same to the returning officers with his consolidated return.

That this is the plain and obvious meaning and only construction to be given to section 26 and the concluding sentence of section 43, cannot be doubted. The statement which the supervisor of registration is expected to make as to intimidation, &c., is limited to the period of which he would have the most definite knowledge. The same is true as to the commissioners of election.

Thus the returning officers would have before them, with the consolidated return and statements of votes cast as made out by the commissioners of election, the complaints so to speak, of supervisors of registration and commissioners of election as to matters about which they respectively would be best informed, in each case sworn to and corroborated under oath by three respectable citizens qualified electors of the parish.

The returning officers have no powers except such as are conferred by statute, and can make no inquiry or finding except to canvass and compile returns from the statements of votes cast as made out by the commissioners of election. They entertain no question and take no action as to intimidation, &c., unless a foundation has been laid therefor, as already stated.

In the report made to the House of Representatives at the second session of the Forty-third Congress by Messrs. HOAR, WHEELER, and FRYE, all republicans, after quoting sections 3 and 26 it is said:

> Upon this statute we are clearly of the opinion that the returning board had no right to do anything except to canvass and compile the returns which were lawfully made to them by the local officers, except in cases where they were accompanied by the certificates of the supervisor or commissioners as provided in the third section.

And by way of commentary upon the action of the board they say:

> There is no more dangerous form of self-delusion than that which induces men in high places of public trust to violate law to redress or prevent what they deem public wrongs.

On the consolidated statement of votes made out and filed by the supervisor, are certain remarks not upon the subject of intimidation, riots, &c., but giving his reasons for not returning in his consolidated returns the votes cast at polls 1, 5, 6, 7, 8, 9, and 13. He says the statements of votes, written records, tally-sheets, &c., brought to him from those polls are illegal, informal, &c. His views upon the subject of whether these polls should be counted were unnecessary, inasmuch as the law did not attach enough importance to his opinions to call for their expression. He has no power to decide whether the statements of votes cast and filed with him by the commissioners of election are irregular, informal, or defective in substance. It is not for him to say that an omission on the part of the commissioners to do some act in the precise manner pointed out by the law renders the election void. It is not expected or assumed by the law that he will give construction to the law and be able to decide whether a given requirement is merely directory or absolutely essential to the validity of the election. He was only a ministerial officer, and yet that he regarded his action final as to the polls he discarded is to be inferred from the fact that he did not furnish the returning board with the statements of votes, tally-sheets, &c., relating to those polls, although he admits they were brought to him and were in his possession.

The returning board should have had these papers before them and they should have decided whether the votes cast at those polls should be thrown out without regard to how much or how little the supervisor may have known on the subject. No one can for a moment doubt this who will carefully read sections 2, 3, and 43. The papers used and made out by the commissioners of the election as to votes cast, &c., at the polls rejected by the supervisor were not returned to the board. These papers should have been examined by the board without regard to the supervisor's opinion or action.

While this point was being considered by the board an effort was made repeatedly by authorized representatives of the democratic party to have those papers produced and examined. The board flatly refused to do this, declaring that they would not go behind the report made to them by the supervisor, that they intended to be governed entirely by his return as to those polls, and that all reports from the commissioners of election must come to them through the supervisor.

I quote the language of President Wells, as follows:

> I differ with the gentleman. The commissioners of election send their report to the supervisor. He is the medium between the commissioners and the board of canvasser, (returning board,) and all statements coming from the supervisor of registration, as I have said before, is *prima facie* evidence of the result of the election.

Hence we cannot go behind that report. We cannot ignore what he stated to us. We must take that as the evidence and guide for our decision.

Here they declare that they cannot exercise any other or greater power than ministerial election officers, although they then claimed and still claim to possess judicial powers.

Again, when this subject was renewed as to the same polls, the board ruled as follows:

The board has decided to be governed entirely by the returns of the supervisor of registration, and that all reports from the commissioners of election must come to this board from the supervisor.

It would follow, therefore, that no matter how regular were the returns made by the commissioners to the supervisor, if he withheld the returns from the board the latter would not go behind this wanton neglect of duty. If the state of the vote or count was obscure because of any irregularity in the statement of votes cast, tally-sheets, &c., they should have examined the ballots themselves.

The ballots are higher evidence of the number of votes cast and the persons voted for than the certified or even sworn lists and statements made out by the election officers. (See State *vs.* The Judge, &c., 13 Ala., 805; 28 Cal., 123; 1 Mich., 362; 16 Ohio, 184.)

One receiving a majority of the qualified voters is entitled to the office, no matter what is certified to. (17 Ark., 407.)

It is not pretended that the ballots had not been preserved in the manner required by the law, and therefore the legal presumption of their identity and correctness had not been impaired.

Finally, after the strongest pressure the board permitted two out of seven of the ballot-boxes representing the seven polls rejected by the supervisor to be opened and contents inspected; General Anderson, one of the board, participating in the examination. The boxes opened were those belonging to polls 6 and 8. They are called in the Sherman report boxes 4 and 6, because they were the boxes used in those wards. Before speaking of the contents of these two boxes, I wish to say that under the old law it was the practice to make the returns to the sheriff, who would lock them up for safe-keeping in the box and afterward take them out for compilation. From force of habit, imperfect knowledge of the present law or design, the papers required to be used and made out by the commissioners at the close of the election were by them put into the boxes and locked up.

Box 8, that is, the box used in ward 6, when opened was found by General Anderson to contain the tally-sheets, statement of votes, and poll-list. The vote was found to be 12 for Hayes and 64 for Tilden. It is not pretended that there was found the slightest irregularity in the papers relating to this poll. And yet it was not counted by the board.

Box 6, that is, the box used in ward 4, was opened by General Anderson, and the only imperfection found was that the statement of votes cast was not signed by the commissioners. The tally-sheets were signed, and it appeared therefrom that Tilden received 373 votes and Hayes 7. The statement of votes was the least important paper, for without it the accuracy of the tally-sheets could be tested by the ballots themselves. These are two of the polls rejected by the supervisor, and the board also refused to count them.

Whether their conduct would have been the same if the votes at these polls had been reversed can only be determined in the light of their conduct throughout.

It will be seen that it was of the utmost importance to examine the papers and ballots of all the seven polls ignored by the supervisor in order that it might be known by the board what appeared therefrom.

The law is well settled that very little attention should ordinarily be paid to mere irregularities in the proceedings of election officers, which do not affect the merits of the case. (2 Parsons, 503; Brightly's Election Cases, 268.)

Those provisions which affect the time and place of the election and the legal qualifications of the electors are generally of the substance of the election, while those touching the recording and return of the legal votes received and the mode and manner of conducting the mere details of the election are directory. (19 Barb., 540.)

The very able and distinguished lawyer and member from Iowa, Mr. McCRARY in his valuable and now standard work on the American Law of Elections says:

The officers of election may be liable to punishment for a violation of the directory provisions of a statute, yet the people are not to suffer on account of the default of their agents.

Upon this point see 20 Ill., 72; 2 Green, (N. J.,) 68; 1 Oregon, 123; 20 Minn., 107; 11 Mich., 362; 26 Texas, 5; 1 Kansas, 279; 2 Cal., 135; 34 Cal., 635; Brightly's Election Cases, 448, 449, 450.

The failure of officers of election to be sworn will not affect the election if it did not affect the result. (10 Mich., 107; 12 Cal., 352; 26 Cal., 161.)

In this connection it may be well to refer to the well-settled doctrine that the acts of officers of election, within the scope of their authority, are presumed to be correct.

The supervisor's consolidated return purports to have been made out and sworn to at Baton Rouge before the clerk of the district court on the 11th of November. He swears that he went to New Orleans with his return on the 11th or 12th of November and that he did not file the same with the clerk of the returning board until ten or twelve days thereafter. After arriving at New Orleans on the 18th of November he swore to what is termed in the Sherman report his protest. The law requires that his protest or statement upon the subject of intimidation, &c., shall be "annexed to his consolidated return by paste, wax, or some adhesive substance," and that his return shall be forwarded by mail within twenty-four hours after he has received returns from the several polls. The law further provides that his return (consolidated) and the statements of votes cast, &c., prepared and used by the commissioners of election are by him "to be inclosed in an envelope of strong paper or cloth securely sealed." He did not forward his return by mail but took it to New Orleans in person and did not file it for ten or twelve days thereafter.

Mr. Speaker, it may be that the law is only directory as to the time within which and manner in which these papers shall be transmitted, but as bearing upon the question of willful misconduct and fraud on the part of the supervisor and returning board, their failure to conform to the plainest provisions of the law should not be lost sight of. Nothing can be more clear than that to give the returning board jurisdiction of subject-matter which may be lawfully put in the supervisor's protest, that protest must be inclosed with the consolidated return when the supervisor parts with the latter, for after he has filed his return with the board, he, as a ministerial officer, has no further control over it.

The fact that the consolidated return and protest were made out and sworn to at different times—seven days apart—and sworn to at places over one hundred miles apart, together with the fact that the supervisor swears he cannot remember whether the protest was with the return when he filed the latter with the clerk of the returning board, is certainly sufficient to rebut any presumption that he complied with the law in this regard.

The supervisor in his protest gives the names of three persons said to be maltreated—the first, William Payne, colored, killed shortly "before or during" registration. He does not say that it was because Payne was a republican or that politics had anything to do with it. The second person named is Isadore Heron, colored, who he says was dragged with a rope by the neck until he was nearly dead; says Heron was a republican, but does not aver that the act was committed because he was a republican. Heron filed an affidavit before the returning board and did not charge that his politics was in any manner involved. He says it occurred in February, 1876, which was long before registration began and at a time when there was no political excitement in the parish.

Mr. Speaker, the fact is at that time lynching of persons guilty of stealing hogs, cattle, and cotton in the seed was of very frequent occurrence—often very summary and very severe.

The third and last person named is one Alexander Gilbert, said by the supervisor to be a prominent colored republican. Those seeking to do Gilbert some bodily harm, not finding him at home, are said to have put a rope around Mrs. Gilbert's neck with the threat that if she did not disclose where her husband was she should be hung. This is the statement of the supervisor. He does not enlighten us as to the cause of this unlawful conduct, nor how it affected, if at all, the matter of Mr. Gilbert's registration.

Mr. Speaker, it is of some significance that the wrong doers were in this instance, as in the one last named, armed with a rope, the article in most frequent use even in the Northern and Western States where vigilance committees undertake to administer the law.

All else in the protest is general without reference to particular persons or places. He does not name a single instance of failure to register. Nor does he say even in general terms that any act of which he complains prevented or tended to prevent a free and full registration. The fact is the list of colored registered voters was 673 larger than ever before. And among all the affidavits and answers to interrogatories filed before the returning board not one can be found where the affiant or any other person in his behalf swears that he failed to register.

Now, Mr. Speaker, I submit that if there was political intimidation of the colored voters, and that those of this class who voted the democratic ticket did it through fear, it would have been the most natural subterfuge and stratagem on their part to neglect registration so that they would not be entitled to vote.

It will be found upon examination of the affidavits, and answers to interrogatories filed by the republicans before the returning board, that the charges of intimidation are of the most sweeping character, so much so as to compel you to believe, if you give full credit to them, that the colored vote of the entire parish was demoralized and terrorized to the last degree. If this was true why did the board count any of the votes?

No instance of discharge from employment or threat of discharge is named in the supervisor's protest, nor by the commissioners. This will doubtless be looked upon as a little remarkable in sections of the Union farther north where this kind of moral suasion is not unknown in the work of heated political campaigns.

The absence of specific allegations in the supervisor's protest as to the period of registration and revision of registration, and in the complaints made by the commissioners of what occurred on the day of election, is a matter of great surprise, if facts were so abundant, when it is considered that those papers were all drawn at New Orleans as much as ten days after the election.

Whoever will take the trouble to read the proceedings before the returning board will observe that the testimony for the most part is the wildest hearsay.

Mr. Speaker, what is the well-settled rule as to hearsay evidence where intimidation is charged? The rule as laid down in the Forty-second Congress in the contested-election case of Norris *vs.* Handley is as follows:

When it is alleged that a large number of persons have been deterred from voting by violence and intimidation, the testimony of those persons or some of them, should be produced. The opinions and impressions of others is not sufficient.

This was the rule adopted by the Committee of Elections, a majority of whom were republicans, and applied to a contested-election case from a southern State. If it was in that case a sound and salutary rule, should it be in any manner relaxed by the returning board; a body which claims not only to possess and exercise quasi-judicial powers, but which is also understood to maintain that its findings are not subject to examination and review even by the Senate and House of Representatives?

Is it not the very rule that should obtain with the returning board, when it is remembered that their examination and compilation of the vote takes place very soon after the election, before partisan passion has had time to cool, and while each party is charging upon the other every species of misrepresentation and fraud? Was it not the exact rule that should have been strictly and severely applied in order, if possible, to give character and confidence to the finding of the board when made, a tribunal which, from its past official conduct, was distrusted, if not despised, by every honest man of whatever political party, North and South?

Mr. Speaker, what a golden opportunity was thus thrown away? A straightforward and manly discharge of duty would almost, if not quite, have healed over and erased the brand heretofore fixed upon that body by the following words, which I quote from the report made to the Forty-third Congress by the special committee of which Hon. GEORGE F. HOAR was chairman, to wit:

Without now referring to other instances, we are constrained to declare that the action of the returning board, on the whole, was arbitrary, unjust, and, in our opinion, illegal; and that this arbitrary, unjust, and illegal action alone prevented the return by the board of a majority of conservative members of the lower house.

The supervisor in his protest says that during the registration large numbers of colored voters were induced by fraud and false representation to deposit their registration papers for safe-keeping with white democrats; that this was done for the purpose of depriving colored men of their votes and also for the purpose of causing said papers to be illegally used and fraudulently voted upon by parties other than the rightful voters. He does not name a case of the kind, nor was there any proof or attempt at proof of this allegation before the returning board. And in all the testimony since taken before any and all committees I have not heard of any such occurrence. He says, too, that republican meetings were interfered with. There was some evidence before the board to this effect, but when the rebutting evidence taken, presented to the returning board by the democratic managers and by the subcommittee of which I was a member is examined, it will be admitted that the preponderance is overwhelmingly against the statements made before the board. He does not say that these meetings were disturbed during registration or revision of registration, nor does he tell of any one who failed to register on that account. He says that during the registration he was requested by colored men not to establish a poll at Port Hudson, for the reason that they would not be permitted to vote the republican ticket there. He did establish a poll there, however, and George Jackson, John Smith, Frank Jackson, and George Ooustner swear they voted the republican ticket of their own free will at Port Hudson, without molestation, and that to the best of their knowledge everything was conducted peaceably and fair. This testimony was before the board, having been taken by the managers on the democratic side. Everything contained in the protest, however, not pertinent to the period and fact of registration and revision of registration was mere surplusage, could give the board as a ground of action no jurisdiction whatever, and although sworn to sustains no other or different relation to the case than the sworn statement of any other person.

As already shown, the returning board has no power or jurisdiction to reject polls on account of intimidation, riots, &c., occurring on the day of the election, unless the commissioners of election at such poll or polls have, as provided in section 26, made under oath a clear and full statement of all the facts relating thereto, corroborated under oath by three respectable citizens qualified electors of the parish. This statement the law requires to be prepared in duplicate, one copy to be filed by them with the supervisor of registration and by him to be forwarded with his consolidated return to the returning board, and the other to be filed in the office of the clerk of the district court.

Mr. Speaker, in the volume known as Sherman's report will be found statements purporting to be by commissioners of election, as to intimidation and other corrupt influences alleged to have existed on the day of the election. It cannot be ascertained from this volume, nor from the one certified to be a full report of the proceedings before the returning board by T. W. Collins, stenographer, what use, if any, was made of these statements by the board.

There is a complaint or statement as to poll 2 in ward 2, which is poll 4 as known and numbered on the supervisor's consolidated return. Also, as to polls 5, 6, 7, 8, 9, 11, 12, 13, and 14, as numbered on the supervisor's return, as heretofore explained. All of these statements purport to be corroborated by three witnesses, except those relating to poll 6, ward 4, poll 9, ward 7, and poll 11, ward 9. In all respects all of said statements are insufficient in substance and in form, and conferred no jurisdiction on the board to inquire into any of the matters which by law could be lawfully stated therein.

POLL 4.

B. V. Baranco is the republican commissioner who makes complaint, as aforesaid, to poll 4. He swears there was general intimidation at that poll, &c. Notwithstanding Mr. Baranco's formidable statement the board did not throw out. It gave Hayes a majority of 233. Lieutenant Gerlach, Third United States Infantry, stationed at Baton Rouge, testified that this man Baranco called him aside and said, "We fixed them; we got them tally-sheets and papers locked up in the boxes where they've got big democratic majorities, and they can't count them now."

Can it be that the failure to throw out poll 4 was in any degree due to the fact that Hayes had a majority there?

Was poll 10, in ward 8, retained for any such reason? There Hayes had a majority 271. They threw out poll 6, where Hayes received 7 votes and Tilden 373, although the commissioner's statement was not corroborated by three witnesses. The same is true of poll 9, where Hayes got 8 votes and Tilden 177. They retained poll 11. Whether that was because the complaint of the commissioner was not corroborated by three witnesses, or because at that poll Hayes had a majority of 81, the board alone can with certainty know.

Leroy Price, colored, made affidavit before the board that he went to poll 1, in the city of Baton Rouge, early in the morning, and waited until three o'clock p. m. without being able to vote, the democrats having possession of the poll and keeping all republicans from voting. This story is a little too much for average human credulity, for there were only 28 votes cast at that poll, and Hayes got twenty-two out of twenty-eight.

POLL 5.

Joseph Williams, republican, is the commissioner who makes complaint as to poll 5 in ward 3. First, he says that while on his way to the poll that morning he met two men on horseback who said, "Come on; we are waiting for you;" says the two men then turned back and fired off their pistols; says that when he got to the polls those men took the ballot-box away from him; that he remonstrated, and they gave it back to him; that they took charge of the poll, saying they "did not care for the d—d negro officer nor the soldiers that had charge of the poll, and they were going to run it," &c.

V. M. Lange, colored, was the other republican commissioner. Mr. Lange is a man of sound sense and unquestioned character. He was a member of the constitutional convention in 1867-'68, and of the Legislature in 1868; was the most active and influential colored republican in the parish, and made speeches in several of the wards during the last canvass, and was well received and well treated wherever he went by white and black. He contradicts most positively the statement of Williams. Lange swears that the voting at that precinct was peaceable and quiet. He says: "Those that desired to vote the republican ticket, did so. There were two tickets on the table, democratic and republican. Some gentlemen who came in had tickets, and some had not; and whenever they came in without a ticket, the commissioners showed them the two tickets." He says the colored men at that precinct did all the electioneering. Another witness swears that he was with Williams that morning when the two men on horseback met them. He says these two men used no angry or insulting words, but simply inquired of Williams if he was one of the commissioners.

POLL 6.

J. L. Lapierre is the republican commissioner, who complains as to poll 6, in ward 4. His statement was not corroborated by three witnesses, and was, therefore, as well as for other reasons, wholly insufficient.

It will be remembered that the box for this poll is one of the boxes which, after much entreaty, was opened by the board.

He says that some unauthorized person insisted that he should not be permitted to take charge of the papers; that they should be locked up in the box. He says also, "the reason I did not bring the tally-sheet to town was because I could not convince these people that the records should be intrusted to me." It seems that the papers were locked up in the box and taken to the supervisor, well guarded by "thirty-five or forty horsemen." Lapierre leading the advance.

Alonzo Woods, democrat, and Gustave Le Blanc, colored republicans, were the other commissioners. Woods swears there was no intimidation, and that he gave out republican tickets himself. Le Blanc swears that everything was quiet, and that there was no trouble at all; that there was no disorderly conduct, or ugly behavior on the part of anybody.

But, Mr. Speaker, to cap the climax as to this poll, Mr. Lapierre himself appeared and testified that it was a quiet and peaceable election. Says he attended republican meetings in the first, second, sixth, and ninth wards and saw no disturbance. That he was in the parish during the canvass and saw no conduct on the part of democrats calculated to keep men from voting as they desired. He expresses the opinion that a quarrel which took place in the republican convention last September in the city of Baton Rouge, when Gilbert Carter and O'Connor were forced off the ticket, created great dissatisfaction, and contributed largely to the defeat of the republican party in that parish. Mr. Lapierre is the foreman of the Republican printing

office in Baton Rouge, and says he has always been treated well by the democrats, many of whom take his paper.

POLL 7.

H. F. Billups, republican, is the commissioner who complains as to poll 7, (Port Hudson,) ward 5.

He says that democrats marched colored men up to the polls and compelled them to vote the democratic ticket; that republicans were not allowed to vote until three or four o'clock, and that a deputy United States marshal was threatened with arrest if he did not stop distributing republican tickets.

Mr. Speaker, I have already called attention to the fact that four colored republicans made affidavit before the board that they voted the republican ticket at the poll without molestation. There were 92 republican votes cast at that poll; nearly, if not quite all, must have been colored. I now submit the affidavit of A. H. Levi, esq. This affidavit was furnished to the returning-board while it was entertaining and considering as evidence *ex parte* affidavits:

STATE OF LOUISIANA,
Parish of East Baton Rouge:

Personally came and appeared before me, the undersigned authority, a justice of the peace in and for said parish and State, holding in the first ward, city of Baton Rouge, A. Levi, now residing in said city, who, on oath, does depose and say that he is a colored man; raised in the State of Massachusetts, where he was admitted as an attorney at law; that for the last two years he has been following his profession in the parish and city of Baton Rouge. Avers that at the election for State and national officers held on the 7th day of November, 1876, this present month and year, he was a United States supervisor of election for the fifth ward of said parish; that he was present when the voting began, and remained until the last ballot was counted by the commissioners; that he saw no threats, act of violence, or intimidation used by either political party for the purpose of preventing or obstructing any person, either white or black, from exercising the right of suffrage as they thought best. The voting was done by both parties in a quiet and orderly manner. There was a feeling of kindness manifested by both white and black, democrats and republicans. I am and have always been a pronounced republican; advocated, publicly and privately, the election of the national and State republican ticket, and so voted on day of the election. Was appointed a United States supervisor in the interest of the republican party.

A. H. LEVI.

Sworn to and subscribed before me officially this the 20th day of November, A. D. 1876.

F. W. NEPHLER,
Justice of the Peace.

POLL 8.

Oliver McKitrick, republican commissioner, makes the following allegation as to what occurred on the day of the election at poll 8, ward 6. He says:

That on the day of election, at and near the said poll, there were menaces, threats, violence, and other acts of intimidation used which tended to prevent and did prevent a fair, free, and peaceable full vote of all the qualified electors of said parish.

A. Williams, colored republican, swears that he visited this ward and saw nothing that could interfere with a fair registration and vote. He also swears that the election throughout the parish was quiet. He is the business manager of the Grand Era, the republican paper of that parish.

Mortimer Price, a colored man seventy-five years old, who voted at this poll, swears that all was quiet so far as he could see. Says that he knows of "no threats before the election nor dissatisfaction afterward;" says he is a republican, but does "not follow party discipline;" that he voted the democratic ticket believing that good would follow. William Martin was the democratic commissioner at this poll. He swears that the election passed off in good order and was in all respects fair; says, also, that he attended a republican meeting in this ward, and that it was held without difficulty or disorder. Unless Mr. Martin is to be discredited because he is white and votes the democratic ticket, his testimony cannot be disregarded.

POLL 9.

J. P. Furlow, one of the republican commissioners for poll 9, ward 7, says there was intimidation, &c., at the polls. This statement is *not* corroborated by three witnesses and therefore might be dismissed without further notice.

W. H. Patterson, the other republican commissioner for this poll, swears that it was quiet there, and that he saw no intimidation or unfair treatment of the colored voters.

V. M. Lange, the colored republican speaker already referred to, testified that he spoke in this ward. He swore as follows:

By Mr. NEW:

Question. Did you speak at any other point?
Answer. Yes, sir; I spoke my very first speech in the seventh ward.
Q. You may state how that meeting went off.
A. I disremember the date, but the first speech I attempted to make in this last campaign—it was the first place that I was invited to. On that occasion Colonel Smith, myself, and Mr. Bird, and several other gentlemen spoke.
Q. You may state as to whether any of the speakers were colored men as well as yourself.
A. Colonel Smith, the present recorder, is a white gentleman. I spoke before him. There was another gentleman, colored, that spoke previous to me, and I spoke myself; I was listened to by the gentlemen on the outside of the fence and those that were on the inside, and those that were on the outside and could not hear came on the inside and paid particular attention, and behaved themselves beautifully in my presence. When Colonel Smith drove up and spoke they paid particular attention to his remarks. If I am not mistaken there was a gentleman there, Mr. William Bates, who was in company with several gentlemen, who said, "That is a gentleman. It gives me pleasure to hear him speak."
Q. Was that a white man?
A. Yes, sir. Colonel Smith was speaking, and Mr. Bates was a white gentleman, belonging to the democratic party.

It will be borne in mind that poll 9 is in ward 7.

POLL 12.

John McVeltz, republican commissioner for poll 12, ward 10, makes statement of intimitation; that colored men were marched up to the polls and required to vote the democratic ticket, &c.

The testimony of Frank Everson and other colored witnesses refutes this statement conclusively.

V. M. Lange made republican speeches in this ward.

POLL 13.

Cyrus Strother and James Casby, the republican commissioners for poll 13, in ward 11, gave separate statements.

They charge that there was intimidation; that republican tickets were not allowed to be distributed, &c. Casby says that at night, when counting the tickets, the democrats crowded in and filled up the room, and made the republican commissioner correct his tally-sheet to conform to that made out by a democratic by-stander, and that the original records were afterward lost or carried away by some person.

This poll was democratic by a majority of 162. If the original records were lost or destroyed, how and by whom? What party would lose by their loss or destruction? Would democrats be parties to an act of which the returning board would be only too glad to take advantage? The returning board, with this statement of Casby's before it, made no effort to find out what had become of these papers. Does any sane man believe that the board would have been so indifferent if the majority had been the other way?

It is very clear from the testimony of W. E. Adkinson that the papers referred to were purposely "lost or carried away."

POLL 14.

Henry Raymond is the republican commissioner who complains of poll 14, ward 12:

That on the said day of election, at or near the said poll, there were threats, menances, violences, and other acts of intimidation, which tended to prevent, and did prevent, a fair, free, peaceable, and full vote of all the qualified electors of said parish. The facts relating thereto are as follows: It was not safe for a colored man to vote the republican ticket.

The utter want of specific statement as to what transpired on the day of the election will be observed.

V. M. Lange swears that he made a republican speech in this ward. He says:

We fired, I suppose, about four or five cannon, calling the people to assemble—notifying them. We took them on surprise, and we fired cannon, and the people immediately gathered the moment that they heard the cannon.

He says there were democrats present, and they paid particular attention to the speeches and made no disturbance. He says that himself and the other speakers were cheered by the republicans when they concluded. He says that this meeting was held to rally the republicans of that ward to attend a republican barbecue to be held in Baton Rouge.

(See testimony of Rev. R. F. Patterson, Presbyterian clergyman from the North, as to this ward and the parish generally, page 49.)

The first democratic-conservative club in the parish was organized in this ward. It contained ninety-seven colored men, some of whom had always been democrats.

See further testimony as to this ward on pages 48, 91, 93, 95, 98.

We find, upon examination, that over three hundred citizens of this parish made affidavit before the returning board that the election was in all respects fair, free, and without intimidation. More than half of these affidavits were made by colored voters.

Charles E. Doyle, a republican justice of the peace, testified as follows:

By Mr. NEW:

Question. In what ward do you live?
Answer. The second ward.
Q. Is that in this city?
A. Yes, sir.
Q. You are a magistrate, are you not?
A. Yes, sir.
Q. Did you attend at any voting-places the day of election in this city?
A. I voted in the second ward. I was around at all polls in the town here.
Q. State how the election went off.
A. Peaceably and quietly, as far as I saw, sir, at each poll here in town.
Q. Have any complaints been filed with you or made before you on account of any difficulties on the day of election?
A. Not any, sir.
Q. During the period of registration, say between the 28th of August and the 28th of October, what was the state and condition of the city and parish, so far as known to you, as to a quiet and orderly state of things?
A. It was very quiet so far as I know. I was in the house most of the time. I have been sick for a long time. I didn't hear of any difficulties that I can remember.
Q. You have no recollection of any complaints made to you or during that period?
A. I know that there has been none made to me directly.
Q. What do you know on the subject of colored men voting the republican or democratic ticket of their own free will, or on account of intimidation, or what upon the subject do you know?
A. I have been called upon to make affidavits from republicans and democrats, colored men, and they all testified that they all went to the poll and voted without intimidation—no trouble whatever.
Q. Were these affidavits made before you for the purpose of being used at New Orleans?
A. Some were printed blanks, and some were written out—some I wrote out. Those for the republicans—we had no blank form for them—about as many republicans as there were democrats.
Q. They testified before you that they voted the republican ticket of their own free will, and without any intimidation?

A. Yes, sir.
Q. And affidavits of like import as to the democratic ticket were made by colored democrats?
A. Yes, sir; so they said. This was outside of the parish, and the same in town.
Q. About how many such affidavits were made before you?
A. As far as I can recollect there may have been some three hundred, probably about three hundred.
Q. Mostly from the country?
A. Yes, sir.
Q. About equally divided as to politics?
A. Yes, sir; very near. I think there was two or three more democratic affidavits than there was republicans.
Q. You have been confined to the house so that you have not been circulating through the parish?
A. Just got out previous to the election—about a week or so.
Q. What is your politics?
A. Republican, sir.

Lieutenant William Gerlach, of the United States Army, stationed at Baton Rouge, and who favored the election of Hayes, gave the following sworn statement which was before the returning board.

BATON ROUGE, *November* 16, 1876.

Hon. L. JASTREMSKI, *Mayor*, and Dr. J. W. DUPREE, *City:*

GENTLEMEN: In compliance with your request of this morning I take pleasure to furnish you the following account of my personal observations of the manner in which the election was conducted here on the 7th instant, and how the canvass of the votes has been conducted since.

I was present on the morning of election-day when a report was made to my commanding officer, Lieutenant Charles Brooks, of a difficulty about appointment of commissioners at the Murphy school-house poll, and I accompanied him to a conference between leaders of both political parties. I saw and bear witness to the fact that the representatives of the democratic party did all in their power to make a fair arrangement of the matter possible. Before a conclusion was arrived at I proceeded with Dr. Dupree, democrat, and C. Le Sage, republican, to the third ward polling-place to investigate a report made by one Shields, (colored,) who stated that he had been roughly handled and ejected from the room where the ballot-box was located by one Duncan, although he (Shields) was a United States deputy marshal.

We rode out there (six miles from the city) at a very rapid gait. While en route Le Sage stated that upon the least sign of intimidation he would, as supervisor, close the polls. To such a proceeding Dr. Dupree objected, as Le Sage had accompanied us simply in his private character as a representative of the republican party. Upon my remarking that such a course was not expected when Colonel Brooks directed me to investigate the facts jointly with him, Le Sage and Dr. Dupree, and that I would, if necessary, remain and see peace kept there until I could get further instructions, by sending back a mounted orderly I had with me, Le Sage abandoned the idea. Upon our arrival at the polls, I found everything perfectly peaceable. Excepting Le Sage, who carried a pistol, and my orderly, I saw no armed men there. There were no arms in the house where the ballot-box was located. All persons present were sober and orderly. After careful investigation, particularly among colored men present, and after hearing the statement of the republican commissioner, whom I saw alone, I became satisfied that the story of the negro Shields was false. On the opening of the poll he had entered the room where the ballot-box was located, and was removed therefrom by order of the commissioners, (who were enforcing the rule that no voter should at any time be within thirty feet of the box,) by one Duncan, who was acting officially, as supervisor or constable. Upon asserting that he (Shields) was a deputy marshal, he was requested by the republican commissioner and Duncan to return, and assured that he should not be molested, but left nevertheless, stating that he was going to the barracks to report them and send the military after them. I was treated by all present with the utmost courtesy. No one attempted to prevent a free and full investigation, nor could I perceive any displeasure on account of my calling aside colored men and examining them alone. Le Sage assured me himself that he was convinced Shields had made an utterly false report. In returning and going, I watched closely all roads in sight, and I failed to see any pickets anywhere. Every colored man I met assured me that he had not been molested going to or coming from town. I was particularly struck with the friendly feeling that existed among the whites and negroes gathered near the polls, and the republican commissioner assured me he apprehended no trouble. Upon inquiry he further told me that as most of the supporters of the republican ticket had been ordered by their leaders to town to vote, but few republican votes would be cast there.

Upon returning to town I was met by stories (told by radical politicians) that an express had heralded our coming to the men at the third ward, that a man had been shot there, &c. The gait at which I rode going to the place made the former impossible, and I could not find the wounded man, who was said to be in town, in spite of my making dilligent inquiry. I have seen an article in the New Orleans Republican of the 15th instant relative to affairs in the third ward, and I am free to say that the statement therein made is utterly false to the best of my knowledge. After returning from the country and reporting to my commanding officer, I visited frequently every voting-place in the city. Everywhere voting was quietly progressing. Excepting attempts to coax black men to vote the democratic ticket, no attempt was made to influence their action. I failed to see any ground for the complaint made to me repeatedly by republican politicians that it was dangerous for a man to vote the republican ticket. The utmost care appeared to have been taken to preserve the peace, and the authority of the United States was nowhere questioned. On the contrary, when it became necessary to confer with civil powers, they showed the utmost willingness to do what was correct and fair. Upon a complaint being made by Deputy Marshal McAlpin that he was annoyed in the performance of his duty near the court-house voting-place by the city police stationed about there, they were at once withdrawn by order of the mayor, and when, by some misunderstanding of orders, they again went into the hall, the mayor and chief of police went in person and superintended their removal.

One thing was quite apparent, the democratic side worked hard, by all fair means, to induce colored men to vote their ticket, while but little effort to the same end was perceptible on the part of their opponents. I remained near the different polls until late at night, and convinced myself by actual observation that the count was progressing fairly, and that no danger need be feared of any interference by unauthorized parties. About one a. m. on the morning of the 8th I was called from my bed and directed by my commanding officer to go to the court-house and see what action was required to protect the deputy marshal and officers of election there, it having been reported to him that they were in danger of being interfered with. Upon arriving there I found the deputy marshal, McAlpin, quite excited. I told him he need not fear anything. Upon this he remarked that a crowd could come in and kill him before any aid could be had from the garrison; that he had heard parties say in the yard "their majority here won't do them much good," (referring to republican votes cast there.) Beyond this and the fact that some members of the democratic party had been there to witness the count, I could find no reason for his fears. To assure him, however, I requested the chief of police to station some men near to prevent the approach of unauthorized parties, and he complied promptly by detailing picked men for that duty. I myself remained until after four a. m., when I left, sending a sergeant to take my place; he, in turn, was relieved by nine a. m. Neither myself nor the non-commissioned officers on duty could see any, even the most remote, cause for uneasiness on the score of the safety of the election-officers or ballots. The count was peaceably completed at the other places in town. I again, by order, was present during the greater part of the time, while Mr. Clover was compiling the returns made by local commissioners. He was treated with perfect courtesy by all men of the democratic party who had business with him. They made every effort to comply with his directions, and in spite of very impolite treatment they received at the hands of some of Mr. Clover's subordinates, (I was present when this occurred several times,) they kept their tempers and acted very fair, indeed.

While on this duty I saw the only real case of intimidation which has come to my personal notice since I have been in Baton Rouge. Mr. Guy Samuels, a native of Virginia, and now a planter near Port Hudson, was approached by a negro, when outside of the court-house, where he, Samuels, had been on duty in connection with election mattters in his ward. The negro used the most abusive language imaginable. Mr. Samuels assured him that any fears on account of political opinions or actions he might have were groundless, and invited him to come and gather his crop, offering him a place to sleep in his own dwelling while there, and promised to protect him. All this had no effect, and the negro continued his threats and abuse, his manner showing that he relied on my presence there for impunity from the punishment at Mr. Samuels's hands he rightly deserved. While on duty guarding Mr. Clover and the deputy marshall against apprehended dangers I was always unarmed. At no time was there, as far as I could perceive, any necessity for my presence. I am convinced now that under any ordinary circumstances my uniform as United States officer is sufficient protection against any violence, in performing any duty, such as assisting a marshal in making an arrest, or the like.

I have above given simply a statement of what I saw myself. I have purposely avoided making any remarks on the conduct of the officers sent here to conduct the election, although it appeared strange to me that they should be on the most intimate terms with leaders and candidates for office on the republican side, and consult with them often in the course of their official labors. The following facts should, however, be well known:

While on duty at the court-house, I was approached in a very confidential manner by one Baranco, (colored,) who had, if my memory is correct, acted in some capacity at the engine-house poll, and who claims to be a deputy United States marshal. He informed me that they (the radicals) had fixed the democrats by locking up tally-sheets and other papers in the ballot-boxes in places where a democratic majority was cast. I was also informed later by Mr. Clover that he had completed his returns so far as he could under instructions, excepting some remarks he kept in his head, which he would add after he got safely in the city, (New Orleans.)

That the statement I have here made may be correctly judged, I will state that I have never been an active partisan of any political party. I have been in the United States Army continuously since 1856, and a reference to my testimony given before a congressional committee in New Orleans in 1875, with a letter published in the appendix to their report, will show that I have always pleaded for the rights of the negro.

Going back a short time when the canvass was in full blast, I attended a democratic meeting held here, followed by a barbecue. I there noticed that the negroes were fully impressed with the arguments there advocated; that they liked and believed the promises made to them regarding schools and other privileges. I have been assured by several negroes that they voted the democratic ticket because they were satisfied their master's (employer's) interests were their own, and because they did not like men put on the republican ticket.

Many more reasons were given me in detail for similar action (turning democrat) by negroes who approached me confidentially, asking advice how they should vote at the approaching election.

Giving you my free consent to use this statement in any manner you desire, I am, gentlemen, your obedient servant.

WM. GERLACH,
Second Lieutenant Fifth Infantry, United States Army.

Sworn to and subscribed before—

F. A. NEPHLER,
Justice of the Peace.

Gerlach testified to the same effect before subcommittee, (see page 23.) Also see Lieutenant Holmes's testimony before the House committee at New Orleans.

There were over five hundred colored members of democratic-conservative clubs in this parish. In every club colored men were the leading officers. No one can read the testimony without being convinced that the colored democratic voters not only cast their ballots in good faith, but did it with enthusiasm.

We refer to the testimony of Zebulon Lange and Edward Plunket, both colored, on pages 113 and 114, as giving an intelligent account of how the colored people felt and how the canvass was conducted with reference to the colored vote.

After the right of suffrage was conferred upon the colored people, men from other sections of the country, most of whom had been unappreciated at home, notwitlstanding their loud protestations of devotion to the Union, went among the colored people asking and receiving office at their hands. Those men were not only thus placed in office without the consent of the white race, but, discovering that the latter must in the very nature of things soon exercise a large influence over the colored people, they devoted themselves exclusively to the work of keeping in office and their colored constituency organized for united work at the ballot-box. The result was that these office-holders had no other interest in the country than to procure office, and it was so manifest even to them that no distant day would find the negro with his eyes open, that it made the scramble intense and bitter for place, each one fearing that the harvest would be gone before he would be provided for.

The courts were presided over by strangers, in many cases without either capacity or character.

A large proportion of the parochial offices, such as clerk of the court, sheriff, tax-collector, police jurors, &c., were held by colored men, most of whom of necessity were wholly unfitted for those positions. Can it be wondered at that the white people became dissatisfied and asked such men to resign? Would a northern community have been more tolerant?

Mr. Speaker, about the time this state of things had become as bad as it could be, a new element or cause of disorder made its appearance. The stealing of hogs, cattle, cotton in the seed, &c., became very frequent in all the parishes embraced in this report. The defiance and boldness of the guilty parties was such as to provoke to the last degree those who sustained losses. The stealing of cotton in

the seed—that is, before it had been ginned—was carried on so extensively that small stores were established by unscrupulous men at various points in the parishes for its purchase. For a time the courts and law officers were appealed to for redress. It was impossible, in most cases, to obtain conviction. The juries would generally be composed, in part at least, of persons in sympathy with the offenders. The belief became prevalent among those who were the sufferers that the courts and officers thereof winked at the packing of juries in the interest of these evil-doers. It was while the public mind was thus agitated and incensed that the parish judge and some other officers in this parish were requested to resign, and did resign in 1875.

In the latter part of the year 1874 the people most interested determined that their property should no longer be taken by persons having no right thereto. Companies called regulators or bull-dozers were formed, and thereafter, until early in the year 1876, they made themselves active in lynching those then engaged in stealing, or who had been guilty of it. These companies were made up of young men in a large degree, and, as is always the case when unlawful and unauthorized punishment is meted out by self-constituted conservators of law and order, excesses were committed which cannot be justified. These chastisements were always summary, and often very severe, in some instances to the extent of taking life. The stores of democrats, white men, engaged in purchasing stolen cotten, were burned. Among the democrats whose stores were thus destroyed in this parish are Nicholas Wax, W. R. Bates, T. D. Schloss, T. B. Brown, and Mr. Ligor. After this, as retaliatory, several cotton-gins were burned. It will be found, Mr. Speaker, upon examination of the testimony, that it conclusively appears that politics was not involved in the lynchings which occurred in this parish. There was no political excitement during that period, and no election exciting any interest, except that for mayor of the city of Baton Rouge, in April, 1876, when the democratic candidate for mayor was elected by a majority of 345 votes, the city before that having been republican by several hundred. The democratic candidate for mayor was supported in the most earnest manner by a large number of colored men. It is not pretended that there was the slightest intimidation of the colored vote at this election. This was the beginning of the first considerable organized break in the ranks of the colored republican voters in this parish, and occurring, as it did, immediately preceding the presidential canvass, was of great aid to the democratic party throughout the parish, and contributed largely to its success in November. Of this there can be no doubt whatever. The democratic candidates for electors fairly received a majority of 612 in this parish.

WEST FELICIANA.

There are twelve wards in this parish. The supervisor of registration refused to establish polls in wards 8 and 12, and in violation of the law located the polling-places for those wards in ward 1, in which is Saint Francisville, the parish site. Thus three polls were located at the court-house in a town of only a few hundred inhabitants, where one would have been ample if the law had been complied with as to wards 8 and 12.

The following table gives the vote as cast in this parish. It will be seen that it is prepared as though an election was in fact held in wards 8 and 12. As already explained this was not the fact, the polls *for* those wards, so to speak, having been located in ward 1.

Number of polls.	For electors of President and Vice-President.															
	W. P. Kellogg.	J. H. Burch.	Peter Joseph.	L. A. Sheldon.	Morris Marks.	A. B. Levissee.	O. H. Brewster.	Oscar Joffrion.	John McEnery.	R. C. Wickliffe.	L. St. Martin.	F. Pochè.	A. De Blanc.	W. A. Seay.	R. G. Cobb.	K. A. Cross.
1	26	26	25	24	24	24	24	24	149	149	150	150	150	150	150	151
2	35	35	35	35	35	35	35	35	102	102	102	102	102	102	102	102
3	33	33	33	33	33	33	33	33	89	89	89	89	89	89	89	89
4	80	80	80	80	80	80	80	80	140	139	140	140	140	140	140	140
5	3	3	3	3	3	3	3	3	235	235	235	235	235	235	235	235
6									15	15	15	15	15	15	15	15
7	68	68	68	68	68	68	68	68	65	65	65	65	65	65	65	65
8	146	146	146	146	146	146	146	146								
9	2	2	2	2	2	2	2	3	122	123	122	122	122	122	122	122
10	1	1	1	1	1	1	1	1	322	322	322	322	322	322	322	322
11	171	171	171	171	171	174	171	171	8	8	8	8	8	8	8	8
12	213	213	213	213	213	213	213	213	1	1	1	1	1	1	1	1
Totals	778	778	777	776	776	779	776	777	1,248	1,248	1,248	1,249	1,249	1,249	1,249	1,250

STATE OF LOUISIANA,
Parish of West Feliciana:

I hereby certify the above and foregoing to be a true and correct compilation of all the statements of votes for electors of President and Vice-President of the United States at the election precinct of the parish of West Feliciana at the general election held November 7, 1876, under the provisions of an act to regulate the conduct and to maintain the freedom and purity of elections, &c., approved November 20, 1872, and the amendments thereto rendered to me by the commissioners of election, on file in my office; that no affidavits of riots, tumults, acts of violence, intimidation, and disturbances, bribery or corrupt influences, were attached to said statements of votes, or presented for filing in my office, and no protest of the supervisor of registration was filed or offered to be filed in connection with said statements of votes, under section 26 of the aforesaid act of the Legislature of the State of Louisiana.

Given under my official signature and seal of office the 28th day of December, A. D. 1876.

[SEAL.] CHAS. J. HOWELL,
Clerk of the District Court of the Seventh Judicial District of the State of Louisiana, in and for the Parish of West Feliciana.

D. A. Weber, the supervisor of registration, in his consolidated statement of the vote cast, returned the full vote without at that time protest, remarks, comment, or criticism. His consolidated statement or return was sworn to on the 9th day of November, before the clerk of the district court of the parish. It will be seen by the certificate of the clerk that the supervisor never filed with him a statement, as provided for in section 26 relative to intimidation, &c., during the time of registration or revision of registration. Neither did the commissioners of elections file statement with the supervisor and clerk of the court, or either of them, as to intimidation, &c., on the day of the election, as provided for in said section. There were no such statements of commissioners of election before the returning board, and hence the latter had no jurisdiction or power to inquire as to what did or did not occur on the day of the election except to ascertain the number of votes cast, for whom, and make an honest declaration of the result.

It was not until the 14th of November that the supervisor made protest, as follows:

I, D. A. Weber, the undersigned, being supervisor of registration in and for the parish of West Feliciana and State of Louisiana, do on this 14th day of November, 1876, make this my protest against counting the votes in the following-named polling places, and for the reasons stated below, to wit:

Ward No. 2.—Intimidation.—Five men were discharged in this ward by William Ball (white democrat) for refusing to sign a pledge to vote the democratic ticket.

Ward No. 3.—Intimidation.—United States supervisor and republican canvasser, with tickets, driven from the poll by armed men and not permitted to distribute republican tickets. Witnesses, Valentine Emory and Howard Thornton, jr.

Ward No. 4.—General intimidation and discharge from employment.

Ward No. 5.—General intimidation and discharge from employment.

Ward No. 10.—Intimidation.—Littleton Cotton and R. J. Hogan, prominent republican leaders, threatened with death, and actually assaulted by prominent democrats, because they refused to pledge themselves to vote the democratic ticket.

I also protest against the votes to the number of voted in the ninth ward on affidavits without registration papers, said affidavits being made before one John Ring, who was not a justice of the peace or authorized to administer oaths. *Vide* affidavits marked A, and commission and oath of L. Vresinsky, marked B, accompanying this protest.

This paper was utterly void for non-conformity with law. It was not corroborated by three witnesses, nor does it allege that *during registration or revision of registration* there was intimidation or corrupt influences of any kind preventing or tending to prevent a fair, free, peaceable, and full registration or election. In law this so-called protest was but blank paper and could not confer jurisdiction upon the board to examine as to anything that occurred either before or on the day of election. The protest is addressed to polls 2, 3, 4, 5, and 10. The returning board not only threw out these polls, each of which gave democratic majorities and which gave an aggregate democratic majority of 736, but not content with this base and villainous act rejected poll 9, not complained of by the supervisor, (except in a qualified form which does not impeach the fairness of the vote,) which gave a democratic majority of 120.

WARD 2.

The supervisor's charge as to the poll in this ward was absolutely false. The allegation as to discharge of men by William Ball is denied and satisfactorily explained to the most prejudiced mind. (See testimony on page 140.) The election in this ward was "fair, square, and peaceable." So testifies Henry Perkins, who was a candidate on the republican ticket, was counted in by the returning board, but declined to accept the office upon the ground that his opponent was fairly elected.

But one witness made affidavit before the returning board that the election here was not fair, while eighteen, most of whom were colored, made affidavit that the election there was in all respects fair and free.

WARD 3.

The supervisor's complaint as to the poll in this ward is that a United States supervisor and republican canvasser was driven away from the polls by armed men, and not permitted to distribute republican tickets. Valentine Emory and Howard Thornton are referred to as witnesses. Emory's name does not appear among the persons whose affidavits were read before the board, while the affidavit of Thornton makes no allusion whatever to a United States supervisor, republican canvasser, or any other person in any manner interfered with on the day of election. Nor does he speak of anything occurring at the election, lawful or unlawful.

Julius Green made affidavit before the board that there was intimidation, but he makes no reference to the fact asserted by the supervisor.

Cornelius Smith, the United States supervisor referred to by the supervisor of registration, made affidavit before the board, but does not pretend that he was driven away or in any manner maltreated. He says that armed democrats intimidated colored voters on the way to this poll and at the same. Only a few days before that this same Cornelius Smith swore that at this poll "the election was peaceful and quiet, that he saw no intimidation of voters, and that the colored people voted as they pleased without hinderance." He does not in his subsequent affidavit make any reference to his conflicting statements.

Thirty-five persons, most of whom were colored, made affidavits before the board that they were present at this poll and that there was no disturbance or intimidation of any kind. Shall they be believed or must Smith be credited, who swears both ways? They swear there was the usual amount of electioneering but it was entirely legitimate, and that all persons, white and colored, exercised their right of suffrage without force, let, or hinderance; that the colored people especially crowded the polls of their own accord and voted as they pleased; that they saw no one with arms at the polls or in going to or returning therefrom, nor had they heard of any armed men, or men of any kind, preventing colored voters from going to the polls and voting as they preferred. They all swear that peace and good order prevailed and that the election passed off quietly; that State peace officers and United States supervisors of both parties were present and not an arrest was made, nor was there any complaint by any person. How testimony could be more conclusive we cannot see. The board wholly disregarded it, believing no doubt that they were serving those thirty-five witnesses, white and black, right for voting the democratic ticket.

(See also testimony before subcommittee as to this ward and poll by witnesses, white and colored, pages 144, 159, 212, 213, 214, 215, 219, and 220.)

WARD 4.

"General intimidation and discharge from employment" is the language of the supervisor's protest as to this poll.

But four persons made affidavit before the board impeaching in any manner this poll. One of these says there was intimidation. This man, William D. Postlethwaite, was the republican candidate for sheriff. He swore, nine days after the election, that he voted the republican ticket at this poll; that there was no intimidation; that the colored people voted as they pleased, and that peace and good order prevailed. Another says that a democrat was engaged in taking down the names of persons as they voted. How often this is done in the North by both parties, for the purpose of knowing who should be sent for, is well understood. Another says that he "saw three colored men dragged up to the polls and made to vote the democratic ticket," &c. How these persons were *dragged*, and how they were *made* to vote the democratic ticket, we are not informed. Another says that he resides in this ward and *usually* votes there. He does not say that he voted there at the late election or that he was present. He says that men came to him and said that they wanted to vote the republican ticket but did not, fearing that they would be run out of the parish. It is a sufficient answer to this to say that in all the *ex parte* stuff filed before the returning board and received as evidence there is not one case shown where a voter has been run out of this or any other parish on account of voting the republican ticket.

Sixty-nine persons, mostly colored, made affidavit before the board that the election was orderly and without intimidation.

(See also testimony as to this ward and poll before subcommittee, pages 150, 152, 153, &c.)

WARD 5.

"General intimidation and discharge from employment" is the supervisor's charge as to this poll.

I have examined with the utmost care the affidavits and answers to interrogatories before the returning board, and do not find a single complaint as to this poll. One hundred and nine persons, white and colored, made affidavit before the board that the election was fair and without unlawful interference of any kind.

(See also testimony before subcommittee, pages 148, 222, 223, and 224.)

WARD 9.

There were only two affidavits before the returning board by persons residing in or complaining of this ward or poll—John Lagadie and Charles Drake. The former does not say that he was there on the day of the election, nor does he make any reference to the election in that ward. The affidavit of Drake alleges that Frank Powell, D. Hale, and Henry Miskey tried to make him vote against his will. These parties positively contradict Drake, and so state the circumstances as to not leave the slightest doubt of their truthfulness.

(See testimony before subcommittee, pages 225, and 226.)

Forty-five affidavits were presented to the returning board by both white and colored, attesting the fairness of the election at this poll. (See also testimony before subcommittee, pages 190 and 191.)

WARD 10.

R. J. Hogan's affidavit was presented to the returning board charging intimidation at this poll and in this ward. Mr. Hogan appeared before the committee at New Orleans and swore that the election was fair, free, and peaceable. That he knew of no intimidation of voters except at the Acklen poll, (ward 7) where colored republicans were threatening to kill colored men who should vote the democratic ticket. He further swears that the affidavit which he signed, and which was used before the returning board, was not written in conformity with the statements he made at that time. (See his testimony before subcommittee of MORRISON, JENKS, and TOWNSEND, volume 1, page 25.) The affidavits of one hundred and fifteen men, white and colored, were before the returning board that the election at this poll was entirely free and fair. (See also testimony before subcommittee, pages 159, 161, 166, 167, 171, 172, 174, 176, 198, 201, 204, 205, 206, 207, 208, 209, and 219.)

It is clearly established by the testimony of every witness who was examined on that point that the lynchings which have occurred in this parish had no political significance whatever. The democrats have more just ground of complaint on this score than their opponents, the democratic candidate for sheriff having been assassinated a few days before the election. As to the canvass and election in this parish, I invite especial attention to the testimony of Brevet Major G. M. Bascom, Lieutenant James Fornance, Lieutenant M. F. Jamar, and Timothy Murry, first sergeant. (See testimony before subcommittee, pages 232, 237, 238, and 241.)

There were sixteen democratic-conservative clubs in this parish containing 1,126 colored members.

It has been asserted that republican meetings could not be held in this parish. We clip from the Feliciana Ledger, the republican paper of the parish, the following notices of republican meetings held there during the late canvass:

Rally, republicans, rally!—A grand mass-meeting will be held and barbecue given on Monday, the 6th day of November, at the court-house in Saint Francisville.

A grand republican mass-meeting will be held and barbecue given on Monday, the 6th of November, at the court-house in Saint Francisville.

The mass-meeting will be addressed by the following speakers: Hon. E. L. Weber, Hon. George A. Swayze, Hon. J. W. Armstead, J. R. Watson, Philip Brown, Lucius Early, J. S. Dula.

How republican Feliciana greets her future governor, Colonel Packard.

Two thousand persons turn out to hear him—He creates the wildest enthusiasm—The barbecue a grand success—Order and decorum prevails—Democrats present eat republican beef and hog meat, and drink republican beer—Kelly's brass band discourses fine music, and makes everybody perfectly happy—Speeches of General Campbell, Colonel Jack Wharton, Colonel James Lewis, Hon. J. P. Harris, and Hon. Milton Jones.

A large and enthusiastic mass-meeting and barbecue at Williamsport.

A large and enthusiastic meeting and barbecue were held at Williamsport in Pointe Coupée yesterday evening, at which there was present Colonel S. B. Packard, James Lewis, General Campbell, General Wharton, Captain John Yoist, Major Jones, Captain Paul Polite, Senator Weber, Messrs. Postlethwaite, Swayze, Armstead, Watson, and Dula.

Kelly's brass band enlivened the occasion with music. Fully four thousand persons were present.

Speeches were made by Hon. J. P. Harris, Colonel S. B. Packard, General Wharton, Colonel James Lewis, and Senator Weber. The utmost good feeling and harmony prevailed. Many democrats were present, and listened attentively and decorously. The meeting was a perfect success, and showed conclusively that Pointe Coupée was solid for the republican party. Many cheers were given for Packard, Yoist, Hayes and Wheeler, and Senator Weber, after which the party was escorted to the Era No. 9 by fully five hundred mounted horsemen.

A grand and enthusiastic mass-meeting and barbecue at Raccourci.

RACCOURCI, *October* 22, 1876.

There was a grand turn-out of the republicans of this parish at the splendid barbecue given by Hon. Emile Honore. Notwithstanding the storm of the last fourteen hours, the people began to assemble at twelve o'clock m., and at this writing, three o'clock p. m., have assembled to the number of five hundred persons.

Republican mass-meeting in Pointe Coupée.

The republicans of Pointe Coupée held a large and enthusiastic meeting on Saturday evening, October 28, in the first ward. Long before the hour of assembling the place of meeting was thronged by hundreds from all parts of the parish. At one o'clock Hon. Milton Jones, of Pointe Coupée called the meeting to order. The audience was largely composed of whites—democrats and republicans.

Acklain's settlement all right.

Yesterday a large and enthusiastic meeting was held at Acklain's and addressed by Colonel James Lewis, General Jack Wharton, and Senator Weber. Cornelius Washington presided, and the utmost harmony prevailed. The speakers were repeatedly cheered while speaking, particularly by the colored ladies, who were

very enthusiastic. Colonel Packard, General Campbell, Hon. J. P. Hewes, and other distinguished gentlemen were present.

Acklain's settlement is all right, and will give the republican party 300 majority. Cheer boys; victory is ours.

EAST FELICIANA.

There are eight wards in this parish. The vote cast for presidential electors was 1,736, all of which were for the democratic electors.

The following is a tabular statement of the votes cast for electors, by wards, in this parish:

Number of polls.	John McEnery.	R. C. Wickliffe.	L. St. Martin.	F. Pochè.	A. De Blanc.	W. A. Seay.	R. G. Cobb.	K. A. Cross.
1	235	235	235	235	235	235	235	235
2	92	92	92	92	92	92	92	92
3	397	398	398	398	398	398	398	397
4	135	135	135	135	135	135	135	134
5	474	474	474	474	474	474	474	473
6	124	124	124	124	124	124	124	124
7	161	161	161	161	161	161	161	161
8	118	118	118	118	118	118	118	118
Total	1,736	1,737	1,737	1,737	1,737	1,737	1,737	1,734

The consolidated return of James E. Anderson, supervisor of registration in this parish, was filed with the returning board November 13, without remarks. No protest, or paper purporting to be a protest, was filed by him with the board until November 23, which was received by the board in a separate package. He does not allege in his protest that anything occurred during the period of registration or revision of registration to prevent a fair and full registration. He was absent from the parish during the last nineteen days of the period fixed by law for registration. No voters were registered during those nineteen days.

Anderson says in his protest that he was unable to remain in the parish longer on account of the insecurity of his life; that an attempt was made to take his life. He returned before the election, not in time to renew registration, but in time to appoint election officers. He appointed for each poll, as commissioners, two republicans and one democrat, all of whom served.

The proof shows that it was and is the better opinion of those who investigated the alleged attempt to take his life, that he did the shooting himself. Captain Benjamin H. Rogers, of the United States Army, Colonel Frank Powers, and J. P. Monyhan, the two former republicans and the latter a democrat and sheriff of the parish, gave the subject a careful investigation. Captain Rogers swears that he never could fully satisfy himself whether Anderson was shot at or not; says that if it had been any other man than Anderson he might not have been so much in doubt; but says, "I could not believe him under oath, in any way, shape, or form." He further says, "I doubted that he was shot at for this reason, that he is such a trickster that I would not place any confidence in him in any shape or manner. I think he is a man who would be liable to shoot at his own coat in order to make political capital out of it." Says that Colonel Powers expressed the opinion it was a "put-up job" by Anderson himself, and that that was his [Rogers's] impression at the time. Captain Rogers further testified as follows: "I never did think the democratic party had anything to do with it." He says there was some testimony before the parish judge that looked like a certain man of Anderson's own party might have done it. The man here referred to is one P. Charles Butler, an outlaw, and the dread for years past of the parish, especially of the colored people. Monyhan expresses the belief that Anderson did the shooting himself. It was proven before the Morrison New Orleans subcommittee that Anderson had at one time said that he could prove by incontestible evidence the existence on the part of the republican party of a conspiracy to throw out the parishes of East Baton Rouge, West and East Feliciana, Ouachita, Morehouse, and Grant; and he offered to place in the possession of the democrats for the sum of $4,000 information that would expose the conspiracy and save to the democrats their majority in East Feliciana. His offer was declined.

I do not believe this to be true. No one but himself would have known that he had made a protest. And why postpone writing it for ten days? In all that he has to say in his protest he mentions but one name besides his own; that of Lieutenant W. S. Davies, of the Thirteenth United States Infantry. He says that Davies was shot at. Davies, in answer to interrogatories before the returning board, distinctly asserts that he does "not believe that there was anything political in the matter." He also testified before subcommittee, and did not even allude to having been shot at.

No statements by commissioners of election, as provided for in section 26 of the election law of Louisiana, as to occurrences on the day of the election, were filed with the supervisor, returning board, or clerk of district court. The registered vote of the parish was 1,004 white, 2,127 colored. No republican tickets were sent into or used in the parish, save perhaps one or two which were written. The republican party voluntarily abandoned the contest before the day of the election, and purposely withheld tickets from the parish. This was proven. The canvass was quiet, although the democrats worked with more energy and hope of success than at any time since 1868, when Seymour carried the parish by a majority of 767; the colored vote then, as now, being largely cast with the democrats. Notwithstanding the considerable colored majority, some democrats have been elected at almost every general election. This is true not only as to parish officers, such as clerk, sheriff, &c., but for parish judge, Legislature, &c.; this, too, over the regular nominees of the republican party. It required the co-operation of several hundred colored voters to accomplish this. It is no new thing for colored men, in large numbers, to vote the democratic ticket in this parish.

Rev. John A. Reiley, of the Presbyterian Church, a gentleman of large property, a most pronounced and outspoken republican, removed from New Jersey to this parish ten years ago. He voted for Hayes and Wheeler, but not for the electors, because there were no printed tickets, and he could not recall the names of the electors. Mr. Reiley was one of the republican commissioners of election at Clinton, the parish shire town. He testified as follows about the democratic parish ticket:

By Mr. NEW:

Question. You say you voted the democratic parish ticket, but you felt no particular zeal. How am I to understand you?

Answer. I mean what I say. I felt no particular zeal for a republican parish ticket. I voted very heartily for the candidates on the parish ticket because I was interested.

Q. Did you feel any considerable zeal for the democratic parish ticket?

A. Yes, sir; that is what I say.

Q. You did not vote the democratic parish ticket, then, because there was no republican ticket.

A. No, sir; they were the men of my choice; they were the men I had selected before the ticket was made up.

Q. You would not have voted a republican parish ticket if it had not had those names upon it?

A. If I had been making a republican parish ticket I would have put those same names upon it.

The democratic parish ticket being thus supported by leading white republicans, colored men were easily persuaded to give it their support. The result was that no republican parish ticket was nominated. This gave the democratic ticket, parish, State, and national, a strong send-off early in the canvass. The testimony clearly discloses the fact that there are quite a number of colored men in this parish who have always been democrats. In the past, there have been frequent and serious dissensions among the republicans, and the colored republicans have been very frequently voting a mixed ticket. It appears from the concurrent testimony of witnesses of both colors and both parties that there has been an increasing and loud complaint among the colored people about official corruption generally, but more especially about high taxes and misappropriation of the school funds. These had become and are such crying evils that every witness, colored and white, tells the same story and tells it with such look and emphasis as to leave no doubt that his feelings are intense on these subjects.

The democrats were not slow to discover the situation, and they went to work with a determination to win. This can be well understood when we consider what white and colored had already endured under radical misrule. Places were appointed for public speaking in every neighborhood. Democratic-conservative clubs were formed in every ward, and the original colored democrats were among the most active. They were posted and put forward. They, in fact, constituted the advance—organizing clubs and making speeches at the club meetings and elsewhere. They devoted their time almost exclusively to work. Old-fashioned barbecues were gotten up, addressed by speakers of both races. The colored people, men, women, and children, turned out in large number, and everything was done to make these occasions as attractive as possible. At the close of the canvass there were democratic-conservative clubs in every ward, the colored membership numbering in the aggregate eight hundred and sixty-three. The republicans seemed to have lost all hope early in the canvass. It may be that some colored men, upon going to the polls and finding no republican tickets, fell in with the current, thus swelling the democratic vote, who would have voted the republican ticket if their leaders had provided one.

It was proven that Anderson admitted upon several occasions that the election was fair, and he congratulated democrats upon their victory.

The nomination of General Nicholls for governor was favorably looked upon and received by the colored people as well as the white. The speech made by him when nominated was well spoken of and largely confided in by colored voters. He promised that if elected taxation should be and would be reduced; that the school money should be expended alone for school purposes; that every man who obeyed the law should be protected by the law; and that all violations of law should be punished by law, and not otherwise.

The colored people had always known that the intelligent white men of the parish were the best qualified to fill the offices and they also knew that the same class could but be interested in a wise administration of parochial and State affairs.

General Nicholls was in the parish early. There was great eagerness on the part of the colored people to see and hear him. He mingled with them freely, kindly greeting all, and giving especial attention in cases where it would do the most good. He addressed a

very large meeting at Clinton. The colored people turned out almost *en masse*. They crowded around and upon the stand, paying the closest attention. They believed him to be a sincere, honest man, and hundreds of them then and there made up their minds to vote for him. This once resolved upon, the support of Tilden and Hendricks easily followed.

The canvass was conducted in the most orderly manner.

In this connection we wish to call attention to the testimony of Mr. J. W. Mann, a most estimable gentleman, and recognized as one of the best citizens in this parish. Mr. Mann is a large planter near Port Hudson. He is a Massachusetts man and a republican. (See testimony of subcommittee, page 301.)

There were no whippings at any time in this parish on account of politics, and during the canvass there were but two of which we could hear of any kind; one the case of Ezekiel Glover, who has said that it was not on account of politics, and the other Ananias Richardson, who entered the store-house of Rev. John A. Reiley, and, without permission, helped himself to meat out of the pork-barrel. All persons having property, without regard to party, were, it seems, foraged upon alike.

John Marston testified as follows:

Mr. Parson Reiley told me that he had lost most of his crop of 1874, and a good deal of the crop of 1875, by negroes stealing it, and that the regulators had saved his crop of 1876. That is the conversation I had with Mr. Reiley a short while ago. He was very much in favor of the regulators.

Rev. John A. Reilly was chairman of one of these lynching organizations, and assisted in organizing it. White men were regulated and run out of the parish for stealing. Jos. A. Norwood tells of one Robinson thus driven off, because he had stolen hogs from a colored man, and of one Brown compelled to leave the parish by the regulators on account of stealing cattle from a colored man.

As a specimen of the utter recklessness with which affidavits were prepared to order for use before the returning board, we invite attention to that of James Law, colored. In his affidavit he says:

I have heard of many instances of colored men in said parish having been whipped and shot for attending republican meetings.

When examined before the subcommittee he said he did not know of but one republican meeting being held in the parish, and had heard of but one case where blows were struck, and of no case where a colored man was shot for attending republican meetings.

Law shot a colored man a few years since at Port Hudson, in a political campaign. Law was a bolter at that time from the regular republican organization.

Z. S. Sparkman, (white,) before the returning board, said that in the summer of 1875 an armed body of men called him out of his house and told him they had heard that he was a radical, and that he must leave the parish within ten days; that, in the fall of 1875, the same men came to his house and took therefrom "his three young children by a colored woman, whom affiant was living with," and notified him that he must take them out of the parish. The proof, by the brother-in-law of Sparkman and others, is that he was living in adultery with a colored woman and had been for years; had three children by her, as he admits. It was determined to put a stop to his shameless conduct. His brother-in-law swears that he was one of the party who visited him; that he was not touched, but was very plainly informed that he must mend his ways in this regard; and that if he did not he must leave the parish. It was proven that Sparkman had always been a democrat, and that his affidavit before the returning board was the first intimation received by anybody that he had changed his political creed.

P. Charles Butler (white), says before returning board that he is a republican, and that no republican ticket was put up or voted for because of terror and intimidation. This is the same Butler already mentioned. It was proven that he had shot some twenty-three men, killing several of them; has shot at and wounded two men within the last six months. About two years ago, at a convention of his own party, not being satisfied with the proceedings, he commenced firing into the assembly, and before he finished he had lodged bullets in eight colored men.

Jared W. Harrell (white) says he was cursed for being a damned nigger-loving radical by men who came to his house armed with shotguns and threatened to hang him. Says, also, that they stripped his servant woman and whipped her almost to death. The proof is that he was and had been for a long time living in open and notorious adultery with this colored servant-woman. It had become the standard and stereotyped scandal of the community, and his own wife had sent word to some young men of the neighborhood that she wanted their intimacy broken up. They did not need a second invitation. Harrell had always been a democrat, and nothing to the contrary was ever heard until his affidavit was filed before the returning board.

The last man killed by Butler was George Hicks, a democrat, killed on the 18th of July, 1876, during the canvass.

He was in jail at Clinton when this subcommittee left there, having been arrested on account of his threat to kill some one. He says he is "a republican, and desired at the last election to be a candidate for sheriff, but did not run because he was told he would never be allowed to hold the office if elected."

The name of Thomas H. Jenks figures more prominently before the returning board as a witness against the white people of this parish than that of any other person. He says that Jerry Norman, colored, was shot at church by a band of regulators in August, 1875. The proof is that he was shot by one Eugene Thompson, white, at whom Norman had fired the day before, the ball entering a sack of meal upon which Thompson was sitting. It was an old feud, not involving politics, and the killing was not done at church, nor in the presence of but one person, a colored man, who testified before the committee. He also says that Dr. Wood passed sentence of death on two colored girls, and that the sentence was executed by one hundred armed men. The proof is that a party of colored men were in the act of hanging these girls, because they believed them to be guilty of stealing some clothing from a colored family, and Dr. Wood, hearing of it for the first time, hastened to the spot and saved their lives.

Mr. Jenks was well known to the tax-payers of this parish of both colors. T. A. Moore testified of him as follows:

By Mr. NEW:

Question. You live here?
Answer. Yes, sir; practice law.
Q. How long have you lived here?
A. Since 1867.
Q. What is your occupation?
A. I am a lawyer.
Q. Were you acquainted with Thomas H. Jenks?
A. I was.
Q. Did he ever live here?
A. Yes, sir; he came here as tax-collector. He came here in May or June, I think, as tax-collector under appointment from Governor Warmoth, and he remained until, I think, in April, 1871—somewhere in the neighborhood of two years.
Q. Do you know whether he got into any legal troubles as tax-collector?
A. There were same rumors around that he was a defaulter, and a few days afterward he disappeared, and then it was found that he was a defaulter to the State and parish of $20,000 in the suit of James Graham, auditor, for the benefit of the State and of the parish jury for the benefit of the parish; also crimnal proceedings against him.
Q. Were there any judgments rendered?
A. Yes, sir; one at the suit of the State, under the name of James Graham, auditor, for the benefit of the State of Louisiana, against Thomas H. Jencks, judgment for $10,322.22; and the case of the police jury against Thomas H. Jencks, judgment was rendered for $10,072 56, I think.
Q. What were the dates of these judgments?
A. The judgment in the case of the State was the 14th of January, 1872; and I think on the same day in favor of the parish.

The killing of John Gair and his sister-in-law, commonly called Babe Mathews, both colored, in October, 1875, are the cases most frequently mentioned in affidavits filed before the returning board. We examined with the utmost thoroughness these cases, and found that it conclusively appeared that politics was in no manner involved.

I believe that these excesses were the result of the bad government which bad men have given to the State of Louisiana. John Gair was killed in October, 1875, by a large party of men, numbering near one hundred. It was charged that at his instigation his sister-in-law attempted to poison Dr. J. W. Sanders, of Clinton. The sister-in-law was working at the house of Sanders as a house-servant. Sanders, after taking a drink of water, was sick, and the symptoms were pronounced to be those of arsenical poisoning. The girl was suspected and was accused of putting arsenic in the water, and she confessed that such was the fact. She made affidavit as follows:

STATE OF LOUISIANA,
Parish of East Feliciana:

Personally appeared before me, the undersigned authority, Catherine Mathews, (colored,) who, being duly sworn, doth depose and say: About one week ago, or more, she was in the town of Baton Rouge, on a visit to her sister, the wife of John Gair; that while there a young colored man by the name of John George, who formerly resided in this parish, gave her some poison in a small vial and requested her to poison Dr. Sanders, saying that John George told her it was a made-up thing between her brother-in-law, John Gair, and Bob Ray to use the poison to poison and to kill Dr. Sanders; that he told her to put it in the water for him; that she used said poison as directed, and that she is sorry for what she has done; that she committed the act because John George told her that Gair and Ray wanted her to do it.

Sworn to this 11th day of October, 1875.

CATHERINE MATHEWS.

(Written in her own handwriting.)
Sworn to and subscribed before me this 11th day of October, 1875, and signed.

T. B. LYONS,
Parish Judge.

I do not believe that the killing of Gair was because of his being a republican. He had removed from the parish of East Feliciana, and was killed at a time when there was no political excitement whatever, nor had there been for twelve months.

There was no evidence of his ever having had any personal difficulty growing out of politics with any white man. There is no evidence that he had been in the parish after his removal.

Mr. Speaker, it may be that in the absence of a republican ticket some colored republicans were prevailed upon, against their own inclinations, to vote the democratic ticket. It is not difficult to see how this might be true in any community where one party had abandoned the field at the beginning, and when the other was therefore having it all its own way. It would not be remarkable if under such circumstances some votes were secured by the prevailing party against the secret desire and choice of persons voting.

In this connection I wish to call attention to the fact that Captain Rogers, of the United States Army, a republican, stationed in this parish, gives it as his best judgment that about two-thirds of the colored vote, if uninfluenced by others, would be cast for the republican party. The registered democratic vote is placed in Sherman's report at 1,004 and the republican vote at 2,127. Subtract from the latter number two-thirds of the same, and there would remain 709 colored votes which would be democratic. This added to the democratic registered

vote would make 1,713 votes, which is within 23 votes of the number cast for the democratic electors. It will be seen, therefore, that the democratic vote is not any larger than it would be entitled to on a full vote. This cannot be denied, for in addition to the 1,736 votes cast for the democratic candidates, there were 443 democratic votes cast at a side ballot-box by persons who had failed to register. But these votes are not included in the 1,736. If the republican party permitted the election to go by default, they cannot justly complain.

Mr. Speaker, I have shown that in these three parishes alone Mr. Tilden, by the action of the returning board and its ratification by a majority of the electoral commission, has been robbed of a valid majority of 2,819, which is within 618 votes of the majority *given* by the board and commission to Mr. Hayes in the State.

The investigations by the other subcommittees show that a majority of not less than 4,820 in favor of Mr. Tilden was taken from him without right and in gross disregard and violation of law in the other parishes in which votes were thrown out.

THE SEWING-MACHINE CIRCULAR SWINDLE.

By the sewing-machine circular swindle at least twenty-five hundred democratic voters in the city of New Orleans were disfranchised.

The New Orleans subcommittee make the following statement upon this subject:

In this connection we call attention to what is known as the "sewing-machine circular" swindle, the details of which are fully given in the evidence, and which reveal a vile plot to deprive thousands of citizens of New Orleans of their votes at the election. About twenty-nine thousand of these sewing-machine circulars were sent by mail-carriers to registered white voters who were supposed to be democrats, directed to their places of registration, the carriers being instructed if the persons to whom they were addressed were not found at the places designated, which they did without making much inquiry, that they should be returned. These circulars were then placed in the hands of two metropolitan policemen, who purported to go to the same places and inquire for the person registered. The inquiries were either not made or done so carelessly as to prevent the delivery of the letters. The policemen then made information against all those they did not find before United States officials, and warrants were issued against about eleven thousand persons for false registry, thousands of which were returned "not found." After these warrants had been thus returned, at the instance of a republican official, on the Saturday night preceding the election, all the supervisors of registration were called into the custom-house, and during that night and on the succeeding Sabbath some thousands of those names were stricken from the list of registered voters.

As soon as this fraud was discovered, the persons against whom the false charges were made voluntarily appeared before W. Southworth, United States commissioner, who proceeded to hear the parties, disposing of the cases at the rate of one every two minutes. In over thirteen hundred cases he only found five which he continued for further hearing. The residue of the cases yet remain undisposed of; Mr. Jewett, the other commissioner, who was one of the prime movers in the plot, refusing to index the cases, thereby preventing the parties charged before him from having a hearing. The warrants were turned over to the supervisors, in order that they might strike the names from their lists of registration. By this conspiracy a large number of democratic voters, estimated at not less than 2,500, among them persons who were born and had resided there all their lives on the spot from which they registered, were deprived of their right of suffrage.

It is a fact of significance that the minority report signed by the republican members of the Louisiana committee makes no allusion whatever to this fraud, notwithstanding its notoriety.

Mr. Speaker, upon the face of the proceedings of the returning board it is clear that its action was fraudulent. The refusal to fill the vacancy with a democrat, as the law required, ought to and will convince honest men that wrong was resolved upon. It was not intended that there should be a fifth member who would be present at their secret meetings and would expose unlawful conspiracy and corrupt action.

The testimony of Picket, Maddox, Kenedy, Kenner, and others before the committee on the privileges, powers, and duties of the House in counting the electoral vote establish the fact that the returning board through its president, Wells, was ready up to the last moment before the final finding to count the State for Mr. Tilden for a moneyed consideration.

After the effort which has been made in what is known to the country as the "Sherman report," to whitewash the character of the returning board, it may be of interest as well as instructive to hear what General Phil. Sheridan has to say about Wells. In an official report he says:

Wells's conduct as governor has been notoriously corrupt. He had illegally appointed a board of levee commissioners, who were authorized to hold over by an act of the Legislature, and a conflict of authority ensued, and in the mean time the Mississippi overflowed and great damage was done to property. There was an appropriation of $4,000,000 made by the Legislature for repairs of the levees, and Wells wanted to finger some of this money.

In a letter to Secretary Stanton of date June 3, 1867, explaining his action in removing Wells, General Sheridan said:

After the adjournment of the Legislature the governor of the State appointed a board of his own in violation of this act, and made the acknowledgment in person that his object was to disburse the money in the interest of his own party by securing for it the vote of the employés at the time of the election. The board continued in office, but the Legislature refused to turn over to the governor's board, and each side appealed to me to sustain it, which I would not do. The question must then have gone to the courts, which, according to the governor's judgment when he was appealing to me to be sustained, would require one year for decision. Meantime the State was overflowed. The levee boards were tied up by political chicanery, and nothing was done to relieve the poor people, now fed by the charity of the Government and charitable associations of the North. I say now, unequivocally, that Governor Wells is a political trickster and a dishonest man. I have seen him myself, when I first came to this command, turn out all of the Union men who had supported the Government, and put in their stead rebel soldiers, some of whom had not yet dropped their gray uniform. I have seen him again, during the July riot of 1866, skulk away where I could not find him to give him a guard, instead of coming out as a manly representative of the State and joining those who were preserving the peace. I have watched him since, and his conduct has been sinuous as the mark left in the dust by the movement of a snake. I say again that he is dishonest, and dishonesty is more than must be expected of me.

In a letter to General Grant about the removal of Wells, General Sheridan said:

He has embarrassed me very much since I came into command by his subterfuge and political chicanery. This necessary act will be approved by every class and shade of political opinion here. HE HAS NOT ONE FRIEND WHO IS AN HONEST MAN.

If anything can be wanting to demonstrate beyond the shadow of doubt that the returning board has been guilty of the most willful and wanton misconduct and fraud, it will be supplied by the following facts:

The members of the returning board have sworn that they did not know the result of the election for electors, as shown upon the face of the returns made to them, nor how the canvass and compilation made by them would affect the result until their work was concluded. And yet, three days prior to the completion of their false and fraudulent compilation, United States Marshal Pitkin telegraphed as follows to Senator WEST:

NEW ORLEANS, *December* 3, 1876.

Hon. J. R. WEST, *Washington, D. C.:*

Democratic boast entire fallacy. Have northern friends on way North. Answer telegram of this morning; also, have Senate anticipate House on sending committee to investigate outrages. Have seen Wells, who says: "Board will return Hayes, sure. Have no fear."

J. R. G. PITKIN.

Pitkin swears that he obtained this information from Wells.

The republican party is not only unwilling to see colored men vote the democratic ticket, but by its conduct asserts that if the colored voter is so unmindful of his obligation to that party as to vote the democratic ticket *his ballot shall not be counted.*

In the Sherman report it is asserted that if the "blacks" were left free to vote without violence or intimidation they would be almost unanimously republican. This statement assumes as true the very question in controversy.

Mr. Speaker, I know, and the colored men of Louisiana and other States North and South know, that the republican party has treated the color of a certain class of American citizens as a mark bearing testimony that those persons *belonged* to the republican party, notwithstanding the fact they had been liberated from slavery.

Why may not colored men vote the democratic ticket in Louisiana as well as in all the other Southern States? Has not the inducement to so vote been stronger there than in any of the other Southern States because of the accursed State government by which all classes and colors have been oppressed and robbed?

It is well known that thousands of colored men of their own free will voted the democratic ticket in Arkansas, Alabama, Tennessee, Mississippi, Georgia, and South Carolina. In no other way can the large democratic vote in those States be accounted for. No man of average political information will deny this.

Mr. Speaker, it was no new thing for colored men in the South to vote the democratic ticket at the late election. Two years ago, in more localities than one in the South, colored men marched in democratic processions of their own organizing, bearing in their hands democratic banners and democratic ballots. We heard upon the floor of this House at the last session a telegram read which had just been received by a southern democratic member from a colored constituent, urging him to attend a colored democratic barbecue to be held soon thereafter.

Sir, the time is coming, and is not very distant, when the colored vote all over the country will be divided about equally between the dominant parties. When that time arrives a riot at Hamburgh or at Vicksburgh will not be talked of in Congress or before the country for political effect. There is no good reason why there should in the future be any ill-feelling or estrangement between the people of the North and South. We have some men in the North who will not believe that the war is over, and never will; so we had just as well let them go on with their war of words.

It was General Scott, I believe, who said that when our civil war should be over, and the opposing combatants had laid aside their arms and were ready to live together in peace in a restored Union, it would require all the good sense and patriotism of the country to keep the non-combatants from tearing each others' eyes out.

Mr. Speaker, thank God the hated and hellish battle-cry of sectional hate, so long sounded in the ears of the people by ambitious and wicked demagogues, will not longer be listened to with patience by decent men of any party or color.

And, sir, notwithstanding the bitter disappointment which recent events have brought to the democratic party I do not believe it will lose faith in our democratic system of government, nor be guilty of any act tending or looking toward its dissolution or impairment.

For one, sir, I look, with a confidence scarcely less assuring than a realization of the fact, to such an uprising of the people four years hence in retribution and condemnation of the great wrong and crime just accomplished as will forever attest the fact that the American people not only have unabated confidence in the patriotism of the democratic party, but intend that the future administration of the Government shall be intrusted to *those only who are the choice of the people* as expressed at the ballot-box.

The Electoral Count.

SPEECH OF HON. W. A. J. SPARKS,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

January 29, 1877,

On the bill to provide for counting the electoral vote.

Mr. SPARKS. Mr. Speaker, the pending report of the joint committee of the two Houses, with the accompanying bill now under consideration, has to some extent deranged the order of discussion that I had proposed on the resolutions reported by the select committee of the House on the privileges, powers, and duties of the House of Representatives in counting the votes for President and Vice-President of the United States. But I hope the patience of the House will not be exhausted while, directing my remarks to the bill now before us and under this changed aspect of the case, I briefly express the views entertained by me on the subjects involved in this discussion.

The proposition that the President of the Senate by the terms of the Constitution, or by any fair implication derived from that instrument, is clothed with the power to count, adjudge, and determine the electoral vote, or to pass upon the certificates purporting to contain that vote, with the varied and momentous questions that necessarily arise therefrom, (except to open said certificates in the presence of the two Houses, as expressly provided in the Constitution,) seems to me so utterly fallacious and absurd that it would under ordinary circumstances hardly call for serious consideration.

Yet a respectable number of the eminent leaders of a strong and now dominant political party, have assumed this attitude; and therefore acting under my convictions it becomes a duty not only publicly to record my dissent from this position but in as forcible words as I may be able to command give the reasons upon which that dissent is founded.

The proposition as it strikes me, sir, is not only wrong as a mere question of constitutional construction, but is opposed to and at war with the spirit of republican institutions.

The fundamental principle that underlies our institutions is, that the people have and of right ought to exercise the sovereign power. Any effort then to repose undue authority in the hands of one individual is a substantial and dangerous departure from that general rule. I do not hesitate to say that the man believing in and revereing free institutions does not exist who, with the lights we now have before us, were he engaged in framing a constitution for our future government, would for one moment tolerate the proposition of reposing in any one man the power claimed by these gentlemen now to exist in the President of the Senate, for the reason that it is in opposition to all of our theories of republican government in this, that it deprives the people and their Representatives of all authority in determining the most vital question as to the result of that people's own action and reposes absolute power in the hands of a single man who is irresponsible to them for its legitimate and proper exercise.

The fallacy and monstrous wrong of the proposition will be more apparent when we consider that in certain contingencies which may arise under the Constitution, any ambitious, bad man being the President of the Senate and a candidate for the Presidency would, without regard to justice or popular liberty, have the the power, in determining a case in which he was a most deeply interested party, by his own act, to elect and clothe himself with the chief executive authority of the Republic. Such contingencies have already six times occurred during the eighty-eight years of our national existence under the Constitution.

I belong to that order of men, Mr. Speaker, who believe in the capacity of mankind to govern themselves; who believe that all the triumphs of civilization, and the conquests of democratic principles in the past have been solely attributable to the wisdom and aggregate action of the people! History it appears to me has been studied with little purpose if the student fails to understand that every great era of the world's history representing advancing civilization and advancing freedom (for they have ever gone hand in hand) was the result of the struggling masses against the despotic few.

Therefore the assertion that one man in this democratic country and under our republican form of government should have the power reposed in him of determining by his own arbitrary, unappealable, and unrepealable act the final result of the sovereign will of the people when exercising their highest functions of sovereign authority, the election of their Chief Magistrate, is not only untenable, but, in my judgment, absolutely absurd. And when, as I have before intimated, that man may under the Constitution be a candidate for the Presidency himself, and therefore a deeply interested party as to the determination and result of the election, it stamps such a proposition as monstrous and utterly indefensible.

Let me state a situation not impossible. Suppose an election has been held as now; that the political views of the President of the Senate were unknown; that his lips had been sealed, and that none of us in either branch of Congress knew his leanings. Suppose a tie in the Senate and total inability to elect a new presiding officer, and let it be understood that each of the contending parties honestly believe that their candidate was duly elected, is there a man on earth believes that one of us in either House would for an instant think of reposing the power of determining the count and the momentous and grave issues connected with and surrounding it to the final determination and arbitrament of that single man?

Or, further to elaborate this idea, suppose all the people were assembled, nearly or quite equally divided into two parties, and each party firmly believing that their candidate was elected, and one man, whose views were unknown, was President of the Senate, and it should be submitted to them whether or not the grave question of determining the serious and weighty interests involved should be left solely to him, do we not all feel that such a proposition would be treated by all parties with derision and contempt, and that the natural promptings of popular sovereignty would find expression in unmistakable denunciations of a solution of their difficulty by a resort to an expedient so nearly allied to despotic rule and so dangerous to the theories of popular liberty?

The foregoing views, Mr. Speaker, are, it seems to me, clearly sustained by the spirit if not by the letter of the Constitution, for I claim, sir, that in the execution of all powers not defined by it it is its spirit that those nearest the people, their representatives, should when necessity exists be the authors of the execution of these undefined powers necessary to government.

The tenth amendment of the Constitution declares that—

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Now, while the power reserved in this article as applicable to the present situation, strictly construed, may make a further amendment to the Constitution the only expedient for the expression of the popular will, yet the spirit of this amendment is in conformity to the views heretofore expressed by me, and clearly opposed to the assumption of authority by the gentlemen who entertain the view that the President of the Senate should count the electoral votes.

The necessity for the tenth amendment proceeded from the fact that reactionary and centralizing theories of government were at the time of its adoption advocated by the Federal party, and our fathers of democratic faith, apprehensive of dangerous encroachments on popular liberty, insisted upon and secured its incorporation into the Constitution.

The provisions of the Constitution under which this power is claimed are in the twelfth amendment, so often quoted, and are in the following words:

> They [the electors] shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted.

The first clause, it is admitted, simply makes the President of the Senate the custodian of the returns until the time for the final count.

Now, the power or authority conferred upon him by the second clause must necessarily be our only inquiry, for the above provisions contain the only mention or allusion in the Constitution or amendments to the President of the Senate with respect to the electoral vote.

Does it mean that he shall count the vote? If this be so, to use a familiar expression, "Why in the name of common sense don't it say so?" It would take less words to do it, and it is a fact worthy of mention that the patriotic and eminent men who framed the Constitution, from which this clause of the amendment is copied, were sparing of words.

If they had intended that the President of the Senate should not only open the certificates but also count the votes, they could have expressly conferred upon him that power by the use of five words, while they in fact used seven to raise an implication of power in him to do it as contended for by these gentlemen.

Let us analyze it. Suppose it said "the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates *and then count the votes.*" This would certainly confer the express power upon him by the use of the last five words. But the language is:

> The President of the Senate shall in the presence of the Senate and House of Representatives, open all the certificates, *and the votes shall then be counted.*

Using seven words in the conclusion, and clearly relieving it from any express authority in him to count; and, as it seems to me, raising no implication of such authority, for it has been unanswerably asserted by eminent authority that *implied* powers are those only which are necessary to the execution of those expressly conferred, and there being none thus conferred by this clause of the Constitution there can be no implied powers deducible from it to sustain the theory of the power in the President of the Senate to count, as insisted upon by the defenders of that theory.

But it must also be borne in mind, that it is not only the power numerically to count that is asserted to be in him; but necessarily the power judicially to determine the legality of the electoral votes in the case of fraudulent, illegal, or double returns and; it is this judicial determination that attaches to the subject the gravity and vast responsibility that I have argued is so dangerous to be intrusted to the caprice of one irresponsible official—so repugnant to the genius of our institutions, and having no warrant or authority in the Constitution.

But the votes are to be counted; and if not by the President of the Senate, by whom, and how?

There is no express authority in the premises delegated or conferred upon anybody. It is therefore, in my judgment, a power clearly reserved to the people, as expressed in the tenth amendment to the Constitution; and that being so, it can hardly be doubted, taking that amendment in connection with the last-quoted clause of the twelfth article of the amendments, that the only proper tribunal for the determination of the question and settling the plan for its solution must rest with the representatives of the people in the two Houses of Congress, for, to execute this necessary power, not expressed, and therefore reserved, must devolve legitimately upon them or the Government is a failure.

The power to determine the questions in regard to disputed electoral votes cannot in the nature of things rest with the States, for the Constitution provides that the certificates shall be opened by the President of the Senate in the presence of the two Houses of Congress and that the votes shall then be counted. The States, having parted with them, cannot count or share in the counting. That duty therefore must devolve upon the people, and is to be executed by their representatives in both Houses of the National Legislature in accordance with the spirit of the Constitution, and necessarily in such mode or manner as will most orderly and efficiently accomplish that object.

And by a fair interpretation of these constitutional provisions, as it seems to me, the end to be attained can only be by the concurrent action of the two Houses affirmatively directed to its accomplishment. For if the power to determine this question is, as I assume, reserved to the people, the legitimate expression of that power is, beyond question, in their representatives in both Houses of Congress, and requires not only their affirmative but concurrent action by legislative enactment, joint rule, or some similar mode. And in the absence of these the counting of any electoral vote objected to by either House is, under any contingency, an impossibility.

Now, sir, I have presented the views that occur to me in opposition to the pretended power in the President of the Senate to count the electoral vote:

First. By reasons against it deducible from the nature and theory of our form of government;

Second. By arguments based upon the language of the clauses of the Constitution relating to that subject; and,

Third. Have insisted that the power not being delegated is reserved to the people, and by them is to be executed through their Representatives in Congress; and I have expressed the manner through which this to be done. And now, as a last proposition, I shall insist that these views of the question are in harmony with those of the eminent men of the country and are sustained by acts and precedents established from the beginning of presidential counts to the present.

The first presidential count under a fully organized system was in 1793, in which the two Houses appointed a joint "committee to ascertain and report a mode of examining the votes for President and Vice-President," &c. The committee reported, fixing the time, place of meeting, and manner of counting the votes by three tellers, one on the part of the Senate and two on the part of the House, appointed by the Houses respectively. And these tellers, members of and as agents of the two Houses, received the lists when opened, "examined them," and from them, under the direction of the Houses, made up the state of the vote, which done, the Vice-President, from the statement thus made and handed to him by the tellers, "announced the vote," &c.

The same kind of proceedings were had with respect to the count in 1797 and 1801, most clearly showing the exercise of authority over the counts to have been in the two Houses. In neither of these cases was there any conflict nor occasion for anything beyond the formal counting of the votes; but they show that *that* was recognized as the proper prerogative of the two Houses and executed as such, and it is a notable fact that immediately following the count of 1801, on account of the Jefferson-Burr imbroglio, it was found necessary to amend the Constitution, under which amendment all counts since then have been made; and it will be found that this clause of the twelfth amendment, under which this claim of the President of the Senate's power to count is derived, was literally copied from the original clause of the Constitution. Now, what are we to learn by this? Our fathers had most clearly for over twelve years acted upon the assumption that the power to count was not in the President of the Senate, but in the Houses, and so clear and well understood was it that when they amended the Constitution this clause was simply copied without alteration.

On examination it will be found that every count of a presidential vote from that time (1793) up to 1865 has been conducted in the same manner, the two Houses on every occasion appointing "joint committees to ascertain and report a mode of examining the votes for President and Vice-President," &c., committees reporting "time, place, and mode of counting," and the Houses appointing tellers to do it under their direction, &c.

During this time there were very few conflicts; indeed, none of a serious character. The first was on the first election of Mr. Monroe, in 1817, and occurred in regard to counting the vote of the new State of Indiana, with respect to which a doubt existed as to whether or not it was a State in the Union, duly admitted under the Constitution and laws. From the proceedings that took place on that occasion it will be clearly seen that the President of the Senate did not assume to determine the question of doubt with respect to the count or to exercise any authority in the premises, further than to open the certificates and after the count to announce the state of the vote, and that the Houses *did* assume that authority, and *did* consider the questions involved, and determined them to their own satisfaction and that of the country.

The next was on the second election of Mr. Monroe, in 1821, and occurred in regard to counting the vote of the new State of Missouri, which was in most respects identical with that of Indiana in 1817. The question of the admissibility of its vote was quite fully discussed by the members of both Houses, and by *them* determined in favor of counting the votes alternatively, namely: The total number of votes cast was declared to be "232, including the vote of Missouri, of which 117 make a majority, or, excluding the vote of Missouri, 229, of which 115 make a majority, but in either event James Monroe was elected President and Daniel D. Tompkins Vice-President;" which, having been determined by the two Houses through their tellers and after discussion of the matter by the members, was announced by the President of the Senate as the state of the vote, but he in no sense taking any part in the discussion or determination of the question and being utterly ignored by the Houses as a party to be consulted in the matter, they assuming *all* and he *none* of the authority in the premises.

The next was on the election of Mr. Van Buren, in 1837, in regard to counting the vote of the State of Michigan, which was similar to that of Missouri and treated in all respects the same as that State was in 1821, the votes thereof by direction and determination of the Houses being counted in the alternative, as it produced no practical effect upon the result of the election.

The next was on the election of Mr. Buchanan, in 1857, and occurred over the count of the vote of the State of Wisconsin, the electors of which had met and cast the electoral vote of that State on the day succeeding that prescribed by law, being prevented from meeting on the right day on account of a violent snow-storm which prevailed in that State, so that the electors did not reach the capitol in time to cast the vote on the day prescribed but performed that duty on the following day. Over this a long and very interesting discussion occurred, conducted by the able and eminent statesmen who then composed the two Houses of Congress, and which will repay the reader a careful perusal. It all ended in the vote of the State being counted, but done according to *their* determination and direction, the President of the Senate explicitly disclaiming any authority or control over it.

The count of 1861, when Mr. Lincoln was first elected, was made upon the threshold of a mighty revolution, when the Senate was presided over by Mr. Breckinridge, himself a candidate for the Presidency and ardently sympathizing with those who were then inaugurating rebellion. Had he and his compeers conceived the idea that he was clothed with this vast power, with the great inducements to its exercise in his own interest and for the interest of those with whom he was in affiliation, what might he not have done to cripple the Union and advance the confederate cause? That he, with such inducements, refused to claim or exercise the power now claimed by these gentlemen to exist in the President of the Senate argues not only how indefensible the claim was then considered, but does great honor to the memory of a great man.

And now, sir, we come to the electoral count of 1865. It will be observed that from the organization of the Government up to this period the two Houses have on each and every occasion by joint rule established the mode and manner of counting the vote under the Constitution. But to obviate the necessity of a specific joint rule for each occasion they now adopt a general rule for their future guidance, known as the twenty-second joint rule, and is as follows:

The two Houses shall assemble in the Hall of the House of Representatives at the hour of one o'clock p. m. on the second Wednesday in February next succeeding the meeting of the electors of President and Vice-President of the United States, and the President of the Senate shall be their presiding officer. One teller shall be appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, the certificates of the electoral votes; and said tellers, having read the same in the presence and hearing of the two Houses thus assembled, shall make a list of the votes as they shall appear from the said certificates. And the votes having been counted the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote and the names of the persons, if any, elected, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, and together with a list of the votes be entered on the Journals of the two Houses.

If upon the reading of any such certificate by the tellers any question shall arise in regard to counting the votes therein certified, the same having been stated by the presiding officer, the Senate shall thereupon withdraw, and said question shall be submitted to that body for its decision; and the Speaker of the House of Representatives shall in like manner submit said question to the House of Representatives for its decision. And no question shall be decided affirmatively, and no vote objected to shall be counted except by the concurrent votes of the two Houses; which being obtained, the two Houses shall immediately re-assemble, and the presiding officer shall then announce the decision of the question submitted. And upon any such question there shall be no debate in either House. And any other question pertinent to the object for which the two Houses are assembled may be submitted and determined in like manner.

At such joint meeting of the two Houses seats shall be provided as follows: For the President of the Senate, the "Speaker's chair;" for the Speaker, a chair immediately upon his left; for the Senators, in the body of the Hall upon the right of the presiding officer; for the Representatives, in the body of the Hall not occupied by the Senators; for the tellers, Secretary of the Senate, and Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon either side of the Speaker's platform.

Such joint meeting shall not be dissolved until the electoral votes are all counted and the result declared; and no recess shall be taken unless a question shall have

arisen in regard to counting any of such votes, in which case it shall be competent for either House, acting separately, in the manner hereinbefore provided, to direct a recess not beyond the next day at the hour of one o'clock p. m.

Now, this rule was established by the two Houses of Congress at a time when they were composed almost exclusively of republican members, there being scarcely enough democrats in either House to be called an opposition party, and it was adopted by a unanimous vote, and that vote given mainly, so far as the Senate is concerned, by the identical Senators now repudiating it and insisting that the power to count is in the President of the Senate. It was not adopted as a make-shift, a compromise, or a present expedient—for there was no occasion for any of these—but as a permanent rule jointly established by the two Houses to carry into effect the provisions of the Constitution that authorized the count. They certainly will not insist that it was an expedient not warranted by the Constitution, nor a rule outside of or beyond the Constitution. To do so would make them triflers with their oaths of office. It purported to be the joint rule made by them, prescribing the mode and manner and for the purpose of giving orderly and efficient effect to the constitutional provisions in relation to counting the votes for President and Vice-President of the United States, and to obviate the necessity of making quadrennial rules, as had been done prior to its establishment, and for no other purpose, and as such was treated by them and received by the country at large.

Under it the electoral votes of 1865, 1869, and 1873 were determined and counted, and the Presidents and Vice-Presidents thus counted in were inaugurated. It has done its work well for twelve years and has thus long been regarded as the faithful interpreter of the Constitution with respect to electoral counts. And now, when the country is convulsed with the calamity of a disputed election, why could it not continue as the peaceful guide to lead us out of this political wilderness and restore peace and contentment to the country? My opinion is—and I cannot doubt that it is the opinion of the honest masses of the country—that it is opposed now as a rule because its provisions afford a solution of the present dispute not only in keeping with the votes of the people but in dislodging from power a party whose leaders were its authors and but a short time ago its zealous advocates.

Mr. Speaker, the pending bill does not as an abstract proposition commend itself to the approval of my judgment.

It seems to me a measure forced upon us by the complications thrown into this contest by the unscrupulous leaders of a hitherto dominant party who are unwilling to submit to the honest verdict of the people at the ballot-box.

I do not doubt and do not believe there is a doubt in the minds of the great majority of the people of the Union that the eminent and distinguished gentlemen representing the democratic party in the recent election were honestly and fairly elected by a majority of the electors appointed, (and it is admitted that they have a quarter of a million majority of the popular vote.) But the party now in power, reluctant to yield the trusts and lucrative offices so long held by them, and presuming upon the further patience of a forbearing people whose confidence they have so often betrayed, have, through the instrumentality of villainous returning boards, composed of unscrupulous, characterless scoundrels, and through the manipulations of scheming political tricksters, to whom patriotism and fair dealing are unknown and with whom success achieved by fraud is coveted, all aided by the military arm of the Government and the countenance and support of those high in authority, so complicated the case that many honest men doubt the result and we find the country exposed to the dangers of a civil conflict.

Under this state of the case this bill is presented. It will most probably pass the two Houses, be approved, and become a law. If so we are assured of a peaceful solution of the difficulties surrounding us. Paralyzed industries will be restored and the country move on in its pathways of peace and prosperity. And may we not also hope that the "electoral commissioners," to whom the adjudication of disputed electoral votes is submitted under the provisions of the bill will have the strength to rise above the influences of partisan prejudices, and, controlled solely by patriotic impulses, discharge the high trusts devolved upon them with fidelity to the Constitution and laws, and in the interests of the millions of their fellow-citizens.

With this view of it and this hope the bill shall have my support. As I have before stated it will probably pass. The gentlemen entertaining political sentiments in harmony with my own will, with great unanimity as I am advised, support it in both branches of Congress. If it is defeated therefore it will be done by the representatives of the opposite party, who were defeated at the polls by a popular majority of a quarter of a million of votes; and upon that party must rest the responsibility and fearful consequences.

Sir, I know the people, and know that they want peace. In peace and in the paths of peaceful pursuits lie their happiness and prosperity. And they know it, but they will not forfeit their manhood and sacrifice their constitutional liberties for a peace imposed by the extortion from them of their dearest rights.

Treat them with contempt; taunt them with the insinuation of a decaying manhood; spurn their sovereign authority expressed at the ballot-box; and my word for it they will resent the indignity and meet the grave issues thus thrust upon them with a terrible earnestness.

Commercial Relations with the Dominion of Canada and the Extension of Markets for our Productions.

SPEECH OF HON. ELIJAH WARD,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

February 21, 1877,

On the joint resolution (H. R. No. 14) providing for the appointment of commissioners to confer with similar commissioners appointed by Great Britain and ascertain on what basis a mutually beneficial treaty of commerce between the United States and Canada can be negotiated.

Mr. WARD. Mr. Speaker, to those who regard our commercial relations with Canada comprehensively and in a national spirit, without undue bias from minor matters of merely local or special interest, it is sufficient for me to point out the respective geographical positions of the United States and the Dominion, and the extent of the latter country. A straight line drawn from the northern boundary of Maine, near the headwaters of the Saint John's River, to Detroit, would pass entirely through Canadian territory. We are enabled more clearly to estimate the extent of this line, which is small in comparison with our northern frontier, when we see, as we may on reference to any map of this continent, that if continued for the same length onward from Detroit into the United States, it would reach a considerable distance southerly from the place where the Arkansas River flows into the Mississippi, and that if extended directly south from Detroit it would reach nearly to Tallahassee or the Gulf of Mexico.

Regarded from another point of view, it may be seen that the part of the Canadian territory south of a line drawn from the northern boundaries of Maine and Minnesota would exceed in breadth the States of Ohio, Indiana, Illinois, and Iowa, and would be equal in area not only to those States, but in addition to large portions of Nebraska, Missouri, Kentucky, Kansas, and Arkansas. A country of these vast dimensions, and under alien commercial laws, exists between all the New England States, New York, Pennsylvania, and Ohio, on one side, and Michigan, Wisconsin, Minnesota, and all the region west of them on the other. An equal area extended southerly would, with the exception of a few miles, separate by a broad barrier all our territory north and east of any point on the northern shore of the Gulf of Mexico from all those parts of the Union which are northwest of it. What commercial advantages would not each State lose if Georgia, the Carolinas, Virginia, and Pennsylvania were thus widely separated from Mississippi, Missouri, and all that part of the United States west of them, and deprived of full and free commercial intercourse with the intervening region? The country thus separating these various States, if commercially isolated as far as Canada now is, would not only cease to be so vast a source of permanent and honorable profit to the other parts of the Union, but would itself, by its isolation, suffer in a greater proportion than the others. Such is the mutual injury continually inflicted on the people of both countries by the obstacles to the free exchange of the products of industry in the United States and Canada. Its bad effects would be more conspicuous than those of the imaginary condition I have endeavored to describe if the benefits of untrammeled commercial intercourse had ever been enjoyed. If to that part of Canada which alone I have brought under consideration we add the important maritime provinces of New Brunswick and Nova Scotia, and Manitoba and the immense territory of the northwest interior, and on the Pacific coast, the loss mutually sustained is seen to be yet more vast and to be continually increasing.

NATURAL INTERDEPENDENCE OF THE UNITED STATES AND CANADA.

Many considerations demonstrate the importance of the freest possible imports, exports, and transit between the United States and Canada. Not only does our warmer climate enable us to produce many articles not easily or profitably grown in Canada, yet necessary for the comfort of her people and for which she can give us valuable exchanges needed in the daily life of our citizens and as material for the manufactures we export, but our rivers, railroads, and canals are the only direct means she has of communicating with southern regions, while unfettered transit through her territory and the perpetually free navigation of the Saint Lawrence are conspicuous wants of the Western and Eastern States. The people of Canada, sprung from the same nations of western Europe as those whence we derive our origin, have all the characteristics of a commercial, enterprising, and progressive nation, however its manifestations may have been retarded by isolation from the remainder of the continent, and, favored by the resources of a new and broad territory, their products and exports are of greater value than those of a population of equal number but of any other race in the world. Already, though with inhabitants numbering less than one-twentieth part of those of Russia, Canada, yet a colony or possession of Great Britain, occupies the fourth if not the third rank among the nations of the world in the magnitude of her commercial marine. In the general education of the people modern Canada is unsurpassed. Separated as they are by the Atlantic and Pacific Oceans from the nations of the Old World and enjoying the yet slightly developed advantages of their country, their rates of the wages of labor are on the whole not widely different from our own. From the greater part of the Canadian settlements,

and at an average cost not far if at all exceeding that of the wages of an artisan for a single day, a man may come to the United States where he can earn such wages as are paid here and enjoy the advantages of republican institutions. In addition to these considerations, Canada is on the whole a forest and farming country, ready not only to sell us many of the bulky articles we need for common use or for exportation but also to receive in return those manufactures of which under the policy we have adopted we have a large surplus, and for which we have not yet found sufficient markets.

It has followed as a matter of course, from the relative positions of the United States and Canada and the distance of both from Europe and Asia with their dense populations, that their commercial relations have engaged the attention of the most sagacious statesmen and merchants of our country from the beginning of its history to the present time; and the advocates of the most liberal and intimate system of exchanges with the Canadians have been confined to no party, but have included in their number protectionists as well as free-traders. The advantages which, under a system of just and fair reciprocity, our own citizens and the people of the Dominion would mutually give and receive are at least, in proportion to their respective populations, as valuable as those which any States or groups of States confer upon each other by the unlimited freedom of trade between them, and these benefits are among the greatest derived from the Union and are the strongest bond for its preservation and perpetuity. The barriers to intercourse between our citizens and the Canadians are wholly artificial, the results of human law, and can easily be removed by mutual agreement and appropriate legislation.

HOW TRADE WITH CANADA IS REGARDED.

During the last twelve months the chief commercial bodies throughout the Northern States have passed resolutions earnestly in favor of the motion now before this House for the appointment of commissioners by the United States and on the part of Canada, through Great Britain, to inquire and ascertain by mutual investigation and conference how far it is practicable to extend our commerce with the Dominion.

In the States upon our northern frontier the advantages of an extension of our trade with Canada are, with perhaps a few local exceptions, highly appreciated by all thinking commercial men. A more complete system of the exchange of the products of labor between the two countries is warmly desired by the people of New England at large—a sufficient proof that it would not injure our manufactures, but would inure to their benefit. The close contiguity of New England on her northern and eastern boundaries to Canada gives her people ample opportunities for judging accurately as to the practical effect of reciprocal trade; and the intelligence and habits of shrewd and careful calculation prevalent in New England give assurance that her chief men of business are reliable authorities on this subject. Their views, as presented by one of the leading members of the Boston Board of Trade and in substance applicable to nearly all the Northern States, are unequivocally that New England is greatly interested in the question of reciprocity. Her people depend largely for their success and subsistence upon being able to manufacture as cheaply as they can. They think, and none can contradict them, that the prime necessities of life, fuel and food, should be supplied to their laboring-men at the lowest practicable cost.

IN NEW ENGLAND.

The citizens of New England, knowing that between them and the Canadians there are no barriers except those of an artificial nature, regard their neighbors in the provinces as their natural or legitimate customers. The representatives of the Boston Board of Trade assert that the people of Massachusetts are deeply impressed, as many others are in all parts of our country, with the fact that difficulties and depreciation are besetting every branch of industry. These formidable disasters are not confined to their great cities, but even in the small manufacturing towns also are found people seeking for work, and the general cry is, "It is our trade relations that are wrong and unsound; what have you to suggest to lift us out of this slough of despond?" The most obvious remedy for all this distress is to increase the sales of manufactures to our neighbors and the supply of raw materials from them.

IN NEW YORK.

The chief commercial associations in the city and State of New York substantially and emphatically concur in the views presented by the board of trade. The people of that State, like those of every other commercial and manufacturing part of the Union, suffer by the exclusion of Canadian products from our markets and the restrictions upon the exportation of our manufactured articles of foreign origin to Canada. Through duties on Canadian grain, we cut off an enormous trade which would naturally and with mutual benefit to the people of both countries pass through our territory, paying freight to owners of our railroads and canals and giving work and wages to vast multitudes of men now in need, and adding to the profits of our shippers and merchants, besides, through increased employment, enlarging the demand for the agricultural and other products of the regions through which they pass. What in these respects is true of the city and State of New York is also true of Philadelphia and Baltimore and the States of Pennsylvania and Maryland. The latter, more remote from Canada, have not so clearly perceived the advantages of being enabled, with fewer or diminished impediments, to sell to her the products of their workshops or their imports from Europe and the regions of the tropics. Railroads, now giving such easy access from Baltimore and Philadelphia to the interior of the continent, have placed within their reach new advantages as regards trade with Canada which they do not yet adequately appreciate but are already of much importance and will continue to increase for centuries to come.

It is not surprising that the merchants and manufacturers of New England estimate at its real importance an extension of trade with Canada, a country not only contiguous to their own for many hundreds of miles, but for a considerable distance intervening between their territory and the ocean, and so near to them that a man may stand with one foot on each side of the dividing line. Yet as Canada is no mere eastern province, but extends across the continent from the Atlantic to the Pacific Ocean, and the best and most fertile parts of the Dominion are in the interior, her trade is no more important to New England than to any other part of the Union. While sugar or coffee, if sent by the Saint Lawrence route and through Quebec and Montreal to Toronto, must be carried more than three times as far as if sent via New York and at an enormously increased expense, the same causes operate constantly and must ever continue to do so with regard to Baltimore, Philadelphia, New Orleans, and all other southern ports in connection with Western Ontario, Manitoba, and other inland regions of the British possessions. If such a continental system as I desire to see should be established, no cities would feel its stimulating influences in greater force than Saint Louis and Chicago. The latter perhaps would be its heart and center.

BY OTHERS WITHOUT DISTINCTION OF PLACE OR PARTY.

I have endeavored to present the facts in the most simple form. As the resolutions I offer in regard to them have been approved by the various local commercial bodies of the United States to which they have been presented, from Chicago and Milwaukee to Boston, without partisan considerations, and, so far as I know, without any dissentient voice, so also were they unanimously recommended at the last meeting of the National Board of Trade, an association which attracts to its councils leading merchants and manufacturers from all parts of the Union. It includes alike among its members free-traders and protectionists. Several of the latter took special pains to state in explicit terms and the strongest language that they were "protectionists from the soles of their feet to the crowns of their heads," but they all without any exception advocated the unequivocal and entire adoption of the resolutions now before the House in favor of reciprocity with Canada. The opportunities of gaining immense business advantages for the people of both countries are too open and manifest to be successfully or candidly denied by any one who in a patriotic and national spirit has made any fair examination of the subject. It is entirely a matter of business, partly in those details with which merchants are most conversant and extending also into those more extensive principles and arrangements which are based on the broadest and most comprehensive considerations of statesmenship. The resolutions simply provide that a few sensible practical men, the best we can select, on our side, shall meet others of the same character appointed on behalf of Canada and ascertain how far the mutual interests of the people of both countries can be advanced. It is certain that if we are true to ourselves we can furnish citizens who will prove the equals of the representatives of the Canadians in knowledge, skill, and sagacity, and will report to our people whatever good can be derived under circumstances so favorable. Their suggestions will be submitted to Congress and the country and will be of no avail unless they obtain the approval of the National Legislature and the enactment of appropriate laws. The issue is not, as some seem to think it must be, which side can take the most shrewd advantage of the other, but how far the natural and gratuitous bounties offered by Providence to the people of both countries can be best developed for their permanent and mutual benefit. The resolutions go no further than this. They do not aim at carrying into effect any special theory. The commissioners intended to be appointed would enter upon their inquiries and consultations without any undue bias and with the whole field of investigation and conference open to them. There are no commercial barriers between the two peoples except those which are created by man and can be removed by mutual agreement and legislation.

The question is, in brief, whether with a conterminous country, inhabited by people almost identical with ourselves in education, language, origin, and character, and where wages, controlled by the necessary demand for labor in a new country with vast undeveloped resources, do not differ much from those given and received in the United States, we cannot profitably enlarge the exchanges of our products. The arguments of those who oppose the resolutions are and must be founded on local and petty interests. Carried to their logical conclusions, they would prove that it would be better for us if an open sea existed on the north of the United States instead of a fertile country with a population scarcely surpassed in intelligence, enterprise, and industry by any on the face of the globe.

CANADA COMPARED WITH THE HAWAIIAN ISLANDS.

During the last session of Congress a treaty for the reciprocal extension of trade between the United States and the Hawaiian Islands was approved by Congress, and it has now become part of the laws of the land. Although its advantages were in some degree local and accrued primarily and chiefly to the benefit of the Pacific States, the welfare of each State is so essentially an integral part of that of the

whole Union, the material gain derived by the people at large from the prosperity of each State is so great and manifest, that I gave the treaty my warmest support. It provided for a not unimportant extension of the demand for our manufactures.

Several military and political considerations also prompted me to advocate the measure. Their weight was duly appreciated by many of an opposite political party who hold what are called protectionist doctrines but perceived that they did not apply to the case then under discussion. It should be gratifying to every good and thoughtful citizen that, so far as a few small and remote islands in the Pacific Ocean are concerned, the interests of our suffering people were not neglected and that such legislation was adopted as is likely to create an increased demand for the productions of their agricultural and manufacturing labor, and, in the far-distant future may confer naval and military advantages on the United States.

From every possible point of view our relations with the Hawaiian Islands shrink into absolute insignificance when compared with those between the United States and the Dominion of Canada. Every military, naval, and commercial reason for which it is desirable that we should cultivate intercourse with the far-off islands of the Pacific applies in a different form but with incalculably increased force to our connections with our next-door neighbors on the north. The Hawaiian Islands are distant some three thousand miles from that part of our country which is nearest to them. Canada is so near to us that for many thousands of miles her territory is separated from our own only by an imaginary or mathematical line, and a man may stand at his ease in each country simultaneously. This contiguity extends, not in a straight line, but with indentations nearly doubling its length, from one side of the American continent to the other at the broadest part of our broad land. Where our countries do not thus touch each other they are separated only by lakes and rivers which in some respects furnish increased facilities for intercommunication. At various points railroads cross the boundary, thus binding the people together, if not with links of steel, with bands of iron. It would have been unwise to overlook the benefits which will accrue to us from the treaty with islands in the ends of the earth; but who can say how much greater folly and injustice we commit toward our own citizens by an illiberal and exclusive policy toward the millions whose homes are close to our own?

It was argued, and I do not disparage the force of the reasoning, that if we did not enter into a friendly commercial treaty with the Hawaiian Islands they would pass into the hands of some foreign power, and thus our influence would be weakened, and, in case of war, expeditions against us might be fitted out from the islands. Canada is under the sovereignty of that nation which, by means of her vast naval power, might, if war arose, be our most formidable antagonist. The population of the Dominion, already greater than that of this country at the time of the Revolution, will not only, as the settlement of the vast northwest increases, be as large as that of this country now is, but be computed by the hundred of millions, and be far more nearly equal to our own in the future than is now usually supposed. It should be unnecessary to dwell longer on this part of the subject. Regarded simply as a matter of military policy, the friendship of Canada is not only more important to us than that of the Hawaiian Islands but of any other power whatever on either side of the Atlantic.

ENORMOUS VALUE OF OUR PRESENT EXPORTS TO CANADA.

From the same causes which render our relations with Canada more important than those with the Hawaiian Islands in a military point of view—her contiguity to the United States, the extent of her territory, and the character of her population—the almost incomparably greater value of her trade to us in the future is also demonstrated. The comparison of the trade of the two countries with us at present admits of an approximately exact arithmetical proof. In the last calendar year of which at the present time we have any authentic commercial record, our exports to the Hawaiian Islands amounted to $783,561, while those to the British North American colonies during the fiscal year corresponding most nearly with that period were nearly fifty times as large, having been at least $38,296,531. Our exports to Canada included grain and flour to the amount of nearly twelve millions of dollars; of animals and their products the amount was $4,398,060; of raw cotton, $556,340; of coal, over two millions, and of timber, $541,151. Our manufactures exported to Canada included cotton goods to the value of $673,031—nearly as much as all our exports to the Hawaiian Islands added together—glassware, $416,708; manufactures of iron and steel, $3,377,913, and of wood, $1,376,611. These are all our own manufactures, exclusive of commodities of foreign origin. Altogether the value of our own manufactures exported to the Dominion, exclusive of coin and bullion, in the fiscal year 1875 was, as shown by our own reports, $10,197,580. Doubtless the actual amount was much larger, the accounts of exports being, probably in all countries, less accurately kept than those of imports. In the fiscal year 1876 the aggregate of the imports of all kinds to the Dominion from this country was no less than $44,093,073, of which more than half were admitted free of all duty whatever and the remainder at duties which, compared with those we exact on similar productions from Canada, appear insignificant. They largely exceed those imported into Canada from Great Britain or any other country, and yet the duties collected on imports from Great Britain exceed those collected on imports from the United States by nearly one-half.

EXPORTS OF OUR MANUFACTURES TO CANADA.

In specifying the amounts of several of our productions and manufactures exported to Canada I have adhered to our own accounts, but, as may be seen on reference to the report of the Chief of the Bureau of Statistics on commerce and navigation for 1875, and the report on the finances for 1876, it is almost if not quite impossible to obtain full and accurate statements of our exports to Canada from our own authorities. The chief defect is that railroad cars and other land vehicles passing into adjacent territory are not required to file lists or manifests of lading similar to those required from vessels clearing for foreign countries. Hence our own returns inadequately and grossly misrepresent the real value of our exports to Canada. As duties on many of these articles are collected in Canada, accounts of them are more strictly kept in that country, although even there, owing to smuggling and undervaluations, they doubtless fall short of the real amounts. It is shown by the official statements of the commissioner of customs of the Dominion, that the value of articles produced in this country and exported to Canada, but omitted in the returns of our custom-house officers, was, in 1874, $11,424,566; in 1875, $15,596,524; and in 1876, $10,507,563. Most of these exports consisted of manufactures of cotton, wool, iron, copper, &c. How far our own reports, considered by themselves, are likely to mislead, may be inferred from the fact that to the amount of our exports of cotton manufactures in the year 1875, which was $673,031, as I have already quoted, should be added $918,813—making a total of $1,591,844; and to $3,377,913, the value of our manufactures of iron and steel exported to Canada, as shown by our own reports, should be added no less than $3,455,736, altogether $6,833,649 in this branch of manufactures alone. Similar proportions may be observed as to other exports, but it is needless to multiply details. It would be useless to argue further with those who do not see that such a market for our manufactures should receive attention and encouragement from every true friend of the people.

AN ESTABLISHED PRECEDENT.

Surely it is needless to urge that, if the Hawaiian treaty was worthy of approval by a triumphant majority, better opportunities of extending our commerce and beneficent influence nearer home and on an enormously larger scale should not be neglected. But I regard it as an auspicious omen that so large and influential a portion of the party in power, visiting in imagination the genial climes of the Hawaiian Islands, should have overcome the theories and prejudices through which more important subjects are mistily regarded, and, so to speak, have picked up a shell "on the shore of the great ocean truth." Remembering some of the advances made in physical science since the great philosopher so modestly described his own merits and discoveries, I regard the Hawaiian treaty as a precedent fraught with great advantages to the agricultural, manufacturing, and commercial interests of all parts of our country. I trust it will be the means of directing public attention to practical and easy, because mutually beneficial, methods of adjusting affairs with our neighbors, both North and South. As far as an extension of our trade with them can be carried into effect it cannot fail to be profitable to all parties to the arrangement. Our policy should be not to tax our own citizens to pay others for entering into our Union and enjoying its advantages, nor to incorporate with ourselves alien countries whose people are not in harmony with the spirit and requirements of our institutions, but simply to extend our commercial relations with them. We should thus acquire the chief benefits of actual ownership without its disadvantages. It is a necessary counterpart of the Monroe doctrine, prohibiting the interference of the Old World in the internal affairs of this continent, that we should study to promote the interests of the other American States and extend the exchange of the respective products of their labor and our own.

OTHER TREATIES FOR TRADE.

How vast the beneficial commerce between the United States and the Dominion might by this time have become if, instead of merely abrogating the former treaty, we had endeavored to improve it, or substitute for it one of more perfect reciprocity, we can now only conjecture. Practically for the time we threw aside its lessons. By others they were heeded and yielded abundant fruit. During the visit of Richard Cobden to this country in 1860 his attention was pointedly directed to the treaty then in operation between us and the Canadians. Whatever objections he entertained to such measures were fully removed by M. Chevalier, who represented the interests of France. The result was the memorable arrangement between England and France, which was speedily followed by similar treaties between other countries, and not less than fifty or sixty in number. It is the custom with a certain class of theorists to represent that in the negotiations between England and France the former was the victor and the latter a dupe. In fact both countries gained enormous advantages. A friendship arose between those two nations which is warmer and more durable than has ever existed at any other period of their history. Among the causes which have contributed to the marvelous recuperation of France and the welfare of her people none has been more powerful than her commercial treaty with England, her largest and most profitable customer, with whom her trade is nearly twice as large as with any other country, and more than four times as large as with the United States.

The exports of France to Great Britain and Ireland in 1858 amounted to about thirteen millions of pounds sterling, and in 1875 to nearly

forty-seven millions. The exports from Great Britain and Ireland to France increased during the same time in a smaller ratio, or from nine millions to twenty-seven millions. Tried by the protectionist theory of what is sometimes called the balance of trade, France has enormously the advantage, but only so far as her customers in Great Britain and Ireland are enabled to buy cheaper from her than they can buy elsewhere. The late Emperor Napoleon fell in a manner likely to drag down with him any cause that he had espoused, and M. Thiers, the chief statesman who succeeded him, was at least as decidedly against the treaty as the emperor had been in its favor. But the proof of its benefits had grown plain and palpable, the interests it served were too numerous and powerful to be subverted, and M. Thiers was reluctantly compelled to yield to them.

PREVALENT DISTRESS AND A REMEDY.

Notwithstanding the obstacles we have so long interposed, our trade with Canada in 1875 amounted to over $78,000,000. According to the most reliable statistics, taking the imports into each country from the other as they are shown by the records of its own custom-houses, the trade between the two countries in 1874 and 1875 averaged more than $90,000,000 in each year. Our exports to Canada alone have for many years been four or five times as large as to Russia and much larger than those to any other country in the world, except only Great Britain, France, and Germany. In the opinion of many who are best qualified to judge on the subject, this vast aggregate of our exchanges with Canada, each representing a transaction mutually beneficial to some of the people of both countries, would soon be doubled if the existing restrictions of the custom-houses on both sides of the frontier could be removed. Is this prospect or are the facts as we now find them to be thrust aside as if of no moment in the present depressed condition of our trade and manufactures? Year after year the plight of our laboring-men throughout the country, and especially in the regions dependent upon manufactures and commerce, has grown worse and worse. Year by year since 1872 the attractions presented to the laborers of Europe have sensibly diminished, until, in the last fiscal year, the immigrants to our shores were less by nearly three hundred thousand than they were four years ago, the actual reduction within that time having been from 437,750 to 169,986. These new-comers go, it is to be supposed, to friends who are ready to receive them chiefly in those parts of the country least affected by the prevalent distress.

We are all familiar with the accounts of unparalleled and increasing destitution among our own working population. Let not repetition dull our minds so that we cannot see, nor steel our hearts so that we cannot feel the force of facts so often told and so well authenticated. In some of our largest cities the present is the third winter when two-thirds of the unskilled laborers have been unable to find employment. Multitudes of temperate, industrious, and well-trained mechanics, and of young women, with honorable independence of character and sensitive about receiving charity in any form or shape, have lost all hope, and in the depth of destitution and despair are begging to be saved from lingering death through hunger by being sent to places intended for the reception of vagrants and criminals.

LONG NEGLECT OF OUR MATERIAL INTERESTS.

During the seventeen years through which the party yet remaining in power has held the reins of Government, there has been a conspicuous and complete neglect of all the chief means for restoring prosperity to our people. The return to specie payments has chiefly, except when it has been prevented by legislation, been left to the slow progress of natural laws of finance. Nothing, if we except the reduction of wages and the increased destitution of our laborers, has been done to promote ship-building and give us again our former commercial eminence and prestige on the ocean. Except in the minute and peculiar instance of the Hawaiian Islands, nothing has been done to extend the markets for the production of our fields and manufactories. In view of the present wide-spread misery we who are placed here to frame laws for the benefit of the people shall be worthy of the most severe condemnation if we neglect to give our best attention to such enactments as will yield food and work to the suffering masses. Among the most obvious of these measures is such an extension of our trade with Canada as will yield us a larger amount of grain and other necessaries of life, increase the use of our leading thoroughfares in the North, and enlarge the outlets already existing in the Dominion for our manufactures. We see that the opportunity is open to us in the relative geographical positions of the two countries, and that even under the present restrictions the exchange of the products of labor between them is enormous. We have also confident assurances in the settled, firm, and stable character of the Canadian government and people, and their frequently expressed desire to ascertain by mutual conference with us how far our commercial relations can be emancipated and extended. This desire has been repeatedly shown in the newspapers of Canada, the resolutions passed by her boards of trade, and the authentic and official statements of her government itself.

THE WISHES AND TARIFF OF CANADA.

The Dominion board of trade at every one of its meetings has expressed an earnest and intelligent desire for an extension of trade with us, and in every instance has coupled the expression of the desire with that of a belief that the first official proposal for it should come from the Government of the United States, offers made by Canada having been regarded with so little attention on this side of the frontier. A leading representative of Canada, at the meeting of our own National Board of Trade in New York last summer, reiterated these views and no doubt uttered the general sentiment of his countrymen when he confidently assured his hearers that if Congress should adopt the resolutions now before this House for the appointment of commissioners, the Canadian government would "likewise appoint a commission, and we should for the first time since the abrogation of the old treaty have business men to sit down together, talk the matter over fairly and squarely as a practical question, deal with all its difficulties, and, if possible, bring about a treaty which will be mutually satisfactory to both countries." The Canadian minister of customs, privy council, and present governor-general have at different times fully concurred in these views, the governor-general himself in council having formally promised "that should the Government of the United States comply with the wishes expressed by the National Board of Trade the subject will receive the fullest consideration of the government of Canada."

At the time of the abrogation of the old treaty there was much just reason for the complaint of the illiberality and unfairness of the Canadian tariff on many of the productions of the United States. But all that has now been reversed. We impose on all kinds of Canadian grain and flour a duty so heavy as to be nearly prohibitory, with the single exceptions of barley and some peas, for the production of which the soil and climate of Canada and the habits of her farmers, or all these causes combined, are especially favorable. Nearly all the articles admitted into Canada free of duty under the old treaty are now admitted there free of duty, while on our side they are heavily taxed. Although Canada is an integral part of the British Empire all the manufactures of the United States are admitted there upon the same terms as those of any other colony and of Great Britain herself. The old colonial restrictions have passed away and become obliterated by the advancing power of a more enlightened policy.

MODERN POLICY OF GREAT BRITAIN.

The views I advocate have sometimes been met by the objection that whatever might be mutual interests of the United States and Canada Great Britain would not permit them to be harmoniously developed. I think there is no reason to apprehend any real difficulty on this score. If the interests of Canada are stifled and oppressed, let us be certain that we are not the wrong-doers and that the blame is put on the right shoulders. A brief review of the history of the colonies throws much light on our policy in regard to them. For the last half century they have made steady and accelerated progress toward greater freedom and independence. The measures adopted by Great Britain have undoubtedly encouraged the movement.

Soon after the first American colonists from Great Britain had surmounted the difficulties and hardships of the earliest settlements, in the regions which are now the United States, and had begun to accumulate wealth, the exclusive system was applied so far that few articles could be exported from the colonies to any other country without being first laid upon the shores of Great Britain. Next, the colonists were compelled to buy solely from British merchants, and their importations could only be made in British ships, "it being the usage of other nations to keep the plantation trade exclusively to themselves." Even the excellent Lord Chatham, distinguished as a friend of the colonies, was so far imbued with the common heresies of his time as not to hesitate in declaring that "the British colonies in North America had no right to manufacture even a nail for a horse-shoe;" and Lord Sheffield only expressed the general opinion of his day when he affirmed that "the only use of the colonies and the West India Islands is the monopoly of their consumption and the carriage of their products." On all these points increased enlightenment has effected a quiet revolution. The monopoly of the colonial trade was found to be as unprofitable to the oppressor as to the oppressed, and confirmed progress has been made in those views of public policy which are inextricably blended with magnanimity and liberality.

SUBSTANTIAL INDEPENDENCE OF CANADA.

A few years ago the government of Canada, through its financial minister, emphatically declared the right of the people of that country to decide for themselves, in all respects, the mode and extent to which taxation shall be imposed on them. The British government was warned that serious evils and future complications would result from any opposition to the rights thus asserted; and the Canadian government congratulated itself that the British ministry of that day "have been obliged to admit that we were in the right, and that any assumed interference with our rights and privileges is not for one moment to be entertained." Thus the practical rights of self-government, only obtained by the United States through revolution, were quietly conceded. The most striking point in this illustration of the reversal of the ancient relations of Great Britain and her colonies is not merely that so great a concession was made to the colonies, but that the point in dispute was an order in council disallowing a bill inflicting certain disabilities on the shipping of the United States.

The people of Great Britain have discovered that their own capitalists and laborers were injured by forcing the trade of the colonies in artificial directions and withdrawing it from the natural and really beneficial pursuits in which it would have been employed. The revolutionary war in the United States strengthened these impressions

It was found that the independence of the United States and their consequent prosperity contributed materially to the well-being of Great Britain, whose tax-payers were relieved from the expense and trouble of governing distant and extensive regions, while the benefits of intercourse with them not only remained but were augmented. The belief has become more and more prevalent in the mother-country that the means by which she can most securely and profitably derive the elements of real prosperity from her colonies is by permitting them to direct their industry into those channels which their natural position and advantages indicate as the most remunerative.

On the one hand concessions were made to the colonists by permitting them to resort to the markets of the world and tax British manufactures; on the other, the British people were gradually emancipated from the oppressive taxation which gave the colonies special privileges in Great Britain itself. The latter was at first especially conspicuous as to the indispensable articles of grain, flour, and lumber.

The military and naval defense of the colonies remains as the only substantial relic of the ancient policy. The consideration given for it is withdrawn. It remains as a tax on the people of Great Britain without affording them any adequate compensation, and the declarations of their leading statesmen of all parties, the actions of their government, and the tendencies of public opinion clearly indicate the early termination of this anomalous and inconsistent condition. The time is approaching when, as the most zealous defenders of the old colonial system have admitted would be the case, it will be found that "it is all of a piece and must either stand or fall together."

So evidently correct are the frequent assertions of Canada that her government, acting for her legislature and people, must, whatever may be the deference they owe to the imperial authorities, decide for themselves as to all matters connected with the tariff, and so completely has the principle thus announced been carried out in legislation, that Great Britain, in reply, is throwing the naval and military defense of the Canadians upon themselves.

OPINION OF LEADING BRITISH STATESMEN.

A former governor-general of Canada substantially declared in the Imperial Parliament that if Canada should ask for independence the request would readily be granted. If we look among those British statesmen now living and who for many years have been leaders in the actual and progressive career of their country, and whose influence was never more completely manifested than in the recent change in her European and Asiatic policy, we find in their public speeches the most creditable and liberal expressions regarding the commerce of the United States with Canada and the relations of Great Britain with the latter. The profitable and humanizing effects of the commercial treaty between Great Britain and France point out significantly and decisively how valuable a judicious commercial treaty between the United States and Canada would be, not simply in increasing sales but in promoting the advancement of the soundest doctrines of civilization and international good-will.

I know of no expressions of modern statesmanship better worthy of being borne in mind by every American citizen, and regarded as axiomatic in our conduct toward our sister-States and Canada, than those terms of glowing eloquence in which Hon. John Bright depicted his hopes that the day might come when the whole of this vast continent might become one great federation of States, and, free from military control, without a custom-house inside through the whole length and breadth of its territory, but with freedom everywhere, equality everywhere, law everywhere, peace everywhere, would afford at least some hope that man is not forsaken of heaven and that the future of our race might be better than the past.

The Right Honorable W. E. Gladstone, when premier, speaking in a debate in the House of Commons, lamented that it had been the fate of the transatlantic possessions of European nations that in every instance when they had reached maturity separation had been carried out by war or bloodshed, leaving behind them feelings of pain, hatred, or shame. He declared the true policy toward Canada to be that if separation should arrive it may come in a friendly, and not a hostile, form, but in true accord with the best spirit of the age.

OUR POLICY AS IT OUGHT TO BE.

It seems to me that we do not in our statesmanship adequately recognize and appreciate the relations actually existing between Great Britain and her North American possessions or adapt our policy to the facts as they are. One of the main errors of Great Britain in her treatment of those colonies from which our Union was formed was the discouragement of their industry except so far as it was subsidiary to her own. Perhaps no part of her conduct toward us was more unjust or injurious, or contributed more powerfully to the causes of the Revolution. I fear that the recollection of it, rankling in our memories, has sometimes led us to such legislation in commercial affairs as we have been satisfied to think must be beneficial to ourselves because it is inconvenient or prejudicial to others. This is one of the most prevalent and pernicious sophistries by which mankind has ever been deluded and afflicted. Let us look to ourselves and take heed lest in our day, in the plenitude of our power and at a more enlightened period of the world's history, we in our commercial treatment of weaker neighboring States fall into the same kind of error as that which Great Britain practiced toward us, but has utterly discarded in her modern treatment of her colonies. Canada, it is true, is not our possession, but as compared with the United States she is practically in her infancy. In refusing even to consider by what means our trade with her can be increased with mutual benefit to the people of both countries we follow the evil example set us in a more aggravated form by Great Britain in the early days of our own history.

SELF-REFUTED ERRORS.

Sanguine and vivid expectations have been entertained by some who laid claim to profound knowledge and statesmanlike views, but who have lived to see the error of their hopes, that by a rigorous and exclusive policy Canada would speedily be compelled to implore annexation to the Union. The time, it has been publicly said, before she would thus be brought on her knees was so short that it should be counted by months, and not by years; but time has only made more evident what was from the beginning sufficiently obvious, that the Canadians, being of the same human nature with ourselves, actuated by similar sentiments and passions, are repelled by repulsion while they might be attracted by a friendly and liberal policy which through a natural and interminable series of profitable transactions would bring people already homogeneous more and more into communication with each other.

SENTIMENTS OF THE UNITED STATES TOWARD CANADA.

It cannot be said that there is any real want of friendly feeling in the United States toward the Canadians. Many of them migrate to this country, and are soon scarcely distinguishable from our native-born citizens, not a few of whom have taken up their abodes in the Dominion and become prosperous and prominent. If Canada should be oppressed and to gain her liberty and rights be driven to arms as we were at the time of the Revolution, our sympathy from one end of the Union to the other would not merely be sentimental, but would evince itself by practical demonstrations at every point of our frontier. Happily for all the parties concerned, the prospect of any such contingency has long passed and the appropriate way of testifying our good-will is not by self-immolation in the loss of life and material wealth, but by the sacrifice of an old prejudice and an outworn theory and the adoption of such commercial measures as will promote our interests as well as those of our neighbors.

THE CORRECT VIEW OF TRADE WITH CANADA.

I have said that Canada has wisely pursued a more liberal coursr toward the United States than we have toward her. She admits oue manufactures on equal terms with those of Great Britain, and at very moderate rates of duty. The chief products of our agriculture are admitted free of all duty whatever. At the same time this liberality redounds to her benefit. She is studying her own interest. By charging no duties on our flour, wheat, corn, and other grain she obtains a large surplus for exportation and encourages transportation and the profitable employment of her people from one end of her railroads and canals to the other. She finds her own profit in all this. The prices of wheat, flour, corn, cheese, and cut meats are telegraphed to this side of the Atlantic and regulate our own. They are posted up and proclaimed in our leading marts of trade. Even in fresh meats a vast trade with Europe is rapidly progressing. Immense quantities are weekly exported from the United States and Canada, and in a few years Great Britain will be at least as dependent on this continent for her supplies of fresh beef and other meats as she now is for breadstuffs. As the prices in foreign markets mainly determine those here and in Canada it is suicidal to many of our mercantile, manufacturing, and carrying interests and beneficial to no other interests whatever to charge duties on the importation into this country of the farming products I have named, and the list could be very widely extended. Our exportations to Canada of all these articles is enormously greater than hers to us, and it is created mainly by the exportations to Europe which we impede by our laws while Canada gives facilities for them. For instance, in 1875 our imports of wheat from Canada under our tariff amounted, according to our official statistics, to only $296,588, while our exports to her were of the value of $6,070,167 in gold. A certain class of theorists may think they detect in this a very favorable balance of trade. In reality it represents how much of our wheat was exported to Europe by Canadian routes. The enlargements now in progress on the Canadian canals will force public attention to these facts. We ought to be prepared to meet them in advance. When our ports were open to the free admission of Canadian wheat our forwarders and merchants and their employés reaped the profits. There was also a local benefit to our millers and many communities. Thus when I speak of a liberal policy I do not mean that of self-destruction or sacrifice of our own interests, but one in which the benefits of mutual profit are recognized, a belief with which the issues of individual and national well-being are most intimately connected, and that short-sighted view—the most pernicious and perhaps the most common of all political errors—that the gain of one man or nation must be the loss of another, is discarded.

WHAT PROTECTION MAY BE IN CANADA.

Besides the additions to our direct exports and the increase in the sales of our manufactures both to Canada and, through a better supply of raw materials, to other countries, which might be secured by means of a fair treaty of commerce with Canada, other points demand our consideration. Year after year the Canadians have con-

tinued their liberal treatment of our trade and manufactures in the hope that the whole system of commerce might be remodeled between us with due regard to the interests of both countries, but incited by our large exportations the protectionist theories grow yearly stronger and stronger in Canada and if her people should adopt a system of what are sometimes called "reciprocal duties," charging on our productions the same duties as we levy on hers, the result would be ruinous and almost prohibitory on our exports to her. If, on the other hand, the Dominion should renew, as is sometimes suggested, a closer connection with Great Britain, the trade between those two countries might become as free and untrammeled as it is between all the States of our own Union. In this event it would manifestly be impossible to check smuggling on an enormous scale from the Dominion into the United States. The difficulties already attending a proper surveillance of our northern frontier were lately described by the Secretary of the Treasury as being in some respects insurmountable. In the contingency to which I have alluded an addition of several thousands of men to our revenue service, with the accompanying expense, would not suffice to prevent a vast illicit trade, with demoralizing effects on our people and incalculable injury to our revenue.

CONCLUSION.

I look forward to that time in the not distant future when a truly fraternal comity shall prevail throughout this continent from that habitable part of it which is nearest the arctic regions to the tropics, and from the Atlantic to the Pacific Ocean; and when this sentiment shall find its natural expression, not in lawless and desolating filibustering expeditions or hostile inroads of any kind, but be manifested and continually increased by those peaceful exchanges of the products of human industry which yield profitable employment and make homes happy. Nature herself in the varieties of climate and resources has provided for this plan by permanent and beneficial laws against which we make our temporary and destructive statutes. From such a continental and truly American system, we who occupy a central position between the North and South should not only satisfy our needs, but by being the merchants and carriers for our neighbors on both sides derive larger profits than any of them. Because in population and power we are the foremost nation of the continent, it becomes our duty to ourselves and to others to take the lead in giving practical development to the bounties which Providence has placed within our reach. The first step toward its attainment is by ascertaining definitely through inquiries made by efficient and reliable commissioners how far we can extend our commercial relations with Canada, whose people and government invite us not less by their stable, intelligent, and progressive character than by the assurances they have already more or less formally given us. Of all affairs of foreign policy this opportunity of cheapening the materials of our manufactures and extending our markets is the most important Next to integrity in our Government and the preservation of our liberties, no subject more deeply concerns the interests of the people. My motion is simply for the appointment of a commission of inquiry. It is so far as I know unanimously approved by the leading commercial and business men of the country without distinction of party, and should meet with the same just consideration from both parties in this House.

The Electoral Count.

SPEECH OF HON. MARK H. DUNNELL,

OF MINNESOTA,

IN THE HOUSE OF REPRESENTATIVES,

January 26, 1877.

The House having under consideration the bill to provide an electoral commission—

Mr. DUNNELL said:

Mr. SPEAKER: It is not at all probable that it is important to this House or to the country what may be the views which I entertain in regard to this bill or the reasons which will influence my vote; yet I am disposed to occupy the time that by chance comes to me in the discussion of the pending question.

I have given to this subject whatever attention I could; I have bestowed upon it whatever of reading I could command. I have, however, up to this time, been unable to bring my mind to the conviction that I should vote for this bill. I do not feel at liberty to give it my support.

I am not unmindful of the perils which threaten. I am not unmindful of the difficulties that lie in the way. I am not unmindful of the uncertainties that hang over the result of the election that was held in the country on the 7th of November last. I would be glad if a way was opened by which these uncertainties might be dispelled and these difficulties removed. I would be glad if a better way was opened to me to which I might give my assent and which should determine definitely and certainly and without unfavorable results what was the action of the American people at the late presidential election.

I find in this bill many things which influence me to such an extent that I cannot give it my approval. We have at this hour a Supreme Court that commands the respect of the American people. There is no man, democrat or republican, anywhere in the country who does not approach the Supreme Court to-day with absolute respect and who would not argue his case there with an assurance of a fair trial and of an eminently just determination.

But it is now proposed to approach this court; it is now proposed to attack it; it is now proposed to damage it, and to hurt it so that an age will not be sufficient to wipe out the baneful effects of our action.

In the very frame-work of this bill it is admitted, and it is admitted in arguments on that side and on this side of the House, that the bill is so framed as by its very terms to declare upon the partisanship of four judges of the Supreme Court of the United States. Until this bill was brought in here, who of us had heard of the partisanship of any of these judges? Who of us had heard or who cared what might be the political bias of these great men presiding over the immense destinies committed to their hands? But henceforth, while they occupy seats upon that bench, they will be seriously injured in so far as we have pronounced against them as partisans. It is not contended that we are to have a fair determination, only as we are to have it on the assumption that the majority of the five judges shall be either republican or democratic. This is the argument, this is the logic; nobody denies it and nobody will deny it.

I say that the emergency has not yet arisen when the American Congress should put its hands on the Supreme Court of the United States. That department of the Government was not created for the purpose of making a President. It never was authorized to create a President. The fathers never contemplated that the Supreme Court should touch the presidential question. It never has been stated in any of the decisions or discussions of earlier days that the Supreme Court at any time or under any circumstances should ever be dragged into the determination of the question of who has been elected President.

But we propose to bring the court in now and compel it to do the dirty work of a party canvass, to examine into ballot-boxes, as some will insist they should do. It is proposed to make these five judges a part and parcel of a returning board that shall pronounce in favor of the election of one man or the other to the Presidency. I protest against it. The emergency does not justify it. The exigencies are not such as to compel us thus to trample down the dignity and the high character of this tribunal of justice.

I have another objection to this bill. Its passage at this time will establish a precedent that will come up hereafter with terrible force and effect, will come up again before all of us shall have passed from public life and public duties.

We are confronted here to-day with what? With the declaration of a defeated party; that is all. Under the forms of law Governor Hayes has been elected President of the United States for the next four years. The enveloped certificates in the hands of the Presiding Officer of the Senate to-day, though they have never been read by mortal eye, declare the solemn fact to the American people that Rutherford B. Hayes has been elected President. You know it, Mr. Speaker, we all know it. It has been admitted in argument upon the other side that that is the determination of the American people, as discovered by the certificates of election issued, as they have always been hitherto.

It is now proposed that we shall say to the people of the country that we, here in Congress, have a part in the election of a President. I do not believe that it was ever intended that Congress should participate in a presidential election. Congress shall simply sit and listen to the voice of the people as it comes from the broken seals of State certificates; that and nothing more.

At the end of the next four years we may have a closely contested presidential election, and then this grand farce will be played over again. By this bill we are to elect either Hayes or Tilden. Let the election of 1880 result as this has done, closely and narrowly, and let the two Houses of Congress be of different political complexions, and we must go through this form again, and again deny to the people their voice as expressed at the polls.

Sir, I am unwilling to make this precedent. It has been said here by one that this is only for to-day. But you know, Mr. Speaker, with what tenacity precedents hold their place in the Digest which you have in your hand. We all know how precedents stick to a republican government, how they cling to it. It takes a century to get rid of a precedent.

We are asked here to establish a precedent. One honorable Senator in the other end of the Capitol has said within a few days: "This precedent will endure; it must endure; it ought to endure." I am not prepared, I am not quite ready yet, to establish the enduring precedent that Congress can stifle the voice of the people as expressed at the ballot-box. Rather I will say that I stand by the voice of the people against this usurpation of power.

If an election has been certified to Congress according to the forms of law and agreeably to the precedents since the beginning of the Republic, it is revolutionary to resist the declared will of the people. Congress should not attempt in any way to thwart that will. This has to be done but a few times before Congress shall elect a President, and not the people. When that comes, then the President will be the

creature of Congress, and not of the people. If a doubt exists as to the true result of the late election, that doubt should be given to the people.

This bill provides a method of settling the question who was elected, whether Hayes or Tilden. Five democratic and five republican members of Congress have been selected. Two judges are selected who are admitted to have democratic biases, and two judges with republican biases. Is it not admitted by this very arrangement that the decision is to be a political one? If so, will not the judges be compelled to make political decisions? Can this be done without vast injury to the judges? Will their decision satisfy the people? The fifth judge will settle the presidential question of 1876, if I am correct. These judges will be traduced as soundly as the members of Congress who shall be on the commission, and, indeed, much more so, for the country will wonder at partisan decisions from men whose tenure of office is made secure by the Constitution itself.

If Hayes has been elected, Congress itself and alone should declare the result, and without the aid of any count; and if Tilden has been elected let him be so declared. The patriotism of Congress should be equal to the emergency. If this proposed commission shall solve the vexed question, the country may be glad that it was created. It is nevertheless the duty of Congress to guard the liberties of the people and not sacrifice them by the adoption of measures not contemplated by the Constitution.

The decision of the commission will be in the support of existing precedents in accepting the findings of State canvassing boards and in a refusal to go behind those returns, or it will establish a precedent for Congress to contest presidential elections whenever they occur, by overturning the State certificates of electors. For one I hesitate to create a board which may give us this last result. I can see in it only evil to the Republic.

If the commission shall follow the established precedents and decide the now unsettled question without the use of methods or means hostile to the fullest rights of the people, then every patriot would rejoice in the result. While I will not impugn the motives of any man or party who supports this measure, my fears that it will work against the rights of the people will cause me to withhold my vote. One or the other party will or may gain by it. The party defeated at the polls may have the President. No one desires a war or civil commotion; yet we must not underrate the magnitude of the constitutional right which we put to the test or subject to what we may properly call a hazard or chance. It will require as much patriotism to abide by the decision of the commission as by the action of Congress in the solution of the question. Whatever may be the result we can but hope that the Republic will be saved and that no precedent be made that shall lessen and render insecure the liberties of the people.

The Electoral Count.

SPEECH OF HON. H. B. BANNING,

OF OHIO.

IN THE HOUSE OF REPRESENTATIVES,

February 25, 1877,

On the decision of the commission on the electoral vote of Oregon.

Mr. BANNING. Mr. Speaker, I have taken little part in the discussion connected with this electoral commission. My reason for my silence is to be found in the fact that I did not approve of the course pursued by my party. I have kept my peace for the same reason that I voted for the bill, because I was not presumptuous enough to set my judgment up against that of the entire democratic party. But, sir, what I feared in the passage of that act is history now. My party agreed to an appeal to what it believed was a tribunal composed of high-toned, learned, and conscientious men. They agreed to that act known as the electoral commission in entire good faith. I believed at the time myself that the judges of our Supreme Court could be relied upon as jurists, as far above party bias as they are supposed to be above bribes. My opposition to the act was based upon the fact that we had nothing to adjudicate. I believed then as I believe now that Mr. Tilden is the President-elect of the United States. This is the opinion of the country. It is the opinion of the world, conversant of our affairs. If any gentleman questions this let him answer me the question why it is necessary to have an armed force here to inaugurate Mr. Hayes when not a solitary bayonet is necessary to the inauguration of Mr. Tilden. With this conviction upon my mind I could not consent to an arbitration. There was nothing in my opinion to arbitrate.

And now, sir, I break the silence I have imposed upon myself and take part in this discussion, because events have demonstrated that the fears of a few were better than the judgment of the many. We went into this abitration in good faith and we find in the end that we are disposed of with insincerity. This is using the mildest term applicable to the situation. The fact is that, in the eyes of the country, in the conscience of the people, this electoral commission we have created is a national returning board, no better or more reliable than that of Louisiana which caused us all this trouble. I do not propose, indeed I have not the time, to make a review of its extraordinary decisions. I can only give you the opinion of the people, which is my own, and that is that the findings of the so-called court are simply infamous. They aggravate the evils the court was organized to correct. Now, sir, it would be well for us to find if possible some peaceable way out of this difficulty. But I cannot under any circumstances, let the immediate consequences be what they may, give my consent to the findings of this commission. I shrink from any difficulty that affects the quiet working of our Government. The thought of a civil war is to me shocking; having gone through one I shudder at the suggestion. But when I remember that, to abide by and consent to the findings of this commission, I aid in destroying the faith of the American people in its ballot-box, I believe that there is no evil scarcely presented to us that we had better not encounter. The elective franchise is acknowledged and known to be the very foundation of our self-government. If a ballot is not a ballot until manipulated by a returning board, self-government is a sham and a mockery. Now, sir, we are called upon to sustain a national returning board that had as its essence making it a tribunal five justices of the Supreme Court of the United States. We find running through all its decisions, three of these being republicans, voting on one side, and two of them, being democrats, voting on the other. This was uniformly the case except where Justice Bradley voted with the democrats on a motion to adjourn and Justices Clifford and Field voted with the republicans upon the admission of Cronin's vote in the case of Oregon.

Why, sir, this tribunal does not command the respect of the people. It is laughed at and spoken of as a game at cards. It has convinced nobody; its findings carry no weight. In popular estimation we are precisely where we began when this commission was created. The people of the United States expect us to-day to repudiate this commission, as it expected us on the meeting of Congress to repudiate the finding of the Louisiana returning board. I only express the conscience of the people in saying that when the time comes that a party repudiated at the polls can through fraud or force, or both, inaugurate its defeated candidate for the Presidency our Republic does not exist even in form. We have parted from all the fathers left us. We have parted from all that a hundred years have made precious. Consent to this and we may as well meet together and decide the sort of constitutional monarchy that will suit us best. I for one object to a despotism built on J. Madison Wells and Justice Bradley. I had hoped, Mr. Speaker, and with the two illustrious examples before me in the honorable gentlemen from Massachusetts, [Mr. PIERCE and Mr. SEELYE,] that we had reached a crisis of so grave a sort in our Government that men would rise above party allegiance and give themselves to the good of the people.

In 1861 I cast behind me all party ties and gave my poor services to my Government. I was young, inexperienced, and enthusiastic. My knowledge of human nature had not then taught me how selfish, bigoted, and unthinking partisan affiliation could make a man. I was not to blame, however, for I found thousands on thousands of democrats under the musket fighting side by side with their political opponents for the glory of our flag and the preservation of our Government. Can it be that we have fallen upon more evil days? Are the patriots of the republican party limited in this House to two men? Be that as it may, our duty on this side is plain before us. To us has been intrusted the will of the people. We would be unfaithful to that trust if we consent to and assist in the inauguration of a defeated candidate for the Presidency, whose inauguration is based on the finding of a commission that indorses the finding of the Louisiana returning board.

Now, sir, we have it in proof that this Louisiana returning board went about peddling its powers, offering the State to the highest bidder. The people will not be satisfied with the legal technicalities that shut out an investigation of these infamous frauds. They have no respect for the seal of a governor that covers corruption such as this. And the distinction is so nicely drawn by these learned eight of the commission that the people cannot see or comprehend it. They cannot understand why the seal of a governor that shuts out investigation in Florida or Louisiana fails to produce the same result in Oregon. The whole affair is regarded in the public mind precisely what a member of the commission designated it, "a game of chance."

The American people have not yet sunk so low as to submit their dearest rights, their grandest inheritance, all that they hope to leave their children, to the hands of a few political gamblers.

Our duty is plain before us. We cannot surrender that sacred trust given to our keeping; no surrender. We must record ourselves upon the side of the people and if the threatened evil comes to our unhappy country it must be without our consent or approbation.

Now, Mr. Speaker, if this minority candidate, the man who failed to secure the voice of the people at the polls, is inaugurated at Washington it will be because the people prefer four years more of tyranny and fraud to a night of anarchy. I doubt the correctness of this conclusion. It is never safe to compound a felony; the wrong that is countenanced may grow under the favor until it exists without consent. The men who now ask of us a tribunal to decide this question may hereafter commit the wrong without any tribunal at all.

The Late Election in Mississippi.

SPEECH OF HON. JOHN R. LYNCH,

OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

March 1, 1877,

On the report of the select committee on the late election in the State of Louisiana.

Mr. LYNCH. Mr. Speaker, I do not rise for the purpose of making a partisan speech. I recognize the fact that we are still in the midst of an important crisis, in consequence of which it behooves every lover of his country to put patriotism above party. It is not my purpose to speak with regard to the manner in which the late election was conducted in Louisiana, except in an incidental way. My main purpose is to call public attention to some of the grave irregularities that were committed in the State which I have the honor in part to represent upon this floor. It is hardly necessary for me to say that this is to me anything else but a pleasant duty. Every consideration of love of home, of section and people, would necessarily cause me to be anxious to throw the mantle of charity over the faults and shortcomings of that people, rather than expose them to the public gaze. I confess that my inclination is in this direction. But when the offenses of a people or a portion of them are sufficiently grave to bring reproach upon our institutions and demoralize society, then their concealment will be more in the nature of a crime than a charitable act. It is in obedience, therefore, to a sense of public duty that I shall lay before the country some of the causes that produced what is called by some, the great political revolution, in the State of Mississippi. But I shall not do this because the electoral votes of that State have been cast for the candidate of the democratic party. However anxious we may be that the man of our choice should be successful, yet I hold that it is the duty every true American citizen to cordially and cheerfully acquiesce in the will of the people when legally and fairly ascertained according to the forms of law, whether it be in accordance with our wishes or not. I presume there are none who will deny that the perpetuity of our system of Government depends upon the sacredness and security of the ballot-box, and that whenever our elective system ceases to be pure and sacred, then the foundation-stone of our governmental system will have been destroyed and the final dissolution of the Government, possibly through a bloody revolution, will be but a question of time.

Mr. Speaker, I have not the slightest hesitation in asserting that if elections such as the one held in Mississippi in November last are to be accepted by the people of this country as a legal and valid expression of the will of the people of a State, then indeed our elective system will have come to be a convenient medium for giving legal effect to the most outrageous frauds that were ever committed in the conduct of elections. The frauds that were committed upon the ballot-box in that State at the last election in the interest of the democratic party, to say nothing of terrorism and violence, were carried so far and were made so general in their application that they have not, in my judgment, a parallel in the history of a State in this Union.

Mr. Speaker, these frauds were carried so far beyond the bounds of reason, decency, and propriety that no man who has the slightest regard for his reputation, who believes in maintaining and upholding our governmental system, can for a moment defend them, countenance them, or indorse them. The frauds that were committed in the sixth congressional district alone, to say nothing of violence, made a change in the vote of the State of not less than 10,000; and the frauds that were committed in that district, in connection with violence, made a change in the vote of the State of not less than 20,000. Some may think that these are extravagant assertions, but I make them upon my knowledge as a citizen of the State. Every assertion that I have made is susceptible of the clearest proof. To give some idea as to how the election was conducted, I will call particular attention to the sixth district. The counties of which that district is now composed have voted at previous elections as follows:

1869.

Republican	20,949
Democratic	3,374
Republican majority	17,575

1871.

Republican	20,312
Democratic	3,156
Republican majority	17,156

1872.

Republican	21,389
Democratic	4,190
Republican majority	17,199

1875.

Republican	15,895
Democratic	9,833
Republican majority	6,062

The following is the result in 1876:

Democratic	15,788
Republican	11,188
Democratic majority	4,600

In 1875 fraud and violence were confined chiefly to four counties—Coahoma, Washington, Warren, and Claiborne. Otherwise the result would have been about the same that year as at previous elections. In 1876 the frauds that were committed in the four counties above named were made applicable to every county in the district, with possibly one or two exceptions. I will now give some particulars as to how the election was conducted in 1876:

ADAMS COUNTY.

The frauds that were committed in Adams County made a change of over 1,200 votes in that county alone. To give a correct idea of the strength of the two parties in the county, I will give the vote of the county at several preceding elections:

1869.

Total vote polled	3,882
Republican	3,173
Democratic	709
Republican majority	2,463

1872.

Total vote polled	3,783
Republican	2,972
Democratic	811
Republican majority	2,161

1875.

Total vote polled	3,419
Republican	2,626
Democratic	793
Republican majority	1,833

1876.

Total vote polled	3,949
Republican	2,965
Democratic	1,484
Republican majority	581

The above is the vote for Congressman as officially returned. I do not charge and do not believe that the number of votes counted was in excess of the number actually polled; but by comparing the registered vote of each election precinct with the official returns of the precincts it will be clearly seen where the frauds were committed.

Complete registration of Adams County, as it stood on election day, November 7, 1876.

Precincts.	Whites.	Colored.	Total.
Court-house	386	483	869
Jefferson Hotel	306	513	819
Dead-man's	22	261	283
Beverly	27	318	345
Kingston	54	448	502
Palestine	37	351	388
Pine Ridge	48	296	344
Washington	84	543	627
	964	3,213	4,177

Complete official returns of Adams County for election held November 7, 1876.

Precincts.	For electors—		For Congress.	
	Democratic.	Republican.	Chalmers, Democrat.	Lynch, Republican.
Court-house	416	400	416	400
Jefferson Hotel	339	434	340	426
Dead-man's Bend	30	223	30	223
Beverly	36	294	35	295
Kingston	396	91	402	85
Palestine	51	315	51	315
Pine Ridge	58	261	61	258
Washington	301	310	349	263
Totals	1,627	2,328	1,684	2,265

It will be seen from the above that the revolution in favor of democracy and "reform" was confined exclusively to two precincts—Washington and Kingston. The returns from the other precincts were just about as the republicans had calculated. What, then, was the cause of this great and unexpected change at Washington and Kingston? The answer is an easy one. There were over 600 republican tickets taken out of the ballot-boxes at those two precincts, and the same number of democratic tickets substituted in their stead. I went to Kingston on election day myself, and remained there from the time the polls were opened until two o'clock in the afternoon, at which hour the election officers took a recess for dinner. Up to that time 361 votes had been polled, and to my own personal knowledge over 300 of that number were straight republican tickets. One hundred and twenty-six votes were polled after

dinner, about 85 of that number being republican. When the votes were counted at night there were just 91 votes in the box for the republican electoral ticket and 85 for the congressional candidate, thus showing clearly that all, or nearly all, of the republican votes that were polled before dinner were taken out of the box when they went to dinner and the same number of democratic tickets substituted in their stead. At the Washington precinct they took no recess for dinner, but after the polls were closed at night they counted a few tickets and then took a recess until the next morning. When they met the next morning to proceed with the count it was ascertained that between two and three hundred republican tickets had been taken out of the box and the same number of democratic tickets substituted in their stead. The objective point, however, was to carry the election for Congressman. In changing the tickets, therefore, they were generous and magnanimous enough to put in about fifty tickets containing the names of the republican candidates for presidential electors with that of the democratic candidate for Congress. This accounts for the material difference in the vote for President and Congressman. It is perhaps proper to state that the republicans were allowed but one inspector of elections at each box, and the ballot-box remained in the possession of a democrat.

PUBLIC OPINION.

It will perhaps be remembered by some that in a speech which I had the honor of delivering in this Hall during the last session of Congress I stated that the election of 1875 in the State of Mississippi brought to the front the worst element in the ranks of the democratic party in that State. The election of 1876 fully substantiated that assertion. Democrats who reside in counties that were allowed to go republican in 1875 have been tantalized ever since and characterized as cowards. Public opinion has become so demoralized that the commission of the most outrageous frauds upon the ballot-box is not only encouraged, tolerated, and justified, but it is absolutely demanded as a condition-precedent to recognition in the party of reform according to the modern acceptation of that term. These frauds are apparently committed without the slightest compunction of conscience and without the slightest regard for any law, moral or statutory. To carry elections with or without votes, peaceably and fairly if possible, forcibly and unfairly if necessary, have now become to be settled maxims with the element that is now in the ascendency in the democratic party in that State. Honesty and fairness in the management and conduct of elections on their part are the exception, and not the rule. But they did not seem to be satisfied with the inauguration of the policy of fraud, but deemed it essential to inaugurate or rather continue the policy of violence as well. Nearly every democratic club in a number of counties in the State is an armed military orgnization, brought into existence for aggressive political purposes. In some of these counties the violence and terrorism was so intense that not a republican meeting was allowed to be held nor a republican speech to be made at any time during the campaign. It is hardly necessary to say that in such locations lawlessness reigns supreme. Republicans who reside in such localities are permitted to do so simply as a matter of favor and not as a matter of right. The only law that is recognized or respected is the law of force. There is absolutely no security for life, liberty, or property except such as may be afforded as a gracious favor by these armed clubs. I now call attention to Warren County.

In Warren County there are about seven thousand voters, and over five thousand of that number are colored men and republicans. In 1876 over three thousand republicans were positively denied the right to register and consequently the right to vote. To give a correct idea of the strength of the two parties I will give the vote of the county at several preceding elections:

1869.

Total vote polled	5,638
Republican	4,560
Democratic	1,078
Republican majority	3,482

1872.

Total vote polled	6,014
Republican	4,729
Democratic	1,285
Republican majority	3,444

1875.

Total vote polled	5,648
Democratic	3,606
Republican	2,042
Democratic majority	1,564

The following is the result in 1876:

Total vote polled	2,658
Democratic	2,043
Republican	615
Democratic majority	1,428

The elections held in 1869 and in 1872 were conducted with perfect fairness, and can therefore be accepted as a fair test of the strength of the two parties. The election held in 1875 is generally admitted to have been a fraud and a swindle. Senators BAYARD and MCDONALD, as members of the Senate committee that investigated the election of 1875, declared in their minority report that the election was a fraud, and that a ticket had been declared elected that had not been voted for by any one in the county.

The charge that over three thousand republican voters were denied the right to register and consequently the right to vote is fully substantiated by the official returns. In the country districts, where the colored voters are largely in the majority, the registrars would make affirmative answers to certain unlawful and unauthorized questions a condition-precedent to registration. Whenever a voter would fail to give an affirmative answer to any one of these questions he was told to step aside. But in the city of Vicksburgh, where the bulk of the democratic vote of the county is, no such questions were asked, and thus every white man who desired to do so was allowed to register, while thousands of colored voters were denied that right. But even if those whom they allowed to register had been allowed to vote, and the votes counted as polled, the result in the county would have been different, for we find the registration, though incomplete and fraudulent, to be about as follows: whites 2,019, blacks 1,689.

It will be seen from the above that the democratic vote is only 24 in excess of the whole number of white men registered, while the republican vote is 1,074 less than the whole number of colored men registered. This result was brought about by refusing to receive the votes of a large number of colored men, and it is also believed that frauds were committed at several precincts, similar to those that were committed at Washington and Kingston, in Adams County. The Davis Bend box, where over 400 republican votes were polled, and not more than about 5 democratic votes were polled, was rejected by the registrars for alleged irregularities. They did not pursue the same course in this county that was pursued in a majority of the republican counties. In a majority of the republican counties they allowed the colored men to register and vote, but before proceeding with the count they would take out republican tickets by thousands and substitute democratic tickets in their stead, and then telegraph over the country that the colored men had voted the democratic ticket. In Warren County they thought it would be more convenient, and perhaps more honorable, to disfranchise the republican voters, and not allow them to vote at all. They were satisfied that the colored men were republicans, and, if allowed to vote at all, would vote for the candidates of that party. Every effort that had been made to induce them to join the democracy had proved unsuccessful.

The devotion manifested by the colored voters for the republican party under such circumstances is certainly worthy of the highest possible commendation, even though the wisdom or propriety of this devotion may sometimes be open to question. The democrats of Warren County know that the colored voters of that county are republicans, and therefore they concluded to disfranchise them by thousands.

Think of it, Mr. Speaker; here are more than three thousand sovereign citizens of this country; men who are clothed by the Constitution of their country with the right to participate in the choice of their own rulers; men who laid their lives upon the altar of their country in the hour of its need; and yet these men were positively denied the right to vote, for no other reason than because they are republicans. It cannot be said that they failed, refused, or neglected to conform to the requirements of law, for they did everything that the law required of them. Their disfranchisement was the result of a settled determination to deprive them of their rights and privileges of American citizens.

CLAIBORNE COUNTY.

In Claiborne County not less than 1,000 republican voters were positively denied the right to register. Terrorism and violence were inaugurated by the democrats and continued up to the election. The election was also characterized by great frauds.

The following information will show the strength of the two parties at several preceding elections:

1869.

Total vote polled	2,548
Republican	2,091
Democratic	457
Republican majority	1,634

1872.

Total vote polled	2,724
Republican	2,238
Democratic	484
Republican majority	1,752

1875.

Total vote polled	1,590
Democratic	1,094
Republican	496
Democratic majority	598

1876.

Total vote polled	1,924
Democratic	1,498
Republican	426
Democratic majority	1,072

The above figures speak for themselves. It requires no argument to show that the elections of 1875 and 1876 were carried by fraud, violence, and terrorism. In further proof of the charge that the election held in 1876 was characterized by great frauds, I will compare

the total number of votes polled with the total number of voters registered:

Total number of voters registered	2,196
Colored	1,279
White	917

It will be seen that the total vote polled was only 272 less than the whole number of voters registered, while the democratic vote is 581 more than the whole number of white men registered and the republican vote is 853 less than the whole number of colored men registered. Admitting that the 272 voters who failed to vote were colored men, it will be seen that there were still 581 colored men who did vote, and whose votes were counted as having been polled for the democrats. That that number of colored men voted the democratic ticket is what no reasonable man who is familiar with the politics of the county will affirm.

JEFFERSON COUNTY.

In Jefferson as in Adams County the registration was conducted with fairness and impartiality; but a reign of terror was inaugurated throughout the county by the democrats. Republicans were not allowed to hold public meetings under any circumstances. The democratic party of the county is an armed military organization. Armed bodies of democrats would attend, interrupt, and break up every meeting the republicans would attempt to hold. The election was a farce from beginning to end, as will be clearly seen by comparing the election of 1876 with several preceeding elections.

1869.	
Total vote polled	2,334
Republican	1,919
Democratic	415
Republican majority	1,504

1872.	
Total vote polled	2,152
Republican	1,698
Democratic	454
Republican majority	1,244

1875.	
Total vote polled	2,600
Republican	1,922
Democratic	678
Republican majority	1,244

1876.	
Total vote polled	1,965
Democratic	1,545
Republican	420
Democratic majority	1,125

There were registered in 1876 2,940 voters: 2,154 colored and 786 whites. It will be seen that the total vote polled was 975 less than the whole number of voters registered. The democratic vote was 759 more than the whole number of white men registered. Admitting that the 975 voters who failed or were denied the right to vote were colored men and republicans, still it will be seen that the difference between the republican vote and the whole number of colored men who voted is 759. The conclusion is irresistible that an organized system of frauds and swindles upon the ballot-box was inaugurated in nearly every republican county in the State. It was the settled determination of the democracy to carry the election peaceably and fairly if possible, forcibly and unfairly if necessary.

WASHINGTON COUNTY.

In Washington County the republicans were positively denied representation on any of the boards that were appointed for holding the elections at the several voting-precincts. There were registered in 1876 4,648 colored men, and 1,264 whites. Republican clubs were organized throughout the county with a membership of over three thousand, and yet the official returns as counted and officially promulgated are as follows: Democratic, 2,905; republican, 1,591; democratic majority, 1,314. The following is the vote of the county at several preceding elections:

1869.	
Total vote polled	2,670
Republican	2,530
Democratic	140
Republican majority	2,390

1872.	
Total vote polled	2,757
Republican	2,562
Democratic	195
Republican majority	2,367

1875.	
Total vote polled	3,681
Democratic	2,043
Republican	1,638
Democratic majority	405

1876.	
Total vote polled	4,496
Democratic	2,905
Republican	1,591
Democratic majority	1,314

It will be seen from the above that the total vote polled in 1876 is 1,416 less than the total number of voters registered. Admitting that the 1,416 voters who failed, or were denied the right to vote were colored men and republicans, still the democratic vote is 1,641 more than the whole number of white men registered, while the republican vote is 1,640, one less than the whole number of votes polled by colored men, thus showing that the votes polled by that number of colored men were counted for the democrats. I am satisfied that not less than one thousand republican tickets, and perhaps two, were taken out of the ballot-boxes before they were counted and the same number of democratic tickets substituted in their stead. This system of fraud and swindling seems to have been inaugurated and successfully carried out in a majority of the republican counties in the State. I have selected five counties in the sixth district only for the purpose of giving an idea as to how the election was conducted throughout the State.

The following is a list of voters registered in the sixth district in 1876. I will state in this connection that the registration was conducted with reasonable fairness in all the counties in the district except Warren and Claiborne. In those two counties not less than 4,000 colored men were denied the privilege of registering.

Counties.	Colored.	White.
Tunica	1,500*	300*
Coahoma	2,003	735
Bolivar	2,850	850
Washington	4,648	1,264
Issaquena	1,402	245
Sharkey	700*	300*
Warren	1,689	2,019
Claiborne	1,279	917
Jefferson	2,154	786
Adams	3,213	964
Wilkinson	2,501	754
Total	23,939	9,134
	9,134	
Colored majority	14,805	

*Estimated.

THE FUTURE OF THE SOUTH.

As I have said on a former occasion, there is, in my judgment, a large element among southern white men who are honestly opposed to revolution, to violence, and to frauds in elections. So far as Mississippi is concerned I know this to be true. The element that supported H. S. Foote for governor as against Jefferson Davis; the element that earnestly opposed the secession of the State, but finally acquiesced in what they believed to be the will of the majority—this element is still strong in that State, but it has never yet been utilized. They have been made to believe that the policy of the republican party is inimical to southern interests, in consequence of which the mass of them have affiliated with an organization which has been the bane of the South for the last quarter of a century. It is to be hoped that the inauguration of a new administration will render possible the utilization of this element and thus prevent the ultimate destruction of that section of our country. If the present lawlessness is allowed to continue; if mob law is allowed to take the place of civil law; if fraud is accepted as the popular method of carrying elections, and violence as the legitimate plan of controlling public opinion, then the decay of that section will necessarily follow. In this connection I will make a quotation from the minority report of Senators BAYARD and MCDONALD, who, as members of a Senate committee, investigated the Mississippi election of 1875, which I cordially indorse:

> Having thus stated the limitations upon the power of Congress, which a respect for the Constitution of our Government and to the decisions of its highest judicial tribunal has dictated, we cannot refrain from an expression of our abhorrence and hearty reprobation of every act of lawless and so often brutal interference with the rights of citizenship which were related by witnesses in our presence.
>
> Prosperity and happiness can never thrive in a community where such scenes of violence can be enacted without condign punishment. By a law higher than man's the "wages of sin is death," and it will be vain for the people of Mississippi to look for the advancement of their State to that position in the ranks of wealth, influence, and reputation which those who love her would desire to see her occupy, until the spirit of law shall be strengthened and assert itself over the "dangerous classes," who have brought disrepute upon her good name.

The Electoral Count.

REMARKS OF HON. A. S. WILLIAMS,

OF MICHIGAN,

IN THE HOUSE OF REPRESENTATIVES,

March 1, 1877,

On the proceedings of the House upon the electoral count.

Mr. A. S. WILLIAMS. Mr. Speaker, I desire but a few moments to explain my votes against the dilatory motions upon the decisions of the electoral commission made by many of my political friends on this side of the House.

I differ with them with unfeigned reluctance; though among those democrats who vote against these motions I recognize some of the oldest and most experienced of the members of this House.

The law under which we are now acting is entitled "An act to provide for and regulate the counting of votes for President and Vice-President, *and the decision of questions arising thereon*, for the term commencing March 4, A. D. 1877."

In the very title of the act and in the body of the law it is made plain that a commission was created to whom all the powers and rights of either or both Houses touching questions of counting the electoral votes should be submitted for consideration and decision, to be final "unless both Houses shall determine otherwise."

I need not recount the circumstances that attended the passage of this law: the threatening and gloomy prospect of irreconcilable differences of opinion between the two Houses as to the constitutional mode of counting the electoral votes; the almost certain result of a declaration of the election of two Presidents, in the excited contest between the two Houses; and the "bloody issue" from this duality of Presidents of a possible civil war and universal anarchy of inconceivable duration and of immeasurable commercial ruin. So general was this feeling of a great impending national calamity that both parties sought with eagerness for a tribunal to which these grave and exciting questions could be safely submitted. A committee of the two Houses, with unlooked-for unanimity, reported the law under which we are now acting, and it secured the votes of democratic members with but one dissenting vote in the Senate and but thirteen, I believe, in this House.

And now, Mr. Speaker, what did we submit to this "electoral commission" by the almost unanimous vote of the democratic party, aided by a very considerable vote of the republican party? We submitted and agreed—

First. That "no electoral vote or votes from any State from which but one return has been received shall be rejected except by the affirmative vote of the two Houses." In this, we reversed the often-quoted twenty-second joint rule that rejected the vote of a State upon the dissent of either House.

Secondly. We agreed to the indestructibility of the commission as follows:

When the commission shall have been thus organized *it shall not be in the power of either House to dissolve the same or to withdraw any of its members*; but if any such Senator or Member shall die or become physically unable to perform the duties required by this act, the fact of such death or physical inability shall be by said commission, before it shall proceed further, communicated to the Senate or House of Representatives, as the case may be, which body shall immediately and without debate proceed by *viva voce* vote to fill the place so vacated, and the person so appointed shall take and subscribe the oath hereinbefore prescribed and become a member of said commission; and in like manner, if any of said justices of the Supreme Court shall die or become physically incapable of performing the duties required by this act, the other of said justices, members of the said commission, shall immediately appoint another justice of said court a member of said commission, and in such appointments regard shall be had to the impartiality and freedom from bias sought by the original appointments to said commission, who shall thereupon immediately take and subscribe the oath hereinbefore prescribed and become a member of said commission to fill the vacancy so occasioned.

Thirdly, touching the powers of the commission upon duplicate returns, we stipulated in this act:

When all such objections so made to any certificate, vote, or paper from a State shall have been received and read, all such certificates, votes, and papers so objected to, and all papers accompanying the same, together with such objections, shall be forthwith submitted to said commission, which shall proceed to consider the same, with the same powers, if any, now possessed for that purpose by the two Houses acting separately or together, and, by a majority of votes, decide whether any and what votes from such States are the votes provided for by the Constitution of the United States, and how many and what persons were duly appointed electors in such State, and may therein take into view such petitions, depositions, and other papers, if any, as shall, by the Constitution and now existing law, be competent and pertinent in such consideration; which decision shall be made in writing, stating briefly the ground thereof, and signed by the members of said commission agreeing therein; whereupon the two Houses shall again meet, and such decision shall be read and entered in the journal of each House, and the counting of the votes shall proceed in conformity therewith, unless, upon objection made thereto in writing by at least five Senators and five members of the House of Representatives, the two Houses shall separately concur in ordering otherwise, in which case such concurrent order shall govern.

Could language make plainer an entire submission of all the powers and duties of both Houses respecting the electoral returns to this joint commission? Not simply of the law, but of the competency and admissibility of proofs under the Constitution and the existing laws. In short, the whole question of "going behind the returning boards," of what is the extent and true construction of the constitutional provision of article 2, section 2:

Each State shall appoint, *in such manner as the Legislature thereof may direct*, a number of electors, equal to, &c.

And of this other provision, much debated:

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates *and the votes shall then be counted.*

All was submitted to the consideration and determination of this joint commission established mainly by democratic votes.

In brief, Mr. Speaker, I can say for myself that in voting for this law I intended by the act to remove from the conflicting opinions and bitter partisan feelings of the two Houses of Congress to a commission of selected members and to the more elevated and disinterested five judges of the Supreme Court, raised as was supposed above the influences and seductions of a partisan character, all the grave questions which seemed incapable of a peaceful solution by the two Houses.

I comprehended, too, that the law was carefully drawn to resist the disappointment of either party and to secure a completion of the duties of the commission that just such a state of feeling as now exists would naturally endanger.

I had a well-grounded belief that a commission selected in accordance with the provisions of this act would look behind the frauds and the perjuries of returning boards, and would determine wisely and honestly what had been the actual and fair vote of the people of the several States. I certainly expected no partisan decisions from judges of the Supreme Court. My disappointment is not less than that of other members on this side of the House.

But granting all the charges brought against this commission to be true, that they have disregarded the law and the Constitution, and followed solely partisan preferences and predilections in their decisions, can I justify myself in ignoring the law which I helped to make? Shall I stand excused while voting for dilatory motions intended practically to nullify a law of Congress, and to place the Government of the Republic in a state of chaotic uncertainty?

What results are to follow a defeat of the decisions of this joint commission? Can we constitutionally or legally declare Mr. Tilden elected? The Constitution provides for an election of the House in a single contingency only, and that is:

If no person have such majority—

Of all the electoral votes—

then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot.

As there were but two candidates voted for by the electoral colleges, it is plain that one or the other had a majority. We claim that Mr. Tilden had that majority, and in so claiming we exclude the possibility of a vote in the House according to the above constitutional provision.

It is plain, therefore, that in defeating the decisions of the commission we remit ourselves to the original contest between the two Houses and its inevitable result—the declaration of a President by each House. We do just what we voted to avoid when with extraordinary unanimity we passed the electoral commission law. We place in jeopardy the peace of the nation. We vote for an internal strife, the end whereof no man can foresee.

Neither my conscience nor my judgment allows me to be a party to such a fatal measure.

I shall therefore continue to vote hereafter as I have done heretofore, against all motions plainly dilatory and intended to obstruct a completion of the presidential count by the commission established by law. I leave it to the people to apply the remedy in future elections, and to award the punishments to the authors of those measureless frauds and iniquities that palpably defeated the will of the people in the late presidential election.

The Electoral Count.

SPEECH OF HON. J. D. C. ATKINS,

OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1877,

On the decisions of the electoral commission.

Mr. ATKINS. Mr. Speaker, I voted for the electoral bill for the following reasons, as well as others which I have not time to mention:

First. Because the Senate and House of Representatives, under the Constitution, to count the votes for President, have equal powers and therefore must proceed to count conjointly.

Second. Because the two Houses could not agree upon a common rule by which the two bodies in joint convention could proceed in the count, the Senate repealing or abrogating the twenty-second joint rule by which the presidential votes had been counted in 1868 and 1872.

Third. Because the House could not proceed to declare that there was no election without the concurrence of the Senate, and was therefore debarred from the discretion and exercise of its constitutional prerogatives to elect the President in the contingency provided for in the Constitution.

Fourth. Because it is not denied anywhere, or by anybody, that the Senate intended to count the republican candidate into office in the event that the two Houses did not agree upon a plan of counting the vote.

Fifth. Because this plan seemed to present the only showing or chance whatever for the will of the people as expressed at the polls, on the 7th of November, to be respected in the count.

Sixth. Because this bill is constitutional, and was believed to be the only plan which could meet the approval of each House of Congress.

Seventh. Because the mode adopted, if fairly and justly executed, would give satisfaction to the people; avoid the danger of civil commotion, perhaps war, and effect the ends of peace and justice.

Eighth. Because it promised a solution of the presidential issue

which relieved the republican party from an act of audacious usurpation and the democratic party from submission or a resort to arms.

Now, for these patriotic reasons, besides others I need not mention, I voted for the electoral bill. Only eighteen democratic Representatives and one democratic Senator voted against the bill; all the rest, except a few absentees, voted for it.

The whole democratic and conservative press of the country approved it. The people everywhere seemed to rejoice that Congress had agreed to a plan of adjustment.

Everywhere the sentiment was proclaimed that a seat on the commission would inspire even the veriest partisan with a feeling of justice and a profound sense of responsibility. But of the members of that commission selected from the supreme bench every one almost joined in the opinion that they would hold the scales of justice, law, and truth evenly. To have predicted that any member of the judicial part of that commission would have fallen short in his investigation of this great issue, upon which the rights of all the people depend, by bringing out the truth in all its beauty and loveliness on the one hand, or upon the other of exposing fraud and corruption in all their hideous deformity, would have shocked the sensibilities of the public heart.

Hear what the Senator from Vermont said in advocating the electoral bill before the Senate, keeping in mind too that he was a member of a joint committee that reported the bill and subsequently became one of the commission. After reading the oath which the members of the commission were required to take, he said:

> No more partisan, no more friend, no more opponent, no more enemy, but the solemn judgment of the judge. It appeared to us, Mr. President, that, so far as human institutions can provide for justice under the law, to impose upon five of ourselves, five of the gentlemen of the House of Representatives, and five of these eminent persons in the judicial branch to whom I have referred, that obligation, which each willingly and affirmatively takes, would be to dismiss, with us even, with all the warmth of our wishes, every consideration that should cither cloud our intellects or warp our judgments; for what this commission is to decide is not a policy; it is not a future; it is only to pass upon the irrevocable past and to say, as an intellectual answer to the question under the Constitution and the law, and in no other sense and in no other way, what has taken place according to the Constitution, and not what ought to take place or what they could have wished should take place. I repeat, sir, that if there be any value left in the institutions of civil government under law, this is the last and final hope that such institutions can have. There is no human agency, there is nothing short of the overruling providence of the Almighty, that can furnish a juster test of human rights than this.

But, sir, what is our shame to-day? Here we have the spectacle of eight distinguished men instead of acting as conscientious judges we see them playing the rôle of violent and reckless partisans, ignoring the merits of the questions submitted to their arbitrament, refusing to hear testimony in Florida and Louisiana, where the evidence would unmistakedly show that the democratic electors were elected by from five to eight thousand majority, while in other cases reversing their own decisions as associate justices and reversing their own decisions as members of this commission where such inconsistency and self-contradiction would operate in favor of the republican candidate. In the case of Louisiana indorsing the audacious and villainous proceedings of an illegal and unconstitutional returning board, composed of two illiterate negroes and two desperate and abandoned white men, who, the proof shows, were ready to sell the electoral vote of Louisiana for money and who, it is not denied by any honest man, committed the vilest frauds and perpetrated the most flagitious crimes in the exercise of the functions of their office.

If the Louisiana returning board deserves (as no sincere man will deny) to be held up to the withering scowl, indignation, and contempt of all honest and fair-minded men, what will the enlightened civilization of this country and of Europe think of the eight members of that commission who indorse the results of their falsehood, treachery, and fraud? And who can respect the chief beneficiary of all this crime and corruption? Who can draw a line of distinction between the conduct of the Louisiana returning board, the commission, and the individual who consents to accept the highest office in the gift of the American people, when he knows that he was not elected to it by the people, but has obtained it through those instrumentalities of deception, illegality, and fraudulent and partisan ruling at which a Jeffries or a Norbury would blush. This conduct brings the tinge of shame to every American citizen's cheek. Not having lost faith in human nature, I felt that at least there was one repository for justice, truth, and honor which the deterioration in the public morals had not yet reached; one fountain of public administration yet uncorrupted—the judiciary!—the Supreme Court of the United States. But, alas, that fancied security proved an illusion! Who, now, will reverence the decisions of a Miller, a Strong, or a Bradley?

Sir, the fault of this plan does not lie in the law creating this commission but in the eight recreant men who swore to be impartial, non-partisan, and just. The law is a good one if executed fairly. Of course it is beyond the power of human ken to have looked into the hearts of these men and read them as they are; the life-tenure of three of them, their distinguished office, their associations, and all that consecrates and hallows this life would have impressed the world with their fairness; but, oh, how sad the disappointment! An unjust judge! Who can fathom the depth of his depravity? Who can measure the height of his folly or span the breadth of his disgrace? He stands out alone, ab ndoned and unapproached in the wilderness of human contempt, shelterless, unpitied, despised; fit only for association with the damned.

This crowning wrong of the country inflicted upon the liberties of the people, this national robbery of the people's franchise enriches the few audacious conspirators who appropriate the emoluments of office, but tends to undermine the public confidence in free government and degrades the national authority in the minds of the honest citizens. It forces many of the masses of the republican voters to indorse the infamous usurpation through fear of the scorpian lash of a domineering and unscrupulous partyism. Hundreds of thousands of them, however, who are too honest to indorse fraud, and who are too brave and decent to follow the hybrid banner borne by Wells and Casanave, assisted by the eight recreants of the commission and the army of radical office-holders and hungry expectants, with Rutherford B. Hayes in their lead, with the blush of conscious guilt mantling his cheek, and his eyes cast upon the ground, will forever turn their backs upon a party which owes it success to fraud, falsehood, conspiracy, illegality, and to the patience of the people, wounded by wrong and insult, but yet so patriotic and so loyal to peace and to the forms of law, that they wisely wait for a redress of grievances at the ballot-box.

Many speculations are being just now indulged in as to the future status of parties. Golden promises have doubtless been offered and bright visions of auspicious fortune have been portrayed upon the political canvass of southern expectancy with the hope of seducing the people from their integrity and their devotion to the principles of constitutional liberty so long emblazoned upon the banner of the democracy. Foreign missions, cabinet places, judgeships, and bounties are liberally spoken of by the *avant-coureurs* of the new *règime*. These messengers of good news, now so thickly whirling in the political atmosphere, without weight or any uniform direction, are like the motion of the leaves of the forest, which float conspicuously upon the circumambient currents of the air just before the arrival of the tornado, when, in the twinkling of an eye, they mount the storm and are scattered into nothingness. The moderate men of Mr. Hayes's friends delude themselves into the belief that he will adopt a just and constitutional policy toward the prostrate States of South Carolina and Louisiana. These are the fitful gales which precede the storm. Why did the republicans of this House vote against recognizing the Nicholls and Hampton governments of South Carolina and Louisiana? The men of iron will and of unscrupulous intent who originated the plan of the conspiracy, and whose executive audacity have well-nigh consummated its success, although not in the manner originally conceived, which was by the daring assumption of supreme control on the part of the Senate, but through corrupt judges and partisans, although now in the background, will as soon as all danger of mishap is passed move forward to the front and engineer the creature they have made. Why should they not? They made him.

A President created by such men, while he is nominally at the head of a government, he yet has no more control than the weak and purposeless princes we read of in history who are oftentimes operated and managed by powerful and wicked ministers, who have rendered the reigns of such sovereigns the bloodiest and most revengeful on record. Mr. Hayes will be at the head of his administration it is true, but he is like an engineer chained to a weak and feeble locomotive to which is attached an immense train, behind which huge engines are driven, impelling by their superior force and power the entire train madly and wildly on to destruction, even though the chief should interpose his ineffectual resistance. No Cassandra forebodings inspire my anticipations. If these predictions are not the logical conclusions of the events recently and now about to transpire, then must effect cease to follow cause.

If the mailed hand of Federal power is intended by the republican administration now so anxiously and nervously expected to be loosened from its iron grip upon the freedom of the people of two States, and of the whole South so far as the principle is concerned, why not agree to remove the Army at once and allow the people to elect their own rulers in their own way, under the Constitution of the United States? No; these are delusive promises to smooth the present difficulties and relieve apprehensions which naturally spring up in the mind of broken faith and conscious guilt.

These overtures are already growing weaker, if we are to judge of them from the insolence again beginning to assert itself as the hour of victory approaches. The same mad rule of hate, revenge, and cupidity crops out of the very *indicia* of the future policy.

If the southern people would surrender their manhood, pride of character, and political convictions, and *en masse* link themselves to the car of radicalism, they might enjoy a season of prosperity under the lavish system of bounties, subsidies, largesses, and offices of which rumor has spoken so industriously of late. But it would only be temporary; the relief would only be such as debauchery produces: a stupefaction of the sensibilities and a numbness of the entire organs of the body-politic. However gilded the slavery, there can be no real relief to a proud man, through whose veins courses the ancient and heroic blood of the Anglo-Saxon race, if he is not allowed to live in a government based upon the consent of the governed, that memorable principle canonized by the blood of the Revolution in which Washington fought and Montgomery fell. No, sir. The noble and genuine people of the South will accept no favors of governmental aid of whatever description which propose a bargain and sale of their honor, manhood, and political convictions. I do not believe that any man of prominence from the South has entertained the thought. If

there is, I will suggest one thing: bargain and sale is one thing, delivery is quite another.

That the South needs and should receive a more liberal and enlightened consideration by the General Government in her system of internal improvements and material development than she has received from either party is not to be denied; but she cannot afford to sell herself for a price. The South is not so craven and selfish, so lost to pride and manhood as to be willing to barter her love of pure government for even the most splendid material and commercial advantages, coupled with slavery however gilded. Until the heel of the oppressor is removed from her bowed neck and she stands once more proudly erect, she will scorn an alliance with any men or party that does not acknowledge her equality in the Union.

Mr. Speaker, this national melodrama, the last acts of which will soon transpire, has left strewn upon its boards many wrecks which the slowly descending curtain of time can never hide from the searching gaze of an outraged and deeply wronged people. These broken images of national honor, public justice, judicial fairness, and sacred truth which lie scattered in wild confusion, the booty of iconoclastic hands, will, when these actors, when this generation shall sleep with its fathers and unborn millions shall occupy our places, stand upon the faithful page of history as monuments of the greatest crime that ever blackened the annals of mankind. They will mark a place and an era in our country's history which the patriot will ever seek to avoid; like the pillar of salt in the land of Sodom, they will ever point the traveler to a time, and a place, and to a character which the scorching eye of God will blast as with the breath of his curses, seven times hotter than a furnace. Let us draw black lines around this page of our history; nay, for the honor of our common country, is there no hope that the historian will expunge it from the record of our annals and leave a blank that shall forever excite the curiosity of posterity?

But amid all these wrecks of ruin there stands conspicuous one central figure clothed with the drapery of hideous night, with not one ray of light relieving the darkness that envelops its ungainly proportions. 'Tis the mind and heart and soul of an unjust judge, in ruins.

Travelers tell us, in wandering through the imperial seven-hilled city, of various objects of interest, in the long ages ago, which now lie in scattered fragments; but when they approach the spot where stands in crumbling ruins the once-renowned coliseum, within whose halls the voices of patriotism and eloquence charmed the listening ears of conscript fathers and amid whose regal courts and from whose learned bench emanated the great principles of law and justice which have come down to us through hoary centuries, and to-day form the pedestal upon which English and American jurisprudence rests, they pause and, silently gazing upon that ancient monument of human hope, fame, power, learning, and aspiration, wonder:

And can it be,
That this is all that's left of thee?

Sir, when I look upon the scenes of this hour and feel the pulsations of an honest and intelligent constituency throbbing in my own heart, sympathizing with their bitter disappointment and sharing their unutterable contempt for the petty legal subterfuges and technical decisions intended to cover up a mighty fraud, and when seeing that the American judiciary, the last hope and bulwark of free government, (save in the people themselves) becomes the apex of this monument of wickedness, I ask:

And can it be,
That this is all that's left of thee?

Amid all these wrecks of former greatness and public virtue the cause of democracy, of the people, although defeated, need not despair. If the people have been betrayed let us democratic Representatives, who claim to represent the people, not forget that our cause is the cause of law and order. It has not been deemed best by those who are the chosen leaders to resort to other than peaceful remedies. Let us remember that our mission is to save, not to ruin our country, although the democratic party for a time is cheated out of a great victory and out of their political rights.

In the present uncertainty of the powers of Congress under the Constitution, and the divergent views of democratic statesmen of unquestioned patriotism and admitted ability, we are brought up squarely to the point whether we shall abide this unrighteous decision or seek to overthrow it without further legislation providing against admitted defects in our system. For myself, I would gladly now, as I would three months ago, cling to any proposition, legal and constitutional, which would eliminate the country from this extraordinary embarrassment and insure the triumph of the right, believing as I do that we as a party or as representatives owe these violations of the spirit and letter of the law of the electoral commission no respect, but absolute contempt. But I can see no positive relief ahead as yet, no mode that furnishes absolute and certain escape. But that some opportunity might present itself I have not felt it to be my duty to vote for motions urging forward and hastening the consummation of this gigantic crime, but have uniformly voted for time to consider each phase of the case as it presents itself.

Let no man tell me that honor binds me to carry legislation into effect by my voice or vote to accomplish and complete this perfidious and treacherous result. I owe a party and a commission that would be guilty of such punic faith, nothing. My restraints and obligations have no reference to Hayes and his confederates in fraud. To be plain, nothing but anarchy and civil war at the last moment would compel me to recognize the result now being forced upon the country by an unfair and partisan tribunal; hence I hold myself ready and willing to assume the responsibility of a new election if both Houses can agree. And I also prefer to see (if the Senate will not concur with the House that no election has been made by the electoral college, in which event the House would elect) the President of the Senate become the President of the United States by virtue of his office, which Congress can yet provide for under the Constitution, if not already the law. Such a President would, although not chosen by the people directly, be free from the objection of being counted in by fraud and inaugurated by force. This talk of observing faith with faithless men, of maintaining honor with dishonorable men, of executing contracts with law-breakers, is like paying a forfeit upon your life extorted at the mouth of a pistol by a highwayman after he has become your captive. No, sir; I want the world to know that I repudiate the repudiators of the law and the rights of the people in this case if I can find the mode of escape which will not leave us to battle with greater ills than those we have.

These are momentous times, and great events crowd close upon each other. The responsibility is not all on one side. The frauds and usurpations of our political opponents impose new and trying responsibilities upon the democratic party almost each revolving day if we would successfully battle for the country's weal. But should injustice triumph through artful chicanery and audacious fraud, we may not recover in many years the partial vantage-ground which law and order was slowly gaining since the throes of our late civil war.

I cannot, I will not by my acts, leave the country without a Chief Executive. Anybody is better than nobody. The sacred behests of civilization, and all the varied and complicated interests of this age of human progress and scientific development, forbid that we should leave the vessel of state without a helmsman. I cannot look upon a disrupted government, its central vitality destroyed and its different members thrown from their centripetal attraction, abandoned and floating out upon the shoreless sea of anarchy, without fear and trembling. Southern democrats will unite with northern democrats in rallying around the flag of our common country. If there be no other alternative but to yield to this usurpation, four years, Mr. Speaker, may be a long time with you and me, but it is as a day in a nation's life-time. The moral grandeur of the democratic party in this moment of perplexing trial will command the admiration of all good men, and this manly evidence of patriotic virtue will stand for them a witness before the bar of posterity when the conspirators and returning boards and electoral commissioners will have sunken beneath Lethe's dark waves to rise no more forever.

Mr. Speaker, in all the vicissitudes and mutations of this dark and damning transaction I have been guided by the best lights my judgment afforded as to what is the path of duty, of law, and of the Constitution, and in that path I have endeavored faithfully to tread. And when the excitement and passion which now holds high carnival in this Federal Capitol shall subside, and this arbitrament is submitted, as submitted it must be, to the grand inquest of the people, these iniquitous conspirators, covered with the spoils of ill-gotten place, and puffed with the insolence of office to which they were never lawfully chosen, will, like the finally impenitent, pray for the rocks and the mountains to fall upon them and hide them from the eyes of men, and, if possible, from the scorching gaze of the Eternal.

Successful wrong may flourish for a while, and rejoicing and exultation may swell the chorus of these usurpers for a season; even partisan congratulations will be extended to the miserable agents whose treachery and corruption has procured this result; but the day is coming when an enlightened and virtuous public sentiment will spurn the actors in this crime and drive them into perpetual and blasting ostracism.

Texas Pacific Railroad.

SPEECH OF J. W. THROCKMORTON,

OF TEXAS,

IN THE HOUSE OF REPRESENTATIVES,

March 1, 1877,

On the Texas and Pacific Railroad bill.

Mr. THROCKMORTON. Mr. Speaker, before proceeding with the views which I desire to submit in favor of the bill reported from the Committee on the Pacific Railroad I wish to refer to insinuations contained in some of the newspapers of this city, that the action of friends of the measure on questions arising in the House on the subject of the presidential count has been influenced by collusion with the friends of the republican candidate for the Presidency. These insinuations have been made in face of the undeniable fact that some of the most ardent supporters of the count under the electoral law are uncompromisingly opposed to the Texas and Pacific bill, while on the other hand some of the leading supporters of the measure are

most resolutely and persistently opposing the continuance of the count. Without further observation I desire to pronounce such insinuations, from whatever quarter they may come, affecting the friends of this measure who are members of this body, as utterly false and atrociously slanderous.

Mr. Speaker, it would scarcely be too much to say that this House has had but few measures before it during the present session of greater importance to the material interests of the whole country than the one which I propose to discuss.

Whether viewed as a measure for the especial benefit of that section of the Union, the industries and commerce of which are still prostrate from the effects of a long and desolating civil war, or as a measure for the benefit of the whole country, its importance cannot but command the serious attention of every member of this body.

The restoration to prosperity of a large and important section of our country can scarcely be a matter of indifference even to the most sectional and selfish; for whatever may be the political differences and social antipathies between the people of the different sections of the Union, we are so closely connected in our business relations that the prostration of the industries and trade of one important part of the country cannot but injuriously affect the well-being of the whole.

You cannot desolate Louisiana and South Carolina without the people of New York and Massachusetts sympathizing, perhaps as fellow-citizens of the same great Republic, certainly as fellow-sufferers from a common calamity.

Upon a prosperous South and West depend a prosperous North and East. Let the cotton and sugar fields of the South no longer yield support to the cultivators of the soil and tens of thousands of toilers in northern manufacturies will go home to cheerless hearthstones. Let the South cease to produce that which her people can exchange for the manufactured fabrics of the North and East and both sections will be alike injured. Let a blight fall upon the grain fields of the great Northwest and California, or the mines of Colorado and Nevada cease to yield the precious metals, or let their products be cut off from the markets for want of the means of transportation, and the whole money system of the country feels the shock, and bankers and capitalists and merchants with their millions go down with a crash that spreads ruin throughout the length and breadth of the land.

The lesson thus taught proves that no considerable section of this great country can long enjoy a high degree of prosperity while any other important section languishes in poverty.

I know of no effort of statesmanship better calculated to restore prosperity to the entire country than to build up the waste places in the South, and give to her the prosperity which she once enjoyed and which she still deserves. In my judgment there is no measure we can consider that will more effectually secure that prosperity than the one under consideration.

Give the South just laws, treat her as an equal of the North, of the East, and West; let her have a fair proportion of the protection, the benefits and bounties conferred by the Government, and the result will be that the renewed life and vigor thus given will add ten fold to her production, ten-fold to her consumption of northern fabrics and western produce; the wealth of the nation will be greatly increased, a new era of prosperity will begin, and the balance of trade will turn in our favor.

The bill reported by the Committee on the Pacific Railroad, granting Government credit to aid in the construction of a southern transcontinental railway, has been printed and laid on each member's desk; and I trust that members will give its provisions careful consideration and not permit themselves to be influenced in their judgment of its merits by prejudice or preconceived ideas, inculcated by newspapers that have made war on the measure without understanding its scope or intention, or by rival interests that are determined there shall be no southern line to the Pacific Ocean.

The very able and interesting report of the chairman of the committee presents so strongly and clearly the main features of the measure that I deem it unnecessary to weary the patience of the House by a recapitulation of them. But, sir, before proceeding with my argument, I cannot forbear referring to some of the objections that have been urged to the proposition submitted by the committee, and I earnestly invoke the attention of my southern friends, and those of the North who may be disposed to lend us a helping hand, to the answer I shall make to these objections.

Mr. Speaker, I have been surprised and astonished to hear the charge made that the measure as presented in this bill is not for the benefit of the South, but that its object is to build up the interests of northern commerce. Nothing more absolutely untrue could be stated. This not a southern measure, with already two completed connections with Galveston, and the third under construction; with branches to New Orleans, Vicksburgh, and Memphis; these branches and connections to enjoy all the advantages of freights and fares possessed by the main line! This not a measure for the benefit of the South, when eight hundred miles of its main line and three hundred miles of its "transcontinental branch" lie in Texas, and six hundred and ninety-three miles of the branches traverse Arkansas and Louisiana, making a grand total of seventeen hundred and ninety-three miles of railway constructed or to be constructed within these three great cotton-producing States, and which will when completed connect with the entire railroad system throughout the South!

But, sir, this charge is made because of the Vinita connection with Saint Louis. It originates in a quarter that never has been friendly to southern interests, and I regret that some southern gentlemen have been led astray by it. The representatives of the various interests opposed to the construction of a southern transcontinental line have been the circulators of this absurd charge. Now, sir, let us see what foundation there is for such a statement. Of course, transcontinental commerce would avail itself of the Vinita branch, but only such of it as would be best accommodated by taking the route to and from Saint Louis. That city has already two connections with the main line, one at Sherman and the other at Texarkana; so that any one can see that should the Vinita branch never be constructed it would require a run of only a few hours longer to reach Saint Louis.

Again, sir, does not every man of ordinary intelligence comprehend that commerce has her own laws, and that trade and travel invariably use the shortest and least expensive available routes? Without the Vinita branch it cannot be doubted that northern trade would avail itself of the Missouri, Kansas and Texas Railway from Sherman, Texas, to Saint Louis, and of the Iron Mountain Railroad from Texarkana. But would it be just to force this trade and travel over the longer line, when no interest could be subserved except that of the railroad companies transporting it? No southern city or port could reap the slightest benefit by forcing such commerce out of its most direct line. It is the object of this measure to lessen the burdens of commerce. The supposition that the owners and managers of eleven or twelve hundred miles of railway in Texas would, contrary to their own interest, turn transcontinental traffic away from their own line for the benefit of the Vinita branch and Saint Louis, is too monstrous to be treated otherwise than with derision. Hence, the assertion that the Vinita branch robs this measure of its claim to southern, favor is a fallacy too absurd for patient or respectful consideration.

But there are other considerations, in connection with the Vinita branch, that ought not to be forgotten. It should be remembered that Congress has passed laws to encourage, by donations of lands, a road from the northern lakes to the Pacific Ocean, with a right to branches, with a land grant of 45,000,000 acres. It has also endowed the Union and Central Pacific, and their numerous branches, with land grants of more than fifty million acres, and with more than $53,000,000 in bonds. It has also bestowed upon the Atlantic and Pacific Railroad Company 42,000,000 acres of land to aid in the construction of a road on the thirty-fifth parallel, and granted lands to the amount of 18,000,000 acres to the Texas and Pacific Railway Company. These several acts were passed in the interest of the various sections of our widely extended country, and were thought to be just to the extreme north, to the extreme south, and to the people interested in the intermediate lines of the thirty-fifth and fortieth parallels respectively. So that we find the Atlantic and the Pacific, or the thirty-fifth parallel route, by the provisions of the bill under consideration, surrenders its claim to more than forty-one millions of acres of land, as the consideration for a Government guarantee of the interest upon the cost of constructing three hundred and twenty-five miles of railway; a line, for its length, of more importance to the Government than any other on the continent, and a line of more value to Texas than any of the other branches. Its construction would give peace to her northern border and render valuable her multiplied millions of acres of land that have been dedicated to her common schools, and populate a portion of her territory, now entirely uninhabited, larger than the State of New York; besides affording the shortest and nearest route to northern markets for the beef-cattle that will be produced on her western plains.

Then, sir, in the interest of the whole country, in the interest of the Government, and especially as a representative from Texas, in *her* interest, do I favor this Vinita branch. I regret that there is not provided for in this bill a shorter and more direct connection with Galveston, which was attempted to be secured in committee, and which I still hope to see adopted by the House. But if I should be disappointed in this reasonable and just expectation, I cannot afford to do my section and my State, as well as the whole country, an incalculable wrong and injury by opposing the main proposition. We of Texas are not selfish with regard to this measure, and would be content with the main line without the branches. But how can we deny the reasonable demands of commerce and our southern neighbors for the outlets provided for in this bill?

Who is there, acquainted with the facts, that does not know that with our present railroads and water connections the trade and production of Texas alone are unable to be accommodated? For many weeks during the present season, with our outlets to Galveston and other Gulf ports by several lines of railway, to New Orleans by Red River, to Memphis, and Saint Louis by the Iron Mountain and the Missouri, Kansas and Texas Railroads, our products have been kept from market and return freights delayed in like manner. What would the condition be, with a through line to the Pacific, with the vast increase of population and production which would be superinduced by such a work? How extremely unstatesmanlike, then, would it be to arrest that commerce while waiting for the uncertain navi-

gation of Red River, or make it dependent upon the unregulated rates imposed by the Texas Central, the Iron Mountain, and the Missouri, Kansas and Texas Railroads, which are now unable to do the local traffic. These considerations are so important that none who weigh them can fail to appreciate their force. To *my* mind, at least, they present a complete justification for the cordial support I shall give to all the branches.

Having answered these objections, I proceed at once to the consideration of the bill, and inquire—

Is there a necessity for this action on the part of Congress? To show that such necessity exists it is only necessary to state a few facts so apparent, when mentioned, as to fasten conviction upon the most casual observer.

First. The Vinita branch traverses the whole extent of the Indian Territory from its northeast to its southwest corner. In this Territory are situated large numbers of Indians for which you have recently appropriated large sums for transportation alone.

Second. The main line traverses nearly a thousand miles of the most exposed portions of the frontiers of Texas, New Mexico, and Arizona, now infested by the most treacherous of all the Indian tribes, and least accessible to the operations of the Army, and in a region, where more depredations have been committed by the Indians during the last ten years, than in all the other Territories and borders of the Government combined.

Third. Along the line of the proposed road and tributary to it, the Government for years past has maintained more than forty military posts, garrisoned by nearly one-half of the entire Army, where supplies for both Indians and troops have to be transported long distances, at great cost and much risk, by wagons.

Fourth. One thousand miles of the line runs directly along and near to the territory of a foreign government, whose people are constantly depredating upon the citizens and the property of the citizens of this Government.

Fifth. We have the very best military authority indorsing the construction of a transcontinental railroad as among the surest and best means of settling our Indian troubles.

Sixth. Outside of these considerations, if a necessity exists for the Government each succeeding year to make large appropriations to clean out rivers, improve harbors, and erect light-houses for the benefit of trade and commerce between the States and with foreign countries, is there not a like necessity to do something for the transcontinental commerce of the nation, the inland commerce between the States of the Pacific and Atlantic coasts, and the trade and commerce of the Territories of the Government?

Because some of the States and Territories have no harbors and no navigable streams, although they have immense productions for export and for exchange with other States and great demand for the fabrics and products of sister-States, are they to be denied the protecting care and support of the Government?

Look at Texas, larger than the States of New York, Pennsylvania, Ohio, West Virginia, and Maryland, with an extent and fertility of soil capable of producing (without interfering with her large production of wheat, barley, oats, corn, sugar, mules, horses, cattle, and sheep) more cotton, if she had the labor and transportation to get it to market, than is produced in all other countries to-day. Is she to be taxed to aid in clearing out the Mississippi, the Ohio, the Missouri, and other streams, and to pay principal and interest on the Union Pacific and California Central and other railroad bonds because she has no navigable waters to which you can make annual appropriations? Are New Mexico and Arizona and Nevada and Utah to be denied all aid from the Government to foster and promote their commerce because they have been denied by nature navigable rivers? Is the commerce of China and Japan, of the Indies and Australia, that desires to seek transit across our territory to our own ports or to Europe, and the trade of our own States and Territories to be forever subject to the exactions of one great monopoly, over which Congress seems to have no control; or shall American statesmanship strike off the galling shackles that now fetter it, by passing this measure and give to this great and growing commerce an open highway over which Congress may at all times exercise an undisputed and healthy ontrol?

Then, sir, may I not insist that, in a military point of view, there is a necessity for this work?

As the speediest solution of the Indian troubles is there not a necessity for it?

As a measure of economy in the transportation of troops, munitions, and supplies to the Army and the Indians, is it not an absolute want?

For the speedy and safe transmission of your mails, is it not demanded?

Do not the protection and promotion of commerce between the States and in the Territories and between our ports and the ports of foreign governments both justify and require it?

Having thus shown the necessity for the work, the next question that naturally presents itself to the mind is as to sufficiency of the security to the Government for the liabilities it will assume should this bill become a law. If it cannot be established that this security is ample beyond any possible contingency, I should be as far from according it my support as any gentleman on this floor. I ask your special attention to this branch of the subject, for herein, so far as the claim for governmental aid is concerned, in my judgment, lies the gist of the whole subject; for whatever may be shown to be the advantages the construction of the proposed railroads might confer on the people of the country; whatever may be the abstract justice of the demands of the South for an equal share in the benefactions of the General Government, in aid of great works of internal improvement, a due regard for the obligations we owe the people to husband the resources of the Government wisely and prudently would demand that this bill should be rejected if it cannot be clearly shown that the security offered is ample to protect the Government against the possibility of loss.

The entire length of the proposed road upon which interest-guaranteed bonds are asked will be as follows: Main, or trunk line, from Fort Worth to Fort Yuma, 1,187 miles; from near San Gorgonio Pass to San Diego, 100 miles; the eastern extension to New Orleans, Vicksburgh, Memphis, and Saint Louis, 1,018 miles. Upon these different sections bonds are to be issued for the purpose of construction, only for the actual cost of the work, but not to exceed $35,000 per mile for the trunk or main line; $30,000 per mile for the San Diego connection, and $25,000 per mile for the eastern extensions to the Mississippi. From this it results that the whole issue for the purposes of construction would be $41,545,000 for the main line, $3,000,000 for the San Diego connection, and $25,450,000 for the eastern extensions; making a total of $69,995,000, the interest upon which, at 5 per cent., would amount to $3,499,750 per annum, or $1,750, $1,500, and $1,250 per mile on the respective roads. But if you assume that the $5,000 per mile additional issue, authorized by the bill, should be included in this estimate, the total of bonds would be $81,520,000, upon which the annual interest would be $4,077,000. But as the Government holds these additional bonds merely as a further security, of course, they draw no interest until sold by the Government, after the other securities have proved to be insufficient to meet the interest obligations of the companies. I shall show, I hope conclusively, that the other securities are sufficiently ample to meet these obligations, and consequently that these bonds will never draw interest or become a liability to the Government.

Now, sir, what security is offered for the Government's guarantee and liability? In reply, I answer—

First. It will hold a first mortgage, as the roads are constructed, on the roads, equipment, and all the property of the companies.

Second. The Government is to receive and retain the entire proceeds of the sales of lands of the companies granted by the General Government and so much of the land granted by the State of Texas as is given for the road to be constructed west of Fort Worth, say about 7,500,000 acres.

Third. The Government is to retain in the Treasury all dues to the companies for the transportation of troops, munitions, supplies, &c., and for postal and telegraph service.

Fourth. Such part of the earnings of the road from general traffic as may be necessary to meet interest and sinking fund.

Fifth. There are also to be retained in the Treasury bonds of the companies to the amount of $5,000 per mile, to be sold and the proceeds applied to the payment of any current interest or sinking fund the companies may have failed to provide for.

These securities are so ample, to protect the Government against loss, that the mere enumeration of them would seem sufficient to relieve the most skeptical mind from doubt; but, I beg the attention of the House for a few moments, during which I shall endeavor to show beyond question their entire sufficiency.

As to the first security, can any one doubt that a railroad property costing twenty-five, thirty, or thirty-five thousand dollars per mile, and the real value of which is equal to the cost, is not sufficient to secure a liability of twelve hundred and fifty, fifteen hundred, or seventeen hundred and fifty, or even two thousand dollars per mile? More especially is it to be considered that these proposed railroad lines pass through sections of country of the most favored climate and fertility of soil, capable of producing the very largest crops of cotton, the cereals, tobacco, fruits, and vegetables, and abundantly able to sustain a population more dense than now inhabits the New England States.

Such is the country through which the extensions pass in Arkansas, Louisiana, the Indian Territory, and for four hundred miles of the main line from Texarkanna via Marshall to the Colorado River of Texas. The remainder of the main line in Texas will pass through the finest natural pasturage in the whole country, where the buffalo in all time past, in countless numbers from the Rocky Mountains and northern plains, have resorted in winter to subsist.

When the Indians cease to depredate in that section it will be indeed what it is now fast becoming, the great beef-producing region of this continent. Its outlet to the markets of southern cities, the valley of the Mississippi, and to the cities of the North and East, with such speedy transportation as to prevent its deterioration, will be over the Vinita branch, main line, and eastern extensions, thus affording the best and cheapest meat, for the consumption of the rich and poor, that the country can produce.

In proof of the value of railroad property in Texas, where we have scarcely a navigable stream, I need only refer you to the following table, showing Galveston to be the second largest cotton-receiving city in the United States, second only to New Orleans, outstripping Savannah and largely ahead of Charleston and Norfolk.

RECEIPTS AT ALL UNITED STATES PORTS.

Ports.	This day.	This week.	This season.
	Bales.	*Bales.*	*Bales.*
Galveston	1,648	7,505	445,879
New Orleans	12,503	48,841	949,314
Mobile	276	8,388	324,042
Savannah	533	3,868	432,656
Charleston	889	5,060	406,635
Wilmington	87	1,414	88,415
Norfolk	2,277	12,596	442,722
Baltimore	.....	165	11,653
New York	524	4,131	156,313
Boston	1,081	5,864	68,645
Philadelphia	268	2,317	40,341
Providence	.....	.....	9,285
City Point	.....	.....	.....
Port Royal	.....	.....	24,810
Indianola	.....	.....	12,560
Total	20,086	100,139	3,413,370
Last year	15,474	92,338	3,291,272

This table is taken from the Galveston News, a reliable and accurate journal, and is made out for the present season, up to a recent date in the last month. It does not show the amount of cotton shipped from Brownsville, Corpus Christi, Matagorda Bay, the mouths of the Brazos and Sabine Rivers, or direct from Houston, from Shreveport, from Jefferson; or that which finds its way north and to Memphis via Texarkana, where but recently 50,000 bales were passed from the Texas Pacific to the Iron Mountain Road in the space of twenty days; nor from Denison, where an equal, if not greater, amount finds its outlet to the North and East. It is safe to say that this season's cotton product in Texas will foot up from 650,000 to 700,000 bales, worth at the moderate price of $50 per bale, from $32,000,000 to $35,000,000. What will it be in ten years, when our present population shall be doubled and we have cheap and speedy transportation for our products to the markets of the world?

As a further evidence of the value of the railroad properties proposed to be encouraged and given as a security to the Government by this bill, it may be stated that since the war there has been an average of about four hundred thousand head of cattle driven and shipped from the State. With the extension of the main trunk and Vinita branch to the northern and western plains of Texas, this profitable traffic would inure very largely to these lines.

But to give positive proof as to the earnings of railroads in Texas, I submit the showing of the Texas and Pacific earnings upon three hundred and twenty-five miles of constructed road, which for the year ending June 30, 1876, are as follows:

RECEIPTS.	
Transportation	$1,540,418 82
Express service	12,592 99
Mail service	30,794 74
Telegraph service	8,491 11
Incidental	2,858 44
Total receipts	1,595,156 10
EXPENSES.	
Transportation	539,026 51
Maintenance	310,344 76
General expenses	45,323 17
Total expenses	894,694 44

leaving net earnings, $700,461.66.

I also submit the following statement as to the Houston and Texas Central Railroad Company, on a constructed line of five hundred and five miles of road:

Gross earnings, $6,262 per mile	$3,162,518 22
Expenses, 59.60 per cent	1,885,196 89
Net earnings, $2,529 per mile	1,277,321 33

As compared with 1875, the net earnings show an increase of $133,395.68, or 11.7 per cent. The interest on the bonded debt was $950,000, leaving a surplus of $327,321.33. During the year the company changed the gauge of one hundred and twenty miles of the main line from 5 feet 6 inches to 4 feet 8½ inches, and added eight engines and two hundred freight-cars to the equipment. The *net* earnings of four hundred and forty-two miles of the Texas and Pacific road for the six months ending January 1, 1877, were at the average rate of $85,000 per month or at the annual rate of $2,307 per mile.

And still further, to prove that the investment for the construction of these lines would be a profitable one, and that the Government would be secured, I mention the fact that thirty-three counties in the State of Texas, averaging largely more than nine hundred square miles to the county, and all that portion of the State west of the one hundredth meridian, and extending from the Rio Grande north to the Kansas boundary, would be almost entirely dependent upon the Texas and Pacific and the Vinita branch for commercial facilities. It is worthy of consideration that these thirty-three counties are among the most inviting for settlement and production of any in our whole State. It is not going beyond the truth to assert that for beauty of scenery of mountain, hill, and dale; crystal flowing waters, beautiful valleys, and broad rolling plains, the country alluded to has no superior on this continent. It is within the bounds of truth to say that two-thirds of the soil is of the richest and most productive character, easily brought into cultivation, and which, if properly cultivated in cotton, at an average yield of a half bale per acre would produce 6,336,000 bales per annum, being 1,776,000 bales more than the entire crop of the United States for 1875 and 1876. Or if the same amount of land was cultivated in wheat, with an average yield of fifteen bushels per acre—a moderate estimate for that region—we should have the enormous amount of 190,080,000 bushels per annum; which, at the rate of three hundred and fifty bushels to the car, and twenty cars to the train, and twenty-four trains a day, would require eleven hundred and thirty days and nights to transport the crop of a single year to market.

Or, if cultivated in cotton alone, making the same calculation of the same number of cars to the train, and one train for every hour of the day and night, it would require three hundred and twenty-four days and eight hours to move such a crop to market. In other words, it would require over three years to move one season's wheat crop, and nearly one year to move the cotton crop.

This, sir, is no fanciful picture. To make it a reality all that is requisite is such a population as the country described can easily support, and the means of transportation for its products.

As a matter of course, it would not be desirable to cultivate so much soil in any one crop, nor would it be done; but this presentation will show the capacity of the country for production, and its cultivation in a variety of crops would yield the same results as to freight for transportation.

This embraces no account of the agricultural products, live stock, or other traffic to be furnished by the great area of territory, at least one hundred thousand square miles in extent, west of the one hundredth meridian and between the Rio Grande and the Kansas border, which would be dependent upon the proposed lines for an outlet to market.

By reference, Mr. Speaker, to the last report of the Secretary of the Interior, we find that the net earnings of the Union Pacific and California Central Pacific Railroads for the current year amount to the large sum of $14,386,626.03; or, upon a line 1,913 miles in length from Omaha to San Francisco, that these roads are earning annually $7,520 per mile, a sum sufficient to pay the interest on a bonded indebtedness, at 5 per cent. per annum, of $150,400 per mile.

Now, the utmost bonded debt the companies could incur under the provisions of this bill would be $40,000 per mile on the main line, $35,000 per mile on the San Diego extension, and $30,000 per mile on the Vinita and other eastern connections. This is the outside limit, and the Government would only be liable, on account of interest, from $1,500 to $2,000 per mile, and not to this extent if the cost of construction falls below the limit allowed, which I believe will be the case.

I desire the attention of gentlemen to these striking figures and to the fact that this extraordinary showing of earnings upon the Union Pacific and California Central is upon a line of road traversing a wide extent of country of inferior natural resources, many hundred miles of which are devoid of population, except in isolated spots, and upon which vast sums of money have to be expended during the winter months to keep it open for travel, and, further, that this earning is at a period when transcontinental commerce is in its infancy and at a time of great commercial depression.

Such being the fact, may I not ask, if this line, with all its disadvantages of costly operation and frequent interruption to travel, its sparse population and unproductive soil, earns a sum sufficient to pay an interest of 5 per cent. on a debt of $150,400 per mile, can there be a doubt, when the southern line provided for in this bill shall be in operation from the Mississippi to the Pacific Ocean, that its earnings will be as large? Certainly, no one acquainted with the comparative merits of the regions of country penetrated by the two lines can doubt it.

And when it is considered that nearly 70 per cent. of the earnings of the Union and Central Pacific lines is derived from local traffic, the view presented is more than confirmed.

It is in no invidious spirit that a comparison is instituted between the present and proposed line of Pacific roads, to the disadvantage of the former, for, whatever may have been the recklessness of congressional liberality in the grant of lands and money to it, there is hardly an enlightened man in the land who would be willing that the Government should take back its gifts and by some Aladdin-like enchantment obliterate the magic line across the continent which has annihilated space, established civilization in the gorges of the Rocky Mountains, and brought the dwellers on two oceans into close neighborship.

But I merely desire to show that, as the proposed southern line traverses a country of superior advantages, it would be able to meet its obligations to the Government; be a boon to the commercial world, and of advantage to the whole country. The one stretches across the continent on the high parallels of forty and forty-one degrees north latitude; over elevations varying from six to eight thousand feet above the sea level; subject to frequent and dangerous

interruptions; traversing a thousand miles or more of desolate and unproductive country, much of it as dead to cultivation or the support of animal life as the Desert of Sahara.

In striking contrast to this is the line on the thirty-second and thirty-third parallels, the highest elevations of which are less than five thousand feet above tide-water; passing from the Mississippi River westward through ten degrees of longitude of as productive soil as the continent can boast; thence across the finest natural pastures to the valley of the Rio Grande, famous for its wheat, grapes, and fruit; thence along the rich valleys and grassy plains of Arizona and Southern California, with its western terminus upon the Bay of San Diego, rivaling in beauty the celebrated Bay of Naples and in a climate as genial as that of Southern Italy.

Besides the difference in climate, productiveness of soil, and capacity for rearing live stock along the southern line, it should be mentioned that the inexhaustible pine forests of Arkansas, Louisiana, and Eastern Texas would afford a local traffic to supply Western Texas and New Mexico with lumber that would be a constant source of revenue to the road, and in this connection, as another source of great local traffic, it should be remarked that the main line passes through extensive fields of excellent coal.

Another great source of traffic and prosperity to this line of road would be its proximity, for several hundred miles, to the northern states of Mexico.

There is no country known to civilization so prolific in the precious metals, especially silver, as these states. According to recent authorities the annual average coinage of the precious metals in Mexico cannot be less than $26,000,000 in silver and $3,000,000 in gold. Of this large amount a very great proportion is produced from the mines near to the proposed line of road.

The construction of the road would be the means of introducing machinery and skilled labor into these mines that would stimulate their production to an extraordinary degree.

It is a noteworthy fact that while the United States and Mexico, sister republics, have more than two thousand miles of contiguous territory, we enjoy but 15 per cent. of her foreign trade.

With the construction of the proposed railroad and the results that would naturally flow from it in the construction of a line from El Paso to the cities of Chihuahua, Durango, Queretaro, and to the city of Mexico; and from Tucson, in Arizona, to Guaymas, on the California Gulf, the condition of things would change, and instead of Mexico being an exporter to European markets of her precious metals and a consumer of the goods obtained in exchange, American labor would supply the fabrics, machinery, and goods required for Mexican consumption, and a new source of wealth would reward American enterprise.

But as rich in mineral deposits as are the northern states of Mexico, our own Territories of New Mexico and Arizona fall but little behind them.

Sufficient is known to warrant the assertion that when machinery can be carried there, and life is safe from Indian outrages, the mines of these Territories will prove to be as rich as the mines of Nevada. At this very time rich ores of gold and silver in the natural state are being transported on mules to Yuma, and thence shipped down the Colorado to the Gulf of California, and thence by sea to San Francisco; while crude copper, in bars, is hauled in Mexican carts from the copper-mines in New Mexico, a distance of nearly five hundred miles, to meet railroad transportation.

So that, Mr. Speaker, recurring to the point as to the value of the property proposed to be mortgaged to the Government to secure it against loss, I think I have clearly shown that the lien upon the roads and equipments would be ample; and further, that the net earnings, exclusive of any other security, would be more than sufficient to meet the interest on the guaranteed bonds.

But, sir, it is not alone the first-mortgage lien upon the roads and all their property, including the proceeds of the sales of land and earnings, out of which the Government is to be made safe for the loan of its credit, not to exceed $2,000 per mile; but you have also the retention in the Treasury of all the earnings of these lines of road for transportation of troops and supplies, and for postal and telegraph service. To enable you to form some opinion as to the extent and value of this security, I refer you to the last report of the Quartermaster-General, which shows that there have been paid to existing Pacific railroads, for military transportation, $7,288,830.04, with claims unadjusted, $610,720.98; total, $7,839,550.13. The amount earned last year on this account was $585,468.13. In proof of the assertion that the earnings from this source would be greater on the proposed lines than is shown by the figures above quoted, I call your attention to the fact that until the recent outbreak of the northern Sioux, which necessitated the temporary withdrawal from the Southwest of a very large portion of this force, there have been maintained for the last five or six years, at forty different military posts, eleven regiments of infantry and cavalry, which would have received their supplies by the lines of road, proposed by the bill, had they been in operation.

From this source alone the earnings of the company could not have been less than $1,000,000 annually, besides effecting to the Government a saving of more than three times that sum by the greater cheapness of railroad over wagon transportation.

Just how much that would be is strikingly shown in the letter of the Quartermaster-General to the Secretary of War, dated January 31, 1873, in which he says:

At the average rate, the estimated cost of transportation of the freight moved by the Union Pacific Railroad, including express charges, as shown above, during the time commencing July, 1866, and ending January 28, 1873, would be as follows:

Rates per 100 pounds per 100 miles, railroad rates, 40½ cents.
Rates per 100 pounds per hundred miles, wagon rates, $1.46.

Actual cost of freight at railroad rates	$1,896,589 57
Estimate of cost at wagon rates	6,837,088 32
Showing a total estimated cost for moving the troops and supplies by stage and wagon of	9,850,134 67
Total cost railroad	3,342,851 82
Estimated difference	6,507,282 85

Equivalent to about 66 per cent. saving.

In addition to this the Indian transportation must not be forgotten, and to show how enormous that is and what a saving to the Government it would be if we had rail transportation, I need only refer you to recent appropriations made for this branch of the public service.

For postal service on the Union and Central Pacific for the fiscal year ending the 30th June last, the earnings of these roads amount to $610,899.22. The increase in postal matter on these lines is at the annual rate of 13 per cent.; and at no very distant day, as the country continues to settle and develop and our commerce with Mexico and other countries increases, this source of revenue to the proposed line and consequent security to the Government would appreciate in value.

So that from these military, postal, telegraphic, and Indian necessities, we may safely venture the assertion the Government would hold in its own hands a security of not less than one million and a half annually to be applied to liquidation of interest.

Besides the security of the proceeds of the sales of the lands of the companies, amounting to about twenty-five million acres, which after completion of the roads must be very considerable, there are the $5,000 per mile of bonds, retained in the Treasury, which can be sold at any time to make good any deficit in sinking fund and interest. If there were no other security this would be sufficient. Such a bond, with a first mortgage on property so valuable, with the interest guaranteed by the Government, would sell for very nearly par, and no one will deny that it would bring more than twice the amount for which the Government would be bound.

Then, sir, may I not ask the most incredulous if the road itself, its earnings, the proceeds of the sales of bonds, the Government transportation and postal-service, and the $5,000 guaranteed bonds per mile, altogether, do not present a security that will be absolutely certain to hold the Government harmless against its obligations to meet an interest not to exceed, at the utmost limit, $2,000 per mile on eleven hundred and eighty-seven miles, $1,750 per mile on one hundred miles, and $1,500 per mile on ten hundred and eighteen miles? No candid and unprejudiced mind can doubt it.

Mr. Speaker, having established the necessity of this work and, as I think, demonstrated by the foregoing facts and figures that the Government could sustain no loss, the security being largely in excess of any possible liability, my next inquiry will be, *Is the measure just?*

For Congress to be *just*, in the sense of this inquiry, is for it to so shape its legislation that all sections of the Union shall enjoy equal benefits from the distribution of its favors. Has this been the case?

From the report of the Commissioner of the General Land Office it appears that the southern States have received the following donations of land for the purposes of internal improvement:

	Acres.
Alabama	3,579,120
Florida	2,360,114
Louisiana	1,577,840
Arkansas	4,879,149
Missouri	2,895,160
Total to southern States	15,381,383

The donations to northern States have been as follows:

	Acres.
Wisconsin	5,236,797
Minnesota	9,664,042
Oregon	1,888,600
Illinois	3,249,968
Iowa	6,795,256
Michigan	5,962,480
Kansas	8,840,000
Ohio	1,100,361
Indiana	1,439,279
Total to northern States	44,376,783

Grants of land to southern corporations, including the grant to the Texas and Pacific and the New Orleans, Baton Rouge and Vicksburgh roads, 21,800,000 acres; to northern corporations, 95,036,760 acres; total to southern States and southern corporations for purposes of internal improvement, 37,181,383 acres; total to northern States and northern corporations, 149,413,543 acres. Is this a just distribution of the public domain?

Again, in the report of the Secretary of the Treasury made to the Senate January 7, 1874, it is shown that from 1789 to 1873 the appro-

priations of money in aid of the construction of wagon-roads, railroads, and canals were as follows:

For the sixteen southern and border States	$6,981,982 90
For the northern States and Territories	97,025,762 70

During the same period the Secretary's report shows that for other public works the disproportion was nearly as great, being $11,612,086.56 for the border and southern States, against $76,859,609.50 for the northern States and Territories.

If this is just, it is the justice of the partial father who leaves his millions to his favored son and cuts off another, who has equal claims to his love and protection, with a paltry shilling.

The instances of this partiality are so numerous that I forbear to weary you by their enumeration.

But, as a subject pertinent to this discussion, I cannot resist calling your attention to the extraordinary liberality of Congress in voting the lands and money of the Government for the construction of Pacific Railroads for the exclusive benefit of the northern sections of the Union. What I said before I repeat, that I allude to this branch of my subject with no unfriendly sentiments toward the favored corporations, much less toward my fellow-citizens inhabiting those sections of the country so greatly benefited by the liberality of the Government, but merely to ask that at least *some* liberality may be shown toward another important section of the Union.

From the official records in the General Land Office it appears that Congress has from time to time made the following grants of land to the Union and Pacific roads and their branches:

	Acres.
Union Pacific	12,000,000
Central Branch	245,000
The Denver Pacific	1,100,000
Burlington and Missouri River	3,680,968
Sioux City Pacific	60,000
Kansas Pacific	6,000,000
Chicago, Rock Island and Pacific	1,261,181
Total to the Union Pacific and branches	27,922,147

The donations of land to the Central Pacific of California and its branches have been quite as liberal, as follows:

	Acres.
To the Central Pacific	8,000,000
To the Western Pacific	1,100,000
Oregon Branch	3,000,000
Oregon and California Railroad	3,500,000
Southern Pacific Branch of Central Pacific	9,520,000
Oregon Central	1,200,000
Total to Central Pacific and branches	25,120,000

making an aggregate donation to the two roads and their branches of 53,042,429 acres of the public domain.

If these donations of land seem munificent, the liberality of Congress toward those favored corporations in gifts of money will certainly not seem less so. The Government has issued bonds to the Union and Central Pacific Railroad Companies and their branches, and paid interest, not yet repaid by the companies, as follows:

To the Union Pacific:	
Bonds	$27,236,512 00
Interest	9,391,684 65
Central branch of Union Pacific:	
Bonds	1,600,000 00
Interest	883,400 21
Sioux City and Pacific, a branch of the Union Pacific:	
Bonds	1,628,320 00
Interest	740,932 81
Kansas Pacific, a branch of the Union Pacific:	
Bonds	6,303,000 00
Interest	1,980,475 05
Total for Union Pacific and branches	$48,761,234 51
To the Central Pacific:	
Bonds	25,885,120 00
Interest	11,312,172 75
Western Pacific, branch of the Central Pacific:	
Bonds	970,560 00
Interest	831,247 74
Total for Central Pacific and branches	$39,999,000 49

making a grand total for the main line and four branches of $91,052,795, or at the average rate of $32,782 per mile of indebtedness to the Government for the principal and unpaid interest of the bonds given in aid of the construction of twenty-seven hundred and eighty-nine miles of main line and branches.

This does not include the sum of $6,990,306.21 reported by the Secretary of the Interior as having been placed to the credit of the respective companies in payment for military and postal transportation and telegraph service.

There is one feature of these donations of land and bonds to the companies named to which I desire to ask the particular attention of gentlemen who may be disposed to criticise the recommendation of the Committee on the Pacific Railroad in reference to a guarantee of interest in aid of the construction of branches to the proposed trunk line. The committee had abundant precedent for such a course in past legislation. Of the 53,042,149 acres of public lands donated to the Union and Central Pacific Railroads and their branches only 20,000,000 accrued to the main-line roads, while 33,042,149 acres were bestowed upon their branches; and of this present money indebtedness to the Government, $27,227,305.60, or at the average rate of $28,179 per mile, are due from the branches.

In this connection it should be borne in mind that the Vinita branch, in consideration of the guarantee asked, is required to relinquish its unforfeited land grant, estimated by the Commissioner of the General Land Office at 41,496,165 acres; and, more than this: the Government is to be relieved from its obligation to extinguish the Indian title to lands for the company in the Indian Territory. And further, it should be remembered that the Vinita branch, the Memphis branch, and the San Diego connection, having a total length of six hundred and eighty-five miles, receive no grants of land whatever. If it was proper to give bonds to four of the branches of the existing line and lands to twelve of them, surely it is but just to guarantee the interest on these branches that get no lands at all; and can our friends who have been so largely benefited refuse it to us?

So, it will be seen that the scheme of the present bill, with only a main through line to San Diego, without any western branches, and with one eastern connection, that is to benefit the Middle and Northern States, and the three connections to Memphis, Vicksburgh, and New Orleans, falls in extent of miles of road immeasurably below that of the Union Pacific, with its radiating extensions, the Central Branch, Sioux City and Pacific, and the Kansas Pacific, upon which bonds of the Government were issued, and the Denver Pacific, Burlington and Missouri River, and Chicago, Rock Island and Pacific, receiving grants of lands, thus making the main line of the Union Pacific and three branches that received Government bonds and the same roads and three additional branches receiving lands. Thus we see the six eastern connections of the Union Pacific spreading out from the main trunk east, to the Mississippi River, to Chicago, and to the States north and south, affording connections in every direction.

Look at the map. Here you see how every interest of the great West, of the East, and of the North has been cared for by the liberality of the Government. But look still further at the map; trace the main line of the Union Pacific and Central Pacific through the States and Territories to the Pacific Ocean, and then look at the branches on the western end. Here you see the Western Pacific, running from Sacramento to Oakland; the Oregon branch of the Central Pacific, running from near Sacramento, connecting with the Oregon and California Railroad running to Portland, and there connecting with the Oregon Central, extending to Astoria, at the mouth of the Columbia River. Here you see the Southern Pacific, a connection of the Central Pacific, running from Lathrop through all that portion of California south of the main line, to Fort Yuma; besides another extension to Hollister and Santa Barbara, and continuing down the coast, making six branches or extensions on the western end and ramifying the country in every direction.

Compare the measure proposed by the committee, with its four eastern connections, with the Union and Central Pacific, with their six eastern and six western grand extensions, connecting the main lines with the Mississippi, the great lakes, and the Pacific, and with the vast net-work of railroads in the East and in the North and West, and you will see how moderate and how just is this demand, this plea in behalf of the South; sir, not only in behalf of the South, but equally in behalf of the commerce and interest of the whole country.

Mr. Speaker, may I not remind the members of this body that it was a southern State which gave to the Union the territory which now forms the great States of Ohio, Indiana, Illinois, Wisconsin, and Michigan, and which has so largely enabled the General Government to foster and encourage the grand system of internal improvements to which I have referred? May I not further remind them that it was the common treasure of all the older States that made the Louisiana purchase; that it was the common blood and common treasure that secured New Mexico, California, and Arizona? Sir, may I not also remind them of the fact that southern tax-payers, southern toilers, and southern commerce contribute, alike with those of the North and East and West, to the common treasure which is bearing the burden of principal and interest of the bonds issued for the construction of the already completed Pacific roads and branches?

Mr. Speaker, in view of all the facts presented may we not most confidently appeal to our brethren of the more favored sections of the Union for help on this occasion.

Our friends from New England, whose harbors and fisheries and manufactories have so long received the bounty and care of the Government, should not begrudge us the little asked by this measure.

The Representatives from the States of New York, New Jersey, Pennsylvania, and Maryland, with the commercial metropolis of each State made so largely from southern wealth and production, and which have received so much from the Government, should come forward with alacrity and aid us in this our day of poverty and suffering.

The five grand States of Ohio, Indiana, Illinois, Michigan, and Wisconsin, that have received so liberally of the public lands, and whose boundaries are washed by the waters of the Ohio, the lakes, and the Mississippi, the annual recipients of the bounty of the Government

for the promotion and protection of their commerce, will not surely turn a deaf ear to our appeals for help and justice.

Sir, may we not make an appeal equally as confident to the giant young States of Kansas, Iowa, Nebraska, Minnesota, Oregon, California, and Nevada, States that have been so peculiarly and bountifully blessed with Government aid in lands and money for their works of internal improvement?

Let me remind these several interests that we have enacted a law which provides for the appropriation of millions to deepen the mouths of the Mississippi. This is done in the interest of the commerce of the whole country, but especially that northern and western production may have free egress to the waters of the ocean, and that their consumption of foreign commodities may be cheapened.

And now, sir, I would not close my appeal to the different sections and interests of the country without invoking the help of those from the South who have hitherto opposed this measure.

How long, how long will you continue to talk about constitutional power, when the power has been exercised almost every year since the foundation of the Government? Is not this a post-road? Is it not a military necessity? Does it not regulate commerce between the States?

Madison, Jefferson, Monroe, Jackson, Calhoun, Clay, Webster, Benton, Douglass, Hunter, Jefferson Davis, Houston, and Rusk, recognized the power of Congress to do this thing.

Then, why should we falter and doubt? How long, my southern friends, will you refuse to aid yourselves, or to assist your kindred and your neighbors, because of your ancient prejudices against the policy of the Federal Government contributing its powerful countenance to the support of measures not purely governmental, but which do go a great way in providing for the common defense and general welfare?

Under your theory and practice, Arkansas and Missouri and other southern States have languished in poverty or fallen far behind some of their sisters in the march of progress. Their vast areas of productive soil; their water-power and ever-flowing streams; their deposits of iron and coal; their forests of walnut, ash, cypress, oak, and pine are almost useless to-day; their population and progress have not kept pace with other States less favored in climate, soil, productions, and mineral deposits. While the statesmen of the North, acting upon the acknowledged powers of Government, as sanctioned by Calhoun and others, have wisely looked to their own interests locally; and by so doing have added to the wealth and population of their localities, and have given to their sections an influence in the control of this Government, which, by our do-nothing policy, leaves our section, though older, with a more genial and favored climate, with a richer and more productive soil, far behind.

One of the main pillars of democracy, Mr. Douglas, was the author, I believe, of the land-grant system. Under his auspices, Illinois obtained from the General Government certain public lands, which that State granted to the Illinois Central Railroad Company.

Mr. Speaker, when I look back to this action of Congress and of the State of Illinois; when I look at the surroundings of that great State, and see her navigable waters of the lake, the Mississippi, the Ohio, the Wabash, the Illinois River, and her canal, and regard her entire territory, a long, narrow State, in no place very distant from navigation, without half the productive capacity possessed by my State, and remember the public debt and taxation that weighed her down at that time, and contrast it with her present population, taxable values, and prosperity, I am filled with admiration at the sagacity and wisdom of her great statesman, Mr. Douglas. What was she in 1850, borne down and crushed with debt and taxation, incurred by a foolish effort to build up a system of internal improvements by State aid?

She incurred a debt of $20,000,000 and had secured scarcely a mile of completed railroad; but Mr. Douglas invoked the aid of Congress and got a grant of lands of six sections per mile, some of which had been in the market for years, and, under the graduating law, could have been entered at thirty-seven and one-half cents per acre.

Yet with this grant a railroad was speedily constructed from Cairo to Chicago, and a branch to Dubuque, on the Upper Mississippi, making connections with points that already had connections by navigable waters. In 1850 the population of Illinois was 846,000, now it is a little less than three millions. At that time Illinois owed $20,000,000, and her people groaned under a most ruinous load of taxation. Then her taxable property and values were $156,265,000. Then she had scarcely a mile of completed railroad. Now, mark the extraordinary change: In 1870 her taxable values were $2,121,680,000; her debt has been discharged by the 7 per cent. tax paid by the Illinois Central Railroad, and her State government is largely supported from the same source; and besides her navigable waters, she has six thousand four hundred and ninety-six miles of railroad. Who can wonder at her prosperity? Who should wonder that, though younger than any of the original thirteen States; younger than Kentucky and Tennessee, she should be the fourth State in population and influence in the Government. Her climate, her production, her area, her mineral wealth, are not superior, indeed they are inferior, to those of Missouri, and yet she is far ahead in population, wealth, and political influence.

I ask my southern friends to draw a useful lesson from these facts. It cannot be too strongly impressed upon them. Southern statesmanship should heed it.

While southern members of Congress have been stickling about State rights and the powers conferred on Congress by the Constitution, northern statesmanship has asked and obtained favors from the Government that have conquered the inhospitality of climate; turned the wilderness of the great Northwest into populous States; built up commercial centers of trade; populated the desolate valleys, plains, and mountain-tops of our distant Territories, and made the sterile regions of Utah and Nevada contribute to the wealth and prosperity of the nation.

While these things have been going on the politicians of Arkansas, Louisiana, Mississippi, the Carolinas, Alabama, Georgia, Florida, Kentucky, Tennessee, Virginia, Texas, and Missouri have been talking about State rights, about the powers conferred by the Constitution, and the true policy to be pursued by the Government.

The report of the chairman of the committee on this bill shows that both the political parties were pledged to this measure of a Pacific railroad in 1860. The necessity is as great now as then; necessity forced a line where it was then hardly anticipated.

Can either party or any person say that the present constructed line is not a monopoly which Congress seems powerless to control, or that the proposed measure will not take off a great burden both from the Government and the public, and make that competition which will lead to reasonable charges for fares and freights, and leave commerce unfettered to seek the safest and cheapest passage across the continent?

Not only are the two great political parties pledged to such work, but the people from every section of the Union have spoken out in favor of congressional aid to a southern line. The States of Texas, Missouri, Alabama, Mississippi, Tennessee, South Carolina, Florida, Kentucky, North Carolina, and Georgia, through their Legislatures, have passed resolutions approving the measure. The National Grange, which met at Charleston two years ago, declared in favor of it. The convention which met at Saint Louis last year, with delegates from almost every State and Territory, eight hundred in number, gentlemen of high character and ability, memorialized your body on this subject and recommended the branches provided for in this bill.

Then, sir, it is evident that the people and every interest of the country, except rival corporations and cities that desire a monopoly of transcontinental commerce, are in favor of Congress doing something to promote the speedy completion of this work.

And now, sir, I appeal to every fair and just minded member of this body, regardless of section, to come forward and sustain a measure that can have no ill-effect upon any section or any interest of the country, but which cannot fail to lighten the burdens of Government and of commerce; that will give renewed life and vigor to the industries of a large section of country; that will, in some degree, restore the equality of Government support to a portion of the States and Territories that have heretofore received very little of its bounty or care; a measure that none can deny will be most potent in giving lasting peace and quiet to an extensive border that has suffered untold miseries for want of adequate protection; that will prove an economy in the operations of the Army, in the transportation of supplies to troops and to Indians; in the postal and telegraphic service of the Government, that can be attained in no other way; that will open up new fields of industry and production and create new demands for the products of industries already in existence, that, without it, will never occur; that will open new fields for the acquirement of cheap homes for the many thousands of the homeless in the land who desire them; that will create a demand for and afford labor to the thousands of hungry and suffering toilers who to-day seek but cannot get employment; that would secure from a neighboring republic a largely increased commerce, bringing to us their exports and taking in return our productions, whose trade is now almost entirely enjoyed by other countries; a measure, sir, which, if carried into effect, will restore activity to a thousand furnaces whose fires are now going out, and bring back the cheerful, busy hum of industry in a thousand shops now idle; a measure, sir, that proposes not to curtail the labor or industry of the country, but would largely increase the demand for the one and greatly stimulate the other; a measure that would not diminish the circulation of coin or Government paper, that would not inflate the currency, but which would bring from abroad millions upon millions of foreign capital to add to our circulation of money, and which, during the fifty years the bonds have to run, will be paid, not by the mass of our people or by the Government, but by foreign commerce and by that portion of our people who may use the road for travel or traffic; a measure, sir, that will, in my judgment, do more to restore the ancient feeling of good-will and esteem between the people of the different sections of the Union and more effectually wipe out the bitter remembrances of the late civil war than any to which we can address ourselves, and which, if consummated, will bind all the interests and sections of this great Republic so closely and firmly together that we will forever remain one people, one Union, one Republic, linked and bound together by ties so strong, so interwoven with every interior interest, and so expansive as to clasp the remotest and most distant sections of the country—creating a unity of interest and reliance of one section upon another, so strong and so enduring, that all the powers of earth could not prevail against us.

Arrearages of Pensions.

SPEECH OF HON. A. V. RICE,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

March 3, 1877,

On the bill to provide that all pensions on account of death, wounds received, or disease contracted in the service of the United States since March 4, 1861, which have been granted, or which shall hereafter be granted, on application filed previous to January 1, 1880, shall commence from the date of death or discharge, and for the payment of the arrears of pensions.

Mr. RICE. Mr. Speaker, the careful consideration of this bill should attract the serious attention of the House. That its provisions are eminently proper and just, I think a full and thorough investigation will clearly show; and that the relief asked for in behalf of the maimed and diseased soldiers and sailors of the war of 1861, or the representatives of those killed in the defense of their country or who have since died from the effects of wounds or injuries received or disease contracted in the military service of the United States, has not sooner been the subject of legislation by Congress is for the reason, I must think, that the matter has not before been brought to its consideration. No words of mine can appeal so strongly to the justice and propriety of this measure as does the condition of those for whom this relief is asked, scattered throughout the length and breadth of the land, some of whom are known to every member of this House.

The object of the bill is to provide that the time for filing with the Commissioner of Pensions applications for pensions growing out of the war of 1861 shall be extended to the 1st day of January, 1880, and that the arrears of all such pensions, adjudicated or to be adjudicated, shall be paid from the death or discharge of the person on whose account the claim has been or shall hereafter be granted, or from the termination of the right of party having prior title to such pension.

The law as it now stands, found in section 4709 of the Revised Statutes, limits the time of filing the application for such pensions with the Commissioner of Pensions to five years after the right thereto has accrued; otherwise the pensions shall commence from the date of filing the last evidence necessary to establish the same.

From a careful consideration of the subject, I think the present law is defective, and works palpable injustice to thousands of the brave defenders of the flag, and their wives and children, by depriving them of pensions and arrears justly due them. If a soldier or his representative is entitled to a pension at all, it is clear to my mind that it should be granted from the date of death or the time of discharge from service, provided the discharge is on account of wounds or injuries received or disease contracted in the service and in line of duty, or from the date of the development of the disease by which he is incapacitated for labor, provided the disease is traceable and due to the military service of the United States. This is eminently proper and right, it seems to me, and great injustice has been done and is being done to all who, from whatever reason, patriotic or otherwise, did not apply for pensions within the time required by existing law.

From the earliest history of our country it has been the settled policy of the Government to pension its soldiers or their representatives, who shall have become disabled in the service from wounds or disease; and this too from the date of death or discharge from the service. And so fixed by law and usage has been this policy that the soldier on entering the service regarded it as part of his contract with the Government that in case of his death or disability his representative or himself should be granted a pension. And this is especially true in all the great wars we have had in which volunteers were called for in addition to the Regular Army, from the revolutionary war down to the war of 1861. Acting under this policy, unlike the great powers of the Old World, our Government has been relieved from the great burden and expense of maintaining large standing armies in time of peace; knowing and feeling that in any case of emergency a call for troops for the defense of the flag would be promptly responded to. The vindication of the wisdom of this policy has been fully and thoroughly attested in every hour of need in the history of our country, and at no time more fully than in the late war, in behalf of whose wounded and disabled soldiers we are now seeking relief. And to-day, under this fixed policy of the country, if unhappiiy our Government should become involved in a war with any foreign power and a call by the President for troops to defend the nation's honor should be made, it would be at once responded to by the people from all sections of the Union; and the boys who wore the blue and the boys who wore the gray, fighting in a common cause for the whole country, would vie with each other with laudable strife as to who should be most loyal to the flag and do most to sustain our national honor and perpetuate constitutional law under our republican institutions.

And now, Mr. Speaker, to show conclusively that it has been the policy of the Government, from its inception down to the late war, to pension the soldiers who have been disabled in the service of their country, I propose to refer to some of the resolutions and acts of Congress from time to time during the history of our country. And first, as foreshadowing this policy, the Continental Congress, during the early part of the revolutionary war, on the 26th day of August, 1776, the next month after the declaration of independence, provided as follows:

Resolved, That every commissioned officer, non-commissioned officer, and private soldier who shall lose a limb in any engagement, or be disabled in the service of the United States of America, as to render him incapable afterward of getting a livelihood, shall receive, during his life, or the continuance of such disability, the one-half of his monthly pay from and after the time that his pay as an officer or soldier ceases.

By the report of the board of war, September 25, 1778, it was further provided, for the relief those who suffered before the above-named resolution took effect, as follows:

Resolved, That all provisions and regulations contained in the said resolve of August 26, 1776, shall extend to all persons who lost a limb or were otherwise disabled as aforesaid in the service of the United Colonies or States of America, before the said 26th of August, and since the commencement of hostilities on the 19th of April, 1775.

And on a report of the Secretary of War Congress, on the 23d day of April, 1872—

Resolved, That all such sick and wounded soldiers of the armies of the United States, who shall in future be reported by the Inspector-General, or the inspector of a separate department, and approved by the Commander-in-Chief or commanding officer of a separate department, as unfit for further duty, either in the field or garrison, and who apply for a discharge in preference to being placed or continued in the corps of invalids, shall be discharged, and be entitled to receive as a pension $5 per month in lieu of all pay and emoluments.

These resolutions lie at the foundation of the pension system of the United States; and it will be seen that in August, 1776, at this early period of the military operations of the work of independence, this just and grateful system commenced, and, lest injustice might afterwards be done to the soldiers earliest in the field, the resolution of September, 1778, makes the benefits of the resolutions of August, 1776, retroactive to April 19, 1775, the time when the first gun was fired at Lexington.

By the act of the First Congress of the United States, passed September 29, 1789, the payment of the pensions provided for in the above resolutions was assumed by the United States for one year; by the acts of July 16, 1790, and March 3, 1791, the payment was assumed for two additional years, and by the act of March 23, 1792, the pensions were confirmed for life, and their payment assumed by the United States.

These, Mr. Speaker, were invalid pensions, debts due the pensioners, and made so by the contract, the terms of the enlistment, which provided that in the event a certain disability should be incurred in the service a certain pension should be paid, and the disabled soldier was as much entitled to this pension after his discharge as he was to his monthly stipend during the service. So, at least, thought the Congress of 1792, which ten years after the close of the revolutionary war, ratified the resolutions of the Continental Congress granting pensions to the disabled soldiers of the war, confirmed the pensions for life, and had the payment of the same assumed in full by the United States. This was right and just. Should we not do as much for the disabled soldiers of the war of 1861?

Coming down in the history of our country to the war with Great Britain, in anticipation of that war Congress, carrying out the policy adopted early in the revolutionary war, passed an act January 11, 1812, part of which provides as follows:

SEC. 14. *And be it further enacted*, That if any officer, non-commissioned officer, musician, or private shall be disabled by wounds, or otherwise, while in the line of his duty in public service, he shall be placed on the list of invalids of the United States, at such rate of pension and under such regulations as are or may be directed by law:

In 1846, when, by the act of the republic of Mexico, a state of war existed between that government and the United States, Congress, in pursuance of this policy of pensioning disabled soldiers, on May 13, 1846, passed an act providing for the prosecution of that war, the first section of which authorized the President to employ militia, naval and military forces of the United States, and to call for and accept volunteers, not exceeding 50,000. It further provided as follows:

SEC. 7. *And be it further enacted*, That the volunteers who may be received into the service of the United States by virtue of the provisions of this act, and who shall be wounded or otherwise disabled in the service, shall be entitled to all the benefit which may be conferred on persons wounded in the service of the United States.

Coming down to our late civil war, and dealing directly with the laws enacted for the benefit of those whom we now seek to relieve by the passage of the bill under consideration, we find that Congress, actuated by the same spirit, and in conformity to the policy inaugurated in the war of the Revolution, and adhered to in all subsequent wars, in an act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property, approved July 22, 1861, passed the following:

SEC. 6. *And be it further enacted*, That any volunteer who may be received into the service of the United States under this act, and who may be wounded or otherwise disabled in the service, shall be entitled to the benefits which have been or may be conferred on persons disabled in the regular service, and the widow, if there be one, and, if not, the legal heirs of such as died or may be killed in service, in addition to all arrears of pay and allowances, shall receive the sum of $100.

It will be remembered that this act was passed very early in the war, before many had entered the service, and in ratification of the promise (that such as might be wounded or contract disease in the service should have a pension) made by President Lincoln in his pro-

clamation issued April, 1861, calling for volunteers to suppress the rebellion. July 14, 1862, an act to provide for pensions to invalids of the war of the rebellion and their relatives was passed as follows:

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That if any officer, non-commissioned officer, musician, or private of the Army, including regulars, volunteers, and militia, or any officer, warrant or petty officer, musician, seaman, ordinary seaman, flotillaman, marine, clerk, landsman, pilot, or other person in the Navy or Marine Corps, has been, since the 4th day of March, 1861, or shall hereafter be, disabled by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, he shall, upon making due proof of the fact, according to such forms and regulations as are or may be provided by or in pursuance of law, be placed upon the list of invalid pensions of the United States, &c.

Now, Mr. Speaker, at some length I have given some of the principal laws enacted from the commencement of our Government touching the subject in question, and they all breathe the same spirit and proclaim the same humane policy, that of pensioning the soldier who is disabled in the service of his country while in line of duty. But different statutes of limitations have been passed depriving the disabled soldiers of their rights. The one now in force limits the filing of the application, in order that arrears of pension may be received to five years from the time the right thereto has accrued. Shall this limitation stand upon the statute-books of the land, thereby working great injustice to thousands and making void this principle early adopted by the Government? Or shall we not rather by the passage of the bill under consideration fulfill the contract and carry out the spirit of the laws of 1861 and 1862? Should the fact that for some reason the disabled soldier failed for five years after the right thereto had accrued to apply for the pension the contract gives him bar him from its privileges? I say certainly not.

For various reasons he may have been deterred from making the application. In many instances these causes were unavoidable, and in the act fixing a limitation for the application no provisions were made to meet the numerous contingencies that subsequently arose, which entirely prohibited a compliance with its requirements, thereby depriving the applicant of the indemnity intended to be given. Among the causes of delay in filing applications for pensions within the time for obtaining arrears may be mentioned *negligence*, *ignorance*, and *inattention* of pension-claim agents in the preparation and prosecution of claims intrusted to their care; loss of papers and proofs by agents, and consequent delay in obtaining new evidence on which to base the claim before the limitation by law expired. Mistakes of agents in the preparation of cases and in many instances erroneous information from persons in whom the applicant placed reliance have caused delay. Frequent complaints are made that agents recognized by the Pension Department have absconded with proofs and papers of claimants in their hands; and in other instances agents claim to have forwarded applications and proofs to the Department which have never reached their destination but have been lost through the mails; while loss of proofs and papers in the hands of agents by fire is not unfrequent. From any of these causes of delay mentioned should the innocent applicant suffer and fail to receive the amount due him when, by no fault of his own, his application and proofs, though made within the prescribed time, were not received at the Department? No one would say so.

In many instances applicants for pension did not know the time of the limitations and in others they were ignorant as to the amount of disability required to obtain it. Great delay is frequently unavoidable in procuring certificates of disability from officers and comrades on account of death and removal to parts unknown; and especially is this true in getting the testimony most important in the case, that of the surgeon, while the destruction and imperfections of hospital records are so great that not unfrequently in most meritorious cases the procuring of this important and almost indispensable proof has been the cause of long-continued delay. When we take into consideration the facts that many organizations were made up of men from all parts of the country, who upon disbandment were scattered in every direction, the difficulty in obtaining the necessary proof required by law, and the consequent delay, can easily be comprehended. Again, many entitled to pensions did not make applications within the prescribed time from patriotic motives; some being so circumstanced that they did not need the relief, while others preferred to depend on their own efforts rather than seek aid from the Government; but reverses in fortune and continued and failing health, from wounds received or disease contracted in the service, induced them to apply for pensions, too late, however, to receive the arrears so justly due them.

Other causes of delay might be given, but it is not necessary. I would simply remark that frequently I have known most deserving cases, from a sense of delicacy and a hope of improvement in their condition, hesitate long before asking the aid due them from the Government.

But, Mr. Speaker, if there were none of these numerous causes for legitimate and unavoidable delay, (which is true in a great majority of cases to whom arrears of pensions are due,) in view of the fixed policy of the Government, to which I have fully referred, and especially because of the acts of July, 1861, and July, 1862, together with the proclamation of President Lincoln pledging the faith of the country to the payment of these pensions in the event of the disability of the soldier, it is the bounden duty of the Government to pay such pensions, together with the arrears, notwithstanding the application may not have been made within five years from the time the right thereto accrued. By the laws referred to they are constituted a contract, and as such they become a debt, a debt the most sacred the Government could incur; and we ought to let nothing be done that would defeat the just expectations that persons entering the service under the law had a right to cherish.

Now, Mr. Speaker, the Government agrees with the soldier that if he goes into the service and shall become disabled by wounds or disease he or his representatives shall be provided for with a pension. This is a contract, an agreement for services to be rendered, and in the event of disability incurred while performing that service, then, in consideration of said disability, a further compensation is to be paid in the shape of a pension; a promise for a consideration made and accepted. Could a stronger or more binding contract be made in law? Can it be violated? Can the Government plead the statutes of limitations? I think not. Alex. H. H. Stuart, in October 29, 1850, then Secretary of the Interior, speaking of the acts of January 11, 1812, and February 11, 1847, in similar cases, says:

Inducements held out for the purpose of increasing the rank and file of the Army partake of the nature of the consideration of a contract.

Raff, in commenting on this, says:

In other words, that a promise contained in an act under which a soldier enlists that he shall be provided for in case of disability incurred in the service binds the Government, and cannot be receded from without consent of the soldier.

William Wirt, Attorney-General of the United States, June 9, 1825, in speaking of the claim of the widow of an officer for pension, says:

It is in the nature of an absolute engagement or promise made to those officers and men that if they fall in the service of their country so much shall be paid to their wives and children, without inquiry into the fact whether they stand in need of it or not. Nor is there any condition annexed to the promise that the money shall be paid *if applied for in a given time, or in a given state of things*. It is bottomed only on the single condition that the husband and father shall die in the service of his country; on the happening of which condition the public engagement becomes a *debt*, which is as much *property*, and the property of the widow and children, as any bonds which the deceased may have left to them by his will.

Now, by a parity of reasoning, which is entirely fair, the pensions to be granted by the contract and terms of enlistment to the wounded and disabled soldiers of the late war are in the nature of an absolute engagement or promise that if they are wounded or disabled in the service so much shall be paid to them or their representatives. Nor is there any condition annexed to the promise *as to time of application for pension*. It is bottomed only on the condition that they shall be wounded or disabled in the service of their country, on the happening of which condition the public engagement becomes a *debt*, which becomes the *property* of the disabled soldier as much as if the Government had issued its bond to him outright.

If the Government had promised or contracted with a foreign power to pay an indemnity in the event of the happening of a certain contingency, could we, dare we, repudiate the payment of the same, provided the contingency transpired? Surely not. No more can we refuse the payment of pensions for disability incurred in the service when the promise had been made and the faith of the Government pledged at or before the time of entering the service that in case of disability such payment should be made.

During the late war, in the time of its extremity, the Government was in sore distress for means with which to purchase supplies, buy munitions of war, pay the armies in the field, and prosecute the war to a successful termination. Large inducements were offered to the capitalists of the country to supply the "sinews of war." For the money thus furnished bonds to large amounts were issued by the Government. These bonds bore interest, most of which was payable in gold, but the principal was payable chiefly in the currency of the country—the same money with which the bonds were purchased, and the same money that paid the soldier in the field—legal tenders. Were the bonds thus issued repudiated? No, but on the 18th of March, 1869, an act was passed making them payable in *gold*. Many there are who believe that this act was a repudiation of the contract in favor of the holder of the bonds and to the detriment of the people who have them to pay, and who at that time were greatly burdened and oppressed by heavy taxation, caused by the mountain of debt into which our country was plunged by the events of the war. At least the holders of the bonds cannot now complain.

But not to comment on the justice or injustice of this act, its wisdom or unwisdom, can we by our act deprive the maimed and wounded soldiers of the war of the pensions promised them by the Government? And shall we hold in less esteem the men who by their bravery and valor, their courage and endurance, preserved the integrity of the Union inviolate than we do those who out of their abundance loaned the Government a part of their means in the time of its extreme need? The Government has fully provided for those who loaned it money to prosecute the war. As well should it in good faith fulfill its promises to those who fought its battles and were disabled in the performance of those duties. We cannot repudiate this sacred debt of blood and sacrifice, of sorrow and pain, nor plead the statutes of limitation upon the claimants.

But it has been claimed by distinguished and able gentlemen [Mr. KASSON of Iowa and Mr. HURLBUT of Illinois] on this floor, that all pensions were mere gratuities that might be granted or withheld at the pleasure of the Government, and the continuance of them were at the discretion of the Government. And when, during the last session,

a bill concerning pensions was under consideration the gentleman from Illinois [Mr. HURLBUT] said:

I desire, gentlemen, to consider here that there is not and cannot be any such thing as a vested right, a commercial transaction, between the country and those who are the recipients of its bounty. * * * So whoever may render service in a military capacity to the nation simply does his plain, unmistakable, undeniable duty, and whatever reward the nation may give him for having done that duty is in the line of free gift and grace, and not in the line of contract.

Notwithstanding the distinguished military service of the gentleman and his acknowledged legal ability, in the discussion of the subject he has failed to mark the distinctions that are recognized by law between the several forms of governmental bounty. In his decision of October 29, 1850, Alexander H. H. Stuart, then Secretary of the Interior, says:

Invalid pensions are grants of money to persons who become disabled in the service, either by wounds or other injuries received, or by sickness contracted in the line of duty, whereby the sufferer is rendered incapable, in whole or in part, of procuring for himself and those dependent upon him a livelihood. When promised, at or before entering the service, this class of pensions may be regarded as forming a part of the consideration upon which the contract of service is based, and not a gratuity merely.

Gratuitous pensions are not given for wounds received or disease contracted, but are usually granted at the close of a long term of service as a reward for extended and faithful duty; or they are granted many years after the close of an important war as evidence of a nation's gratitude to its defenders. Thus years after the revolutionary war the survivors were pensioned; and so in 1871 the Government pensioned the survivors of the war of 1812. The difference between the invalid and gratuitous pension is very marked and should be borne in mind.

The soldiers, for whom relief is asked in this bill, come under the first class, and their claim constitutes a debt—a debt of blood and pain, of privations and hardships, of wounds and tears, of sickness and disease. Should it not be paid? Justice, duty, and good faith require that it should.

The only argument, Mr. Speaker, against its payment is the amount of money the indemnity would take. This cannot be called an argument against the measure, but rather an admission that the relief asked for in the bill should be granted, and would be if the granting did not involve too much money. Can such grounds be maintained? Can the great Government of the United States, with its large wealth and boundless resources, hesitate one moment in liquidating this sacred obligation? Most of those who would be the recipients of this fund are now suffering and in needy and straitened circumstances. Some of them are poor and wasted, the victims of disease fastened on them in the service. Some are wounded and crippled, their lives a "living death," while others are poor, worn women with helpless children.

The following statement prepared in the Interior Department (Pension Office) will show the estimated number of cases in which limitation has applied to the close of 1875, and also the amount required for the payment of arrears should this bill become a law:

Statement showing the estimated number of cases admitted under the limitations of section 4709 Revised Statutes, with the amounts that will be due should the limitations be removed as contemplated by House bill No. 2803.

Invalids.				Widows and dependent relatives.				
Cases admitted.		Number in which limitation applied.	Amount of arrears to which entitled under the bill.	Cases admitted.		Number in which limitation applied.	Amount of arrears to which entitled under the bill.	Total amount required under the bill.
Year.	Number.			Year.	Number.			
1868	9,460	270	$238,140 00	1868	16,584	825	$363,000 00	$601,140 00
1869	7,292	275	156,475 00	1869	15,005	450	259,200 00	415,675 00
1870	5,721	472	346,448 00	1870	9,132	821	592,560 00	939,008 00
1871	8,061	2,220	1,037,850 00	1871	8,088	970	743,642 00	1,781,492 00
1872	6,468	2,545	852,575 00	1872	5,395	431	344,276 00	1,196,851 00
1873	6,551	3,226	2,630,803 00	1873	2,900	464	455,300 00	3,086,163 00
1874	5,710	3,584	2,013,312 00	1874	3,417	444	422,612 00	2,435,921 00
1875	5,760	3,862	2,254,172 16	1875	4,627	740	706,744 00	2,960,916 16
Total		16,454	9,529,775 16	Total		5,145	3,887,334 00	13,417,109 16

INTERIOR DEPARTMENT, PENSION OFFICE, *March* 8, 1876.

It will be seen that the estimated number of invalids, soldiers disabled from wounds or disease, to whom limitation applies from 1868 to 1875, inclusive, is 16,454, and to pay the arrearages due them would require an estimated amount of $9,529,775.16. Number of widows and dependent relatives from 1868 to 1875, inclusive, is 5,145, requiring for the payment of arrearages $3,887,334, or a total of 21,599 cases, requiring $13,417,109.16, estimated amount to make payment of arrearages. Taking it for granted that the estimated number of cases is correct, I am satisfied that the estimates for payment of arrearages are too high by from 25 to 50 per cent., or, say, an average of 33 per cent. The estimates are made on the supposition that the disabilities in all these cases is total and has been during the past eight years, or since the limitation began to operate, when the fact is the disability in some cases would be one-fourth, in others one-third, and so on, up to total. The average would be perhaps two-thirds, and for former years probably less, as it is well known that disabilities incurred in the service, either from wounds or disease, increase year by year rather than decrease. This is not always the case; however, the bill makes no change in rating the disability, which is still regulated by existing law. So it will be seen that the disability for the 21,599 cases estimated would not average over two-thirds. One-third should then be deducted from the amount required to pay the arrearages:

Estimated amount required by the bill	$13,417,109 16
Deduct one-third	4,472,369 72
Balance or probable amount necessary to pay arrearages	8,944,739 44

Which, I think, would be about the amount required, and probably not more than one-third of this would be needed the first year.

But whatever the amount required, it should be paid. This is a question of right. It is a measure that has no political or partisan signification, and ought not to have; but high above all such considerations, it commends itself to our patriotism, our sense of right and justice, our highest duty. And I appeal to all the members on this floor, the Representatives from all sections of the Union, the reunited States, made so by the courage and valor of these soldiers, for whose benefit and relief this bill is framed, to give this bill your cordial support. I appeal to the members on this side of the House, and especially to the Representatives from the Southern States who during the late civil strife struggled so earnestly for the "lost cause," but who now, thanks to these wounded soldiers of the North and their comrades in arms, are back in their "father's house," and to stay, and who are willing and anxious for peace and union, and to attest their loyalty and devotion to the "old flag" in every legitimate and honorable manner, to give this bill your hearty support. And I feel that I do not ask in vain. And to the gentlemen from the other side of the Chamber, and the gentlemen from this, who during those terribly dark and dreary days of the war did so much in the field, in legislative halls, and in this Capitol to support and sustain the Government of the United States, I appeal, and I feel that I shall not ask in vain.

Pass this just and humane measure of relief, and thousands of maimed and wounded soldiers all over this broad land, and their helpless and needy wives and children, will rise up and call you blessed.

The Presidential Count.

SPEECH OF HON. H. WATTERSON,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1877,

On the decision of the electoral commission in the case of Oregon.

Mr. WATTERSON. Mr. Speaker, I shall join in no movement to obstruct the progress of the presidential count. If the deed is to be done, and sure all of us know that it is to be done, "t' were better when 'tis done, 't were done quickly." No man has worked harder or longer than I have to prevent it. No man is more hurt by it than I am; but, as matters stand, it is inevitable. The power does not exist to place the man whom the people elected in the presidential office. The power does not exist to put an estoppel upon the inauguration of the man whom the people did not elect. The Army, led by the General-

in-Chief, is here ready to escort him to the door of the White House; the Chief Magistrate stands at the door ready to receive him; the Chief-Justice, attended by a majority of the Supreme Court, is within ready to administer to him the oath of office according to the forms of law. There is not so much as a single unarmed Kentuckian to resist.

The House is able neither to resist nor obstruct. It can only refuse to proceed with the count. What then? Why, the Senate aided by the minority on this floor, will finish the job, declare the result and carry out the original programme of conspiracy with which the republican leaders began their post election campaign. You say this is lawless. You say it is usurpation. Well, suppose it is, what do they care? Are they worse off for the electoral commission than they were before? Are they not better off for our impotent and blind fury?

Let us see. I hold that futile resistance is always to be avoided, particularly when the act of resistance has no objective point. The time for successful action on our part was three months ago. We knew the desperate character of our enemy then as well as we know it now. Nay, his plans and schemes were all before us. Organization, preparation, was pressed upon us. Did we raise a hand? Why, the very suggestion was hooted. At length there came a moment when, unable to set a squadron in the field, we were offered an alternative—a very Hobson's choice indeed—the electoral bill or a backdown. I fought this bill for hours in the committee of advisement. I fought it until I was no longer able to answer the arguments and facts brought to bear on the question by Senator BAYARD and Senator THURMAN, and even more notably by my friend from Virginia, [Mr. HUNTON,] a democrat whose manhood no less than his ability has won the respect and regard of this House. Then, failing to establish my view, I did what I always do and always shall do under similar circumstances—being unable to further meet and contest the case in friendly debate with my colleagues, I accepted their view and joined them in the measure proposed. But I was by no means lured into a feeling of security. I perfectly understood that the bill was a choice of evils. In the remarks which I had the honor to submit to this House I said, "I accept this measure with the full consciousness that it may bitterly disappoint me and those who think and feel with me; if it does, I shall still have performed a most unpleasing duty in that manner which was best calculated to preserve the public peace at a time when the people were not prepared for war."

The result has vindicated my discernment most sadly. I deplore it, but I see no means of escaping it. Many members of this House whose judgment has obtained the public confidence are of the same opinion. Those who affect to think differently propose nothing definite. They have no objective point, except chaos or a case in law.

God help us! we have enough of "law"—such "law" as the Supreme Court has to give us.

We have also had enough anarchy.

There was never but one chance to seat Mr. Tilden in the office to which he was elected by the people. That was for him, and for those immediately about him, to announce his election as soon as he was elected, to proclaim the conspiracy that was already organized to defeat his inauguration, to bring the people to some concert of action among themselves, and to give proof to the country and the world that they meant what they said, and were not to be browbeaten or thwarted. Nothing of the kind was done, though it was proposed. Congress met in a fog of uncertainty. We had a deal of talk and much beating about the bush; and finally our great cause, the people's cause, degenerated into a *nisi prius* case before a packed jury. The result is before us; and as I said before, we cannot escape it. Our sole power now is to make the best we can of a very hard bargain, to close ranks, to preserve our *morale*, to accept the contingency provided for by our own act, to appeal from the electoral commission to the ballot-box, to pick our flint and try it again, or to sulk, "put finger i' the eye," divide, and go to pieces. Which is the better course? For my part, I have no mind for leaping from the frying-pan into the fire. I urged a resolute policy when there was the occasion to give it efficacy. The time has passed when bold movements could avail us. To-day, we have little impulse but our anger left, and no supports at all. If we are wise, we shall take into account all the circumstances that surround us, we shall resume possession of ourselves, we shall give our enemy the full rope and line of his wrong-doing. Does any man think there is no penalty fixed to political excess? If he does he is mistaken. In public, as in private life, the infraction of God's laws and the people's interests meets its due condemnation and punishment soon or late. The republican party is a great sinner, and has withstood its destiny a long time I do admit. But the last four years have witnessed the taking off of many of its guiltiest leaders. Year by year they will continue to come to grief. In its order the party itself will fall, crushing these that remain with it in its complete and final wreck. I take this "on faith," and my faith is strong and pure, faith in the great creative principle of the universe, faith in free institutions, faith in the people, and faith in the future. I have no faith in the violent method proposed by some of our friends who are grown warlike after the event. They remind me only of Swift's Irish Engineers:

> "When all is lost that's worth defense
> They build a magazine."

In this present battle all is lost except our honor, the memory of our struggle, the glory of our triumph, the lesson of our surrender.

It chokes me to think about it. I will not think about it. I will turn away from it. I will not so much as drop a word of passing scorn on those who have soiled the ermine; for, God forgive me and forgive us all, the chance, if not the fault, was not wholly theirs. If we are to live for some wise and good purpose—the democratic party of the nation, I mean, that has lived through so many tempests, hulk or iron-clad, well-manned or ill-manned, the survivor of so many disasters—we have something better to live for than epithets, at best a poor and barren child's play. If Mr. Hayes is to come into the Presidency, as coming in he is, I would not contest his legal title to the office. I would make no idle, factious outcry. I would not block his way. But I would let him pass along, saying merely, "Sir, it is your turn to-day; to-morrow it may be another's; let those laugh most who laugh last."

No man need fear a break in the democratic line. The South is particularly unripe for plucking; neither is it for sale. During ten years it has piled up proof of its capacity for endurance. All this session it has given hostages to fortune and—the North. To-day it is standing by its count, a true exponent of fidelity and peace. If Mr. Hayes sees fit to vary the policy of national proscription and military interference which has characterized the administration of General Grant he will do a wise thing for himself, a just thing for the South, and a good thing for the whole country. But the South proposes to ask nothing, to buy nothing of him or those who shall rule with him. The manner of his coming in builds a wall between his administration and those embracing a great majority of his fellow-citizens, who preferred another. There can be no compromise with the republican party; no compromise with the historic eight. As Mr. Hayes may do the right, he will receive the commendation of good men; but this is not expected of him, nor will it inure to the benefit of his party or wipe out the disgrace of his coming in. I fear then if he be the liberal and conservative man he is said to be he, will not long remain so. He belongs to a party whose nature is changeless, and it will the rather control him than he it. The democratic party has but to pick itself out of the slough of dsspond, look calmly at the situation as it is, and move forward bravely up the rocky ridge. There may be a deserter here and there. If there is, let him go. There may be, there will be, many a comrade who shall never mount the hill. Bury him with the honors of war and march forward. For us the word should be, as it was given by the greatest of philosophers and statesmen a hundred years ago, "Cheer us if we run; console us if we fall; but, for God's sake, let us pass on; let us pass on."

I hope, Mr. Speaker, I have made my meaning full and plain. I would assail no man's motives. Knowing the integrity of my own, conceiving the full force and significance of the calamity which has come upon the country, I refuse to be crushed by it. I have no regrets or excuses to make for any act of mine. A greater Architect than I gave shape to the materials with which I have had to deal in my poor way. Would it had been stronger, wiser; but such as it was it is, and I stand by the record. I shall go hence to another and fairer scene; and, seeing the spring flowers illuminate the blue grass of Kentucky, signals at once of God's love and bounty, shall feel that the heavens are not yet robbed of their sunshine, the earth of its fruition, nor the future of hope.

The Decision of the Eelctoral Commission.

SPEECH OF HON. CASEY YOUNG,

OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,

March 2, 1877,

On the decision of the electoral commission.

Mr. YOUNG. Mr. Speaker, within this Chamber at this hour of midnight the curtain is about to fall upon the most remarkable and in many particulars the saddest drama ever enacted upon the political stage of any nation on earth.

The grandest moral and political victory the American people ever achieved has just been won, and under its shadow the greatest crime ever perpetrated against them is about to be consummated. A great victory was won when on the passage of the electoral bill patriotism and love of country triumphed over party passion and party allegiance, and law and order prevailed against the spirit of violence and tumult.

A great crime is being committed when, by the judgment of the electoral commission, three great States of this Union are to be disrobed of their sovereignty, the people of every section deprived of their rights, and public confidence shaken, if not destroyed, in the honesty of public officials. The free institutions of our country and the public virtue of our people is about to receive a blow from which recovery will be difficult if not wholly impossible.

In what I shall say I do not propose to discuss in any of its features the question now directly before the House, and I should perhaps

offer no observations at all did I not desire to refer to some things of which I deem it my duty to speak. The political views which myself and some other representatives from the South are supposed to entertain and our probable future political conduct have been the subject of a newspaper speculation and inquiry in which I have received some censure which I did not deserve and some commendation to which I am not entitled.

If what has been said in the public press in reference to myself was only a comment upon my own particular views and a conjecture as to my future individual political conduct, I should perhaps not deem it necessary or important to state in this public manner how far I have been correctly represented, or to declare what opinion I held, or what course I shall pursue. But as these speculations and conjectures with which my name has been connected refer to and embrace a whole distinctive class of our people, and, by implication at least, if not by direct assertion, does the grossest injustice to their patriotism, integrity, and good faith, all question of the propriety of the step is removed, and it becomes an imperative duty to speak in their behalf, though I should abide in silence public judgment upon my own actions.

To that class of citizens of which I speak I belong as well by the accident of birth as by subsequent choice and inclination. With them my fortunes have been cast, and to them I have been bound by sympathy in all of their misfortunes and sorrows during the long years that they have been the object of political proscription and sectional hostility.

To them I am linked by the ties of a common lineage and bonds of fraternal sympathy, by the memories of the past, and the destiny, whether good or evil, which awaits them in the future. Their fate shall be mine; the whisper of no siren's voice shall lure me from my duty and devotion to them; the gratification of no ambition, the pride of no success, and the honor of no position shall tempt me to betray or abandon them. No political evil can befall them which I would not willingly share, and I desire no political good which I cannot bestow upon them. A portion of them have confided to me the high trust of representing them in this body and guarding as best I may their political interest, honor, and integrity as a part of the great family of American citizens. I should be unworthy of their trust and confidence did I not avail myself of this opportunity, perhaps the last of the session, to place them as far as I can in a position to receive an impartial judgment from at least that class of their countrymen of other sections who are not mad with party passion and blinded by political prejudice and hostility.

I might remain silent and hear language of contumely and insult applied to myself and be nothing worse than a coward, but to make no defense when they are assailed, to utter no word of vindication when their patriotism is questioned, or their honor is aspersed, I should be an ingrate and a traitor. During the short time that I have occupied a seat upon this floor I have been too often made to feel that the presence here of myself and other southern representatives was distasteful to many gentlemen upon the other side of the Chamber, and we have been made painfully aware of the fact that we were unwelcome guests in this the house of our fathers.

How far this conduct toward us accords with the courtesy which we thought we had a right to expect from political opponents, or to what extent it is approved by the dictates of a wise and enlightened statesmanship, I will not pause to inquire. To some our former relations to the Government may furnish a sufficient excuse for a denunciation and criticism which under other circumstances no party exigency and no political necessity could warrant or justify.

I shall not now undertake to discuss any of the causes which through a long series of years led to the estrangement of the people of the South from those of the other sections of the Union, and which finally culminated in a civil strife, which for four years of blood and carnage ravaged and desolated the land. Nor shall I refer to the immediate and clearly foreseen results of that mighty struggle. All these have passed into history, and posterity will doubtless form a correct estimate of the motives and conduct of the actors in the fearful drama of our civil war. It is perhaps, however, not too much to hope and predict that when the hot passions and bitter enmities which it naturally engendered shall have passed away, and when the judgment of men shall be guided by reason and calm reflection, their conclusion will be that our internecine strife was the sequence of circumstances which no wisdom or statesmanship could have directed or controlled.

But, however this may be, the people of the South believed they were right when they entered upon the contest, and when it was over yielded reluctantly it may be, but in good faith, to a power which they could no longer resist, convinced by the stern logic of an unsuccessful war that the cause for which they had fought was lost forever. When the banner which they had followed so long and with such antique heroism and lofty courage was folded in defeat and they pledged their honor to abide faithfully the terms of their surrender, they did it with a fixed and honest purpose to observe it; and whatever may be ignorantly or willfully said to the contrary, I assert that from that hour to the present they have stood fast by their compact, with inviolate faith and untarnished honor, though while doing it they have been the victims of sorrows, persecutions, and oppressions through which no people have passed since the children of Israel were held in the bondage of Egypt.

There is scarcely a political crime which has not been perpetrated against them, hardly a social evil which has not been imposed upon them, and no legislative enactment calculated to outrage their feelings and humiliate their pride which partisan malice and ingenuity could devise which has not been incorporated in the laws of their States or fastened upon the statute-books of the nation without their will and consent. But amid all these grievances that sometimes stung them almost to madness and seemed to shut out every hope of the future, they have been loyal to the Federal Government, making no resistance to its authority and waiting patiently for the time when they would be restored to its favor and confidence, when they would once more be the equals of its other citizens. A few months ago they thought that time had come. Looking back over the desert waste of ten years of misrule and oppression, the charred and blackened monuments of social, political, and material ruin and desolation which rose all over their fair land receded in the background and commenced to fade from their vision, and looking forward with anxious, eager hope to the future they thought they beheld the coming of a dawn that would dispel the darkness of the long night which had enveloped them in its gloom.

On the 8th of November last, they knew that the democracy of the nation had won by the lawful and peaceful agency of the ballot-box the grandest victory ever achieved in political warfare. On the morning of that day the telegraph brought over the net-work of wires, which span our vast country, the glad news from every section of the Union, that more than a quarter of a million majority of American citizens had a few hours before cast their votes for the candidates of the democratic party for President and Vice-President of the United States. With no thought that the voice of the people would be disregarded, they looked forward to a lawful and peaceful consummation of the popular will. Their representatives came on to this capital, imbued with that conservative spirit of law and order which prevailed among the masses of their constituency at home, and without which no free representative government can exist, resolved to do all that their duty as citizens and their solemn obligations as members of the National Legislature required at their hands, to maintain the rights of the people and to save the country from the perils which threatened it. When they reached here they found the public peace and tranquillity, and even the safety of our form of government, menaced with the most fearful and alarming dangers.

Party passion was aroused; the clamor of partisan leaders rang through the halls of the Capitol; the minions of power were gathering around us, ready in the first moment of tumult or disorder to strike down with iron hand every attribute and safeguard of free government. Patriotic and thinking men of both parties saw dark clouds spreading over our political skies, charged with the elements of destruction, presaging a storm which bursting in its fury would pour upon us a deluge of evils which would finally ingulf us in lasting and irretrievable ruin.

To avert these perils a measure of peace and conciliation was suggested by the impulses of patriotism and love of country. A method by which the dangerous problem which confronted us might be solved in a lawful and constitutional manner, was devised by the ablest and most distinguished members of both Houses of Congress, from among both political parties, and it met with an indorsement seldom if ever before accorded to any measure of legislation, and by none was it indorsed with more cordial unanimity than by the southern members of this body. They knew that the democratic party had been triumphant in the recent presidential election, and that the candidates of that party were justly entitled to be inducted into the high offices to which they had been called by an unquestioned majority of the popular vote that they should of right wear the brilliant honors they had fairly won. They knew they had a legal and moral right by the Constitution and laws of their country, as well as by that code of equity and fair dealing by which all honest men are governed, to demand the inauguration of Tilden and Hendricks as President and Vice-President of the United States. But when they saw the dangers that threatened the entire country upon every hand, when they beheld the waves of party passion being lashed into fury by a coming tempest, they were willing, in order to save their country from ruin, to concede some of the rights to which they believed they were clearly entitled. They were willing to sacrifice the love of political power, the pride of party success and supremacy, nay, to surrender all save honor and principle to guard from shipwreck republican government, free institutions, and the happiness of the American people. They had seen somewhat more of the horrors of civil war and the disorder and ruin which followed it, than the people of other sections of the country, and were therefore better prepared to appreciate the wide-spread and irreparable ruin which another domestic commotion, another appeal to arms would entail upon the country, and the sorrow in which it would shroud every household in the land. Therefore it was that they so cheerfully and willingly gave their support to the bill creating the electoral commission, believing as they did that this afforded as fair a means as could, under the circumstances, be devised to determine justly and impartially the question in doubt between the two parties as affecting the presidential election, and which threatened a disturbance of the public peace.

The commission thus created was charged with the most awful and sacred duty ever confided to mortal man since the day when Jehovah, from amid the clouds of Mount Sinai, gave his law to Moses

and bade him go forth and teach it to his people. When the voice of the American people, speaking through their representatives in Congress, commanded fifteen of their servants to lead them from the dark and dreary wilderness of political doubt and uncertainty which surrounded them, no thunder, it is true, shook the Capitol, and no cloud enveloped its Dome; yet no phenomena could have made their duties more solemn or the command they received more impressive. No question of such grandeur and magnitude was ever before submitted to human wisdom; no such sublime work as they were called upon to perform was ever before wrought by human hands. To their integrity, honesty, and patriotism was intrusted the immediate interest of more than forty millions of people, and along with that the guerdon of human freedom and republican government throughout the world in all time to come; for, sir, when this great Republic is overthrown no other will ever rise in its place; when the spirit of freedom and love of self-government shall no longer abide in the hearts of the American people, the influence of these great principles will never again shape the actions of mankind; but either the law of force, the rule of anarchy, or the right of kings will hold undisputed sway over the nations of earth. In the presence of this high tribunal, more august and imposing than a council of rulers or a court of kings, representing the judicial dignity and power, and holding in its grasp the destinies of a mighty nation, the angry babbling of the demagogue and the murmur of the discontented partisan were hushed into silence, and the whole people with trembling, breathless anxiety looked forward to the result of its labors.

Those labors are ended. The public, now that the anxiety and suspense which they excited have scarcely yet passed away, is sitting in hasty relentless judgment upon the conduct and motives of its authors; but the future effect of their work upon the public interest and the character of our country and the people is of far more importance, and will be more patiently and perhaps more fairly judged.

When I gave my support to the electoral bill I was actuated primarily by a desire to avert a danger which I felt and knew to be most imminent, and from which I saw no other escape; and secondly, by the hope and belief that it would insure the peaceful and quiet inauguration of the President lawfully chosen by the people, and satisfy the public mind that he was justly and fairly entitled to that high and responsible office. It is true that I thought the bill defective in its structure as to details, that it was too vague and indefinite in its terms, and admitted of too much latitude in the discretion of those who were to construe and apply it; but I had no power to change it in these respects, and I was willing to risk the ability and impartial judgment of those who should be chosen to expound and carry it into effect. I will not attempt to portray nor endeavor to conceal how sadly I am disappointed or how deeply I am grieved at the decision which the commission has rendered, but I shall not have the weakness of complaining in ill-natured and petulant language of a result which I have no power to change or reverse. There is but one tribunal of final resort to which an appeal can be had, and that is that sovereign power to which in this country we must all submit—the people, who have made us their agents for the conduct of this and all other public affairs. Their judgment, when untrammeled by party ties and unawed by lawless power, will not fail of that impartial expression which cannot perhaps be expected in this hour of exultation upon the one side and gloom and depression upon the other. However deeply I may feel aggrieved by the judgment that has been rendered against my settled convictions of justice and right, I shall not permit myself to indulge at present in any harsh and discourteous criticism of the motives of those who gave it. Conscious of the rectitude of my own motives, if not satisfied with the correctness of my judgment as to the members of the commission, I prefer not to think so poorly of my kind or so meanly of my countrymen as to express the belief that eight of the highest and most distinguished officers of the Government have willfully perverted the law they were solemnly sworn to administer with impartial fairness and outraged every principle of justice held sacred by the world of mankind. Though I am unable to perceive the logic or process of reasoning by which they reached their conclusions, and though I am unable to reconcile the conflict in the legal principles which seem to have guided them in determining the vote of Florida, Louisiana, and Oregon, I have in charity endeavored to conclude that in their consciences they did no violence to the law or the facts applicable to those States. But I cannot forbear an expression of the opinion that, had I occupied the place upon the commission filled by the distinguished statesman from Massachusetts, [Mr. HOAR,] I should have hesitated very long before I would have permitted the sovereignty of that noble old Commonwealth to be stricken down and her people humiliated by having the hand of a pardoned convict cast their electoral vote in defiance of their will. The law would have had to be as inflexible as steel and the proof imbued somewhat with the sanctity of holy writ which could have influenced me to allow the voice of a felon bearing the brand of the laws, disgrace and disability, to ex press the pretended will of the people of Florida against their solemn protest and disclaimer.

If I had been a member of that commission, as was the gifted and scholarly gentleman from Ohio, [Mr. GARFIELD,] I would never have allowed the vote of that empire State of the West to have been determined by a band of outcasts and adventurers against the indignant outcry of its gallant and patriotic citizens unless I had been driven to that ungrateful task by a conviction of right and a sense of duty so imperative and overwhelming that my conscience could not have resisted their command. Had I been in his position I should, it seems to me, have had to be environed by a net-work of legal restraints and an array of facts from which there was no avenue of escape for either my judgment or conscience before I would have cast over the people of Ohio or any other State of this Union the mantle of shame and humiliation which now hangs dark as the shadow of death over the people of Louisiana. With the foot of the usurper upon the necks of her people, with the hand of the robber in their treasury for ten years of disorder and pillage, bereft of their dearest rights, insulted by the stranger and adventurer and ruled by the thief and the plunderer, they present to-day the saddest mockery of free Government ever exhibited to the gaze of the world, while their sister States of Florida and South Carolina wear the same manacles which holds them in slavery.

When the electoral bill was passed, in the midst, as we then were, of a dangerous state of public excitement and party passion, and over the opposition of the more extreme elements in both political parties, I thought we had won the proudest and grandest triumph ever achieved by the wisdom and patriotism of the American people in all the annals of our history. It was a sublime effort to overcome passion and prejudice by moderation and prudence—a victory gained by concession and forbearance, born, as I thought, of the purest love of country and most exalted statesmanship, over that implacable spirit of party, which, unrestrained, would drift a free government into despotism or anarchy, disorder, and ruin. And while the hopes inspired by that victory have not been realized in all their brightness, yet they are not dead forever, and while the fruit we expected it to bear has lost some of its golden tint, yet it has not, I trust, wholly crumbled into dust and ashes.

The scenes exhibited in this Hall while that struggle was being waged were never witnessed before in the legislative councils of any nation or people on earth. The fervid eloquence with which the most gifted orators and distinguished leaders of both political parties, from every section of the country, urged the support of a measure which was to bring peace and the reign of law to a country so long wearied with disorder, will live in history, the admiration of their countrymen, long after their names shall have been inscribed upon the honored roll of departed statesmen.

I can but feel more than a mere partisan regret that the results of their efforts, so far as they are yet developed, however honorably they may have been attained in the judgment of those who have accomplished them, have not met the sanction and approval of a larger number of the American people. But, however much the body they created may have betrayed its trust or fallen short of the demands of justice and public expectation, and however great the wrong it has wrought for the present, yet it may serve to teach a useful lesson and bring some benefits in the future. Our action in this matter has, I trust, already impressed upon the public mind the assurance and conviction, not before felt, that no question, however complicated and dangerous, can ever arise in the administration of our Government which may not be solved by peaceful, constitutional, and lawful means. It is full time we were learning that violence and disorder can bring no blessing, and that national prosperity and individual happiness can only be secured under the reign of peace and the supremacy of law. If we could but learn that higher and nobler lesson in political wisdom, that broader view of statesmanship that condemns the party creed which is based alone upon sectional hatred and animosities, we would indeed leave behind us many evils of the past and enter with brighter hopes upon the second centennial of our national existence.

If the work of the electoral commission has failed in all else of good, it has at least served the purpose and furnished the occasion of vindicating the character and patriotism of the southern people, of refuting the imputations of their enemies upon their integrity and loyalty to the Government, and of bringing to shame their ungenerous accusers. For ten years of political proscription the wicked and unfounded charge that the rebel democracy were seeking political power for dishonorable and unpatriotic purposes, and that the rebels and traitors of the South were conspiring to compass the overthrow of the Government, has not only been proclaimed by the party demagogue and political menial in every popular election, but it has been only too often repeated in this Hall by those whose positions should have raised them above the influence of feelings so revengeful and malignant and that are so little in accord with the calm dignity which should mark the deportment of the statesman and legislator.

That the southern people have sometimes been restive under the infliction of repeated and unmerited wrongs, and that sometimes, impelled by the instincts of self-preservation, they have broken over legal restraints which they would otherwise have observed, may be true; but under the circumstances that surrounded them, and the multiplied iniquities which angered and exasperated them, I declare it as my solemn belief that no other portion of the American people would have exhibited the same moderation that they have. Suppose the people of Maine or Massachusetts, or of any other State of the North, had been held in the strong grasp of Federal power while they were overrun and plundered by a horde of fugitives and adventurers from every quarter of the world, more brutal than Goths in their instincts, and

more remorseless than Vandals in their greed, would they not have shaken off the shackles that held them in subjection to these cormorants and brought swift retribution upon their oppressors, though they had brought destruction upon themselves? When the sturdy, honest yeomanry of New England shall see political brigands and public plunderers sitting in the high places that were wont to be filled by the most distinguished of their fellow-citizens, and shall be compelled to behold the ermine of justice worn by the ignorant charlatan, and their laws administered by corrupt and mercenary knaves, and then be told that they must admit them to their household, bear witness to their virtue, and do honor to their character, they will rise up and destroy them, if they have not lost that spirit of fearless manhood and ardent love of liberty which they inherited from their ancestors. And yet the people of the South have suffered all these things, and more, under a Government which they have just assisted to save, at the risk of being compelled for four years longer to submit to this bitter shame and humiliation. Will their countrymen longer misjudge them? Will even their political foes longer distrust their devotion to the public good, revile their actions, or judge harshly of their conduct and motives?

If they committed a folly, even a great crime, if you will, when they sought to withdraw from the Federal Union and establish a government for themselves, surely they have suffered in bitterness and anguish a fearful penalty, and their most relentless enemy, if a brave and generous one, would scarcely wish to deal them another blow. The republican party claims to have overcome them in war, and assumes to itself the honor of saving the Government from their efforts to destroy it. If this be true, they can the more easily afford, now that the war is over and their victory is complete, to exhibit toward their vanquished foemen something of the chivalry that makes the true soldier delight in generous deeds. They can and ought to be as manly in peace as they claim to have been in war, and accord to their late adversaries as civilians some of the respect which they showed them as soldiers. Had this been done, when the war was ended every legitimate result of that war could have been secured without inflicting another wrong, without arousing another angry passion, and without exciting a single act of opposition or murmur of complaint from the people of the South.

But a different policy was pursued. The gallant men who had fought to a successful conclusion a great civil war for the maintenance of the Union, at its end gladly laid aside the implements of the soldier and retired to the quiet pursuits of peaceful life, leaving their unfortunate adversaries the prey of dastards, who skulked from danger in the hour of strife, and only rushed into combat to strike a disarmed and fallen foe. Far better would it have been for the country if the soldiers who fought the great battles which fixed our theory of government had been permitted to sit together in legislative council and devise the method of reconstructing and building up again our shattered political system. Wise men would have considered the causes which led to the war, and sought to understand the feelings of the southern people before they would have entered upon a policy toward them which has not only inflicted so many evils upon the present, but has planted the seeds of hostility to the Government in generations which are to come. Is it not time to pause and inquire whether or not this policy has been just in the past or if it would be wise to continue it in the future? What it has already accomplished is seen in the overthrow of free and honest government in great States of this Union, in the humiliation and estrangement of their people, and the disorder and confusion which for ten years have prevailed in their midst.

Is it not quite time we were being governed in our public conduct by some of the lessons taught in the history of other nations and other people? What good is expected to be accomplished by keeping alive the fires of sectional hatred and giving constant vitality and increased intensity to animosities engendered by our civil strife? Will our nation grow greater, or our people more happy under the reign of passions and prejudices which should have perished with the restoration of peace between the two sections of the Union? Can it be expected to win the loyalty and affections of a people by persecution and proscription? Is England greater to-day, or Ireland more loyal to its government, because Emmett perished upon the scaffold, and Mitchell, Meagher, and the hundreds of other patriots were exiled from their homes to live among strangers? Did the throne of the Bourbons stand more firmly after they and their allies had sent the great Napoleon to die in the solitude of Saint Helena? Would it detract anything from the greatness of the Prussian Empire if Carl Schurz were recalled to his native land and made the colaborer of Bismarck, the illustrious chancellor of that great government? Who can doubt that the prosperity and well-being of our whole country, both the North and the South, can only be secured by a generous, liberal, and enlightened policy that will enlist the co-operation and aid of every class of our people?

To the gentlemen of the republican party I have a few words to say. By appliances rendered necessary by a condition of danger in our public affairs, for which your party is responsible, you have been enabled to win a great party victory and to secure the inauguration of your candidate for President of the United States; though the American people do not and will not believe that he is elected by a majority of their votes. But I assisted in constructing the legal machinery by which this result was attained, and I feel bound, as do the southern people, to stand by it with inflexible firmness, though it should be the means of holding some of them for four more years in the grasp of a power inexorable as fate and pitiless as death. The victory which you have thus gained for your party, however discreditably it was won, may, if wisely used, bring more blessings to your country than any triumph you have ever achieved. You may by a generous magnanimity make those whom you have hated and reviled feel that they are at least the equals of all other American citizens in the administration of public laws and in the guardianship of the nation's honor. They have shown you in the most dangerous crisis through which this Government has ever passed that they are capable of sacrificing every personal resentment for the peace, tranquillity, and safety of the country. They have proven to you and the world that they will abide in good faith the decision of a tribunal which has disappointed their most cherished hopes and robbed them of their dearest rights, because it was made under the provisions of a law which they were honorably bound to observe.

Within a short time Mr. Hayes will be clothed with the power and dignity of the Chief Ruler of this, the foremost nation upon earth. With what wisdom and justice he will administer his high trust and discharge the solemn duties of that exalted station, I do not know and cannot predict. I am glad to believe that there are some among those who have a party claim to direct and influence his action who are not wanting in the attribute of statesmanship and the impulses of patriotism which would raise them above that ignoble ambition that would bring ruin to the country to give strength and power to their party. If their utterances upon this floor are to be trusted, they have given to me an assurance that the country will not be wholly disappointed in the hope of a better and purer administration of public affairs than we have had for many years of our past history. I listened with pleasure to the generous and manly declaration of the distinguished gentleman from Ohio, [Mr. FOSTER,] sounding so strangely coming from that side of the House, that henceforth the Southern States were not to be treated as foreign provinces nor their people held as conquered subjects; but that the flag of the nation should wave over a restored Union of equal States, of loyal and contented citizens. Let me say to that gentleman that sentiments like those he so eloquently expressed would more likely win the hearts of southern people than if he were to deck them with political honors, give them all the patronage of the Government, and fill their coffers with wealth.

If Mr. Hayes were here I should say to him that the few generous words of his friend as well as the altered tone of the organ of his party in this city has done more to allay the spirit of opposition and give him an unobstructed path to the White House than all the clamor and denunciation of his less generous and magnanimous followers. If, when invested with the honors which await him, he should be governed by these high principles and patriotic aims he will prove to the world that fortune has not bestowed her smiles upon a totally unworthy favorite, and though he will not win the political alliance of the southern people for his party, he may win their support for his administration of the Government, their confidence and respect for himself.

Electoral Vote of Oregon.

SPEECH OF HON. LA FAYETTE LANE,

OF OREGON,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1877,

On the Oregon electoral vote.

Mr. LANE. Mr. Speaker, as the Representative from the State of Oregon I deem it my duty to submit in brief, as limited by the law under which we are acting, my views relative to the Oregon electoral vote. It would be my pleasure, and I surely would esteem it my duty, were the time adequate, to vindicate in every regard the character of Governor Grover as well as the conclusion to which he arrived when he issued the certificates to the true electors of the State of Oregon. His personal character where he is known is above attack, suspicion, or reproach. His official character has been amply and gratifyingly vindicated by the esteem and confidence reposed in him by the citizens of the State of Oregon. Twice has that State selected him to the highest position known to its form of government, and but recently have we selected him to one of the most honorable positions known to our Federal system. Whatever may be the criticisms, no matter how unfriendly, as to his action in issuing the electoral certificate, now the subject for consideration, certain am I that he was never influenced by any motive that would not illustrate the intelligence and purity of a statesman and a patriot. He understood his duty, and conscientiously performed it as he understood it.

On the 7th day of November, 1876, the qualified voters of the State of Oregon chose the electors who were to cast the vote thereof for President and Vice-President as required by the Constitution. At that time there were nine candidates soliciting their suffrages, representing the three aspirants for presidential honors, of which number

there were but eight who were eligible under the provisions of the Constitution of the United States and of the laws of Oregon. Of those who received votes was one J. W. Watts. This individual at the time voted for was absolutely disqualified from being *appointed* an elector, he at that time being a postmaster in the town of La Fayette, Yamhill County, Oregon, a Federal office embraced within the contemplation of article 2 of the Constitution of the United States.

That this man Watts held such Federal office is a matter of official record, and concerning which there is no dispute. That that fact was generally known in the State of Oregon is also indisputable. That the holding of that office was a disqualification may not have been so generally understood, albeit I apprehend it was sufficiently well known. The doctrine of "*ignorantia legis neminem excusat*" may not in some cases be applicable, but I do protest that it should be applied most strictly in the selection of the Chief Magistrate of the United States. The purpose of our fathers in eliminating from the selection of such an officer every influence of an extraneous and improper character, such as might be developed by the exercise of Federal influence, is apparent to every one who understands the theory upon which our Government was founded.

The selection of an elector is exclusively a matter under the control and regulation of the State governments as to the mode and manner thereof, the qualification, however, being defined and limited by the Constitution of the United States, a prominent disqualification being that referred to—he cannot hold a Federal office. There is a provision that no person can be President unless he be a natural-born citizen. If Mr. Hayes was a native of Dahomey he would be as well qualified to be President as was this man Watts to be an elector; the selection of the one to the highest office would be no greater violation of our fundamental law, or the spirit thereof, than the utilizing of the other to contribute to that result.

The duty of the governor of Oregon was to grant certificates to those who were duly elected. Now, then, nobody could be elected unless he was embraced within the qualification of the Constitution. Therefore Governor Grover could not, and thank God did not, issue a certificate to this disqualified individual. It was not a ministerial duty the governor performed, but it was one imposed upon him in his *executive* capacity. Had he done else than take cognizance of the disqualification of Watts he would have violated his oath of office and would have been a perjurer, both morally and legally.

The law of the State of Oregon provides that the votes for electors shall be given, received, returned, and canvassed the same as for members of Congress. The governor alone can grant certificates to members of Congress. He shall issue a certificate to the person having the highest number of votes. The word *person* can only mean one who is qualified to be voted for. The secretary of state shall prepare two lists of the names of the electors elected and affix the seal of the State to the same. To give such lists any character or validity whatever they must be signed by the governor and secretary. Such certificate or list was duly prepared and by the secretary of state delivered to the college of electors at the hour of their meeting, on the first Wednesday of December last.

There is no certificate, no list containing the name of one J. W. Watts, who pretends to be an elector, signed by the governor of Oregon.

Any list of the votes cast, although certified by the secretary of state, without having the governor's signature, has neither significance in fact nor validity in law.

The resignation of Watts on the 13th day of November last can in no way relieve against the disabilities existing on the day of election. By the law of Oregon electors are chosen by the direct vote of the people. By act of Congress they are to be appointed in each State on the Tuesday after the first Monday of November in every fourth year succeeding every election of a President and Vice-President. (United States Revised Statutes, page 131.) Watts was appointed on that particular day, if at all; he could not be appointed if not eligible. He was not eligible, and therefore was not appointed. It is a favorite practice of some of the voters of my State to manifest their appreciation of the majesty and grandeur of Mount Hood and at each election cast a ballot or so for that magnificant mountain. Had this object of peculiar admiration by chance received a majority of the votes cast for presidential electors would anybody contend that the governor should have issued a certificate in accordance with such votes? Certainly not, and yet Watts, though perhaps somewhat less colossal in structure, was none the less constitutionally disqualified than this most charming feature of our common mother.

So thus rests the case. The governor issued certificates to the three highest eligible candidates—Cronin, Cartwright, and Odell; the two last named positively refused to act with Mr. Cronin. As an elector he was required to perform a certain and very high duty. Being wholly ignored by his associates on the certificate he proceeded in the only manner to which in law he could resort. He filled a vacancy by the appointment of Mr. Miller, and they supplied the remaining vacancy by the appointment of Mr. Parker, and thereupon regularly and in due form of law proceeded to perform the duties of their office. If the State of Oregon has any voice in the *electoral college* it is expressed by the Cronin return. If that be rejected, we are disfranchised, If the other vote be accepted, the Constitution is violated and *law* and *reason* and *logic* are wholly disregarded.

It may be, but I am inclined to doubt it, that a majority of the people of my State preferred Mr. Hayes for President. There was a constitutional method of expressing their wish, which in part they saw fit to disregard. It was their fault, and not the fault of the law, if their wish was not fully granted. I beg that you in no spirit of mere romantic chivalry suffer an infringement of the Constitution. It is the pillar of light erected by our forefathers to guide our footsteps; it alone can maintain and *preserve* us a *Union*, a *union* of hearts as well as a union of States, inviolable and inseparable power. Violate that sacred instrument under any circumstances, and you will have made a dangerous if not fatal assault upon the liberties of the American people.

The Electoral Count.

SPEECH OF HON. JOHN D. WHITE,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

March 2, 1877,

On the decisions of the electoral commission.

Mr. WHITE. Mr. Speaker, "Hayes has received 185 votes and is elected," is the verdict of the compromise electoral commission. Who would have thought it? Was not the electoral commission created to give Tilden a chance? Why, Hayes had 185 votes on the 6th day of December, 1876. Certainly *he* did not need any commission. If Tilden had nothing to gain by submitting his case to a jury of fifteen men, for what purpose was the electoral commission created? Mr. Tilden's New York lawyer, of great fame as a pleader for criminals, was eager for the passage of the compromise electoral bill. With anxious eye he watched the disappearance of the American flag, which was to him a signal of the passage of the bill. Rising in his place thus he soliloquized:

> There it floated all through the night watches, till the daylight came, and as the sun rose over the snow, lighting up the Capitol from basement to dome, the flag was furled, and I knew the day was won.

Likewise did Mr. Tilden's Kentucky mouthpiece and nominating-convention boss, who is so handsomely described by the successor of the late and lamented Speaker from Indiana as—

> The distinguished member from the proud old Commonwealth of Kentucky, [Mr. WATTERSON,] who so readily assumes the chameleon hues of the hour, and who on the historic 8th of January, now doubly renowned, startled the radicals and himself by announcing that on the 4th of March there would be present at the National Capitol, to insure and enforce the claims of certain gentlemen to Cabinet positions one hundred thousand stern-visaged men in buckram, and who afterward
>
> "Threw down his target and his plaid;"
>
> and, admitting he had been engaged in a game of "brag," declared that for the purposes of a fight—
>
> "The democratic party is as one who has his right arm tied behind him. If forced into civil war it would proceed under the greatest disadvantages."
>
> Then "before taking" and gathering his robes about him, as the Roman senator was wont to draw his toga more gracefully to his shoulders when about to assume his native dignity, he majestically said:
>
> "I shall not undertake to add to the law of the case. It seems to me that an eminent jurist in the Senate [Mr. EDMUNDS, a republican] has made it perfectly clear that this bill is constitutional. I accept and adopt his views without reservation."

In like manner also did the distinguished bondholder and wire-worker, [Mr. HEWITT,] who was the chairman of Mr. Tilden's national executive committee for buying mules in Indiana, &c.

Distinguished democratic leaders and United States Senators, as BAYARD and THURMAN, not only favored but actually urged the passage of this unconstitutional bill.

In short, we were told that unless we passed this bill some dreadful calamity would befall our helpless country; perhaps my colleague with Southern Pacific Railroad tendencies and "C. J." scribbling propensities might march upon Washington at the head of 100,000 "unarmed men" to secure the inauguration of "his man" who once had a "bar'l of money."

See how he magnifies his own rage and attempts to dupe his Kentucky readers by an editorial on January 2, 1877, from which the following is an extract:

> And the people will be true to themselves, and their representatives will be true to their trust. Any man who says that they are ready to condemn the exhibition of armed force, if that be the only remedy left against flagrant usurpation, fails to appreciate the determined spirit that actuates the conservative masses of this country. Any man who says that the people will stand by and let a handful of conspirators interpret the prescribed form of the Constitution to suit their own unlawful purposes does not understand the reverence for established usage that imbues the mind of the American citizen.

Evidently this gentleman "smelt the battle from afar" during the late unpleasantness, and never realized "the conservative influence of a fifteen-inch shell."

It is true, Mr. Speaker, that some men talked of war, and threats of "Tilden or fight," "Tilden or blood" occasionally found expression. Certain reckless newspapers loaded their columns with inflammatory articles, and as a consequence certain office-seekers, idlers, and croakers met in various places throughout the country to indignate and make themselves miserable. Of course all such inflammatory articles and incendiary meetings had their effect upon the busi-

ness of the country, and as an antidote for any such evil I offered the following resolution, which the House did itself the honor to adopt, January 16, 1877:

Whereas fears are entertained by a large number of American citizens lest there shall not be a peaceful settlement of the questions arising from the late election for President of the United States.

And whereas it pleased the founders of the Republic in ordaining and establishing the Constitution of the United States to make provision for the election of a President of the United States of America;

And whereas the Constitution provides for the counting of the electoral votes and the determining of who is elected President of the United States: Therefore,

Resolved, That any attempt, come from whatever source it may, to prejudice or excite the public mind in advance of the decision of the authority known to and provided for in the Constitution of the United States is unwise, unpatriotic, and full of danger to our free institutions; and that we deprecate all efforts to excite public passions as tending to increase the embarrassment and depression of the business interests of the country, and declare it to be the duty of all good citizens to peaceably and faithfully abide by the results reached in accordance with the Constitution of the United States.

Sir, I was opposed to the compromise bill. I thought that the Constitution provided for the emergency and that Congress had no power to act in the case. The idea that Congress could go behind the action of the returning board of a State in this Union of States was as new as it was undemocratic. Those who favored such a proposition have made a complete surrender of the doctrine of "State rights." And while I cannot believe that a State has a right to secede, yet I believe that a State has rights which are above and beyond the power of Congress. The power to control its own returns for presidential electors is one of those powers. We cannot go beyond the powers delegated to us as Representatives by the Constitution of the United States. All other powers are either lodged in the separate Legislatures of the several States or reserved in and by the people for themselves, who are the source and fountain of all the powers in this whole free country.

The tenth article of the amendments to the Constitution is:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.

The power to go behind the returns of the presidential electoral vote of any State is not delegated to this democratic House nor to this Congress, nor to Congress and the President. Each State and the people of the State must settle this question for themselves.

After this, then, nothing remains but the counting of the votes and the announcing of the result according to the common-sense meaning of the twelfth article of the amendments to the Constitution, which, briefly, is:

The electors shall meet in their respective States and vote by ballot for President and Vice-President; * * * they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted.

A distinguished and honorable democratic Senator and a member of the high electoral commission [Mr. BAYARD] months ago, and long before this controversy arose or was dreamed of, delivered this opinion:

Nowhere is the power given to either House of Congress to pass upon the election, either the manner or the fact, of electors for President and Vice-President; and if Congress or either House shall assume under the guise or pretext of telling or counting the vote to decide the fact of the election of the electors, then they will have taken upon themselves an authority for which I for one can find no warrant in the charter of our liberties.

Yet this democratic Senator and the learned Senator from Ohio, [Mr. THURMAN,] of the commission, find no difficulty, under the present appliances of the party lash, in "going back on" their own honest records made long ago when they were free from the influences which accompany a party strife. They now hold that Congress *can and should* go behind certain electoral returns from the States of Florida, Louisiana, and South Carolina.

And because a majority of the electoral commission refused to receive evidence on this subject, clearly beyond their control, the following list of Senators and Representatives solemnly protest against the decision of the tribunal for which a great number of them voted. Did it occur to these gentlemen that they were signing away the most precious right of the several States? They may think lightly of it now, but when the excitement has passed away the fact will not be forgotten that certain gentlemen in both wings of this Capitol for party purposes have signed away the most precious of all State rights. The following is a list of their names:

Senators—W. H. Barnum, Connecticut; Chas. W. Jones, Florida; Francis Kernan, New York; Frank Hereford, West Virginia; Henry Cooper, Tennessee; Lewis V. Bogy, Missouri; Wm. W. Eaton, Connecticut; S. B. Maxey, Texas; T. F. Randolph, New Jersey; R. E. Withers, Virginia; J. E. Bailey, Tennessee; H. G. Davis, West Virginia; Geo. R. Dennis, Maryland; George Goldthwaite, Alabama; A. S. Merrimon, North Carolina; T. M. Norwood, Georgia; T. C. McCreery, Kentucky; J. E. McDonald, Indiana.

Representatives—Lucien L. Ainsworth, John D. C. Atkins, John C. Bagby, Henry B. Banning, George M. Beebe, Richard P. Bland, James H. Blount, Andrew R. Boone, Taul Bradford, John M. Bright, John Young Brown, Aylett H. Buckner, George C. Cabell, John H. Caldwell, William P. Caldwell, Milton A. Candler, George W. Cate, Bernard G. Caulfield, Chester W. Chapin, John B. Clarke, John B. Clark, jr., Hiester Clymer, Alexander G. Cochrane, Francis D. Collins, Philip Cook, Jacob P. Cowan, Samuel S. Cox, David B. Culberson, Joseph J. Davis, Rezin A. De Bolt, George G. Dibrell, Milton J. Durham, John R. Eden, Albert G. Egbert, E. John Ellis, Charles J. Faulkner, William H. Felton, David Dudley Field, Jesse J. Finley, William H. Forney, Benjamin J. Franklin, Benoni S. Fuller, Lucien C. Gause, Randall L. Gibson, John M. Glover, John Goode, jr., John R. Goodin, Thomas M. Gunter, Andrew H. Hamilton, Robert Hamilton, Augustus A. Hardenbergh, Henry R. Harris, John T. Harris, Carter H. Harrison, Julian Hartridge, William Hartzell, Robert A. Hatcher, Eli J. Henkle, Abram S. Hewitt, Goldsmith W. Hewitt, Benjamin H. Hill, William S. Holman, Charles E. Hooker, James H. Hopkins, John F. House, Andrew Humphreys, Frank H. Hurd, George A. Jenks, Frank Jones Thomas L. Jones, Edward C. Kehr, J. Proctor Knott, Lucius Q. C. Lamar, Franklin Landers, George M. Landers, William M. Levy, Burwell B. Lewis, John K. Luttrell, William P. Lynde, L. A. Mackey, Levi Maish, William McFarland, John A. McMahon, Henry B. Metcalfe, Charles W. Milliken, Roger Q. Mills, Hernando D. Money, Charles H. Morgan, William R. Morrison, William Mutchler, Lawrence T. Neal, Jeptha D. New, John F. Philips, Earley F. Poppleton, Joseph Powell, Samuel J. Randall, David Rea, John H. Reagan, John Reilly, James B. Reilly, Americus V. Rice, Haywood Y. Riddle, John Robbins, William M. Robbins, Miles Ross, John S. Savage, Milton Sayler, Alfred M. Scales, John G. Schumaker, James Sheakley, Otho R. Singleton, William F. Slemons, Milton I. Southard, William A. J. Sparks, William M. Springer, William H. Stanton, William S. Stenger, Adlai E. Stevenson, William H. Stone, Thomas Swann, John K. Tarbox, Frederick H. Teese, William Terry, Charles P. Thompson, Philip F. Thomas, James W. Throckmorton, John R. Tucker, Jacob Turney, John L. Vance, Robert B. Vance, Alfred M. Waddell, Ansel T. Walling, Elijah Ward, Levi Warner, William W. Warren, Henry Watterson, Erastus Wells, Washington C. Whitthorne, Peter D. Wigginton, Alpheus S. Williams, James Williams, Jere N. Williams, Benjamin A. Willis, William W. Wilshire, Benjamin Wilson, Fernando Wood, Jesse J. Yeates, Casey Young.

The day will come again when these gentlemen, or rather the party to which they belong, will turn away from the democratic doctrine of to-day and go back to that of Charles Pinckney uttered seventy-seven years ago, as follows:

Knowing that it was the intention of the Constitution to make the President completely independent of the Federal Legislature, I will remember it was the object, as it is at present not only the spirit but the letter of that instrument, to give to Congress no interference in or control over the election of President. It is made their duty to count over the votes in a convention of both Houses, and for the President of the Senate to declare who has the majority of the votes of the electors so transmitted.

It never was intended, nor could it have been safe, in the Constitution, to have given to Congress thus assembled in convention the right to object to any vote, or even to question whether they were constitutionally or properly given.

This right of determining on the manner in which the electors shall vote; the inquiry into the qualifications, and the guards that are necessary to prevent disqualified or improper men voting, and to insure the votes being legally given, rests and is exclusively vested in the State Legislatures.

If it is necessary to have guards against improper elections of electors and to institute tribunals to inquire into their qualifications, with the State Legislatures, and with them alone rests the power to institute them, and they must exercise it. To give to Congress, even when assembled in convention, a right to reject or admit the votes of States would have been so gross and dangerous an absurdity as the framers of the Constitution never could have been guilty of. How could they expect that in deciding on the election of a President, particularly where such election was strongly contested, that party spirit would not prevail and govern every decision? Did they not know how easy it was to raise objections against the votes of particular electors, and that in determining upon these it was more than probable the members would recollect their *sides*, their favorite candidate, and sometimes their own interests?

They will also agree with some of the rest of us that while there was no authority and no necessity for the electoral commission, yet its decisions were sound. As an example, let the following suffice:

The brief ground of this decision is that it appears upon such evidence as by the Constitution and the law named in said act of Congress is competent and pertinent to the consideration of the subject, that the before-mentioned electors appear to have been lawfully appointed such electors of President and Vice-President of the United States for the term beginning March 4, A. D. 1877, of the State of Louisiana, and that they voted as such at the time and in the manner provided for by the Constitution of the United States and the law; and the commission has by a majority of votes decided, and does hereby decide, that it is not competent under the Constitution and the law as it existed at the date of the passage of said act to go into evidence *aliunde* the papers opened by the President of the Senate in the presence of the two Houses to prove that other persons than those regularly certified to by the governor of the State of Louisiana on and according to the determination and declaration of their appointment by the returning officers for elections in the said State, prior to the time required for the performance of their duties, had been appointed electors, or by counter-proof to show that they had not; or that the determination of the said returning officers was not in accordance with the truth and the fact—the commission by a majority of votes being of opinion that it is not within the jurisdiction of the two Houses of Congress assembled to count the votes for President and Vice-President to enter upon a trial of such question.

The commission by a majority of votes is also of opinion that it is not competent to prove that any of said persons so appointed electors as aforesaid held an office of trust or profit under the United States at the time when they were appointed, or that they were ineligible under the laws of the State or any other matter offered to be produced *aliunde* the said certificates and papers.

The commission is also of opinion by a majority of votes that the returning officers of election who canvassed the votes at the election for electors in Louisiana were a legally constituted body by virtue of a constitutional law, and that a vacancy in said body did not vitiate its proceedings.

Judge Church, a democrat and the chief-justice of the court of appeals of the State of New York, on the 10th February, 1877, said:

I have always expressed the opinion that the authentication of the election of presidential electors, according to the laws of each State, is final and conclusive, and that there exists no power to go behind them.

Let us all hope that the prophecy by the learned and eloquent gentleman from Massachusetts [Mr. HOAR] made upon this floor may at an early day be fulfilled.

Mr. HOAR said:

Mr Speaker, prophecy is not one of the exact sciences. In my humble judgment any democrat conversant with the history of his own party will be pretty likely to assent to that proposition. [Laughter.] But I will venture a prophecy; and that is, that there will not be an event in the history of this country which in the future will be more gratifying to the American people than the constitutional assertion of the limit between State and national authority which this electoral commission has made; and that the previous declarations of Mr. BAYARD and Mr. THURMAN made in their places in the Senate when there was no presidential question in dispute will be those which they and their associates will most delight to remember. I do not speak now of the jurists or the legal profession of the country. I do not look for my reputation in this matter to my republican associates. I am willing to take my luck with the democratic party. This decision is in the line not only of its past precedents, but of all its future interests. If they disapprove and condemn it under the excitement of to-day, I will appeal from Philip drunk to Philip sober. I will appeal from the democratic party, excited by the desire of power, maddened by an earnest contest for political supremacy, drunk, some of them, with eagerness for the spoils—I will appeal from the party maddened, excited, drunk, in the present, to its future, and to its past. [Applause.]

The democratic party everywhere approves and vindicates the thirteenth, fourteenth, and fifteenth amendments to the Constitution. In view of this fact how humiliating to every American citizen the report made by Mr. JOYCE of the committee sent by this House to investigate affairs in Louisiana. Mr. JOYCE said:

Mr. Speaker, tongue cannot utter, pen cannot describe, pencil cannot paint, the imagination cannot conceive of the terror and consternation which filled the minds of the colored people in the bull-dozed parishes of Louisiana during the late political campaign. None who have not seen it can realize or even fully believe it.

But, sir, the facts exist and thousands of American citizens in the South are to-day as fully and completely disfranchised by fear as they were by law when offered for sale upon the auction-block or crouching in fear in the slave-pens.

In view then, sir, of the startling disclosures which have been made in this investigation, is it not time for the loyal and patriotic men of this country to arouse from their lethargy, crush out this spirit of tyranny, protect the sacredness of the ballot-box, and preserve the purity of the elective franchise?

Is it, sir, to be tolerated that in these United States any illegitimate organization of armed men, acting in sympathy, open and avowed, with a great political party, shall seize upon the public highway, establish illegal military control of a whole parish, stop travelers on the public road by armed force, close access to the polls to peaceable citizens, domineer over the right of election, and shoot to death all who decline to submit to their villainous tyranny?

Is it to be tolerated that murder shall be a recognized part of the machinery of politics, and that terror is the best ally of democratic reform? That force, unmeasured and unrestrained, is the substitute for law? That reason shall be dethroned by passion, and the regular course and progress of legal rights become the prey of evil and unregulated malice, with no limit but the will of the tyrant mob, which makes and executes at once its own wild and bloody decrees?

* * * * * * * *

In justice to one class of white people in Louisiana, I am frank to say that to all appearances they are intelligent, high-minded, and worthy men, and that I cannot and do not believe that they would be guilty, personally, of such crimes and acts of violence as are conceded to have been committed in that State during the past ten years.

But, sir, how are these men to avoid the awful responsibility which follows, even if they did not in fact hold the knife and the pistol, when they stand quietly by while others commit them, without raising voice or hand against it, and complacently and gracefully share in the spoils and profit by the results?

These men have lived in Louisiana during these terrible and bloody years; the men who have covered the land with desolation and death are their neighbors and kinsmen. They cannot plead ignorance or imbecility; the knowledge of every murder and act of violence has been brought home to their very doors. They have known that the object of it all has been to disfranchise the colored people and restore the democratic party to power.

The colored people of the South to-day represent thirty-five electoral votes. These the democratic party propose to steal by denying them the right of free suffrage as guaranteed to them by the Constitution.

All this is laid at their door and charged to their account, and the American people demand by the same voice which will place Rutherford B. Hayes in the presidential chair that they cease their cry of republican fraud, corruption, and military despotism, and turn their attention to the cleansing and purifying of their own party, to stopping the murder of innocent men for opinion sake, and restoring order, justice, and law among their own people. They must take the power into their own hands; suppress and punish the maraunding bands and armed banditti which infest the State; set up the standard of law and order, and restore the lawful authority of the government; and then, and not until then, will they have or deserve to have the sympathy and assistance of the loyal and patriotic people of this country.

And now, Mr. Speaker, besides attending to the presidential dispute, what has this House accomplished? Very little, if anything. "By their fruits ye shall know them," and by its record the majority in this House stands condemned before the country.

More than a year ago it began its political campaign for power in the Government of this country. "Retrenchment and reform" was the cry of those who foretold, foresaw, and labored for the downfall of the republican party.

With an abandon that amounted to madness, their retrenchment theory was carried so far that every department of the Government was seriously crippled; the Army was reduced; the Navy allowed to go down under the decaying agencies of time; foreign ministers and consuls were called home; forty-four American flags which had floated to the breeze in foreign lands as a symbol of our power and good will were hauled down, furled, and brought home; pensioners go unpaid, because there is no appropriation to complete the examination of their cases; for a like reason claims for commissary and quartermaster stores remains unsettled and unpaid; new post-routes are rendered inoperative and the old ones are shorn of their usefulness. Ah, yes, this is retrenchment with a vengeance. "The Lord reward you according to your works."

Reform! Reform! Reform! was in the heart of every enemy to republicanism, and on the lips of every democratic politician, demagogue, and office-seeker. Charges, whether true or false, were in demand. The President must be impeached. The Secretaries of War, of the Navy, and of the Interior Departments must be proven guilty of high crimes and misdemeanors. The character of prominent men in the republican party must be blasted; and accordingly a premium was offered for whatever promised to evince that the republican party and its leaders were corrupt and rotten to the core. Every whisper of slander was repeated. The testimony of escaped lunatics, and the lies of disappointed, dismissed, and disgraced office-seekers were sounded from one end of the country to the other in the interest of democratic reform. No man was above suspicion; and the purer his life and the higher his character the more potent were the reasons for his disgrace and downfall. It was sufficient that democratic reform and democratic success demanded it. To accomplish such nefarious purposes witnesses were called to Washington and their expenses paid out of the public Treasury. Not only so, but cases are not wanting where rebutting and counteracting testimony has been circumvented by appointing to salaried positions such of your witnesses as preferred to be in contempt of this House rather than testify to the damnable trick to which you have resorted for the accomplishing of your hellish plans.

You talk about retrenchment! What man among you all has proposed to reduce his own salary? You cut off some of the necessary expenses of the Government and call that *retrenchment;* but I call it a false notion of economy which cripples the machinery of the people's Government. The people gain nothing by such economy, and you know it. The thinking classes of our people will not be slow to see through such flimsy demagoguery. You have not reduced the people's taxes one dime. You have not attempted to reduce taxes or the tariff. Yes, the democratic party is a reform party. It has resorted to every mean trick and corrupt practice known to Tammany politicians to bring about a reform that would place Tilden and men of his ilk in power in this country. It was well known that Tilden was worth millions of money, and that he was ready and willing to make any sacrifices which would tend to put him in the White House. Accordingly he was nominated by the bought-up democratic press in spite of the repeated declarations of the Cincinnati Enquirer and other respectable democratic newspapers, that—

Tilden's surroundings are bad. If elected, he would take to the White House the worst set of political jobbers and thieves ever seen in Washington, and that is saying a good deal. It could not but be that a man educated in cunning, in hypocrisy, in iniquity, nominated in corruption and shameless effrontery, even though his millions could elect him, would give us the most corrupt administration the country has ever known.

This statement might have been forgotten had it not been more than justified by recent developments. At least two attempts were made to purchase a republican elector to vote for this sharp, shrewd, ambitious, and unscrupulous politician. Eight thousand dollars were sent to Oregon, and the money that purchased Cronin has been traced to Mr. Tilden's door. I thank God that up to this hour no member on this floor has been so regardless of truth and his own honor, as to intimate that R. B. Hayes has during the entire campaign stooped to any low, tricky, or corrupt act.

Ay, the democratic party is for *reform*, that reform that brings with it "the loaves and the fishes." To secure this boon there has been no end to fraud, corruption, and false accusations. You have attempted to steal whole States. You did buy Cronin for the sum of $3,000 and after you got him he profited you nothing. He stands condemned by his own testimony.

Upon this point, that Cronin's own version may be seen, I quote from his testimony. After describing the situation of the parties in the room of the electoral college, those present, &c., Mr. Cronin said:

After we had taken seats as I have described, Mr. Cartwright demanded those certificates of me. I told him he should not have them. He remarked, "We have as much right to those as you have, and there are two of us, and we have a right to those certificates, and we want them." I repeated again that he should not have them; that the certificates were of no use any way except to attach to our return. He replied to that, as near as I can recollect, "We want those certificates, and why don't you give them to us?" I replied by saying, "I don't think you intend to treat me fairly. In the first place here is a United States marshal who takes possession of the college; then Mr. Odell takes the key; and you might as well understand first as last that you shall not have those certificates." About that time, I think, Dr. Watts got up and read his resignation, and his resignation was accepted and he was elected to fill that vacancy, as they called it. I then remarked, "Gentlemen, you refuse to act with me?" I am quite positive that Mr. Odell said, "You give us those certificates; we have got nothing to act on; we want those certificates," or words to that effect. I suppose I might as well say here that I did not hear Mr. Cartwright or Mr. Odell in terms refuse to act with me.

* * * * * * * *

Q. Why did you not produce the certificates and put them on the table?

A. Because I did not propose that Mr. Cartwright, Mr. Odell, or Mr. Watts should get those certificates.

Q. Did you not consider that Mr. Cartwright and Mr. Odell had as much right to them as you had.

A. Certainly.

Q. Why did you not put them on the table before them?

A. Because if I had put those certificates on the table or had given those certificates either to Mr. Odell or Mr. Cartwright or Dr. Watts, I suspected they would do just what they did do, and I should be left without a certificate. The certificates made out in proper order would have been returned to President FERRY with their proceedings and that would have been recognized in preference to any other.

Q. Still I ask you if you did not feel bound to obey the majority of the electors known to be elected, when they asked you to put the certificates on the table?

A. No, sir.

Q. Did you think you had a right to take them away from the majority?

A. The question of right did not enter into that as much as the question of expediency.

From this it would seem that Mr. Cronin was not acting from a sense of right or duty, but solely from considerations of expediency.

To prove the utter worthlessness of Cronin's vote I need only state the fact that not one Senator—not even a democrat, not one—voted to receive Cronin's vote for Tilden and Hendricks. Every Senator admitted that Oregon should be counted for Hayes.

Mr. Speaker, there is something marvelous, almost miraculous, about the accomplishment of this defeat of the democratic party.

The republican party has been thoroughly and severely tried, and when we consider the many narrow escapes from our wary enemy I cannot but think that our final triumph is traceable to agencies higher than human. If we had lost a single point we had surely failed. But we gained every point. The electoral commission was your creature. But it did good work for the cause of truth and justice and humanity.

My friend from Ohio [Mr. WOODWORTH] puts it nicely, thus:

Partisanship is the crime of the commission. Is it not curious that while the supposed partisanship of the eight who concur is denounced there is a silence profound as the hush of death as to the at least equal partisanship of the seven who dissent? No one upon this side has uttered a word of censure of these seven, for no doubt they acted, as did their associates, upon an honest conviction, and were guided by a high sense of duty as they comprehend its dictations to them.

Sir, we have to-day been regaled not only with these expressions of impotent anger, but filibuster has been called in to aid those who cannot accept defeat. I am not surprised at this, nor at the chagrin and natural wrath of our democratic friends, for with everything to gain and nothing to lose they cunningly set a trap and were themselves caught; caught by the act of God, who disposes of all human events, and by the act of the Illinois Legislature, which disposed of Judge Davis. [Laughter.]

They digged a pit, they digged it deep,
They digged it for their brother;
But through their sin they did fall in
The pit they digged for 'tother.

[Renewed laughter.]

Here again "He that ordereth all things well" put it into the hearts of a sufficient number of the majority on this floor to enable us to crush out the revolutionary efforts of the obstructionists and filibusters.

Surely an all-wise Providence watches over the affairs of men, and controls the destinies of nations.

Hayes and Wheeler have been elected and will be inaugurated. Peace and prosperity will bless our country. Business will revive, and every good citizen will go to work with a light heart and bright hopes for the future. The Republic still lives, and republican principles of liberty, freedom, and equality are forever established in the hearts of the American people.

Before the scheming conglomerate mass known as the democratic party can ever secure control of this country it will be necessary for them to read understandingly the following *chapter* from Josh Billings:

Yung man, yu better be honest than cunning, and it iz hard work to be both.

Texas and Pacific Railroad.

SPEECH OF HON. F. LANDERS,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

March 1, 1877,

On the Texas and Pacific Railroad bill.

Mr. LANDERS, of Indiana. Mr. Speaker, the amendment in the nature of a substitute to House bill No. 472, commonly known as the Texas and Pacific Railroad bill, which I have submitted for the consideration of the House, has been offered in no spirit of hostility to the project of constructing another railroad along a southern route from the Mississippi River to the Pacific Ocean. On the contrary, it embodies, as I believe, principles and measures far less open to objection, and consequently far better calculated to attain the end desired, than the original bill or any of its amendments presented to this House. I am not, Mr. Speaker, in favor of the Federal Government entering upon a general system of internal improvements; but there are certain improvements of a national character which are manifestly of vast importance to the Federal Government and the people at large, and which are far beyond the reach of private capital, that cannot possibly be undertaken and carried through successfully without the aid of the Federal Government being extended in some form. This distinction, and the policy which it implies, has been recognized and acted upon by the leading statesmen of all parties almost since the foundation of the Government, and with the most beneficial results. As early as 1806 Mr. Jefferson approved a bill passed by Congress to aid in the construction of a road from Cumberland to Wheeling. In 1817 Mr. Calhoun advocated in this body the constitutional power of Congress to appropriate the dividends and interest on the bonds of the United States Bank to the construction of roads and canals; again in 1835 he advocated the granting of aid to a road from Cincinnati to Chattanooga; and again in 1849 he advocated the principle of governmental aid to a Pacific road on the southern route.

In 1827 an act of Congress donated a million and a half of acres of land in aid of the Wabash and Erie Canal. The measure was supported by Benton, R. M. Johnson, Rufus King, Horatio Seymour, and others of like distinction. In 1850 Congress granted two and one-half million acres of land to aid the construction of the Illinois Central Railroad. The bill was introduced by Stephen A. Douglas, and received the support of Benton, Cass, Houston, Shields, King, and many others, distinguished alike for their great ability and strict construction of the powers conferred by the Constitution upon the Federal Government. The policy and results of these grants by Congress in new States and Territories are thus referred to by Robert McClelland, Secretary of the Interior, in his annual report of December 5, 1853:

There can be as little doubt of the constitutionality of such grants as of their propriety. The right to donate a part for the enhancement of the value of the residue can no longer be questioned. The principle has been adopted and acted upon for nearly thirty years. * * * It has been of incalculable importance to the great West, and either directly or indirectly to all the States.

In 1856 both of the great political parties of the day incorporated in their platforms a plank in favor of extending governmental aid to a railroad to the Pacific Ocean. Indeed, in February, 1855, a bill passed the Senate for the construction of three railroads to the Pacific—a Northern, a Southern, and a Central Pacific Railroad. I may add that up to the breaking out of the rebellion the construction of no less than three railroads, in order to do justice to all sections of the country alike, was almost universally advocated by those who sought to develop the immense resources of the interior of the continent and to bind together more firmly the various sections of our widely extended country. But the breaking out of the rebellion in 1861 put an end for a time to all hope of carrying out the original plan. The Union Pacific and the Central Pacific were, however, completed, and, notwithstanding the fact that their construction was attended with great speculation and fraud, they have proved of incalculable benefit to the nation at large.

It is true, to refer briefly to what followed, that the subsidizing of these roads by the Government led to a mania for building land-grant roads, which was encouraged by Congress in the most reckless and disgraceful manner. Railroad projects, both good and bad, were indiscriminately aided by Congress without the slightest regard to the character of the enterprises, the wants of the region which they proposed to traverse, or the interests of the nation at large; and dishonest men were enabled to swindle not only the Government but the people of this as well as foreign countries in the most shameful manner. It is not surprising, in view of these facts, that a strong prejudice exists in the minds of the people and of members of this House against the policy of the Government extending further aid to projects of a similar character. But no such considerations should be permitted to control our actions at the present time. The question is one of too much importance and too far-reaching in its consequences to be considered and disposed of lightly or with a prejudiced mind. It is within our power to open up to civilization a vast region, rich beyond calculation in natural resources, now occupied by the savage alone, and to add immensely to the wealth and prosperity of our people, without adding one iota to the burdens of Government, if a wise policy is pursued in the determination of this question.

I have no doubt whatever, Mr. Speaker, as to our constitutional right to aid a work of national importance, though I shall not go into any elaborate discussion of the question, but rely simply upon the fact to which I have already adverted, that the right has been recognized and acted upon since an early period in the history of the Government. It will be observed that the statesmen whom I have cited as favoring governmental aid to national projects all belonged to the school known as strict constructionists. Mr. Calhoun, who was noted in this respect, as chairman of a select committee of the Senate in 1845, to whom was referred a memorial from the Memphis convention, made an elaborate report, from which I take the following extract:

Your committee will next proceed to consider that portion of the memorial which relates to the communication by railroad between the valley of the Mississippi and the Southern Atlantic States. They regard works of the kind as belonging to internal improvements, (that is, improvements within the body of the States,) and as such are, in their opinion, not embraced in the power to regulate commerce. But they are, nevertheless, of opinion that where such roads or other works of internal improvement may pass through public lands, the United States may contribute to their construction in their character of proprietors, to the extent that they may be enhanced in price thereby. * * * That Congress has a right to make such contributions where there is reasonable ground to believe that the public lands will be enhanced in proportion, under its right to dispose of "the territory and other public property of the United States," your committee cannot doubt. In making this assertion, they hold to the rule of strict construction, and that this power, like all the other powers of the Government, is a trust power, and as such is strictly limited by the nature and object of the trust. In this case the rule requires that the lands and other public property of the United States should be disposed of to the best advantage; and where that can be done by contributing a portion to works which would make the residue equally or more valuable than the whole would be without it, as is supposed, they hold it would be strictly within the rule. Your committee go further. They are of the opinion not only that Congress has the right to contribute to the extent stated in such cases, but that it is in duty bound to do so, as the representative of a part of the proprietors of the land to be benefited. It would be neither just nor fair for it to stand by and realize the advantage they would derive from this work without contributing a due proportion toward its construction. It would be still less justifiable to refuse to contribute if its effect would be to defeat a work the construction of which, while it would enhance the value of the land belonging to the public and that of individual proprietors, would promote the prosperity of the country generally.

Assuming, therefore, that we not only have the right to aid works of national importance, but that, in cases where the Government is a

part proprietor and the effect of the work is to promote the prosperity of the country generally, it is our duty to do so, it remains to be considered whether the construction of a railroad from the present terminus of the Texas and Pacific Railroad at Fort Worth to the Pacific Ocean is a work of national importance of the character described. When it is considered that the entire line yet to be constructed extends through an unsettled region, much the larger portion of which is owned by the Federal Government, I think there can be no doubt upon the subject. The vast region traversed by the projected road, now given over to solitude, would be speedily settled and the wealth of the nation be enormously increased by its construction. It would also open another great highway to the Pacific Ocean and increase the facilities of the nation for trading with the nations of the East, thus still further "promoting the prosperity of the country generally." To refer briefly to details, that portion of the road extending through the great and as yet but partially developed State of Texas will open up to the husbandman one of the richest and most inviting agricultural regions on the continent. Grains of all kinds can there be produced in larger quantities to the acre than in almost any other section of the country, while as a grazing region it is unsurpassed. Cotton, one of our leading exports, is also capable of being produced to an unlimited extent. Build this road and it will be but a short time until our annual crop of cotton will be doubled and contribute materially toward turning the balance of trade in our favor. This is a matter of no little importance in the present condition of the country.

After leaving the State of Texas the road traverses from east to west the extensive Territories of New Mexico and Arizona, whose mineral resources are believed, upon undoubted information, to surpass those of any other region known to civilization. Let this region once be thrown open to immigration and rich and prosperous States, contributing untold millions to the national wealth, will soon be added to our great confederacy. Surely this will be "promoting the prosperity of the country generally."

The trade of a large portion of old Mexico would also be secured by the construction of this road, which, although at our very doors, now tends to enrich foreign and distant nations. As already suggested, it would furnish the nation with another and more direct highway to the Pacific Ocean, and build upon its shores another great city to handle and distribute the increased products of our own and other nations.

There is still another consideration of great importance which should be mentioned in this connection. It is well known that in the regions to be traversed by this road the Government is unable to afford that protection to life and property which is the right of every citizen. Millions of dollars are spent annually in maintaining distant and isolated military posts without accomplishing the ends desired. There is no civilizer equal to the railroad. Let this road be built and industrious farmers, mechanics, and miners will be found making their homes along its line in sufficient numbers to protect themselves until civilization spreads over the entire region now occupied by the savage alone. Indeed, were the statistics at hand, I have no doubt they would show that in the Territories of New Mexico and Arizona alone the Government has expended more money in a fruitless effort to protect their inhabitants than would construct and equip a railroad from the Mississippi to the Pacific, to say nothing about the loss of millions of dollars of private property, and of the lives of hundreds, perhaps thousands, of our hardy pioneers. It is the duty of the Government to afford protection to all of its citizens, and the means best calculated to secure that end ought unquestionably to be adopted.

If protection is thus extended and the region referred to is settled by means of the completion of the Texas and Pacific, the lands of the Government would find ready purchasers and the revenues of the Government be correspondingly increased, not only by the proceeds of the sale of its lands, but by the increased production of wealth, both mineral and agricultural, which would follow. In a large portion of the country traversed by the Texas and Pacific the Government is the sole proprietor, and its interests alone are promoted. If that be true, according to the rule laid down by Mr. Calhoun in the report from which I have quoted, "it would be neither just nor fair for the Government to stand by and realize the advantage it would derive from this work without contributing a due proportion toward its construction."

There cannot, I think, be any doubt in the minds of the members of this body in regard to the character of this project, but that all will, upon due reflection, agree with me that it is a work of national importance, and falls under that class of public improvements which for nearly half a century have been recognized by leading statesmen of all parties as being within the scope of the powers conferred upon Congress by the Constitution. That point settled, it only remains now to consider the several plans submitted to this House for extending governmental aid to this road, and for this purpose it is only necessary to examine the provisions of the original bill offered by the committee and the substitute which I have had the honor to submit for the consideration of the House. And I may remark at the outset that I have been obliged to offer a substitute instead of attempting simply to amend the original bill, because, as will be seen by an examination of the original bill and the substitute, they differ not only as to details, but as to the manner in which governmental aid should be extended to the project in the most radical manner.

The original bill seems to have been prepared with great care, with a view to protecting the Government and the people, so far as it is possible to protect them, under the plan of aiding the road as proposed in the bill. My objections go directly to the plan proposed. But before proceeding to discuss the merits and demerits of the plan I desire to call attention to two or three important objections to the original bill which have been avoided in the substitute. I allude, first, to the provision authorizing the construction of several branches, namely, one to New Orleans, one to Vicksburgh, and another to Memphis, and also one from Vinita, the present terminus of the Atlantic and Pacific Railroad, to a connection with the Texas and Pacific at the one hundredth degree of longitude. The three branches first named are all within the States, and in reality form no part whatever of a direct trunk line to the Pacific Ocean. They have all, I believe, been organized under State charters. However that may be, they all extend through old States, in which the Government has long since ceased to be a part proprietor of lands, and are clearly not entitled to Government aid under the principles which I have laid down as governing the action of Congress in cases of internal improvement of this character. With the same propriety Congress might be called upon to aid branches from Louisville, Cincinnati, or Charleston, thus committing the Federal Government to a system of general internal improvements in the construction of railroads not contemplated by the Constitution, and manifestly in direct violation of public policy.

The Atlantic and Pacific branch differs from the other branches in this, that it is not projected through any of the old States. It is proposed to extend it through the Indian Territory, which would render it necessary for the Government to extinguish the Indian title by purchase, thus adding to the liabilities to be assumed by the Federal Government. The Atlantic and Pacific does not necessarily form any part of a through trunk line to the Pacific Ocean, and as part of a branch to Saint Louis its construction is entirely unnecessary, for the reason that the extensive region of which that city is the commercial center already enjoys the advantages of two roads extending from Saint Louis to a connection with the Texas and Pacific west of the Mississippi River, namely, the Iron Mountain and Saint Louis Railroad and the Missouri, Kansas and Texas Railroad.

The estimated length of the several branches proposed is as follows: The New Orleans branch 337 miles, the Vicksburgh branch 100 miles, the Memphis branch 265 miles, and the Atlantic and Pacific branch 325 miles, or in the aggregate over one thousand miles, but little less than the whole number of miles of the main trunk line which yet remain to be constructed. To guarantee the interest on bonds payable fifty years after date, at the rate of $25,000 a mile, as is proposed, would require the Government to become responsible for the interest on $25,000,000 of bonds, which, at 5 per cent. per annum, would amount in fifty years to the large sum of $62,500,000, reckoned at simple interest, or if reckoned at compound interest, which would represent the actual loss to the Government if obliged to pay this interest, to the still larger sum of about $275,000,000. Apart from the constitutional objections and the objections on the grounds of public policy to which I have adverted the proposition that the Federal Government shall become responsible for the payment of this large sum in aid of branches that are in no sense works of national importance, and form no part of the main project, which is a work of national importance, should not be entertained by this House for one moment.

There is also another feature of the original bill open to serious objections which has been remedied by the substitute. I refer to the authority granted to the Southern Pacific (of California) to build that portion of the road which extends from a point one hundred miles west of El Paso to the Pacific coast, by way of Gorgonia Pass. At Fort Yuma, a point about two hundred miles east of San Diego, the Southern Pacific of California is authorized to divert the road from a direct course and build in a northwesterly direction to Gorgonia Pass, on the line of the Southern Pacific of California, to San Francisco. This is manifestly for the purpose of rendering the entire road tributary to the Southern Pacific of California and the city of San Francisco. It is true that the original bill provides for a branch from Gorgonia Pass to San Diego, but it is clearly a departure from the idea of a short and direct route to the Pacific Ocean, and militates against the theory of building up on the shores of the Pacific another great commercial city to handle and distribute the wealth which will seek this channel of trade. The proposed deflection in the line of road, by way of Gorgonia Pass, will add about one hundred miles to its length, which is, so far as I can learn, altogether unnecessary when the main object of constructing this road is considered. Besides this, it is well known that the Southern Pacific of California and the Central Pacific, which forms the western division of the Union Pacific Railroad to San Francisco, are identical in interest. The people of California and San Francisco, as well as the States and Territories along the fortieth and forty-first parallels of latitude, have had a transcontinental railroad constructed at the expense of the Federal Government; and the chief claims of the Texas and Pacific to Government aid are founded upon the theory that it will open up and develop an entirely new region of country, and when completed will constitute a rival and competing route to the Pacific Ocean. To place the western division of the Texas and Pacific under the control of the same parties that own and control the western division of the Union Pacific would hardly accord with the theory of establishing a competing line to the Pacific; it would be too much like turning over

the lambs to the care of the wolves, and should be deemed by this House a fatal objection to the bill of the committee.

I submit, Mr. Speaker, that to place this project upon a square, honest footing to entitle it to the consideration of this House as a work of national importance it must be divested of all entangling alliances, which are only calculated to surround it with suspicion and detract from its real merit. Such I have regarded the branches to Memphis, Vicksburgh, New Orleans, and Vinita, and the alliance with the Southern Pacific of California, which undoubtedly deprives the project of one of its most important features, namely, that of a competing road to the Pacific. For these and other reasons of a like nature I have provided in the substitute for the bill of the committee only for the construction of the main trunk line from Fort Worth to San Diego by what is known as the most direct route, a distance of less than fourteen hundred miles, and have left out the branches entirely, which diminishes the length of road to be subsidized over a thousand miles.

I now come to discuss the two plans of extending governmental aid to this project, and with all due deference to the opinions of others, I insist that the plan embodied in the substitute will be found to be so infinitely superior to that proposed by the committee that it cannot fail to commend itself to this House and to the country. Heretofore two methods of granting aid to works of internal improvement have invariably been adopted: one by donating public lands, the other by lending the credit of the Government in the form of interest-bearing bonds. Both of these methods have resulted in great abuses. When lands have been donated it has been found that, sooner or later, they were monopolized by the few and held for private speculation, thus preventing their occupancy by actual settlers and retarding the growth and development of the country. But there is another and a still stronger objection to this method, which also applies to the method of guaranteeing bonds. The corporations to whom lands have been donated have been enabled by such grants to negotiate bonds based upon them for capital bearing a high rate of interest, mostly abroad, with which to construct their roads. This has rendered our country tributary to other nations to an alarming extent. It is estimated that over one hundred million dollars' worth of the products of American industry are required each year to pay the annual interest on railroad securities alone, held abroad. The larger part of this immense amount might have been kept at home to further enrich our own people, had a wiser policy been pursued in the matter of aiding works of this character.

The method of aiding works of national importance by guaranteeing bonds is equally vicious. Its workings may be seen in the loan of $64,000,000 of 6 per cent. bonds to the Union Pacific. The bonds are still outstanding, and the Government has already paid over $30,000,000 in interest, obtained from the people by taxation, and will be obliged to pay a great many millions more before it is released from responsibility on account of that road.

These methods, it will be observed, are indirect. The railroad companies thus aided cannot use either the lands or the bonds, but have to use them in procuring money. This is done by shinning through the markets of the world, at great expense, and obtaining the use of money at exorbitant rates of interest, which largely increases the cost of construction and renders cheap transportation an impossibility.

In the case under consideration the bill offered by the committee proposes to guarantee the interest, at the rate of 5 per cent. a year, on bonds of the company to the amount in round numbers of $70,000,000. The annual interest on that sum at 5 per cent. a year is $3,500,000, or for fifty years, the time the bonds have to run, $175,000,000. These bonds would undoubtedly sooner or later follow our other bonds to Europe, and eventually, whether paid by the company or the Government, would require this country to send products abroad to the full amount of both principal and interest, in all $245,000,000, to meet their payment. This is an absurd and ruinous method of raising money for enterprises of any kind, and it is high time for it to be stopped. It is this policy that is bankrupting all our railroads, as well as all other legitimate industries in the country, and which has rendered cheap transportation an impossibility. It is estimated that over two hundred million dollars' worth of the products of this country are required to be sent abroad each year to meet the interest on our various obligations held there. This, I repeat, is a fearful drain upon the labor and resources of the country.

Few people stop to consider the wonderfully rapid accumulation of money by means of interest. It is perfectly legitimate to reckon the accumulation of value at compound interest, for if the amount sent abroad in payment of interest was retained at home it would contribute to the increase of our own wealth in a corresponding degree. For example, let us take $1,000 and see what it will amount to in fifty years, the interest being added every six months.

One thousand dollars at 5 per cent. in 50 years will amount to $12,575.87.

The interest on $70,000,000, the amount which the Texas and Pacific company desire to borrow, would amount in fifty years, at compound interest, to an enormous sum many times greater than the principal.

I mention these facts for the purpose of calling attention to the accumulative power of capital in the form of money, as money is now instituted, by means of interest, and the false principle upon which the system is based. As money is now instituted it is something more than a mere tool of exchange, as it is described by the economists. A scarce metal is selected as the material out of which to make money, and one I may add that is relatively growing scarcer as population increases and society moves on; and not content with this, it is clothed with the sole power of legal tender, the most potent power known in the affairs of a civilized community. In this way money is endowed with supreme control over labor and all kinds of property, and its functions as a tool of exchange are totally perverted. Although a community may possess abundant resources as well as labor, nothing can be accomplished until capital in the form of money is employed. Money in the form of capital it is said represents past labor. Well, I would like to know why past labor should be considered any better, or entitled to any more rights, than present labor. Well-informed people, and even political economists, are in the habit of considering it a great advantage to us if we can borrow money abroad at a low rate of interest. They say it gives us what we most need, capital; and at the same time they entirely overlook the fact that we have a thousand times more capital in the form of natural wealth and labor going to loss before our eyes constantly, simply for the want of a tool of exchange to render it available. It is for reasons such as these that I am opposed to the Government ever issuing another bond, or encouraging corporations to do so, under the present false system of money and finance.

But, Mr. Speaker, there is a way in which the Government of the United States can aid undertakings of national importance, not only without burdening either the Government or the people, but to the great and lasting advantage of both, and one which, I submit, is founded upon sound principles of finance as well as common sense. That way I have embodied in the substitute, which I have submitted for the consideration of this House, and I shall now proceed to discuss its merits in the briefest manner possible:

The first section of the substitute provides for the construction of the main trunk line from its present terminus at Fort Worth to San Diego by the shortest practicable route. The branches provided for in the original bill are, for the reasons already given, not embraced in the substitute, nor is any provision made to authorize the Southern Pacific of California to build the west half of the road.

The second section, relating to *pro rata* arrangements with connecting roads and like questions, is almost identical with the same section in the original bill, and affords I think all the safeguards required to secure the end aimed at.

The third section provides that the company shall execute and deposit with the Secretary of the Treasury bonds of the company, properly secured by mortgage on the road, lands, and franchises of the company, to the amount of $30,000 per mile of road to be constructed, said bonds to be payable in lawful money fifty years after date and to bear interest at the rate of 2 per cent. a year; interest not to begin to run until three years after date.

The fourth section provides that on the construction of ten or more miles of road and their acceptance by the Government on the certificate of commissioners given under oath, the Secretary of the Treasury shall deliver to said company non-interest-bearing Treasury notes of the United States to the amount of the actual cost of the road, not to exceed the average rate of $30,000 per mile.

The proposition embodied in the two last sections is simply this, that, instead of the Government lending the company its credit in the shape of a guarantee of the interest on the bonds of the company to the amount of $175,000,000, it shall lend its credit in the form of non-interest-bearing Treasury notes to the amount of about $42,000,000. This proposition, simple and plain as it is, will lead to results as different from those which would follow the passage of the original bill as day is from night.

If the bonds of the company are guaranteed as to their interest by the Government the company could not use them directly in the construction of the road, but would have to go shinning around the markets of the world at a great expense and stand a heavy discount, in all probability, to obtain capital, representing past labor, to use as a tool of exchange in order to avail itself of the labor and resources of our own people in the construction of its road. This is not only entirely unnecessary—for, as already suggested, it is not past labor that is wanted, but simply a tool of exchange to render available present labor and resources on hand—but it is worse. It entails upon the people a burden equal to the interest paid for foreign capital used in the construction of the road, and in case the company becomes delinquent and the road passes into the hands of its foreign mortgagees it will prove a drain upon the country to the extent of the profits of the road forever unless the road is repurchased by our own people at some future time, which can never happen if money continues to be instituted as at present.

The interest on $70,000,000 at 5 per cent. a year would be $3,500,000, the amount which would have to be sent abroad each year in products or bullion to pay for the use of capital needed to serve the purposes of money. If the experience of the Union Pacific is to be taken as a criterion, this amount is larger than the Texas and Pacific Company can hope to realize from the profits of its road for many years to come, and would lead to embarrassment to the company, high rates of transportation, and to further taxation on the part of the Government; and in the end, as already suggested, would render

the road tributary solely to foreign capitalists. We have now too many roads built in this manner, working solely for the advantage of foreigners, and it is time for us to look a little more closely to the interests of our own people. The cry of reform was heard throughout the land last fall, and was indorsed by the people in the most overwhelming manner, as indicated by the election of Mr. Tilden. If reformation is needed in anything more than another—more even than turning out the thieves and plunderers of the people now in office—it is in the present financial policy of the Government, which for years past has been skillfully molded to enrich the capitalist, the money-lender, and the bondholder at the expense of the industrial and business classes of the country.

Let us now contrast this with the results to which the principles embodied in the substitute will lead. The company in the first place would be furnished with precisely what is needed, a tool of exchange, ready money, without incurring any ruinous expense to obtain it, to prosecute its work and construct the road. Interest does not begin to run on the credit of the Government, lent in this form to the company for three years, giving ample time, with the advantage of ready money, to complete the road and begin to earn the money required to meet it. The interest which the company will be called upon to pay to the Government is fixed at the low rate of 2 per cent. in order to enable the company to construct its road cheaply, and as a consequence to carry cheaply. This fact of itself involves results of the most important character, such as inviting immigration along the line of road and securing the rapid development of the region traversed by it; and also insuring cheap transportation to the Pacific Ocean by a competing line to the route already established. The low rate of interest will place it within the power of the company to meet its obligations as they fall due; for if it can hope to pay 5 per cent. to foreign capitalists it can certainly pay 2 to the United States Government, so that no embarrassment to the company or high rates of transportation need be apprehended, and instead of proving a drain upon the country, tending to enrich foreigners, it will prove a source of revenue to the Government, and relieve to that extent the burden of taxation. If the Federal Government is to lend its credit to a corporation for the purpose of constructing a work of this kind, to be owned by the corporation and operated solely for its private gains, it is but fair and proper that, until this credit, in the form of notes, is repaid, a portion of the earnings of the road should be applied to the payment of interest to the Government. It certainly is better all round, for both the Government and the people, as well as the company, that it should pay 2 per cent. interest to the Government than 5 per cent. abroad.

In order to meet the interest on its bonds and for the purpose of providing for their gradual redemption the company is required to pay into the Treasury of the United States every six months: first, the net earnings of the road; second, the net proceeds of the sale of lands; and, third, the amount due from the Government for transportation, and mail, and telegraphic service, and ample provision is made by the substitute to protect the Government against fraud in these particulars. The whole amount of the revenues of the road is required to be turned over to the Government in order that it may be secured to the utmost extent for the loan of its credit until the whole is repaid. It will not be possible under these provisions for anybody to misapply, under any circumstances, the funds of the road. That the Government is justified in exacting these conditions, I think cannot be disputed, when the object to be attained, as well as the responsibility of the Government, is fully considered.

As the company cannot control one dollar of the revenues of the road, over and above operating expenses, until the entire debt is paid, it would naturally desire to pay it off as rapidly as possible in order to acquire absolute control of the road at the earliest day possible. To accomplish this end, the highest obtainable rates for freight and travel would be imposed, depriving the people of cheap transportation and defeating one of the main objects of the construction of the road; and it is therefore provided by the substitute that the bonds of the company held by the Government shall not be redeemed at a more rapid rate than $2,000,000 a year. This, in connection with the right reserved by Congress to regulate rates of travel and freight, will enable this body, when advised from time to time of the revenues of the company, by the Secretary of the Treasury, to see that the rates are uniformly kept on a plane corresponding with its revenues.

The matter may therefore be summed up as follows: The Government is to lend its credit to the Texas and Pacific Company to the amount of $42,000,000, at the rate of 2 per cent. per annum, in the form of non-interest-bearing Treasury notes, calculated to circulate as money, the interest not to begin to run for three years, after which it is to be paid semi-annually at the rate 2 per cent. a year, and the bonds are to be redeemed at the rate of $2,000,000 a year.

Assuming that the company will have no difficulty in complying with these terms the result will be seen by a glance at the following table, three years being allowed for the completion of the road.

Total amount of loan June 1, 1877		$42,000,000
Interest due January 1, 1881	$420,000	
Interest due June 1, 1881	420,000	
Total	840,000	
First installment of bonds payable June 1, 1881	2,000,000	
Leaving		40,000,000
Interest due January 1, 1882	$400,000	
Interest due June 1, 1882	400,000	
Total	800,000	
Second installment of bonds payable June 1, 1882		2,000,000
Leaving		38,000,000
Interest due January 1, 1883	380,000	
Interest due June 1, 1883	380,000	
Total	760,000	
Third Installment of bonds payable June 1, 1883		2,000,000
Leaving		36,000,000
Interest due January 1, 1884	360,000	
Interest due June 1, 1884	360,000	
Total	720,000	
Fourth installment of bonds payable June 1, 1884		2,000,000
Leaving		34,000,000
Interest due January 1, 1885	340,000	
Interest due June 1, 1885	340,000	
Total	680,000	
Fifth installment of bonds payable June 1, 1885		2,000,000
Leaving		32,000,000
Interest due January 1, 1886	320,000	
Interest due June 1, 1886	320,000	
Total	640,000	
Sixth installment of bonds payable June 1, 1886		2,000,000
Leaving		30,000,000
Interest due January 1, 1887	300,000	
Interest due June 1, 1887	300,000	
Total	600,000	
Seventh installment of bonds payable June 1, 1887		2,000,000
Leaving		28,000,000
Interest due January 1, 1888	280,000	
Interest due June 1, 1888	280,000	
Total	560,000	
Eighth installment of bonds payable June 1, 1888		2,000,000
Leaving		26,000,000
Interest due January 1, 1889	260,000	
Interest due June 1, 1889	260,000	
Total	520,000	
Ninth installment of bonds payable June 1, 1889		2,000,000
Leaving		24,000,000
Interest due January 1, 1890	240,000	
Interest due June 1, 1890	240,000	
Total	480,000	
Tenth installment of bonds payable June 1, 1890		2,000,000
Leaving		22,000,000
Interest due January 1, 1891	220,000	
Interest due June 1, 1891	220,000	
Total	440,000	
Eleventh installment of bonds payable June 1, 1891		2,000,000
Leaving		20,000,000
Interest due January 1, 1892	200,000	
Interest due June 1, 1892	200,000	
Total	400,000	
Twelfth installment of bonds payable June, 1, 1892		2,000,000
Leaving		18,000,000
Interest due January 1, 1893	180,000	
Interest due June 1, 1883	180,000	
Total	360,000	
Thirteenth installment of bonds payable June 1, 1893		2,000,000
Leaving		16,000,000
Interest due January 1, 1894	160,000	
Interest due June 1, 1894	160,000	
Total	320,000	
Fourteenth installment of bonds, payable June 1, 1894		2,000,000
Leaving		14,000,000
Interest due January 1, 1895	140,000	
Interest due June 1, 1895	140,000	
Total	280,000	
Fifteenth installment of bonds, payable June 1, 1895		2,000,000
Leaving		12,000,000
Interest due January 1, 1896	120,000	
Interest due June 1, 1896	120,000	
Total	240,000	
Sixteenth installment of bonds, payable June 1, 1896		2,000,000
Leaving		10,000,000
Interest due January 1, 1897	100,000	
Interest due June 1, 1897	100,000	
Total	200,000	
Seventeenth installment of bonds, payable June 1, 1897		2,000,000
Leaving		8,000,000

Interest due January 1, 1898	$80,000	
Interest due June 1, 1898	80,000	
Total	160,000	
Eighteenth installment of bonds, payable June 1, 1898		$2,000,000
Leaving		6,000,000
Interest due January 1, 1899	60,000	
Interest due June 1, 1899	60,000	
Total	120,000	
Nineteenth installment of bonds, payable June 1, 1899		2,000,000
Leaving		4,000,000
Interest due January 1, 1900	40,000	
Interest due June 1, 1900	40,000	
Total	80,000	
Twentieth installment of bonds, payable June 1, 1900		2,000,000
Leaving		2,000,000
Interest due January 1, 1901	20,000	
Interest due June 1, 1901	20,000	
Total	40,000	
Twenty-first installment of bonds, payable June 1, 1901		2,000,000

By the foregoing table it will be seen that the whole amount of the credit lent by the Government will be repaid in twenty-one years, and that the Government will also receive during this period the sum of $9,240,000 as interest.

Thus, besides the other advantages conferred upon the nation by the construction of the road, it will prove a source of revenue instead of expense, until after the bonds of the company are wholly retired. But suppose the company is not able to redeem any of its bonds for the first twenty or thirty years, in that event not only will no harm result to the Government or the people, but on the contrary the Government will continue to be in the receipt of a much larger revenue from the road during the whole time in the way of interest, and I may still go further, and say that even in case the company is unable to pay either principal or interest for years to come, its failure to do so would not redound to the injury of either Government or people in the slightest degree. Contrast this with the plan proposed by the original bill, which under the most favorable circumstances will cause to be sent abroad in the payment of principal and interest products or bullion to the amount of $245,000,000, or, in case the road should fail to meet its obligation, would render the Government liable for $175,000,000, to be raised by taxation, and in all probability give the road into the hands of foreigners to be managed in their own interests for all time to come; or again, contrast it with the plan upon which the Union Pacific was built; which has rendered that road a burden to the nation, to the amount of nearly $4,000,000 a year.

Besides the many advantages which the nation would enjoy, arising from the construction of the road by the plan proposed, the issue and circulation of $42,000,000 of par paper money, not peddled out by the banks at a high rate of interest, to be recalled at pleasure, would contribute largely to the revival of our prostrate industries; no small matter of itself. As this money could not be retired by the Federal Treasury any faster than the bonds of the company are redeemed, any delinquency on the part of the company in that respect would be more than counterbalanced by the good results that would continue to flow from the use of that amount of cheap money in the hands of the people.

The cry of inflation will doubtless be raised by the bondholders and gold gamblers and their tools and organs throughout the country, and it may not therefore be out of place to say a word upon that point. The Government has succeeded, by contraction and so legislating as to render further contraction inevitable in the interests of the classes referred to, in paralyzing the productive industries of the country to an alarming extent. Indeed, if matters go on in the present way much longer it will soon be impossible for the industrial and business classes to pay their taxes, much less their current obligations. When it is proposed by this House to undo the rascality which was perpetrated in 1873 and re-establish the silver dollar of the country a great hue and cry is raised by the money power that injustice will be done to the creditor, meaning more particularly the bondholders, and much is said about maintaining the credit of the Government. Why, the credit of the Government as represented by our bonds is 5 per cent. or more above par in gold to-day; but where is the voice of any one heard denouncing the rascally policy that is reducing the value of property of all kinds from 20 to 50 per cent., that is driving the business classes of the country into bankruptcy and is spreading poverty and distress broadcast throughout the land?

We possess a land rich in natural resources, far more so perhaps than that possessed by any other nation under the sun; we are in the habit of boasting of our intelligence, our skill, and our enterprise, and yet to-day poverty and want are stalking through the land, and as a people we are the poorest of any among civilized nations. Is there not a reason for this? Would-be statesmen and political economists who eat their bread in the fear of the money power say that it is due to overproduction, extravagance on the part of the people, and like causes. This is more than nonsense, and will deceive none but the ignorant. Human ingenuity is being constantly taxed to invent new methods by which production can be increased and cheapened in order that the good things of this world may be brought within the reach of all, and such a thing as overproduction, as society is now constituted, is an absurdity. The charge of extravagance is equally groundless. The industrial and producing classes of society labor year in and year out, scarcely enjoying the common comforts of life, and are only too glad under the present system if they can accumulate a little property after years of toil. No, Mr. Speaker, the only extravagance that has manifested itself to any great extent in American society is among those who are enabled to rob the people while occupying positions of public trust or by means of the present false and corrupt financial policy.

The simple truth, divested of all the fallacies by which it has been surrounded by interested parties in these Halls, in the press, and in colleges, is this: The powers of production of late years have been increased enormously, but no corresponding advancement or progress has taken place in the machinery of distribution, in which money, the tool of exchange, plays the most important part. On the contrary, every effort has been made by the money power not only to repress any advancement in that direction, but to still further increase the power of money over labor and property by further diminishing its amount, as compared with population and trade. This is witnessed in the Old World by the attempt to demonetize silver, and in this country by the demonetization of silver and the effort to retire the Treasury notes of the Federal Government.

In European countries, except perhaps in France where an enlightened system of money exists, the money power has had absolute sway, and by limiting the legal-tender money to an insignificant amount as compared with the growth of population, commerce, and trade, it has been enabled to reap the entire profits of industry for generations, until now we see it as a result that the wealth of the world is being rapidly concentrated in the hands of the few and the masses are consigned to drudgery and poverty. Do American statesmen desire to produce similar results in this country? The legislation of Congress during the past ten years looks very much as if they did.

A nation cannot have any more wealth than it produces. It is therefore of the first importance to give free development to all of its producing forces: its soil, its mines, its water-power, its machinery, its labor, &c. This can only be done, as is fully demonstrated by experience, through the instrumentality of an abundant and cheap currency. As well talk about farming without implements, or transportation without cars or wagons as to talk about producing wealth in a civilized nation without a currency sufficiently cheap and abundant to circulate naturally in the channels of trade, in obedience to the laws of supply and demand. It will be said, however, that we have sufficient currency in the banks and that it can easily be got out if people have anything to get it with. This is another of the plausible fallacies used to hoodwink the public in regard to the source of our present financial troubles. Why is money plenty in the banks? This fact alone, that the money and currency of the country are all concentrated in the banks and in the money centers, I submit, is conclusive proof that there is something inherently wrong with our system of money. Why is it not filling the channels of trade and performing the functions for which money or currency is designed? Because, Mr. Speaker, industry has been robbed of its profits and driven to the wall, helpless, by means of contraction and the tribute exacted by the banks, as middlemen, in supplying our currency, which should be supplied by the Government, free of tribute, in the legitimate conduct of its affairs.

No revival of business or production can possibly be looked for as long as the money-lenders and bondholders are permitted to furnish us with a theory of money and a financial policy calculated to advance their own interests alone, nor can we ever hope to extinguish the vast load of debt, national, State, corporate, and individual, which now burdens this people. And in this connection I wish to call attention to a fact connected with the national banks which I think is not fully considered or appreciated by the public at large. The basis of the currency of the national-banking system is the public debt or the bonds which represent it. Is it not perfectly clear that it is to the interest of the national banks to perpetuate the national debt in order that it may serve forever as such basis, and that every obstacle will be thrown by them in the way to prevent its extinction. This is one reason why silver has been demonetized and the bonds made payable only in gold. Good care will be taken that the Government shall never be able to get the gold, and in this way it is expected, not only that our national debt shall never be extinguished, but, on the other hand, that it will be increased. The late message of President Grant, recommending the funding of $150,000,000 of greenbacks in interest-bearing gold bonds, is a step in this direction that has been contemplated all along, and will be pressed until accomplished unless the people are aroused to a sense of their danger. It was not expected that the recommendations contained in the message referred to would be carried out at this session of Congress, but its object is to familiarize the people with the proposition by having it favorably commented upon and indorsed by the organs of the money power throughout the country. This question in relation to banks—I allude to the power with which they are clothed by law to issue their own notes to circulate as a currency—is one of paramount importance at the present time, for during the next four or five years they intend by retiring the circulation of the Government to obtain sole control of the currency of the country, and fasten upon us a system of money the effect of which will be, here as in Europe, to concentrate the wealth of the peo-

ple in the hands of the few and reduce the masses to the ignoble position of "hewers of wood and drawers of water" for them.

I may add further, in regard to the charge of inflation which will be raised against this substitute, that the whole amount of Treasury notes proposed to be issued under its provisions, about $42,000,000, will not equal the amount of bank currency retired from circulation during the past year. Besides, these Treasury notes would not all be issued at once, but gradually, as the road is constructed, and it is more than probable that a much larger amount could be absorbed by the increased business consequent upon the development of the new region of country through which it would extend.

The design of this substitute, it will be observed, is twofold: to secure the construction of another and a competing road to the Pacific Ocean, opening up and developing, at the same time, a vast region abounding in natural wealth, and to give to the nation the nucleus of a sound currency.

At this period of civilization it is manifest that a paper money in some form is absolutely necessary, and as bank currency has been demonstrated by experience to be the worst form of paper money ever devised, some other system of money should be established. With the fathers of the Republic I am in favor of gold, silver, and the Treasury note, and as much ado continues to be made about the legal-tender character of the greenback, I have adopted that form of Treasury note which has received the sanction of all branches of the Government and of the people since the early part of the present century. A great deal has been said about tinkering with the currency, and we are told by tools of the money power and by the economists that if we let matters alone they will regulate themselves. I agree with them fully so far as the principle is concerned, but perhaps I would make a somewhat different application of it. I, too, Mr. Speaker, am opposed to tinkering with the currency. There has been entirely too much of it done. Scarcely a session of Congress has passed since the war closed that has not witnessed the passage of some law relating to our financial policy in the interests of the bondholder and the money-lender, and against the property-owner, the manufacturer, the business man, the farmer, and the laborer. Instead of those who demanded an honest currency issued by the Government being the "tinkers," it is the other fellows. They have had their hands on the throat of industry and in the pockets of the people long enough and they must be made to let go their hold, in order that industry may have an opportunity to revive and lend its aid in restoring prosperity to the nation.

It will perhaps be urged against the Treasury note in the form provided for by the eleventh section of the substitute that it will not circulate at par and will constitute a depreciated currency. There never has been an instance of a Treasury note issued in the proper form and made receivable for all taxes, dues, and demands, including customs, that depreciated a farthing. Even during the darkest period of the war the Treasury notes issued in this form, known as the "old demand notes," circulated at par with gold and went up with it to a premium, as compared with greenbacks, of 2.85½, and for no other reason than that it was receivable by the Government the same as gold coin. That it will not do so now when no uncertainty will attend its use, and the revenues of the Government exceed $250,000,000 a year, is a gratuitous assumption based on neither reason nor experience. It is far more likely that they will not only be equal to gold but preferable on account of their greater convenience.

With such a currency filling the channels of circulation, the producing forces of the nation would find free development, and our productions would increase with such rapidity and to such an extent that our national debt would prove but a mere bagatelle. During the period immediately succeeding the war, before McCulloch began his infamous policy, our production of wealth was so great, owing to the abundance of paper money in circulation, that we paid off about $500,000,000 of our public debt without experiencing the least distress on account of taxation. A sounder currency, such as this will prove, will enable us to produce wealth more rapidly than we did then, and render it possible for us to pay off our foreign liabilities and by our excess of productions obtain all the gold and silver required for specie circulation, in case it is desired, in a very short time. It is impossible in a speech of this character to notice all the fallacies put forward by the advocates of the bank-currency system of money, but I will dispose of one more. It is said that such a currency as I propose will drive gold out of the country. If we reach a healthy balance of trade in our favor by reason of producing an excess of products instead of an unhealthy one, such as exists at the present time by reason of our poverty, what, I would like to know, could take gold out of the country? Bullion goes abroad to settle balances, but if the balances are in our favor, what, I repeat, could take gold abroad? Would it not rather flow in this direction if we preferred to have it instead of commodities?

But I have given more consideration to this branch of the subject than I had designed, and I will conclude with a brief review of the leading features of the substitute, which I will here remark has been offered not in the interest of any corporation, as may be judged by the stringency of its provisions, but in the sincere hope that this House may be induced to aid this work as a work of national importance, especially at the present time, in a way that will result in utilizing our own resources and enable us when the work is completed to retain all the benefits that may flow from it within our own borders and in the hands of own people.

In conclusion, then, I think I have shown—

First. That we have an undoubted right to aid a work of national importance of this character, where it extends through a new region of which the Government is part proprietor.

Secondly. That the Government having no right to enter upon a general system of internal improvement, should not aid the branches proposed in the original bill.

Thirdly. That it is not to the interests of the Government or people to permit the Southern Pacific of California, which is identical with the Central Pacific that owns and controls the west half of the Union Pacific, to build the west half of the Texas and Pacific.

Fourthly. That the policy of issuing bonds, whether Government or railroad, with a view to their sale abroad to obtain capital, is not only an unnecessary but a vicious method of obtaining money, resulting in a drain upon the industries of the country, and should no longer be resorted to by the Federal Government, directly or indirectly.

Fifthly. That the nation possesses abundance of capital in its natural resources and labor, which latter is lost forever if not employed, that can be rendered available for all purposes, greatly to the advantage of the Government and nation, if touched by the vitalizing influence of money.

Sixthly. That the Treasury note of the United States constitutes the cheapest and most convenient tool of exchange, money, that can be devised for the purpose of developing the producing forces of the nation.

Seventhly. That the plan proposed will not only secure the construction of the road in the most economical and speedy manner possible, and also cheap transportation, but will enable us to retain all the profits which will arise from the development of the country and the operation of the road in the hands of our own people.

Eighthly. That instead of the road being a burden upon the Government or people, it will be a source of revenue to one and of wealth to the other.

Ninthly. That under the provisions of the substitute, all revenues of the company being paid directly to the Government, it will be impossible for the company to evade its obligations.

Tenthly. That the business interests of this country will be greatly benefited, not only directly by the construction of the road, but indirectly by the use of a considerable amount of par paper money, now so greatly needed in the channels of trade.

If these and other objects of a like nature can be secured by the passage of this substitute, I submit that it would not only be wise in this House to aid in the construction of this road, but that, considering the prostrate condition of our industries, it is also a duty.

South Carolina.

SPEECH OF HON. E. G. LAPHAM,

OF NEW YORK.

IN THE HOUSE OF REPRESENTATIVES,

February 28, 1877,

On the reports of the select committee to investigate the recent election in the State of South Carolina.

Mr. LAPHAM. Mr. Speaker, the speech of the gentleman from Missouri [Mr. PHILIPS] in relation to the investigation made by the select committee to South Carolina, as well as the reports submitted by the members of that committee, seem to require of me, as one of the minority of said committee, a brief notice of some of the extraordinary statements and deductions in said speech and reports. The gentleman from Missouri opens his speech by saying that, "to comprehend a political contest and its results in South Carolina, one must go and look at it." Well, Mr. Speaker, I have been and "looked at it," as well as the gentleman, and I think he entirely fails to comprehend it [the contest] or "its results." I make no hazard in saying if he had "looked at it" from a different stand-point, and as an impartial searcher for the truth, his inferences would have received less coloring from that open contempt for the condition of the emancipated race of the South and their equal rights before the law which breathes from almost every sentence in his speech and every line in his report.

A speech with such an animus most naturally commences with degrading comparisons of the condition of the colored men and Federal officers in the State, drawn copiously from the words of "Jack Falstaff," of whom Johnson has written that he was a "compound of sense and vice; of sense which may be admired but not esteemed; of vice which may be despised, but hardly detested; a character loaded with faults and with those faults which naturally produce contempt; a thief and a glutton, a coward and a boaster, always ready to cheat the weak and prey upon the poor; to terrify the timorous and insult the defenseless."

Let me briefly recur to the picture drawn by the gentleman from Missouri. "There was no sun in the heavens," and "two of his associates and himself decided to go in advance of the rest of the committee, *unheralded* and *unknown*." At the threshold a *familiar* sight caught his eye. He had "looked at it" before in Missouri. Within, however, was a *strange* scene. "Negro men and women, peanut-stands and gingerbread, peanut-shells, gingerbread crumbs, with cigar-stumps and negro babies, in profusion over the floor, which no broom or wet nurse had interrupted for a fortnight," and all because the gentleman from Missouri and his two associates went "unheralded and unknown." If the darkies had only "known it" what a different spectacle would have been presented to the view of the gentleman and his associates. The Hampton rifle clubs, who assembled by thousands in Columbia on Monday before the arrival of the committee, "knew all about it," and before we reached the capitol had set their house in order under the advice of their leaders, who said—I quote from the evidence in the case:

Q. Were you in Columbia at the time the congressional committee arrived there?
A. I was.
Q. How long before?
A. I arrived there on the morning that the Legislature met, on the 28th.
Q. How many days had you been there?
A. Ten days. I think it was ten days.
Q. You were there, then, during the whole of the same week?
A. Yes, sir.
Q. Did you hear the address of General Hampton to the assemblage on Tuesday evening?
A. I did.
Q. To the clubs who were there?
A. Yes, sir.
Q. State what he said.
A. He said, "Gentlemen, I do not know what you are here for; you have come to attend the fair; but, if so, you come one day too soon." And he advised them to keep quiet.
Q. That was the only allusion he made to the fair?
A. Yes, sir.
Q. On the next evening, Wednesday evening, did you hear the address made by Moise?
A. This address of Hampton was made on Tuesday, the 29th, I think; I am not certain of the date; but the evening before the committee arrived in Columbia, Mr. Moise addressed them a short time.
Q. Where was that?
A. It was just below the Wheeler House, on the same street.
Q. A public address in the street?
A. Yes, sir.
Q. If he said anything on that subject, state what he said.
A. He said, "Gentlemen, I want you all to go home. The congressional committee are coming here to-morrow, and we want to see no demonstrations of such crowds"—or language to that effect—"while they are here."

Prominent among those who remained to greet the committee were the Senator from Georgia, (GORDON, whose State loaned a large quantity of voters to South Carolina in the late contest,) General M. C. Butler, of *Hamburgh*, and his henchman, General Geary, who in the hearing of the committee advised the riflemen of South Carolina when they commenced firing to "shoot from Governor Chamberlain down." These, "arrayed in purple and fine linen," were among the first to welcome us.

From this scene let me turn to follow the picture of the gentleman from Missouri. He and his associates "essayed," but in vain, to get a sight at the inner temple—the Legislature. All efforts were fruitless, and the gentleman and his associates were about giving up in despair, when it "leaked out" they were from Washington and might perhaps call on the Federal Army, and then the doors were opened. Such a pursuit of knowledge under difficulties as that made by the gentleman and his associates, "unheralded and unknown," has never been prosecuted before, and such a scene as that "renowned Legislature" presented to the astonished gaze of the member from Missouri and his associates was never before witnessed.

It was essentially negro, but one white man in it; sergeant-at-arms, a negro; doorkeeper, a negro; pages, negroes; *lobby, negroes.*

Think of a negro lobby in South Carolina.

Among its members men of unquestioned ability, with a creditable aptness in parliamentary usage, but the mass indicating that the statesmen of South Carolina are indigenous to the cotton-patch and rice-field.

There's the rub. The "*field hands*" of South Carolina taking part in the politics of the State!

Mr. Speaker, I am very far removed from a feeling of gratification at the condition of affairs at Columbia when the committee reached there, or that we found in the State generally so far as our investigations extended. The State of South Carolina is not now suffering alone from the effects of bad government since the close of the war, but from a hundred years of bad government, the fruits of which are seen in every phase of life, which affect the political and social conditions alike, and which rest like an incubus upon all the energies of the State.

The administration of Governor Chamberlain has done much to relieve the people from the burdens of taxation and was generally accepted by all parties, especially the democrats, to a period as late as the middle of August last. It was then determined to recall General Hampton from Mississippi, where he had become a resident, and by adopting a policy of threats and force and murder, to overawe the colored electors of the State and secure the success of a State ticket composed of native white South Carolinians. The Hamburgh massacre on the 4th of July and the Ellenton riots at a later period were inspired by this motive. An armed force of rifle clubs, composed of a large portion of the white population of the State, was organized and placed under the command of General Hampton. They were armed with breech-loading rifles, seven-shooters, and had also their belts and revolvers. They were formed into cavalry companies in large numbers. They appeared thus armed and mounted at the republican meetings in nearly every part of the State in the early part of the canvass, and either enforced their demand for a division of time or were successful in breaking up the meetings and preventing their success. To call such meetings joint discussions would be a mockery. Every vile epithet which could be invented was heaped upon the heads of republicans and no opportunity or liberty to reply was allowed. The negroes and few white republicans at such meetings were unarmed, and of course compelled to submit to such indignities. They were powerless to overcome force so well and efficiently organized, and to have attempted resistance would have precipitated conflict and deluged the State with blood. The governor, in such an emergency, called in the aid of the General Government and by proclamation commanded the rifle clubs to disperse. As the rifles disappeared, revolvers multiplied and in many instances, as the evidence shows, white persons were at the meetings with two and sometimes three revolvers in their belts, and some had them in their boot-legs. Except in the South Carolinian idea of the sanctity of the weapon they were unlike the pistol described in an epitaph from California which I recently chanced to see in a volume of church-yard literature, and which read:

In memory ov
John Smith, who met
Wierlent death near this spot
18 hundred and 40 too. He was shot
by his own pistell;
It was not one of the new kind;
but a old-fashioned
brass barrel, and of such is the
Kingdom of Heaven.

The Hampton riflemen were well supplied with the "new kind." Of course a canvass thus inaugurated by such demonstrations of violence and force could not well be entirely divested of the element even to its close. The colored voters learned to imitate the example. In localities where they were strong in numbers they were more outspoken in such demonstrations and were successful in securing nearly the full vote at the polls. In other portions of the State the terror created was so great that large numbers of colored electors were prevented from voting, and the full republican vote of the State was not cast. On the other hand, the democratic vote was very largely increased. In several counties it is in excess of the voting population, as shown by the census of 1875, which was denounced at the time as an extravagant enumeration. At a precinct called "Robbins," in Barnwell County, the building was fired at about eleven a. m. The officers fled. The ballot-box was lost or destroyed. In the afternoon the republican managers opened the poll at an old school-house in the vicinity and 1,317 votes were cast for the entire republican ticket. This vote has never been counted in any canvass. I learn that the referee appointed by the supreme court of the State to recanvass and ascertain the votes at the late election has decided that the vote of Robbins should be counted. This will give a clear majority to all republican State officers and in the Legislature, including all the other votes cast in the State. I have no doubt but the republican majority in the State upon a free and fair vote at the late election would have exceeded 10,000, nor have I any doubt but there was a majority in their favor of the votes actually cast. Whether Governor Chamberlain will be able to maintain his authority without aid from without is the problem yet to be solved. To overthrow him would be to subvert and overthrow the lawfully elected and constituted government of the State in obedience to a clamor coming from the white natives of the State against "northern thieves and carpet-baggers," as every one is termed who will not pay tribute to the aspirations of the whites to obtain control of the political affairs of the State.

In his duplicate letter to Governor Tilden and Governor Hayes, soon after the election, General Hampton expressed a purpose to so conduct affairs as to open the State to "northern enterprise and capital and social equality." These are her greatest needs. The political and social ostracism existing will shut out all these aids to her success. It was never more manifest than during the recent canvass. I might detain the House for an hour by an enumeration of the instances and details coming to my knowledge during the investigations of the committee; they will be found stated in the evidence and referred to in the reports. Every branch of trade, every department of labor, and every business enterprise was subject to their malign influence. Here is a sample of the humiliation to which humble dealers were subjected, taken from the Charleston News and Courier, in which it was standing matter during the canvass:

WHERE DO YOU BUY YOUR MEAT?

To the democratic public:

The undersigned, butchers in the Charleston markets, who are earnest supporters of the cause of Hampton and good government, respectfully solicit the custom of their democratic fellow-citizens:

Lower market.

	Stalls.
T. O'Brien	4 and 5
J. P. Happoldt	13
J. J. Dunning	9 and 10
F. Horris	48
L. Seel	54 and 61

	Stalls.
W. B. Trescott	25
J. H. Kahrs	48
Charles Kamrou	37
C. Floethman	54
Jos. Kennedy	26
E. T. Legare	34
Daniel McSwiney	—
W. B. Mitchell	18
John O'Keef	45
A. Garden	1 and 2
Upper market.	
Thomas A. Johnson	22 and 23
J. W. Johnson, jr	4
J. W. Johnson, sr	5
C. Dufort	7 and 8
R. Whyte	15 and 16
Jack Daisy	21

WHERE DO YOU BUY YOUR POULTRY?

To the democratic public:

Patronize J. C. Bradley, stall 4; James Colclough, stall 4; C. B. Busch, stall 6—the only supporters of Hampton and good government in the lower market.

T. R. TULLY, CATERER, OF KING STREET AND THE LOWER MARKET,

Desires to remind the general public of what his old customers all know, that he has been for years a stanch democrat, and is now a supporter of Hampton and good government.

TO THE DEMOCRATS OF CHARLESTON.

I want them to know that they can get their meat from stalls 42, 1 and 2, from 8 to 12½ cents per pound, lower market. I wish my friends to know that I am a straight-out democrat. Not half way but the whole. So come and patronize.

J. W. GRANT.

PAUL TRESCOT,

Lower market, stalls Nos. 27, 28, 29. Straight-out democrat.

HOUSEKEEPERS CAN GET THEIR MEAT from democratic headquarters, stalls Nos. 49, 50, 57, and 58 Lower market. Also, Nos. 9 and 10 Upper market, from 4 to 12½ cents per pound. It is not democratic money alone we want, but Wade Hampton and reform.

DANIEL COOPER.
DEDERICK STOKIEN.
JOHN STOKIEN.

Mr. Speaker, if the State of South Carolina could be thrown open to freedom of enterprise and the employment of capital in the development of her resources, her prosperity would begin to date from such an era. They are advantages which have been hitherto denied her. The great men about whom we hear and read so much, who controlled her destinies for a century, built splendidly for themselves and their class, but the prosperity of which they boasted was a superstructure erected upon the unrequited toil and sweat of the colored race. The recipients were reared in idleness and bred to a contempt for labor. They built upon the sand. The fruits of such a system are visible all over the State. The city of Columbia furnishes an example. Situated in the heart of the best cotton-growing region in the world—at an elevation of about seven hundred feet above the sea—for seventy-five years the capital of the State, with a salubrious climate and no winter with which to contend, yet there is a want of thrift visible everywhere, and the waters of her magnificent river go unvexed to the sea, without moving a wheel or turning a spindle. If the enterprise and skill which, contending with many obstacles not there found, have yet coined wealth out of the manufacture of her raw material and returned in part the fabrics for her use could be employed without obstacle or hinderance within the State, then, indeed, peace would be surely found in her palaces and prosperity in her borders.

In that work of regeneration and restoration the colored population of the State are to perform no unimportant part. In their ranks are to be found many men of talent and education, graduates of her university and of the other institutions of learning devoted to the object of their education. They were active and fearless in the late contest in upholding the right and animating those of their own race to a fearless and faithful discharge of duty, verifying the prophecy of their great emancipator in his address to Governor Hahn, of Louisiana, that—

The ballot in the hand of the black man may help in some trying time to come to keep the jewel of liberty in the family of freedom.

Political and Financial Condition of the Country.

SPEECH OF HON. A. CAMPBELL,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

March 3, 1877,

On the political and financial situation, as viewed from the independent stand-point.

Mr. CAMPBELL. Mr. Speaker, with the next regular adjournment this the most important session of Congress that has been hold since the organization of the Government will expire. It will be memorable in history as commencing in the close of the first and ending in the beginning of the second century of our national existence; it will also be memorable on account of the momentous questions which it was called to act upon and determine; but it will be far more memorable as marking a new era in the administration of the Government. The present is not the time to determine whether its acts have in all respects been the wisest and best that could have been done under the circumstances. To judge correctly in this respect we must wait until the passions of men have cooled and the excitement of the contest has passed away.

Both parties have charged their opponents with the commission and attempts to commit fraud. That some of these charges are true there is no room for doubt. I firmly believe that when the excitement of the contest will have passed away the verdict of candid men of all parties will be that the election in the State of Louisiana was from beginning to end a farce; that it was so saturated with fraud that to have included it in the count for either candidate was to offer a premium for villainy and perjury, and that the attempt to commit an equally heinous crime in the case of the electoral vote of Oregon has been equally clearly established.

But, Mr. Speaker, these frauds on the part of returning boards and attempted frauds by other parties and by other means are but the legitimate result of a deliberate purpose on the part of the prime leaders of both parties to deceive and mislead the people in reference to the financial policy of the Government, which was the paramount issue involved in the contest. The bankers, usurers, and their retainers, who controlled both nominating conventions, cared but little what the views of the successful candidate were on all other subjects if only he favored the withdrawal of the legal-tenders and the surrender of the control of the currency to the national banks. They were successful in the selection of candidates for both parties known to be in favor of their financial policy. One was the result of accident and the other was forced on the convention against the wishes of a large majority of the voters of the party. They were also successful in securing the adoption of platforms for both parties susceptible of different constructions, and newspapers, orators, and candidates were not wanting to interpret them to meet the views of the voters in the different sections. Thus every step in the progress of the campaign, from the nominating conventions to the end of the labors of the returning boards, has been marked by treachery and fraud. And I will add that the end is but a fitting culmination of the financial policy of the Government for the past sixteen years.

In proof of this charge it is only necessary to glance at the history of the legislation on this subject for the time stated. At the commencement of the late domestic war the bankers and other so-called capitalists of New York and other money centers flocked to the national capital ostensibly for the purpose of aiding the Government in providing the means to prosecute the war, but in reality, with few exceptions, as the sequel will show, to see how they could best increase their private gains by the national calamity. But when all their plans were examined it was found that they had neither the ability nor the disposition to meet the demands on the Treasury for ninety days, and that the terms they proposed were most extortionate and humiliating to the Government. The only means left for meeting the demands on the Government was the issue of Treasury notes, against which these self-styled patriots protested and to this day have continued to protest, and have resorted to every device their ingenuity could invent to induce the people to discredit them, but without avail. No soldier, miner, mechanic, or farmer has ever refused to accept them nor petitioned Congress to withdraw them from circulation. The opposition to the use of these notes as a circulating medium comes solely from the bankers, usurers, and boards of trade, and others of their retainers.

When, in February, 1862, it became necessary to rely wholly upon the confidence of those who produced the supplies the Government needed, the House passed a bill authorizing a large additional issue of Treasury notes, making them a legal tender for all debts, public and private. The bankers and usurers at once besieged Senators and by intimidation or other potential influences prevailed upon that body to insist upon excepting payment of customs duties and interest on the public debt. Although this single act has cost the tax-payers hundreds of millions of dollars it failed to destroy the confidence of the people in this currency. But for this act legal-tenders would long ere this have been par with coin and furnished the people with the most safe, uniform, and convenient circulating medium we have ever had or ever can have under the operation of bankers' specie-basis fallacy. The next movement on the part of the bankers and their allies was the bill creating the national-banking system, which became a law in July, 1863. But little currency was issued under it before July, 1864, when it was revised and re-enacted substantially in its present form.

By this time it was quite manifest that the war would be of short duration and there was a demand from all sections of the country for permission to engage in banking under the law and the $300,000,000 of circulation then authorized was soon taken up. The New England and other Eastern States having acquired more than their portion of the circulation and refusing to surrender it, an increase in the volume of the currency to the extent of $54,000,000 was authorized and finally by the law, 14th January, 1875, all acts limiting the aggregate amount of the circulation of the banks were repealed, and the Secretary of the Treasury was required to retire legal-tenders to the extent of 80 per cent. of the sum of national-bank notes issued thereafter until the

amount of legal-tenders outstanding should be reduced to $300,000,000. But another provision of that law authorizes the retirement of all the legal-tenders after the 1st of January, 1879, by converting them into interest-bearing bonds. Thus they have succeeded in crucifying the legal-tenders or people's money, that proved the salvation of the Government without imposing or entailing any burdens on the tax-payers, and in releasing the blackbacks with full power to rob the people without check or restraint. This was the object the bankers and their allies had in view from the inception of their scheme. But they approached it stealthily, step by step, because they feared the people. The cunning ones among them said "Not on the feast day, lest there be an uproar among the people." Now, it is just possible that the sovereign people may yet take it into their heads to resurrect these despised and persecuted legal-tenders and to crucify the banker's blackbacks, even if they should have to do it through uproar.

The bankers are now demanding the repeal of the tax on deposits; a tax they pay in common with all private bankers. If this demand is met they will demand a repeal of the tax on circulation as well as the pittance they pay on capital over the amount invested in Government bonds. These are all the taxes they pay to the National Government, and the repeal of which would leave them subject to State tax only. The only remaining demand to constitute these corporations the Government *de facto* will be to be made the agents for receiving and disbursing all public moneys. This will exempt them from State taxes and clothe them with absolute power over the finances of the Government and people. The bankers and their retainers, members of chambers of commerce, boards of trade, &c., have been here in unusually large force this session and besieged the Committee of Ways and Means and other members with their sophistical arguments for the abatement of taxes. They only asked at this time to be relieved from the tax on deposits, but intimated very clearly that they would at a future time ask for the repeal of the duty on circulation and all other taxes imposed by the National Government. It is worthy of note that the bankers never ask for anything for their special benefit; all their pleas are made in behalf of commerce or workingmen, and of the widows and orphans who are so unfortunate as to be stockholders in institutions that only earn from 11 to 13 per cent. per annum.

Mr. George S. Coe, president of the American Exchange National Bank, New York, in his address before the Committee of Ways and Means said: "I stand before you, gentlemen, in a double relation; representing on the one hand a national bank, on the other hand the chamber of commerce. But I think you will say, as I proceed, that in respect to the question before the committee these interests are identical. The subject before you is a subject not of banks but of commerce, and in that view I wish to speak." From this it will be seen that nothing is asked for the banks; the plea is wholly in behalf of commerce. But further on in his argument the same gentleman said:

> Now, as to dividends. The banks in the city of New York, one-half of them, have not for the last two years earned their dividends, and for the last year not one-third of them. And I say furthermore, that there is not one-third of all of those that have not drawn upon the reserves which they accumulated during the war. They have paid the dividends out of those reserves to the stockholders, if they have paid any. Why have they done so? Because their stockholders consist largely of women and dependent persons. The average amount owned by each stockholder is $2,000. The stockholders of these banks are not a body of capitalists, bloated bondholders, or any other odious term. They are mostly people in moderate circumstances, who have savings in the bank to the average amount of $2,000. And these people cannot live in this exhausted state of things unless they get something out of their stock. They appeal to us with agony and with tears, "Give us a dividend, draw it from your reserves; the reserves were made for dividends." And so we by necessity respond, "We must do it." And we have done it. I say that our institutions did not earn the dividends which they have declared, but they paid them out of their reserves, because they could not help responding to the agonies of the stockholders and to the necessities of the case. I tell you that on every hand the fabric is falling into decay. The whole thing is going to destruction. And upon your decision depends the question whether that destruction shall go on or whether it shall be staid. The structure of government under which we live is no more important to the people than the institutions which we represent here. You are well aware of their age, their importance, and their stability. When all kinds of corporations are failing around us from demoralization and wrong-doing, how few, how very few, how small a percentage of those banking institutions are giving way for that reason. It is an exception worthy of being recorded. But it is impossible for them to continue. They will fall, and, like lamps without oil, they will burn out and expire.

Here it will be seen that nothing is said about commerce. The argument is that stockholders in national banks—which it would seem were mostly women—must have uniform and large dividends or everything, even the Government under which we live, must go to the "bad."

Now if the arguments of this banker and intelligent business man—and of such it is claimed all chambers of commerce and boards of trade are composed—are well founded, it surely was unreasonable and short-sighted policy on the part of the committee to refuse to save the Government, revive commerce, and make everything lovely on such easy terms. As the arguments of the other gentlemen who addressed the committee were of much the same character I will not quote further from them, but will proceed to show how the Government has oppressed and is oppressing these poor bankers and "intelligent business men," and generally all those who live and hrive by usury and monopoly.

The circulation of the national banks for eleven years from 1st of January, 1866, to 1st January, 1877, averaged $320,000,000, and the rate of interest on the bonds deposited to secure the redemption of the same averaged for the same time 5.75 in coin, and I think it safe to estimate the premium on coin for same period at 20 per cent. or 6.9 per cent. in currency. This would make the yearly interest paid to the banks by the Government $22,080,000, or $242,880,000 for the eleven years. During the same time the banks paid to the Government as tax or duty on circulation $33,928,703, leaving them a net profit of $208,951,297 in the eleven years. This is all the tax paid by the banks for the privilege of issuing the currency. All State and private banks pay the same tax on deposits and capital as the national banks. The tax paid by the national banks for same time on deposits was $33,609,892, or an average of $3,055,444 per annum. From this they now ask to be released. The whole amount of taxes paid into the National Treasury by the banks since their organization was as follows: On circulation, $33,928,703; on deposits, $33,609,892, and on capital, $4.714,547; total, $72,253,072; all of which was paid in currency. If this be deducted from $242,880,000, the amount paid to the banks by the Government as interest on the bonds deposited, it will leave as the net profit of the banks for the eleven years over and above all taxes $170,626,928, equal to $15,511,539 per annum.

But if this subsidy was the only evil of the system, even in an economical point of view, it might and doubtless would be borne without serious complaint. It is, however, but a mere moiety of the burdens imposed on the business interests of the nation by the bankers' scheme. The banking system, with the untaxed Government securities, constitute the main factors in the existing financial system under which the bankers and usurers can and do regulate the rate of interest on loanable capital so as to make every other interest tributary to them. These parties have a common interest and act together in all matters pertaining to the currency and the national finances; they have in the past and will in the future, so long as the system remains in force, continue to dictate the financial legislation of the nation.

By the provisions of the law authorizing the issue of that portion of the national debt known as five-twenties, the interest was payable in coin and the principal in lawful money, (greenbacks,) at the option of the Government, after five years from the date of their issue. Among the first acts of the outgoing administration was a law changing the payment of the principal of this portion of the debt from lawful money to coin, which was equivalent to a bonus or subsidy to the holder of this class of securities of over $300,000,000. Again, when these shrewd financiers saw that the product of silver from our mines was likely to be largely increased, they waited upon their agent, the Comptroller of the Currency, and directed him to recommend to Congress the demonetization of silver. In obedience thereto, Congress, in 1873, enacted that 25.8 grains of standard gold should be the unit of value and prohibited the coinage of the silver dollar of 412½ grains of standard silver, which had been the unit of value and a legal tender without limit from 1792 to the date of the passage of the act last named. The practical effect of this perfidious act will be not only to impose hundreds of millions of dollars additional burdens on the tax-payers, but to render it impossible to pay the public debt.

But it is claimed by these shrewd financiers and their retainers in and out of official position that all these subsidies and privileges are due to the so-called capitalists for their patriotic devotion to the Government during the late war, than which nothing can be further from the truth, for this impudent claim has no foundation in fact or equity. At the commencement of our late troubles, or just before the credit of the Government was affected thereby, the national securities bearing 6 per cent. were at a premium of 20 per cent. Now it will be admitted that if these self-styled patriotic capitalists had come forward and taken all the Government bonds bearing 6 per cent. at this rate they would have suffered no loss by the war and would have only performed their reasonable duty to the Government. But they were innocent of any such patriotic folly. They waited, indeed, the gold gamblers of Wall street made war on the credit of the Government, until they were enabled to purchase this class of bonds at an average of sixty cents on the dollar in coin. Now, a calculation on this basis will show that if these so-called capitalists had been content to have neither increased their gains nor suffered loss by the national calamity, the payments made to them as interest, with that portion of the principal that has been paid, would have discharged every dollar of the national debt prior to the 4th of July last. And had we but adopted a wise and just financial policy we should have entered upon the second century of our national existence a united, free, and prosperous people, and not as we have, a divided, discordant, and debt-burdened nation. To meet the last demand of the bankers and usurers it is only necessary to carry into effect that provision of law providing for resumption of specie payments 1st January, 1879, which provides for the redemption and cancellation of all legal-tenders then in circulation. This done, the bankers and their allies will have absolute control of the finances and currency of the nation, which is all that is needed to make them masters of the situation, with power to reduce the industrial classes to a state of practical slavery. To establish the existing money oligarchy for at least four years to come it only remains for the President-elect to place at the head of the Treasury Department a man committed to the policy of

the bankers and usurers and to select for the remainder of his cabinet counselors, or at least a majority of them, men known to favor the policy of the money power at home and abroad.

I cannot better express my views as to the means and mode of operation by and through which this money power was first established and by which it is proposed to maintain and perpetuate it, than by inserting the following extract from a pamphlet written some twelve years ago, when I said:

I am persuaded that a thorough investigation and careful examination into the provisions of our monetary and revenue laws will convince any candid disinterested mind that the effect of their practical workings is and will be to give less than one-tenth of the population the power to rob the other nine-tenths of the product of their labor and talents; that under their operation the well-to-do farmers, miners, mechanics, and others of the industrial classes of to-day will soon be reduced to the status of common laborers, and those who now earn their living by daily toil to a state of positive servitude. Any system that authorizes and empowers one class to take from another class the fruits of their labor and talents without equivalent is practical slavery. I care not what it is called. When you deprive a man of the right to enjoy the fruits of his labor and talents, there is no other right which he can long maintain. The continual and pressing wants of his physical nature will soon induce mental degradation and reduce him to abject slavery; and what is true of the individual is true of the nation.

I assert without fear of successful contradiction that an investment of a million of dollars under the national banking law, or in the non-taxed Government securities, will yield a larger net income to its owner than a like amount invested in lands and slaves employed in raising cotton and sugar did in the South in the palmiest days of the oligarchy; and it was its economical or commercial value, in other words its profitableness, that maintained the institution of slavery in the South.

The late Horace Greeley, a life-long anti-slavery man, in his work entitled the American Conflict, after combating the system of chattel slavery, said:

But slavery, primarily considered, has still another aspect, that of a natural relation of simplicity to cunning, of ignorance to knowledge, or weakness to power. The first man who ever imbibed or conceived the fatal delusion that it was more advantageous to him, or to any human being to procure whatever his necessities or his appetite required by address and scheming than by honest work, by the unrequited rather than the fairly and faithfully recompensed toil of his fellow-creatures, was in essence and in heart a slaveholder and only awaited opportunity to become one indeed in practice.

We boast of having liberated four millions of slaves. True we have stricken the shackles from the former bondsmen and brought all laborers to a common level, but not so much by elevating the former slave as by reducing the whole working population to a state of practical serfdom. While boasting of our noble deeds we are careful to conceal the ugly fact that by our iniquitous monetary system we have pratically nationalized a system of oppression which, though more refined, is only less cruel than the old system of chattel slavery.

Again, as to the mode of operation, I quote from the same pamphlet:

It is entirely unnecessary to say anything in this connection in relation to the business of the bankers and usurers, for all know that they are governed by self-interest without regard to the public good. But a word in reference to the business of the intelligent business men who manifest so much interest in the financial legislation of the Government may not be amiss, for it would be very natural, and doubtless many do suppose that they are the energetic, enterprising portion of the community who are engaged in the development of our resources, but this is not so. They are the speculators in gold, stocks, food, clothing, and all other products of labor—the mere retainers of the banks, standing between the producer and consumer, amassing fortunes by a species of the worst kind of gambling. The banks will be the medium through which this centralized money power will operate; they will be located in every village and at every cross-roads, forming a complete system of financial espionage throughout the length and breadth of the land. With their agents or spies, under the revenue system, these bankers, usurers, and speculators will be able to obtain full knowledge of the business of every miner, farmer, mechanic, manufacturer, merchant, railroad company, and other enterprise in the nation. This will enable them to operate understandingly, and with their unrestricted power over the currency or money of the nation they can by extortionate rates of interest make every other interest or business, however important, subservient to their cupidity and tax the industrial classes until they become as helpless as the fly on the spider's web—tax their manhood out of them.

Let me ask if subsequent events have not established the correctness of every charge here made?

Banks will be located at all points of any business importance, and through those directly interested as well as those dependent upon them for financial favors they can and will control the primary caucuses and local conventions. They will also control the public press; indeed the metropolitan press, both secular and religious, is now with few exceptions the advocate and defenders of this system. Through these means they will be able to dictate party platforms and nominations, both State and national, and no person will be permitted to occupy any place of public trust who is not subservient to this power. This is to a great extent the case at this time, so far at least as the officers having charge of the financial department of the Government is concerned. The report of the Secretary of the Treasury, so far as it relates to the subject of currency and finance, and the report of the Comptroller of the Currency throughout, are made up of mere special pleadings for the banks. If this system should become the settled financial policy of the Government, it will not be long until Congress will be composed mainly of stockholders and attorneys of the banks, and every other department of the public service, from the Chief Executive down to the lowest officer, filled with men directly pecuniarily interested in those institutions. Then, instead of "a government of the people, by the people, and for the people," we shall have as complete and absolute a money oligarchy as it would be possible to create by law.

This same power has grossly deceived or corrupted our religious teachers, for not being able rationally to account for the great inequalities of wealth and condition existing in society, and being expected to furnish a satisfactory explanation in some way, they tell the people that these great wrongs are providential; that they are the mysterious workings of the providence of God; that all these evils are controlled by His power and goodness.

A more false and impious charge was never uttered; for usury, the principle upon which these unjust and oppressive monetary laws are founded, is forbidden, censured, and condemned equally with slavery and robbery, and those who practice it anathematized by the word of inspired truth from the beginning of Genesis to the end of Revelations. It is the source of most of the vices and animosities of society. "A standard that deprives producers of what justly belongs to them and bestows on non-producers what does not belong to them cannot fail to corrupt society in all its branches." (See Exodus xxii, 25; Leviticus xxv, 35, 36, and 37; also 44, 45, and 46; Deuteronomy xxiii, 19 and 20; Nehemiah v; Psalms xv, 5; Ezekiel xviii and xxii.)

The term usury as now understood means illegal interest or a greater rate than is authorized by statutory law, but in the Scriptures it signified any rate, however small. The Jews were prohibited from demanding or receiving any consideration from one of their own nation for the loan of money, but were permitted to take interest from the heathen or enemy.

A circulating medium being indispensable to a free and convenient exchange of property and products and the payment of debts, it is not enough to show that the system through which this is now furnished is wrong in principle and practice, but it is necessary to offer one more correct in principle and better adapted to the end in view. This the advocates of what they denominate

THE AMERICAN MONETARY SYSTEM

propose to provide by the issue of Treasury certificates in payment of the debts and current expenditures of the Government, which certificates shall be a legal tender in payment of all debts public and private, (except that portion of the national debt which is by express law made payable in coin,) and interconvertible at the option of the holder with registered Government bonds bearing an equitable rate of interest, not exceeding 3 per cent. per annum.

It is claimed for this system—

1. That it is adapted to our theory of government and in harmony with the letter and spirit of the Constitution, which clothes Congress with plenary powers over the currency or money of the nation, and charges it with the duty of providing the people with a safe and convenient circulating medium, adequate to the demands of the industrial and commercial interests.

2. That it would restore the power over the currency to the nation, to whom it belongs, but which has been filched from it by banking corporations, and provide the people with a medium of exchange directly under the control of those who produce and distribute the property it is designed to represent and exchange, and in which each citizen would be interested to the extent of his wealth or the amount of property he might have to exchange, and have a corresponding influence in its management and regulation.

3. That it would be just in its bearings on all classes and interests as well as to all sections of the country. Under its operation the currency or money would, without any legal enactment regulating its distribution, naturally flow to the section of the country and into the pockets of the individuals producing the wealth, and not, as under the present system, to the money centers and into vaults of the banks and the pockets of the usurers, whither it is attracted by extortionate rates of interest.

4. That it would be self-adjusting and possess the elasticity necessary to adapt it to the ebb and flow of trade; for if, at any time, the amount in circulation should be insufficient to meet the demands of legitimate business, the rate of interest would advance, which would cause the bonds to be exchanged for currency. On the other hand, should the volume in circulation be in excess of the demands of trade and the rate of interest in ordinary business transactions fall to or below the rate paid on the Government bonds, the currency would be converted into bonds to the extent necessary to restore the proper equilibrium. Thus it would prevent all violent expansions and contractions of the volume of the currency as well as the high and fluctuating rates of interest on loanable capital which have in the past proven and must, so long as the present system is continued in operation, prove detrimental to all useful industry and legitimate enterprise.

5. That it would establish an equitable standard of distribution to capital and labor, which is the most important function of a circulating medium, or rather of a monetary system. With the rate of interest on the Government bonds sufficiently below the rate of increase in the national wealth by productive industry to make an equitable division of the joint earnings of money or non-producing capital and labor, those who produce and distribute the wealth would receive a fair compensation for their services and capital a just reward for its use.

6. That it would furnish an honest currency and gives us a specie standard, for, when once fairly in operation, the bonds, into which the currency would be convertible at the will of the holder, would command the coin in the open market, and the currency would, of course, be par with coin. This the specie-basis fallacy never did, nor never can do, for it is an impossibility for either the banks or the Government to redeem $4 to $6 of circulation with $1 of coin; and the parties making this promise, whether it be the bankers or the Government, know that they cannot fulfill it in good faith, and it is, therefore, an act of dishonesty to make it.

7. That, resting, as it would, on public faith, which is the basis upon which our Government is founded, and being endowed by law with all the attributes of money, it would have a permanent value and uniform credit, and perform all the functions of a circulating medium, equally as well as coin—better, because more convenient and economical.

8. Advantageous as this system would be to the Government and people in an economical point of view, it would be equally important and desirable as a political measure. As upon the perpetuity of the Union of the States depends, in a great measure, the success of the republican principle of government, it should be the pride as it is the duty of all good citizens to subordinate mere personal interests and advantages to the attainment of this one grand object.

In dealing with this subject we must not lose sight of the fact that the mere abstract principle of political freedom is not, of itself, sufficient to secure the people in their rights and bind their affections to the Government. My deliberate judgment is that, with our varieties of climate and diversified productions and interests, it will be extremely difficult, if not impossible, to permanently maintain and perpetuate the Union of the States without some common bond of interest, which it is claimed the proposed monetary system will furnish. The currency would go into the possession of every citizen in the nation, even to the child who owned but a dime, and, if the bonds were issued in denominations as low as $25, they would afford the most safe and convenient form of investment for the means of the working classes, who constitute much the larger portion of our population. And as the value of both these classes of security would depend entirely upon the stability of the Government and the perpetuity of the Union, and as the system would greatly increase the rewards of labor in all branches of useful occupations, it would tend to attach the affections of the citizens of all classes and sections to the Government and unite them in one harmonious whole.

As I have on a former occasion contrasted the workings of this system and shown, as I believe, its superiority in all respects over the bankers' scheme, I shall not at this time undertake the discussion of the subject further than to say that, as it offers superior advantages to all the industrial classes, it has superior claims for their support. The bankers' system, while certainly securing great wealth to the few, represses enterprise and oppresses labor in all departments of useful occupation. On the other hand, the American monetary system, while encouraging enterprise and justly rewarding labor, will do no injustice to capital. Under the former capital will employ labor and the borrower will, as now, have to seek the lender, while under the latter labor will employ capital and the lender will have to seek the borrower. There is nothing wrong or unreasonable in this, for capital is the creature and labor the creator.

This financial question, affecting as it does the material interest of the whole people, will, despite the machinations of party leaders, continue to be the paramount political issue until it is satisfactorily disposed of. That it can be properly adjusted by either of the dominant political parties as now organized is, I think, doubtful; certainly not so long as they continue to draw their inspiration from Wall street and are controlled by the money power.

Fearing a defection on the part of the Middle and Western States that have heretofore supported their financial policy—not of choice, but of necessity—the bankers and usurers, with a view to retaining their power, contemplate a coalition between the States of New England, New York, and the Atlantic and cotton States where slavery formerly existed.

While it is to be hoped that this attempt may fail, it is nevertheless to be feared that through the changed condition of the people of the South it may prove a partial success.

We are not now, nor ever have been, a homogenous people. Previous to the late war we had three types of civilization. Geographically considered they may be divided as follows: The northern division, comprising the States of New England, New York, and those lying west in the same parallels of latitude; the middle divisions, including the States of Pennsylvania, Ohio, Indiana, Illinois, and those west in the same latitude; and the southern division, embracing the States south of those last named. The newer States in the middle belt were to some extent settled by immigration from both the other divisions, but mainly from Pennsylvania, and by foreign immigration, which until within the last quarter of a century located almost exclusively in this belt. As these settlers were generally persons of limited means and had to rely upon their labor for a subsistence and for the bettering of their condition, and as the fertility of the soil and abundance of mineral wealth offered encouragement to industry, production necessarily became the leading interest. Hence it is that we have had the greatest amount of production of agricultural and mineral wealth as well as the greatest variety of manufactures in this section. The acquisition of wealth depending mainly upon personal industry and economy, it is more equally distributed and there is less distinction in society on account of wealth here than in either of the other divisions. Here the organization of society and the laws governing the distribution of property, though far short of the divine command that in the sweat of his face man should eat bread or of the design of the founders of our institutions that all should enjoy the fruits of their labor and talents, are nevertheless a much nearer approach to both than in either of the other divisions. Consequently it is here that the truest type of American civilization is to be found. And if our institutions are to be restored and perpetuated in the spirit of justice, freedom, and legalized equality in which they were founded, it must be by and through the efforts of the occupants of this middle division, spreading to the north and south as you go west.

Commerce and usury are the leading interests in the northern, and agriculture in the southern divisions. In both of these sections the few have managed to acquire the productions of the labor of the many. A superficial view of society in these divisions would naturally lead to the conclusion that it was organized on directly opposite principles, but a careful examination of results will show that, though diverse in operation, the principle is the same in both—practical slavery—the difference being in the mode of abstracting the products of labor. Under the southern system capital owned labor, and the few controlled the many and appropriated the proceeds of their labor. Under the northern system the laboring class have a nominal freedom, but through banks of issue, savings-banks, life-insurance companies, and other like cunning contrivances—by their wits rather than by honest industry—the few have managed to abstract the products of the labor of the many beyond what was necessary for a mere subsistence.

The two latter divisions forming as they did the geographical extremes, and representing the extreme types of civilization, there existed between them an irreconcilable difference of opinion respecting the mode of administering government, each contending with unyielding determination for the supremacy or nationalization of their respective systems. An appeal to arms was had, which resulted in the abolishment of chattel slavery and the overthrow of the southern system. While the result has given the former slave a nominal freedom, it has not emancipated labor. Laborers in all sections and in all departments of useful industry and legitimate enterprise are still suffering from a system of oppression and injustice imposed on them by our iniquitous monetary laws, which, though more subtle and refined, is scarcely less unjust and oppressive than chattel slavery. By taking advantage of the financial necessities of the Government during the war, the advocates of the system for abstracting the products of labor by usury were enabled to so greatly extend and strengthen their power over the Government and people as to make them well-nigh masters of the situation. But this, like the system of chattel slavery, must be overthrown before the natural rights of the industrial classes can be established on a firm and enduring basis. This is the great problem presented to the American people for solution at this time.

Emboldened by their success in securing control of the currency and finances of the nation and encouraged by the depressed condition of the Southern States, the bankers and usurers now propose to retain control of the Government, to perpetuate their power and to nationalize their refined system of slavery in defiance of the Middle and Western States by forming a coalition with the Atlantic and cotton States. There are tens of thousands of middle-aged men in the South who have been reduced from affluence to poverty by the war and of young men who have been reared under the institution of slavery who it is not reasonable to suppose will consent to work in the field with the former slaves, if it be possible to avoid it. Seeing this, as well as the further fact that the States where slavery formerly existed and which are now in a state of transition are necessarily experiencing great financial embarrassment, the shrewd bankers of New York and New England propose to secure the influence of the former by providing them more congenial employment, and to induce the latter to accept the new system of slavery by affording them temporary financial relief. To this end they will establish national banks, savings-banks, life-insurance companies, and the other cunning fiscal contrivances by which they have been successful in appropriating the surplus earnings of labor in their own localities.

Whenever the influential men in the States named shall signify their willingness to accept the proffered terms, the governments of all those States will be turned over to them as soon as it can be done with a decent respect for the public sentiment in other States. Everything will then go on prosperously for a brief period, but will be followed by equal if not greater financial embarrassment than now exists, for neither agriculture nor any other branch of productive industry can long prosper with loanable capital at from 6 to 10 per cent., and the bankers and usurers of the East will not furnish it to their southern allies at less rates. It is to be hoped that they will not be successful in seducing any considerable number of the people of those States into the support of this scheme.

"Hard Times"—The Cause and the Remedy.

SPEECH OF HON. W. LAWRENCE,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

March 1, 1877.

Mr. LAWRENCE. Mr. Speaker, it is one of the advantages of our system of government that all political questions are more fully dis-

cussed in this country than in any other. These questions are discussed in Congress, before public assemblages of the people, by the newspaper press, and in every conceivable form.

Wide differences of opinion on great questions early in our history created and have ever since continued in existence *political parties*. As these are arranged on opposite sides, a discussion of principles, of measures, of policy, and their results, becomes to a large extent an inquiry as to the merits or demerits of political parties.

For sixteen years the republican party has justly commanded the sanction and approval of the people.

In the closely contested presidential election through which we have but recently passed much was said of the embarrassed financial condition of the people, and this in some measure affected the result of the election. The same subject will continue to attract attention in the discussions and elections of the present year.

THE QUESTION OF "HARD TIMES" IN THE POLITICAL CONTEST OF 1876.

It was said in the discussions of 1876 that we have "hard times:" that the republican party has been in power for sixteen years and is responsible for these; that therefore the control of the Government should be given to the democratic party, in the hope of a change for the better.

It is my purpose to show that the "times" are not universally or even generally "hard;" that they are vastly better than under any democratic administration; that the republican party is in no degree censurable for any derangement of business which may exist; that it results from causes which no government could control; and that the policy of the republican party is the only one that can secure to labor its just rewards, bring prosperity to all our industries, and make it permanent.

If the farmer finds a ready market for all he can produce at fair prices and can buy all he needs in the same way, he is in a condition to prosper.

THE EFFECT OF THE WAR ON PRICES.

It is by no means fair to compare the present prices of farm products with the prices during the war and to say that because they are less now than then the "times are hard." The war took a million of men from industrial pursuits and made them consumers instead of producers. The Government became the great purchaser. The result was that with the increased demand and the reduced means of production prices went up enormously and abnormally. This was largely enhanced too by a depreciated and inflated currency, so that the advance was in some degree nominal, and not real. The cost of every article to be purchased by the farmer was also increased, so that his profits did not increase as rapidly as the market price of his products grew.

So far as the condition of the farming industry can be measured by a comparison of the prices of farm products at different periods, it should be between prices now and prior to the war: between 1860 and 1877. And I say, what we all know and statistics will prove, that farm products, even now suffering from the effects of the panic of September, 1873, command better prices than in 1860 or any former period, and all that a farmer consumes can be bought for less than in 1860 or any earlier period. (See Young's Labor in Europe and America.) Even now, as a general rule, all through the interior States wheat commands a dollar a bushel, and shipping-hogs over $5 per hundred pounds gross, at which price corn should command forty cents a bushel. These are *better prices* than were realized in democratic times prior to the war. And there is a ready market for every farm product.

I know that wool and some other products were during a part of the past year temporarily depressed; but in democratic times, prior to the war, they were very generally so.

The policy of the republican party is to build up home markets, by encouraging home manufactures, without in any sense taxing one portion of the people for the benefit of another, and thus to secure good prices for all our agricultural products and permanent prosperity to all our industries.

LABORERS AND MECHANICS.

But how about our laborers and mechanics? Do they find employment and fair wages? I do not deny that there has been recently to some extent a temporary depression in some branches of industry; but I affirm that even with this the laborers and mechanics of this country find better employment and better wages than in any other country and better than under any democratic administration of our Government.

Edward Young, the ablest statistician in the United States, in his work on Labor in Europe and America, published in 1875, says that the immigration to this country from Europe proves "the great advantages enjoyed by the workingmen" here "as compared with the same class in the Old World," and he says one reason is the "solid and decided advantages connected with abundant employment, good wages, and the substantial comforts of life." And he adds:

It is true that in common with other countries where the system of credit has been largely developed, our country has had its occasional financial crises, accompanied with serious interruptions to the ordinary course of commerce and industry; but such effects have been comparatively transient in their duration, and the normal condition of the country has been marked by a degree of prosperity rarely if ever enjoyed elsewhere; and rarely, if ever, in the history of the world has national prosperity been so largely shared by those usually denominated the working classes.

He also furnishes statistical tables which show that the wages of labor, mechanical and otherwise, have increased from the democratic times of 1860 to the republican era of 1874, even then suffering from the panic of 1873, on an average of about 40 per cent., while the cost of supporting families has been in many articles reduced.

Mechanics and laborers even now are in better condition than ever under democratic rule. And so now are all industries more prosperous than under democratic rule.

ALL INDUSTRIES MORE PROSPEROUS THAN UNDER DEMOCRATIC RULE.

On this subject it is sufficient to recall the memories of those times and to cite some evidences of them.

On the 15th of May, 1850, Mr. Calvin, of Pennsylvania, spoke very truly in Congress of the condition of the industries of that State as follows:

The coal-mines of our State, in which millions of capital have been invested have been rendered unproductive, unprofitable. Some have been sold by the sheriff; others abandoned to dilapidation and ruin. *I am informed that the sheriff is the only man now making money in the great coal-fields of Schuylkill County; and that the population of that county has been reduced about four thousand within the last twelve or fourteen months. A large portion of our numerous iron establishments throughout the State*—I would say the larger portion of them—*have been broken up, sold by the sheriff, or have suspended.*

Seven years later a democratic President, Mr. Buchanan, in his message to Congress of 1857, said:

We have possessed all the elements of material wealth in abundance, and yet, notwithstanding all these advantages, our country in its monetary interests is at the present moment in a deplorable condition. In the midst of unsurpassed plenty * * * we find our manufactures suspended, our public works retarded, our private enterprises of different kinds abandoned, and thousands of useful laborers thrown out of employment and reduced to want.

The evidence on this subject might be abundantly multiplied by statistics showing the meager wages paid to mechanics and laborers, the meager results of manufacturing, mining, mechanical, and agricultural industry; the slow progress in wealth, and the means of substantial comfort under democratic administrations, and the vast improvement and progress in all these under republican rule in the last sixteen years.

INCREASE OF WEALTH UNDER REPUBLICAN RULE.

The republican party came into power on the 4th of March, 1861. A democratic rebellion cost $4,000,000,000 of money and an ocean of blood. It dug 350,000 loyal graves and for four years took a million of men from industrial pursuits. They engaged in the destruction of wealth. This alone was sufficient to make and keep "hard times" during the whole period. Yet our systems of revenue and currency have been so wisely directed by republican policy, they have so protected and encouraged our industries that our population and wealth have alike grown beyond the example of any former period of this or any other country, and the whole people, up to the panic of September 18, 1873, enjoyed unexampled prosperity. A brief table will show some of the results of republican rule, as follows:

	1860.	1870.	Gain.
Population	31,443,321	38,558,371	7,115,050
Products of manufactures	$1,876,893,377	$4,208,824,971	$2,331,931,594
Products of agriculture	.....	2,447,538,658	.....
True wealth	16,159,616,068	30,068,518,507	13,908,902,439
Assessed value, real estate	4,797,889,143	7,926,390,535	3,128,501,392

The estimate of wealth for 1860 includes slaves, no longer wealth in 1870, and yet with all the disadvantages and destruction of war how wonderful has been the increase in all that makes a nation and individual people prosperous and happy! Yet these are but a part of the achievements of the republican party. The "homestead policy," so long rejected by the democratic party, has populated whole States and given homes to the people. The two oceans have been united by three thousand miles of railways crossing deserts, mountains, and wide regions of wilderness, and similar highways of commerce and travel have penetrated every populous portion of the land.

Within this time more has been done for *human liberty*, for *civil* and *political rights*, for *education*, and the advance of our race in material wealth and moral progress than had been done in the eighty years preceding the era of republican rule, and to-day our people are free, happy, and generally prosperous.

SOME INDUSTRIES EMBARRASSED.

Since the panic of September 18, 1873, some branches of our industry have been depressed, men who were too much in debt have suffered, some have "failed," and the evils of "hard times" have been to some extent felt for the *first time* under republican rule.

If these evils could have been averted, if they grew out of bad legislation or a mistaken policy of finance or currency, it would not follow that the democratic party constitute the proper agency to afford relief. The republican party, which secured so long a period of prosperity under the most trying difficulties that ever afflicted the nation, can safely be trusted to lead the people out of the comparatively insignificant embarrassment which they now encounter.

It is the part of wisdom and statesmanship to ascertain the *cause* of the difficulty and to apply the proper *remedy*.

When we do this we will find that whatever evils exist grew out

of a democratic rebellion and its consequences or the means imperatively required and employed to suppress it; that the democratic party, unable to comprehend the cause, neither promise nor propose nor can furnish any adequate means of relief, while the policy of the republican party will surely, steadily, and as speedily as possible restore prosperity to all our industries and make it substantially and generally permanent.

WHAT ARE NOT THE CAUSES.

The democratic party are unwilling to comprehend the real cause of the difficulty—*the rebellion*. To admit it is to offend the sensibilities of the democracy in the late insurrectionary Southern States, to which the party look mainly for success and in which exists its controlling element of power.

TILDEN'S THEORY OF THE CAUSE.

Mr. Tilden, in his letter of July 31, 1876, accepting the democratic nomination as a candidate for the Presidency, says:

The present depression in all the business and industries of the people, which is depriving labor of its employment and carrying want into so many homes, has its principal cause *in excessive governmental consumption*, under the illusions of a specious prosperity engendered by the false policies of the Federal Government. A waste of capital has been going on ever since the peace of 1865 which could only end in universal disaster. It was aggravated, moreover, by a financial policy which tended to diminish the energy, skill, and economy of production, and the frugality of private consumption, and induced miscalculation in business and an unremunerative use of capital and labor.

The "*principal* cause" "excessive governmental consumption," in plain English *high taxes by the National Government*, so says Tilden! If this be true, it is a disingenuous confession that existing evils are chargeable to a democratic rebellion, but so made as to censure the republican party for collecting the revenues necessary to suppress it, and pay the interest on the debt it created, and the pensions of soldiers it made necessary. These expenditures, whatever they were, were absolutely necessary. The democratic party would not have made them less if in power, unless it had refused to incur the expense necessary to suppress the rebellion. The republican party is in no way responsible for war expenses. If these be deducted from the total cost of Government expenses, and the proper allowance made for the difference between gold payments in 1860 and paper since, it will be found the ordinary expenses *per capita* of population under republican rule were less than under the last democratic administration. In 1860, under democratic rule, with a population of 31,000,000, the net ordinary expenses were $2.04 *per capita*, while in 1875, with a population of 44,000,000, they are less than $1.70. This is shown by an official state ment of the Treasury Department, as follows:

Comparison of the expenditures of 1875 *with those of* 1860.

Objects of expenditure.	Expenditures for fiscal year 1875.	Deductions of expenditures arising in consequence of the rebellion, 1875.	Expenditures on peace basis, 1875.	Expenditures in 1860.
Congress	$5,137,012 47	$591,536 38	.....	$2,619,529 43
Executive	10,152,860 68	2,889,065 67	.....	2,347,458 05
Judiciary	4,187,628 21	1,395,876 07	.....	1,181,667 93
Territorial governments	290,416 77	.....	.....	.....
Total civil list	19,767,918 13	4,876,478 12	$14,891,440 01	6,148,655 41
Foreign intercourse	3,231,087 13	2,016,286 95	1,214,800 18	1,163,207 15
Miscellaneous	48,071,697 72	28,616,528 53	19,455,169 19	20,658,007 92
Indians	8,384,656 82	.....	8,384,656 82	3,955,686 59
Pensions	29,456,216 22	29,456,216 22	.....	
Military establishment	41,120,645 98	16,799,169 62	24,321,476 36	16,409,767 10
Naval establishment	21,497,626 27	4,991,406 34	16,506,219 93	11,513,150 19
Interest on public debt	103,093,544 57	103,093,544 57	.....	3,177,314 62
Total	274,623,392 84	189,849,630 35	84,773,762 49	63,025,788 98
Deduct 12.675 per cent., the average premium on gold during the year, the expenditures here given being in currency while those of 1860 were in gold			10,745,074 40	
			74,028,688 09	
Deduct items which are not in reality expenditures, but which appear so by reason of the system of book-keeping in practice in the Department			4,172,570 32	1,623,380 34
			69,856,117 77	61,402,408 64
Excess of expenditures of 1875 over 1860			8,453,709 13	

A report made by the Secretary of the Treasury shows that the expenses of the last eleven years ending with June 30, 1876, were as follows:

For the fiscal year ending June 30—	
1866	$520,809,416 99
1867	357,542,675 16
1868	377,340,284 86
1869	322,865,277 80
1870	309,653,560 75
1871	292,177,188 25
1872	277,517,962 67
1873	290,345,245 33
1874	287,133,873 17
1875	274,623,392 84
1876	258,459,797 33
Making total amount of expenditures in the last eleven years	3,568,468,675 15

Here is shown alike the enormous expenses growing out of a democratic rebellion and a rapid and regular reduction by a republican Congress.

The same is shown by the interest on the public debt, and its speedy reduction, as follows:

For the fiscal year ending June 30—	
1866	$133,067,741 69
1867	143,781,591 91
1868	140,424,045 71
1869	130,694,242 80
1870	129,235,498 00
1871	125,576,565 93
1872	117,357,839 72
1873	104,750,688 44
1874	107,119,815 21
1875	103,093,544 57
1876	100,243,271 23
Total interest paid on public debt in the last eleven years	1,335,144,845 21

The reduction of taxation since the close of the war has been as follows:

In internal revenue.

By the act of July 13, 1866	$65,000,000
By the act of March 2, 1867	40,000,000
By the act of February 3, 1868	23,000,000
By the act of March 31, 1868, and July 20, 1868	45,000,000
By the act of July 14, 1870	55,000,000
By the act of June 6, 1872	20,651,000
Making total reduction of internal-revenue taxes for each year since 1872	248,651,000

In customs dues.

By the act of July 14, 1870	$29,526,410
By the acts of May 1 and June 6, 1872	31,172,761
Making total reduction in customs dues for each year	60,699,171

The total reduction under these several acts is $309,350,171. The average annual reduction since the war and down to 1875, when the democracy came into absolute control of the House, is $30,935,017.10.

The republican party has been cutting down as rapidly as possible this "governmental consumption."

The expenses have been reduced from $520,809,416.99, in 1866, to $258,459,797.33 for the fiscal year 1876.

HOW DEMOCRATS WOULD INCREASE EXPENSES.

If the democratic party should come into power, the "governmental consumption" would be vastly increased by the payment of war claims from the late rebel States. I do not ask you to rely solely on republican proof of this. On the 20th of May, 1870, my distinguished friend, Hon. J. PROCTOR KNOTT, one of the ablest of the democratic Representatives on this floor, a Representative from Kentucky, made a speech in this House in which he said:

Besides this, we owe, at the very lowest calculation, $3,000,000,000, not to the bloated bondholder of whom we have heard so much, but to a class of our people to whom, of all others, we are under the most sacred obligations to pay. We owe it to the poor whose horses, and cattle, and sheep, and corn, and wheat, and everything else were taken from them to sustain your armies in the field.

In this speech he undoubtedly refers, as I suppose, to the claims of men who were disloyal as well as loyal; and his demand, as I must infer, is that we pay all these.

There is now pending in Congress bills to refund the tax on raw cotton in the rebel States collected from 1863 to 1868, inclusive, $68,072,388.79; and to refund $2,492,110 of direct taxes collected for war purposes in the eleven late rebel States, during and since the war; and to remit $2,661,776 now due, but not yet collected, under the act of Congress of 1861, though the loyal States have paid the proportion assessed upon them, $14,846,114. A bill is pending proposing to pay "all citizens," rebel as well as loyal, "for the use and occupation of their property by the United States Army during the late civil war."

A bill is pending proposing to pay "all citizens," rebel as well as loyal, "for stores or supplies *taken* or furnished during the rebellion for the use of the Army."

These claims in all would probably reach $2,000,000,000, or as much as our whole remaining national debt. Missouri, Tennessee, and other States have passed laws under which commissioners have audited and allowed rebel war claims amounting to many millions payable when collected from the National Treasury. The republican party will pay no such claims as these. These claims would indeed bring a vast "governmental consumption." It so happened that in the Forty-third Congress I was chairman of the Committee on War Claims. I had the privilege of making a report to Congress covering the whole subject of these claims and proving by abundant law authorities that the Government was under no obligation to pay any such claims. This report was published in some of the leading law journals of the country, it was reprinted at least four times under the authority of a republican Congress and House of Representatives, and Secretary Fish ordered copies printed to be sent to foreign governments. It denies that Congress is under any obligation to pay such claims, and while the republican party shall continue in power the principles of that report will, as I have no doubt, be sustained—not because it is mine, but because it is supported by sound law and justice, and will save the Government hundreds of millions of dollars.

The democratic party, on the other hand, would pay these claims if they should come into power. I know that on the eve of the late presidential election Mr. Tilden, for the purpose of obtaining votes in the Northern States, and when it was too late to have his professions fully understood in the South, wrote a letter declaring his opposition to the payment of these claims. But in this he did not reflect the purpose of the democratic party. This is shown by the proceedings in this House on the 8th of January, as follows:

Mr. HUNTER. I ask unanimous consent to submit the following resolution:

"Whereas on the 18th day of December, 1876, the following preamble and resolution passed this House by a vote of 152 yeas to 63 nays, to wit:

"'Whereas fears have been and still are entertained by the people of the United States that Congress may at some time in the future pass laws by which the Government of the United States may be compelled to pay a large amount for damages that were incurred during the late war by persons residing within the States that were then in rebellion against the United States: Therefore, in order to allay such fears and prevent the payment of such claims,

"'*Be it resolved*, That the Committee on the Judiciary be instructed to report to this House within twenty days, and permission is hereby given for that purpose, an amendment of the Constitution of the United States in substance as follows, to wit:

"'ARTICLE XVI.

"'No claim shall ever hereafter be allowed or paid by the United States, in the shape of damages or otherwise, for any kind of property, real or personal, used, consumed, injured, or destroyed by United States troops, or by or through any officers, civil or military, acting under or by authority of the United States, or from any other cause whatever, during the suppression of the late rebellion in any of the States that were in rebellion against the Government of the United States; or, for any property used, consumed, injured, or destroyed during such rebellion outside of said States that were in rebellion, and which belonged to persons residing within such States that were in rebellion, unless the persons owning the property so used, consumed, injured, or destroyed were during all the time of such rebellion loyal to the Government of the United States, and gave neither aid nor encouragement to the enemy.'

"And whereas said twenty days mentioned in said resolution expired on the 7th day of the present month, and said Committee on the Judiciary has failed to report an amendment to the Constitution, as instructed by this House in said resolution so to do within said twenty days: Therefore,

"*Be it resolved*, That said Committee on the Judiciary be required to report within two days from this date an amendment to the Constitution as above provided for in said resolution, and permission to report the same is hereby given."

Mr. REAGAN. I object. I would inquire whether the main purpose of this is not covered by the latter clause, and whether it is not meant by that to decide existing lawsuits and confiscate property not otherwise confiscated under the law?

Mr. HUNTER. I object to debate, and move that the rules be suspended and the resolution adopted.

Mr. PAGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 126, nays 71, not voting 92; as follows:

YEAS—Messrs. Abbott, Adams, George A. Bagley, John H. Bagley, jr., John H. Baker, Ballou, Banks, Bell, Bradley, William R. Brown, Horatio C. Burchard, Burleigh, Campbell, Cannon, Cason, Caswell, Chittenden, Clymer, Cochrane, Conger, Cutler, Davy, De Bolt, Denison, Dobbins, Dunnell, Eames, Evans, Flye, Fort, Foster, Freeman, Frye, Fuller, Garfield, Goodin, Hale, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hartzell, Hendee, Henderson, Holman, Hopkins, Hoskins, Hubbell, Humphreys, Hunter, Hyman, Kasson, Kehr, Kimball, Franklin Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Luttrell, Lynch, Magoon, Maish, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Neal, Norton, Odell, Oliver, O'Neill, Packer, Page, William A. Phillips, Pierce, Piper, Plaisted, Platt, Poppleton, Potter, Powell, Pratt, Rea, John Reilly, James B. Reilly, John Robbins, Roberts, Sobieski Ross, Rusk, Sampson, Savage, Seelye, Sinnickson, A. Herr Smith, Sparks, Springer, Stenger, Stevenson, Teese, Thompson, Thornburgh, Martin I. Townsend, Tufts, Turney, Van Vorhes, Wait, Waldron, Alexander S. Wallace, John W. Wallace, Warner, White, Whiting, Wike, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, James Wilson, Alan Wood, jr., and Woodworth—126.

NAYS—Messrs. Ainsworth, Ashe, Atkins, Bagby, Bland, Blount, Boone, Bradford, Bright, John Young Brown, Cabell, John H. Caldwell, William P. Caldwell, Candler, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Cook, Cowan, Culberson, Davis, Dibrell, Durham, Eden, Ellis, Felton, Finley, Forney, Franklin, Gause, Robert Hamilton, John T. Harris, Hartridge, Hatcher, Hereford, Goldsmith W. Hewitt, Hill, Hunton, Knott, George M. Landers, Milliken, Mills, Mutchler, O'Brien, John F. Philips, Purman, Rainey, Reagan, Riddle, Scales, Schleicher, Singleton, Slemons, Smalls, William E. Smith, Southard, Stone, Terry, Throckmorton, Tucker, Robert B. Vance, Gilbert C. Walker, Watterson, Erastus Wells, Whitthorne, Wigginton, Jere N. Williams, Benjamin Wilson, Fernando Wood, and Yeates—71.

NOT VOTING—Messrs. Anderson, William H. Baker, Banning, Bass, Beebe, Blackburn, Blair, Bliss, Buckner, Samuel D. Burchard, Carr, Chapin, Collins, Cox, Crapo, Crounse, Danford, Darrall, Douglas, Durand, Egbert, Faulkner, Gibson, Glover, Goode, Gunter, Andrew H. Hamilton, Hancock, Henry R. Harris, Hathorn, Haymond, Hays, Henkle, Abram S. Hewitt, Hoar, Hoge, Hooker, House, Hurd, Hurlbut, Jenks, Frank Jones, Thomas L. Jones, Joyce, Kelley, King, Lamar, Lane, Levy, Lewis, Lord, Lynde, Mackey, McFarland, McMahon, Meade, Metcalfe, Money, Morrison, Nash, New, Payne, Phelps, Rice, William M. Robbins, Robinson, Miles Ross, Sayler, Schumaker, Sheakley, Spencer, Stanton, Strait, Stephens, Stowell, Swann, Tarbox, Thomas, Washington Townsend, John L. Vance, Waddell, Charles C. B. Walker, Walling, Walsh, Ward, Warren, G. Wiley Wells, Wheeler, Whitehouse, Wilshire, Woodburn, and Young—92.

So (two-thirds not having voted in favor thereof) the rules were not suspended.

It is a notorious fact that wherever the democratic party is strongly intrenched in power there the expenses of administering government have been enormous, extravagant, and often corrupt to a fearful degree, as in New York City. The Commercial and Financial Chronicle of February 10 gives the following account of the debt of that city:

The debt began as a small matter, not expected to become large, in the authorization—as "a permanent arrangement of the finances of the city"—of a $900,000 loan, in 1812; and although there were two more issues during the next seventeen years, the net aggregate was reduced by repayments. The following shows the progress at intervals of five years down to 1870, and annually since that year:

End of year.	Net bonded debt.	Valuation of taxable prop'ty.	Ratio of debt to valuation.
1830	$774,555	$125,278,518	0.62
1835	902,534	218,723,703	0.41
1840	10,775,385	253,233,517	4.25
1845	13,629,581	239,995,517	5.67
1850	12,204,176	286,161,816	4.26
1855	15,024,418	486,998,278	3.58
1860	18,901,440	576,631,706	3.21
1865	35,973,597	608,827,855	5.91
1870	73,373,552	1,047,388,449	7.05
1871	88,369,386	1,076,249,483	8.21
1872	95,582,153	1,104,128,087	8.66
1873	106,363,471	1,129,291,023	9.42
1874	115,157,969	1,154,029,176	9.99
1875	116,773,724	1,100,943,699	10.60
1876	119,928,455	1,111,054,000	10.80

The present debt is made up as follows:		
Funded debt, payable from taxation	$98,191,749 92	
Funded debt payable from sinking fund	21,439,563 36	
		$119,631,313 28
Deduct sinking fund as follows:		
Funded debt provided for by sinking fund	9,586,408 36	
Funded debt provided for by taxation at maturity	18,424,349 92	
Revenue bonds in anticipation of taxes	168,344 51	
		28,179,102 79
Total		91,452,210 49
Add as follows:		
Temporary debt payable from assessments	22,371,400 00	
Revenue bonds issued in anticipation of taxes	6,104,814 51	
		28,476,244 51
Total net debt as in table		119,928,455 00

The operations for the year ending August 1 we condense thus:

RECEIPTS.

Receipts from taxes		$30,289,038
Receipts from revenue bonds of 1876	$17,012,718	
Receipts from other revenue bonds	4,527,893	
Receipts from other loans	14,468,596	
		36,009,207
Other receipts		15,858,412
Total receipts		82,156,657

EXPENDITURES.

Interest	$9,256,971	
From sinking fund for debt redemption	5,437,389	
From sinking fund for interest payments	2,064,095	
Redemption of revenue bonds of 1875	21,146,600	
Redemption of assessment bonds	3,897,800	
Redemption of "regular" bonds	7,847,403	
		49,650,258
For State taxes	*7,750,000	
For State schools	1,506,914	
		9,256,914
Other expenditures		24,501,177
Total expenditures		83,408,349

Here is a debt in that one democratic city, which is equivalent to a mortgage on its whole property equal to more than 10 per cent. of its value. Here are taxes vastly greater than in any city or State in the Union in proportion to wealth and population.

*This is the amount actually paid in the year. The city's share of State tax for the year was $2,023,275 less, that amount belonging to some other year, although paid in 1875-'76.

And this is not all of the debt of that great city. Thousands of suits are pending against the city for claims which will largely add to the debt.

THE WISDOM OF REPUBLICAN REVENUE SYSTEM.

The total public expenses for the fiscal year 1876 were $258,459,797.33, exclusive of money paid in reducing the national debt.

The total revenues for 1875 were $288,000,051.10. It is by no means true, as Mr. Tilden alleges, that these revenues are the "principal cause" of the "present depression."

They are so levied and collected as to avoid in a great degree any injury to the business of the country. They are not levied on farms, or horses, or cattle, or the tools of the mechanic, or the sources of productive industry. They are in large part collected from luxuries, and so discourage extravagance, promote morals, and encourage industry. Let me give some of the sources of our revenue. In 1875 the Government collected from whisky, $52,081,991.12; from fermented liquors, $9,144,004.41; from tobacco, $37,303,461.88; from private banks, $4,097,268.12; from national banks, $7,268,379.16, and from duties on foreign imported goods, $157,167,722.35. Nearly one-half of these imported goods were luxuries, and the residue were mainly articles which came in competition with the labor of our mechanics, and a duty on which gave encouragement and protection to our mechanics and laborers.

Congress has been reducing our national taxes as rapidly as possible, and with the increase of population and wealth these may be further reduced.

It is safe to trust the republican party with the control of the revenues, for in the last sixteen years their management has been a marvel of success. The total receipts from domestic spirits from 1863 to 1875, inclusive, were $489,763,999.

The taxes levied under State and local authorities have been and are oppressive, and these should be reduced, very largely reduced. But none of these go into the National Treasury, and these taxes have been largest and most oppressive where the democratic party held control, as in New York City.

NO CONTRACTION OF CURRENCY PRODUCING "HARD TIMES."

The democratic party of Ohio, in their platform of June 17, 1875, alleged that "hard times" were produced by two causes: *contraction* of the currency, and the proposition to *resume specie payments*. The platform said:

That the contraction of the currency, heretofore made by the republican party, and the further contraction proposed by it with a view to the forced resumption of specie payment, has already brought disaster to the business of the country, and threatens it with general bankruptcy and ruin.

The so-called "greenback party" of 1876 in their platform of May 18, at Indianapolis, express substantially the same view.

1. *To this I reply:*

It is not true that there has been any contraction of the currency, either to produce the panic of September, 1873, or hard times since. It is conceded on all hands that every branch of industry was prosperous during the war and up to the panic of September 18, 1873. They prospered in 1869 and 1870 and 1871 and 1872. Yet during those years there was no contraction. There was a gradual *increase* in each successive year up to 1876. The paper-money circulation is shown by the following:

TREASURY DEPARTMENT,
Washington, D. C., January 12, 1877.

SIR: In reply to your request of the 8th instant, for a statement of outstanding currency of all kinds on the 1st day of July in each year from 1862 to 1876, your attention is invited to page 512 of the Finance Report for 1876, of which the inclosed [following] statement is a consolidation, with the outstanding national-bank notes added for your convenience.

Very respectfully,

CHAS. F. CONANT,
Assistant Secretary.

Hon. WILLIAM LAWRENCE,
House of Representatives.

Year.	Old demand notes. *a*	Legal-tender notes. *b*	One-year notes of 1863. *c*	Two-year notes of 1863. *d*	Compound interest notes. *e*	Fractional currency. *f*	Total in United States notes.	National-bank notes. *g*	Grand total.
1862	$51,105,235 00	$96,020,000 00	.....	.....	.....	.....	$147,725,235 00	.....	$147,725,235 00
1863	3,384,000 00	387,646,589 00	.....	.....	.....	$20,192,456 00	411,223,045 00	.....	411,223,045 00
1864	799,037 50	447,300,203 10	$44,520,000 00	$128,100,550 00	$6,060,000	22,324,283 10	649,094,073 70	.....	649,094,073 70
1865	472,603 50	431,066,427 99	8,467,570 00	42,157,600 00	191,721,470	25,033,128 76	698,918,800 25	$146,406,725	845,325,525 25
1866	272,162 75	400,780,305 85	2,151,465 50	6,288,075 00	172,369,941	27,008,875 36	608,870,825 46	281,865,268	890,736,093 46
1867	208,432 50	371,783,597 00	794,687 00	531,202 50	134,774,981	28,474,623 02	536,567,523 02	299,047,929	835,615,452 02
1868	143,912 00	356,000,000 00	458,577 00	257,655 00	54,608,230	32,727,908 47	444,196,282 47	300,872,734	745,068,996 47
1869	123,793 25	356,000,000 00	220,517 00	127,255 00	3,063,410	32,114,637 36	391,649,558 61	299,929,623	691,579,181 61
1870	106,256 00	356,000,000 00	160,347 00	93,605 00	2,191,670	39,878,624 48	398,430,562 48	299,766,984	698,197,546 48
1871	96,505 50	356,000,000 00	128,037 00	77,955 00	814,280	40,582,872 56	397,699,652 06	318,261,241	715,960,893 06
1872	88,296 25	357,500,000 00	109,967 00	68,255 00	623,010	40,858,835 27	399,245,363 52	337,664,795	736,910,158 52
1873	79,967 50	356,000,000 00	88,705 00	59,450 00	499,780	44,799,365 44	401,527,267 94	347,267,061	748,794,328 94
1874	76,732 50	381,999,073 00	77,155 00	53,650 00	429,080	45,912,003 34	428,547,693 84	351,981,032	780,528,725 84
1875	70,107 50	375,771,580 00	66,525 00	47,650 00	371,470	42,129,424 19	418,456,756 69	354,408,008	773,455,092 69
1876	66,917 50	369,772,284 00	61,455 00	43,950 00	331,260	34,446,595 39	404,722,461 89	332,998,336	737,720,797 89

ACTS.

a July 17, 1861, 12 Stat., 259; Aug. 5, 1861, 12 Stat., 313; Feb. 12, 1862, 12 Stat., 338. *b* Feb. 25, 1862, 12 Stat., 345; July 11, 1862, 12 Stat., 532; Mar. 3, 1863, 12 Stat., 710. *c* March 3, 1863, 12 Stat., 710. *d* March 3, 1863, 12 Stat., 710. *e* March 3, 1863, 12 Stat., 709; June 30, 1864, 13 Stat., 218. *f* July 17, 1862, 12 Stat., 592; March 3, 1863, 12 Stat., 711; June 30, 1864, 13 Stat., 220. *g* June 3, 1864, 13 Stat., 100.

The small amount of compound-interest notes under the act of 1863 and so-called "seven-thirty" Treasury notes under the act of June 30, 1864, bore interest and never circulated to any considerable extent as money. They had been canceled prior to 1868. They were issued when the Government alone for war purposes used two millions a day, and often more, and they were temporary in their character and could not affect business in 1873.

The act of June 20, 1874, released bank "reserves" on circulation and increased the volume of currency *for actual use.*

The so-called "resumption act" of January 14, 1875, authorized *free banking*, so that there has been since that time *no limit* on the authorized amount of bank circulation. Any company that will deposit Government bonds in the Treasury as security for circulating notes can organize a bank, and thus the amount of currency is left to be determined by "the wants of trade."

From this, it will be seen we are not afflicted with any want or scarcity of money. Money is abundant and can be loaned at lower rates than ever before in all the great cities, because "the wants of trade" do not require the use of all that is there. There has in fact *within the last year* been a reduction of the bank-note circulation by the surrender of it by banks, and because especially in the great cities the wants of trade did not require it. (McPherson's Manual, 1876, page 251.)

Our total money up to and on July 1, 1876, was as follows:

Greenbacks	$369,772,284
National-bank notes	332,998,336
Fractional currency	34,446,595
Estimated small silver coin	15,000,000
Total	752,217,215
Gold coin	160,000,000
Total	912,217,215

That is, we have $17 per head of our population in paper money and nearly $4 *per capita* of coin; which is all of 2¼ per cent. on our total wealth. In democratic times our money was less abundant. In January, 1861, the account was as follows:

Bank-note circulation	$207,102,477
Coin in circulation	84,002,476
Coin in banks	83,594,567
Coin in Treasury	10,160,000

The coin and currency in actual circulation did not reach $10 *per capita* of population, and was only equal to 1.82 per cent. of our total wealth.

The coin and paper circulation in Great Britain and Ireland in 1873 was only $21.45 *per capita* and only 1½ per cent. on the total wealth of the country.

In the North German States in 1873 the coin and paper money were equal to $20 *per capita.* In France the lands are owned in small tracts, the people hoard money largely, and the paper and coin are larger *per capita* than here, but they are only equal to 1.8 per cent. of the total wealth, and much of this is not in actual use or circulation. No man now ever hears of any difficulty in selling crops or farm products because there is no money to buy them. There is a ready sale for cash for all that any farmer is ready to sell.

It is not true, then, that "hard times" are produced either by contraction or the want of a sufficient volume of currency.

2. *It is not true that the proposition for a future resumption of specie payments has brought "hard times."*

Whatever there is of "hard times" commenced with the panic of September, 1873. The so-called resumption act was not passed until January 14, 1875, sixteen months after the difficulty was developed. Business has since been gradually improving, because we are approaching the solid times of a currency that will not fluctuate in value, and which, by its stability, will restore confidence and invite capital into remunerative enterprises.

TWO DEMOCRATIC WITNESSES.

Now, I propose to prove by two democratic witnesses that the proposition for resumption has not produced the difficulty. They are dem-

ocrats of prominence—no less personages than Hon. ALLEN G. THURMAN, the able democratic Ohio Senator, and Samuel J. Tilden, the lately defeated democratic candidate for the Presidency.

On the 24th of March, 1874, Mr. THURMAN said, in a speech in the Senate:

The panic was the result of overtrading, excessive indebtedness, and of congressional legislation; it was overtrading, running too much into debt, embarking in unremunerative enterprises, and, notably, it was the North Pacific Railroad enterprise, that had been stimulated by Congress, which brought about that panic. *Never did I say that that panic was the result of an attempt to resume specie payment, for nobody could say that or think it who knew anything about the subject.* Never did any man hear me utter one word in favor of inflation; not one word, sir. I have spoken against a contraction of the currency that would bring about too speedily a resumption of specie payments, but never have I spoken in favor of that *inflation of the currency* which, I think I see full well, means that there never shall be any resumption at all * * * And that is precisely what this inflation means; it means demonetizing gold and silver in perpetuity, and substituting a currency of irredeemable paper based wholly and entirely upon Government credit, and *depending upon the opinion and the interests of members of Congress and their hopes of popularity, whether the volume of it shall be large or whether it shall be small. That is what this inflation means.* Sir, I have never said anything in favor of that; I am too old-fashioned a democrat for that. I have heard and preached too many hard-money lessons to advocate such a theory as that.

This is the testimony of Senator THURMAN:

Tilden is no less explicit. I have already shown that he declares "excessive governmental consumption" is the "principal cause" of the depression in business. He scouts the idea that there has been any *contraction* or *proposition for resumption* which produces any such result.

I shall have occasion to allude to the effect of resumption, the proper time for it, and the means, when I come to consider the *remedies* for such difficulties as now exist.

Again, Mr. Tilden, in his letter of acceptance, says of resumption that—

Discreetly pursued, it ought not to cost any sacrifice to the business of the country. It should tend, on the contrary, to a revival of hope and confidence.

Tilden, as governor of New York, himself approved a law of that State requiring all taxes to be paid in coin after January, 1879. He approved a law requiring all money contracts to be paid in coin after January 1, 1879, unless otherwise specified. The proposition for resumption at a future day is by no means the cause of the difficulty.

THE REAL CAUSES OF EMBARRASSMENT.

The real causes of our present difficulties may be traced to the rebellion. The means which were found absolutely necessary to suppress it were devised with great wisdom and employed with great skill, but no human foresight could avert some consequences which followed and brought disturbances to our industries. It is only profitable now to examine these, with a view to know and apply the proper remedies.

As I have already said, the war took a million of men from industrial pursuits. The war was vastly destructive. The Government became a great purchaser of the products of the farm, the workshop, and of nearly every industry to maintain our armies and carry on the war. The meager amount of money in the country under a democratic administration was by no means adequate to carry on a war which required $2,000,000 a day. The banks in existence at the outbreak of the rebellion, with their paper circulation of $207,102,477, lacked ability and could not command the confidence of the people. It became necessary to drive them out of existence, as Congress did finally by taxing their unreliable circulation. It was better, indeed, than the illegal currency issued by certain companies in Michigan during the war, but it did not meet the demands of the times either in value or amount.

Congress issued "*greenbacks*," and made them a legal tender under the act of February 25, 1862, and subsequent acts, with a solemn promise in the law that "the total amount issued or to be issued" should never "exceed $400,000,000." This pledge has been sacredly kept. The war went on. More money was needed. The national banking system was devised, which answered the double purpose of making a market for our national bonds and of increasing the volume of currency. This gave the Treasury the money without which the rebellion could not have been suppressed. Money, "the sinews of war," saved the Republic, second only in importance to our brave and true soldiers.

The immense and increased demand for all the products of industry stimulated production; as the demand increased, the prices advanced also. Farms, city and town property, everything, advanced in price. An inflated currency aided the increase in price, gave the means of enlarged credit, increased debts, and brought inevitably extravagance. The city and village population increased relatively more than the rural population, and too much of this engaged in speculation, in merchandising, in vending products, and overcrowded competition brought reduced profits and sometimes failures.

When the war closed in 1865 more than a million of men returned to private life, and many of them became producers rather than consumers. The Government ceased to be a rival purchaser in the market and all prices gradually, but inevitably, receded. So it has been after every great war, and no government can prevent it.

SIX CAUSES OF HARD TIMES.

In the history of these times we may trace *six principal causes* of the present embarrassment—(1) *speculation*, (2) *extravagance*, (3) *excessive imports*, (4) *debt, public and private*, (5) *the construction of railroads at extravagant prices on credit beyond a present remunerative demand and often through fraudulent agencies*, and last, but not least, (6) a *general shrinkage of prices*.

There is but one source of wealth—labor. It alone creates tangible wealth. It may be aided by capital, but it is labor that fells our forests and converts them into houses and implements useful for the convenience and comfort of man. Labor digs our mineral wealth from the earth and adapts it to human wants. Labor is the all in all of the real source of wealth. The mere issue of paper money creates no wealth. It is a substitute for money, a means of employing credit, but it is not money; it is an evidence of debt.

Speculation merely adds nothing to wealth. Yet speculation inevitably grew out of the condition of things which existed during and after the war.

Extravagance is a vast destroyer of wealth. It consumes like a devouring element and ends in financial ruin. The abundant currency, the advancing prices, and the facilities for credit and debt inevitably led to extravagance. The Government was powerless to prevent it.

Excessive imports came because our *high prices* made this an inviting market in which to sell. The same reason made it an indifferent market in which to buy, and exports did not keep pace with imports. In the eleven and a half years preceding January, 1874, we imported "luxuries and unnecessaries" $754,155,451, including wines and spirits, $68,824,725; silks, $253,905,823; kid gloves, $28,793,475; fancy goods and perfumery, $45,224,518; embroideries, $13,578,959; dress goods, $185,575,758; precious stones, $19,705,476; tobacco and manufactures of, $24,029,734, &c. In addition, there were imports of glass, China-ware, fine linen, cotton, woolen, and leather goods, books, fine cutlery, and expensive clothing amounting to $112,000,000. We exported gold and silver in excess of imports, $681,946,077; the balance of trade was against us $378,589,654. A nation which buys more than it sells, like an individual, must, sooner or later, feel "hard times."

Public and private debts were created to a vast amount. Besides the national debt the States owe debts $390,000,000, the towns and cities $570,000,000, the counties $180,000,000, or in all $1,140,000 000. Railroad companies created debts reaching $1,511,578,944. The volume of private indebtedness at home increased until notes, mortgages, and book accounts reached $1,500,000,000, or more, besides the indebtedness to banks. While debts were being created the demand for employment in the expenditure of the means they brought, increased and gave us an abnormal but temporary prosperity. The time came when we could create no more debt, and then the demand for labor from that source ceased, and the pressure of hard times with laborers out of employment commenced.

Many of these debts were evidenced by bonds bearing 7, 8, 10, and even 12 per cent. interest per annum—especially the county and other municipal and corporate bonds. This made a demand for money at high rates of interest and rendered it impossible to procure money at fair rates for legitimate manufacturing and other industrial enterprises. These can only be made successful when capital can be procured at reasonable rates.

The construction of railroads on borrowed capital in excess of remunerative demand aggravated the evil. In the five years preceding January, 1873, railroads were constructed at an annual cost of $340.-000,000; in all, $1,700,000,000, which is more than half the cost of all our railroads, but the railroad companies owe bonds and other debts, $1,511,578,949.

According to the Journal des débats, of France, there were constructed in the United States, almost entirely in the Western States:

In 1872, miles of railroad	7,400
In 1873, miles of railroad	3,850
In 1874, miles of railroad	3,036
In January, February, and March of 1875, miles of railroad	184

This gave employment to men, made a demand for agricultural products and foreign and domestic goods to feed and clothe them and for an immense product of iron. Hundreds of new blast-furnances were started, adding to the demand for labor.

When the roads were all built and the demand for more had ceased men were thrown out of employment, the demand for iron was largely reduced, furnances went out of blast, and the pressure of "hard times" was felt. The demand for foreign and domestic goods diminished, and merchants, in common with others, felt the consequences. Many of the railroads constructed by "rings" and "construction companies," invented by Tilden, at prices three times greater than their real cost, were unprofitable. Fictitious and "*watered*" stock and bonds inadequately secured proved worthless, and bondholders and stockholders and the people all alike felt the consequences. The failure of the Northern Pacific Road with Jay Cooke & Co. in September, 1873, precipitated a financial panic. It has been said by J. D. Hayes, esq., of Detroit, that:

So eager were interested parties to make money at both ends of their projects that no less than from twelve to fifteen thousand miles of railroads were rushed to completion in about three years, mostly upon the proceeds of bonds sold, held, or pledged for money by their financial agents, and nearly all of which promised 8 per cent. gold interest. Bankers' and brokers' circulars and advertisements were spread over the country offering to pay 5 per cent. interest upon daily balances in New York and other large cities, when call loans could be had for very much less. By such means the surplus money of the country was attracted to the large cities, and deposits went there from banks, bankers, corporations, and individuals all over the country. In many cases these same bankers and brokers were also the financial agents of these newly projected railroads whose bonds promised so much. They could pay out these deposits to the railroad managers, contractors, and schemers,

and receive back bonds to negotiate, while on those remaining unsold they could pay themselves the due coupons out of the capital, whereby they would secure about 8 per cent. of gold to themselves by paying 5 per cent. currency to their depositors, and when the bond was finally sold secure their large commission from the corporation. They "sold" the purchaser and their depositor at the same time with the bond, and this without investing any of their own capital. In some cases the contractors were only men of straw, working under the manipulations of some managers behind the scenes, who did not care to be known and disgraced when their schemes were exploded. One illustration will be sufficient, although a very bad one; many others partake of the same nature. One company with a nominal share capital of $10,000,000 are said to have had the full sum of $1,400 paid up, when they started out begging aid from towns, counties, and cities. They secured bonds and pledges for about $1,000,000, which netted only $700,000; next they issued bonds for $1,500,000, which netted $1,310,000, showing discounts and commissions upon the two sets of bonds of $190,000. The western division provided for such shrinkage by issuing bonds for $35,483 to the mile on its road and land grant, and promised 8 per cent. gold interest. Bonds for $5 000,000 cost $1,878,375 of this amount, and a stock bonus of $1,742,000 for negotiation.

Here we see both ends eating up the capital, to provide for which the bonds are made for about $11,000 per mile more than the roads cost to build, and the man at the other end takes the bonus for himself and his friends for floating them into the hands of the unsuspecting and over-confident capitalist, who has swallowed the promised 8 per cent. gold-interest bonds in exchange for his greenbacks. Is it any wonder that a panic, wide-spread and fearfully disastrous, was the result of the discovery of the fact that nearly or quite $1,000,000,000 had been swallowed up within a short period in building railroads, many of them having no real value at all, while others had only a prospective value in the distant future?

A distinguished citizen of Ohio, Hon. Aaron F. Perry, has given a truthful description of the times, as follows:

In 1875 the amount of liabilities of railroads, including liabilities over and above their bonds, was just about the entire amount of our national debt. The bonds were about two thousand millions, and other liabilities some two or three hundred millions beyond, making it not far from the exact amount of our national debt. A similar amount of stock was out, so that all that class of railroad paper issued upon those unsound transactions amounted to between four thousand and five thousand millions of dollars in 1875. The panic commenced September 18 or 20, 1873 It began by the failure of Jay Cooke & Co., of Philadelphia, contractors for the Northern Pacific Railroad, and bankers generally. Seven months before that time—that is to say, January 1, 1873—there had gone to protest $134,684,600 of railroad bonds for non-payment of interest, making thirty-seven companies that had gone to protest. At about the time of the panic there went to protest $91,740,500 of bonds issued by thirty-five companies. From September 20, 1873, to January 1, 1874, there went to protest $150,253,250 issued by twenty-five in default. During 1874, $202,366,701 in bonds of seventy-one companies went to default. And in 1875, $140,448,214 in bonds of twenty-five companies went to default. And in 1875 seventy companies had been taken into court for the amount of $387,675,615, and forty-four companies had been foreclosed for $159,373,300. Somewhere from fifteen hundred millions to two thousand millions of railroad paper, bonds, and stocks had fallen dead in the hands of the holders. It had been treated and valued as property, but was, temporarily at least, good for nothing.

Do we need anything more, fellow-citizens, to tell us what caused the panic and what caused the discharge of labor and the suspension of profitable industry? Those fictitious bonds and stocks are yet afloat in the country; they are packed up in masses in Wall street; they are looked upon as wealth, and scattered through the country; they are now owned by men who dislike to let it be known that they own them; men who are involved in endless financial difficulties, and are wasting years of their lives in the hope of struggling through and redeeming something from ruin. If a fire could have swept through Wall street and through every center where this paper was held, it would have burned up an enormous proportion of the poverty of the country, and it would have emancipated the men from their struggles to retrieve something, and from loss of time and effort to retrieve something, and would have set them free to go to work in other business. I submit that this accounts for the distress among laboringmen and the distress in business.

The panic came as the result of the extravagance that had been developed in war times, and the people awoke to realize the excesses into which the business of the country had been running.

The general shrinkage of prices completed these evils. Debts were to be paid. War prices could not be maintained. The debts grew with interest, the means of payment dwindled with the shrinkage of price. Property was thrown upon the market, the sellers were more numerous than buyers, and "hard times" existed as to improvident debtors, individuals and corporations.

REPUBLICAN PARTY NOT RESPONSIBLE.

The republican party is not responsible for any one of these disturbing causes. No party could have prevented them except the party that made and supported the rebellion. The republican party could not prevent speculation, nor extravagance among the people, nor the high prices which brought excessive imports or the creation of public and private debts, nor the construction of railroads in advance of remunerative demand. The abundant currency was a necessity which grew out of the war and high prices are inevitable in every great war. But for a protective tariff our imports would have been largely in excess of what they were. The very abundance of our prosperity, secured by wise republican financial measures, led incautious people into extravagance, debt, and speculation.

The "shrinkage of prices" was inevitable when the Government ceased to be a great buyer and consumer of products. But the "panic" and "hard times" were by no means so ruinous as those of 1816, of 1837, and of 1856, in democratic years. They continued for years, accompanied by ruin, wide-spread and universal. But now only a few of our industries are suffering, and these to a limited extent.

FOREIGN COUNTRIES.

The evil of hard times exists in other countries. They exist in England now. They exist in Prussia. After the Franco-Prussian war, France paid a war fine of $1,000,000,000 to Prussia. This was a coin inflation, and it produced speculation, high prices, debt, and now all this is followed by a decline in prices and hard times there.

THE REMEDY—CAN RELY ON REPUBLICANS.

The inquiry which now concerns us all is, what is the appropriate remedy? Which party will most surely bring it?

NO DEMOCRATIC REMEDY.

The democratic party offers no real remedy. Mr. Tilden, in his letter of acceptance, offers what he means to say are two remedies. For the first he says:

What you want to do now is to cut down your expenses and live within your income. I would give all the legerdemain of finance and financiering, I would give the whole of it for the old home maxim "live within your income."

This follows from his theory that existing evils grow out of "excessive governmental consumption," for he directs his advice to cutting down the expenses of the National Government and perhaps to individual expenses as well. This is good advice. It may be found on inspired pages, and it was taught by Franklin a century ago.

But so far as individual economy is concerned, it can be practiced without having a democratic President. So far as economy in national public expenditures is concerned I have already shown that the republican party has been constantly reducing expenses and taxes, and that democratic success would add to the national burdens hundreds, if not thousands, of millions, by the allowance of southern war claims, to be followed probably by pensions for rebel soldiers, if not payment ultimately for emancipated slaves.

TILDEN FOR CONTRACTION.

The democratic party now of course stand by its platform and candidate for the Presidency in 1876. Here, then, is its purpose.

Mr. Tilden's second remedy referring to the greenbacks says *there is a surplus of them*, and that they should be funded into interest-bearing bonds. His letter of acceptance says:

With respect to whatever surplus of legal-tenders the wants of business may fail to keep in use, and on which, in order to save interest, will be returned for redemption, they can be paid or they can be funded.

In the convention which nominated Tilden, General Ewing, of Ohio, discussing the platform adopted, says:

It commits us to the reduction of the legal-tender money.

In 1875 the democratic party of Ohio and Indiana demanded "*more greenbacks.*" They sounded the alarm that contraction "has brought disaster to the business of the country and threatens it with general bankruptcy and ruin."

In 1876 they supported Tilden, who says there is a *surplus of greenbacks* which should be funded. This, on a large scale, would bring contraction "with a vengeance," and indeed prostrate our industries. No man who honestly supported the Ohio democratic platform of 1875 can support the policy of Tilden or the democratic party now.

He proposes no increase of greenbacks, no increase of currency, no abandonment of the policy of resumption. This is the feast to which the democratic party now invites Allen and the inflation anti-resumption democrats of Ohio.

THE TRUE PLAN OF RESUMPTION.

The democratic and republican parties agree now that resumption is desirable at some time. There are differences of opinion as to the time when it can commence and the means to accomplish it.

If the Government shall, as Tilden proposes, fund all or a large part of the greenbacks, resumption on the residue can come speedily. It will not be difficult to resume when there is but little currency on which to resume. But this means a contraction of greenbacks which will be ruinous to business. It means to strike down half our currency and wipe it out of existence. Then the burden of resumption will be thrown on the national banks. There is not sufficient coin in the country, and the banks own but little of what there is. They cannot and will not incur the cost of buying coin abroad, and they will be compelled to surrender their circulation to escape the burden of resumption, if all thrown on them by funding all the greenbacks. This will wipe out alike greenbacks and bank-notes and bring ruin to business, which no words can describe. This is the feast to which the Tilden democracy invites us. It is the programme of destroying the national banks advocated in the Ohio democratic platform of 1875, and in other States as well. It is the latent purpose of the democratic party, not openly avowed in the national platform. The republican party is conservative and watchful of the business interests of the country. It will commit no such folly or wickedness as this.

As to the time and means for resumption, I can only speak for myself. On the 24th of February, 1876, "the actual available coin owned by the Government" was only $13,341,423.76. (House Executive Document No. 133, first session Forty-fourth Congress.) It is no more now.

There should be no such reduction of the volume of money as to disturb business, reduce prices, or embarrass debtors. The greenbacks should be redeemable in coin so soon as the requisite coin can be accumulated in the Treasury. If the public demand for coin should cause the greenbacks all to be redeemed, their place would be supplied with the coin, and there would be no reduction of the volume of money. Coin dollars would be money—more money than paper dollars. In fact, $160,000,000 of gold now in the country, and now a marketable commodity, would become current money, and increase the supply of circulating money. Resumption would increase the money. The supply of coin thus produced would exceed the volume of bank-notes, and enable the banks to maintain resumption without reducing their circulation. It may not require a supply of coin equal to the greenback circulation, $369,772,284, to begin and maintain resumption. Considerably less may possibly answer the purpose. But

we should not underestimate the difficulties of resumption. The first difficulty to be encountered is the propensity of the people to hoard money. It is probable that the demand for this, and for banks and business purposes, would require $300,000,000 within a year after resumption begins. Our paper circulation was in July, 1876, $737,217,215. Of this the banks hold about $120,000,000, the Treasury about $12,000,000, and private banks about $25,000,000, or in all $157,000,000. The residue of our currency, $580,217,215, is invisible. It is in State, county, city, village, and township treasuries, in the safes of business men and corporations, but more largely than all, it is hoarded by the people to the amount of probably $250,000,000 or more. Resumption must first satisfy the demand for this purpose, and the Treasury cannot make redemption permanent with a less sum than is sufficient to meet it. Even the fractional silver recently issued, though less valuable than greenbacks, is hoarded, and is rarely visible, threatening a scarcity of change. The time when this (or whatever may be a sufficient) sum can be accumulated in the Treasury will in all probability, as it seems to me, fix the date of resumption.

The late Secretary of the Treasury, Mr. BOUTWELL, in the discussions in Congress in 1874, has shown that the nine great banks of Europe hold $600,000,000 of coin; that they will probably not permit it to go abroad; that they resisted the refunding of our 6 per cent. national bonds until the Treasury Department would agree only to convert 6 per cents, already held in Europe, into 5 per cents, and that they were so sensitive to any export of coin that the Geneva award of $15,500,000, payable in gold, was in fact paid in our own Government bonds. It is quite probable that we cannot rely on buying coin from Europe with our bonds. And if we could it is by no means certain that it is desirable to add to our interest-bearing national debt even to accomplish the desirable resumption. Coin can be accumulated in the Treasury from our coin revenues. This will require time; how much, no man can tell. While the process goes on, our paper will gradually improve in value. The republican *platform* of 1876 therefore commits the party to no *absolute day*. This was proposed in the national convention, but voted down. The platform demands resumption "at the earliest practicable period," and "a continuous and steady progress to specie payment." This is judicious, practicable, and wise. Recently the coin supply in Europe has largely accumulated, and the same conditions possibly do not now exist as in 1874. The balance of trade now turning in our favor may materially aid resumption.

REPUBLICANS CAN MANAGE CURRENCY—DEMOCRATS NOT.

The republican party can be trusted; the democratic party, not.

During the long years of democratic rule the country never had a sound paper currency. Expansions, contractions, panics, bankruptcy, uncertainty, ruin, followed the democratic party in its career of misrule, its subserviency to slavery, and its imbecility for any good purpose.

In the "Sixth Annual Review of the Commerce, Manufactures, and the Public and Private Improvements of Chicago for 1857," it is said:

Till the 12th of last September, for nearly four years past, the range for exchange on New York has been three-quarters of 1 per cent., the variation being from ¼ to 1¼ per cent. premium. As most of our readers have had occasion to feel, since September the price has been ruinously high; but such has been the determination of our mercantile community to maintain their honor unt'arnished that enormous sacrifices have been cheerfully made to meet maturing obligations. *Ten per cent. has been the highest price charged by the regular bankers; but for many days during the last three months they have had none to sell even at these figures. Twelve and even 15 per cent. has been paid by parties to the brokers for small amounts rather than have notes protested.* These enormous prices for exchange have cost our city an immense amount of money; but as a whole there can be no doubt that it has been a great and positive advantage to our trade to do it. *It was caused by the impossibility of converting the bills of the Illinois and Wisconsin banks into coin.* For a time no one dared to keep an account in Saint Louis, for *nearly all the banks and bankers failed, or were considered in a most precarious condition.*

This is the history of one year in one locality in the days of democratic power, policy, and ascendency. It is a fair sample of nearly all localities during too large a portion of the years of democratic rule.

The democratic party went out of power on the 4th of March, 1861, with a bank-note circulation of only $207,102,477.

The democratic rebellion came, requiring $2,000,000 a day for the use of the Government and a vast increase for the business of the country. The republican party was equal to the emergency. It gave to the country the greenbacks, the fractional currency, the national-bank notes—the best currency not immediately convertible into coin which the world ever saw. The greenbacks were kept good by the faith the people had in the republican party, by the solemn promise in the law under which they were issued that no more than $400,000,000 should ever be issued, and by the promise of *ultimate payment in coin*. The democratic party opposed all this without offering a better or any system of currency. The coin in the country would not pay the expenses of the war for a day.

Mr. Pendleton, speaking the democratic sentiment in Congress on the 29th January, 1862, more than doubted the constitutional power to issue greenbacks, and said:

You send these notes out into the world stamped with irredeemability. You put on them the mark of Cain, and like Cain they will go forth to be vagabonds and fugitives on the earth.

He was a false prophet, speaking to defeat the means of suppressing the rebellion. The greenbacks went out with the stamp of patriotism on them, they were baptized in the blood of our soldiers, they and the national banks performed the financial part of saving the life of the Republic; and the democratic party, not the greenback, became the political vagabond and wanderer!

The republican party, which managed our currency so well in war, can be trusted in peace.

Our greenback and national-bank notes are good, but our national platform of 1876 affirms it is our duty and our policy *to make them better*, to perform the promise of making them equal to coin "as soon as practicable."

If it can be done as the so-called resumption act of January 14, 1875, proposes, by January 1, 1879, it will be done; if not, the time will be postponed. This act is evidence of a purpose which at some time is to be carried into effect. Like faith, it is "the substance of things hoped for, the evidence of things not seen."

DEMOCRATIC POLICY ON THE CURRENCY A FRAUD.

The democratic party cannot be trusted to manage our currency, *because of its incapacity heretofore, in peace and in war, because its national platform of* 1876 *is a double-dealing fraud intended to deceive*, because it has no settled policy, but has been *against greenbacks when needed in war*, and *for their inflation without necessity in peace, in violation of the pledge of Congress and of the Constitution*, and because a democratic House of Representatives, after eight months' trial, on the 6th of August, 1876, *confessed utter incapacity to deal with the currency problem*, as I will proceed to show:

I. I have already shown the incapacity of the democratic party through its whole history to deal with the subject of currency alike in peace and in war.

II. *The democratic platform of* 1876 *is a double-dealing fraud.* It contains three principal declarations on the subject of currency.

1. It demands resumption "soon"—that is the word, "*soon*." This is intended to satisfy the creditor States of the East.

2. It says: "We denounce the failure for all these eleven years to make good the promise" of resumption.

This is intended to satisfy the East. Its complaint is that the republican party should have resumed long years ago—a claim never before made, an impossibility, and an absurdity.

During "all these eleven years" no democrat ever proposed a plan which could have brought resumption. In and out of Congress the party opposed every practicable measure looking to that object. The Ohio democratic platform of 1875, on the subject of resumption, demanded "that this policy be abandoned;" and the party in other States followed the same political faith.

3. The national platform denounces "the resumption clause of the act of 1875" as a "hinderance" to "a speedy return to speie payments."

Here is a clause intended to read for speedy resumption in the *East*—resumption earlier than January, 1879, for the act of 1875 can only be a "hinderance," because it will "delay" resumption. It is intended to be read in the *West* as favoring a postponement of resumption away beyond 1879. When the platform was read in the Saint Louis convention, which adopted it, General Ewing, of Ohio, exposed its true character by saying:

It denounces one clause only of the specie resumption law, the clause fixing the time for the resumption of specie payment, leaving the rest of the act to stand unobjected to, and by implication approved. But why does it object to the clause? Because it is destroying the business of the country, in connection with the balance of the law? Not at all, but merely because it is a *hinderance* to specie payment. The fair inference being at any rate—if not a fair one, an inference that will surely be drawn—that the objections of the national democratic party to the specie-resumption law are confined only to the date for resumption, and the objection to that is, that that date is a "hinderance" to resumption, and the construction will be given, and with some degree of plausibility at least, that *the democratic party want resumption earlier than the date fixed.* [Applause.]

III. The democratic party has no settled policy. During the war when greenbacks were a necessity the democratic party opposed them in the interest of rebellion. The Ohio democratic platform of 1875, as did the democratic platforms in other States, demanded *a new issue of greenbacks* in undefined quantities. This was alike a violation of the pledge in the law authorizing their issue, which limits the amount to $400,000,000, and in time of peace a violation of the Constitution. The national platform of 1876 repudiates the idea of more greenbacks; and Tilden says there is a *surplus* and says they should be *funded*. The Ohio democrats in 1875 demanded *inflation;* in 1876 they supported Tilden who favored *contraction*.

In 1875 the Ohio democrats opposed resumption; in 1876 they supported a platform which demanded it "*soon*." In 1875 they demanded the destruction of the national banks; in 1876 they stood on a platform which is silent as to banks, but of which General Ewing said in the convention:

It commits us to the perpetuation of the national-bank system.

The truth is the democratic party is hopelessly divided, is without unity of purpose or sentiment, and if in power could agree on nothing, but would introduce that most disturbing and dangerous element, ruinous to all business, *uncertainty*. If we can judge the party by its conflicting professions and platforms, we might well say:

It wires in and wires out
And leaves the people still in doubt,
Whether the snake that made the track
Is going south or coming back.

IV. *This democratic House of Representatives has confessed utter inability to deal with the subject of currency.*

In 1874 the people were outraged by the unfortunate "salary-grab

law," wrong as it was in every respect, and for which democrats were more responsible than republicans.

They were outraged by the "Credit Mobilier" frauds, so recently exposed in Congress, and they elected a democratic House of Representatives. The democratic party *East* had denounced the resumption act as "a policy without a plan," and in the *West* they had denounced the policy because it had an operative plan—the only plan that can succeed—*to accumulate coin in the Treasury* as soon as practicable sufficient to resume.

The act of February 25, 1862, requires duties on imported goods to "be paid in coin," and this is the source of the coin supply.

This democratic House first met in December, 1875, and during a session of eight and a half months, had ample time to develop every democratic plan upon every subject. And now near the close of its second session, after a trial of two years, it has not presented or agreed upon one measure designed to protect civil or political rights, to improve the revenue system, the management of the national debt, the currency, civil service reform, or in any respect to promote the material or moral interests of the people. Week after week an expectant people awaited with anxiety some measure upon some subject that would be useful for some purpose, and especially upon the currency, with a view to remedy "hard times."

The mountains labored, and after eight months of the first session of democratic rule in Congress, was born—"*ridiculus mus*"—a confession that a democratic House were incapable of understanding the subject. They asked for *experts* to aid them. Experts are people who understand their business, as a democratic Congress cannot.

On the 31st July, 1876, Mr. Cox introduced a joint resolution in these words:

Resolved, &c., That a joint committee of the two Houses of Congress be appointed who may call to *their aid* three or more *experts in finance;* three of said committee to be appointed by the Speaker of the House and the same number by the President of the Senate, whose duty it shall be to inquire into and report at the next session of Congress upon the practicability, *desirability*, and mode of remonetizing silver upon the *resumption of specie payments* and upon other kindred subjects of pending fiscal legislation.

This was referred to the Committee on Banking and Currency, and with immaterial modifications, all having the same purpose, was agreed to on the 6th of August, 1876. And this is the consummation of democratic wisdom on the subject of currency. The democratic party may now sing:

This is the way we long have sought
And mourned because we found it not.

And up to this hour absolutely nothing has been done to relieve the pressure of "hard times." This democratic House has been weighed in the balances and found wanting. It has been worse than a barren fig tree, and should receive its reward accordingly.

THE GREENBACK PARTY.

In some portions of the country there is a so-called "greenback party." Their platform in 1876 was substantially that advocated by the democrats of Ohio in 1875. It rests on three essential declared purposes—(1) *the withdrawal from the national banks of the power to issue notes*, which means their destruction; (2) *the repeal of the resumption act*, and (3) *the issue of unlimited amounts of greenbacks by the Government*, never redeemable in coin, but a legal tender for all purposes, and convertible into a bond bearing 3.65 per cent. interest, payable in the new greenbacks; and the bonds themselves never to be payable in coin but re-convertible back into the new greenbacks—the one convertible into the other but neither ever payable in anything. Democrats who supported Allen and Carey in Ohio in 1875, cannot support the democratic party now and preserve consistency or self-respect. But republicans who supported Rutherford B. Hayes for governor of Ohio in 1875, and for President in 1876, and all men who desire permanent prosperity should support the republican party now.

It may be proper to consider briefly the principles of the greenback party.

The destruction of the national banks is objectionable for several reasons, some of which I will state rather than argue:

1 *It would violate public faith.* The banks were created under a law which gives them banking privileges for twenty years. There is indeed a power of repeal, but repeal without cause would be unjust. Capital invested on the faith of a law should not be disturbed.

2. *They furnish the best currency the people ever had.* It is of uniform value all over the country and is *safe beyond doubt*, because for every $90 in bank notes the Treasury holds $100 in Government bonds, worth $112 in gold.

3. *The destruction of the banks would require the collection of* $1,000,000,000 which the people owe them. This would produce embarrassment and ruin by forcing debtors to pay. Those who owe the banks would in turn require their debtors to pay. Money now embarked in buying farm products, operating factories, and aiding other industries would be withdrawn; laborers would be thrown out of employment and panic and hard times would come in earnest.

4. *The national banks pay more taxes than any other property.* They are taxed by the National Government and the States. In 1875 they paid into the National Treasury $7,268,379.16 and probably into the county treasuries in all the States $12,000,000. If the banks are abolished this tax must be raised from other sources.

5. *The experience of all commercial nations* is that banks are an absolute necessity, and the national-banking system is the best ever devised. But I will not enlarge upon these propositions. The repeal of the resumption act in full, and all its parts, and the issue of such notes as I have described, is a part of one policy to have a Government currency never redeemable in coin or anything of value. I will content myself with enumerating a few of the objections to this wild, impracticable, humbug scheme of irredeemable notes.

(1) *Under the Constitution they could not be made a legal tender in payment of pre-existing debts.* The Constitution declares that "no State shall make anything but gold and silver coin a tender in payment of debts." The Supreme Court only sustained the legal-tender character of greenbacks by a vote of 5 to 4, and two at least of the five judges only sustained them as a *war necessity*, justifying this mode of borrowing *money*. But new Treasury notes now would encounter the objection that there is no war necessity, and as nothing is "*money*" but gold or silver coin, they not promising to pay "*dollars*," which means coin dollars, as our greenbacks do, would be declared unconstitutional as a legal tender. Notes that will not pay debts can have but little value.

(2) *It would be a fraudulent violation of the pledge* made in the act of June 30, 1864, that no more than $400,000,000 of greenbacks should be issued. A nation that would break its promises can never be trusted.

(3) *The new greenbacks would rapidly depreciate in value.* If they were convertible into a bond bearing 3.65 per cent. interest and *payable in coin*, the bond and the new greenbacks would even now be only worth about seventy cents on the dollar, for 4½ per cent. bonds are only worth par. But bonds payable only in new greenbacks, which themselves are never redeemable in coin but only convertible back into bonds, would be of no value abroad and could not maintain value at home. The paper money of many countries, even *payable in coin*, has become worthless by its excessive issues. This would be liable to the same excessive issues, and would be worthless because making no promise to pay anything of intrinsic value. Such depreciated currency would swindle all creditors and fall largely on the laboring-men. The wages due them is $120,000,000. They have deposits in savings-banks of $760,000,000; in trust companies and other banks, $200,000,000, and have other moneys due, $130,000,000. They should be paid in money having *full value*. From the time when Abraham purchased a burial-place for Sarah, his wife, with coin the precious metals have been the money of the world. All efforts to give value to a currency not payable in coin have failed.

(4) *This scheme would be ruinous to debtors.* Creditors would sue and force collections while currency had some value, and not wait till depreciation had robbed them of all their dues.

Suppose it shall be determined that there shall be inflation. What then?

Will men loan money to those who are in debt, with a prospect of payment in a still more depreciated currency?

Will creditors indulge debtors when delay may bring payment in a still more depreciated currency?

This will close the avenues of the debtor class, either to indulgence or to money, and they must fall a victim to judgments, executions, forced sale of property at terrible sacrifices, ending in bankruptcy and ruin. Of all men in the community, the debtor class, who need indulgence from creditors or hope to borrow, will be most ruinously affected by inflation.

(5) *It would discourage all industrial enterprises.* It would prevent the building of new factories, houses, railroads, &c., and thus take away the means of employment. Men will not embark in new enterprises on inflated prices, because those prices cannot continue always, and when prices go down they cannot be made to pay. Men will say: "We will wait until we know what is coming before we will build." Uncertainty is ruin to business.

Will inflation build new railroads, or open new mines, or revive manufactures? This might be so for a time in starting from a specie basis. It was so, because it was possible to go in debt to a certain limit. But many railroads already built on inflated prices do not pay, and men will not embark in new projects on greatly increased prices with a certainty that even now they could not be made to pay, and much less when we return, as we must, to real money and substantial prices.

Men will not build new factories or houses at an inflated cost with a certainty that when normal conditions come, as come they must, their value must shrink and yield inadequate rents or profits on the original cost. Let inflation come, with the experience of the past in view, and men will say: "We will not build until we can build at less cost;" and they will act accordingly.

During the last summer one of the largest manufacturers of reapers and mowers in the world, the famous Champions, of Springfield, Ohio, in the district which I have the honor to represent, was asked if inflation would improve his business. Said he:

If inflation is to come, I would suspend business at once. I cannot afford to pay for labor and materials this year in money worth 90 cents in coin on the dollar and sell for paper next year worth only 70. This would ruin any business.

Men will only embark in enterprises giving employment to labor when there is stability in the value of money, when they can calculate the profit to come from investments. The real cause of our difficulties and the remedy have been better stated by Governor Hayes, in his letter of acceptance of July 8, 1876, than by any other statesman or political economist whose writings I have recently observed. He says:

It is my conviction that the feeling of uncertainty, inseparable from an irredeemable paper currency, with its fluctuations of value, is one of the great obstacles to a revival of confidence and business and to a return of prosperity. That uncertainty can be ended in, but one way: the resumption of specie payments; BUT THE

LONGER THE INSTABILITY connected with our present money system is permitted to continue the greater will be the injury inflicted upon our economical interests.

These are words of wisdom, the words of an able statesman.

Millions of capital are now locked up awaiting a solution of our financial troubles. The success of the democratic party would bring uncertainty, the success of the republican party *stability*. If it shall be supported in Congress and maintained in power it will restore confidence, bring the gradual resumption of specie payments, and revive our prostrate industries all over the land.

(6) *Inflation would impose burdens on consumers.* It would tax every consumer and buyer of manufactures. It would tax every manufacture. The business of the country deals in thousands of millions of chattel property besides land. A change of 10 per cent. in the value of the currency affects the holders of property who are in debt hundreds of millions. With a currency of changeable value dealers must add on to sales from 2 to 5 per cent. to indemnify them for loss in the depreciation of currency. This falls on manufacturers and consumers, and, with great inflation, would put an end to many branches of industry and throw men out of employment.

Suppose the manufacturer of iron should be confronted with a law or a practice which would make a ton of iron consist of 1,800 pounds or 2,000 pounds, or any fluctuating point between them, dependent on the gamblers in Wall street and the click of the telegraph. If he took a contract to furnish iron a month hence he would naturally say a ton now is 1,800 pounds, but in a month it may be 1,900 pounds. I must deduct from the price of labor 5 per cent. of the value I could afford to pay if I knew exactly what a ton would be, to indemnify me against the risk I incur. If I cannot do this I must cease operations and leave the field to iron-makers in other countries where a ton is a fixed measure.

If a yard measure should vary, the manufacturers of cloth would reason in the same way, and the manufacturers of corn whisky would learn the same logic if a barrel could fluctuate between thirty-two and forty gallons.

These measures do not indeed fluctuate, but there is another measure more universally in use which does.

Coin is a medium of exchange. It measures values. It is unvarying. It is recognized the world over. It is the money of the world.

We have a paper currency by which we effect exchanges and measure future liabilities.

The manufacturer of iron, or wool, or cotton, or wood, who agrees to furnish a given quantity of goods for $1,000, at a fixed time, knows he is to receive $1,000 in currency, but he does not know whether it will be worth $840 or $900 in gold. He is uncertain what he will get. He must indemnify himself against loss by a charge upon labor. He will not enlarge his business nor embark in more enterprises while this uncertainty lasts.

A fluctuating currency is a tax on labor, the only real source of wealth. Additional inflation will increase the disparity between gold and paper and add to the tax.

Inflation proposes to pay the laborer in a currency which may be worth sixty or ninety cents on the dollar.

Justice demands that we gradually approach resumption, so that when a dollar is paid for labor it shall be equal to coin.

The approach to resumption will remedy the evils which have grown out of inflation. It will turn the balance of trade in our favor and enable us to accumulate a supply of the long-banished gold. It will revive our industries and give employment and profit to our people. The balance of trade has already turned in our favor. Our exports for 1876 were $32,674,647 more than for 1875, and our imports for the year ending June 30, 1876, were $72,918,159 less than for 1875. The total excess of exports of merchandise exclusive of specie over imports during the last fiscal year was about $79,000,000. (Congressional Record, August 10, 1876.)

The Commercial and Financial Chronicle of February 10 gives the following exhibit:

COMPARATIVE RECAPITULATION.*

Merchandise.	Total imports.	Domestic exports.	Foreign exports.
Month ended December 31, 1876	$32, 369, 460	$76, 569, 689	$1, 709, 420
Month ended December 31, 1875	31, 324, 755	64, 114, 911	1, 349, 139
Twelve months ended December 31,1876	426, 612, 706	575, 698, 040	14, 923, 743
Twelve months ended December 31,1875	503, 152, 936	497, 263, 737	13, 683, 685
GOLD AND SILVER.			
Month ended December 31, 1876	11, 884, 286	2, 136, 301	1, 256, 551
Month ended December 31, 1875	1, 428, 808	2, 401, 325	248, 975
Twelve months ended December 31,1876	34, 479, 397	47, 973, 752	8, 380, 713
Twelve months ended December 31,1875	22, 896, 148	70, 108, 852	9, 194, 662

GOLD VALUE OF MERCHANDISE—DOMESTIC EXPORTS.

Month ended Dec. 31, 1876...$71, 265, 775 | Month ended Dec. 31, 1875 ...$56, 634, 719

Not reported—Alaska, Corpus Christi, for November and December.

*The figures given for the twelve *months* in each case represent the *specie* value.

The industries of the country are reviving. Even the iron industry, so much depressed, is better now than ever under democratic rule. The Philadelphia Bulletin of the American Iron and Steel Association for February, 1877, says:

Our consumption of manufactured iron in 1875, except rails, greatly exceeded that of 1871 or 1872, and only falls below that of 1873 and 1874 in our whole history; while our consumption of steel never was so great as in 1875 and 1876.

(7) *This inflation scheme would give Congress the dangerous power to fix the value of every man's property*, and change it often largely and speedily. Speculators would besiege Congress for inflation. Then, when people are in debt they would demand contraction. Alternate expansions and contractions would enable shrewd speculators to gobble up the capital of the country. The uncertainty would paralyze all business.

The currency of a country should be regulated by the wants of trade, and under resumption it will be so.

(8) *A new issue of Treasury notes would not relieve debtors.* Suppose you issue a hundred or five hundred millions of greenbacks. You will not distribute them gratis, either to debtors or borrowers. They can only get them by giving something of value in exchange for them.

(9) *It would bring violent expansions and contractions.* In times of apparent prosperity bonds would be converted into circulating notes and enormously inflate the currency. With the slightest panic the notes would go back into bonds, producing speedy, immense, and ruinous contraction. This is the most splendid contrivance to produce violent expansions and contractions ever devised.

I have described only the one question of "hard times," the *cause* and the *remedy*.

But upon all questions the republican party is the only one that can safely be trusted. The *great questions* of the times have been discussed by others.

Let us keep the ship of state in the control of a President and a party that believes we have a *nation* capable of preserving its own existence, and that duty and patriotism demand that men, regardless of race or color, shall be protected in the enjoyment of equal civil and political rights all over the land. This is the grand mission of the republican party.

The following table will show the increase in exports of agricultural exports, and illustrate the policy of our legislation, surrounded, as it has been, with so many difficulties and disadvantageous circumstances:

Statement showing the quantities and values of certain articles of domestic farm produce, exported from the United States to foreign countries during the fiscal years ended June 30, 1857, 1858, 1859, 1860, 1872, 1873, 1874, 1875, *and* 1876.

Commodities.	1857.		1858.		1859.		1860.		1872.	
	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.
Animals:										
hogs.....No..	923	$5, 525	96, 000	$810, 406	95, 509	$550, 875	48, 355	$377, 604	56, 110	$248, 153
horned cattle.....No..	4, 325	144, 840	28, 247	1, 283, 709	32, 513	1, 345, 058	27, 501	1, 052, 426	28, 033	565, 719
horses.....No..	1, 631	195, 627	2, 154	283, 371	2, 295	290, 250	1, 635	233, 368	1, 722	268, 475
mules.....No..	1, 624	171, 189	2, 261	244, 297	2, 282	258, 336	1, 435	148, 080	2, 121	294, 402
sheep.....No..	4, 373	22, 758	.....	49, 319	.....	41, 182	.....	23, 613	35, 218	79, 592
all other and fowls.....No..	.....	.....	.....	.....	.....	.....	.....	.....	.....	17, 375
Breadstuffs:										
barley.....bushels..	(*)	.....	(*)	.....	(*)	.....	(*)	.....	86, 891	63, 407
Indian corn.....bushels..	7, 505, 318	5, 184, 666	4, 766, 145	3, 259, 039	1, 719, 998	1, 323, 103	3, 314, 155	2, 399, 808	34, 491, 650	23, 989, 365
Indian corn-meal.....barrels..	267, 504	957, 791	237, 637	877, 692	258, 885	994, 269	233, 709	912, 075	308, 840	1, 214, 999
oats.....bushels..	(*)	.....	(*)	.....	(*)	.....	(*)	.....	262, 975	135, 129
rye.....bushels..	(*)	.....	(*)	.....	(*)	.....	(*)	.....	794, 967	703, 929
rye flour.....barrels..	27, 023	115, 828	14, 283	56, 235	14, 432	60, 786	11, 432	48, 172	6, 287	34, 401
wheat.....bushels..	14, 570, 331	22, 240, 857	8, 926, 196	9, 061, 504	3, 092, 016	2, 849, 192	4, 155, 153	4, 076, 704	26, 423, 080	38, 915, 060
wheat flour.....bushels..	3, 712, 053	25, 882, 316	3, 512, 169	19, 328, 884	2, 431, 824	14, 433, 591	2, 611, 596	15, 448, 507	2, 614, 542	17, 935, 684
other small grain and pulse.....	.....	† 680, 108	.....	† 642, 764	.....	† 1, 181, 170	.....	†1, 058, 304	.....	479, 449
Cotton:										
sea island.....bales..	.....	}	.....	}	.....	}	.....	}	8, 029	} .....
sea island.....pounds..	12, 940, 725		12, 101, 058		13, 713, 556		15, 598, 698		2, 709, 106	} 1, 410, 303
other unmanufactured....bales..	.....	} 131, 575, 859	.....	} 131, 386, 661	.....	} 161, 434, 923	.....	} 191, 806, 555	1, 995, 398	} .....
other unmanufactured..pounds..	1, 035, 341, 750	}	1, 106, 522, 954	}	1, 372, 755, 006	}	1, 752, 087, 640	}	930, 828, 307	} 179, 274, 292

Statement showing the quantities and values of certain articles of domestic farm produce—Continued.

Commodities.	1857.		1858.		1859.		1860.		1872.	
	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.
Fruits:										
apples.....barrels..	33,201	$135,280	27,711	$74,363	32,979	$99,803	78,809	$206,055	.....	.....
apples, dried .....pounds..	.....	.....	.....	.....	.....	.....	.....	.....	2,644,592	$190,560
apples, green or ripe...bushels..	.....	.....	.....	.....	.....	.....	.....	.....	100,307	108,948
other fruit, green, ripe, or dried..	.....	.....	.....	.....	.....	.....	.....	.....	.....	161,541
Hay .....tons	.....	.....	.....	.....	.....	.....	.....	.....	5,266	135,714
Hemp, unmanufactured ... cwt..	7,325	46,907	8,380	47,875	2,160	9,279	3,720	9,531	561	7,103
Hides & skins other than furs..No..	153,726	624,867	.....	875,753	.....	520,533	.....	1,036,266	.....	1,445,178
Hops .....pounds..	924,538	84,852	458,889	41,704	587,953	53,016	273,257	32,866	3,061,241	408,305
Provisions:										
bacon and hams.....pounds..	43,863,539	4,511,442	20,954,374	1,957,423	11,989,694	1,223,042	25,844,610	2,273,768	246,208,143	21,125,502
beef.....pounds..	15,668,000	1,218,348	23,961,400	2,081,856	30,801,000	2,188,056	38,858,800	2,674,332	26,652,094	1,870,825
butter.....pounds..	3,141,592	593,084	3,782,117	541,863	4,572,067	750,911	7,640,914	1,144,321	7,746,261	1,493,812
cheese.....p unds..	6,453,075	647,423	8,098,527	731,910	7,103,323	649,302	15,515,799	1,565,630	66,204,025	7,752,918
eggs.....dozen..	.....	.....	.....	.....	.....	.....	.....	.....	5,142	1,048
lard.....pounds..	40,246,544	5,144,195	33,022,236	3,809,501	28,362,706	3,268,406	40,249,519	4,545,831	499,651,660	20,177,619
pork.....pounds..	28,902,600	2,805,867	31,975,000	2,852,942	41,148,400	3,355,746	40,948,600	3,132,313	57,169,518	4,122,308
onions.....bushels..	.....	77,048	.....	75,624	.....	100,667	.....	109,881	80,619	78,988
potatoes .....bushels..	217,620	205,616	242,230	205,791	376,056	284,111	380,372	284,673	621,537	482,648
other vegetables.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	79,645
Rice.....tierces..	64,332	2,290,400	64,015	1,870,578	81,820	2,207,148	84,163	2,567,399	.....	.....
Rice.....barrels..	74,309	.....	49,283	.....	69,940	.....	77,837	.....	.....	.....
Rice.....pounds..	.....	.....	.....	.....	.....	.....	.....	.....	403,835	28,768
Seeds:										
cotton .....pounds..	.....	.....	.....	.....	.....	.....	.....	.....	6,360,109	72,212
flaxseed or linseed....bushels..	350	525	.....	.....	5,067	8,177	2,715	3,816	600	1,867
clover, timothy, garden, and all other.....bushels..	.....	330,166	76,316	332,250	95,929	536,781	116,574	596,919	.....	3,765,025
Tallow .....pounds..	5,698,315	632,236	8,284,812	824,970	7,103,045	712,551	15,269,535	1,598,170	76,151,218	6,973,189
Tobacco .....hhds..	156,845	.....	127,670	.....	198,840	.....	167,274	.....	.....	.....
Tobacco.....cases..	5,631	20,260,772	4,841	17,009,767	7,185	21,074,038	15,035	15,906,547	.....	.....
Tobacco.....bales..	14,435	.....	12,640	.....	19,651	.....	17,817	.....	.....	.....
Tobacco .....pounds..	.....	.....	.....	.....	.....	.....	.....	.....	234,936,892	24,136,166
Wool, raw and fleece.....pounds..	50,202	19,007	884,807	211,861	1,706,535	355,563	1,055,928	389,512	140,515	36,434
Total values.....	.....	226,805,449	.....	200,784,974	.....	222,199,873	.....	235,683,012	.....	360,697,148

Commodities.	1873.		1874.		1875.		1876.	
	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.
Animals:								
hogs .....No..	99,720	$787,402	158,581	$1,625,837	64,970	$739,215	68,044	$670,042
horned cattle.....No..	35,455	695,957	56,067	1,150,857	57,241	1,104,085	51,593	1,110,703
horses.....No..	2,814	255,365	1,435	169,303	3,220	242,031	2,030	234,964
mules .....No..	1,659	172,172	1,252	174,127	2,802	356,822	1,784	224,860
sheep.....No..	66,717	107,698	124,248	159,735	124,416	183,898	110,312	171,101
all other and fowls.....No..	.....	14,853	.....	30,53	.....	47,44	.....	24,617
Breadstuffs:								
barley .....bushels..	482,410	323,187	320,399	210,73	91,118	61,408	317,781	*210,586
indian corn.....bushels..	38,541,930	23,794,604	34,434,606	24,709,951	28,858,420	24,456,93	49,493,572	33,235,280
indian cornmeal.....barrels..	403,111	1,474,827	357,807	1,520,399	291,654	1,290,535	354,240	1,305,027
oats.....bushels..	714,072	294,575	812,833	381,762	504,770	290,537	1,466,228	*588,583
rye.....bushels..	562,621	460,547	1,564,484	1,568,36	207,100	214,590	543,841	*430,083
rye flour.....barrels..	8,288	46,129	59,820	388,31	9,903	54,96	7,553	39,054
wheat.....bushels..	30,214,235	51,452,214	71,039,928	101,421,457	53,047,177	59,617,863	55,071,122	68,382,809
wheat flour.....barrels..	2,502,086	19,341,664	4,094,094	29,253,094	3,973,128	23,712,44	3,935,512	24,433,470
other small grain and pulse.....	.....	394,890	.....	670,140	.....	804,19	.....	†1,136,515
Cotton:								
sea island.....bales..	16,463	.....	19,290	.....	12,647	.....	8,204	941,803
sea island.....pounds..	5,603,909	2,350,687	6,426,524	2,114,124	4,439,120	1,538,766	2,644,791	
other unmanufactured .....bales..	2,592,791	.....	2,884,765	.....	2,702,216	.....	3,206,423	191,717,459
other unmanufactured.....pounds..	1,194,360,621	234,892,382	1,352,175,779	209,109,45	1,255,979,783	189,099,856	1,488,769,54	
Fruits:								
apples.....barrels..	.....	.....	.....	.....	.....	.....	.....	.....
apples, dried .....pounds..	4,483,186	272,928	4,234,736	294,89	4,033,696	326,193	713,840	67,915
apples, green or ripe.....bushels.	664,576	819,664	123,552	204,31	759,574	722,247	177,298	221,764
other fruit, green, ripe, or dried.....	.....	292,935	.....	211,308	.....	269,652	.....	210,177
Hay.....tons..	4,557	110,880	8,889	111,87	7,183	110,25	7,528	134,017
Hemp, unmanufactured .....cwt..	978	9,121	1,106	8,90	2,140	21,85	870	8,318
Hides and skins, other than furs .....No..	.....	3,605,02	.....	2,560,38	.....	4,729,725	.....	2,905,921
Hops.....pounds..	1,795,437	272,463	117,35	27,97	3,066,703	1,286,50	9,191,589	1,384,521
Provisions:								
bacon and hams.....pounds.	395,381,737	35,022,137	347,405,405	33,383,90	250,286,549	28,612,613	327,730,172	30,664,456
beef .....pounds	31,605,196	2,447,481	34,036,537	2,956,670	43,243,251	4,197,950	36,536,150	3,186,304
butter.....pounds..	4,518,844	952,919	4,317,983	1,092,38	6,360,827	1,506,996	4,644,894	1,109,496
cheese.....pounds..	80,366,540	10,498,006	90,611,077	11,898,993	101,010,853	13,659,603	97,676,254	12,270,083
eggs.....dozen..	15,683	4,169	23,749	5,233	34,119	8,743	20,633	8,500
lard.....pounds..	230,534,207	21,245,815	295,527,471	19,308,015	166,869,333	22,900,522	168,405,839	21,429,485
pork .....pounds	64,147,461	5,007,035	70,482,319	5,804,715	56,152,330	5,671,495	54,195,115	5,744,012
onions .....bushels.	41,881	53,616	34,105	52,057	47,695	51,259	61,816	54,015
potatoes .....bushels..	515,306	498,291	497,413	471,33	609,642	522,182	704,379	441,443
other vegetables.....	.....	101,503	.....	109,68	.....	137,366	.....	119,386
Rice.....tierces..	.....	.....	.....	.....	.....	.....	.....	.....
Rice.....barrels..	.....	.....	.....	.....	.....	.....	.....	.....
Rice .....pounds..	276,637	19,740	558,922	27,07	277,337	19,831	439,991	30,918
Seeds:								
cotton .....pounds..	4,005,009	45,486	6,303,985	63,557	5,316,113	63,128	5,164,546	69,605
flaxseed or linseed.....bushels..	490	1,345	286	900	43	137	98	257
clover, timothy, garden, and all other.....bushels..	.....	1,114,231	.....	674,457	.....	1,227,750	.....	1,348,750
Tallow .....pounds..	79,170,558	7,068,471	101,755,631	8,135,320	65,461,619	5,692,203	72,432,775	6,734,378
Tobacco .....hhds..	.....	.....	.....	.....	.....	.....	.....	.....
Tobacco .....cases..	.....	.....	.....	.....	.....	.....	.....	.....
Tobacco .....bales..	.....	.....	.....	.....	.....	.....	.....	.....
Tobacco .....pounds..	213,995,176	22,689,135	318,097,804	30,399,181	223,901,913	25,241,549	218,310,275	22,737,383
Wool, raw and fleeced.....pounds..	75,129	17,624	319,600	72,162	178,034	62,754	104,768	13,845
Total values.....	.....	439,073,345	.....	492,613,495	.....	420,837,064	.....	445,821,805

*Included with "other small grain and pulse." † Including barley, oats, and rye for 1857, 1858, 1859, and 1860.

An Exposure of Democratic Frauds at the Late Election in South Carolina, and a Vindication of the Republicans.

SPEECH OF HON. J. H. RAINEY,

OF SOUTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

February 21 1877,

On the recent election in the State of South Carolina.

Mr. RAINEY. Mr. Speaker, in one form or another the condition of the South has commanded the attention of the country from the very foundation of this Government to the present time, and I am confident it will continue to do so, either to the detriment or benefit of that section, during many years hence. This must necessarily be so because of the diversity of sentiment and the habits of the ruling classes, and because, likewise, of a deficiency of that lofty patriotism which ought to control the emotions and shape the sentiments of those who should love their entire country better than a portion, only, thereof. The struggle of later years was for the perpetuity of slavery; a struggle entered into under the conviction that this peculiar institution was sanctioned by Holy Writ, and that consequently its maintenance at any cost would meet the appproval of God himself. To such an end, and thus animated, no means were spared in forcing conviction and molding public sentiment into thorough acquiescence with these pronounced ideas. The warmth and earnestness thrown into the efforts here noted, however sincere the convictions of which they were the offspring, proved fatal in effect. They shook the entire fabric of the Republic, supplanted peace with discord, and, annihilating the country's wide-spread harmony, severed that fraternal relation which is so essential to the stability of a good and wholesome government.

In my judgment, the difference of opinion regarding this great southern question is owing very largely to the want of a full understanding of the facts relating thereto, and a public tendency to discredit, as partisan, all attempted explanations of the true condition of affairs among the late insurrectionary States. The original objective point in this respect was the negro—as a slave; and to-day the real bone of contention among the Carolinas and their sister States is this same identical negro—no longer a slave but as a freeman and a citizen. The great question among them at present is the one absorbing interrogatory: Has the colored man, in acquiring freedom, acquired also the rights and privileges incidental to that condition; or, has he still to render obedience to the control and dictation of the dominant race? Reduced yet more simply the question with which the white people of the South are now wrestling is this: Has the negro become possessed of nominal or actual freedom? And while upon this branch of my subject I wish to express the belief that they have not, generally speaking, opposed the enfranchisement of my race except in so far as it invaded their cherished theory; a theory in which each succeeding generation had been taught to believe as something perfectly proper because, as was supposed, sanctioned by Scripture. And even this theoretical objection to enfranchisement would fade away like mist before the morning sun if we would but consent to become docile to dictation from our former masters as to whom we should support and what measures we should sustain; in other words, if we agreed to hold our individual ballots subject to the disposition of the southern rulers. In such a case all trouble would cease and the South become, almost immediately, strangely tranquilized. But such surrender would be the sacrifice of the spirit of true manhood to the Moloch, slavery—an institution which has made of the South a perfect pandemonium for any one who would dare denounce it in its very cradle before its very patrons.

And now, sir, let me claim your attention and the attention of this House and the country while I touch upon the subject of intimidation, an offense charged upon the republican party in South Carolina during the late State and presidential elections.

Before entering specifically into a discussion of this topic I wish to make one general observation relating thereto. The opposition arraigns us for intimidation of voters, not alone at the last election in South Carolina but during many preceding contests. Of course it is colored voters to whom the charge relates, they comprising a large majority of the voting population of the State, and holding, therefore, the supremacy. This distinction being acknowledged—and it cannot well stand denial—I would ask of the people at large one simple question. It is not addressed to the democracy of the country, because the democracy is perfectly sensible of its wide deviation from truth in accusing republicans at the South of practices of intimidation during election times. Democrats know full well the utter falsity of its charge, but persist in reiterating the same merely for partisan effect.

I ask the people of the country at large this question, therefore, and them alone: The republican party having compassed the freedom and subsequent enfranchisement of the colored race, and thus created in several southern States a clear voting majority, in what political party, then, is it most likely that intimidation will be found, if found at all? With what political party will this new element be found coalescing voluntarily and impelled by naught save gratitude at the outset and gratitude and principle afterward? On the other hand, what political party, dismayed and enraged at this picture of colored men, freed and enfranchised, arrayed against it, will be found resorting, during State and presidential campaigns, to practices of intimidation? Sir, I pause for a reply.

Returning now to the more specific consideration of this same theme, it may be noted that one great alleged factor in the so-called work of republican intimidation was the presence at and near the polls, during the last election in South Carolina, of United States soldiers. We are accused of procuring the presence, then and there, of armed men, the mere sight of whom, it is *now* said, proved sufficient to overawe and terrify would-be democratic voters. Sir, how unfortunate it is that the trumpeters of these declarations are possessed of memories so deficient as to cause them to forget the language of the democratic press in South Carolina on this very subject. The News and Courier of Charleston is the recognized organ of democracy in the Palmetto State. Prior to the 7th of November last it referred time and again to the proposed concentration of troops in the State during the period of election, and professed, in all apparent earnestness, to welcome heartily such a move on the part of the Government, declaring, in effect, that such action would be hailed with delight by the democrats as assuredly proving instrumental in augmenting considerably the party vote. Whether these editorial assurances were intended as mere democratic bombast or real party sentiment it is not for me to say, but in this reference we accord to the great party of reform the latter charitable supposition.

In doing so, however, yet another obstacle to clear reasoning in the premises presents itself: *How* were the United States soldiers to assist in augmenting considerably the democratic vote in the State; or, indeed, the republican vote either? Was their presence at the polls to exert a moral or physical influence over the balloting? We of the republican party know that United States soldiers were sent into the Southern States to preserve the peace—*this alone*. But assuming for the moment that they *were* dispatched to these sections (as some would there have it) to overawe and terrify, how were the democrats to derive benefit therefrom? And yet such seemingly were the views of the southern democracy on this question before the election, as expounded in the party organ. Now, however, the struggle ended, and South Carolina conceded to be republican by all honest-thinking men, the entire retrospect is changed. Soldiers, we are told, served as intimidators all through the State, and terrified democrats were forced at the bayonet's point to vote for Chamberlain and Hayes.

Ah, sir! right here we cannot but note the brilliant consistency which marks the political conduct of southern democrats. Had the State by unaccountable means really gone democratic we should have heard nothing of this flippant talk against the soldiers. The predictions of the newspaper—in effect already quoted—would have been declared to have been realized. In the *absence* of such declaration and in this subsequent talk of intimidation in the State can we find an indirect democratic concession of a republican victory in South Carolina in November last.

And the opposition—was it entirely innocent of the guilt of "intimidation," with which it essays to bespatter so liberally its powerful party enemy? Again have we only to turn to the News and Courier of Charleston for an indirect negative answer to this question.

I am well aware of and fully appreciate the great doctrine of our republican form of government, namely, that the military must be subordinate to the civil power, especially in times of peace. I know how deeply rooted this principle is in the hearts of the American people and how justly and properly they boast of this distinguishing feature of its fundamental law. But there are other principles of still greater importance and more essential to the perpetuity of our Government, and these are: that the citizens should enjoy their personal liberty and exercise fully and freely their political rights. This, Mr. Speaker, I regard as the first and most important duty of any government, without which no government is worth perpetuation. The framers of the Constitution comprehended the importance of this protection and provided for its exercise under certain conditions. These conditions existed in South Carolina, and the President, having been called upon by the executive of the State in accordance with the requirements of the Constitution placed the military forces of the Government in the State for the protection of life and liberty in the exercise of political rights.

The only question, it seems to me, that can properly engage our attention is this: Did the circumstances justify the action of the President in sending the troops to South Carolina? I answer the question in the affirmative, and will now proceed to state some of the reasons why I am of that opinion. There was a riot at Hamburgh last summer which has become known far and wide; the cold-blooded atrocity in shooting unarmed prisoners has awakened a just feeling of horror and indignation in every manly breast. That riot was looked upon in South Carolina by those who understood the true condition of the State as being of great political significance, on account of the time at which it occurred and the parties engaged in it, especially those controlling the affair. That riot was the key-note of the campaign. There were several political meetings held soon afterward by the republicans of Edgefield, Newberry, Abbeville, and Barnwell Counties whereat the governor of the State addressed the people on the political topics of the day. At these meetings there were large organized bodies of white democratic citizens, fully armed,

who participated in, and in some cases took absolute possession of, the affair, and who by their violent harangues and threatening demonstrations plainly indicated that they intended to overawe and intimidate the republican citizens in the exercise of their political rights. These facts are notorious. It was this state of things that induced the governor to call upon President Grant for that protection to which every citizen of the Republic is justly entitled under the Constitution. The call was promptly responded to and troops were sent simply to preserve the peace between the contending political factions, and this was all they ever did.

I have scarcely patience to answer the charges that the presence of the troops prevented any democratic voter, or any voter at all, from voting. The charge is too absurd for serious consideration, much less refutation. Not the slightest evidence has been or can be adduced which is competent to prove such a ridiculous allegation. I cannot conceive of any one really and sincerely believing such a thing. I can and do understand politicians whose heated imaginations have been frenzied by defeat asserting such things upon insufficient proof and under such delusions who in their calmer moments would with contempt disregard all such allegations. I am perfectly well aware that the presence of troops with the well-known instructions given them exercised a great moral influence in South Carolina in preventing the democrats in that State from executing fully and effectively their carefully prepared plans for intimidating republican voters. This, I am sure, greatly exasperated them.

Let me describe, Mr. Speaker, a meeting which I myself attended in my own congressional district, which illustrates my argument better than any general description can do. I was appointed to speak at Bennettsville, in Marlboro County. I had to ride fourteen miles from the town of Cheraw, where I had spoken the previous day. As we rode along a number of republicans joined us in the road and informed us that they expected trouble, as the democrats had been boasting for some days that they would break up the republican meeting. As we drove into town, followed by about fifty or sixty of our republican friends on horseback, we met at the corner of a street at right angles to the one we were on a long line of mounted and armed democrats, numbering several hundred, who had gathered from the adjacent counties as well as from the one they were in, while some had come even from the State of North Carolina, (as I was reliably informed,) which bounded this county in one direction. There was imminent danger of a conflict, but fortunately, before any difficulty occurred, both parties saw a company of United States soldiers at a short distance marching in from the station, located fourteen miles away, and which they had left early that morning. The timely presence of these soldiers undoubtedly averted bloodshed, and thus deterred the democrats from attacking the republicans. I considered it at the time, and so declare now, that the presence of the troops was most providential. I am confident that members of both parties who are alive at this time, if it had been otherwise, would have been numbered among the dead.

After this excitement had subsided we held our meeting in quietness and peace while the democrats dispersed.

Mr. Speaker, the republicans of the South ask for peace, and with that peace their political rights. This is a part of my own political experience. They are facts which I can vouch for from personal knowledge.

But perhaps one of the best arguments to show the wisdom of the governor of the State in calling for troops, and of the President in heeding that call, is to be found in the conduct of the citizens of Charleston County. It is a matter of common notoriety that Judge A. G. Magrath and General W. G. De Saussure, two of the most respectable and influential democratic citizens of Charleston, waited upon General Ruger and requested that troops should be sent over to James Island for the protection of the white democrats in that part of the county, and that they also waited on Governor Chamberlain and requested him to second their efforts, which was done. On this island, and others upon the sea-coast in Charleston County, the colored citizens, who are almost invariably republicans, outnumber the whites, who are almost all democrats, about ten to one. These colored people had been goaded to desperation by the persecutions they had undergone and had at last turned upon their oppressors and threatened retaliation, and in several cases, notably at Cainhoy, defended themselves when attacked, driving their assailants before them. As soon as the democrats saw that the republicans were determined on self-defense when driven to extremity, conscious of having repeatedly trampled upon their rights and feeling themselves worthy of severe punishment, they themselves applied for protection and would have been only too glad to have had the presence of United States troops to shield them from the pending wrath and vengeance of those whom they had so long and wantonly maltreated.

I could continue to multiply these facts indefinitely, both from my own experience and from the testimony taken by the committees of the Senate and House, but I have said enough, I trust, to warrant and justify the action of the Executive in ordering soldiers into South Carolina.

In order that it might be seen that I have not drawn upon my imagination for the foregoing statement, I invite attention to the following bits of testimony taken before the House committee. Having a personal acquaintance with the witness, I am enabled to vouch for its truthfulness:

COLUMBIA, SOUTH CAROLINA, *December* 26, 1876.

PARIS SIMPKINS (colored) sworn and examined.

By Mr. LAWRENCE:

Question. Where do you reside?

Answer. At Edgefield Court-House. I was born and raised in Abbeville. I am twenty-seven years old.

Q. What offices, if any, have you held?

A. I have represented that county twice in the General Assembly of this State, the lower house.

Q. Were you a candidate for re-election at the last election, on the 7th of November?

A. With the consent of the committee I will read a statement that I would like to make, and afterwards, if they choose to ask any questions, they can do so.

Q. Who prepared it?

A. I prepared it from what transpired under my own observation.

The witness read the statement, as follows:

I am a resident of Edgefield County; have lived there all my life. I have represented that county twice in the Legislature of this State; was a candidate for re-election at the last general election which was held on the 7th day of November. I was at the polls on election day for the purpose of voting the republican ticket, but did not have the privilege of doing so. The polls at Edgefield Court House, where I was, Nos. 1 and 2, were blocked, and otherwise crowded by armed democrats, who were uniformed in red shirts, and from one to two pistols buckled on the outside, and some with sixteen-shooters strapped to their sides, the major part of them being mounted on horses, and using threats of a violent nature toward republicans who would present themselves for the purpose of voting the republican ticket. After witnessing for several hours the violent and formidable demonstration of the democrats to overawe and deter republican voters, and knowing, as I did, that my life had been previously threatened by the democrats for political reasons, I came to the conclusion that if I voted the republican ticket I would be murdered. I know the fact that at least six or eight hundred republicans at Edgefield Court House, who were at the polls for the purpose of voting the republican ticket, were prevented from doing so. I am quite sure if they had wanted to vote the democratic ticket, they could have done so with perfect safety. I know I could have voted the democratic ticket with perfect ease if I had so desired it. I saw a large number of republicans make several efforts to vote during the day at box No. 1, but as they would get near the polls, the democrats would immediately rush around the place of entrance and keep the republicans back. The democrats had all voted, but notwithstanding this, they stood there armed and equipped as so many sentinels placed there for the specific object of preventing republicans from voting. During the day the democrats, who were mounted, would gallop from box to box, sometimes yelling and brandishing their pistols.

At about three o'clock in the afternoon the democrats organized a democratic meeting on the court-house steps, the place of entrance to the polling-precinct No. 1, at which several candidates on the democratic ticket made speeches. This was kept up until the polls were closed; during all this time republicans made repeated efforts to vote, but were not allowed to go up the steps. I would state further, in order to show to what extent the republican leaders were intimidated by the threats and violent demonstrations of the democrats, because of their political sentiments and party fealty, that it was utterly impossible to canvass the county in the interest of the Hayes and Wheeler electors, Congressmen, or State officers. On the day of the election I saw several republicans who had been violently assaulted and beaten over the head with pistols, and severe wounds inflicted on them, because they had endeavored to vote the republican ticket. The vote of the county is largely in excess of that of any previous election. There were about 3,000 votes polled over and above what we were legally entitled to by the census which was recently taken. The majority of the census-takers of Edgefield County were democrats; that census gives the colored men a majority over the white men of 1,678. Republicans were publicly threatened with being discharged from employment, and the probability of being killed, if they persisted in giving their support to the candidates on the republican ticket.

By Mr. LAWRENCE:

Q. Do you know of any republican meeting being disturbed in that county?

A. Yes.

Q. State what you know of your own knowledge about that.

A. Some time before the election, I don't remember the date, there was a meeting advertised there as a ratification of the nomination made at Cincinnati by the republicans of Hayes and Wheeler. It was advertised that Governor Chamberlain would be there in person to speak at Edgefield Court House. There was quite a large assemblage there of republicans and democrats, and when Governor Chamberlain was escorted to the stand the stand was simultaneously mounted by General Gary and General M. C. Butler, and General Butler first addressed the meeting. I cannot remember what he said, but I know he addressed the meeting first; and I recollect he said that they proposed to be heard there, and that if they were not allowed half the time by the republicans they would not be responsible for the consequences of what might follow. General Gary also made that statement. The chairman of the meeting proceeded to introduce Governor Chamberlain to the audience as the first speaker. He was interrupted by General Gary, who told him that they did not need any chairman on that occasion, and that before any speaking was done some member of the republican party must first get up and assure the democrats that they would have a show or be permitted to speak in reply. Of course, the chairman of the meeting could not proceed any further. He had only spoken three or four words by way of introducing the governor He stopped, and conferred with Governor Chamberlain and others who were there as republicans to speak, and the governor decided that it would be better, under the circumstances, to accede to the demands of these gentlemen. Of course, the chairman of the meeting had nothing more to say, but consented to what Governor Chamberlain had said. Governor Chamberlain then got up and spoke for the republicans, and said that it had been agreed that the demands of the democrats would be conceded, or at least that time would be granted them, and that they would be allowed half an hour each. He said he would speak first for half an hour, and General Butler, I think, was to follow, McKay next, and Gary next.

Q. McKay was a republican speaker?

A. He was at that time in the interest of Governor Chamberlain.

Further comment is unnecessary.

FRAUD.

We hear a great deal, Mr. Speaker, since the election last November, about *fraud*. Our political opponents have repeated that charge so frequently and to such an extent that I would not be astonished if they had really become convinced that there was some truth in the allegation. But what are the real facts of the case? I shall endeavor to state them, and in doing so shall confine myself to my own State, South Carolina. The committee appointed by the House to investigate the election returns there have been compelled, by the facts themselves, to report unanimously that the republican presidential electors have been elected on the face of the returns. But the majority of that committee have endeavored to break the force of that admission by charging intimidation and fraud on the part of repub-

licans, thereby implying that if these alleged wrongs were not practiced the democrats would have carried the State. I want it understood distinctly that upon a fair vote South Carolina is a republican State. She has always given a majority to republican candidates of about 30,000 when there have not been any internal party dissensions, and as high as 10,000 when there have been such ruptures, and, consequently, rival candidates of our own political party in the field.

The census taken by the authority of the State in 1875 gives, in round numbers, 110,000 colored voters above the age of twenty-one, and about 75,000 white voters of corresponding age.

Now, I regret to say that the color line is the party line in my State, with but comparatively few exceptions. It has been repeatedly asserted by the democrats of the State that the census was inaccurate by giving too large a population; the State census of 1875 being an increase of nearly 220,000 over the United States census of 1870. But, by taking the census of 1875 as the basis of my argument, it will be observed that the opposition get the benefit of the increase. If I were to take the United States census of 1870, my argument against them would be still more conclusive.

Now, Mr. Speaker, the census of 1875 shows about 185,000 voters in the State. The returns of the election in 1876 show 183,000 votes to have been cast. I venture the assertion that such a percentage of votes was never cast before in any civilized country. Think of it: 183,000 votes cast out of 185,000 votes registered! The bare statement carries on its face the most conclusive evidence of fraud. The usual rule of proportion of votes cast to votes registered is five-sixths, and on extraordinary occasions six-sevenths, which would give in the ordinary case 154,166, and in the extraordinary case 158,591.

This, I may say, is the law gathered from election statistics; and yet instead of between 150,000 and 160,000 votes cast out of 185,000 votes registered, we have here 183,000 votes as having been cast! It is not at all surprising that our usual majority of 30,000 (in the absence of dissensions, which was the case during the last election) has been overcome. Yes, sir; I repeat it with emphasis, but calmly and deliberately. It has been extinguished by fraud and violence, but more especially by fraud. In South Carolina it has been the custom to register the names of voters in separate columns according to color. The white voters are in one column and the colored voters in another, and here I may perhaps appropriately turn for a moment to answer the allegation of fraud made against us by our opponents, who have but a slight acquaintance with the peculiarities of the people of the State in not having a registration law. They refer to the State constitution as requiring such a law, then allege that we have not passed any such measure. This charge is untrue. We have practically a registration law in existence. Each voter is required to give his name as he votes and to swear that he is entitled to vote and has not voted elsewhere at that election; and the severest penalties are attached for those who attempt to exercise the franchise unlawfully. If these precautions do not comply practically with all the substantial requirements of registration laws, then I am greatly in error. No person of any experience has ever asserted that registration laws have always prevented frauds. If those who execute the laws are determined to violate them, nothing can prevent the infraction. The special reason why a registration law in the usual form used in the Northern States has not been passed in my State is because the colored people, who form the bulk of the agricultural laborers, are accustomed to change their residence yearly and sometimes oftener, and they would by that means become deprived of their votes.

From this custom of registering the white and colored voters in separate columns at the time of the election, we are enabled to reach an almost perfectly accurate conclusion as to which party is responsible for and benefited by the unprecedented frauds perpetrated at the late election in South Carolina. I say an almost perfectly accurate conclusion, because in two out of the thirty-two counties composing the State this separate method of registration according to color was not observed, though in thirty it was. We are enabled, however, by the data furnished by the returns for the various candidates, to form a comparatively accurate conclusion with regard to the election in those two counties and therefore in the State. The total number of colored votes cast in the State at the late election, speaking in round numbers, was 97,000 out of 110,000 voters; this, as it will be observed, being a little over six-sevenths, the highest percentage known, and of which the republican candidates received 92,000 altogether, thus leaving 5,000 colored votes for the democrats, on the assumption that all the republican candidates got colored votes only, and none other, which, while not properly accurate, is substantially correct, as I have before said that the color line in my State was the party line. Now, the democrats received 91,000 votes—I should state in this comparison that I am taking the electoral vote—giving them the 5,000 colored votes that we did not get, and the entire 75,000 white votes. Assuming for the purposes of this argument that we did not get one of them, which is not correct, they would still have but 80,000 votes, and yet they got 91,000 votes, a clear fraud at first sight of 11,000 votes, and when you allow them 64,785 white votes, six-sevenths of the entire white vote, the highest percentage allowable, together with the 5,000 colored votes, it would then show a fraud of over 20,000 votes.

I think the facts here adduced, and all of which are capable of the fullest proof, and the conclusions I have drawn from them, amount almost to a mathematical demonstration that the election has been attended with the greatest frauds on the part of the democrats. But perhaps the best and most complete evidence of these frauds, which permeated the entire election throughout the State, is to be found in the county of Edgefield. This county has a voting population, in round numbers, of 7,000, and yet there were 9,000 votes cast at the election, 2,000 more than existed in the whole county. This is a plain and palpable fraud upon its face. The mere statement of the facts is the most conclusive proof of its fraudulent character. This county borders upon Georgia, and I have been credibly informed that large numbers of the inhabitants of that State came over into Edgefield and voted. And I may also add that this is the most turbulent county in the State, one in which the most systematic violence and intimidation was practiced. I have been told by persons who were on the ground and had personal knowledge of what they said that at least 1,000 colored republican voters were prevented from voting.

And now, in the face of all these well-known facts, established by testimony taken by the committee which this House had sent to the State, as well as by other abundant and easily accessible evidence, we hear the cry of "fraud" alleged against the republicans in South Carolina after the late election. Having a perfectly legitimate majority, we had no reason whatever to perpetrate fraud in any conceivable form. This charge is brought against the board of State canvassers, or returning boards as they are called in the three Southern States—South Carolina, Florida, and Louisiana—because they have exercised the judicial power vested in them by the constitution and laws of the respective States for the express purpose of counteracting such frauds, and preventing them from defeating the real will of the people of those States as expressed at the polls. I am well aware of the fact that it seems strange to the people of the Northern States that boards of State canvassers should be invested with judicial powers in canvassing the votes of the State, as these boards have only ministerial powers in the States of the North. I will presume, however, that no one can deny the legality of the exercise of such power where it has been plainly conferred by the constitution and the laws, though the wisdom of investing such boards with this power may be questioned. Circumstances in the South fully justify the policy of such a course. The southern democrats are so opposed to the possession and exercise by colored men of the elective franchise, especially as it is wielded in behalf of that party of liberty and progress which has given it to them and with which every feeling of gratitude and self-preservation induces them to co-operate, that they resort to every species of violence and fraud to neutralize and destroy the effect of their power, and we are thus compelled to resort to this means of defense and protection, namely, to invest these returning boards with power to prevent the effect of these frauds by obtaining a *prima facie* right to the result of the election.

Our attention has been diverted from the frauds at the polls and every effort made to confine and concentrate our gaze upon the action of the returning boards in exercising the perfectly legal but extraordinary power which the extraordinary state of things justifies, and by comparing that power with the functions of boards in other States where such power does not exist because the circumstances do not require them; to cry out "fraud" as against the action of the returning boards, but not to say a single word against the real and glaring frauds at the polls, which I have so fully and conclusively proven.

I do not know, Mr. Speaker, if it is necessary for me to add anything further to what I have already said, for if the unquestionable facts, here stated, fail to carry conviction to the minds of those who may somewhat differ with me on this question, then, indeed, they would not be convinced though one rose from the dead.

I have endeavored to show that there is a deep, an abiding objection to our exercise of the elective franchise, resulting from our former unfortunate condition of slavery. I have also stated that I regarded this slavery, which existed here for more than two centuries, as the primal cause of the unhappy and disturbed condition of our country, more or less, from its very foundation to the present day. I have thus proceeded, from these general remarks, into a minute and careful investigation of the charges of intimidation and fraud preferred against republicans at every election in our southern section. I have shown, I trust conclusively, that the charge of intimidation of democratic voters by the presence of United States soldiers at the polls is simply absurd and that the charge of fraud, as applied to democrats, is perfectly true. The pretended great reverence for law on the part of the democrats, by charging fraud and intimidation against the republicans, recalls to my mind these famous words:

> O liberty! liberty! how many crimes are committed in thy name!

The sudden regard which these gentlemen manifest for the sacred forms of law, while ignoring justice, mercy, and truth, is enough to make one feel serious, very serious, when the future is thought of. He who spake as never man spoke has said:

> Woe unto you, scribes and Pharisees, hypocrites! for ye pay tithe of mint and anise and cummin, and have omitted the weightier matters of the law, judgment, mercy, and faith: these ought ye to have done, and not to leave the other undone.

We ask only that removal of prejudice which denies us the right and privileges of citizens; that protection which every government, worth the name, is bound to give to its humblest subject; and that fairness, justice, and safety in the exercise of the ballot that make it a safeguard and bulwark of our political institutions, and not, instead thereof, an infernal machine in the hands of the newly enfranchised.

This being done, South Carolina will then be found with her sister republican States, standing steadfast for the perpetuation of our cherished institutions.

Counting the Electoral Vote.

SPEECH OF HON. JOHN REILLY,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1877,

On the proceedings of the House on the electoral count.

Mr. JOHN REILLY. Mr. Speaker, with the decision of the commission in the cases of Florida and Louisiana the presidential question is virtually ended; in the other States the questions of the ineligible electors seem to have but little to commend them for any action to change the result. The only one which, under the Constitution and laws, I would feel obliged to vote against is the case of Downs, elector for Wisconsin, who held an "office of trust and profit" both at the time of his election and when he sat as an elector and cast his vote. But while the law is clear in this case it is hardly to be expected that this infraction of it will be regarded by those who so flagrantly violated all law by their action in the counting of the votes of Florida and Louisiana, and while under the law the vote of Downs should be thrown out I do not hesitate to say that I think it a mistake that the votes of the people of Wisconsin should be nullified, as the entire vote of the State was intended to be cast for Hayes and Wheeler as clearly as the vote of Louisiana was cast for Tilden and Hendricks, and I hope that the next Congress will provide a proper amendment to the Constitution for submission to the States that will permit the people to vote their wishes in a manner that cannot be overturned by a constitutional provision which, in my opinion, was not conceived with a view to such a state of politics as we have at the present day.

I voted for the electoral commission bill hoping that the men selected would in good faith, as required by the bill and by the act of 1792, "ascertain and declare" the proper votes of the States that might be submitted to it. In the selection of the House part of the commission I voted for no one whose name was not a fair one before the country and whose character was not in any way "smirched" by their actions in public life. The action of the opposition placed on the commission some who violently opposed its creation and who denounced it as unconstitutional. The action of these men in seeking places in a body they denounced in that way could only be for a partisan purpose and will be so understood by the country. The portion of the commission selected from the Supreme Court the country had a right to expect would rise above partisanship, and atleast examine into the questions at issue before they decided. In this they were disappointed; they were just as firm to party convictions as those who went there to serve party ends. I refer, of course, to those members of the commission who voted against admitting any evidence which might guide them to a correct conclusion in the cases submitted to them. The law gave to the commission every right one or either of both Houses had to "ascertain" what were the correct votes; not to decide merely what papers seemed to be regular, and on their face bore the marks of legality. When these papers accorded with their views politically they decided they could not hear evidence which would be against their candidate, but when it was adverse they were very willing to hear testimony that might change the result in their favor.

It is very much to be regretted by all fair-minded men that the cases of Florida and Louisiana did not have a fair hearing before the commission; the people expected it, and there is good reason for the great dissatisfaction that has been expressed against the decision of the majority of the commission. This is not alone the feeling of the people of the defeated party. It is the feeling among a large number of the best men of the opposition, many of whom believe Mr. Tilden fairly elected.

Taking the case of Florida, I quote from the speech of Hon. W. J. PURMAN, Representative from that State, made on the floor of this House on the 13th of February, in which he says:

I waited impatiently for the special committee on Florida to submit the report of their investigation to this House, and again I looked forward with that reasonable expectation that the electoral commission would decide to admit evidence sufficient at least to satisfy the country as to which electors were really elected by the people of Florida, but I find now the appropriate opportunity to state from my own knowledge the true condition of the presidential vote in my State, concerning which so much is involved in misunderstanding and controversy.

The republican party in our State, with all its dissensions healed and with the whole machinery of the State government in its hands, went into the last campaign determined to win if our own resources and efforts, coupled with the most heroic devotion on the part of our voters, could achieve such an end.

Free speech and free locomotion were enjoyed to the fullest extent by the speakers and managers of both sides, and at no time during the campaign or from any portion of the State came up any cry of intimidation, with one or two minor exceptions. It was, without exception, the most peaceful election ever held in the State, and not one case of violence or disturbance on election day has come to my knowledge.

It seemed the peculiar privilege of the republicans to win under all these advantageous circumstances, but it is a fact, sir, which I cannot stand upon this floor and deny, and which every man, woman, and child in my State knows, that Florida was lost by the republican party in the late election, and that the democratic governor and the Tilden electors were truly elected. [Applause on the floor and in the galleries.]

I make this declaration now under the most solemn sense of public duty and from an irresistible feeling of obligation to the people of my State, who have a right to expect that, however partisan their Representative may be in his political faith, he should at least on questions of public fact be an honest man. But, sir, I would not be understood in making this declaration as laying claim to any unusual amount of honesty or conscience, but I only assert my knowledge of the facts.

As Mr. PURMAN is a republican and took an active part in the campaign in his State he ought to know; in relation to the frauds there he states:

I know further that Comptroller Cowgill, a member of the board, was personally consulted upon the fact of this fraud having been committed, and that he gave his assurance that if it were plausibly covered up before the case came before them for adjudication, it should suffer no scrutiny or discount at his hands.

From which it seems that this board followed the example of the Louisiana one and stopped at nothing bad to make the result they desired.

These facts were known all over the country, yet the majority of the commission would not give Florida a hearing, while the republican supreme court of the State ordered a recanvass of the votes of the State, which elected the democratic governor.

The Louisiana case was much worse. Here was a clear majority for the Tilden electors of 7,639 changed by the returning board to a majority of 3,437 for the Hayes electors. This was done after a proposition was made to count the vote of the State for Tilden for a large amount of money, which, being rejected, they had to bargain elsewhere.

A committee of the last Congress—composed in part of GEORGE F. HOAR, one of the high commission; WILLIAM A. WHEELER, the republican candidate for Vice-President declared elected through the returning board and the commission; and WILLIAM P. FRYE, another leading member of that party—reported with reference to their official conduct as follows:

"Without now referring to other instances, we are constrained to declare that the action of the returning board, on the whole, was arbitrary, unjust, and in our opinion, illegal; and that this arbitrary, unjust, and illegal action alone prevented the return by the board of a majority of conservative members of the lower house."

There was not so much at stake then for the party, but now that the Presidency and the offices for four years are in danger, Mr. Commissioner HOAR skillfully changes front and decides that they cannot go behind this return, thus indorsing and deliberately taking on his party the action of the board. That this board was notoriously corrupt has been shown by the evidence taken and reported to the House. In relation to Wells, who seems to have been the leader and head of its evil doings, General Sheridan has said in his official communications to his superiors:

Wells's conduct as governor has been notoriously corrupt. He had illegally appointed a board of levee commissioners, who were authorized to hold over by an act of the Legislature, and a conflict of authority ensued, and in the mean time the Mississippi overflowed and great damage was done to property. There was an appropriation of $4,000,000 made by the Legislature for repairs of the levees, and Wells wanted to finger some of this money.

Again, in a letter to the Secretary of War:

I say now, unequivocally, that Governor Wells is a political trickster and a dishonest man. I have seen him myself, when I first came to this command, turn out all of the Union men who had supported the Government, and put in their stead rebel soldiers, some of whom had not yet dropped their gray uniform. I have seen him again during the July riot of 1866, skulk away where I could not find him to give him a guard, instead of coming out as a manly representative of the State and joining those who were preserving the peace. I have watched him since, and his conduct has been sinuous as the mark left in the dust by the movement of a snake. I say again that he is dishonest, and dishonesty is more than must be expected of me.

Again, in a communication to General Grant:

He has embarrassed me very much since I came into command by his subterfuge and political chicanery. This necessary act will be approved by every class and shade of political opinion here. HE HAS NOT ONE FRIEND WHO IS AN HONEST MAN.

The select committee report on two of his colleagues as follows:

His colleague, Anderson, has no character for integrity; has defrauded the State while representing it in the senate. Having obtained control and ownership of a navigation company, to which a large sum had been donated by his vote and influence as a legislator to encourage an enterprise ostensibly in the public interest, he expended a nominal sum upon the work and appropriated the remainder to his own use.

Kenner, (colored,) another member of the returning board, was indicted for larceny, secured a dismissal of the prosecution after admission of his guilt, and was promptly made a member of the returning board.

The people expected from the commission a fair and honest review of the matters at issue; they expected a decision on the merits of the case. They have been sorely disappointed, and that which but a short time since was hailed as a tribunal which would give a fair and peaceful settlement of the difficulties, is now denounced all over the land as a fraud, as an indorser of falsehood, forgery, and all that is vile in politics. For the men on the commission who are the cause of this it matters but little; but when a portion of them who come from the highest court in the land (and which until this came has had nothing to shake the confidence of the people in it) thus draggles the judicial ermine in the mire, it strikes a place where every citizen must regret that with such a result they were ever placed upon it.

The only result of the action of the commission that can be commended to the people is that it is an experiment that they can hold up as an example, to never be tried again.

Although the conclusions reached are not in accordance with the facts or justice, I think it best that they be accepted, as it was clearly the intention of the law under which we are acting that the decisions of the commission were to be final "unless both Houses shall determine otherwise." I can see no safety in any other course of action; the wisest heads of the party see nothing beyond but anarchy and confusion; and, while civil war would be doubtful, yet no man could say that it might not at any time be brought about. The Army has been brought here after aiding the returning boards in the South to accomplish their mission. The heads that directed that move would not be likely to hesitate at bloodshed here to accomplish their ends. Once begun no man can foresee the end. Therefore I for one shall accept the result, as I believe the people will, and leave it to them, when the proper time comes, to remedy the wrong and punish the wrong-doers. I do not wish to reflect on any of my friends who take a different course, they believe that fraud should not be legalized, and take the high ground that wrong should be defeated at all hazards; yet they cannot point out a safe port to be reached in so doing.

CONDITION OF SOUTH CAROLINA.

VIEWS OF THE MINORITY.

The following is printed by order of the House heretofore made, and is to constitute a part of House Report No. 175, Part 2, second session Forty-fourth Congress.

Mr. LAWRENCE submitted the following:

The undersigned members of the committee of the House of Representatives, charged with the duty of investigating the recent election in South Carolina, submit the following as their

REPORT:

The committee was appointed under a resolution of the House of Representatives of the 5th of December last, which directed them—

"To proceed to South Carolina to investigate recent elections therein and the action of the returning or canvassing boards in the said State in reference thereto, and to report all the facts essential to an honest return of the votes received by the electors of the said State for President and Vice-President of the United States, and to a fair understanding thereof by the people."

A large amount of evidence was taken at Columbia and Charleston, which fully discloses the *actual result* of the election held in South Carolina on the 7th of November last for electors of President and Vice-President of the United States, and which presents many facts essential to a fair understanding of the manner in which the election was held, the mode of conducting the political canvass and discussions preceding it, the influences exerted to operate upon voters, the general condition or the State and its government, and the necessity for legislation to secure freedom of discussion and to give protection to the civil and political rights of citizens.

THE REPUBLICAN ELECTORS OF PRESIDENT AND VICE-PRESIDENT DULY APPOINTED.

It is not claimed by any member of the committee that any one of the democratic candidates for electors of President and Vice-President was duly appointed or ever had any shadow of claim to the office. On the contrary, it is admitted by the majority of the committee in their report that they "believe that they have obtained with substantial accuracy the number of votes cast, so far as it can be obtained from the present managers' returns," as follows:[1]

[1] To this the report adds, "but no opinion is advanced upon the truth and accuracy of these returns." We will now add, the evidence fully sustains them. Not one instance can be produced where there is any proof to show any error or wrong as against any democratic candidate in the result as stated. This result is produced by taking the footings found on table 2, page 36 of the appendix to evidence, and by adding votes proved to have been given for each republican elector 4,072 votes, and for each democratic candidate 4,643. These additions are made up of the following votes:

County.	Precinct.	Republican vote.	Democratic vote.
Abbeville	Calhoun's Mills	467	247
Aiken	Windsor	54	376
	Silverton	232	182
Barnwell	Barnwell Court House	211	290
Beaufort	Beech Branch	22	74
	Gray's Hill	472	9
	Black Creek	10	4
Colleton	Preacher's Mills	100	161
	Iron School-house	187	43
	Ashepoo	437	97
Edgefield	Coleman's	136	231
	Cheatham's	89	173
Fairfield	Ridgeway	390	352

For the republican electors.	Votes.	*For the democratic electors.*	Votes.
C. C. Bowen	92,093	Theo. G. Barker	91,240
John Winsmith	92,129	Samuel McGowan	91,262
Thomas B. Johnston	92,140	John W. Harrington	91,236
Timothy Hurley	92,122	John I. Ingram	91,246
William B. Nash	92,097	William Wallace	91,246
Wilson Cook	92,110	John B. Erwin	91,247
William F. Myers	92,124	Robert Aldrich	91,200

This gives to C. C. Bowen, the republican elector having the lowest vote, a majority of 831 votes over Samuel McGowan, who had the highest democratic vote, and shows that all the republican electors had a majority of the popular vote.

ABBEVILLE POLL NO. 2.

Prior to the election, the county commissioners of election established a poll, designated as Abbeville No. 2, at Abbeville Court-House, in Abbeville County. At this poll the republican electors received 432 votes and the democratic electors only 10. The other voting-precinct was designated as Abbeville No. 1, and is so described in the returns and all proceedings as to the election. At this poll the republican electors received 341 votes and the democratic electors 446.

Prior to the statute of March 29, 1875, the county commissioners of election des-

List of votes added—Continued.

County.	Precincts.	Republican vote.	Democratic vote.
Horry	Dogwood Neck	27	73
	Conwayborough	170	416
	Dog Bluff	8	211
	Gallivant's Ferry	25	117
	Socatee	61	138
	Little River	64	103
	Simpson's Creek	31	221
Orangeburgh	Zeigler's	123	90
	Griffin's	232	135
Pickens	Central Station	86	309
Richland	Killian's	73	211
Williamsburgh	Sutton's	142	80
	Black Mingo	79	90
	Muddy Creek	142	210
Total		4,072	4,643

These additions were made to *all* the candidates. The following additions of votes, proved to have been given, were also made:

Candidate.	County.	Precinct.	Vote.
Thomas B. Johnston	Anderson	Williford's store	50
	Beaufort	Bellinger Hill	313
	Charleston	Dutart's	66
		Cross-roads	68
		Spring Hill	61
		Total	558
Timothy Hurley	Barnwell	Blackville	695
		The five precincts above	558
		Total	1,253
William B. Nash	Beaufort	Bellinger Hill	313
	Charleston	Dutart's	66
		Cross-roads	68
		Spring Hill	61
Wilson Cook		The same five precincts as for Johnston above.	558
William F. Myers	Anderson	Williford's store	50
	Charleston	Dutart's	66
		Cross-roads	68
		Spring Hill	61
John W. Harrington	Anderson	Williford's store	90
	Beaufort	Bellinger Hill	30
	Charleston	Dutart's Creek	20
		Cross-roads	105
		Total	245
John I. Ingram		Same as last above	245
William Wallace	Beaufort	Bellinger Hill	30
	Charleston	Dutart's Creek	20
		Cross-roads	105
John B. Erwin		Same four precincts as for Harrington above.	245
Robert Aldrich	Anderson	Williford's store	90
	Charleston	Dutart's Creek	20
		Cross-roads	105
		Andell's store	31
	Oconee	High Fall	67

In several instances the tables in appendix have notes saying: "Poll not authorized by law;" but the evidence shows the polls were authorized by law, under a different name equally well understood.

The evidence warrants a small increase on the votes of the republican electors in addition to that above given, and perhaps a small decrease in the vote given above to the democratic candidates; but the differences are so small as to be practically immaterial.

ignated all voting-places. They are authorized to appoint all managers of election.

It is claimed by the report submitted by a portion of the committee that this poll No. 2 "was illegal and unauthorized, and that no votes cast there should be counted." If this were so, it would not change the result of the election; and, so far as presidential electors are concerned, it would not be material, though it might be important as to other officers.

The same argument which could prove that poll No. 2 was illegal would show the same as to poll No. 1, and so reject it. The law did not establish Abbeville No. 1. It established a polling-place at Abbeville. The commissioners appointed two sets of managers. The authority of each was from the same source, and equal. The law did not establish either poll by name. The officers were all at least *de facto* such, and at most it would be an irregularity which could not affect the vote or deprive voters of their right to be counted in the result. This is clear by authorities referred to elsewhere. But the county commissioners had authority to establish these polls, as the statutes show.[2]

THE VOTE OF ROBBINS PRECINCT.

To the vote as stated, there should be added for the republican electors 1,317 votes cast at Robbins precinct, in Barnwell County.[3]

This and the adjoining precinct of Canaan's Fair Church and others adjacent were largely republican. The democratic rifle clubs had evidently determined that no election should be held at least at Robbins and Canaan's Fair Church. It was understood that the election officers would be, as they were, kept away from the Canaan's Fair poling-place by threats of violence.[4]

The republican voters of Canaan's Fair precinct, and from Millett's, an adjoining precinct, and others, very generally voted at Robbins in consequence of the violence against them.

By law voters could vote at any polling-place in the county. The republicans frequently "*massed their vote;*" that is, arranged that voters would go from several precincts to some particular locality, for the purpose of mutual protection and safety. This will account for the large vote cast at Robbins. The polls were regularly opened, with the proper officers, at about the usual time in the morning, and the voting proceeded until a little after eleven o'clock a. m., up to which time there had assembled, in all, about fifty white men, democrats, and five hundred or more colored republican voters, of whom about forty democrats and two hundred and forty republicans had voted. (Evidence, part 1, pages 67, 74, 89.)

At this point a crowd of democrats, concealed in the woods near by, fired about a dozen shots upon the building in which the election was being held, the bullets passing through the plank weatherboards and partition and near the heads of the election officers. They immediately fled; the poll-box in the confusion was lost, and the democrats, with the democratic manager and the democratic supervisor of election, immediately left. The colored voters thereupon at once rallied, and in less than an hour opened a poll with a pine box, picked up for the occasion, at a school-house a little over a quarter of a mile from the depot, at which place 1,317 votes were cast for the republican candidates.

The election was regularly conducted, from about noon until six p. m., by two managers of election, and the proper return made and signed in due form. (Ev., 85–114.) A return was also made in due form by the deputy United States supervisor to the district supervisor. (Ev., 95–168.) A poll-list was regularly kept. (Ev., Appendix, page 183.) It is abundantly proved that the vote was actually and honestly cast.

To this it may be added that the referee appointed by the supreme court of South Carolina, in the proceedings to contest the election of the State officers, after a thorough examination of all the facts on sworn testimony, included in his report to the court the vote of the Robbins precinct as entirely legal and correct. (See court proceedings, Appendix to part 1 of evidence.)

On Friday, November 19, the two managers started to Barnwell, the county seat, a distance of eighteen miles, with the proper returns, to deliver them to the county canvassers, when they were stopped by an armed body of about fifteen white men, who threatened to shoot them if they attempted to proceed. (Ev., 76.) They started to return, but finally took another road and reached the county canvassers about nine p. m.

The county canvassers met to canvass the vote of the county on Friday morning, November 10, when it was proposed by one of the republican commissioners to adjourn over a day, in order that the return from Robbins might be brought in. There were a number of armed democrats about the building, and another member of the board, *through fear* of violence, voted with the democratic commissioner to proceed with the canvass. (Ev., 98–102, 123.) They did so, *sitting up all night*, and completed the canvass about 7 a. m. on Saturday, November 11, although the law permitted them to keep the canvass open until the Tuesday following.

While the canvass was going on, about 9 p. m., November 10, the two managers from Robbins produced the proper returns, with box and ballots, but the commissioners, fearful of violence, did not dare to and did not receive them. (Ev., 103.) After the canvass was complete, one of the county canvassers received the returns and delivered them to the secretary of state. They were not counted by the State board of canvassers because not included in the county canvassers' return.

No objection can be taken to the *place* of holding this election.

In Chadwick *vs.* Melvin, 68 Pa. State R., 484, the court said:

"I will not say that in case of the destruction of a designated building on the eve of the election the election might not be held on the same or contiguous ground as a matter of necessity—*necessitus non habet legem.*" (McCrary, Law of Elections, sec. 116.)

The republican electors were duly appointed by *all* the forms of law. The thirty-two counties of the State are divided by law into four hundred and ninety-one voting-precincts. The election law requires the governor to appoint, in each county, three "commissioners of election," who constitute a "county board of canvassers," and it is made their duty to appoint "three managers of election for each election precinct," and these appoint a clerk.

The chairman of the board of precinct managers is required to "deliver to the [county] commissioner of election the poll-list, the boxes containing the ballots, and a written statement of the result of the election in his precinct." It is made the duty of the chairman of the board of county canvassers to forward, addressed to the secretary of state, a statement of the result of the election, made by the county canvassers from the precinct managers' returns, together with the precinct managers' returns, poll-lists, and protests.[5]

Returns were forwarded from every county, but in some cases they were not duly signed by all or a majority of the county canvassers, and the precinct managers' returns from about twenty-five precincts in all were not forwarded to the secretary of state, and in some cases the precinct managers' returns were defective in form or not duly signed. But these irregularities could not in any event affect the appointment of the republican electors of President and Vice-President for several reasons, which it may be proper briefly to notice.

I. *The republican electors were legally declared duly appointed and received the lawful evidence thereof.*

It is by law made the duty of certain State officers, who constitute a board of State canvassers, "upon the certified copies of the statements made by the board of county canvassers, to proceed to make a statement of the whole number of votes given" for each elector of President and Vice-President, "distinguishing the several counties in which they were given," and "on the proper statement a certificate of their determination," and "determine and declare what persons have been by the greatest number of votes duly elected."[6] This duty was performed, and the executive authority of the State duly certified the proper lists of the republican electors, and that they were duly appointed as required by law.[7]

The republican electors, thus armed with the evidence of their due and legal appointment, by the declaration of the State board of canvassers and the certificate of the governor and secretary of state under the great seal of the State, had *more* than the requisite legal evidence of authority.

II. *The republican electors had in fact a majority of the popular vote.*

This result is shown (1) by the determination of the State board of canvassers; (2) by all the original county canvassers' returns; (3) by those county canvassers' returns which were regular in form; (4) by *all* the precinct managers' returns forwarded to the secretary of state; (5) by all of those which were regular in form; and (6) by the votes as shown by all the precinct managers' returns forwarded to the secretary of state, and by the vote as supplied by other evidence for the precincts as to which no managers' returns were so forwarded.

And this is so in all these forms, without including the vote of Robbins precinct.

This is by no means important, except as it shows the gratifying fact that the legal result is such as is fully warranted by the choice of the voters of the State.

III. *It is not competent, in the "count" of the electoral votes required by the constitution, to "go back of the returns," as declared by the State canvassers, and the governor's certificate based on them, to inquire into the authority of the electors.*

This subject has been so fully considered in the recent debates in Congress that it seems unnecessary to go into a full discussion of it now.

A portion of the committee in their report have in substance declared that, inasmuch as the recent election in South Carolina was held without a law for the registration of voters, the right of presidential electors appointed at such election to vote for President may be questioned, if not denied.[8]

A proposition so novel, so startling, so revolutionary and dangerous, seems to require some notice here.

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[2] By virtue of an act entitled "An act to establish by law the voting-precincts in the various counties of this State," approved March 29, 1875, the voting-precincts for the county of Abbeville were established as follows, namely: "In the county of Abbeville there shall be *seventeen* voting-precincts, as follows: Abbeville Court House, Calhoun Mills, Saint Charlotte, Cokesbury, Greenwood, Ninety-six, Donaldsville, Due West, Centreville, Childs' Cross-Roads, Smithville, Lowndesville, Magnolia, White Hall, Long Cane, and Cedar Springs."

Under this provision of the statute and the general election law, (General Statutes, 28,) the election commissioners for the county established two voting-places at Abbeville Court House and designated them No. 1 and No. 2, as is usual throughout said act of 1875, where two or more polls are established at the same place. Now, it is asked what authority of law was there for establishing two voting-places at Abbeville Court House.

The statute above quoted says there shall be *seventeen* voting-precincts in the county of Abbeville, and then mentions but *sixteen place*s as voting-precincts.

The county commissioners of election obviously considered that *seventeen* voting-precincts being authorized by statute, they had power to establish so many by appointing managers and furnishing boxes, and the seventeenth not being designated by statute, it was in their power to designate it.

This follows from the familiar principle of law, universally recognized, that where a *power* is clearly given by statute or other instrument, all the incidents necessary to the execution of the power are presumed to be given.

Statutes in favor of the public, or in which the public have an interest, are always liberally construed. Now, under the general election law, (General Statutes, page 29, section 2,) the three election commissioners of each county appoint three managers for each election precinct, and (section 11, *id.*) provide one box, and until the passage of this act of March 29, 1875, they "designated" *all* the "voting-places" (section 5, *id.*) throughout the county.

This latter act was doubtless designed generally to take away this power from the election commissioners of designating the voting-precincts, but as to this seventeenth polling-place in Abbeville County, it failed to do this by omitting to name the *precinct*, and, therefore, as to this precinct the general statute is of force and the election commissioners have power to designate it.

[3] For the testimony in relation to this, see Evidence, part 1, pp. 2, 4, 11, 64, 74, 85, 86, 95, 96, 97, 102, 123, 141, 150, 152, 158, 166, 167, 168, 169, 174, 175, 177, 178.

See the regular poll-list, Appendix to Evidence, part 1, pp. 183–190.

[4] This is shown by the following: "Return of the election to have been held at Canaan Fair Church precinct, Barnwell County, November 7, 1876. David Mixson and Isaac Allen, two of the managers of election for this precinct, both republicans, went to Blackville for the ballot-box and never returned, and when the voters assembled at six o'clock a. m., no managers were present, except Marion Wall, democrat. In consequence of the absence of the managers and the ballot-box, no election was held at this precinct. David Mixson, the manager in charge of the ballot-box, produced at Barnwell Court House an anonymous letter, of which the following is a copy, as his excuse for not discharging his official duty:

Mr. DAVID MIXSON:

You had better not go to the voting-precinct of Canaan's Fair, as we heard that there would be no soldiers there and we intend to carry that box or kill you and the other man, so I, as friend, warn you to stay away from there. Take heed to what I say.

Your friend,

JUDAS.

I, the undersigned supervisor, certify that the above is a correct return of the election held at Canaan Fair precinct, of Barnwell County, on the 7th day of November, 1876.

GEO. H. BATES, *Supervisor.*

OFFICE OF CHIEF SUPERVISOR OF ELECTIONS, DISTRICT OF SOUTH CAROLINA,
Columbia, December 19, 1876.

I hereby certify that the foregoing is a true copy of the election return of Canaan's Fair Church precinct, Barnwell County; that George H. Bates, whose signature is affixed thereto, was the democratic supervisor, duly appointed, for said precinct; that the republican supervisor appointed for said precinct has made no return of said election.

SAMUEL T. POINIER,
Chief Supervisor of Elections, District of South Carolina.

[5] See evidence taken by this committee, part 1, page 152, for the statute.

[6] Revised Statutes of South Carolina of 1873, pages 32–36.

[7] *Idem*, 35–36; Revised Statutes of the United States, page 21, section 136.

[8] The report says:

"Under such circumstances, it is worthy of grave consideration whether any officials who are to participate in the election of a Chief Magistrate or in making laws for the whole country should be recognized, they only claiming an election when the constitutional mandate to provide a registration of voters has been entirely disregarded."

* * * * * * * *

"In order that such appointment should be legal it must be in compliance with the Constitution, not in conflict with it. * * * It would seem clear this was not appointment by the State when it is in conflict with its organic law. * * *

"Under these circumstances, it is for *the House of Representatives* to consider what effect is to be given to an election so held."

The Constitution of the United States provides that—

"The executive power shall be vested in a President, * * * elected as follows:

"Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or persons holding an office of trust or profit under the United States, shall be appointed an elector." (Article 2, section 1.)

"The electors shall meet in their respective States, and vote by ballot for President and Vice-President; * * * they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall *sign* and *certify*, and transmit sealed to the seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed."

It has been well observed that (aside from judicial remedies, if any) the creation of the electoral college "is absolutely and uncontrollably in the power of the States," subject to *five* limitations: (1) there must be a *State:* (2) the number of electors is limited; (3) members of Congress and officers of the United States are made (by a *directory* or peremptory provision) ineligible as electors; (4) the time of their appointment may be fixed by Congress; and (5) Congress may fix the time when their appointment is announced.

There is no pretense that any of these limitations have been invaded. From our earliest history as to many officers of the State and National Governments there have been and are *two* well-defined, well-understood, and completely distinct proceedings affecting the right of office; ONE IS THE OFFICIAL CANVASS OF VOTES AND THE DECLARATION OF A RESULT *which gives a prima facie* right to the office; THE OTHER IS A CONTEST OF AN ELECTION, either (1) by a special statutory mode, or (2) by a proceeding in *quo warranto*, or (3) in some cases by *certiorari*.

It is affirmed in every elementary law book and every judicial decision on the subject that the CANVASS OF VOTES is an EXECUTIVE DUTY, purely MINISTERIAL in its character, and that a board having only such powers cannot "go behind the returns."

The whole law is summed up in a few words by an able writer, whose valuable work on the American law of elections is a standard authority, and who says *canvassing* officers (who are given no other power than to canvass or count) "must receive and count the votes *as shown by the returns*, and *they cannot go behind the returns for any purpose*, and this necessarily implies that if a paper is presented as a return and there is a question as to whether it is a return or not, they must decide that question *from what appears upon the face of the paper itself;*"[9] or, as it is said elsewhere of canvassers, "their duty consists in a simple matter of arithmetic"—to *count*.

Of course, every officer is bound to know (1) the existence of a State, (2) the legal number of electors, (3) the legal time of their appointment, and (4) the day on which they shall vote for President and Vice-President.

Canvassing officers (unless properly authorized) cannot even inquire into a question of fraud.[10] These, like all approved rules of law, are founded on *solid reasons*, among which may be named (1) the necessity for a speedy decision, so as to secure officers without delay; (2) the impossibility of procuring a sufficient number of canvassing officers having the requisite legal learning and judicial qualifications to decide contested elections in advance of a declaration of the result of an election; (3) the encouragements it would give to contests if every canvassing board had power to entertain them; (4) the necessity of preserving distinct and independent the legislative, executive, and judicial departments of government, and many others.

To reverse this law and usage now would unsettle the very foundations of government, introduce anarchy and confusion, shock the legal and judicial mind of the world, and be abhorrent to the common sense of mankind.

The foregoing was written *before* the electoral commission, under the act of Congress of January 29, 1877, had rendered its decisions; but they fully sustain the views above given.

But this limited jurisdiction of canvassing officers would, in many cases, result in much wrong if there should be no remedy. In most cases there is a remedy which *goes back of the returns* on which canvassing officers act. This is at common law by *quo warranto*, or in some of the States by *special statutory contest*, both in the *judicial courts*, and involving the exercise of *judicial power*.

By our Constitution each House of Congress is *expressly* given power to "judge of the *elections, returns*, and *qualifications* of its members." This gives a remedy which *goes back of the returns* of the election by canvassing officers. It does so because canvassing officers cannot do so. They cannot, as to members of Congress, even inquire as to "qualifications."

The Constitution of the United States requires the States to appoint electors, in such manner as the Legislature may direct; the electors are required to vote for President; their votes are to be sent to the President of the Senate, and then all that follows is found in these words:

"The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall *then* be counted; the person having the greatest number of votes for President shall be the President."

Here is a *naked power*, either in the President of the Senate or the two Houses of Congress, to *count the votes*.

This creates a *canvassing* officer or board, with power *only* to COUNT VOTES SIGNED, CERTIFIED, and TRANSMITTED by ELECTORS.

There is no power given in *this* count to "judge of the ELECTIONS, RETURNS, or QUALIFICATIONS" of electors.

The power so to judge is carefully excluded, and for more than the *five reasons* above given THIS COUNT must be made.

It has been determined by the recent act of Congress creating the electoral commission that the two Houses of Congress, *as a canvassing board*, may NOT transfer *their power to count* to the commission, but may *be advised* by the commission as to what are lawful votes. The commission has no *judicial* power, because the Constitution says *all* judicial power is vested in *courts*. (Art. III, sec. 1.) The commission is not a *court*, because the judges of a court can only be appointed by the President. (Art. II, sec. 2.) Its members are not even *officers*, because these can only be appointed by the President; and the commission is composed in part of members of Congress, who cannot hold *any office* created, as this commission was, during the term for which they were elected. (Art. I, sec. 6.) Any attempt to give the commission a power to advise the Houses to do what the Constitution does not authorize the Houses to do would be void. The Houses may, indeed judge who are electors, but when their votes come with the *evidence of appointment* prescribed by law it is *conclusive*, and there is no power to go back of it, because (1) the Houses have no power to "judge of the elections, disqualifications, and returns" of electors; (2) the only power is *to count* THE votes, (which are those transmitted to the President of the Senate, duly certified;) (3) this duty is made *imperative*, and excludes all right to take evidence with a view to set them aside or not to count them, and (4) it must be done when the votes are opened—"THEN"—so that it is impossible to conceive that it was intended to permit an inquiry on all forms of evidence that might affect an election and the due appointment of electors.

From all this it must be certain that the Houses of Congress, as a *canvassing board*, cannot inquire if the electors have been "appointed in such manner as the Legislature" of the State has directed.

Such inquiry would require the Houses of Congress to "judge of the election returns and qualifications of electors," when no power is given by the Constitution to do so, and when such power is excluded by necessary implication and the limited terms in which their *only* power is given—"*the votes shall then be counted.*"

It would or might require an investigation of the regularity of the returns *from* every voting precinct in the United States!

It would or might require an investigation of the lawful residence and other qualifications of every voter in the United States!

It would bring other and multitudinous inquiries, which it would be *impossible* for *the Houses* to consider.

It would ignore the well-settled rules of law, and reverse the practice of the Houses for nearly a century.

But if the monstrous doctrine were allowed that the Houses of Congress could go into a State to make these inquiries, they could not, upon any principle of law, disregard and set aside the appointment of electors upon the ground stated in the report submitted by a portion of the members of the committee.

The constitution of South Carolina provides that—

"It shall be the duty of the General Assembly to provide, from time to time, for the registration of all electors."

It is assumed by a portion of the committee that the General Assembly has failed in this duty, that fraudulent voting has resulted, and that therefore—

"Under these circumstances, it is for the House of Representatives to consider what effect is to be given to an election so held."

In reply to this, it is proposed now to show—

1. *That clause of the constitution as to registration is directory, and a failure to comply with it cannot affect the result of an election.*

2. *The State constitution cannot take from the Legislature the power given to it by the Constitution of the United States to provide for the appointment of electors without registration "in such manner as the Legislature may direct." And as a matter of fact the fraudulent voting was by democrats in the interest of democratic candidates.*

3. *The Legislature has complied with the constitutional provision requiring registration.*

1. *This provision of the constitution is* DIRECTORY, *resting for its execution on the conscience of the Legislature; and a failure to provide for registration does not invalidate or affect the result of the election.*

The constitution of Ohio provides as to the Legislature that—

"No bill shall contain more than one subject, which shall be clearly expressed in its title."

But the Supreme Court has said this provision—

"is *directory* only, and the supervision of its observance must be left to the General Assembly. * * * It is not to be enforced by judicial interposition. * * * It would be most mischievous in practice to make the *validity of every law* to depend upon the judgment of every judicial tribunal as to whether an act or bill contained more than one subject. * * * The only safeguard against the violation of these rules of the houses is their regard for and their oath to support the Constitution?"[11]

Here was a duty imposed by the constitution on the Legislature, but a neglect of this duty does not invalidate laws which fail to conform to the constitutional requisition.

The Constitution of the United States, higher than any State constitution, requires the State Legislatures to provide for the appointment of electors. A failure by the Legislature to follow all the *directions* of the State constitution as to the registration of voters cannot defeat the *duty* imposed on the State by the "higher law" of the supreme national Constitution, or *disfranchise* a State in the election of a President.

The *right* of the *National Government* to have each State participate in a presidential election cannot be defeated by the *wrong* of the Legislature in not complying with the directions of the State constitution. The *right* of the *entire people* of the United States to have all the States represented in the choice of a President cannot be defeated by the *wrong* stated.

The constitution of South Carolina requires the election of State and county officers by popular vote. To say that an election is void without a registration law is to affirm that the Legislature may dissolve the entire State and local government

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[9] McCrary's Law of Elections, section 82. He cites Deshon *vs.* Smith, 10 Iowa, 212; State *vs.* Cavers, 22 Iowa, 343; Attorney-General *vs.* Barstow, 4 Wisconsin, 749; People *vs.* Van Cleve, 1 Michigan, 362; Thompson, Circuit Judge, 9 Alabama, 338; Mayo *vs.* Freeland, 10 Missouri, 629; State *vs.* Harrison, 38 Missouri, 540; State *vs.* Rodman, 43 Missouri, 266; State *vs.* Steers, 44 Missouri, 228; Bacon *vs.* York Co., 26 Maine, 491; Morgan *vs.* Quackenbush, 22 Barb., N. Y., 72; Taylor *vs.* Taylor, 10 Minnesota, 107; O'Farrall *vs.* Colby, 2 Minnesota, 180; Marshall *vs.* Kerns, 2 Swann, Tennessee, 66.

[10] McCrary, section 83, citing Thompson *vs.* Ewing, 1 Brewst., 77; State *vs.* Governor, Dutch. N. J., 348; Brown *vs.* O'Brien, 2 Ind., 483; Sate *vs.* Jones, 19 Ind., 365; People *vs.* Kelduff, 15 Ill., 500.

In Kerr *vs.* Trego, Brightly's Election Cases, p. 636, already cited, the Chief-Justice said:

"In all bodies that are *under law*, the law is that where there has been an authorized election for the office in controversy, the certificate of election *which is sanctioned by law or usage* is the *prima facie* written title to the office, and can be set aside only by a contest in the form prescribed by law; this is not now disputed. No doubt this gives great power to dishonest election officers, but we know no remedy for this but by the choice of honest men."

"It is proper here, in this connection, to again refer to the language already quoted from the same authority, (page 638:)

"It is objected that a rule that attributes so much power to the officers of the previous year gives them an advantage which they may use arbitrarily and fraudulently against the new members, so as to secure to themselves an illegitimate majority. No doubt this may be so; but no law can guard against such frauds so as to entirely prevent them, just as it cannot entirely prevent stealing and perjury and bribery; the people are liable to such frauds at every step in the process of an election or organization. But so much the more need for order and law in this part of the process; the law *can* dictate that, though it cannot furnish honesty and sound judgment to the actors in it. That the law and order which we have announced have existed so long and so generally is proof, at least, that they are better than no law at all."

[11] Pim *vs.* Nicholson, 6 Ohio, St. R., 176; Sedgwick on Statutes, 377–570. To the same effect is Miller *vs.* State, 3 Ohio St., 475. People *vs.* Supervisors, 4 Selden, 317; Washington *vs.* Murray, 4 Cal., 388; Davis *vs.* State, 7 Maryland, 151; Battle *vs.* Howard, 13 Texas, 345. And see Haywood on County Elections, 511; Golden *vs.* Sharp, Clark & Hall, 210; Van Renslaer *vs.* Van Allen, Clark & Hall, 73; Arnold *vs.* Lea, Clark & Hall, 601; Lyon *vs.* Smith, Clark & Hall, 101; Orkney & Shetland, Frazer I, 369, (see Seaford, Laders III, 3;) Case of David Bard, Clark & Hall, 116; Porterfield *vs.* McCoy, Clarke & Hall, 267; Colchester, Pickerell I, 503–507; Easton *vs.* Scott, Clarke & Hall, 272; Gallary *vs.* Merrill, Clarke & Hall, 323; Draper *vs.* Johnston, Clarke & Hall, 703; Spaulding *vs.* Mead, Clarke & Hall, 157; Standish, Cushing, S. & J., 82; Chatham, Cushing, S. & J., 423; West Boylston, Cushing, S. & J., 394; Colchester, Pickerell I, 506; Limerick, Perry & Knapp, 355; Cochrane & Rowe, 288; Warwick, Cushing, S. & J., 401; McCrary on Elections, sec. 123–130.

and produce anarchy. Certainly the convention which made the Constitution never intended so disastrous a result to follow the omission to enact a registry law. Yet if this omission defeats the right of the State to representation in the electoral college, it would legalize a more fearful anarchy than that which unfortunately prevails in South Carolina now.

The statues regulating elections in this State provides that—

"All bar-rooms, saloons, and other places for the sale of liquors by retail shall be closed at six o'clock of the evening preceding the day of election and remain closed until six o'clock on the morning of the day thereafter; and during the time aforesaid, the sale of all intoxicating liquors is prohibited."[12]

And a penalty is provided on conviction.

If the State can be deprived of its electoral vote for want of a registration law, it might, with equal propriety, be so deprived for the non-enforcement of this provision, for it is a part of the election machinery prescribed by the Legislature for the appointment of electors.

The claim now set up would invest Congress with a power to furnish pretexts for disfranchising States and dictate the selection of a President. The legislative power would absorb the executive and defeat the purpose of the Constitution. This is a danger which the framers of the Constitution never intended to authorize. It has been forcibly said that "if there was no check upon the tyranny of legislative majorities the prospect before us would be gloomy in the extreme." (1 Kent, 450, note, 11th ed.) One of the "checks" provided by the Constitution is that THE electoral votes forwarded in due form from the States should not be rejected by "the tyranny of legislative majorities," but should, when opened, "THEN be counted"

In the light of authority and reason, it seems certain the omission to enact a registration law cannot affect the appointment of electors.

2. *The State constitution cannot take from the Legislature the right given to it by the Constitution of the United States to appoint electors without a registration of voters "in such manner as the Legislature thereof may direct."*

The Constitution of the United States provides that—

"Each State shall appoint [electors] in such manner as the Legislature thereof may direct."

In every State the Legislature has provided by law for the appointment of electors by popular vote. This is done in pursuance of authority given to the Legislature by the Constitution of the United States. This legislative authority exists not by force of any State constitution, but the "supreme law" above it. As the power is derived from the Constitution of the United States, and is given in plenary and unlimited terms, the State Legislature is made the exclusive judge of the manner in which popular elections shall be authorized, regulated, conducted, and the result declared, subject only to the obligations of the amendments of the Constitution in relation to suffrage and such regulations as Congress may be authorized to make.

A State constitution can no more require a "registration law" against the judgment of the Legislature than it can impose restraints on the powers given by the national Constitution to Congress.

The provision of the South Carolina constitution requiring a registration law is itself unconstitutional and void, so far as it attempts to impose a duty on the Legislature to *require* registration of voters authorized to participate in the appointment of electors.

This may be illustrated by other provisions of the Constitution of the United States. This provides that—

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the *Legislature* thereof; but the Congress may at any time by law make or alter such regulations," &c.

In discussing the powers of State constitutional conventions, Jameson, a law-writer of acknowledged authority, denies in emphatic terms that *they* can make any regulation affecting "the times, places, or manner of holding elections for Representatives in Congress." He says:

"The rule is general, that it is the *State Legislatures* which apportion their several States for congressional electors."[13]

And he shows that the exceptional cases in which *constitutional conventions* have provided for the election of Representatives, upon the creation of a *new State*, derive their validity from the action of Congress in ratifying them. His language is, that Congress "having the power to 'make or alter,' Congress doubtless might *ratify* such regulations, however made; or if a State, actual or inchoate, were in such a condition that it had no lawful Legislature, Congress might itself, for the sake of convenience, establish them by its direct action."

The great American commentator, whose researches explored every field of legal learning and left their impress on all, Mr. Justice Story, in the Massachusetts constitutional convention of 1820, in discussing this subject, said:

"The question then was whether we have a right to insert in our constitution a provision which controls or destroys a discretion which may be, nay *must be*, exercised by the *Legislature* in *virtue of powers confided to it by the Constitution of the United States*.

"The fourth section of the first article of the Constitution of the United States declares, 'That the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof.'

"Here an express provision was made for the manner of choosing Representatives by the State Legislatures. They have an *unlimited* discretion on the subject. They may provide for an election in single districts, in districts sending more than one, or by general ticket for the whole State. Here is a general discretion, a power of choice. What is the proposition on the table? It is to limit this discretion, to leave no choice to the Legislature to compel Representatives to be chosen in districts; in other words, to compel them to be chosen in a specific manner, excluding all others. Was not this plainly a violation of the Constitution? Does it not affect to control the Legislature in the exercise of its legitimate powers? Does it not interfere with the superintending authority of Congress? * * * It assumes a control over the Legislature which the Constitution of the United States does not justify. It is *bound* to exercise its authority according to its own view of public policy and principle; and yet this proposition compels it to surrender all discretion. In my humble judgment * * * it is a direct and palpable infringement of the constitutional provisions to which I have referred."

There is nothing new in the suggestion that a State constitution may in some of its provisions be unconstitutional and void, because in conflict with the higher Constitution of the United States.[14]

But it is not necessary to say that there is any conflict between the national and State constitutions.

By a well-known rule of construction, the provisions in relation to registration at most must be deemed as intended only to apply to registration for elections exclusively under State authority.[15]

It seems certain then that the Legislature of South Carolina has been guilty of no omission of duty in relation to registration.

[12] Revised Statutes of 1873, p. 30, sec. 8.

[13] Jameson on Constitutional Conventions. West Virginia contested-election cases, first session Forty-third Congress; Congressional Record, 35, 36, 38, 46, 816–819, 842–849, 875–880, 884–890, 931–937, 958–963; Speer's speech, Appendix, 34.

[14] Piqua Bank *vs.* Knoop.

[15] 1 Kent, 460, (11th ed.;) State *vs.* Milburn, 9 Gill, 105; 1 Blackst. Com., 261; Comyn's Dig. tit. Parl. R., 8; King *vs.* Allen, 15 East., 33; 6 Term R, 194; 2 Mason, 314; 1 Watts, 54; 4 Cowen, 143; 11 Peters, 598.

THE FRAUDULENT VOTING WAS BY DEMOCRATS, FOR DEMOCRATIC CANDIDATES.

The evidence taken by the committee very conclusively shows that fraudulent voting was practiced extensively by democrats, and in the interest of democratic candidates, and that the instances of fraudulent voting by republicans were so rare that they could not affect the election of any candidate for the smallest office in any precinct; so rare as to be utterly insignificant when compared with the carefully devised, systematic, wide-spread fraudulent voting by democrats.

3. *The Legislature has complied with the constitutional provision requiring registration.*

The election law provides as to each voting-precinct that—

"Each clerk of the poll shall keep a poll-list, which shall contain one column headed 'names of voters,' and the name of each elector voting shall be entered by the clerk in such column"

These are public records, which in each county belong to the files of the county commissioners of election. This is a substantial compliance with the constitutional provision requiring a "registration of all electors."

Besides this, the revised statutes of 1873 require a complete census to be taken on or before April 15, 1875, and every tenth year thereafter and the census for each county is to be deposited with the county auditor. The law, or rather the official instructions under it, require the census return to show the names of all male persons over twenty-one years of age, and these are voters. This gives a complete registration of all voters, and is a substantial compliance with the constitutional provision requiring registration. This law has been faithfully executed, and furnished the means of detecting illegal voters.

CIVIL OFFICERS OF UNITED STATES HAVE POWER TO PROTECT VOTERS.

At the recent election in South Carolina, Representatives in Congress were to be and were elected by popular vote in pursuance of law. The Constitution of the United States authorizes Congress to make all appropriate regulations as to this election.[16] In pursuance of this power, Congress has provided *two classes of civil officers*, whose services may be required when necessary, in connection with the proper election officers under State authority, to preserve the purity of the election and afford protection to voters. These officers are supervisors of election and *deputy United States marshals*.[17]

It is made the duty of supervisors to challenge illegal voters, to inspect the canvass of votes, and otherwise secure an honest election.

The deputy marshals are required to keep the peace, support and protect the supervisors, preserve order at the polls, and arrest, for trial, persons who may molest voters in the exercise of their rights, or officers in the performance of their duties.[18] The marshals are expressly authorized by act of Congress to summon to their aid, when necessary, the *posse comitatus* of the proper district.[19] These are wise provisions, made to protect citizens in the enjoyment of the elective franchise, where occasion may require. It is to the everlasting credit of President Grant that they have been faithfully executed, so far as it was possible.[20] It has been gravely

[16] Const., art. 1, sec. 4; also art. 15 of amendments.

[17] Revised Statutes United States, sections 2012, 2021.

[18] Revised Statutes United States, sections 5521-2. For instructions to deputies, see House Mis. Doc., part 1, second session Forty-fourth Congress, p. 195-6.

[19] Revised Statutes, section 2024.

[20] The following is the circular-letter of instructions issued under date of September 14, 1876, by Hon. Alfonso Taft, Attorney-General, to the United States marshals of districts where they were necessary:

SIR: The laws of the United States having made it my duty to exercise general direction over marshals in the manner of discharging their offices, I have prepared for their use this circular-letter of instructions as to the coming elections; intending the same also as a reply once for all to numerous applications, in like connection, from private citizens in various States.

In the present condition of legislation, the United States occupy a position toward voters and voting which varies according as the election is for State and other local officers only, or for members of Congress and presidential electors.

In elections at which members of the House of Representatives are chosen, which by law include also elections at which the electors for President and Vice-President are appointed, the United States secure voters against whatever in general hinders or prevents them from a free exercise of the elective franchise—extending that care alike to *the registration-lists, the act of voting*, and *the personal freedom and security of the voter at all times as well against violence on account of any vote that he may intend to give, as against conspiracy because of any that he may already have given.*

The peace of the United States therefore, which you are to preserve, and whose violation you are to suppress, precedes as well as follows such elections, and protects (among others) the rights specified in the last paragraph, so that any person who by force violates those rights breaks that peace and renders it your duty to arrest him, and to suppress any riots incident, or that threaten the integrity of the registration or election, to the end that the will of the people in such election may be ascertained and take effect, and that offenders may be brought before the courts for punishment.

Notorious events in several States, which recently and in an unusual manner have been publicly reprobated, render it a grave duty of all marshals, who have cause to apprehend a violation of the peace of the United States connected as above with the elections to be held upon the Tuesday after the first Monday in November next, to be prepared to preserve and to restore such peace.

As the chief exective officer of the United States in your district, you will be held responsible for all breaches of the peace of the United States which diligence on your part might have prevented, and for the arrest and securing of all persons who violate that peace in any of the points above enumerated.

Diligence in these matters requires, of course, that you be, and continue, present, in person or by deputy, at all places of registration or election at which you have reason to suspect that the peace is threatened; and that whenever an embodiment of the *posse comitatus* is required to enforce the law, such embodiment be effected.

You will observe that the "special" deputies mentioned in section 2021 of the Revised Statutes have *peculiar* duties assigned to them, duties which otherwise do not belong to deputy marshals. Such "special" deputies can be appointed only in cities of twenty thousand inhabitants or upward.

But the duties assigned to marshals and their deputies by section 2022 or other like statutes belong to all duly appointed deputies, whether they be general or be "*special*" within the meaning of that and the preceding section. Deputies to discharge this latter class of duties may be appointed to any number whatever, according to the discretion of the marshal. in all States in which sheriffs have a similar power. Section 2030 has no practical bearing upon this point in States where no limit is imposed upon the appointment of deputies by sheriffs, because in such States the laws of the United States, "prior to the 10th of June, 1872," left marshals also unlimited as to the number of their deputies.

In discharging the duties above mentioned, you will doubtless receive the countenance and support of all the good citizens of the United States in your respective districts. It is not necessary to say that it is upon such countenance and support that the United States mainly rely in their endeavor to enforce the right to vote which they have given or have secured. The present *instructions* are intended only to counteract that partial malice, wrongheadedness, or inconsideration which sometimes triumphs at critical moments over the conservative and, in general, prevailing forces of society, and to which the present *and passing* condition of the

urged that there were too many marshals in the State. One-third of them were democrats. In view of the violence and intimidation shown to have existed by democrats against republicans, it is quite certain there were not a sufficient number of marshals to give that protection which a regard for the rights of citizens, and even common honesty required.

The statute of South Carolina provides that "the State constables and other peace officers of each county are required to be present during the whole time that the polls are kept open, * * * and they shall prevent all interference with the managers, and see that there is no interruption of good order."

In every State there is doubtless provision made for preserving the peace and giving protection to citizens. If a State government cannot give adequate protection, there can be no just objection that it should be afforded by the National Government in those cases authorized by the Constitution and laws. To deny its propriety is to assert that intimidation and violence should be unrestrained, and that the rights of citizens should be violated with impunity. A political party which adopts this as its purpose and policy, in the face of outrages unparalleled, and of cold-blooded murder, to accomplish success in an election, deserves the reprobation and abhorrence of every civilized community. The republican party shares no such purpose. The President deserves the gratitude of all just men for his statement of the duty of the Government, and the patriotic purpose so well announced in his letter to Governor Chamberlain, of July 26, 1876, as follows, (Senate Executive Document, No. 85, first session, Forty-fourth Congress:)

EXECUTIVE MANSION,
Washington D. C., July, 26, 1876.

DEAR SIR: I am in receipt of your letter of the 22d of July, and all the inclosures enumerated therein, giving an account of the late barbarous massacre of innocent men at the town of Hamburgh, South Carolina. The views which you express as to the duty you owe to your oath of office, and to the citizens, to secure to all their civil rights, including the right to vote according to the dictates of their own consciences, and the further duty of the Executive of the nation to give all needful aid, when properly called on to do so, to enable you to insure this inalienable right, I fully concur in. The scene at Hamburgh, as cruel, bloodthirsty, wanton, unprovoked, and as uncalled for as it was, is only a repetition of the course that has been pursued in other southern States within the last few years, notably in Mississippi and Louisiana. Mississippi is governed to-day by officials chosen through fraud and violence, such as would scarcely be accredited to savages, much less to a civilized and Christian people. How long these things are to continue, or what is to be the final remedy, the great Ruler of the Universe only knows. But I have an abiding faith that the remedy will come, and come speedily, and earnestly hope that it will come peacefully. There has never been a desire on the part of the North to humiliate the South. Nothing is claimed for one State that is not freely accorded to all the others, unless it may be the right to kill negroes and republicans without fear of punishment, and without loss of caste or reputation. This has seemed to be a privilege claimed by a few States.

I repeat again that I fully agree with you as to the measure of your duties in the present emergency, and as to my duties. Go on, and let every governor, where the same dangers threaten the peace of his State, go on in the conscientious performance of his duties to the humblest as well as the proudest citizen, and I will give every aid for which I can find law or constitutional power. *Government that cannot give protection to the life, property, and all guaranteed civil rights (in this country the greatest is an untrammeled ballot) to the citizen is in so far a failure, and every energy of the oppressed should be exerted (always within the law, and by constitutional means) to regain lost privileges or protection. Too long denial of guaranteed rights is sure to lead to revolution, bloody revolution, where suffering must fall upon the guilty as well as the innocent.* Expressing the hope that the better judgment and co-operation of the citizens of the State over which you have presided so ably may enable you to secure a fair trial and punishment of all offenders, without distinction of race, color, or previous condition of servitude, and without aid from the Federal Government, but with the promise of such aid on the conditions named in the foregoing, I subscribe myself, very respectfully, your obedient servant,

U. S. GRANT.

Hon. D. H. CHAMBERLAIN,
Governor of South Carolina.

These words will live and command the respect of statesmen and philanthropists, but apologies for violence, and encouragment to offenders against the rights of men, can never be justified.

The marshals were instructed by the Attorney-General as follows:

"In this connection I advise that you and each of your deputies, general and 'special,' have a right to summon to your assistance, in preventing and quelling disorder, 'every person *in the district* above fifteen years of age, whatever may be their occupation, whether civilians or not, and including the military of all denominations, militia, soldiers, marines, all of whom are alike bound to obey you. The fact that they are organized as military bodies, [whether of the State or of the United States,] under the immediate command of their own officers, does not in any wise affect their legal character. They are still the *posse comitatus*.' I prefer to quote the above statement of the law upon this point, from an opinion by my predecessor, Attorney-General Cushing, because it thus appears to have been well settled for many years." (6 Opinions, 466, May 27, 1854.)

The right thus to summon military officers of the State and the United States as a part of the *civil posse comitatus* is no new doctrine, but has been asserted heretofore.[21]

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country gives more than ordinary strength, and, therefore, requires the Government particularly to observe and provide against.

In this connection I advise that you and each of your deputies, general and "special," have a right to summon to your assistance, in preventing and quelling disorder, "every person *in the district* above fifteen years of age, whatever may be their occupation, whether civilians or not, and including the military of all denominations, militia, soldiers, marines, all of whom are alike bound to obey you. The fact that they are organized as military bodies, [whether of the State or of the United States,] under the immediate command of their own officers, does not in any wise affect their legal character. They are still the *posse comitatus*." I prefer to quote the above statement of the law upon this point, from an opinion by my predecessor, Attorney-General Cushing, because it thus appears to have been well settled for many years. (6 Opinions, 466, Maay 27, 1854.)

I need hardly add that there can be no State law or State official in this country who has jurisdiction to oppose you in discharging your official duties under the laws of the United States. If such interference shall take place, a thing not anticipated, you are to disregard it entirely. The laws of the United States are *supreme*, and so, consequently, is the action of officials of the United States in enforcing them. There is, as virtually you have already been told, no officer of a State whom you may not by summons embody into your own posse, and any State posse already embodied by a sheriff will, with such sheriff, be obliged upon your summons to become part of a United States posse, and obey you or your deputy acting *virtute officii*.

The responsibility which devolves upon an officer clothed with such powers, and required to guard the highest right of citizens, corresponds in degree with those powers and rights, and exacts of such officer consideration, intelligence, and courage.

It is proper to advise you that in preparing this circular I have considered recent important judgments given by the Supreme Court of the United States upon the acts of Congress which regulate this general topic.

I have founded the above instructions upon those acts as affected by such judgments, and I need in this place add no more than that these judgments do not concern elections for Federal offices.

You will find appended, in full or by reference, such statutory provisions as it seems important that you and your deputies shall in this connection read and consider.

In matters of doubt you are of course entitled to the advice of the United States attorneys for your district.

These instructions have been submitted to the President, and have his approval.

Very respectfully, your obedient servant,

ALPHONSO TAFT,
Attorney-General.

See Revised Statutes, 2004-2021, 2022, 2023, 2024, 5505, 5507, 5508, 5407; also, Title XXVI, page 353, and Title LXX, page 1073.

The following was also issued to district attorneys in the Southern States:

DEPARTMENT OF JUSTICE,
Washington, September 18, 1876.

SIR: On the 14th instant I transmitted for your information a circular recently forwarded to the marshal of your district.

You will regard it as in some degree addressed to yourself, and as calling attention to your own correlative official duties in regard to its subject-matter.

You will be expected heartily to co-operate in its purpose of preventing the application of illegal force to persons in their character of voters in elections for Federal officers. Such force is alike to be suppressed, whether those who practice it are private citizens or assume to be authorized by official power, be it State or national.

Enough has been said in the circular referred to as to such force in general, and in the same connection you will be especially careful that the marshal and his deputies are well informed of what is required by their duty, as well to the public as to the party arrested—both in making arrest, whether with or without process, and in dealing with such party after arrest.

Very respectfully,

ALPHONSO TAFT,
Attorney-General.

To ——— ———, Esq.,
United States Attorney for the District of ———.

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[21] The Washington Star of September 7, 1876, published an official letter from Mr. Evarts, while Attorney-General, dated August, 1868, as follows:

ATTORNEY-GENERAL'S OFFICE, *August* 20, 1868.

SIR: Your letter of the 12th instant reached me yesterday, and has received an attentive consideration. Colonel Sprague's information to you must have been based upon his own construction of General Meade's order, lately issued, and not upon any special instructions from the President to Colonel Sprague, through General Meade or otherwise, as no such special instructions have been issued by the President.

You add: "Under some circumstances I should be glad to have the aid of the military, and if practicable would be pleased to have instructions given to the military to aid me when necessary. I ask this, as Colonel Sprague informs me under his instructions he cannot do so."

The desire and request for the "aid of the military" under certain circumstances I understand to refer to the occasional necessity which may arise, that a marshal should have the means of obtaining the aid and attendance of a more considerable force than his regular deputies supply, for the execution of legal process in his district.

The twenty-seventh section of the judiciary act of 1789 established the office of marshal, and names among his duties and powers the following: "And to execute throughout the district all lawful precepts directed to him and issued under the authority of the United States, and he shall have power to command all necessary assistance in the execution of his duty, and to appoint, as there may be occasion, one or more deputies." (1 Statute, page 87.)

You will observe from this that the only measure of the assistance which you have the power to command is its necessity for the execution of your duty, and upon your discreet judgment, under your official responsibility, the law reposes the determination of what force each particular necessity requires. This power of the marshal is equivalent to that of a sheriff, and, with either, embraces, as a resort in necessity, the whole power of the precinct (county or district) in which the officer's authority extends. In defining this power, Attorney-General Cushing, and, as I understand the subject, correctly, says it "comprises every person in the district or county above the age of fifteen years, whether civilians or not, and including the military of all denominations, militia, soldiers, marines, all of whom are alike bound to obey the commands of a sheriff or marshal."

While, however, the law gives you this "power to command all necessary assistance," and the military within your district are not exempt from obligation to obey, in common with all citizens, your summons in cases of necessity, you will be particular to observe that this high and responsible authority is given to the marshal only in aid of his duty "to execute throughout the district all lawful precepts directed to him, and issued under the authority of the United States," and only in case of necessity for this extraordinary aid. The military persons obeying the summons of the marshal will act in subordination and obedience to the civil officer—the marshal—in whose aid, in the execution of process, they are called, and only to the effect of securing its execution.

This special duty and authority in the execution of process issued to you must not be confounded with the duty and authority of suppressing disorder and preserving the peace, which under our Government belongs to the civil authorities of the States, and not to the civil authorities of the United States. Nor is this special duty and authority of the marshal, in executing process issued to him, to be confounded with the authority and duty of the President of the United States, in the specific cases of the Constitution and under the regulations of the statutes, to protect the States against domestic violence, or with his authority and duty under special statutes to employ military force in subduing combinations in resistance to the laws of the United States; for neither of these duties or authorities is shared by the subordinate officers of the Government, except when and as the same may be communicated to them by the President.

I have thus called your attention to the general considerations bearing upon the subject to which your letter refers for the purpose of securing a due observance of the limits of your duty and authority in connection therewith. Nothing can be less in accordance with the nature of our Government or the disposition of our people than a frequent and ready resort to military aid in execution of the duties confided to civil officers. Courage, vigor, and intrepidity are appropriate qualities for the civil service which the marshals of the United States are expected to perform, and a re-enforcement of their power by extraordinary means is permitted by the law only in extraordinary emergencies.

If it shall be thought that any occasion, at any time, exists for instructions to the military authorities of the United States, within any of the States, in connection with the execution of process of courts of the United States, those instructions will be in accordance with the exigency then appearing.

I am, sir, very respectfully, your obedient servant,

WM. M. EVARTS,
Attorney-General.

ALEXANDER MACRUDER, Esq.,
United States Marshal Northern District, Saint Augustine, Florida.

And this demonstrates that even the soldiers may be, under proper circumstances, made subordinate to civil authority. *Here, then, is authority under the Constitution and laws of the United States to require soldiers, when stationed in South Carolina, to aid the civil service.*

And the President is fully authorized to station soldiers in such locality as he deems proper.

Congress has made it a penal offense for persons in the military service to interfere with voters or officers of election.[22]

Mr. Attorney-General Taft, in a speech at New York, October 25, 1876, commenting on his circular, said:

"Some complaints have been made of the order to the United States marshals. I have not thought it necessary to respond to the patriotic criticisms. Perhaps I have been under a hallucination in supposing it to be a very good order, and that it carried its justification on its face. It is clear that the order does not authorize or encourage marshals to interfere with any honest citizen while voting or performing any other duty. They are only to prevent unlawful breaches of the peace of the United States. They are not to intimidate any voter. They are to prevent intimidation. But political critics claim that the order conflicts with the recent decision of the Supreme Court and are concerned for the credit of the bar. If they had read the order and the decision they would have seen that there was no conflict. The case decided by the Supreme Court arose on an election of State officers only, and this order relates to the election of Federal officers only. Besides, the Supreme Court in its opinion, lest some ignorant or perverse man should misinterpret the opinion, went out of its way to say expressly that the decision had no bearing on the clause of the Constitution relating to election of members of Congress. The thirteenth amendment made slaves freemen; the fourteenth amendment made them citizens and gave them civil rights; the fifteenth amendment provided that no citizen should be denied the right to vote on count of race, color, or previous condition of servitude, and that Congress should have power to enforce this article by appropriate legislation. Congress passed an act which it was supposed would enforce this amendment. A case arose in Kentucky at an election of State officers only for denying the right to vote to a negro. The court held that the act of Congress as passed was not appropriate legislation for the premises of that suit. The reason can be concisely stated thus: Independent of the fifteenth amendment, Congress has nothing whatever to do with the election of State officers. By that amendment its only power is to prevent the denial to citizens of the right to vote, (on account of race, color, or previous condition of servitude,) but this act provides a punishment for the denial of the right of voting to any citizen, white or black. This transcended the right of Congress as to State election, and was not, therefore, appropriate legislation. The act should not have been confined to a denial of the right of voting on account of race, &c.; but the court said that they were not considering the effect of the fourth section of the first article of the Constitution as to election of Senators and Representatives. The effect of that section is to enable Congress to make or amend any or all regulations as to the times, places, and manner of holding elections for Senators and Representatives in Congress. These instructions relate to the election of Federal officers, the very thing which the Supreme Court say was not invoked in their decision of the Kentucky case.

"The order also says that 'the judgment of the Supreme Court did not concern Federal elections.' That looks reasonably plain. If any man fails to understand that, I commend him to the common-school system for further instructions. I cannot afford to spend any more time with him on the subject. But another critic is worried because the order includes the appointment of electors for President and Vice-President, and supposes that he has made a discovery when he finds that the State Legislature has the right to prescribe the manner of electing or appointing presidential electors. As members of Congress and presidential electors are by law elected at the same time and place, the election by law includes both, as stated in the order. It is wholly immaterial to a marshal what the State Legislature might do. It was the duty of the Attorney-General to instruct him what the law, under which he was to act, was. By the Constitution, Congress has power to prescribe the time, place, and manner for electing members of Congress, also to fix the time for the appointment of presidential electors. The State Legislature can fix the manner of appointing electors. Congress has by statute fixed the same day for the election of Congressmen and for the appointment of electors, and State Legislatures have fixed the same place and same manner, namely, 'by ballot at general elections.' In the present condition of legislation, therefore, as it is said by the order, the election at which members of the House of Representatives are chosen by law includes also a choice of electors for President and Vice-President, and the United States secures voters against whatever in general hinders or prevents them from a free exercise of the elective franchise, extending that case alike to the registration-lists, the act of voting, and personal freedom and security of the voter at all times, as well against violence on account of any vote that he may intend to give as against a conspiracy because of any that he may already have given. By section 5513 of the Revised Statutes of the United States it is provided 'that every registration made under the laws of any State or Territory, for any State or other election at which such Representative or Delegate in Congress may be chosen, shall be deemed to be a registration within the meaning of the preceding section' [Notwithstanding such registration is also made for the purpose of any State, territorial, or municipal election.] The fact that Vermont, Maine, Ohio, and Indiana form an exception to the general rule as to the time when their elections of Representatives in Congress is held as immaterial. It in no wise impairs correctness or fullness of the order, which is an individual communication to each marshal, and was not intended for marshals of those four States, neither of which were supervisors or marshals employed at the elections.

"The instructions were intended to give to each marshal to whom it was addressed his duty under the laws as they existed then and there, when and where he was to enforce them. Congress enacted a law that all elections for Representatives in Congress, without exception, should be held 'on the Tuesday after the first Monday of November,' as it had the absolute right to do by the Constitution; but finding that these four States had got the time fixed differently by their State constitutions, and would be embarrassed if Congress insisted on uniformity as to them, an amendment was enacted at the next Congress relieving such States as could not conform to the day fixed by Congress without an amendment to their State constitutions. These four States thus form an exception. In all the rest the Representatives in Congress and the electors are chosen at the same time and place and in the same manner, and really at one and the same election, so far as registration and regulations of elections are concerned. The statute of New York expressly provides that they shall all be elected at the same general elections, and other States have similar provisions, excepting Colorado, which makes its first choice of electors by the Legislature; but these exceptions do not in any manner affect the principle of the order, as it was not intended for excepted States, as shown by the order itself, which confines its instructions to the elections to be held on the Tuesday after the first Monday in November next. It is not necessary to speak of the clause relating to the *posse comitatus*. It is too well settled for dispute. The order is not a military order; it does not assume to make any disposition of troops, but advises the marshal that if he has occasion to call out the posse, and soldiers are in his district, they may be embodied for the purpose. This was done when a master in pursuit of his fugitive slave resorted to civil process of the United States, and the marshal, meeting resistance, called on United States soldiers, and they came and assisted to arrest and return the slave to his owner. The present application of the principle is quite as legal and a good deal more humane."

[22] Revised Statutes, sections 5528–5537, 2003.

ELECTION OFFICERS AND VOTERS MAY BE PROTECTED BY MILITARY POWER.

But, as civil officers might in this form be powerless to keep the peace at elections, the Constitution and laws have regarded the elective franchise as of such inestimable value as to deserve, in those extreme cases where necessity requires it, military protection from the National Government. This will be clear from a brief statement. Congress, as already known, has power to make all proper regulations as to the elections of Representatives in Congress and authorize all acts "necessary and proper for that purpose."

The Constitution also declares that the President "shall take care that the laws be faithfully executed."[23]

This he can only do by the defensive means placed by law in his hands.[24]

The act of Congress provides that—

"No * * * officer or person * * * in the military * * * service * * * shall have * * * any troops * * * at the place where any * * * election is held in any State, *unless it be necessary to repel the armed enemies of the United States or to keep the peace at the polls.*" (Revised Statutes, section 2002. For the statute of England on this subject see Congressional Record of January 17, 1877, Johnston's speech.)

From this an unequivocal inference arises, which is positive law, that the President, in executing the Constitution and those laws which give security to the right of voting for Representatives in Congress, may require the presence of troops "at the place where an election is held" in two cases: (1) when "necessary to repel the armed enemies of the United States" and (2) "to keep the peace at the polls."

By statute, also, the President is authorized to employ the military power for the protection of the civil rights of citizens. (Revised Statutes, section 1989.)

Here, then, is AUTHORITY, *under the Constitution and laws of the United States, for the use of troops to protect citizens in exercising the right of suffrage as stated.*

There is also a *duty* to use military power in still other cases.

The Constitution provides that—

"The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the Legislature, or of the executive, (when the Legislature cannot be convened,) against domestic violence."

Here is a covenant for a duty which cannot in good faith be omitted.

Whenever there is "domestic violence," within the meaning of the Constitution and the proper demand is made by the governor of a State on the President for military aid, it cannot be refused. The character of the violence which justifies military interposition is well understood.[25]

Here, then, is AUTHORITY, *under the Constitution, for the employment of troops of the United States on certain contingencies in a State.*[26]

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[23] Article 2, section 3.

[24] 9 Opinions Attorney-General, 524

[25] Paschal's Annotated Constitution, page 246, note 235.

[26] The President's message of January 22, 1877, is as follows:

To the House of Representatives:

On the 9th day of December, 1876, the following resolution of the House of Representatives was received, namely:

"*Resolved*, That the President be requested, if not incompatible with the public interest, to transmit to this House copies of any and all orders or directions, emanating from him or from either of the executive departments of the Government, to any military commander or civil officer, with reference to the service of the Army, or any portion thereof, in the States of Virginia, South Carolina, Louisiana, and Florida since the 1st of August last, together with reports by telegraph or otherwise from either or any of said military commanders or civil officers."

It was immediately or soon thereafter referred to the Secretary of War and the Attorney-General, the custodians of all retained copies of "orders or directions" given by the Executive Department of the Government covered by the above inquiry, together with all information upon which such "orders or directions" were given.

The information, it will be observed, is voluminous, and, with the limited clerical force in the Department of Justice, has consumed the time up to the present. Many of the communications accompanying this have been already made public in connection with messages heretofore sent to Congress. This class of information includes the important documents received from the governor of South Carolina and sent to Congress with my message on the subject of the Hamburgh massacre; also the documents accompanying my response to the resolution of the House of Representatives in regard to the soldiers stationed at Petersburgh.

There have also come to me and to the Department of Justice, from time to time, other earnest written communications from persons holding public trusts and from others residing in the South, some of which I append hereto as bearing upon the precarious condition of the public peace in those States. These communications I have reason to regard as made by respectable and responsible men. Many of them deprecate the publication of their names as involving danger in them personally.

The reports heretofore made by committees of Congress of the results of their inquiries in Mississippi and in Louisiana, and the newspapers of several States recommending the "Mississippi plan," have also furnished important data for estimating the danger to the public peace and order in those States.

It is enough to say that these different kinds and sources of evidence have left no doubt whatever in my mind that intimidation has been used, and actual violence, to an extent requiring the aid of the United States Government, where it was practicable to furnish such aid, in South Carolina, in Florida, and in Louisiana, as well as in Mississippi, in Alabama, and in Georgia.

The troops of the United States have been but sparingly used, and in no case so as to interfere with the free exercise of the right of suffrage. Very few troops were available for the purpose of preventing or suppressing the violence and intimidation existing in the States above named. In no case, except that of South Carolina, was the number of soldiers in any State increased in anticipation of the election, saving that twenty-four men and an officer were sent from Fort Foote to Petersburgh, Virginia, where disturbances were threatened prior to the election.

No troops were stationed at the voting-places. In Florida and in Louisiana, respectively, the small number of soldiers already in the said States were stationed at such points in each State as were most threatened with violence, where they might be available as a posse for the officer whose duty it was to preserve the peace and prevent intimidation of voters. Such a disposition of the troops seemed to me reasonable and justified by law and precedent, while its omission would have been inconsistent with the constitutional duty of the President of the United States "to take care that the laws be faithfully executed." The statute expressly forbids the bringing of troops to the polls, "except where it is necessary to keep the peace," implying that to keep the peace it may be done. But this even, so far as I am advised, has not in any case been done. The stationing of a company, or a part of a company, in the vicinity, where they would be available, to prevent riot, has been the only use made of troops prior to and at the time of the elections. Where so stationed, they could be called in an emergency requiring it by a marshal or deputy marshal as a posse to aid in suppressing unlawful violence. The evidence which has come to me has left me no ground to doubt that if there had been more military force available it would have been my duty to dispose of it in several States with a view to the prevention of the violence and intimidation which have undoubtedly contributed to the defeat of the election law in Mississippi, Alabama, and Georgia, as well as in South Carolina, Louisiana, and Florida.

By article 4, section 4, of the Constitution, "the United States shall guarantee to every State in this Union a republican form of government, and shall protect

THE TROOPS ACTUALLY IN THE STATE.

In view of the authority thus given by the Constitution and laws, it will be proper next to show that a necessity existed during 1876 for the use of even more troops in South Carolina than were located or sent there, and that those sent were employed solely to protect citizens and official authority from overthrow, and in no case to invade or violate any right.

The State has thirty-two counties, with four hundred and ninety-one voting-precincts and polling-places. By the census of 1875 it had a total population of 925,145, including 110,744 colored and 74,199 white voters.[27] On the 30th September, 1876, there were in the State only 589 officers and soldiers of the United States, or one soldier for every 1,570 of the population. On the 7th of November, the day of election, the number of officers and soldiers were 1,526, or one for every 606 of the population. These were distributed in small squads at sixty-seven different places, at thirty-six of which the number did not exceed thirteen. Not one in seven of the voting-precincts had any soldiers therein. There were four hundred and twenty-four of the four hundred and ninety-one precincts without a soldier.[28]

each of them against invasion, and on application of the Legislature, or of the executive, (when the Legislature cannot be convened,) against domestic violence."

By act of Congress, (R. S. U. S., sections 1034-5,) the President, in case of "insurrection in any State," or of "unlawful obstruction to the enforcement of the laws of the United States by the ordinary course of judicial proceedings," or whenever "domestic violence in any State so obstructs the execution of the laws thereof and of the United States as to deprive any portion of the people of such State" of their civil or political rights, is authorized to employ such parts of the land and naval forces as he may deem necessary to enforce the execution of the laws and preserve the peace, and sustain the authority of the State and of the United States. Acting under this title (69) of the Revised Statutes of the United States I accompanied the sending of troops to South Carolina with a proclamation such as is therein prescribed.

The President is also authorized by act of Congress "to employ such part of the land or naval forces of the United States" * * * "as shall be necessary to prevent the violation and to enforce the due execution of the provisions" of title 24 of the Revised Statutes of the United States, for the protection of the civil rights of citizens, among which is the provision against conspiracies "to prevent, by force, intimidation, or threat, any citizen who is lawfully entitled to vote from giving his support or advocacy in a legal manner toward or in favor of the election of any lawfully qualified person as an elector for President or Vice-President, or as a member of Congress of the United States." (United States Revised Statutes, 1989.)

In cases falling under this title, I have not considered it necessary to issue a proclamation to precede or accompany the employment of such part of the Army as seemed to be necessary.

In case of insurrection against a State government or against the Government of the United States, a proclamation is appropriate; but in keeping the peace of the United States at an election at which members of Congress are elected, no such call from the State or proclamation by the President is prescribed by statute or required by precedent.

In the case of South Carolina, insurrection and domestic violence against the State government were clearly shown, and the application of the governor founded thereon was duly presented, and I could not deny his constitutional request without abandoning my duty as the Executive of the National Government.

The companies stationed in the other States have been employed to secure the better execution of the laws of the United States and to preserve the peace of the United States.

After the election had been had, and where violence was apprehended by which the returns from the counties and precincts might be destroyed, troops were ordered to the State of Florida, and those already in Louisiana were ordered to the points in greatest danger of violence.

I have not employed troops on slight occasions, nor in any case where it has not been necessary to the enforcement of the laws of the United States. In this I have been guided by the Constitution and the laws which have been enacted and the precedents which have been formed under it.

It has been necessary to employ troops occasionally to overcome resistance to the internal revenue laws from the time of the resistance to the collection of the whisky tax in Pennsylvania, under Washington, to the present time.

In 1854, when it was apprehended that resistance would be made in Boston to the seizure and return to his master of a fugitive slave, the troops there stationed were employed to enforce the master's right under the Constitution, and troops stationed at New York were ordered to be in readiness to go to Boston if it should prove to be necessary.

In 1859, when John Brown, with a small number of men, made his attack upon Harper's Ferry, the President ordered United States troops to assist in the apprehension and suppression of him and his party without a formal call of the Legislature or governor of Virginia and without proclamation of the President.

Without citing further instances in which the Executive has exercised his power as commander of the Army and Navy to prevent or suppress resistance to the laws of the United States, or where he has exercised like authority in obedience to a call from a State to suppress insurrection, I desire to assure both Congress and the country that it has been my purpose to administer the executive power of the Government fairly, and in no instance to disregard or transcend the limits of the Constitution.

U. S. GRANT.

EXECUTIVE MANSION, *January* 22, 1877.

And see the documents accompanying the message in the volume of documents.

[27] See evidence taken by committee, part 1, page 134, House Miscellaneous Document 31, part 1, second session, Forty-fourth Congress.

[28] This is shown by the following official statement:

Position and distribution of United States troops in the State of South Carolina on the 30th of September and 7th of November, 1876.

SEPTEMBER 30, 1876.

Posts or stations.	Commissioned officers.	Enlisted men.	Total.	Posts or stations.	Commissioned officers.	Enlisted men.	Total.
Summerville	13	77	90	Edgefield	6	68	74
Columbia	21	201	222	Blackville	7	82	89
Yorkville	4	34	38				
Lancaster	4	31	35	Aggregate	59	530	589
Laurensville	4	37	41				

THE NECESSITY FOR TROOPS.

At the general election in November, 1874, D. H. Chamberlain, a republican, was elected governor for a term of two years, and soon after entered upon the duties of the office. The State officers were republican, and in a majority of the counties the county officers were of the same political faith. The Legislature was republican. The colored voters of the State were nearly all republican; the whites were very generally democrats.

Whatever may be said of prior administrations, that of Governor Chamberlain was eminently honest, wise, and successful. It reformed abuses, made merit the test for appointments to office, cut down expenses, reduced taxes, maintained the credit of the State, and a continuance of this administration, properly supported, will undoubtedly do much to restore public order, to revive the industries of the State, and secure the rights of person and property.[29]

NOVEMBER 7, 1876.

Posts or stations.	Commissioned officers.	Enlisted men.	Total.	Posts or stations.	Commissioned officers.	Enlisted men.	Total.
Yorkville	2	26	28	Calhoun's Mills	1	10	11
Rock Hill	1	12	13	Allendale	2	31	33
Laurensville	2	33	35	Milletts	1	10	11
Clinton	1	12	13	Newberry	1	15	16
Columbia	13	134	147	Prosperity	1	12	13
Charleston	6	60	66	Chappell's Depot	1	5	6
Summerville	3	68	71	Edgefield	8	105	113
Beaufort	1	22	23	Shaw's Mill	3	29	32
Adams's Run	1	8	9	Liberty Hall	3	27	30
Blue House polls	1	8	9	Richardsonville	2	32	34
Strawberry Ferry	1	10	11	Ridge Spring	1	12	13
John's Island	1	10	11	Leesville	1	12	13
James Island	1	10	11	Cainhoy	1	21	22
Bennettsville	2	35	37	Muster House	1	10	11
Brownsville	1	12	13	Camden	1	12	13
Red Bluff	1	12	13	Red Hill	1	8	9
Winnsborough	1	15	16	Easley's Station	1	15	16
Ridgeway	1	10	11	Greenville	1	18	19
Marion	1	13	14	Spartanburgh	1	12	13
Little Rock	1	8	9	Sullivan's Factory	1	10	11
Berry's Cross-Roads	.....	5	5	Chester	1	22	23
Lancaster	1	19	20	Carmel Hill	1	12	13
Waxhaw	1	12	13	Rich Hill	.....	7	7
Blackville	8	67	75	Timmonsville	1	18	19
Buford's Bridge	1	13	14	Darlington	1	12	13
Midway	1	15	16	Lynchburgh	1	10	11
Barnwell	3	23	26	Florence	1	14	15
Aiken	5	74	79	Greenwood	1	15	16
Hamburgh	1	30	31	Sumter	2	13	15
Beach Island	1	12	13	Union	1	10	11
Boyd's Store	1	12	13	Gowdeysville	1	8	9
Silverton	1	12	13	Seneca City	1	12	13
Jordan's Mills	1	12	13				
Abbeville	1	19	20	Aggregate	114	1,412	1,526
Lowndesville	1	10	11				

E. D. TOWNSEND
Adjutant-General.

HEADQUARTERS OF THE ARMY,
ADJUTANT-GENERAL'S OFFICE,
Washington, February 6, 1877.

[29] This is shown in the evidence. It will appear also from the following:

GOVERNOR CHAMBERLAIN'S ADMINISTRATION FROM 1874 TO 1876—REVIEW OF LAST TWO YEARS.

I was nominated and elected in 1874 as the candidate of the republican party, under pledges, both personal and party, to reform the abuses which then existed. In my inaugural address I developed in detail my plans of reform—plans which met the earnest approval of the general public of the State without regard to party. That I pursued the course there marked out earnestly and faithfully is a claim which cannot be successfully or even plausibly disputed. I found a considerable part of my own party opposed to my course, and thus my fidelity to my pledges and to the cause of reform, as I understood it, was put to severe and unexpected tests. It is not egotism but truth which leads me to affirm that I bore those tests in a manner which commanded the praise of the friends of reform throughout the State. The press of this State, the public utterances of its leading citizens, every organ of public opinion, will furnish the proof of this assertion. My record as governor was elaborately reviewed in July last by the Charleston News and Courier—beyond comparison the ablest, and, in a normal condition of affairs, the most liberal democratic newspaper in this State or in the South—in a series of editorial articles founded on official and indisputable records. From the closing article of this series, entitled "The Record of Governor Chamberlain—a Summary," I make the following extracts:

"We have scrutinized, one by one, the most important pledges and recommendations contained in the addresses and messages since his election, and we now briefly sum up the result of the investigation we have made:

* * * * * * *

"The abuse of the pardoning power has been corrected.

"The character of the officers of the government appointed by the executive has been improved, and the sureties upon the bonds of public officers have been required to make affidavits of their ability to meet the liability they assume.

"The settlement of the public debt has been maintained unchanged, and faith with the public creditor, so far as depended on executive and legislative action, has been fully kept.

"The effort to place the whole of the public funds in two banks of small capital was frustrated, and the State so saved from the danger of far greater loss than was sustained by the failure of the Solomon bank.

"The floating indebtedness of the State has been provided for in such a way that the rejecting of fraudulent claims is assured; the recognized and valid claims are scaled one-half the amount, and their payment is distributed over a term of four years, resulting in a saving to the State of at least $400,000.

"The tax laws have been amended so as to secure substantial unanimity and equality in the assessment of property for taxation.

"The contingent funds of the executive department have been so reduced in

The material portions of the republican "platform" for 1876 were as follows:

"*The republican platform.*—In preparing the platform of our party, I was invited by the committee having the work in charge to meet the committee and to present my views. I accepted this invitation, and I here present those portions of the platform adopted by the convention to which my efforts were especially directed:

"'4. That in presenting to the people of South Carolina our nominees for the high offices of the State for the coming two years, we believe we should make plain and unmistakable the aims and principles to which we stand pledged, in the event of their election; **not in glittering generalities of reform, but in specific and substantial articles.**'

"'6. **We pledge ourselves to thorough reform in all departments of the State government where abuses shall be found to exist, and, as an earnest of the same, declare our purpose of submitting to the qualified voters of the State the following specific reforms as amendments to the State constitution:**

"'"1. That the present adjustment of the bonded debt of the State shall be inviolable.

"'"2. That the General Assembly shall meet only once in every two years, and that the length of no session thereof shall exceed seventy days.

"'"3. That the number of sessions of courts of general sessions and common pleas shall be reduced to two annually in each county, with power reserved to the judges to call special sessions when necessary.

"'"4. That the veto power of the governor shall be so modified as to allow of the disapproval of a part without effect upon the rest of an act.

"'"5. That agricultural interests shall be relieved from burdensome taxation by a more equitable distribution of taxes and by the inauguration of a system of licenses fixed upon fair principles.

"'"6. That no public funds shall ever be used for the support of sectarian institutions.

"'"7. That the enormous evil of local and special legislation shall be prohibited whenever private interests can be protected under general laws.

"'"8. And inasmuch as the system of free schools was created in the State by the republican party, and should be especially fostered and protected by it, we pledge ourselves to the support of the amendment to the State constitution, now before the people, establishing a permanent tax for the support of free schools and preventing the removal of school funds from the counties where raised."

"'7. We pledge ourselves and the nominees of the republican party of the State to the securing of the following purposes by legislative enactment:

"'"1. The further and lowest reduction of salaries of all public servants, consistent with the necessities of government.

"'"2. The reduction of fees and costs, especially of attorneys in civil cases, and the amendment of the laws governing the settlement of estates in such manner as to secure a more economical administration and settlement of small estates.

"'"3. The immediate repeal of the agricultural lien-law.

"'"4. Public printing to be reduced at least one-third of the present appropriation.

"'"5. Convict labor to be utilized under such laws as shall secure humane treatment and the support of convicts without needless expense to the State.

"'"6. The annual appropriations for public institutions to be economically made and properly expended.

"'"7. The number of trial justices to be reduced throughout the State, and each justice to be assigned to specific territory, with moderate salaries, to cover costs of criminal business, adjusted in proportion to populations."

"'8. Recognizing the enormous expense of fencing farms and the scarcity of timber in some sections of the State, we feel it to be necessary that practical relief be afforded to the people of the State, and we pledge ourselves to secure such legislation upon the subject as will give to the electors of each county the right to regulate this question for themselves.'" (See Evidence, page 355.)

Up to August, 1876, when the democratic State convention was held, it had received the general approval of a large portion of the leading and better class of democrats of the State.[30]

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amount that the saving in two years, upon the basis of the average of six previous years, is $101 200.

"Legislative expenses, in like manner, and upon a similar basis, have been so reduced as to save the people, in two years, $350.810.

"Legislative contingent expenses in the same way have been so reduced as to save the State $33[illegible],000.

"In the expenditure of contingent funds accountability and publicity have been secured.

"The cost of public printing has been reduced from an annual average of $306,[illegible]09 to $50,000, saving in two years $512,418. The salaries of public officers have been reduced $30.000 a year.

"The tax levy for the current year for State purposes has been reduced from 13½ mills to 11 mills, a saving to the people this year of $[illegible]00,000.

"The deficiencies (including the losses by the Solomon bank) are, for the year 1874–'75, $30[illegible],872, which is $291,021 less than the deficiencies of 1872–'73 and $233,315 less than the deficiencies of 1873–'74.

"Under the several heads the savings that have actually been made are:

"In the bonanza bill	$400, 000
"In the executive contingent fund	101, 260
"In legislative expenses	350, 810
"In contingent expenses	355, 000
"In public printing	512, 418
"Total	1, 719, 488

"To realize this amount would require a tax of nearly 1½ per cent. Had the appropriations of the past two years been as inordinate as the average of the appropriations and expenditures of the preceding years, the State taxes of the past two years would have been ½ per cent. a year more than the outrageous rate actually levied.

"This is the record of Governor Chamberlain as shown by hard figures and unmistakable facts. We have strained or exaggerated nothing. The plain truth, as we know it, has been faithfully given. And we maintain that the record, as it stands, is one of which Governor Chamberlain has cause to be proud, that it justifies the support which has been given him, and is a complete answer to those of our friends who think that no act of Governor Chamberlain deserves public commendation but his refusal to issue the commissions to Whipper and Moses. That bold act, applauded everywhere in South Carolina, has not been mentioned in these articles."

[30] This is shown in the evidence. It will appear also from the following:

[From the Columbia, South Carolina, Union and Herald, (republican,) November 1, 1876.]

SOME DEMOCRATIC OPINIONS—IS IT REFORM THEY WANT?

Let dispassionate men read what the democratic organs of public opinion said of Governor Chamberlain and his administration of the office of governor within a few months. Let them ask, "What has he done since to make these same organs teem with denunciations of him?" They have but one reply. There is but one reply. He has denounced the killing of black men as murder. He has sought to bring the criminals who have committed deeds of blood to justice. He has put himself in the way of the plot to overawe and coerce the majority of the people. He has stood firmly by the rights of all the people. He has refused to shut his eyes to the shotgun campaign and its purposes. He has refused to be a traitor to the principle of a free ballot. He is true to the great national union republican party. He cannot be seduced or frightened into giving aid or comfort to the reactionary, violent, revolutionary, rebel democracy, as typified by Butler, Gary, Haskell, Lipscombe, Moise, Speights, Rhett, &c. These are his crimes, and these only.

He has fought a good fight in behalf of the people. (Yorkville Enquirer, May, 1875.)

We think its counsel noble and its spirit earnest. (Lexington Dispatch, January, 1875.)

It would be folly to run a democratic candidate for governor against Mr. Chamberlain. (News and Courier, July, 1876.)

Mr. Chamberlain has earned the gratitude and deserves the confidence of the whole people. (News and Courier.)

We hope that General Hampton will not be nominated, because we do not believe it possible to elect him. (News and Courier, July, 1876.)

Governor Chamberlain is a necessity. He alone in the State has power at present to check frauds, foster honesty, and restore order out of chaos. (Winnsborough News, June, 1875.)

The movement to organize the democratic party in this State was "mainly confined to a few leaders who want office themselves." (Sumter Watchman, [democratic,] June, 1876.)

Our very heart yearns over the strong conviction that accords with all reason and all the fight before us, that General Hampton is about be sacrificed. (Sumter Watchman.)

I honestly believe that Governor Chamberlain can do more for South Carolina in and out of the State than any other man. (Letter of George W. Williams, July, 1876.)

By supporting Mr. Chamberlain, the whole country will secure, without revolution, a government in every way satisfactory. (News and Courier, June, 1876.)

Governor Chamberlain is every day fulfilling the pledges made alike to conservatives and republicans in this campaign. (The Grange, January, 1875.)

The democrats in South Carolina are in the minority, else they could and would as a party, obtain control of the State by their own efforts. (News and Courier July, 1876.)

The most influential bankers and merchants in Charleston hold substantially the same opinions as those expressed by Mr. Williams. (News and Courier, July, 1875.)

The course of Governor Chamberlain, we think, commends itself to the cordial support of all the friends of good government in the State. (Abbeville Press, August, 1875.)

There would be more wisdom in co-operating with the friends of Governor Chamberlain to secure his election than in throwing away strength upon impossible candidates. (Clarendon Press, February, 1876.)

Being the ablest and purest man in the dominant party, he has become a necessity to the welfare of the State, and it behooves all good citizens to stand by him while he seeks to secure for them good government. (Camden Journal, August, 1875.)

We can't say hard things against Chamberlain, who is manifestly striving to give our impoverished people an honest government. That is what they want. Give it to them, and everything else—low taxes and prosperity—will follow. (Marion Star, 1876.)

If General Kershaw or General Hampton had been governor for the past two years neither of them could have effected as much reform or benefited the State as much as Governor Chamberlain has done. (Interview of Judge Maher in News and Courier, July, 1876.)

All good citizens will labor with the governor to hasten the coming of that auspicious day which shall find "all our people so united in the regard for the public weal that the advent to power of any political party shall not endanger the liberties or the material interests of any class of our fellow-citizens." (Yorkville Enquirer, January, 1875.)

While with the advent of Governor Chamberlain's administration our people begin to feel that a new and brighter era is dawning upon the State, it is gratifying to note that for the first time since reconstruction our State government is honorably recognized abroad and commanding respectful attention. (Yorkville Enquirer, January, 1875.)

He has accomplished such a Herculean task in breaking down the barriers of corruption and fraud, and gives such promise of being able ultimately to storm and carry the very citadel itself, that we take pleasure in writing him down a model governor. (Charlotte Observer, June, 1875.)

As we have already said, there is nothing but defeat ahead of us on any ticket of that sort that can be put forth. The name of General Hampton is electric and will thrill through the nerves of every white man in South Carolina; but what of that? If every one of them voted for him, and ten thousand more besides, he would be still in a hopeless minority. (Marlboro' Planter, August, 1875.)

'Tis a pleasure, no less than a duty, to recognize the just, economical and sagacious purpose of Governor Chamberlain in the advice communicated by him in the letter addressed to the State senate committee on finance. * * * The country is conscious that there is a steady hand at the helm of State affairs, and feels a renewal and an increase of confidence in the pilot. (Phœnix, February, 1875.)

He was brave to a fault and earnest to the verge of indiscretion. (News and Courier, January, 1876.)

With equal earnestness he exerted the whole power and influence of his office to promote the public good. (News and Courier, July, 1876.)

Time has justified us, as it will justify Mr Chamberlain. Time has shown that whoever else goes back he will move steadily forward. (News and Courier, January, 1876.)

God forbid that this old element should ever get into power again. It led us to the devil once, and would likely do so again. ("Paysan," in letter to News and Courier, July, 1876.)

We believe that, without regard to the consequences to himself or to his party, he will go on to the end in the narrow path of right. (News and Courier, February, 1876.)

A full democratic vote cannot be polled against Governor Chamberlain. It is certainly not worth while to be beaten anywhere in order to ascertain how weak we are. (News and Courier, August, 1876.)

The Charleston democracy are determined to stand squarely by Governor Chamberlain in the fight that his effort to secure reform has brought upon him. (News and Courier, December, 1875.)

That Governor Chamberlain, from his inaugural address to his last veto, has carried out every pledge of the platform on which he was elected. (Resolution of Mr. Aldrich, January, 1876.)

Governor Chamberlain stands erect, bearing the wrath of his own party, to maintain unbroken his pledges of reform. As he is true to his duty, let us be true to

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Many of the democrats favored the idea of making no nomination against Governor Chamberlain for the election in November, 1876. Other counsels, however, prevailed, and a State democratic convention, held on the 16th of August, 1876, nominated General Wade Hampton as the democratic candidate for governor, with a full State ticket.

The republican State convention, on the 12th of September, 1876, renominated Governor Chamberlain for governor, with a full State ticket.

The two political parties nominated candidates in the several districts and coun-

ties of the State for State senators, representatives in the General Assembly, and county officers.

Ever since the close of the war the State has been republican by a decided majority.

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ours, and stand firmly and unitedly by him in support of the right. (Speech of General Conner, December, 1875.)

There must be no mental reservations when we say we will stand by Governor Chamberlain. We mean it as our fathers meant it when they pledged their lives, their fortunes, and their sacred honor. (Speech of Colonel Pressley, December, 1875.)

I believe that a stronger fight can be made next fall for good government in South Carolina than has been made since the war, and I believe it can be done by supporting Governor Chamberlain in his efforts for reform. (Anderson Intelligencer, April, 1876.)

Let others say what they may and seek to impress the popular judgment as they can, as for the intelligent popular sentiment of Abbeville County, without reference to party, the indorsement of Governor Chamberlain is hearty and emphatic. (Abbeville Medium, November, 1875.)

While the governor does not abate one jot or tittle of his party fealty, he will not support any measure or policy that does not tend to advance the interest of South Carolina. This is true statesmanship, and is all that we need to redeem the State. (Barnwell Sentinel, November, 1875.)

There are hundreds on hundreds of the white people of the State who would vote for Governor Chamberlain for re-election against any nomination which could be made. This we know, because we hear it from the lips of the people day by day. (Sumter Watchman, April, 1876.)

In South Carolina the conspicuous * * in the fight for reform, the one man who has made reform at an early day a possibility, is Governor Chamberlain, whose election was the greatest blessing in disguise that this people has known. (News and Courier, January, 1876.)

The conservative citizens of Charleston promise Governor Chamberlain their steadfast support. This they owe to the man who stands like a granite wall between an oppressed people and those who seek by foul means to rob them of their lives, liberties, and homes. (News and Courier, December, 1875.)

Governor D. H. Chamberlain has illustrated by his conduct the noble ends which may be achieved by a stranger who differs from many of us in matters of political faith, but who unites with good men of all views in measures of earnest reform; and this people will sustain him to the end. (Resolution at Sumter meeting, January, 1876.)

We have to thank God that our candidate for governor was not elected, for, with all the acknowledged modesty, ability, and learning of Judge Green, I doubt if he had the backbone to stand up for right in such an issue as this with that resolute firmness which Governor Chamberlain has displayed. (Moise, in speech at Sumter.)

That we heartily indorse Governor Chamberlain in his efforts to redeem the State from plunder and degradation, and while he has been faithful to his own party he has also been faithful to ours, and we hereby pledge ourselves to stand by and support him promptly, faithfully, fearlessly, and defiantly. (Resolutions at Barnwell meeting, January, 1876.)

Let honor be awarded to him who is deserving of praise. Certainly the gratitude of the State of South Carolina is now due to her governor, Hon. D. H. Chamberlain. By his wise and patriotic course he is fast gaining the admiration and esteem of the law-abiding and liberty-loving throughout the Union. (Charlotte Observer, December, 1875.)

Governor Chamberlain stands upon the right. His sole guide is his public duty, and whoever else may be against him, the true people of the State, whose champion he is in the hour of their sorest need, will stand by him to the end. Governor Chamberlain has done for the people of South Carolina what no other living man could have done. Great was his opportunity, and splendid is the use he has made of it. (News and Courier, December, 1875.)

Governor Chamberlain, we feel constrained to say, has planted his foot firmly on the highest round of virtuous fame. His brave and superb conduct in the very pinch of the emergency has won for him a historic fame outside of all party lines and above cavil or dispute. He stands now in the calm attitude of a man in a higher atmosphere than those miserable men who would hawk at and hound him down. (Greenville News, December, 1875.)

In the eyes of the State and of the nation Governor Chamberlain, an avowed and thorough republican, arises before us as the champion around whom, from center to circumference, clusters our hope. * * * No man now living in the State embodies in his individual person so much power and influence on the side of good government. If the incentive be to reform our State government, then Governor Chamberlain is certainly the man who seems to have been providentially brought forward to our help. (Sumter Watchman, February, 1876.)

No mortal man, with all the surroundings that environed Governor Chamberlain when he took the executive chair, could have done more for the good of the State than he has done. His history as governor has been pure, unspotted, and unstained. (Horry News, September, 1875.)

Far from bringing out a full vote, the "straight-out" policy will, in our opinion, cause thousands of whites to cast their votes for the republican candidate, if that candidate be Mr. Chamberlain, or refrain from voting for democrats, because they know there is no hope for victory. (News and Courier, July, 1876.)

In two years we hope and believe his administration will be such as to render the white people of the State the strongest supporters of Governor Chamberlain. Our people only want a wise, just, and economical government, and this, I believe, he will endeavor to inaugurate. (Correspondence of Keowee Courier, January, 1875.)

Governor Chamberlain richly deserves the confidence of the people of this State. The people of South Carolina, who have all at stake, who see and hear what persons outside of the State cannot know, are satisfied with Governor Chamberlain's honesty. They believe in him, as well they may. (News and Courier, May, 1875.)

Mr. Chamberlain will accept a nomination for re-election, not because of the emoluments of the office, which are pitiful; nor for the love of politics, which are not to his taste, but because in two years more, with a sound, intelligent, and upright legislature, he can, with the knowledge he has of our condition and wants, complete the work now begun, and make South Carolina as contented and progressively prosperous as any State in the South. (News and Courier, August, 1876.)

The interchange of courtesies between Governor Chamberlain and General Kershaw on Wednesday must have been exceedingly pleasant, and General Kershaw never represented the popular sentiment more correctly than when he said that "no one would give Governor Chamberlain a more cordial and hearty support than he in his efforts to effect reforms in the administation of the affairs of the State government." This is the feeling undoubtedly of nine-tenths of the white citizens of the State. (News and Courier.)

We are happy to unite with others in the most hearty approval of the general contents of the message, and rejoice to see in it a fulfillment so far of the pledges made by the governor in his inaugural, which were in fact, only a vindication of those made during the canvass.

We rejoice at the fine opportunity afforded by Governor Chamberlain to prove to the world that southern gentlemen are not capable of the folly of proscription and oppression to men for mere opinions and politics. (Greenville Enterprise and Mountaineer, January, 1875.)

4th. We tender to Governor Chamberlain our grateful thanks for the bold and statesmanlike struggle he has made in the cause of reform and the economical administration of the government in the preservation of the public faith, in the equal administration of justice, and in the maintenance of the public peace, and we pledge him our cordial support for the accomplishment of these ends. (Presented by General Conner. (Charleston resolutions, December, 1875.)

The brave words of the governor in reproof of extravagance, in exposition of the absolute necessity of curtailing the expense, will live and be admired beyond the era and the occasion which gave them origin.

At the close of this first session of the Legislature we take pleasure in saying to him, "Well done, good and faithful servant."

The honest men of all parties look upon him to-day as a governor whose administration has been bold, honest, and exceptionally able, and who is now the main bulwark that protects the State from further spoliation and fraud. (News and Courier, April, 1875.)

We would like to be convinced that we are wrong, but until this is done, until some one shows us how 30,000 republican majority, with a leader like Governor Chamberlain in command, can be wiped out at the polls, we shall not draw our support from him who, by his many official acts, has satisfied us that he is doing the best he possibly can do with the material he has—and much better than any democrat in the State could do with the same material—to give us what we want for ourselves and our families. (Marion Star, June, 1876.)

Governor Chamberlain will carry a majority of the better elements of his party on an advancing platform of reform. For the democrats to oppose this would be throwing away their opportunity, if the idea be to reform the government. In the face of such facts and such a situation a straight-out ticket would be but courting defeat, as the republican ranks would be inevitably driven together. And then there are hundreds on hundreds of white people of the State who would vote for Governor Chamberlain for re-election against any nomination that could be made. (Sumter Watchman, August, 1876.)

Mr. Chamberlain will probably be the candidate of the republican party for re-election. The wilder the talk of the radical democracy the greater is his strength as a commanding necessity to his party. In case that he be nominated, he will have the undivided support of the radicals. There will be no bolt. Add to the solid republican vote the power to obtain Federal troops as they may be needed, the executive appointment of commissioners of election, the broad and undefined powers of the board of State canvassers, and what prospect is there that he could be defeated? It could be done in only one way—by armed force. For that the people are not ready, and, if they were ready, such a course would end in disaster and ruin. (News and Courier, July, 1876.)

No man who did not have a clear head, a brave heart, and an honest purpose could give expression to such lofty words of patriotism and duty. * * * The garb of the carpet-bagger dropped from his shoulders; he was received with affection as an adopted son into the family of the children of the Palmetto State, and his name was enrolled with Blanding and Nott and Duncan and the hundreds of New Englanders who have adorned her society and illustrated her history, and the name of Chamberlain will stand high on that roll, for his burning words will go down to posterity and make a shining page in history as Pinckney's "Millions for defense, not a cent for tribute;" or the old dictator's "By God, I will cut my right hand off before I sign the order;" or Patrick Henry's "Give me liberty or give me death." (Speech of Judge Aldrich, at Barnwell, January, 1876.)

Both democrats and republicans opposed Mr. Chamberlain until he had shown that no democrat or republican in his position could go further than he would go in advocating and working for economy, purity, and low taxation. (News and Courier, April, 1876.)

GEORGE W. WILLIAMS DECLINES.

MOUNTAIN HOME, NACOOCHEE, GEORGIA,
July 28, 1876.

To the editor of the News and Courier:

Having received numerous inquiries desiring to know whether I would accept a nomination for governor of South Carolina, I beg leave to say to my friends that I have no political aspirations, and would not exchange the independent life of a civilian for the office of Chief Magistrate of the United States.

In my judgment the democratic party ought not to make a nomination for governor. We are not in a condition to enter into an excited political contest.

I honestly believe that Governor Chamberlain can do more for South Carolina, in and out of the State, than any other man.

Yours, very respectfully,

GEO. W. WILLIAMS.

[30a] Evidence, part 1, page 369.

[31] Evidence, part 1, page 364. See Appendix to these Views, entitled "List of rifle clubs organized and in active operation October 10, 1876, in the State of South Carolina, as compiled from evidence in the executive office at Columbia, South Carolina."

[32] Revised Statutes of South Carolina, title iv, chapter xv, section 14, page 102. Evidence, part 1, page 365, before the committee.

[33] See evidence, part 1, page 365, where it is said:

"As a fair statement of the objects of these organizations, as well as the testimony of an experienced and well-known observer in the South, I present an extract from a letter of H. V. Redfield, published in the Cincinnati Commercial, and reproduced in the Charleston News and Courier of September 19:

"'TRUE INWARDNESS.

"'The outsider is apt to be puzzled by accounts of affairs here. He may not un-

essary for the governor to issue a proclamation requiring them "To abstain from all unlawful interference with the rights of citizens, and from all violations of the public peace."

This proclamation by the governor, dated October 7, 1876, recites that it was made known[34] "by written and sworn evidence, that there exists such unlawful obstructions, combinations, and assemblages of persons * * * that it has become impracticable, in my judgment, as governor of the State, to enforce by the ordinary course of judicial proceedings the laws of the State, within said counties; by reason whereof it has become necessary, in my judgment, as governor, to call forth and employ the military force of the State to enforce the faithful execution of the laws."[35]

These military organizations and their members executed their purpose in various forms, prominent among which were these:

I. By breaking up or disturbing republican political meetings, assembled for political discussion, and by preventing citizens from attending them.

II. By proscription or violence in various forms, as—

1. By land-owners notifying lessees to leave their premises in case the latter should vote the republican ticket.
2. By employers giving notice of a refusal to continue employment.
3. By notice of a withdrawal of patronage.
4. By social ostracism.
5. By displays of armed force and threats of personal violence by day and by night.
6. By firing upon the buildings of colored people by night.
7. By individual murders.
8. By wholesale massacre, riot, and bloodshed.
9. By intimidation and violence affecting the election, and at the polls on the day of election.

To these were added, after the election, an attempt to bribe[36] one of the republican electors to vote for Tilden for President, and a general determination to prevent the republican State officers elected, notwithstanding all these forms of terror, from obtaining possession of these offices, and finally resistance when they did.[37]

It was not possible for the minority of the committee to take testimony in detail as to all these, but sufficient appears to show the facts as stated. The proof is abundant and convincing. Attention will be called to some of the proofs.

WHITE PEOPLE PROPERTY-OWNERS, COLORED PEOPLE LESSEES AND EMPLOYÉS. COLORED PEOPLE ORDERLY AND UNARMED; THE DEMOCRATS ARMED.

Before doing so it may be proper to say the wealth and property of the State is generally owned by the white citizens. The colored people, so recently emerged from slavery, are almost entirely dependent on the land-owners for the means of subsistence by renting lands. Agriculture is the leading and almost exclusive industry of the State.

So far as there are other industries, the white people are generally the employers; the colored are the employed.

From this it will be seen how entirely dependent is the unfortunate and persecuted colored race upon the more fortunate white citizens.

The colored people are quiet, orderly, law-abiding generally, without malice for the wrongs they have suffered, and anxious to improve their condition, educate their children, and withal they are earnest republicans. They have stood by their principles with a courage, fidelity, and heroism worthy of commendation and imitation. They have always been loyal to the Government even in its darkest days, and when the more favored white people of the State were in the confederate service, or giving it their material and moral support.

General James Conner, an able and prominent lawyer of Charleston, the democratic candidate for attorney-general, testified before the committee as to the character of the colored people as follows:

Question. What is the character of the colored people of this State generally? Are they a timid people, inclined to be alarmed at a show of violence?

Answer. It would depend altogether on whether they were excited or not; * * * in their ordinary normal condition they are *quiet* and *peaceful, not disposed to disturbance at all.*

Q. They are not what would be called a malicious people?

A. O, no.

Q. Quiet generally, and inoffensive?

A. Quiet and inoffensive, but at the same time they are inflammable and excitable and can be led off into anything.

* * * * * * *

As a general thing I would say that they are a peaceable, quiet, orderly population, but that they are excitable, inflammable, and when they do become excited they do not reason at all.

Q. They are not a people who are inclined to originate difficulties?

A. No; I should say not when left to themselves.

General WADE HAMPTON, the democratic candidate for governor, testified as follows:

Question. Are not the white men of this State a remarkably courageous and bold people?

Answer. I think they are as much so as people ordinarily are.

Q. Are they not almost universally a people who are not easily affected by intimidation or threats?

A. Yes; I think they are.

Q. Are not the colored people of this State much more liable to be affected by intimidation or threats, or a display of force?

A. Yes; I think that, as a general proposition, they would be.

General M. C. BUTLER testified as follows:

Question. Are not the colored men, as a general rule, timid and easily alarmed?

Answer. Some of them are and some are not.

Q. Are they not so as a general rule?

A. I think that as a race they are timid.

The colored people of the State are generally without arms or offensive weapons, while, as we have seen, the democratic voters were generally armed.

I.—DISTURBANCE OF REPUBLICAN MEETINGS—MEETINGS BROKEN UP OR PREVENTED FROM BEING HELD.[38]

It will be sufficient to present a description of one republican meeting as a fair specimen of many.

Governor Chamberlain describes the meeting at Edgefield thus:

"I went, on the 12th of August, to address a republican meeting at Edgefield Court-House. This meeting had been called by the chairman of the republican party of that county, at my instance. I invited one or two republican speakers to accompany me. Hon. ROBERT SMALLS, member of Congress from that district, also accompanied me. We reached the court-house at nine o'clock in the forenoon. Almost immediately upon my arrival I found the town rapidly filling with mounted white men, who signalized their arrival in town by riding rapidly through the streets and uttering almost continuously the shout or cry which you must pardon me for describing by its familiar name as the "rebel yell," a sound to which my ears were well accustomed in Virginia twelve years ago. By eleven o'clock this crowd of mounted white men numbered, I judge, five or six hundred at least. Command of these men was apparently formally assumed at the public square by *General M. C. Butler* and *General M. W. Gary*, and they proceeded to the grove, where a stand had been erected by the republican committee for the speakers. At about ten o'clock several white gentlemen had called at my hotel and asked that democratic speakers should be heard at our meeting. I answered that we had several republican speakers present who would require the whole day if they all spoke, but I suggested that these gentlemen should see the republican county chairman, and stated that I would personally consent to any arrangement they might make with him. The chairman, being engaged in preparations for the meeting, did not meet these gentlemen, and no arrangement was made.

"At eleven o'clock I left the hotel and proceeded to the grove. On arriving I found the mounted white men who had assembled in town, with a large number of other white men, occupying one entire half of the space around the stand, and one end of the stand already broken down by the white men who had crowded upon it. I stepped upon the stand in company with Judge Mackey and Senator Cain, the republican county chairman. Simultaneously General Butler and General Gary mounted the stand with a number of their followers. The white men vociferously cheered General Butler and General Gary as they appeared upon the stand, and the speaking was actually opened by General Butler, who returned his thanks to his followers for their presence and their tribute to him. He was followed, in response to deafening calls from his party, by General Gary, who announced in emphatic and plain terms that they—he and his party—had come there to be heard, and that they should be heard; that the radical leaders had failed to make any arrangement for a division of the time in speaking, but *that he and his friends should be heard, with or without our consent*, and he added, with great significance of tone and manner, that 'if any trouble took place in consequence, the reponsibility and consequences would be upon the radical leaders.' During all this time no republican had been allowed to speak. A glance at the crowd of white men who by this time covered the stand and swarmed around nearly three sides of it, besides climbing into the trees above our heads, all, so far as I could observe, HEAVILY ARMED WITH PISTOLS, DISPLAYED IN MANY INSTANCES *on the front of their persons, and even* HELD IN THEIR HANDS, *convinced me that any attempt to refuse the demand made, or even to abandon the meeting, would result in collision and bloodshed between the parties.* I therefore advised Senator Cain that we had no alternative but to yield to the de-

derstand the formation of rifle clubs, rifle teams, artillery companies, among the whites. What are they afraid of? They are not afraid of anything. Why, then, this arming? They intend to carry this election, if it is possible to do so. The programme to have rifle clubs all over the State, and, while avoiding actual bloodshed as much as possible, to so impress the blacks that they, or a number of them, will feel impelled to vote with the whites out of actual fear. The blacks are timid by nature, timid by habit, timid by education. A display of force unnerves them. The whites understand this, and an immense marching about at night, and appearance at any republican meeting 'to divide time' is with a view to impress the blacks with a sense of danger of longer holding out against white rule. Add to the number they can scare the number they can buy, and they hope to have enough, united with the solid white vote, to gain the day, elect Hampton, and secure the Legislature.'"

[34] See evidence, part 1, page 368, House Miscellaneous Document part 1, second session Forty-fourth Congress.

[35] This is fully sustained by the evidence taken before the committee, (House Miscellaneous Document 31, second session Forty-fourth Congress,) and evidence taken before the Senate committee at the same session of Congress.

It is shown by Senate Executive Document No. 85, first session Forty-fourth Congress.

It is shown by evidence on file in the executive office at Columbia, a part of which is annexed hereto as appendixes B, C, D.

The President's proclamation was as follows:

By the President of the United States of America.

A PROCLAMATION.

Whereas it has been satisfactorily shown to me that insurrection and domestic violence exist in several counties of the State of South Carolina, and that certain combinations of men against law exist in many counties of said State, known as "rifle clubs," who ride up and down by day and night in arms, murdering some peaceable citizens and intimidating others, which combinations, though forbidden by the laws of the State, cannot be controlled or suppressed by the ordinary course of justice;

And whereas it is provided in the Constitution of the United States that the United States shall protect every state in this Union, on application of the Legislature, or of the executive when the Legislature cannot be convened, against domestic violence;

And whereas by laws in pursuance of the above it is provided (in the laws of the United States) that in all cases of insurrection in any State (or of obstruction to the laws thereof) it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the executive when the Legislature cannot be convened, to call forth the militia of any other State or States, or to employ such part of the land and naval forces as shall be judged necessary for the purpose of suppressing such insurrection or causing the laws to be duly executed.

And whereas the Legislature of said State is not now in session and cannot be convened in time to meet the present emergency, and the executive of said State, under section 4 of Article IV of the Constitution of the United States, and the laws passed in pursuance thereof, has therefore made due application to me in the premises for such part of the military force of the United States as may be necessary and adequate to protect said State and the citizens thereof against domestic violence, and to enforce the due execution of the laws;

And whereas it is required that, whenever it may be necessary, in the judgment of the President, to use the military force for the purpose aforesaid, he shall forthwith, by proclamation, command such insurgents to disperse and retire peaceably to their respective homes within a limited time:

Now, therefore, I, Ulysses S. Grant, President of the United States, do hereby make proclamation, and command all persons engaged in said unlawful and insurrectionary proceedings to disperse and retire peaceably to their respective abodes within three days from this date, and hereafter abandon said combinations and submit themselves to the laws and constituted authorities of said State.

And I invoke the aid and co-operation of all good citizens thereof to uphold the laws and preserve the public peace.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this 17th day of October, A. D. 1876, and of the Independence of the United States one hundred and one.

[SEAL.] U. S. GRANT

By the President:

JOHN L. CADWALADER,
Acting Secretary of State.

[36] See evidence of William B. Nash, page 456, part 1.

[37] See evidence, part 1, Appendix, pages 78-190.

[38] On this subject see the evidence of Governor Chamberlain: Evidence, part 1, p. 359; Osborn, 187; Brett, 223; Leonard, 228; Simpkins, 239; Holland, 230; Carpenter, 246; Greener, 459; Jones, 243-260; Richardson, 231; Anderson, 279; Davis, 395. Evidence, part 2, p. 153; Bowen; Leonard, 228; Simpkins, 237. Evidence, part 3, p. 117; Thompson; Smalls, p. 197; Banfield, 224.

mand, and after a moment's consultation I announced that we would divide the time, giving a half hour each to three speakers from each party.

"Senator Cain then proposed to call the meeting to order, and to announce the speakers, but General Gary declared that they wanted no chairman, and accordingly I stepped forward, under these circumstances, to address the meeting. From the beginning to the end of my half hour I was interrupted by the crowd of white men with jeers and insults of every kind. Twice during my remarks the confusion and interruption were so complete that, after vainly appealing to the crowd to allow me to be heard, General Butler had the decency to come forward and so far restore order as to barely permit me to resume my remarks. Of the whole half hour allotted to me I certainly was not permitted to occupy over twenty minutes with any remarks such as I should naturally have made on such an occasion. In truth, I spoke under great constraint, and a consciousness that any word might precipitate a bloody collision, which I had no means of preventing or controlling. I was denounced by voices from the crowd as a companion thief with McDevitt; was told I would never come to Edgefield again; was charged with getting up the Hamburgh riot to kill white people, excite the North, and getting United States troops to carry the election, and with a variety of other crimes, of which these are but specimens.

"I was followed by General Butler, who occupied his time without interruption. His speech was exceedingly violent and bitterly personal toward me, on account, principally, of my report of the Hamburgh massacre. Judge Mackey followed General Butler, and he in turn was followed by General Gary. Nearly the whole of General Gary's speech was directed against me. In bitterness and violence of personal abuse, I have certainly never heard or known its parallel. Nothing short of a verbatim report could give an idea of its character. His attacks were not confined to my official character, but extended to my personal life and affairs, with frequent threats against me personally in various contingencies.

"Judge Mackey next occupied about fifteen or twenty minutes in replying to some of General Gary's personal charges against me, and he was followed by General Butler.

"What I have now described occupied the time from a little after eleven until half past three—a fact which will give an idea of the time consumed by the interruptions of which I have spoken. At half past three I left the grove, in order to reach the Columbia train, at Pine House, the same evening, amid a torrent of jeers and yells, which continued to reach my ears without cessation until I had passed beyond the limits of the town. The meeting, though called and arranged for in every particular by the republicans, was at no time and in no sense under our control, only two of the six republican speakers from abroad who were present were permitted to speak at all, and, under the pressure of the white men who crowded upon it, the entire platform was brought to the ground before I left the scene. At this meeting the republicans were told, in the most emphatic terms, that the democrats had made up their minds to carry Edgefield County, and that they would carry it; that their leaders would be held to account personally; that the white people must and should rule the country. The whole meeting may be justly described as a torrent of abuse of me personally, and an exhibition of force and threats designed to intimidate the colored voters and their leaders. After we had reached the train at the several railroad stations in Edgefield County *a number of the* ARMED AND MOUNTED MEN who had attended the meeting at the court-house entered the car in which we sat, and, with rude and threatening manners, addressed their jeers and insults to General SMALLS and myself, especially WARNING US NOT TO COME TO EDGEFIELD AGAIN.

"I will add that the foregoing account of the meeting at Edgefield has been made from written memoranda, made by me while on my way to Columbia, and after my arrival at home the same evening. Nothing has been overstated, though much that was disgraceful has necessarily been omitted in this description."

The following is from the testimony of Lieutenant John Anderson, of the Eighteenth United States Infantry:

By Mr. LAWRENCE:

Question. Where you at any republican meeting during this year?
Answer. Yes sir; at Laurens.
Q. When?
A. I forget the exact date; it was some two or three weeks before the election.
Q. Was there any interference with the meeting, and, if so, by whom?
A. There was, in my opinion, decided interference. There was a republican meeting to be held at a certain time in Laurens. The republican meeting was appointed for one day and there was a democratic meeting for the day following; I think the republican meeting was first. The republicans assembled there to have the meeting, and about the time when that meeting was to come together the "Hampton cavalry" came in with red shirts on, and all of them, or most of them to my personal knowledge, armed with revolvers strapped outside their garments, so as to be plainly visible. I believe one republican did speak, and then there was a great disturbance raised, and some of the county officers had to take refuge with me in order to save their lives.
Q. How near the place of holding the meeting were you?
A. At that time I was probably within one hundred yards.
Q. Could you hear what was going on?
A. Yes, sir; hear it a mile and a half or more. I heard yells and threats to kill certain men there who belonged to the republican party, repeatedly.
Q. Was that while the republican speaking was going on?
A. No, sir; after the speaking was over.
Q. During the time the speaking was going on, what was done?
A. During the time the speaking was going on I was not present at the meeting, because I made it a point during the whole campaign to absent myself from all political meetings whatever. I heard a great deal of noise, but I was not present at the time the political meeting was going on, and my knowledge of that is only hearsay.
Q. State what you know, if anything, of any noise or disturbance while the republicans were assembled or while they were holding their meetings.
A. There was a great deal of noise while the republicans were speaking. After that I was in Newberry where the republicans attempted to have a meeting, and I certainly know, of my personal knowledge, that they were drowned out by the noise that was made, and were not able to speak. Furthermore, some of the people took me for one of the politicians, and made an assault on me.
Q. Who did that? White men?
A. White men with red shirts. I don't know how many there were. I could not count them. They said there were fifteen hundred or two thousand.
Q. How would your own estimate correspond with that?
A. I don't know that. They filled the whole street from the depot up to the public square. I was passing from Laurens to Charleston. I had nothing whatever to do with their political meeting. I had to wait about an hour and a half at Newberry for the train, and while waiting I went up street to the post-office, which is kept by a friend of mine, and took dinner with him. After dinner I started to walk down street with a friend to the depot. About that time the republican meeting had broken up, and there was quite a number of republican speakers going along there. I had nothing to do with them. I was walking with my friend, who had nothing whatever to do with politics, (and even to this day I don't know what his politics are,) but before I reached the depot I was surrounded by a large crowd of horsemen with red shirts, who demanded to know my politics. I told them, as I would tell almost anybody who would ask such an impertinent question, that it was none of their business, and I continued my way up to the depot. Before I got there, however, they tried to ride over me; backed up their horses and tried to make them kick me; and in fact they heaped many insults upon me. I got upon the platform, and turned around to know what they had to say, and a number approached me and demanded to know my politics. I declined to tell them what my politics were. They shook their fists violently in my face. Some of them had revolvers; and they called me a God damned radical, and quite a number of other names, and demanded to know who I was. While this was going on a gentlem whom I knew who was with that party, a democrat, rode up and begged them to stop. "That is Lieutenant Anderson, of the Army; I know him." It was some time before he could be heard, but as soon as he could be heard they stopped their demonstrations against me at once, and then they gave quite a number of cheers for "Lieutenant Anderson, a straight-out democrat." I had no further trouble from that party. The train soon left. I heard the speakers that were there insulted. I can give their names, if required. One of them was L. Cass Carpenter, of this city; another was a professor of the university; and another was Mr. Taft, of Charleston, a member of the Legislature; and, I think, there was another one, but I am not sure as to the fourth.

ALEXANDER S. RICHARDSON (colored) sworn and examined.

By Mr. LAWRENCE:

Question. Where do you live?
Answer. At Chester Court-House, Chester County
Q. How long have you lived there?
A. Over five years.
Q. What business are you engaged in?
A. I am a school-teacher.
Q. Where were you on the day of the last presidential election?
A. I was at Chester Court-House.
Q. Did you vote there?
A. I did.
Q. Did you hold any office at the election?
A. I was the secretary of the county executive committee of the republican party, and I acted as chairman a good deal of the time.
Q. What do you know, if anything, of intimidation of republican voters in that county?
A. As secretary of the executive committee there, most of my knowledge came to me without coming under my personal observation.
Q. State what you know yourself.
A. I remember an instance in the early part of September. I went out to speak, in connection with three or four other persons, at Carmel Hill, fifteen miles west of Chester Court-House. It was a republican mass-meeting, but there were several democrats present and a number of democratic speakers went from Chester Court-House about the time of the organization of the meeting and asked for a joint discussion or a division of time, which was granted. Some of the speakers went on home after the speaking was over, and others went on horseback. I, in company with three others who had spoken at the Carmel Hill precinct, was escorted back to Chester Court-House by a body of three armed men, democrats, I should judge from their affiliations, who threatened our lives if we dared to speak again in the county of Chester. They were riding behind me on horseback, and I was in a wagon without a top. Three pistols were pointed at me, and four pistols were pointed within four or five inches of my head, because I turned around and referred to their impoliteness in abusing men on their way from a political meeting where a joint discussion was allowed. We were subjected to gross abuse. This instance came under my own personal observation.
Q. Do you know of any intimidation on the day of the election?
A. The chief marshal of the county, Mr. Alexander George, who was shot a few days after the election, acted with me in accumulating the reports from the various United States marshals that were stationed at the various precincts in that county.
Q. Did you attend any other republican meetings than the ones you have spoken of?
A. No, sir.
Q. Why not?
A. I was advised by my friends, in order to save my life, that I had better not speak any more in the county, and I concluded to do office-work.
Q. Were the republicans able to hold meetings in the county away from the county-seat?
A. They were able to hold joint meetings, but not republican meetings alone.
Q. How were they induced to hold joint meetings? Did the democrats demand of the republicans a division of time?
A. They always asked them to divide the time.

By Mr. ABBOTT:

Q. Are you speaking of your own knowledge or from what you heard?
A. I am speaking of my own knowledge, of one meeting that I have told you about.
Q. Was this meeting that you spoke of announced as a republican meeting alone?
A. Yes, sir; a republican mass-meeting.
Q. Did the democrats ever divide the time at their meetings?
A. No, sir; they were not requested to.
Q. Was there any republican meeting in the county, so far as you know, where the democrats did not make a demand for a division of time?
A. No, sir; no meeting in that county to my recollection.

WILLIAM M. HOLLAND (colored) sworn and examined.

By Mr. LAWRENCE:

Question. Where do you reside?
Answer. At Ninety-Six precinct, Abbeville County. I was clerk for the board of election at that precinct.
Q. Were you at any republican meetings this year?
A. Well, we had about three republican meetings—our secret caucus. We didn't have a chance to have any republican meetings, because when we had a meeting the democrats would come to our meeting anyhow. They even came into the church on Saturday and Sunday evenings, and they told us to our face that where we had a meeting they allowed to come to it.
Q. Why did you have secret meetings?
A. Just to talk over matters among ourselves.
Q. Was it in consequence of the fact that democrats would come to your meetings if they were public?
A. O, yes, sir; because when we met to elect our delegation to the county convention they often came there themselves.
Q. Were any of your republican meetings disturbed by the democrats?
A. No, sir; not disturbed. They didn't break up the meetings at all. They merely said they came there for peace, and they didn't do us any harm at all, but they would come to any meetings we had to see what we are doing. They said they intended to see what we were doing.
Q. Did you have any speeches at your meetings?
A. No, sir; we did not; because we were afraid to have any speaking.
Q. Why were you afraid?
A. We was afeard they would do something to us, because they came with pistols girded around them—the democrats.
Q. How many of them would come?
A. I could not tell you how many, because they would come in crowds.

II.—PROSCRIPTION AND VIOLENCE IN VARIOUS FORMS.

1. *Land-owners notifying lessees to leave premises.*

It is abundantly proved that the colored people were made to know to a very large extent that if they voted the republican ticket they would be driven from the lands of the democrats.

General M. C. Butler, whose relations to the "Hamburg massacre" have been the subject of much discussion, and who received the votes of the democrats in the general assembly for Senator in December last, testified before the committee as follows:

Question. Did you say to the other colored men that they could not remain on your land unless they voted the democratic ticket?

Answer. I don't know that I said that; I said this: I went down and gave them tickets, and said to them that they had a right to vote the republican ticket if they pleased; that they were free men, as free as I was, but if they exercised that right, and imposed taxes on me which were destroying my property and prospects, I should throw myself back on some of the rights I had under the laws of the country, *and see that they left my plantation.*

Q. How many men had you living on your lands?

A. I had a good many; twenty or thirty.

Q. They all voted the democratic ticket?

A. O, no, sir; six or seven of them voted the democratic ticket, some of them did not vote at all, and I do not know how the others voted, *but I intend to inform myself.*

Q. With a view to turning them off if they voted the republican ticket?

A. Not for voting the republican ticket if they had an honest ticket, but for voting for these thieves and robbers here. *I have done so, and I intend to do it hereafter.*

This system is disclosed by the following editorial article in the Marion Star of September 27:

"RENT NEITHER LANDS NOR HOUSES TO ANY ONE WHO VOTES THE RADICAL TICKET.

"The above heading forms a part of a resolution which is being adopted generally by all the land-owners throughout the country, and is looked upon by the colored people as a hardship—a kind of persecution. A hardship it may apparently seem to them, as the farmer thus assumes the independence of asserting what class of laborers he will and he will not employ. It has taken him eight years to arrive at this independence; but the continued depreciation of his lands, the financial stagnation of the country, the high taxes that threaten confiscation, all have conspired to make him declare that he will not longer harbor the agent of his misfortune. * * We laud the plan, and think every farmer in the country should give it his hearty support. Let every farmer accept it, and the colored voters had as well butt against a brick wall as oppose it.

"Farmers have tried moral suasion until the folly of that course has become self-evident, and now they come to the exercise of a legal right which can but produce the desired result. Adopt the plan and stick to it, and two years hence they will not need the support of such a resolution, for the colored voters will have felt the benign influence of good government, and will readily act with their employers. The manufacturers up north, who have their hundreds of employés, march up to the polls and vote their whole company as they see fit, and southern employers have the same right and should dare exercise it."

The following appeared in the Charleston News and Courier as part of the correspondence of the well-known "Paysan," writing from the Fork of Edisto, under date of September 18:

"The following resolutions, adopted by the Easterlin's Mill Democratic Club, are commended to the attention of the different clubs throughout the State. Similar resolutions have been adopted by the Willow Township, Graham's, and Bambergh clubs, and no doubt by many other clubs in Orangeburgh and Barnwell Counties. It is intended that the names of the obnoxious leaders in each township be sent to the different clubs throughout the county:

"1. *Resolved*, That we will not rent land to any radical leader, or any member of his family, or furnish a home, or give employment to any such leader, or any member of his family."[39]

2. *Proscription by refusal to give republicans employment.*[40]

The following resolutions, published in the Columbia Register of September 28, were "unanimously adopted" by the democratic club of ward 3 in the city of Columbia:

"*Resolved*, That it is the sense of this club that the time has come when we must distinguish our friends from our foes; that we must manfully show our preference in the employment of and in the trading with those who support the grand movement of reform and honest government to those who are endeavoring to foist upon us the same corrupt and dishonest administration that for eight years has had no object but the degradation of the name of South Carolina and the personal aggrandizement of the carpet-baggers and a few renegades.

"*Resolved*, That rumors being current in the city that certain merchants in this ward are going to show their preference for the present administration on the 7th of November next, that the president of this club do appoint a committee of three or five, the duty of this committee being to present the roll to every man in the ward for signatures, thereby giving to each one the opportunity of vindicating himself, and at the same time enabling the honest laborers for reform to discriminate between friends and foes, and that they report at the earliest possible time.

"*Resolved*, That this resolution shall apply equally forcible to porters about stores and offices, carpenters, mechanics, barbers, butchers, hack-drivers, and, in fact, to every one who receives wages from the honest citizens of this ward."

In the Charleston News and Courier of August 7, in an account of the county democratic convention of Aiken County, it is stated that a resolution was adopted by the convention "recommending the people of the county to employ no one who refused to vote the ticket put forward by the State democratic convention."

3. *Proscription of republicans by withholding patronage.*

The leading democratic newspaper of the State—the Charleston News and Courier—of September 20, 1876, published the proceedings of a democratic meeting in Charleston, from which the following is an extract:

"The meeting of the sixth ward democratic club last night was attended by about two hundred voters, white and colored. Mr. R. C. Barkley, the chairman of the ward, presided. The meeting having been called to order, Mr. Isaac Hayne submitted the following:

* * * * * * *

"'*Resolved*, That no good citizen should, directly or indirectly, do anything which may tend to perpetuate the grievances of which we complain, by aiding or assisting those who are endeavoring to continue in power the men who are responsible for this deplorable condition of affairs, and every lawful means should be adopted to prevent so disastrous a result.

"'*Resolved*, That in our opinion the interest of the democratic party will be promoted if, in purchasing supplies, employing laborers, &c., those co-operating with that party will give the preference to persons who intend to join us in this struggle.'" (Evidence, p. 325.)

The following appeared in the Charleston News and Courier as part of the correspondence of the well-known "Paysan," writing from the Fork of Edisto, under date of September 18:

"The following resolutions, adopted by the Easterlin's Mill democratic club, are commended to the attention of the different clubs throughout the State. Similar resolutions have been adopted by the Willow Township, Graham's, and Bamberg clubs, and no doubt by many other clubs in Orangeburgh and Barnwell Counties. It is intended that the names of the obnoxious leaders in each township be sent to the different clubs throughout the county:

* * * * * * *

"'2. That we will not furnish any such [republican] leader, or any member of his family, any supplies, such as provisions, farm implements, stock, &c., except so far as contracts for the present year are concerned.

"'3. That we will not purchase anything any radical leader or any member of his family may offer for sale, or sell any such leader or any member of his family anything whatever.

"'4. That the names of such persons who may be considered leaders be furnished to this club at the earliest date, and that a list of the same be furnished each member of the club.

"'5. That whenever any person or persons who shall be denominated radical leaders by a vote of this club shall cease as such, these resolutions shall become null and void so far as such leader or leaders, or any member of his or their families, are concerned.'"

4. *Social proscription of republicans.*

The evidence of social proscription was abundant, but there was a manifest propriety in leaving that mainly untouched. The following are sufficient indications of the general sentiment of democratic citizens.

Colonel J. S. Cothran, of Abbeville, in the democratic convention in May last, as reported in the Charleston News and Courier of May 8, 1876, said:

"Many have joined that [the republican] party to their eternal disgrace, and they will never recover from it. No, sir; nor their children, nor their children's children. [Cheers.] The very fact of their deserting their friends and their race is the best proof of their dishonesty. Fidelity is the best proof of honesty of soul, and he who has it not to his State and to his people is altogether dishonest."

In a democratic speech made at Walhalla on the 4th of September, and reported in the Greenville Enterprise of September 16, Ex-Governor B. F. Perry used the following language.

"And here I would appeal to my democratic friends all over the State to stop all social intercourse with any man who is base enough to be a radical. Let him feel by your conduct toward him that the brand of infamy is on him and his children. This is the only way you can reach his black heart. Let him see that there is a moral pestilence around him which prevents all social contact with honorable men, and leaves him for patronage and society to his own chosen rogues and plunderers."

The Lancaster Ledger of August 30 gives a report of a democratic meeting at Lancaster Court House, at which the following resolution was "unanimously adopted:"

"Whereas several white citizens of Lancaster village and county have associated themselves with the negro radical party, and thereby turned against their own race, and rendered themselves unworthy of social recognition by the Anglo-Saxon race:

"*Be it resolved*, That we, the democratic citizens of Lancaster village, pledge ourselves not to countenance them except only in business transactions, and that we also request our young men and boys in the village and county to carry out this resolve."

This social proscription rests upon the assumption by democrats that republicans are destitute of respectability and are not entitled to social recognition. Thomas S. Grimke, a physician of Charleston, said in his evidence at Charleston on the 30th of December "there were NO respectable radicals [republicans] here." (See evidence, part 2, p. 233.) He reflected a sentiment quite common.

These are only examples selected from a vast mass of similar evidence, and they are submitted here as proof of the fact already alleged, that the democratic party adopted and carried out a systematic plan of social and political proscription, with the set and avowed purpose of forcing men to vote contrary to their convictions and wishes.

It is very certain that the written and formal statements of the plans of political coercion convey a very faint idea of the actual practice of the democratic party. Prudence and good policy in a majority of instances would naturally dictate the concealment of such plans, and the instances now cited of open avowals of the purpose of political coercion are for that reason the more startling proofs of the spirit in which the system had its origin. The advertising columns of the Charleston News and Courier, and the local columns of other democratic newspapers in this State furnish abundant examples that the published evidence which has been cited falls far short of representing the extent of the system which they disclose.

Of course, no law can cure evils of this character. But the fact of this social proscription is adduced as evidence to corroborate the existence of the greater outrages to which the sentiment that underlies it has led.

5. *By displays of armed force and threats of personal violence by day and by night.*

The evidence on this subject is abundant and convincing. This sufficiently appears from the evidence to which reference has been and will be made herein.

6. *Intimidation by firing upon the houses of colored people at night.*

Upon this subject the following extract from the evidence is given by way of example:

BEVERLY VANCE (colored) sworn and examined.

By Mr. LAWRENCE:

Question. State your age and residence.

Answer. I am forty-four, and live at Abbeville.

Q. Were you in Abbeville County at the last presidential election?

A. I was at Cokesberry.

* * * * * * *

Q. State if you heard such threats made at any time prior to the election.

A. For months there has been threats of that sort; many of them had been turned out; myself had been thrown out as being an adviser. They had been defeated two years ago in the Green and Chamberlain election. I myself was in favor of the Chamberlain ticket this last time, and a great many of them would not take the ticket or would come to me and ask what was my opinion about it. I told them it was the best thing for them to stick to their party, and the democrats had seen fit to set me and my family aside. I have a boy as big as myself. They undertook to push me out, and since the election they have met in the club and made allthat belong to that club pledge themselves——

Mr. ABBOTT. You don't know what was done in the club?

The WITNESS. I don't know anything more about it than this: Democrats themselves, members of the club, have come to me. I bought a piece of land of Dr. Noah, a member of the club, and he has seen fit to receive $80 from me since the election, and when I gave him my note to receipt me of the money he saw fit to keep the paper and the money, and he has told me to give up the house on the 1st day of January, and I have paid him altogether $387.

Q. Are the members of the Labor Reform Club democrats or republicans?

A. They are democrats.

Q. What have they said about employing you?

A. They have told me that I must not be employed by any of them any more; that if they saw no other way to get me away from there before the next election they would kill me.

Q. You have not received any employment from them since July?

A. No, sir.

Q. Had you received employment from them previously?

A. O, yes; I have been very popular with the gentlemen ever since 1868. They generally look to me as a man that advises the party sometimes. I do not go through

[39] On the same subject see Evidence, part 1, p. 219, of Griffin; of Titus, 221; Britt, 223; Mimms, 224; Frazer, 224; Leonard, 228; Simpkins, 237; Jones, 244; Trimble, 260; Barnum, 264; Hammond, 271; Rice, 291.

[40] See evidence, part 1, page 232. Richardson says democratic clubs gave diplomas to colored democrats so they could get employment.

the county stump-speaking, but a great many comes to me and puts confidence in me, and asks what I think best, and I tell them.

Q. How large a family have you?

A. My wife and eight children. From the threats made about me before the election, there was several republicans that came there to guard me, expecting me to be killed; and these people passed by my house cursing and abusing me, and on Thursday night after the election they came through by my house, going down to serenade Colonel Aiken, and they shot all through my yard, and shot bullets through my doors, and shot into my house, and the bullets are there now. They put four in the door; and another man that lives about two hundred and fifty yards from me got two balls in his door.

Q. How long have you lived in that neighborhood?

A. Twenty-nine years. I moved in there in 1847.

7. *Individual murders of republicans.*

On page 366 of the evidence, part 1, the following account is given by Governor Chamberlain, under date of October 4, 1876, of the murder of republicans:

"I give you an account of the murder of Simon P. Coker, a member of the present Legislature and a delegate to the recent republican convention in Columbia, as related to me by an intelligent and trustworthy eye-witness of the scene, a person well known to me personally. While sitting in the car of the railroad train at Ellenton, on the 19th ultimo, my informant saw Coker walking unarmed in company with several armed white men. Coker's manner indicated that he did not consider himself a prisoner or in any danger, as he was talking freely with the white men who accompanied him. Coker and those who accompanied him proceeded to a piazza in front of a store at Ellenton Station and sat down for a few moments, but soon proceeded to a large tree standing about thirty rods from the spot where my informant stood, Coker still appearing unconcerned. While standing under this tree the white men suddenly stepped away from Coker about six paces, and, turning, fired a volley into his body. He instantly fell, whereupon several of the party advanced toward his body and fired upon it a second time. My informant also mentions as a fact that he saw N. A. Patterson, a democratic trial-justice of Barnwell County, walking in company with Coker at Ellenton Station at the time first above stated. Coker, it now appears, had been enticed from his home to Ellenton upon some false pretense of a summons to answer a criminal charge.

"The killing of colored people in connection with the Ellenton riot extended far and wide, and was kept up for several days. In truth, my information leads me to believe that it cannot be said to have ceased now. Persons living in the vicinities named vouched to me personally for the truth of these, among many other, instances of murders of colored men in Barnwell County, growing out of the Ellenton riot.

"On the 24th of September several colored men were picking cotton near Elko, among whom were two refugees from the vicinity of Ellenton. Eight or ten white men rode into the field and fired upon these refugees, killing one and wounding the other. The dead body was carried and thrown into a swamp, where it was found on the 25th by Trial Justice Black, of Blackville, and Captain Kenzie, of the United States garrison at Blackville.

"On the night of the 24th a party of white men visited the house of a colored man, about seven miles from Blackville, and took out a colored man who was a refugee from near Ellenton. This refugee has not been seen or heard of since.

"On Sunday, September 24, two colored men, escaping from the vicinity of Ellenton, passed a church near Allendale while the white people were at church. They were pursued by white men from the church, and overtaken at the cabin of a colored man at early evening. One was shot and died of his wounds at nine o'clock that night, and the other, though wounded, escaped.

"These are but a few of the outrages which I fully believe have been committed by white democrats, members of democratic rifle-clubs, upon colored republicans in Barnwell County alone. More than forty colored and white refugees are reported to me as under protection of the United States troops in their camp at Blackville at this time.

"I present these facts to you as a portion of the evidence now in my hands and within my knowledge, which refutes your claim that the methods and agencies now employed by the democratic party are peaceful, orderly, and within the law.

"The present armed organizations, which constitute the effective force of the democratic party, as well as its chief agency in its canvass, are manifestly a menace to the peace of the State and the rights of the members of the republican party, because those organizations are unlawful in their origin, unlawful in their aims, and aggressive and law-breaking in their conduct."

The following is another specimen from the evidence, which shows also the difficulties in the way of ascertaining facts:

JOHN ANDERSON sworn and examined.

By Mr. LAWRENCE:

Question. What is your position in the Army?

Answer. I am a lieutenant in the Eighteenth Infantry.

Q. Have you any knowledge of any violence being inflicted upon colored men?

A. I have.

Q. State what it is.

A. The command to which I belonged was ordered from Greenville to Laurens the last of August of the present year. We started from Greenville on the 2d of September. Prior to that quite a number of colored men had come in to Greenville, and asked protection from the troops, and we gave them protection, and paid their expenses out of our private pockets.

Q. Did you give them protection in consequence of what they reported to you?

A. Yes, sir. We started out on the 2d of September to go to Laurens, thirty-six miles. We marched all night. About seven or eight o'clock in the morning our command arrived within ten miles of Laurens, and a white man came out and wanted to know if there was a surgeon in the command. We had a surgeon there, and the command was halted. I saw a negro who was shot; I did not examine the wound myself; he was lying in bed; I saw him but did not see the wound. He died within twelve hours after I was there.

Q. Was it a matter of common notoriety that he died next day?

A. It was.

Q. How many hours was it before his reported death that you saw him?

A. About twelve, as near as I can remember.

Q. State whether you were requested to write down his dying statement or declaration.

A. I was.

Q. State what he said as to the cause of his death.

Mr. ABBOTT. I object. A dying statement is not evidence, except in case of the trial of a man for murder.

Mr. LAWRENCE. I propose to show by this witness that this colored man, while in a dying condition, said that he had been shot by a democrat without any provocation, when he was endeavoring to escape from an assault made upon him by a democrat, and because he was a republican; that he was assaulted in the road by a democrat who met him and fired upon; that he attempted to flee, and while fleeing was shot by this democrat.

The committee sustained the objection.

The following is from the testimony of Hon. David T. Corbin, who was sworn and examined:

COLUMBIA, S. C., *December* 26, 1876.

By Mr. LAWRENCE:

Question. Where do you reside?

Answer. Charleston, South Carolina.

Q. What office do you hold?

A. United States district attorney for this district.

Q. How long have you been district attorney?

A. Since April, 1867.

Q. What steps did you take to ascertain whether there had been any violation of the laws of the United States at the last election in Aiken County, in this State?

A. About the middle of September I went to Aiken County, taking a United States commissioner with me, to investige the troubles that had been reported to me in a general way. Upon a very casual examination, I found that a large number of murders had been committed.

Mr. ABBOTT. I object. Anything that the witness knows of his own personal knowledge, of course he may state.

The WITNESS. It was alleged that large numbers of murders of colored people had been committed on account of their political sentiments, and on account of their race and color. I proceeded to investigate those charges, and called before me and before the commissioner some two or three hundred witnesses, and took their testimony in writing, at great length. I had a stenographer with me to assist in the investigation. The witnesses were all sworn. Upon the affidavits thus made before me, I caused about five hundred warrants to be issued for the arrest of parties charged with those crimes in Aiken County.

Q. Crimes committed during this current year.

A. Yes, sir; during August, September, and October.

Q. What amount of testimony did you take in the form of affidavits?

A. I took about one thousand pages of legal-cap paper, and examined about two hundred or two hundred and twenty witnesses.

Q. You have that testimony now?

A. I have, at my office.

Q. You are ready to produce it to the committee if they desire?

A. Yes, sir.

Q. What was done in the court upon the warrants which you issued?

A. The prisoners were arrested by the deputy marshal, aided by the United States troops, and brought to Aiken, and they appeared there with a large array of counsel and waived examination, and gave bonds for their appearance before the United States court, the counsel stating that they did not propose to go into an examination, and so give me an opportunity to produce before the country the testimony of the witnesses as to these outrages.

Q. What was done in the court?

A. The defendants, all that were arrested, were bound over to appear before the United States court. I think some one hundred and eighty or one hundred and ninety were arrested, and they appeared before the United States court at the term just adjourned. Informations were prepared against all of them, but not nled. A controversy arose in court as to whether informations would lie instead of indictments, and the court held that I should have proceeded by indictment, especially upon one section of the act which I had relied upon—section 5508 of the Revised Statutes—and they quashed the informations. No further proceedings were taken in court at that term, because we had discharged the grand jury, not apprehending that they would be required, and we could not then proceed further. The cases have been continued until the next term.

Q. Have you prepared a tabulated statement of the names of persons charged with crimes in that county, with the names of the witnesses in part on whose affidavits they were arrested, and the number of persons who were alleged to have been killed or injured in that county during the year?

A. I have.

Q. Can you produce it?

A. This is the statement, [producing a paper.] [This is annexed to these Views as Appendix E.]

Q. This signature is yours?

A. Yes, sir; I have certified to that as from the records of my office.

Mr. LAWRENCE offered the statement in evidence.

Mr. ABBOTT objected to its reception.

Q. What number of persons are alleged to have been killed in that county during this year?

A. Twenty-three or twenty-four, I think, in that county during this season.

Q. All colored men?

A. All colored.

Q. State whether any investigations were made in regard to other counties?

A. Very slight investigations were made in Edgefield and Laurens and Barnwell Counties by the United States commissioners, but they were not lawyers, nor did they have the advice of lawyers, and they made very little progress.

Q. Have the investigations been completed in the counties which you have just named?

A. No, sir; they are right in their incipiency.

Q. So far as those investigations have gone, can you state the number of alleged violations of the laws of the United State by acts against colored men in any one of those counties?

A. No, sir; I don't think I have sufficient evidence to indicate, except in a very general way, the number of violations of law. From information which has come to me in my official capacity, I have reason to believe that they are very numerous.

Q. What is the character of the crimes alleged before you upon sworn testimony which you have now in your possession?

A. Eight or ten murders of colored men in Laurens, and in Barnwell County some ten or fifteen murders of colored men; but, as I said before, I have had no opportunity to personally investigate them. I have the names of the colored men alleged to have been killed, and the witnesses who have made the affidavits, and I can furnish those to the committee.

Q. You have the sworn testimony of the witnesses?

A. Simply affidavits furnished me by the commissioner.

Q. What other crimes have you sworn testimony of having been committed against colored persons during this year?

A. Whipping on account of their political sentiments or because they were going to vote the republican ticket, and quite a large number of them have been wounded, have been shot at, and have escaped with slight wounds. The crimes range from murder down to flogging and intimidation in lesser degrees; threats to turn them off the land; threats to turn them into the road; threats to kill them, &c.

The statement furnished by the United States district attorney shows "four hundred and seventy-two persons charged by affidavit with conspiracy to injure and intimidate persons of African descent in Aiken County, lawfully entitled to vote, in the free exercise of the right of suffrage, on account of their race, color, or previous condition of servitude, contrary to section 5508 Revised Statutes of the United States; and, second, to injure said persons on account of their support or advocacy of electors of President and Vice-President of the United States; and to injure said persons on account of giving their support or advocacy of the election of a member of the Congress of the United States, contrary to section 5520 of the Revised Statutes of the United States."

The statement shows twenty-two colored persons killed and from ten to fifteen wounded in that county. These grew out of what were called the riots in Aiken County, but what were in fact deliberately planned schemes of murder of colored citizens because of their political opinions.

IRA W. RICE sworn and examined.

By Mr. LAWRENCE:

Question. What is your age?

Answer. Twenty-seven years.
Q. Where do you reside?
A. At Laurens Court-House. I have lived in the county all my life.
Q. What business have you been engaged in there?
A. I have been clerk of the court for the last five years.
Q. Do you know of any colored republicans being killed during this current year?
A. Yes, sir; I know of some.
Q. Where?
A. In Laurens County.
Q. Whom?
A. Butler Putman was killed. That was the only body that I saw after he was killed.
Q. Did you see his dead body?
A. Yes, sir.
Q. How had he been killed? Did you see any marks on the body indicating how he had been killed?
A. Yes, sir; he had been shot, I think, seven times.
Q. Where was his body?
A. It was at his house when I saw it. It was about thirteen miles from the court-house. It was near the road.
Q. Did you see any marks of violence on the house?
A. Yes; there were several shots in the house—bullet-marks.
Q. When was this?
A. About the 23d or 24th of August last. He was a colored man.
Q. Do you know of other colored men being killed?
A. Yes, sir.
Q. How many?
A. About five others. That was the only body that I saw.
Q. Were you at the funeral of any others?
A. No, sir.
Q. Do you know, by general report, of the death of other colored men by violence?
A. Yes, sir.
Q. How many others?
A. I think there were about five killed.
Q. By violent means?
A. Yes, sir.
Q. All colored men and republicans?
A. Yes, sir.
Q. During this current year?
A. Yes, sir.
Q In what months?
A. In the months of August, September, and October. I think the first was killed, perhaps, along about the first or middle of July.

These were intended for political effect.

A writer of much candor, referring to the democratic policy and the condition of affairs as early as June, says:

"Mr. Tilden had just been nominated at Saint Louis, and the brilliant prospects of electing him were triumphantly paraded. Then came race conflicts, the killing of a colored legislator in Darlington County, the lynching of two negroes in Marlborough and six in Edgefield, and finally the Hamburgh massacre, in Aiken County, July 8."[41]

8. *Massacre of republicans—riot and bloodshed.*

The State of South Carolina during the past year has presented scenes of bloodshed and massacre rarely ever equaled in time of peace in any community professing to be civilized. The committee in their report practically concede this. They say:

"Much evidence was taken before the three subcommittees upon the subject of intimidation and violence previous to and during the election. Evidence was also introduced to *prove that there had been many homicides and other wrongs committed upon colored people by the whites which had never been punished by process of law. The condition of affairs in the State for the last ten years has been such that much turbulence and disorder would be natural and to be expected.*"

It is abundantly proved by the testimony of General Conner and other leading democrats that the colored people are "quiet and inoffensive." It is a historical fact well attested that, even during the rebellion, they were orderly and peaceable.

The colored people constitute the great body of the republican party. When the committee, therefore, say that "much turbulence and disorder would be natural and to be expected," it is understood that this is their estimate of the character and purpose of a considerable portion of the white people who control the democratic party, and in this the majority of the committee candidly state the facts as shown by the evidence. They doubtless regard such turbulence "natural and to be expected," in view of the fact that South Carolina led in organizing the rebellion and that many of the leading democrats unwillingly submit to the results of the war, to the enfranchisement of the colored people and to their participation in political affairs.

THE HAMBURGH SLAUGHTER.

It appears that the purpose was formed on the part of the democracy of South Carolina, notably in Aiken, Edgefield, and Barnwell Counties first, in the early summer of 1876, to use intimidation, force, and violence as means of carrying the election. In May and June threats were freely made by the democrats in these counties, and circulated among the republicans, to the effect that all those who voted the republican ticket would be driven off the lands of the democrats and be refused employment, and that all leading republicans would be killed.[42] These threats were at first rather quietly and covertly made, but as time passed on they were more openly and boldly uttered, care being taken to express them to those who would circulate them, and that they should reach those most desired to be affected. These threats, at first, had little or no effect to frighten or to change the political sentiments of the colored republicans of those counties, and it therefore became necessary for the democracy to enter actively upon the programme of violence. This was inaugurated at Hamburgh, a small town in Aiken County, on the bank of the Savannah River, opposite the city of Augusta, Georgia, on the 8th of July, 1876.

There was a colored militia company in that town, organized under the laws of the State,[43] containing about eighty-four members, armed with guns furnished by the State, among the officers and men of which were intelligent and leading colored men. The destruction of this company was manifestly of the first importance, as its existence gave a sense of security to the colored republicans of that vicinity and counteracted the effect of the democratic threats of violence. This company paraded on the 4th day of July, 1876, under the command of its officers, and went through various military maneuvers in the streets of Hamburgh. Among the observers of this parade were two white democrats (as yet unknown to fame, but forever after to be) by the names of Henry Getsen and Thomas Butler.

They for a while sat in their buggy on one side of the street, observed the maneuvers of the company, and then, when the company was marching in open order down the street, and near the center of it, started their horse up the street with the view to drive through the midst of the company.[44] Captain D. L. Adams, (colored,) commanding the company, halted his men and expostulated with Getsen and Butler against their attempt to drive through the ranks of his company.[45] They, Getsen and Butler, persisted in their purpose, although there was sufficient room to pass on one side, and Captain Adams, to prevent trouble, opened a passage through the company for them, and they passed through.[46] The detention was but for a few moments, and was not, save perhaps in the matter of feeling, of the slightest consequence to Getsen and Butler or to the militia company. But, as the destruction of the militia company was desired by democrats, it was determined to take advantage of the occurrence for that purpose. Accordingly, two or three days afterward a verbal complaint was made, not by said Getsen or Butler, but by R. J. Butler, father of Thomas Butler and father-in-law of Getsen, to Prince Rivers, (colored,) trial justice at Hamburgh, against the officers of the militia company for obstructing the street on the above occasion. The trial justice issued a summons, *not a warrant*, calling the officers before him to answer the charge.[47] On the day of the proposed trial and final hearing, (the case having been on a former day partially inquired into and postponed,) appeared in Hamburgh, General M. C. Butler, of Edgefield County.[48] At or about the same time there came into the village about one hundred white men, thoroughly armed with guns and pistols.[49] This body of white men immediately gathered about General M. C. Butler, and submitted to his direction and control.[50] General Butler first assumed to appear as the attorney of R. J. Butler, to prosecute the inquiry before Trial Justice Rivers against the officers of the militia company.[51] But the officers of the militia company, hearing of the threats against their lives, made by the white armed men surrounding General Butler, refused to appear before Trial Justice Rivers for the purpose of further examination.[52] At this stage of the proceedings, the farce begun before the trial justice was abandoned,[53] and General M. C. Butler sent a demand to Captain D. L. Adams to surrender to him the arms of his company. This demand was refused by Captain Adams, as General M C. Butler had not in law a shadow of right to make the demand, and not a shadow of right to receive the guns if they had been surrendered. Finally General Butler notified Captain Adams "that he was going to have the arms in fifteen minutes." Captain Adams replied, "Then he (Butler) would have to take them by force." Thereupon General M. C. Butler commenced posting his men, now increased to several hundred, so as to command the brick building used as a drill-room and an armory by Captain Adams's company. Captain Adams and twenty-five members of his company had retired to this building.[54] After General Butler had stationed his men he again sent word to Captain Adams that the time was up, and inquired if he was going to give the guns up; to which Captain Adams replied that he could not give them up; that he did not desire any fuss, and that he and his men had gone out of the streets and into their hall for safety, and there they could remain.[55] After this answer had been returned to General Butler, and sufficient time for its reception by him had transpired, his men, who were stationed behind the abutment of the South Carolina Railroad bridge near by, opened, fire on the building occupied by Captain Adams and his company.[56] They fired rapidly for about half an hour, and broke out nearly all the glass in the four windows in the front of the building.

In the mean time Captain Adams's men, kept under cover, were not injured, and did not return the fire.[57] About this time General Butler's men began apparently to close in about the brick armory, and Captain Adams gave orders to his men to fire on them.[58] The firing on the part of Captain Adams was kept up irregularly for a short time, and till about dark. About midnight Captain Adams quietly withdrew his men from the brick building, with the intention of getting out of town and escaping.[59] He succeded in getting his men out of the building, and a part of them out of town, but part of them scattered off and hid themselves in various places in and about their houses. The escape from the brick building of Captain Adams's men was soon discovered by General Butler, and then a vigorous search was made for them, and for colored men generally.[60] Some one or two were killed as they were found,[61] but most that were captured were brought in and put under a strong guard.[62] About two o'clock in the morning some twenty-five or thirty colored men, some of whom were members of the militia company and some not, had been found and brought in, and so placed under guard. The search being over, now came the slaughter.[63] One by one they were taken out and deliberately shot to death. First, A. T. Attaway, lieutenant in Captain Adams's company, was so taken out and murdered. Then Dave Phillips was taken out and murdered. Next followed Pompey Curry, who, on being let loose, precipitately fled, was fired upon and badly wounded, but escaped with his life. Next Hamp Stevens was taken out and murdered; and, following him, Alfred Minyard, or Minyon, was killed. No more were killed out of these prisoners, though some were badly wounded. During the night two others were killed, namely, James Cook, town marshal, and Moses Parkes.[64]

These brutal and causeless murders were clearly committed, as the testimony shows, to effect political ends, and as a part of the plan of the political campaign adopted by the democrats.[65] The relation which General M. C. Butler, one of the most distinguished political leaders of the democratic party, sustained to these was made the subject of much evidence, and a reference to that is all that is deemed necessary now.[66] Comment is unnecessary.

THE ELLENTON MASSACRE.

Silverton, in which is Ellenton, is a township in Aiken County, South Carolina,

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[41] The political condition in South Carolina, "by a South Carolinian," in the February number, 1877, of the [Boston] Atlantic Monthly, pp. 177–194. This article is very able and instructive, and is written with much candor, though evidently with southern sympathy and without any favor to the colored people. It denounces boldly the outrages by the democrats.

[42] See evidence taken before a committee of the Senate at Columbia during the present session of Congress, vol. 1, page 7-23-29. The House committee at Columbia refused to take all the evidence desired by the minority. (See end of testimony at Columbia, part 1.)

[43] See testimony of the attorney-general of South Carolina before Senate committee.

[44] Vol. 1, pp. 35, 701, 707, Senate testimony.
[45] 701, 707, 145, 146.
[46] Vol. 1, 36.
[47] See copy of summons in Senate committee testimony; also vol. 1, p. 79.
[48] Vol. 1, pp. 89, 702.
[49] Vol. 1, p. 695.
[50] Vol. 1, p. 695.
[51] Vol. 1, p. 38.
[52] Vol. 1, pp. 38, 39.
[53] Vol. 1, p. 31.
[54] Vol. 1, pp. 40, 695, 696.
[55] Vol. 1, p. 39.
[56] Vol. 1, pp. 40, 699.
[57] Vol. 1, pp. 40, 41.
[58] Vol. 1, p. 40.
[59] Vol. 1, p. 41.
[60] Vol. 1, p. 42.
[61] Vol. 1, pp. 42, 43.
[62] Vol. 1, p. 33.
[63] Vol. 1, p. 34.
[64] Volume 1, pp. 32, 33, Senate testimony.
[65] Volume 1, pp. 29, 30, 45, 46.
[66] Volume 1, pp. 38, 39, 40, 43, 44, 58, 59, 79, 80, 148, 162, 703, 710, 713; p. 15 President's message, Senate Executive Document No. 85, first session, Forty-fourth Congress, General Butler's own testimony. This document fully confirms this account of the Hamburgh massacre. Governor Chamberlain in his letter of September 28, 1876, to Colonel Haskell, published in the evidence, shows these "undisputed facts of the massacre. Those who committed the massacre were white democrats; those who were massacred were colored republicans. It is a fact as well authenticated as the assassination of President Lincoln that five unarmed republicans while held as captives by a large body of armed white democrats were deliberately and wantonly shot to death by their white democratic captors, and when all resistance or show of resistance to the white democrats had ceased."

being about twenty-five miles from Hamburgh, and about twenty-four miles from Aiken Court House, and near the Savannah River. It is a fertile region and quite densely populated, the colored population being largely in the majority.

During the spring and summer of 1876 nearly all the white democrats in the county were thoroughly armed and organized into bodies known commonly as "rifle clubs." There were in this portion of the county a considerable number of quite intelligent colored republicans, and several republican clubs formed. The policy of intimidation, force, and violence to control the political action of republicans was announced by the white democrats[67] in all this section in June, July, and August, and in substantially the same manner as was done prior to the Hamburgh massacre. About the middle of September the "rifle clubs" from different portions of the county of Aiken, and also from the adjoining counties of Edgefield and Barnwell, suddenly and evidently by concerted action, began to march toward and assemble at Silverton.

The number of white democrats armed and mounted thus assembled during September 15, 16, 17, 18, 19, and 20 was probably about eight or nine hundred.[68] Colonel A. P. Butler, of Hamburgh, South Carolina, appears to have been in general command.[69] Under him, and commanding "rifle clubs" and irregular bodies, were Angus P. Brown, George W. Croft, Wallace Miller, Augustus White, Frank Green, O. N. Butler, of Augusta, Georgia, Alonzo Ashley, Warren Keenan, and many others.

The absurd pretext for this assemblage of armed men, as put forth by parties interested, was the reported assault on Mrs. Harley by one or two colored men, who are said to have entered the house of Alonzo Harley for the purpose of stealing.[70] It was charged by Mrs. Harley that she was knocked down by one of these men, who fled on her rising and seizing a gun. The two colored men charged with this assault and attempt to steal were not recognized by Mrs. Harley or any one else at the time, although it occurred in broad daylight, in the forenoon of Friday, September 15, 1876. Suspicion fell upon a young colored man by the name of Peter Williams and another man named Frederick Pope. Three white men immediately started in search of Williams, found him in the House of Addison Hollywonger, (colored,)[71] where he had been confined by sickness for several days with chills and fever,[72] and, although so informed, they arrested him without warrant, and started for Alonzo Harley's house. On the way, and near there, they were met by Alonzo Harley, who commenced to curse and beat Williams,[73] who, finding himself free and unprotected by his captors, started to run. Thereupon he was fired upon and badly wounded, from which wound he subsequently died.[74] While yet alive he was taken in a cart to Harley's house, to ascertain whether Mrs. Harley identified him as the man who had assaulted her. She, on seeing him, at once said *he was not the man.*[75] The shooting of Peter Williams occurred about noon or a little before,[76] on Friday, September 15, 1876. On the evening of the same day a warrant was sworn out "*on information and belief*" by one Taville, before Trial Justice Griffin, for the arrest of the said Peter Williams and Pope for the said assault on Mr. Harley.[77]

The "rifle clubs" assembled in considerable force that afternoon at Matlock Church, near said Alonzo Harley's house, and were largely increased in numbers during the following day. Toward evening of Saturday, three of the companies of "rifle clubs," thoroughly armed and mounted, moved down to Chevis's store, some three-fourths of a mile distant, where a republican colored club had, as usual on that day of the week, assembled, and for the purpose of breaking it up.[78] The members of this club, hearing of the purpose of the rifle-clubs to attack and break them up, hastily adjourned before their arrival, though a few of them were still at Chevis's store when the rifle clubs arrived. Those that still remained there were, with curses, notified to meet no more by Captain Angus Brown,[79] who commanded the rifle club in the advance. There was much cursing, and many threats of violence were made on the part of members of the "rifle clubs" toward the republicans in case they should meet again, and it was promised on the part of the members present that they would not meet again. Some effort was made by members of the rifle club to then and there attack the few colored men found, but it was finally said by the whites, "There were not enough of them for a riot."[80] These three companies passed down the road by the store, and during the evening returned and went into camp at Matlock Church.

On the following (Sunday) morning the rifle clubs, under the command of A. P. Butler, [80a] marched to Rouse's Bridge, a point some four miles distant from Matlock Church. Here they found a considerable number of colored people assembled, some to attend church, and others for mutual consultation on account of the rumored purpose of the "rifle clubs" to attack them.[81] The "rifle clubs" halted on the high ground, about half a mile from the bridge, and sent messengers to the colored people at the bridge, under the pretense of desiring a "compromise" with them.[82] While the parley was being held several members of the rifle clubs fired upon colored men who happened near them, mortally wounding one, Henry Campbell, and severely wounding several others.[83]

The colored men thus shot were all republicans. After much delay there, and upon the repeated assurance of the colored people that they desired no disturbance, and that they were seeking only safety in the swamp near the bridge, the "rifle clubs," toward evening, fell back and marched toward Union Bridge, a point some six miles distant.[84] Here a detachment of some twenty or twenty-five men, under the command of Captain Robert Dunbar, fired upon a small party of men, killing one, Basil Bryant, *alias* Basil Bush, and wounding several others.[85] On the following morning one of those wounded, Wilkins Hamilton, was found in his cabin and deliberately shot to death by some of the members of the rifle clubs.[86] Early on Monday morning, and during the day, the "rifle clubs" were moving in various directions, murdering colored republicans. Kit Finnissee was shot in the morning and killed by a company or detachment under Captain Angero P. Brown, near —— Station, on the Port Royal Railroad. Colonel A. P. Butler was at the time present with this detachment, and ordered him shot.[87] The colored men were there fired upon, but escaped.

Another detachment came upon five colored men in the cabin of Juda Kelsey, who had come in out of the swamp for their dinners, and murdered three of them, and tried to kill all of them, but the other two escaped by running. Here were killed David Bush, Sam Brown, and Warren Kelsey.[88] Another detachment, numbering several hundred, with which at the time, near evening, was Colonel A. P. Butler, near Ellenton Station, on the Port Royal Railroad, shot and killed John Kelsey.[89] Many other colored men were here seen and fired upon, but escaped with their lives, also several colored men were taken prisoners and threatened with death, but were not murdered on their promising not to vote the republican ticket. During Monday night, September 18, Colonel A. P. Butler, with a large portion of his command, about five hundred men, suddenly turned back from Ellenton Station upon Rouse's Bridge, some seven miles distant, and was there ready to attack the republicans on the morning of Tuesday, September 19, 1876.[90] In consequence of the movement of the rifle clubs, about seventy-five or one hundred colored republicans had been driven into this part of the swamp, where they were practically surrounded.[91]

In the councils of the rifle clubs it had been determined that all these colored men in the swamp should be killed. For this purpose Colonel Butler's forces were put in line of battle, with a skirmish-line thrown out, and the order to advance into the swamp had been given, and his command was in motion, and firing by the skirmishers on the republicans had commenced,[92] when a detachment of United States troops, under command of Captain Lloyd and Lieutenant Hinton, arrived on the scene from Aiken Court House and prevented the massacre. These colored men in the swamp and thus surrounded were nearly all without any weapons of defense at all,[93] though a few, fifteen or twenty, had shot-guns,[94] but were without ammunition, and hence were wholly at the mercy of the rifle clubs. The members of the rifle clubs openly declared in the presence of the United States troops that it was their intention to have killed the last one of them, and they expressed the greatest disgust at the interference of the United States troops.[95] There is no doubt that a fearful slaughter would have taken place but for the timely interference of the troops. Upon a parley held between Captain Lloyd and Colonel A. P. Butler and his officers it was agreed that the rifle clubs should disperse and return quietly to their homes, and that the colored men would go peaceably to theirs.[96] This arrangement was most thankfully received by the colored people, who were wild with joy at their unexpected deliverance.[97]

Pursuant to the arrangement made by Captain Lloyd, the rifle clubs began to disperse, but continued their murderous work upon the colored men on their way home. One party, after it left Rouse's Bridge, shot and killed Abram Hammond, *alias* Abram Blake, an old colored man past eighty years of age, who was quietly and innocently standing near the road when they passed.[98] His body was riddled with bullets. Another party, consisting of two or three hundred, at Ellenton Station, having captured Simon Coker, a leading republican and member of the State Legislature, deliberately took him out and shot him to death. Captain O. N. Butler, (so called,) of Augusta, Georgia, commanded the firing party, and he himself shot him with his revolver.[99] Subsequently, on the same day the rifle clubs, about two miles below Ellenton Station, captured two other colored republicans, William Gooden and George Turner, and deliberately shot them to death.[100] In the day following (Wednesday) Alonzo Ashley's company, under his command, in the edge of Barnwell County captured a leading colored republican named Edward W. Bush, finding him in his own house, and took him out a few rods from his door, and there, in full view of his family and friends, shot him to death.[101]

Many other colored republicans were killed in Barnwell, Edgefield,[102] and Laurens[103] Counties about this time by the rifle clubs, or members of those organizations, and under similar circumstances to those above narrated. The whole number killed in Aiken and Barnwell Counties alone, at this time, is estimated at between thirty and forty, and about the same number were wounded. There is no evidence that a single white man was injured by a colored man throughout the whole affair.[104] Two white men were killed; one in a quarrel with his fellow, the other shot and killed in the dark near his own home by an unknown person.[105] The

[67] See Senate committee's evidence, volume 1, pages 7, 11, 90, 91, 97, 103, 124, 125, 168–9, 182–3, 207, 212, 222, 243, 300, 348, 359, 362, 377, 476; volume 2, pages 222, 226, 227, 228, 237, 239, 246.

[68] 322.

[69] 639, 427.

[70] 782, 355.

[71] 389, 390.

[72] Senate evidence, vol. 2, p. 219.

[73] Vol. 2, pp. 217, 222.

[74] Vol. 2, p. 216; vol. 1, p. 356.

[75] Vol. 1, p. 356.

[76] Vol. 1, p. 276–7.

[77] Vol. 1, p. 296; vol. 2, pp. 216 and 218.

[78] Vol. 1, pp. 198–9 and 200; also p. 127.

[79] Vol. 1, p. 198.

[80] Vol. 2, p. 220.

[80a] Vol. 1, pp. 627, 639, 114, 115.

[81] Vol. 1, pp. 178, 179.

[82] Vol. 1, p. 177; vol. 2, p. 225.

[83] Vol. 2, pp. 225, 257; vol. 1, pp. 177, 249.

[84] Vol. 1, p. 174.

[85] Vol. 1, p. 369, and vol. 2, pp. 231, 248, 259.

[86] Vol. 1, p. 240.

[87] Vol. 1, pp. 298, 305; vol. 2, pp. 297–299.

[88] Vol. 1, pp. 290, 373; vol. 2, pp. 243, 279.

[89] Vol. 2, pp. 285, 298, 313; vol. 1, 293.

[90] Vol. 1, pp. 323, 345, 376, 781; vol. 2, p. 268.

[91] Vol. 1, pp. 181, 323, 324, 785.

[92] pp. 324, 375, 781.

[93] pp. 182, 180, 785.

[94] Vol. 2, p. 348.

[95] Vol. 1, pp. 323, 780.

[96] Vol. 2, pp. 238, 239, 243, 254.

[97] Vol. 1, pp. 323, 781; vol. 2, pp. 238, 239, 254, 263.

[98] Vol. 2, p. 335; vol. 1, pp. 220, 221.

[99] Vol. 1, pp. 217, 378; vol. 2, pp. 280, 281, 299, 310, 312, 314.

[100] Vol. 1, p. 380; vol. 2, pp. 328, 336.

[101] Vol. 1, pp. 287, 284, 219; vol. 2, p. 296.

[102] Vol. 1, p. 187–8.

[103] Vol. 1, p. 720.

[104] 611.

[105] This is shown by the following table:

Comparative statement of the votes cast for governor of this State at the general elections of 1870, 1872, *and* 1874.

Counties.	Governor.					
	1870.		1872.		1874.	
	R. K. Scott.*	R. B. Carpenter.†	F. J. Moses, jr.*	Reuben Tomlinson.†	D. H. Chamberlain.*	John T. Green.†
Abbeville	3,385	2,194	3,618	1,517	4,181	2,486
Aiken	.....	.....	2,224	264	2,388	2,320
Anderson	1,475	1,868	1,209	1,808	1,762	2,534
Barnwell	3,879	2,216	2,519	577	3,797	2,320
Beaufort	6,142	999	4,995	1,445	4,778	2,076
Charleston	13,411	6,980	6,237	7,593	8,727	11,393
Chester	2,704	1,366	2,316	228	2,630	1,364
Chesterfield	945	1,092	620	279	918	1,122
Clarendon	1,534	762	1,524	342	737	1,895
Colleton	3,969	1,680	3,426	207	3,539	2,106
Darlington	2,968	1,793	2,458	275	3,729	1,851
Edgefield	4,547	3,704	3,878	219	3,398	2,900
Fairfield	2,643	1,134	2,747	674	3,022	1,478
Georgetown	2,514	342	1,797	29	1,821	753
Greenville	1,455	1,840	1,111	2,132	1,879	2,288
Horry	563	970	539	816	597	1,288
Kershaw	1,794	947	1,333	1,013	1,983	1,264
Lancaster	1,087	855	982	1,004	1,169	1,137
Laurens	3,022	1,967	2,153	935	2,892	1,815
Lexington	1,081	1,432	356	1,883	1,156	1,562
Marion	1,997	2,186	2,468	2,239	2,343	2,129
Marlborough	1,449	1,145	1,538	78	1,841	1,322
Newberry	2,915	1,645	2,879	1,048	3,181	1,476
Oconee	627	900	411	1,078	582	1,218
Orangeburgh	3,797	1,693	3,444	835	3,779	2,014
Pickens	612	775	486	256	591	745
Richland	3,500	1,382	3,364	760	3,974	1,491
Spartanburgh	1,423	1,923	862	2,421	1,540	2,657
Sumter	3,593	1,004	3,268	1,183	758	4,091
Union	1,862	1,744	1,272	1,546	1,810	1,993
Williamsburgh	1,765	1,126	1,773	80	2,313	1,243
York	2,386	1,873	1,641	1,789	2,588	2,007
Totals	85,071	51,537	69,838	36,533	80,403	68,818

* Regular republicans. † Liberal republicans, supported by the democrats.

bare statement of the foregoing facts is sufficient. They shock every sentiment of humanity and justice, and call for the interposition of the strong arm of the Government to protect the rights and lives of our recently enfranchised fellow-citizens.

CHARLESTON RIOT.

A riot occurred in the city of Charleston on the night of Wednesday, September 6, in which one white man was killed, and a large number of persons, both white and colored, wounded. This outbreak does not appear to have been premeditated, but it was the consequence of the highly excited condition of the people of both political parties, and the full responsibility for it must be charged upon the democratic leaders. It was but the natural and inevitable consequence of the plan of campaign projected by those leaders, willingly adopted by one part of their followers, and forced upon others of more moderate views by a rigorous social intolerance, that visited upon any of the white people of the city and State who failed heartily to support that policy all the terrors of business and social ostracism.

The testimony fully shows the causes which had been at work from the time when the speeches of General Ferguson and others, made at the Tilden and Hampton ratification meeting on the 25th of August, warned the republicans that what was known as the "Mississippi policy" was to be adopted in South Carolina; causes which are ample to produce even a far more disastrous result, a much greater destruction of life and property. The testimony of the mayor clearly sets forth the excited condition of the city; the population almost equally divided between the two political parties; the democratic rifle clubs arming, drilling, patrolling the streets; the democratic press teeming with inflammatory and threatening publications; the colored people excited and terrified by these preparations, the familiar symptoms of a war upon their political rights, which might well be as successful in South Carolina as it had been in the State from which its apostle had come to preach the crusade in Charleston.

Under these circumstances, an occasion could not be wanting, and, accordingly, on the night of September 6, at the closing of twelve or more political ward meetings, about equally divided between the two parties, those who had attended them met in crowds in the streets, with the result shown in the testimony. The material was evidently at hand to produce much more serious consequences than the killing of one man, a democrat, shot by one of his own party, and the wounding seriously of a policeman by a pistol-shot from a democrat, and the infliction of other slight wounds upon many others of both parties.

RIOT AT CAINHOY ON THE 16TH OF OCTOBER, 1876.

The loss of life on this occasion was much greater than at the riot in the city, six white men and one colored man having been killed. As in the riot of the 6th of September, there is conflict of testimony as to the party from which the first shot came, but the underlying causes of the outbreak of violence were the same. The division of time, which at other republican meetings had been enforced by the whites, was here agreed upon between the leaders; but the apprehensions which the general method of the democratic campaign had excited in the colored people led to their bringing arms with them, which, however, were not openly displayed at the meeting, but were left either in the bushes hard by or in an old house or carriage-shed near the stand occupied by the speakers. Whoever fired the first shot, the immediate cause of the riot which followed was undoubtedly the seizure, by some rough white men who accompanied the party of speakers from the city of Charleston, of the arms deposited by the colored men in this building. The whites having taken possession of these muskets, suddenly appeared with them in a hostile attitude within fifty feet or less of the speakers' stand. The bloody consequence of this proceeding followed, as a matter of course. A single shot from either side, whether effective or not, was followed by the drawing off of the two parties into opposed and hostile bands, and by indiscriminate firing. The whites being armed only with pistols, the advantage fell to the blacks, and the loss of life fell upon the whites, as before stated, in the proportion of six to one.

As in the case of the Charleston riots, these bloody consequences are chargeable directly to the hostile, uncompromising, violent methods, deliberately adopted by the democratic leaders. Meetings called for the orderly discussion of political topics were converted into scenes of conflict, because the one party had publicly avowed the purpose of invading by force the rights of the other. Arms taken up for these unlawful purposes were opposed by arms taken up for self-defense; and if all these occasions did not present similar scenes it was rather owing to some good fortune than to the tolerance of the one party or the patience of the other.

THE STATE AUTHORITIES UNABLE TO PRESERVE THE PEACE AND PROTECT LIFE.

General James Conner, an eminent lawyer of Charleston, and democratic candidate for attorney-general, testified before the committee as follows:

By Mr. LAWRENCE:

Question. You say that [Governor] Chamberlain's government was powerless to protect the colored people?

Answer. Yes, sir.

Q. That is a fact, is it not?

A. I think so.

Q. Have the civil authorities in this State been able to protect the colored people for the last six or eight years?

A. I do not think they have.

Q. Not since the war, have they?

A. I do not think they have.

Q. Is it not a notorious fact that a large number of the men who have killed colored men have escaped punishment?

A. I think the fact is so.

Q. And it has been so ever since the war?

A. I think so.

Q. And have there not been a large number of colored men killed through the State, by common notoriety?

A. A good number.

Q. And has any white man been punished for killing any one of them?

A. I think not.

Q. Is it not a fact which you know from the condition of affairs in this State that there is a purpose on the part of the people to yield obedience to whatever is required through the United States troops?

A. O, unquestionably.

Q. Well, is it not equally true that there is a disposition to disregard whatever may be required by the civil authorities under Chamberlain?

A. There is, unquestionably.

The necessity for troops is shown by the governor's proclamation and other evidence already referred to.

It was under circumstances already stated, and in view of these facts, that Governor Chamberlain called upon President Grant for military aid, and that troops to the limited extent stated were located in the State.

TROOPS DID NOT INTERFERE WITH POLITICAL ACTION.

It is abundantly shown by the evidence that *no officer or soldier ever attempted in the least to interfere with the free exercise of suffrage, or of any other right of any citizen, or to influence their political action or opinions.* General Conner, the democratic candidate for attorney-general, testified as follows:

Q. Did you ever know or hear of any United States officer or soldier indicating in any way to the colored people that it was their duty to vote the republican ticket?

A. I never did.

Q. There was no such interference by troops?

A. O, no; the troops never countenanced that idea.

Merrimon Washington, a colored democrat, called as a witness by the majority of the committee, testified as follows:

Question. The colored people all understood that the troops were not here to interfere with their voting?

A. Yes, sir.

Q. And they understood that the troops were here to protect them, so that they might vote as they chose?

A. Yes, sir; we all had the understanding of that.

Q. They were not afraid of the troops?

A. No, sir. (Evidence, part 1, page 405.)

The following extract from an account of a democratic meeting at Marion Court-House September 7, published in the Charleston News and Courier, (democratic,) shows that there is no pretense that the colored people were in any way interfered with on attending democratic meetings:

"MARION COURT-HOUSE, *Saturday, September* 30.

"General Hampton's triumphant march for the last week has been through that region of country denominated by John C. Calhoun as the garden-spot of South Carolina. The Pedee region is indeed one of the finest farming districts in the eastern portion of the State. After the great meeting at Bennettsville, the general and staff set out on an overland march to Marion, and on Friday their course was one of triumph and ovation.

* * * * * * *

"At an early hour this morning the town was alive with the cavalry, who kept coming in from every quarter. Carmichael's, Hillsborough, Reeves, Manning, Hardeeville, Bethea, Kirby, Moody, Marion, Wahee LeGettee, Rowell, Britton's Neck, Woodbury, Jeffries, Cain's, McMillan's, and Pedee Townships were all represented by their mounted clubs. E. M. Stoeber, the radical county chairman, in order to keep the colored people from attending the meeting, called all the township meetings for to-day. But the little game was evidently a failure, for hundreds of colored people were not only in town, but flocked to the meeting and remained throughout its entire progress, patient and interested spectators."

The President, in his message of January 22, 1877, said:

"The troops of the United States have been but sparingly used, and *in no case* so as to interfere with the free exercise of the right to vote."

An American soldier can never be better employed than in protecting American citizens in the enjoyment of their civil and political rights.

It is conclusively proved that there was a necessity for the troops to act as a *posse comitatus* to support the United States marshal and his deputies as civil officers in the discharge of duties enjoined by law, to enable citizens peaceably to vote.

It is conclusively proved that the troops were necessary "to keep the peace at the polls" as the law authorizes and requires. It is conclusively proved that they were necessary to protect the State "against domestic violence," a duty enjoined by the Constitution.

They were *not* "used to overawe colored people" (or any law-abiding people) or "prevent them from voting the democratic ticket." The fact of their presence did not have any such effect. Their presence did not, in any case, intimidate any voter or in the least degree interfere with the voluntary or free exercise of choice in speech or vote, or in any lawful act. The only effect on the election was that their presence checked the violence and intimidation which prevented republicans from freely exercising the right to vote according to their convictions of right and duty.

It is said, in the report submitted by a portion of the committee, that—

"*Either* the troops were sent to South Carolina (1) without any legal and justifiable cause, for political purposes, and to overawe a portion of the voters, or (2) there was a state of violence and turbulence amounting to insurrection against the government of the State, and which the State authorities could not deal with and restrain.

"If either proposition is taken as the true one, no election held in that State, certainly for members of Congress and presidential electors, who are to participate in making laws for or choosing a Chief Magistrate for the rest of the country, should be recognized as valid."

1. It has already been shown that the troops were sent to the State for a perfectly legal and justifiable cause, and that they were not intended to, and did not, overawe any citizen in the exercise of any lawful right.

2. The proposition that the electoral vote of the State should be rejected if "there was a state of violence and turbulence amounting to insurrection against the government of the State, and which the STATE authorities could not deal with or restrain," is one which finds no sanction in law, reason, or justice.

In such an event the "STATE" had a right to call on the *President* for military aid to restrain such insurrection, and if restrained by this power it is just as effectual, lawful, and right as if restrained by the "State," and votes given under its protection should be counted.

And if a violent and turbulent *minority* of the people *attempted* by insurrection to prevent the *majority* from giving, by their votes, a full and fair expression of their choice of candidates, but *failed in the attempt*, it would shock all sense of moral right, justice, and law to say that the real choice of the voters expressed in defiance of such violence should not prevail. And this is precisely what occurred in South Carolina.

The republican voters of the State were largely in the majority.[105] The democratic minority attempted by intimidation, turbulence, violence, and murder to prevent the republican voters from freely and fully exercising their choice at the election. In this they failed. Notwithstanding all the turbulence and violence and outrages of the "rifle clubs," they failed to accomplish that purpose.

The democratic voters of the State were not molested or interfered with in the free exercise of their rights in any respect.[106]

9.—INTIMIDATION AND VIOLENCE AFFECTING THE ELECTION AND AT THE POLLS ON THE DAY OF ELECTION.

On the contrary, the military protection was so inadequate and the violence of the "rifle clubs" so great, that large numbers of republicans either (1) *remained away from the polls* through intimidation or to avoid danger, or (2) feared to vote or were prevented from doing so after they got to the polls, or (3) voted the democratic ticket by coercion, intimidation, or violence.

1. *Republicans remained away from the polls by reason of intimidation or to avoid danger.*

This would be a necessary consequence of the condition of affairs already de-

[105] The leading democratic newspaper of Ohio, the Cincinnati Enquirer, of October 26, 1876, thoroughly well posted on this subject, said:

"General Wade Hampton is not only sanguine but confident that he will be elected governor of South Carolina. He is making a vigorous canvass. The State is at peace. The regular soldiers sent down there sympathize with the followers of Wade Hampton. The latter, in a public speech, declared that he would gladly welcome the whole United States Army to the State. Some of the former slaves of the democratic candidate for governor of South Carolina are stumping the State in his behalf. It is believed that not a democratic vote will be lost in the State by the appearance of the military. Twenty thousand colored men will march to the polls, under the *protection* of the bayonets of the United States Army, and cast their ballots for Hampton and Tilden, for State and national reform. General Hampton counts on beating Chamberlain, the Massachusetts carpet-bagger, by 15,000 majority. The republicans are very much distressed about the prospect of losing seven electoral votes in South Carolina."

scribed. It is shown by many witnesses. Among them the following is presented: Ira W. Rice, clerk of the court at Laurens Court-House, testified:

Question. What do you know, if anything, of threats made by democrats owning land, against republicans living on their lands, in case they should vote the republican ticket?

Answer. I know that threats have been generally made.

Q. Did you hear threats made?

A. Yes; I heard threats made on the day of the election.

Q. What were they?

A. Well, on the day of the election, the employers generally at the box, where I noticed, got near the box where the ballots went in, and when the employés came up to vote they would say if they voted the republican ticket that they should not go back to their plantations, and they would have what they had on the places put out in the road.

Q. The employers were the white democrats?

A. Yes, sir.

Q. The employés were colored men—republicans?

A. Yes, sir.

Q. Who owned the principal part of the lands in your county?

A. The white democrats.

Q. How are the colored men of the county generally employed in working on the lands?

A. They work on the lands for shares of the crops.

Q. What effect did the condition of things which prevailed at a preceding election have in keeping colored republicans from going to the polls to vote on the day of the election?

A. I think it had the effect to keep a great many from the polls, and it forced a good many to vote contrary to their wishes, and a great many that did vote the republican ticket have since been discharged. I know that of my own knowledge. I was up home a week ago, and a great many persons that voted the republican ticket have been discharged in accordance with the threats, and a good many have been discharged and have not received their portion of the crop.

Q. Do you know whether they continue to reside at the same places where they resided before the election?

A. They had moved. One family that I speak of now had moved, and the other had been out hunting a home, and hadn't been able to find one.

Q. Were you a candidate for any office at the last election?

A. Yes, sir; I was a candidate for re-election as county clerk.

Q. Where have you lived since the election?

A. I have been in Columbia pretty much since the election. I went up about ten days ago, or intended to return home about ten days ago. I didn't get to the court-house. I got within eighteen miles of it, to the place where I am interested in the rent of, and I stopped there a day or two. That is as far as I got.

Q. Why didn't you go to the court-house?

A. Well, I was afraid to go; I was attacked while there.

Q. By whom were you attacked?

A. By white democrats, I suppose; at least, I would be willing to swear that they were, although I did not see them. The parties attacking me came after eleven o'clock, surrounded the house, and commenced shooting in with Winchester rifles. Several balls took effect in the wall close by where I was, and after firing commenced the men on the plantation there heard it and came to my assistance. The parties were out in the yard. Two of them had got inside of the gate, and the others were out on the road on horseback. They fired fifteen or twenty shots. I think the parties that fired walked in the yard and saw pretty nearly where I was, because the balls came near where I was; one of them struck the chair I had rose from, and next morning I saw the tracks in the yard.

Q. How were the shots fired into the building?

A. It was a room attached to the main building, and the shots came through the door into the opposite side.

Q. What kind of a door was it?

A. It was a door made of boards; not quite so thick as these doors; there was a little crack under the door where you could see my position.

Q. How near to you did their shots come, besides the one that struck the chair on which you were sitting?

A. Three of the balls came very near my head, and went into the wall about where my head would have been leaning against the wall.

The fact that republicans remained away from the polls is admitted on all hands. General M. W. Gary, a leading democrat in Edgefield, in a published card, stated that about six hundred colored voters did not vote in that county. (Appendix F to these views.) This is confirmed by affidavits of the voters. (Appendix, p. 172, to Part 1 of Evidence.)

2. *Republicans at the polls left without voting by reason of intimidation and fear of violence.*

Upon this subject the following appears among much other of similar import in the evidence taken by the committee:

J. W. BRITT (colored) sworn and examined:

By Mr. LAWRENCE:

Question. State your age and residence.

Answer. I am twenty-one; I live at Saint Charlotte's.

Q. Did you vote on the day of the last presidential election?

A. Yes; at Saint Charlotte's, Bordeaux.

Q. What, if anything, do you know about threats being made against republicans in case they should vote the republican ticket?

A. On the morning of the election there were fifty of us in the crowd, and we met fifty armed men with rifles and sixteen-shooters and pistols; they met us at the cross-roads, about half a mile from the box. They turned our men back, and told them if they were going there to vote for that thieving son of a bitch, Chamberlain, they could not go to that box unless they would go and vote for Wade Hampton and good government. There was fifty colored men turned back, and there was fifty red-shirt armed men there to turn them back. We all started back together, but I went around through the woods and got up to the box anyhow. There was a man named Jim Ransom, with a sixteen-shooter on his shoulder and a pistol in his hand, and he hallooed out, "God damn you, you are all here to-day." We went up to the box. He asked who I was going to vote for. I told him I didn't know who I was going to vote for yet. Says he, "If you vote for that damned thieving Chamberlain there is going to be blood spilt." I said, "I don't know, Mr. Ransom, who I am going to vote for." He was from Georgia. He hands me a democratic ticket, and says, "You vote that ticket." I says, "I don't know whether I will or not." I had a republican ticket in my pocket, and I put the democratic ticket in my pocket and voted the republican ticket. I knew if I showed him the republican ticket he would kill me, for he said so; and he sent word to the manager, Jake Hammond, if he was going to vote the republican ticket to bring his coffin with him.

Q. Did any of those fifty colored men who were turned back vote?

A. There didn't none of those fifty men go and vote but me. Jake Hammond, the marshal, came down to Captain Jones's place, and about fifty of them came there to hunt for that marshal. They asked us where that damned marshal was. We told them that he went down to Green's Corners. The marshal did go in that direction.

Q. Do you know this of your own knowledge?

A. Yes, sir; I know this myself.

Q. You were there?

A. Yes; I was there. I ain't telling more than I know. We were standing there and several of them got upon the stand to go and vote, and Ransom jerked them down. Says he, "Let me see the ticket you are voting." Says he, "They sent me from Georgia to have this election run out fair and square for Hampton to-day, and I am going to have it done or I will kill some damned radical;" and he marched all day with his sixteen-shooter on his shoulder and his pistol in his hand.

Q. What do you know of other colored voters going to that place to vote and coming away without voting?

A. There was one hundred and fifty that came to that box that day and did not get to vote. The Sunday before the election Felix Turner was going to be manager at the election, and they came to the church and called him out. They said they wanted to see him.

Q. Were you there?

A. Yes, sir; I was there at church.

Q. You heard it?

A. Yes; I heard it. Says he, "What do you want of me?" Says they, "Never mind; God damn you, come out here;" and McIntosh said, "Come here, Felix, we we ain't going to hurt you." When he came out a fellow named Ed Newbett struck Felix and knocked him down. His wife, she broke and ran. She jumped over the fence, and the ball struck right in the rail.

Q. Was Felix a republican?

A. Ed said, when he struck him, "I am knocking the damned republicanism out of you now. I want you to vote for good government on Tuesday."

B. B. HUGHES (colored) sworn and examined.

By Mr. LAWRENCE:

Question. Where do you live and what is your age?

Answer. I live in Barnwell County, at Allendale; I was thirty-eight years of age last October

Q. Where were you on the day of the presidential election last November?

A. At Allendale, in Barnwell County.

Q. State what you know, if anything, respecting voters being driven away from the polls or denied the right to vote.

A. On the morning of the election I got to the polls between five and six o'clock to act as United States deputy marshal, for which I was commissioned. The democrats had the polls in possession when I got there, captured—between two and three hundred of them. Between nine and ten o'clock, or maybe later, I asked them would they not give the republicans a chance to vote on that day. The answer was 'turned to me, "Damn the republicans and you, too!" I waited until twelve or one o'clock. I then goes to Captain McLaghlan. He comes to the poll with me. After he came the whites would come to the door that we went in at and locked the door that we went out, and they then would bring in the democrats—bring in men at the side door, and obstruct the way of the colored people voting. I then came out. I found between two and three hundred men going off that had not voted. I said to them, "Men, this will not do! See! come back and vote." Says they, "They will be here until night, and we can't get to vote, and we may be killed on the wayside as we go home." I then goes to Captain McLaghlan again. Captain McLaghlan said to me, says he, "If you call for the Federal troops to come out I will have to turn them out; but," says he, "if there is any way to stop the Federal troops from going out, let us do it." He came down himself about that time. The white people then entirely backed off from the polls while he was present. As soon as he left they taken possession again.

Q. How soon did he leave?

A. I suppose in about twenty-five or thirty minutes. They then said, "Our object is that none of you vote here unless you vote for Wade Hampton." About that time two or three dozen of them got at me with their pistols pointed on me, some of the parties.

Q. Democrats or republicans?

A. Democrats, white men. I was then surrounded by a gang of colored men and carried over to Captain McLaghlan's room at the hotel.

Q. What do you know, if anything, of republicans going away from the polls and not voting?

A. There was between two and three hundred, to the best of my knowledge, didn't vote at all.

Q. What was the reason?

A. There were men there what drew their pistols and made threats and said they should not vote, and one thing and another, and kept kicking up a row, drinking, and going all day long, and it seems they were scared away, some of them, and some parties said they would go off rather than be killed on their way home.

Q. State if any threats were made against republicans.

A. They were.

Q. What, if anything, was said by any parties about not renting land to republicans in case they voted the republican ticket?

A. That was a neighborhood chat among them. That has been told to me myself very often; in other words, I know parties who were discharged from off the places on that account.

Q. State if any of the democrats told you that they would discharge republicans from their lands if they did vote the republican ticket.

A. They did, sir.

Q. Did you hear anything of the sort?

A. I did.

Q. What time in the afternoon or evening did those republicans go away from the polls without voting?

A. They began to leave the polls from twelve until late in the afternoon.

Q. How far was it to any other polling-place?

A. I think one was about eight miles, and the other between six and eight, the two highest.

Q. State what numbers of armed men there were there, if any.

A. There was a good many men there armed with pistols on that day.

Q. Republicans or democrats?

A. Democrats—white men.

Q. State how they were divided, the white men and the colored men, generally; who were the democrats and who were the republicans?

A. Well, the white men were the democrats and the colored men were the republicans, of course.

Q. State the reason why you have not been at home since the election as you were before.

A. The democrats told me that if I staid about there they would kill me.

It should be observed this was at a place where there were thirty-three United States soldiers near by; even their presence did not secure to the republicans their rights.[107]

PARIS SIMPKINS (colored) sworn and examined.

By Mr. LAWRENCE:

Question. Where do you reside?

Answer. At Edgefield Court House. I was born and raised in Abbeville. I am twenty-seven years old.

Q. What offices, if any, have you held?

A. I have represented that county twice in the General Assembly of this State, the lower house.

Q. Were you a candidate for re-election at the last election, on the 7th of November?

A. With the consent of the committee I will read a statement that I would like to make, and afterward, if they choose to ask any questions, they can do so.

Q. Who prepared it?

A. I prepared it, from what transpired under my own observation.

The witness read the statement, as follows:

"I am a resident of Edgefield County; have lived there all my life. I have represented that county twice in the Legislature of this State; was a candidate for re-election at the last general election which was held on the 7th day of November. I was at the polls on election day for the purpose of voting the republican ticket, but did not have the privilege of doing so. The polls at Edgefield Court House, where I was, Nos. 1 and 2, were blocked, and otherwise crowded by armed democrats, who were uniformed in red shirts, and from one to two pistols buckled on the outside, and some with sixteen-shooters strapped to their sides, the major part of them being mounted on horses, and using threats of a violent nature toward republicans who would present themselves for the purpose of voting the republican ticket. After witnessing for several hours the violent and formidable demonstrations of the democrats to overawe and deter republican voters, and knowing, as I did, that my life had been previously threatened by the democrats for political reasons, I came to the conclusion that if I voted the republican ticket I would be murdered. I know the fact that at least six or eight hundred republicans at Edgefield Court House, who were at the polls for the purpose of voting the republican ticket, were prevented from doing so. I am quite sure if they had wanted to vote the democratic ticket they could have done so with perfect safety. I know I could have voted the democratic ticket with perfect ease if I had so desired it. I saw a large number of republicans make several efforts to vote during the day at box No. 1, but as they would get near the polls the democrats would immediately rush around the place of entrance and keep the republicans back. The democrats had all voted, but, notwithstanding this, they stood there armed and equipped as so many sentinels placed there for the specific object of preventing republicans from voting. During the day the democrats, who were mounted, would gallop from box to box, sometimes yelling and brandishing their pistols. At about three o'clock in the afternoon, the democrats organized a democratic meeting on the court-house steps, the place of entrance to the polling-precinct No. 1, at which several candidates on the democratic ticket made speeches. This was kept up until the polls were closed. During all this time republicans made repeated efforts to vote, but were not allowed to go up the steps. I would state further, in order to show to what extent the republican leaders were intimidated by the threats and violent demonstrations of the democrats, because of their political sentiments and party fealty, that it was utterly impossible to canvass the county in the interest of the Hayes and Wheeler electors, Congressmen, or State officers. On the day of the election I saw several republicans who had been violently assaulted and beaten over the head with pistols, and severe wounds inflicted on them, because they had endeavored to vote the republican ticket. The vote of the county is largely in excess of that of any previous election. There were about 3,000 votes polled over and above what we were legally entitled to by the census which was recently taken. The majority of the census-takers of Edgefield County were democrats; that census gives the colored men a majority over the white men of 1,678. Republicans were publicly threatened with being discharged from employment, and the probability of being killed if they persisted in giving their support to the candidates on the republican ticket."

JESSE JONES (colored) sworn and examined.

By Mr. LAWRENCE:

Question. Where do you reside, and what is your age?

Answer. I reside at Edgefield Court House. I am twenty-five years old, and have lived there all my life.

Q. State what you know about any violence or intimidation against any republicans during the recent campaign or during the election.

A. I was commissioner of elections. There was box No. 1 and box No. 2 at Edgefield Court House. On the morning of the 7th of November I arose at six o'clock and went to box No. 1 to vote. I was there until ten o'clock. I suppose at least two thousand colored men waited there until nine or ten in the day before a single man of them voted. The polls were surrounded by about four or five hundred white men, with red shirts, and on horses, a great many of them round the door and preventing colored men from getting up the steps. Then there was a great many dismounted round the box, and they said that no Chamberlain men should vote there. We made an application to the marshal to see General Brannan, who was in command, to see if we could get a detachment of troops to enable some of the colored men to go and vote. There was complaint made to me several times, and he finally said, the last time, "Who is surrounding the polls?" They says, "The white men have surrounded the polls, and no colored man can vote." He says, "Well, you must know those are white men." He seemed to speak as if they were privileged to vote. Senator Cain, from Edgefield, and myself, and the other commissioner of election went down to General Brannan and asked him to send up some troops; that we had at least three or four hundred men there to try to vote. The white men had completed their voting at box No. 1, but they surrounded the polls to prevent others from voting, and we asked him to send up troops. He just stood in the door and would not say whether he would send them or not; and while we was asking, three or four of the leading democrats in town came up to where we was standing and said to him, "By God, your men have voted already; and, by God, you sha'n't vote; 'tis a damn trick you are playing." While the conversation was going on the crowd of colored men held up their right hands and swore they had not voted that day. Some of the white men cursed and swore in the presence of General Brannan, and offered $100 to some parties that was holding him to turn him loose to fight him in the presence of the troops. There was very little protection from the troops. We staid there until near ten o'clock, and not a single colored man voted there. We went up to the school-house to box No. 2. There had not been any troops sent there at all until about ten or eleven o'clock, and the white men were there with large hickory clubs, ax-helves, and pistols, and Remington rifles. They had a whole wagon-load of arms standing off about twenty yards from the grounds. They all stood around the box, and no colored man was permitted to vote. Some tried to go in to vote, but they were beaten with sticks and the blood knocked out of their heads. That was about eleven o'clock. We sent up to see if we could not get troops, and Major Kellogg went up to the box, and no colored man was permitted to vote until he got there. At that box we had about five hundred majority—the only box in the county. We have always had, in Edgefield, at these two boxes, about fifteen hundred at least.

Q. What, if anything, do you know of colored men going away from the polls without getting an opportunity to vote?

A. I know, I think, at least eight hundred that left the polls. They staid there until nearly six o'clock and found it was impossible to vote, and then they left. I didn't vote, and I tried from six o'clock in the morning until six o'clock in the afternoon.

3. *Republicans voted democratic ticket by reason of intimidation or fear of violence.*

This results so inevitably from the condition of affairs proved to have existed that it seems unnecessary to refer to the evidence in detail beyond that which already appears.

It has already been shown that the United States troops in no way interfered with any citizen in the free exercise of any lawful right, and that it was universally understood they had no purpose to do so.

It is shown, however, that the presence of troops to some limited extent gave colored citizens an assurance of protection, which enabled them to vote as they desired, and that this arrested, in some degree, the effect which intimidation and violence was having to drive them over to the support of the democratic candidates against their convictions of right and duty.[108]

DEMOCRATS POLLED MORE THAN THEIR FULL PARTY STRENGTH.

It is very certain there was nothing operating in the State which interfered with any lawful agency in behalf of any democratic candidate.

Every citizen who desired to vote for the democratic candidates did so, and, as we have already seen, many were coerced to do so against their will by the means already stated.

To this was added some fraudulent votes by citizens of Georgia.[109]

The fact that the democratic vote was enlarged by intimidation and coercion is shown not only by the direct evidence already adverted to, but by the results. The usual republican majority of the State was cut down from about 30,000 to about 1,000.[110]

[107] See evidence of McKnight, manager of election, Evidence, part 1, p. 184; Wilson, 216; Brett, 223; Mimms, 224; Holland, 230; Wardlaw, 236; Simpkins, 237; Harris, 240; Jones, 244; Beatty, 261; Kellogg, 266; Hoyt, 268; Grant, 272; Hammond, 272; Bowie, 273; Washington, 276; Stephens, 282; Winbush, 285; Rutherford, 287; Barnhart, 383.

[108] Evidence, part 1, pp. 337, 373.

[109] Evidence, part 1, pp. 235, 241.

[110] This is shown by the following:

Comparative vote of South Carolina from 1870 to 1876, inclusive.

Counties.	Vote for governor in 1870.			Vote for governor in 1872.			Vote for governor in 1874.			Males over 21 years, census of 1875.			Vote for governor in 1876.			Vote cast in 1876.		Excess over census.		Less than census.	
	Scott.	Carpenter.	Total.	Moses.	Tomlinson.	Total.	Chamberlain.	Green.	Total.	White.	Colored.	Total.	Chamberlain.	Hampton.	Total.	White.	Colored.	White.	Colored.	White.	Colored.
Abbeville	3,387	2,194	5,579	3,618	1,517	5,135	4,181	2,486	6,667	2,928	4,951	7,879	3,669	3,852	7,521	3,075	4,473	147	...	....	478
Aiken	(*)	(*)	(*)	2,224	264	2,488	2,388	2,320	4,708	2,494	3,473	5,967	2,495	3,221	5,716	2,961	2,795	467	....	....	678
Anderson	1,475	1,868	3,343	1,209	1,808	3,017	1,762	2,534	4,296	3,329	2,215	5,544	1,124	4,155	5,279	3,445	1,858	116	....	....	357
Barnwell	3,879	2,216	6,095	2,519	577	3,096	3,797	2,339	6,117	2,583	4,734	7,317	2,778	3,956	6,734	2,999	3,763	416	....	....	971
Beaufort	6,142	999	7,141	4,995	1,445	6,440	4,778	2,076	6,854	1,760	8,241	10,001	7,604	2,274	9,878	1,867	8,096	107	....	....	145
Charleston	13,411	6,980	20,391	6,237	7,593	13,830	8,727	11,393	20,120	7,398	17,687	25,085	15,032	8,809	23,841	(†)	(†)	.....	..	....	.....
Chester	2,704	1,366	4,070	2,316	228	2,544	2,630	1,364	3,994	1,604	3,290	4,894	2,404	2,005	4,409	1,608	2,813	4	....	....	477
Chesterfield	947	1,092	2,037	620	279	899	918	1,122	2,040	1,543	1,199	2,742	985	1,631	2,616	1,547	1,081	4	....	....	118
Clarendon	1,534	762	2,296	1,524	342	1,866	737	1,895	2,632	1,171	2,202	3,373	1,881	1,436	3,317	1,283	2,046	115	....	....	156
Colleton	3,969	1,680	5,649	3,426	207	3,633	3,539	2,106	5,645	2,478	4,217	6,695	4,163	2,984	7,147	2,440	4,728	.....	511	38	.....
Darlington	2,968	1,793	4,761	2,858	275	3,133	3,729	1,851	5,580	2,362	3,747	6,109	3,507	2,752	6,259	2,544	3,716	18	....	....	31
Edgefield	4,547	3,701	8,251	3,878	219	4,097	3,398	2,908	6,298	2,722	4,400	7,122	3,107	6,267	9,374	4,974	3,107	2,258	....	....	.....
Fairfield	2,643	1,134	3,777	2,747	674	3,421	3,022	1,478	4,500	1,451	3,370	4,821	2,832	2,159	4,991	1,660	3,366	205	....	....	4
Georgetown	2,541	342	2,883	1,797	29	1 826	1,821	753	2,574	643	3,119	3,762	2,787	1,085	3,845	729	3,118	80	....	....	1
Greenville	1,455	1,840	3,295	1,111	2,132	3,243	1,879	2,288	4,167	4,165	2,146	6,311	1,729	4,172	5,901	3,964	2,085	.....	....	201	61
Horry	563	970	1,533	529	816	1,345	597	1,288	1,885	1,696	712	2,408	588	1,959	2,527	1,840	693	150	..	..	19
Kershaw	1,794	947	2,741	1,333	1,013	2,346	1,983	1,264	3,247	1,235	2,421	3,706	2,063	1,757	3,820	1,509	2,320	224	....	....	101
Lancaster	1,087	855	1,942	982	1,004	1,986	1,169	1,137	2,306	1,330	1,364	2,694	1,236	1,541	2,777	1,438	1,344	108	....	....	20
Laurens	3,022	1,967	4,989	2,153	935	3,088	2,892	1,815	4,707	2,259	2,844	5,103	1,804	2,916	4,720	2,916	1,804	657	....	....	1,040
Lexington	1,081	1,432	2,513	356	1,883	2,239	1,156	1,562	2,718	2,041	1,378	3,409	1,256	2,129	3,385	2,096	1,313	67	..	....	65
Marion	1,997	2,186	4,184	2,468	2,239	4,707	2,343	2,529	4,872	3,021	2,883	5,904	2,492	3,149	5,641	3,047	2,619	.....	....	34	264
Marlborough	1,449	1,145	2,594	1,538	78	1,616	1,841	1,322	3,163	1,583	1,925	3,508	1,608	1,945	3,553	1,690	1,864	115	..	....	61
Newberry	2,915	1,645	4,560	2,879	1,018	3,927	3,181	1,476	4,657	1,725	3,254	4,979	2,761	2,196	4,957	1,883	3,139	104	....	....	115
Oconee	627	900	1,527	411	1,078	1,489	582	1,238	1,820	2,046	703	2,749	524	2,083	2,607	2,018	631	29	..	....	72
Orangeburgh	3,797	1,693	5,490	3,444	835	4,279	3,779	2,014	5,793	2,181	4,384	6,565	4,469	2,870	7,339	2,558	4,801	371	417	..	.....
Pickens	612	775	1,387	486	256	742	591	745	1,336	1,815	545	2,360	408	2,002	2,408	1,920	512	111	..	..	33
Richland	3,500	1,382	4,882	3,364	760	4,124	3,974	1,491	5,465	2,162	5,036	7,198	3,857	2,435	6,292	2,107	4,212	.....	..	55	824
Spartanburgh	1,423	1,923	3,346	862	2,421	3,283	1,540	2,657	4,197	4,367	2,015	6,382	1,467	4,677	6,144	4,430	1,798	69	..	..	217
Sumter	3,593	1,004	4,597	3,268	1,183	4,451	758	4,091	4,849	1,827	4,362	6,189	3,859	2,382	6,241	1,967	4,295	138	....	..	67
Union	1,862	1,744	3,606	1,272	1,546	2,818	1,810	1,993	3,803	1,979	2,356	4,335	1,750	2,519	4,269	2,125	2,168	143	..	..	188
Williamsburgh	1,763	1,126	2,891	1,773	80	1,853	2,313	1,243	3,556	1,412	2,576	3,988	2,441	1,737	4,200	1,529	2,506	117	..	..	70
York	2,386	1,873	4,259	1,641	1,789	3,430	2,588	2,067	4,655	2,789	2,995	5,784	2,447	3,233	‡5,680	2,815	2,901	26	..	..	94
Total	85,071	51,537	136,608	69,838	36,553	106,391	80,403	68,818	149,221	74,199	110,744	184,943	91,127	92,261	183,388	‡72,946	‡85,965	6,531	928	328	6,727

* New county. † Record of white and colored votes not kept. ‡ Add for Charleston census: Number of whites, 7,398; colored, 17,667.

The annexed table of census and votes shows that in Edgefield County there were 2,252 votes more than were voters in the county, and in Laurens 657.

A comparison of the vote of 1876 with that of previous years in Edgefield, Laurens, and other counties shows not only great frauds, but that colored citizens in large numbers must have been intimidated into voting for the democratic candidates. It is impossible to conceive of a change so great in any other mode.[111]

It is very clear, then, that there is no reason for rejecting the electoral vote of South Carolina.

The agencies employed to defraud the lawful republican majority of the State out of their just rights surpass in enormity anything ever before attempted. The attempt to bribe William B. Nash, one of the republican electors, to vote for Tilden for President is clearly proved.[112]

It is sufficiently shown that D. H. Chamberlain, the republican candidate for governor, was elected over Wade Hampton, the democratic candidate, and that the republicans had a majority for all the candidates for State offices and for members of each branch of the Legislature.[113]

The Legislature was duly organized, the returns of the election for governor were duly "returned to the speaker of the house of representatives," who, as the constitution requires, did "open and publish them in the presence of *both* houses," and Chamberlain was declared elected and duly inaugurated. The two houses occupied the proper legislative halls in the capitol.

It was never pretended that any organized senate existed which did or could hear any returns published for Hampton. The fragmentary house which professed to declare him elected never had the election returns. It met in a private hall, and had no more authority than a town meeting, because there could be but one legal house. But, notwithstanding this, a fragment of the members of the house of representatives, without any authority, organized as a pretended house, a mere revolutionary body, and without a senate, proceeded to go through the form of inaugurating Wade Hampton as governor, and, with a few members of the senate, pretended to go through the forms of electing as United States senator General M. C. Butler, whose relations to the infamous Hamburgh massacre have been the subject of so much newspaper and other discussion and comment. The two legal, constitutional, and regularly organized houses of the general assembly elected in proper form Hon. D. T. Corbin, a gentleman of high character, integrity, and talents, as United States Senator, and he has been duly commissioned as such. The general assembly has adjourned. Governor Chamberlain, duly inaugurated and installed in office, is acting as governor, has the great seal of the State, and occupies the executive office in the capitol, while Wade Hampton is assuming also to act as such. In various forms the right of the rival claimants to act is before the courts. One of the circuit courts has decided that Chamberlain is in fact governor. Another has undertaken, in a collateral way, to decide he is not. (See Appendix to evidence, part 1.) But this is so manifestly without authority that it cannot be sustained. Upon the principles already shown, the decision of the speaker of the house in the presence of the two houses of the General Assembly is *conclusive* as to who is governor. The two houses are authorized to canvass the votes, and the result as declared by them cannot be called in question. (constitution, article 3, section 4,) except by a *direct proceeding* to contest the right to the office, as provided by the constitution and statutes of the State. (Constitution, article 3, section 4; revised statutes of 1873, page 32 section 28; Chase's Decisions by Johnson, Griffin case, 402.) The authorities already cited prove this. Bean *vs.* Thompson, 19 New Hampshire, 115; Ballou *vs.* Bangs, 24 Illinois, 184; Taylor *vs.* Skinner, 2 South Carolina, 696; State *vs.* Bloom, 17 Wisconsin, 54; the decisions of the electoral commission under the act of Congress of January 29, 1877, also prove it.

While this conflict, in the form described, is going on, anarchy and confusion prevail to a great degree all over the State. The determined resistance to law and lawful authority and the revolutionary condition of the people are producing disastrous results. These could be averted by quiet submission to lawful authority, which would restore peace, bring order out of anarchy, revive the prostrate industries of the State, bring happiness and prosperity to the people, and develop the wealth and resources which are so abundant in the genial climate of South Carolina.

It is well settled in all the authorities *on evidence* that it is the duty of the courts, and they are bound to *judicially know* the officers of the State. They are bound to know the great seal of the State. It requires no proof. There can be but one seal. Whoever, under color of right, occupies the executive office, acts as governor, and authenticates his acts with the great seal, is, in law, governor. There would be no order or peace if every pretender could assert a right to office collaterally in proceedings in court. Law and public policy forbid it.

The courts cannot inquire whether the regularly-acting houses of the General Assembly are lawfully organized. They have so decided themselves, and that decision is final. This is a *political question*, with which courts cannot interfere. Courts only have *judicial* power. The power to determine the organization of the General Assembly is *political*. Courts can neither make nor unmake legislatures. (Paschal, Annotated Constitution, pages 189–194, notes, 195–199; Scott *vs.* Jones, 5 Howard, 374; Luther *vs.* Borden, 7 Howard, 57; Missis-ippi *vs.* Johnson, 4 Wallace, 500.) The constitution of the State settles this question. By it each house is made the exclusive "judge of the election returns and qualifications of its own members."

This is certain from another consideration:

It rests with Congress to decide what is the established government in a State. (7 Howard, 57.) Until Congress acts, the President must decide, whenever called upon by the governor for troops, in pursuance of the Constitution. And State courts cannot control Congress or the President. The President has recognized Governor Chamberlain as the lawful executive, and this is conclusive until otherwise determined by Congress, or by a "contest," in pursuance of the Constitution and laws.

But the men who control the democratic party seem determined to maintain a condition of anarchy. They are refusing to pay taxes and otherwise to yield to the

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The Columbia Herald and Union, of January 24, 1876, shows the democratic frauds as follows:

In the table the classification of votes as to color is omitted in the county of Charleston, as it did not appear on the managers' returns. This is also true of the counties of *Edgefield* and *Laurens*.

In the county of *Wuliamsburgh* the classification appeared in the returns of the managers, except from two precincts.

In the last three mentioned counties this classification has been approximated, that process being possible on the reasonable assumption that those who voted for the republican candidate for governor were almost without exception colored men.

This approximation could not fairly obtain, however, in the case of Charleston County, because there is a considerable white republican element there.

Edgefield County is approximated as follows:

Colored voters by census of 1875	4,400
Votes cast for Chamberlain	3,107
Leaving number of colored voters unaccounted for	1,293
Votes cast for Hampton	6,267
Assuming that the colored votes as per census, yet to be accounted for, were cast for him, viz	1,293
And there appears as the actual white vote	4,974
Deduct the actual white vote as per census	2,722
And there remains to be accounted for as white votes in excess of the census	2,252

The fraud in this county stares boldly forth.

Laurens County is approximated as follows:

Number of colored votes as per census	2,844
Colored votes estimated to have been cast	1,804
Colored votes unaccounted for	1,040
Number of votes cast for Hampton	2,916
White voters as per census	2,259
Excess of white voters over census	557

But assuming that these 657 represent colored voters, and deducting them from the 1,040 colored voters unaccounted for, there still remain 383 colored voters unaccounted for, as per census.

Williamsburgh County is approximated as follows:

In this county there are eleven precincts. From one precinct where 157 votes were cast (as deducted from the county canvassers' returns) no managers' returns were sent up, hence no classification of the voters, as to color, can be made. At another precinct the classification of voters (as to color) is not made, but it can be reasonably assumed that the 125 voters for Hampton were white and the 245 for Chamberlain were colored. Adding the votes cast at the latter precinct to those cast at the other nine which are classified on the managers' returns, there is exhibited an aggregate of 1,529 white and 2,506 colored voters, or an excess of 117 whites over, and a deficiency of 70 colored from, the census.

Colleton County: It is to be remarked in connection with the statistics of the election in this county, that while the colored vote is 511 in excess of the census, the vote for Chamberlain is 54 less than the census of the colored voters and 565 less than the actual number of colored votes cast, while Hampton received 33 more votes than all the white votes cast, with the 511 colored excess added thereto.

In *Orangeburgh County*, where the aggregate excess of votes over the census was 788, Chamberlain received only 85 votes in excess of the colored vote, according to that census, and 332 less than the number of colored votes actually cast, while Hampton received 689 votes more than the whole number of white voters according to the census; 318 more than the whole number of white votes actually cast, and only 99 votes less than the total white vote cast, with the whole excess of the colored vote added to it.

If in *Charleston County* we deduct 1,000 votes from Hampton, as representing the white republican element, and give them to Chamberlain, and then deduct the same number of votes from Chamberlain and give them to Hampton, as the number of colored men who voted for him, the result remains substantially the same as to the excess of white (or Hampton) votes over, and the deficiency of colored or (Chamberlain) votes from, the census.

The difference between the total number of "votes cast in 1876," with the addition of the votes in Charleston, and the total vote cast for governor, represents the "scattering" vote in the State; or, in other words, the votes cast for persons other than Chamberlain or Hampton was 634.

The deficiency of 10,747 colored votes from the census is accounted for substantially by adding to the 8,727 votes in the column of "colored less than census" the 3,655 ascertained by deducting the colored vote received by Chamberlain in Charleston County from the colored census of that county.

The data in the table are official. Even on the extraordinary assumption that Hampton received every white vote in the State, according to the census, except the 1,000 accredited to Chamberlain in Charleston County, the pertinent inquiry remains, "Where did he get the 6,531 white votes which are obviously in excess of the census?"

[111] Upon this subject see "Report of the special committee of the house of representatives of South Carolina relative to the organization of that body and the constitutional validity thereof, adopted December 21, 1876," appended to these views as "Appendix F."

[112] See evidence, part 1, page 456.

To this may be added the fact that in advance of the meeting of the electoral college it was understood and proclaimed in democratic circles that the attempt would be made successful, as shown by the following extract, offered to be submitted to the committee in connection with the evidence of William Beverly Nash, January 22, 1877, from the Greenville Daily News, Greenville, South Carolina, Thursday, December 7, 1876:

TELEGRAPHIC.—NOON DISPATCHES TO COLUMBIA.

[Special to the Daily News.]

"COLUMBIA, *December* 6,

"The supreme court recognizes Wallace, and pronounces Mackey a private citizen.

"The democratic house organizes with a quorum of 63 members.

"The circuit court quashed the indictment against the Aiken rioters.

"Beverly Nash, republican elector, will cast his vote for Tilden to-day.

"R. H. K."

In addition to this, the party who attempted the bribery was duly summoned to appear before the committee at Columbia when entirely able to attend, and he refused. He was again summoned to appear in Washington, and refused. It is alleged in the report of the majority that he has sent an affidavit denying the allegations or evidence of Nash. But the so-called affidavit is not so authenticated as to show it to be genuine. It does not contradict the evidence of Nash, but is a mere evasion; it does not deny the interview with Nash, but admits it, and says:

"It is possible that deponent adverted to the fact, very generally discussed at the time, that there was large pecuniary interests, arising principally from betting, so affected by the election that many apprehended that large sums of money would be used to purchase votes."

The so-called statement of a physician as to the sickness of this party is without evidence of authenticity and is not under oath. Mr. Nash, the elector, is a highly respectable citizen, and no attempt has been made to impeach his reputation or character in any respect. His industry, energy, and honesty have enabled him to attain a high position for integrity and intelligence as one of the substantial citizens of Columbia and as a man of property and business capacity.

[113] See Appendix F to these views. Also the legislative journals, Appendixes G and H, and the "Proceedings of the pretended or 'Wallace' house of representatives," as published by the members thereof, Appendix I. Proceedings were instituted in the supreme court to contest the election of the republican State officers. These will be found in the appendix to the evidence (part 1) taken by the committee. It is well known that the court sympathized with and favored Hampton, the democratic candidate for governor, in his pretensions, but the referee appointed by the court to ascertain the vote of the State, after the most careful examination and upon full sworn testimony, made a report, including the following statement: [See tabular statement on next page.]

lawful "powers that be."[114] Hampton, without the shadow of law for his action, has assumed to appoint agents to collect taxes.

Labor is disorganized, industry is paralyzed, animosities and hostilities are engendered, and not only South Carolina and her people suffer, but the whole country. The people of each State are interested in the prosperity of all. The whole people are interested in having the cotton and rice crops of South Carolina abundant to supply their wants and to enable the people of that State to buy the products of other States. There is not and should not be, in any State among the people any feeling of hostility to South Carolina. They would all rejoice to know that her troubles were at an end. Their interests require, and the higher and holier motives of humanity demand, that there be an end of this condition of things. One or the other party must yield. The contest cannot continue always. To permit the overthrow of the State government by the minority democratic party, unsuccessful as they were in the recent contest, is but to invite similar attempts by defeated minorities hereafter. It would establish a precedent which would inevitably "return to plague the inventors." There is but one safe solution of the difficulty, and that is to recognize the officers declared elected in the forms prescribed by the constitution and laws. All who would otherwise advise are in effect, if not in fact, the

The State ex rel. R. M. Sims et al. vs. H. E. Hayne et al.—Referee's Statement B.

Counties.	Secretary of state.		Attorney-general.		State treasurer.		Comptroller-general.		Supt. of education.		Adjutant and inspector general		Attorney-general.			Comptroller-general.			
	H. E. Hayne.	R. M. Sims.	R. B. Elliott.	James Conner.	F. L. Cardozo.	S. L. Leaphart.	T. C. Dunn.	Johnson Hagood.	J. R. Tolbert.	H. S. Thompson.	James Kennedy.	E. W. Moise.	F. M. Sims.	T. C. Dunn.	Johnson Hagood.	R. B. Elliott.	James Conner.	James Conner, secretary of state.	Johnson Hagood, adjutant and inspector general.
Abbeville	3,706	3,799	3,705	3,803	3,707	3,799	3,703	3,803	3,710	3,794	3,708	3,798	.....	.....	.....	.....	.....	.....	.....
Aiken	2,422	2,420	2,332	2,559	2,422	2,421	2,337	2,257	2,421	2,420	2,421	2,420	.....	86	164	86	163	.....	.....
Anderson	1,166	4,128	1,156	4,133	1,164	4,131	1,165	4,130	1,171	4,122	1,162	4,127	.....	.....	.....	.....	.....	.....	.....
Barnwell*	4,128	3,943	4,044	3,722	4,107	3,944	4,038	3,732	4,107	3,946	4,107	3,945	.....	63	223	66	220	.....	.....
Beaufort	7,542	2,237	7,515	2,208	7,534	2,240	7,517	2,229	7,530	2,244	7,520	2,237	39	.....	.....	.....	.....	.....	.....
Charleston	15,071	8,768	15,037	8,789	15,064	8,776	15,060	8,772	15,057	8,785	15,061	8,684	.....	.....	.....	.....	.....	.....	.....
Chester†	2,434	1,980	2,434	1,981	2,432	1,980	2,434	1,979	2,432	1,982	2,434	1,979	.....	.....	.....	.....	.....	.....	.....
Chesterfield	990	1,531	986	1,557	986	1,636	988	1,620	990	1,623	989	1,623	.....	.....	.....	.....	.....	63	.....
Clarendon	1,891	1,423	1,890	1,427	1,893	1,422	1,889	1,423	1,891	1,424	1,891	1,424	.....	.....	.....	.....	.....	.....	.....
Colleton	4,225	2,917	4,217	2,924	4,227	2,918	4,223	2,915	4,225	2,916	4,223	2,920	.....	.....	.....	.....	.....	.....	.....
Darlington	3,512	2,748	3,513	2,747	3,511	2,748	3,510	2,749	3,511	2,740	3,513	2,748	.....	.....	.....	.....	.....	.....	.....
Edgefield	3,121	6,252	3,121	6,255	3,119	6,255	3,121	6,255	3,123	6,253	3,121	6,255	.....	.....	.....	.....	.....	.....	.....
Fairfield	2,868	2,130	2,862	2,133	2,868	2,128	2,867	2,128	2,868	2,131	2,868	2,130	.....	.....	.....	.....	.....	.....	.....
Georgetown‡	2,789	1,056	2,789	1,056	2,789	1,056	2,788	1,056	2,789	1,056	2,788	1,056	.....	.....	.....	.....	.....	.....	.....
Greenville	1,746	4,137	1,693	4,145	1,723	4,132	1,711	4,132	1,754	4,133	1,749	4,134	.....	.....	.....	.....	.....	.....	.....
Horry	592	1,919	585	1,916	590	1,914	590	1,902	592	1,923	593	1,923	.....	.....	.....	.....	.....	.....	.....
Kershaw	2,064	1,751	2,063	1,607	2,064	1,751	2,064	1,606	2,064	1,751	2,064	1,751	.....	.....	145	.....	145	.....	.....
Lancaster	1,242	1,531	1,243	1,530	1,248	1,530	1,243	1,530	1,248	1,529	1,248	1,529	.....	.....	.....	.....	.....	.....	.....
Laurens	1,810	2,910	1,810	2,911	1,810	2,911	1,810	2,911	1,810	2,911	1,810	2,911	.....	.....	.....	.....	.....	.....	.....
Lexington	1,276	2,109	1,271	2,110	1,260	2,112	1,283	2,105	2,285	2,166	1,283	2,109	.....	.....	.....	.....	.....	.....	.....
Marion	2,501	3,142	2,220	2,958	2,304	2,900	2,225	2,959	2,496	3,146	2,495	3,147	.....	269	187	269	187	.....	.....
Marlborough	1,608	1,941	1,608	1,941	1,608	1,941	1,607	1,941	1,608	1,941	1,608	1,941	.....	.....	.....	.....	.....	.....	.....
Newberry	2,811	2,143	2,812	2,144	2,808	2,145	2,807	2,145	2,812	2,144	2,811	2,144	.....	.....	.....	.....	.....	.....	.....
Oconee	523	2,078	508	2,074	512	2,077	526	2,078	527	2,075	526	2,078	.....	.....	.....	.....	.....	.....	.....
Orangeburgh§	4,498	2,838	4,495	2,840	4,491	2,843	4,498	2,836	4,500	2,840	4,500	2,837	.....	.....	1	.....	.....	.....	1
Pickens	404	1,990	397	1,994	396	1,990	398	1,990	408	1,984	404	1,983	.....	.....	.....	.....	.....	.....	.....
Richland	3,871	2,421	3,847	2,434	3,847	2,436	3,865	2,424	2,863	2,423	3,874	2,409	.....	.....	.....	.....	.....	.....	.....
Spartanburgh‖	1,506	4,627	1,506	4,623	1,505	4,622	1,506	4,622	1,509	4,620	1,506	4,623	.....	.....	.....	.....	.....	.....	.....
Sumter	3,884	2,358	3,881	2,353	3,881	2,357	3,878	2,354	3,880	2,363	3,877	2,360	.....	.....	.....	.....	.....	.....	.....
Union	1,803	2,463	1,800	2,463	1,803	2,461	1,803	2,461	1,803	2,463	1,803	2,460	.....	.....	.....	.....	.....	.....	.....
Williamsburgh	2,368	1,661	2,368	1,661	2,368	1,661	2,368	1,661	2,368	1,661	2,368	1,661	.....	.....	.....	.....	.....	.....	.....
York	2,446	3,228	2,446	3,224	2,452	3,221	2,451	3,224	2,452	3,222	2,452	3,222	.....	.....	.....	.....	.....	.....	.....
Total	92,798	90,519	92,159	89,919	92,593	90,448	92,273	89,929	92,804	90,671	92,777	90,567	39	418	720	421	715	63	1

* Hayne's vote includes 1 reported for "E. H. Hayne." †At Boyd's Store precinct 203 of Tolbert votes reported for "John R. Tolbert." ‡Tolbert's vote includes 532 reported for "John B. Tolbert." Dunn's vote includes 318 reported for "F. C. Dunn." §Tolbert's vote includes 1,298 reported for "John B. Tolbert." Hayne's vote includes 175 reported for "R. M. Hayne." ‖Tolbert's vote includes 85 reported for "John B. Tolbert." Dunn's vote includes 158 votes reported for "F. C. Dunn."

[114] This will be seen from the following address of the State democratic executive committee:

COLUMBIA, *December* 15.

The following address was issued to-day by the State committee:

ROOMS STATE EXECUTIVE COMMITTEE.

To the Democratic Party of South Carolina:

The inauguration of Governor Hampton and Lieutenant-Governor Simpson concluded the labors which the recent campaign devolved upon the State executive committee of the democratic party, and we take occasion to express our gratitude to the democracy of South Carolina for its unwavering support of every measure proposed, and our admiration of that spirit of forbearance, subordination, and fortitude which has secured universal praise. Amid the exciting and aggravating incidents of a most momentous struggle, enthusiasm has been tempered with prudence, zeal with calm judgment, and we are confident that the sublime patience so sorely tried by the events of the last eight years will still be exercised until the end.

The fruits of our victory are sought to be wrested from our grasp, and a usurping body, whose only prop is Federal bayonets, seeks to control the State. We feel assured that our government, which represents the will of the people, and is based upon the consent of the governed, will speedily become the recognized government in the State, as we firmly believe that the indignant protest of the entire people of these United States who are not slaves to party prejudices will sustain our action and vindicate our cause.

Our campaign has been conducted upon the basis laid down by our honored chieftain at the outset, and through peaceful and lawful agencies we won the victory, acknowledging the legal and political rights of all classes, and pledging ourselves to maintain them inviolate. We know that every pledge of the party will be redeemed. With kind feelings for the masses of the opposition, we must exercise magnanimity toward them. Generosity demands that proscription shall not be visited upon the rank and file of the opposite party, and we earnestly recommend that steps be taken at once to guarantee protection to laborers in every county in the State. Governor Hampton heartily concurs in this recommendation, and we have his authority to make it known to the public.

Under the severe trials of the present hour let fortitude mark the conduct of our party, and we urge every Carolinian, without regard to political affiliations, STRICTLY TO REFUSE ALLEGIANCE TO THE MONSTROUS USURPATION CLAIMING TO EXERCISE THE FUNCTIONS OF THE STATE GOVERNMENT, FIRMLY RESOLVING NEVER TO CONTRIBUTE ONE DOLLAR OF TAXATION FOR ITS SUSTENANCE, and steadily maintaining the verdict of the people at the ballot-box. Every interest of the present and every hope of the future age, the peace, prosperity, and happiness of the State for generations, demand a firm, unwavering, and persistent determination, never, under any circumstances, to recognize the pretended authority of a degraded and disgraced man, whose slander and vituperation of our people will always be remembered as the emanations of a vindictive and baffled politician and adventurer thwarted in an unholy ambition. THE ISSUE MUST BE MADE, AND TO YIELD IS TO SEAL THE POLITICAL FATE OF A BRAVE PEOPLE.

In conclusion we upon every one to resume the ordinary routine of business, and seek to widen the avenues of material prosperity, confiding their cause to the wisdom and conservatism of our beloved chief magistrate, whose course has won the confidence and excited the admiration of the civilized world. Under his guidance and protection the issue will eventuate in the complete freedom of our hopes and aspirations, unless constitutional liberty has perished in America.

A. G. HASKELL,
JNO. D. KENNEDY,
JAS. A. HOYT,
T. B. FRASER,
JOHN BRATTON,
R. O'NEALE, JR.,
Z. ADGER SMYTH,
State Democratic Executive Committee.

On the 29th January, 1877, the following dispatches were received at Washington from South Carolina:

"ANOTHER WAR OF RACES.

"Information of another war of races in South Carolina is received here to-day. It seems that Holloway, a colored justice of the peace, holding an appointment given him by Chamberlain, at Timmonsville, Darlington County, was requested by the whites to resign and make place for a justice appointed by Hampton. Holloway refused to do so, and on Saturday morning about two o'clock was called from his bed by a rifle club and murdered. When the negroes heard of the assassination the next morning there was great excitement, and, seizing their arms, they took to the woods, supposing Holloway's murder to be the signal for another Hamburgh affair. The whites raised the cry of "negro insurrection," swore in a rifle club as special policemen, and pursued them. Sunday night there was a slight collision, several being wounded. It is feared that more bloodshed will follow, but General Ruger has sent troops to the scene and may prevent it."

"NEW YORK, *January* 29.

"A Columbia (South Carolina) dispatch says: "At two o'clock a. m. on the 27th, at Timmonsville, B. O. Holloway, the Chamberlain trial-justice, was shot by unknown parties, near his door. The assassination fired the blacks, who immediately armed, and the whites organized a strong police force. The two parties came in collision on the outskirts of the town early yesterday morning, and the result was that two special policemen were wounded, when the whole force returned to town."

The following further shows the condition of affairs:

"ANDERSON, SOUTH CAROLINA, *January* 29, 1877.

"On Saturday a large number of republicans of Anderson assembled at the Greeley Institute to consider the political situation of the State. There were between six and seven hundred people present. G. D. Williams was made chairman and Henry Harrison was elected secretary. Several pointed addresses were made, after which appropriate resolutions were adopted, expressing loyalty to the government of D. H. Chamberlain as the only legal government in the State, resolving to pay taxes to him and none other, and agreeing to obey only his officers.

real enemies of the people of South Carolina. The effort at resistance now being made is only a prolongation of the spirit of rebellion applied to the internal affairs of the State. The people have had enough of this. It is high time to profit by experience. These difficulties are already beginning to drive laborers from the State. Others will inevitably follow if violence and lawlessness continue. As this process will go on, cultivated fields will become wilderness, and desolation will reign where there should be the happy abodes of civilized men. This condition of affairs long continued would leave the State but one remove above barbarism.

If the colored people, whose labor is so much needed in the State, could be driven from it by intimidation, terrorism, violence, and murder, their exodus would be followed by terrible retribution. The resources of the State would be undeveloped and all products of industry be largely reduced. The art of intimidation would not perish; rival parties among the white people would turn upon each other the practices which they in common have employed upon the unfortunate colored inhabitants. Internecine strife would continue, and the gloom of desolation and poverty would overshadow this people.

As a means of securing lawful elections in the future, the enforcement of existing laws is essential.

To secure the right of free discussion, the undersigned recommend the passage of a bill, as follows:

"A bill to protect free discussion.

"SECTION 1. That if any person shall by force, threat, menace, intimidation, or otherwise unlawfully prevent any citizen or citizens from assembling in public meeting, to freely discuss or hear discussed the claims or merits of any officer f the Government of the United States, or of any candidate for the office of Presi dent, Vice-President, or elector thereof, or Representative in Congress, or Dele gate in Congress from any Territory, or the laws or measures of Congress, or any measure, existing, pending, or proposed, affecting the Government of the United States, or any department or officer thereof, or if any person shall by any such means break up, disperse, or molest any such assemblage, or any citizen in or of such assemblage, when met or meeting to discuss or hear discussion as aforesaid, or shall by any such means prevent any citizen from attending any such assemblage, every person so offending shall be deemed guilty of a crime, and shall be liable to indictment in any court of the United States of competent jurisdiction, and on conviction thereof shall be adjudged to pay a fine not exceeding $500, or suffer imprisonment for a term not exceeding three years, or both, in the discretion of the court, and pay the costs of prosecution. And for all purposes of such elections, and the duties in relation thereto or growing out of the same, all such officers are declared to be officers of the United States."

Provision should be made also to prevent the practice of carrying weapons by large numbers of people at political meetings.

We also recommend the adoption of a joint resolution recognizing the government of which D. H. Chamberlain is governor as the lawful government of the State.[115] This is necessary to give security to property and protection for the civil and political rights of citizens.

And we recommend the adoption of the following:

"*Resolved*, That C. C. Bowen, John Winsmith, Thomas B. Johnston, Timothy Hurley, William B. Nash, Wilson Cook, and William F. Myers were duly appointed electors of President and Vice-President of the United States for the State of South Carolina at the election in that State, November 7, 1876, and that their votes for President and Vice-President, duly authenticated, should be counted."

All of which is respectfully submitted.

WILLIAM LAWRENCE.
N. P. BANKS.
E. G. LAPHAM.

[The Appendices A to I, both inclusive, referred to in the foregoing views will appear in House Report No. 175, Part 2, Forty-fourth Congress, second session, in their proper place, but are omitted in the RECORD.]

A meeting was held here also by the laborers of the county to protest against the wicked, persecuting spirit manifested by the leading land-owners and capitalists, who evidently desire to reduce free laborers again to a state of slavery.

The following preamble and resolutions were adopted:

We, the colored laborers, farmers, and mechanics of Anderson County, met in convention to consider the action of our white fellow-citizens, taken in a convention recently held at the call of the democratic executive committee, upon the subject of labor and in favor of proscription for opinions' sake, as men and as lovers of our own freedom feel that it is our duty to condemn and expose the oppressions sought to be imposed on American citizens because of their political opinions. We, as laborers, denounce as false all charges that we are actuated by hatred to our employers; nothing that we have said or done can warrant this assault upon us by white capitalists. We have been true to them for years as laborers; we were faithful to them in the late war and have been faithful since; it was our labor which kept alive a government organized to enslave us; we fed and sustained a soldiery which fought to keep us from freedom; we worked for their wives and little ones in their absence; it was our labor which maintained the widows and orphans of those fighting against our interests; it was our labor that built their fine dwellings; it was our labor which made their forts in Charleston as bulwarks against our freedom; it was our labor which educated their children, which built the railroads, which made the South what she is.

Knowing these things to be true, and that no malice has ever laid in our hearts against those who held us in slavery, that our conduct has been magnanimous and forgiving, we feel the present treatment of the white people as ungrateful and unjust. We, therefore, meet to protest against all attempts to curtail our right of free opinion and a free ballot, and adopt the following resolutions:

"Whereas the white landlords of Anderson County met in convention some time since and passed the following extreme resolutions to our detriment, namely:

"*Resolved*, That this convention adopt the actions of the labor question with the addition that republicans who supported the Hampton government and refuse to pay taxes to the Chamberlain government and who join the clubs be treated as democrats.

"*Resolved*, That the executive committee suggest that every democrat in the county be earnestly requested not to give any employment or patronage in any manner to such men as were prominent republicans, party or local leaders in the recent election, and that all assistance and encouragements be withheld from them.

"*Resolved*, That the treatment of the rank and file of the republican party be left unacted upon by our people for the present, and that after the 1st day of January next, if General Hampton is inaugurated governor, our people should be magnanimous to the rank and file of the republicans of this county, and that they be employed upon such differences between them and democrats as may be fixed upon by the different clubs to secure a just, deserved, and promised advantage to those who voted the democratic ticket.

"*Resolved*, That with a view to carrying out the foregoing recommendation we suggest that a complete list of all the voters in the late election be published forthwith in pamphlet or circular form; that the name of every democrat be printed in one list, by precinct, with the letter (W) or (C) to denote white or colored, and that the names of every republican be printed in another list, by precincts, with the letter (W) and (C) to denote white and colored, and that the names of all republican leaders be distinguished from the rank and file of the party by having an asterisk opposite to them, and that each club designate who are such leaders in the bounds.

"*Resolved*, That we recommend that the clubs proceed immediately to enroll the names of all colored men who are willing to join our organization, and that all who join before the 1st day of January next be treated as democrats in the contracts to be made for the coming year."

And whereas since the above resolutions have been circulated among the clubs many of us have been thrown out of employment because we will continue to be republicans, and are subjected to fear of want and other calamities; and whereas we have evidence that many of our fellow-laborers are now living in the woods and old fields, *in miserable huts, suffering from cold and want of food, having been driven from their homes because of their political opinions; and whereas we feel that some measures must soon be taken by us to relieve our distresses; and whereas it is evident that we cannot live among the white people of this State and preserve our liberty of opinion and political action, or without incurring their hatred and indignation:*

Resolved, That we indorse President Grant's late message to Congress, relative to the annexation of San Domingo to the United States, with a view to make it a home for the freed people of color.

Resolved, That we urge upon the President that he renew his efforts to secure such action by Congress in our behalf.

Resolved, That we ask our Senators and Representatives to give their aid to the President in this cause.

Resolved, That we urge upon our fellow-laborers in other counties of this State, who are similarly persecuted, to meet at an early day, say February 10, to consider what is best to be done to resist or to avoid the calamities sought to be put upon us for political opinion.

Resolved, That a copy of these resolutions be sent to the President of the United States, and to our Representatives in Congress, and to Frederick Douglass, esq., that they may use their influence in the cause.

Resolved, That the proceedings of this meeting be published in the Columbia Union-Herald, the New York Times and Tribune, the Washington Republican, and the Methodist Advocate, of Georgia, and that a copy be sent to the governors of the several States.

SEABORN McCURRY, *Chairman.*
MOSES LEE, *Secretary.*

Report of the minority of the subcommittee of which Hon John. F. Philips was chairman.

Hon. MILTON SAYLER, *Chairman, &c.:*

SIR: The undersigned, a minority of the subcommittee of the committee appointed to investigate the election in South Carolina under the resolution of the House of Representatives passed on the 4th day of December last, which subcommittee was appointed at Columbia under and in pursuance of a resolution, of which the following is a copy—

"DECEMBER 19, 1876.

"The question of dividing the committee was called up and agreed on.

"The Chair announced the following subcommittee, Messrs. PHILIPS, EDEN, and LAPHAM, to proceed to Charleston"—

begs leave to report that testimony was taken by said subcommittee at the city of Charleston, in said State, between the 20th day of December, 1876, and the 3d day of January, 1877; and from such evidence the undersigned submits the following as the leading facts established thereby, which are in the main chronologically stated:

THE GENERAL CANVASS.

The first republican meeting held in the State to ratify the nominations of the national candidates of the party was at Edgefield Court House on the 12th of August, 1876. The republicans advertised to speak at that meeting were Governor Chamberlain, General SMALLS, a colored member of Congress, Judge Mackey, and Mr. Hayne, the secretary of state. These persons left Columbia on the morning of the 12th of August. As the train reached Edgefield County crowds of white democrats, dressed in red shirts, with revolvers in their belts, were at the stations. They entered the cars inquiring for the governor and that "nigger Congressman." When the party reached Edgefield Court House large crowds of white men were found there and seen coming in from all directions on horseback, hooting and yelling. By reason of this it was decided best that the meeting, which was to have been held at the court-house square, should assemble at the academy grounds, about a mile outside the town. Before removing, a committee of the democrats demanded of the republicans an equal portion of the time at the meeting. To this the republicans replied it was a special meeting called to ratify the nomination of Hayes and Wheeler, and the request was refused. As the republicans formed in line and started, with a band of music, for the academy grove, the democrats, under the command of General Butler, of Hamburgh notoriety, and General Gary and others, also started for the same place. At a street-crossing General Butler ordered the republicans to halt and let the white men pass. In this way they reached and surrounded the platform before the republicans arrived there. What occurred at the meeting is stated by General SMALLS in his evidence, which is uncontradicted:

When we got to the platform General Butler demanded half of the time, and wanted to know whether we were willing to give it, and that if we did not they intended to have it by fair or by foul means. Governor Chamberlain consented that he should have half of the time. Governor Chamberlain was introduced first. We undertook to elect the chairman of the meeting, and General Butler said, "No; we do not want a chairman." He said, "We intend to govern the meeting; it shall be a fair and square one, and every man shall have thirty minutes each to speak." Governor Chamberlain was introduced first. Then the white clubs all sang out, "No, he shall not speak. General Butler must speak first." General Butler got up and told them to be quiet, to hear Governor Chamberlain speak, that he would have the reply. They of course then kept quiet. When Governor Chamberlain had spoken about five minutes, they commenced to interrupt him by calling him all kinds of names.

Question. Where were the white men?

Answer. Around the stage. They rode around the stage, and the republicans had to go behind their horses.

Q. How many of them were there?

A. I should judge between six and eight hundred were there that day.

Q. How were they armed?

A. They were armed with revolvers; some of them having as many as three revolvers buckled to their side.

Q. Did any of them have rifles?

A. One man had.

Q. Was there any use made of revolvers?

A. No, sir; except that they had them in their hands. I myself saw a man on the limb of a tree, right over Governor Chamberlain's head while he was speaking, who had his pistol pointed down at him; and General Gary shook his finger at him to stop. They were hung over the platform in the trees. Then General Butler took the stand and spoke thirty minutes without interruption, and heaped a great mass of abuse upon Mr. Chamberlain. In his speech he asked the crowd whether

[115] See in the Congressional Record of January 17, 1877, the petition of Governor Chamberlain and Lieutenant-Governor R. H. Gleaves, asking Congress to uphold the lawful and constitutional executive and legislative departments of the State.

Wade Hampton also presented a similar petition.

they were white-liners, and they answered no. He asked them again if they were Ku-Klux, and they said no. "Well," he says, "there is the man, ROBERT SMALLS, [pointing to me,] who has used my name in the halls of Congress as being the leader of Ku-Klux. I dare him to open his lips on this stand to-day." And the cry was heard from everybody, "Kill the damn son of a bitch! Kill the damn nigger!" After General Butler got through, Judge T. J. Mackey took the stand and spoke about twenty or twenty-five minutes amid a great deal of interruption from the democratic clubs.

Q. Did he speak for the republicans?

A. Yes, sir; he was one of the republican speakers. Mr. Chamberlain, Secretary of State Hayne, and myself were the republican speakers. After Mackey had gotten through, General Gary took the stand, and his speech was confined principally to abusing Mr. Chamberlain.

Q. Personal abuse, was it?

A. Personal abuse, sir. He charged him with everything. And when he had been speaking about twenty minutes he said to the crowd, "Must I hit him again?" And they said, "Yes; give him some more." And he looked around upon Mr. Chamberlain and said, "You damn bald-headed renegade and bummer of Sherman's army, and now so-called governor of South Carolina!

Judge Mackey then attempted to speak in defense of Governor Chamberlain, but was hooted down by the white men, and General SMALLS was threatened with his life if he attempted to speak, and left without doing so. Over fifteen hundred colored people were at this meeting entirely without arms, while the whites were all armed and mounted on horseback. As the republican speakers were on their return to Columbia, the witness SMALLS describes the scene as follows:

"We got into the cars. They stood all around the windows, and one fellow said, 'Where is that fellow SMALLS; bring him out of the car; let us have him out here.' I sat at the window, but paid no attention to it. Then four or five of them came into the car and walked through, and said, 'Where is that nigger Congressman,' and passed along. One fellow said, 'Here he is;' and he then passed between me and the door and stood up and looked back at me, and said, 'Let us have a lock of his hair.' One of them said, 'No, damn it, he won't come back here again.' Another said, 'Let us get him out and hang him; that is the only way to keep him from coming back here.' With that the conductor pulled the string and the train started off.

"When we got to Johnson's Station another crowd came in the car and went through pretty much the same thing, till we got down to what is called Ridge Spring Station."

SECOND MEETING AT EDGEFIELD COURT HOUSE.

The Republicans held another meeting at Edgefield Court House on the 14th of October, 1876.

This was after the proclamation of Governor Chamberlain commanding the rifle clubs to disperse. Mr. Thompson, a United States commissioner, whose evidence is uncontradicted, thus described the occurrences at this meeting:

Mr. LAPHAM:

Q. Please state the occurrences of the day there without my asking particular questions.

A. I went there as a United States commissioner. There were five or six United States deputy marshals also with the party. This was the first meeting called by the republican executive committee after the nomination of Governor Chamberlain, and they made a point to have these meetings undisturbed, if possible, by the efforts of democrats to what they called "dividing time." They did not intend at that time to divide any time. They intended to have the meeting their own. When the meeting was called for this Saturday by the republican executive committee the democrats in Edgefield postponed several of their meetings and requested——

The CHAIRMAN, (to the witness.) State only facts of your own personal knowledge, and not what you heard.

The WITNESS. I know this from publications in the newspapers. I saw the notices myself. I am the editor of a newspaper. I saw the notices in the newspapers that the democrats were invited to be present at this meeting. It had been asserted in the newspapers that Governor Chamberlain was to address this meeting. He had been advertised to address the meeting, and when we got to Batesville, or Batesburgh, as it is sometimes called, on the Augusta and Columbia Railroad, when the train stopped at the station two or three men came into the cars with uniforms of red shirts, and one of them carrying a pistol in his hand, and walked through and examined everybody in the car. I think three got on there, and there were others outside of the car, on the platform, looking in at the windows and in at the ends of the car, and asking for Chamberlain.

Q. Was he aboard?

A. No, sir, he was not aboard. At other stations, all the way along, these men would get into the car and walk through the car and examine the passengers.

Q. Were these men armed?

A. Yes, sir; armed with pistols.

Q. And uniformed in red shirts?

A. Had their red shirts on. When we got down to Pine House, which was the station you get off at to go to Edgefield, which is eight miles from the railroad, we found a company of United States troops there, and there we got into hacks and drove off, and passed a body of United States troops going into the village. The streets of the village were filling up with bands of men coming in from different sections, on horseback, mounted and in uniform.

Q. What kind of uniform?

A. Red shirts; that is the only kind of uniform they had; soft black hats and red shirts?

Q. You went, then, to the meeting?

A. Yes, sir; we went to the meeting, and got to the meeting about eleven o'clock, I should think. A large gathering of the republicans was held at what they called Academy Grove—an old, dilapidated school-house.

Q. How many were assembled there?

A. I should think there was twelve hundred of them. After one or two speeches had been made, probably an hour and a half after the meeting had assembled, General M. C. Butler rode up to the meeting and asked Colonel Low (who was the chief marshal) if he might bring his men around the republican meeting. Colonel Low replied that he could act on his own responsibility about it; so he rode away, and in a few moments the cavalry commenced filing down the hill toward the meeting. They rode four abreast, and they came down and passed up near where I was standing, and finally encircled the whole meeting. They made a complete circle right around the meeting.

Q. Encircling the stand and all?

A. O, yes, sir; the meeting was right in the center, and they passed completely around it.

Q. Did they include the speakers' stand?

A. Yes, sir; the speakers' stand was in a grove under the trees, and they just encircled the grove, and then they halted a moment, and General Gary proposed three cheers for Hampton and Tilden, and they continued to cheer for a quarter of an hour, I suppose.

Q. How many were there there?

A. I should say there was as many as fifteen or sixteen hundred.

Q. All mounted?

A. All mounted.

Q. How were they uniformed?

A. Every one of them had their red shirts on.

Q. What arms, if any, had they?

A. They had no arms, except pistols, that I could see.

Q. How did they wear their pistols?

A. Generally strapped around them on the outside by a belt.

Q. Each one, or more?

A. Some had more than one, some had two, and some of them had them in their boot-legs.

Q. Revolvers, were they?

A. Yes, sir; they were under excellent discipline.

Q. Who had the command?

A. General Butler was in command. He had General Gary and four or five others as aids, like.

ABBEVILLE COURT HOUSE.

It was also shown that at a republican meeting held at Abbeville Court House on the 18th October, 1876, the democrats in large force were uniformed and armed as at Edgefield, and made similar demonstrations of force and violence, but did not break up the meeting.

BLACKVILLE.

Also, that at a republican meeting at Blackville on the 19th October, 1876, six or eight hundred mounted men, uniformed in the same manner, were present, and to some extent disturbed the meeting.

NEWBERRY.

Also, that at a republican meeting at Newberry, shortly after this, a large crowd of mounted men came to the meeting, and what then occurred was described by the witness Thompson, as follows:

By Mr. LAPHAM:

Question. The next meeting was, you say, where?

Answer. At Newberry.

Q. What day was that?

A. I do not recollect. I think it was the Saturday following that meeting; I think it was.

Q. What time did you get there?

A. We got there about eleven o'clock.

Q. Was there any military companies there?

A. There was one or two companies there of United States soldiers.

Q. How many men?

A. I really do not know; thirty or forty. When we arrived at Newberry there was a very large crowd of both blacks and whites at the station; the whites were uniformed and on horseback.

Q. How many of each, giving your judgment?

A. Well, I should think there was four or five hundred of each.

By Mr. EDEN:

Q. That was at the depot?

A. Yes, sir; right at the depot. As soon as the speakers got out of the cars they started immediately to get to the court-house, where the meeting was to be held. That was right in the middle of the town, and they went up on to the front steps of the court-house to speak. The cavalry moved up on one side of the court-house, and gradually forced the crowd away from in front of the court-house.

By Mr. LAPHAM:

Q. Were they on horseback?

A. Yes, sir; these red-shirted men.

Q. How many of them were there?

A. Well, I should think there were eight or nine hundred of them by this time, coming in all the time. The republicans were gradually forced around to the side of the building, or to the end of the building rather, so that the speakers could hardly be seen; could not be heard at all. They made a great many attempts to speak; but the noise was so great, and the interruptions were so frequent, they could not be heard.

Q. Noise by whom?

A. Noise by this cavalry in front of the court-house. They were cheering for Hampton, and it was impossible to hear the speakers, and they finally gave it up. A great many attempts were made by the democrats to get the cavalry to go away and let the republicans have their meeting.

Q. That is, by the citizens you mean?

A. By citizens of the town; yes, sir. A great many of them endeavored to do so, but it was impossible; they could not get them to move.

Q. What did they say as to their purpose, if anything?

A. I do not know. I did not come very much in contact with them so as to hear them speak. I saw them several times ride through the republican meeting; bodies of them forced their way through the crowd, and finally the republicans were all driven pretty much out to the edge—to the rear of the building.

Q. How were they armed?

A. I did not see any arms except pistols.

Q. How did they bear their pistols?

A. Well, most of them had them strapped to their waists. They were fastened to a belt; just an ordinary belt around the waist.

Q. How many pistols did they carry?

Q. Some had one, and some two.

Q. Revolvers?

A. Yes, sir.

Q. Do you know who was in command that day?

A. No, sir; I do not know who was in command.

Q. How many were there there at any time; what was the largest number who appeared there?

A. I do not think there were more than eight or nine hundred at the Newberry meeting.

Q. Was the republican meeting given up?

A. It was for that day. Another was ordered for the next week.

Q. Did you see any arms in the hands of the republicans who attended these meetings?

A. No, sir.

Q. Did you see them have any arms?

A. I did not see any; there may have been republicans who had arms, but there was none exhibited.

Q. At either of the meetings?

A. No, sir.

Q. You were not at any of the earlier meetings of the canvass, were you?

A. No, sir. I attended another meeting afterward at Newberry.

Q. You adjourned to another day; did you go at the day appointed?

A. Yes, sir; it was the following week, I think. At that meeting there was no demonstration made by the rifle clubs at all.

Q. They did not appear there?

A. No, sir; as United States commissioner, I had taken about one hundred and fifty or two hundred names of men who had been there.

Q. How large a meeting was it?

A. At this second-meeting, do you mean?

Q. Yes, sir.

A. Not near as large as the first one.

Q. About how large?
A. I should not think there was more than six or seven hundred.
Q. How many were there there the first day when the meeting was broken up?
A. Near twice as many, I should think.

STRAWBERRY.

It was also shown, and not in any manner contradicted, that at the first republican meeting held at Strawberry, in Charleston County, over a hundred mounted white democrats, armed with breech-loading rifles—seven-shooters—came to the meeting and occupied the front and left of the stand, sitting on their horses with their guns across the horses. At this meeting Mr. Jervey, Mr. Barker, and Mr. Rhett, democrats from Charleston, were speakers, and demanded half the time, which, under duress, was accorded to them. The republicans were without arms.

BRONSON AND LAWTONVILLE.

It was also shown that in the last week in September, or the first week in October, a republican meeting was held in Bronson, Beaufort County, at which Mr. Bampfield, General Smalls, Senator Green, and others were advertised as speakers. The meeting was about three o'clock p. m. The next day another meeting was held at Lawtonville, in the same county, at an earlier hour. Thomas E. Miller, a member of the Legislature, gave to us the following account of these two meetings:

By Mr. LAPHAM:

Question. Where did you go?
Answer. We got off the cars right on the platform, and there was a large crowd of both races there, both white and colored.
Q. How many?
A. I should think the whites were between four and five hundred.
Q. How many colored men?
A. Between two and three hundred. As soon as we got on the ground a committee from the rifle clubs—the white rifle clubs—came to the republican speakers and demanded a part of the time.
Q. What did they say about it?
A. They say we hold no meeting there unless they have the right to alternate with us and close the meeting.
Q. Did they say anything other than that that you remember?
A. Well, during the conversation we refused at first. They said, "Well, unless you do that there will be no meeting." We acquiesced, and went from the depot to the place where we held the republican meetings generally. It was under a few trees. The meeting was organized and a motion was made that peace-officers be appointed, and eight from each political party be appointed. The meeting was organized by us electing a chairman, and the democrats immediately elected their chairman. The motion was made, as I stated, for peace-officers to be appointed, eight from each political party—sixteen; and upon the motion being put by the democratic chairman, (Mr. Hoover,) Hal Richardson, from Allandale, Barnwell County, who had command of the several Barnwell rifle clubs——
The CHAIRMAN. Did he have those clubs there with him?
A. Yes, sir; his rifle clubs was there. He rose and said: "Mr. Chairman, I object to any peace-officers being appointed, for, on behalf of the gentleman from Barnwell County, I state that we will hear speeches if they are not damn radical lies; but if the radical speakers intend to deliver their incendiary harangues, I will not vouch for the peace being kept by the gentlemen from Barnwell." And that statement being made, Mr. Hoover did not put the motion, and no officers were appointed. The meeting was organized. Nathaniel B. Myers was the first speaker on our side. As soon as Myers mounted the stand, some one from the crowd hallooed "Time," and Myers ceased to speak; and a white man, I did not know him, said, "These niggers have sticks, and we have left our rifles at the depot." As soon as the announcement was made, the chairman of our party requested the colored men to give their sticks up, and as soon as the command was given by our chairman, a democrat, who was sittting down in front of the box where we were speaking, threw up his revolver and said, "Damn them sticks: they ain't nothing. Here is plenty of pills that will take care of the mulatto sons of bitches;" and as he did that four or five other white men drew their pistols out and threw them down at their feet.
Q. Inside of the stand?
A. Right in front of the stand; not five feet from it.
Q. How many revolvers were thrown down there?
A. I saw five, sir.
Q. What did they say as they laid them down?
A. They said there was sufficient pills here to satisfy the mulatto sons of bitches. That was the expression of one man. One man spoke and drew his out, and as he drew his out three or four others did the same thing.
Q. Were they revolvers or single-shooters?
A. Revolvers, sir.
Q. What next occurred after that?
A. After that was done everything was quiet.
Q. You say that one republican had spoken and a man took the stand when this interruption took place?
A. Mr. Myers was on the stand when this interruption took place.
Q. A republican had spoken?
A. Mr. Myers was speaking; he was a republican; and while he was on the stand——
Q. He had not finished yet?
A. No, sir. While he was on the stand a party remarked that these niggers had their clubs there, and he stopped there; and while he stopped our chairman said the colored men should bring their clubs up. After Myers got through speaking, the next was a white man—I forget which democrat it was—and we alternated until we got through; but we were insulted from the time we commenced our meeting until we were through, by answers, "You are a liar," or "That is a damned lie."
Q. There were such expressions used?
A. O, yes, sir; very frequently.
Q. Who was speaking when such remarks were being made?
A. Such remarks were made when I was speaking, and such remarks were made when Mr. Bampfield was speaking.
Q. Do you remember any other expressions?
A. No, sir.
Q. What time did the meeting close?
A. The meeting closed about sunset. Orders was given by the several military companies, as we term them, and the men formed and went to the depot and got their guns.
Q. Did you hear the orders given to fall in?
A. O, yes, sir. I also heard, at the close of the meeting, when Hal Richardson, of Allendale, ordered the officers of two clubs to proceed over to Lawtonville the next day, two of the rifle clubs.
Q. When you reached there were these men at the depot?
A. They were at the depot.
Q. Had they their arms then?
A. They had their arms then.
Q. Where did they put their arms?
A. They left their arms, some of them, in the depot, and some of them in the stores, sir.
Q. Did you see that yourself?
A. O, yes, sir. I saw them putting their arms in the depot and in the stores.
Q. Where did they leave their horses?
A. The horses were hitched about to the different trees and posts in the neighborhood. Bronson is a place of a few houses, trees growing up indiscriminately, sir. They were mounted during the meeting.
Q. About how many white men were there armed that day?
A. Between four hundred and five hundred, sir.
Q. Were there any colored men acting with them?
A. There was one speaker that they had there, a colored speaker, by the name of Voss.
Q. In the military organization, I mean?
A. No, sir; I saw no colored men at all.
Q. Do you know where those white men were from?
A. The companies that Hal Richardson had under his charge, sir, were from Barnwell, some of them all the way from Blackville, forty-five or fifty miles from where the meeting was held.
Q. Was he the commander?
A. He spoke to me, sir, and told me he was commander-in-chief.
Q. Did he assume the command?
A. Yes, sir.
Q. How far is Bronson from Allendale?
A. Allendale is on the same line of road, about fifteen miles from Bronson.
Q. That far from this meeting?
A. Yes, sir.
Q. In another county?
A. Yes, sir; Barnwell County.
Q. How is it as to the colored men being armed that day?
A. Some of the colored men had guns.
Q. How many?
A. I saw five guns.
Q. What kind of guns?
A. The ones I saw were the old plantation-muskets and shot-guns. I saw nary rifle on the ground. There was muskets and shot-guns.
Q. Have you stated all that occurred there that day?
A. Yes, sir.
Q. Did you hear anything said there about laborers?
A. Yes, sir. At that meeting you could hear the white men saying if the colored men did not vote the democratic ticket they would discharge them. I heard that. That was general and customary at all the meetings up there. It was the common talk and threats all over the county.
Q. This meeting at Lawtonville the next day, who was that called by?
A. By the republicans, sir; by our county chairman.
Q. Were you advertised to speak there?
A. Yes, sir.
Q. Who else?
A. Mr. Myers, Mr. Bampfield, General Smalls, Senator Green, and others.
Q. It was called by the county chairman of Beaufort County?
A. Yes, sir.
Q. What hour was that meeting called for?
A. That meeting was called for twelve o'clock.
Q. Did you go?
A. I went, sir.
Q. How far is Lawtonville from where you now live?
A. My permanent home, do you mean?
Q. Yes.
A. It is just three miles, sir, from my house. When that meeting was called, I was not living there then; I had left. When we got there, sir, we met a large crowd of both races there.
Q. How many of each?
A. Well, sir, I should think there was between three hundred and four hundred colored men there, and no more than three hundred white men at the outside, sir.
Q. Were the white men armed?
A. Yes, sir; they all came there armed. The two companies that came over from Bronson left their rifles in the school-house, about a quarter or a half mile from the place where the meeting was called. I saw them putting the guns in there myself, for we traveled the same road.
Q. Were they the same two companies that were at Bronson the day before?
A. Yes, sir.
Q. And was Richardson with them?
A. Richardson was not with them.
Q. Who was in command of them?
A. I don't know. The party who did command them was a stranger to me, sir.
Q. How far was this school-house from the place of meeting?
A. Between a quarter and a half mile. It was in sight of the meeting, though, sir.
Q. Were they mounted or on foot?
A. Mounted, sir. The men that came over from Bronson were all mounted.
Q. Had they any other arms than their guns?
A. Yes, sir; every one of them had their revolvers in their belts, sir. You could see them just as plainly, sir, as if they had——
Q. Were they in sight?
A. Yes, sir; they were in sight.
Q. What occurred there?
A. Nothing, as far as it related to the Bronson meeting. At the Lawtonville meeting there was no intimidation there by words or by acts—the negroes were in the majority there, we outnumbered them—only as relates to myself.

The witness also stated that the same demand for a division of time was made at this meeting as at Bronson the day before. It was at first refused, but on the white people threatening to break up the meeting a division was allowed.

Several other witnesses were examined as to these meetings, confirming the evidence before stated, and there was no contradictory proof.

CORRESPONDENCE BETWEEN COLONEL HASKELL AND GOVERNOR CHAMBERLAIN.

In confirmation of this, and to show the prominent events in the earlier part of the canvass, the undersigned proved and put in evidence the correspondence between Colonel Haskell, the chairman of the democratic State committee, and Governor Chamberlain, also given in evidence at Columbia, and printed in part 1, pages 349 to 368. The letter of Colonel Haskell bears date the 28th of September and Governor Chamberlain's answer the 4th of October. It was shown that this correspondence was published in the republican papers, and a pamphlet edition of a thousand copies was printed and circulated as a campaign document. In this it will be seen Governor Chamberlain gives a full review of the policy of his administration, as published in the Charleston News and Courier, the leading democratic paper in the State, which article closes as follows:

"Under the several heads the savings that have actually been made are:

In the bonanza bill	$400,000
In the executive contingent fund	101,260
In legislative expenses	350,810
In contingent expenses	355,000
In public printing	512,418
Total	1,719,488

"To realize this amount would require a tax of nearly 1½ per cent. Had the appropriations of the past two years been as inordinate as the average of the appro-

priations and expenditures of the preceding years, the State taxes of the past two years would have been ¾ per cent. a year more than the outrageous rate actually levied.

"This is the record of Governor Chamberlain, as shown by hard figures and unmistakable facts. We have strained or exaggerated nothing. The plain truth as we know it has been faithfully given. And we maintain that the record as it stands is one of which Governor Chamberlain has cause to be proud, that it justifies the support which has been given him, and is a complete answer to those of our friends who think that no act of Governor Chamberlain deserves public commendation but his refusal to issue the commissions to Whipper and Moses. This bold act, applauded everywhere in South Carolina, has not been mentioned in these articles." * * *

The governor also gives a detailed account of the riots for political purposes, notably those at Hamburgh, Ellenton, and Charleston; the violence resorted to at political meetings, especially those at Edgefield, Newberry, and Abbeville, to which reference has been made; the proscription of workingmen; of democratic bondsmen for republican officials, and the threatened refusal to rent houses or lands to any one who voted the republican ticket; of the democratic rifle clubs, and the various acts of violence which they had committed; and closes with the statement that the republican voters are not organized for successful resistance to the organizations he has described; that to call upon them to resist or suppress them would only invite or precipitate conflict, and that his reliance must be on the presence of United States troops.

Mr. Thompson testified that neither Mr. Haskell nor anyone else, to his knowledge, made any reply to the statements contained in the governor's letter.

INTIMIDATION.

In the light of these events it will not be difficult to arrive at a correct interpretation of the evidence before the subcommittee as to the conduct of the election in Charleston and Beaufort Counties. They are counties where the colored population largely exceeds the white, and each giving large republican majorities. Having the example set by whites of demonstrations of force and the policy of threats and intimidation for political effect, it would be strange indeed if they should not, upon provocation, imitate to some extent that example.

WHALEY'S CHURCH.

The first case inquired into by the subcommittee will afford an illustration. Mr. Hard, one of the managers at Whaley's precinct, Mr. Chors, the democratic supervisor, Mr. Smith, and Rev. Mr. Leadbetter, all white men, were examined.

They state that the colored voters came in clubs or groups, some had canes or clubs, and some had guns, but they were not exhibited until in the afternoon; four or five o'clock. Before that the guns were stacked seventy-five to a hundred yards from the polls. They state the republicans had a rallying committee and examined every man's vote; also, that after September it was a remark heard among colored men, "That a colored man who would vote the democratic ticket ought to be killed." This the witness who proved it said he did not regard as a threat, but a mode of expressing opposition to colored men voting that ticket.

There were 600 votes polled; only ten or twelve white voters, all democrats; and 18 democratic votes cast.

They state that there was one disturbance during the day, which Rev. A. P. Ford, republican candidate for the assembly, and for six years a member, helped to suppress. About five o'clock in the afternoon the colored men came up near the polls with their guns, sang "Hold the Fort for Hayes and Wheeler," and fired a salute. This was, as they admit, after the voting was nearly completed, and all the officers united in signing the returns without protest as to the fairness of the election.

ATTEMPTS AT BRIBERY.

The said Ford was then examined, and proved that on the Saturday night before the election, after he had retired, and between ten and eleven o'clock, the said Chors, the democratic supervisor, came to his house in Charleston City. The following account of the interview between himself and said Chors was given by said Ford:

By Mr. LAPHAM:

Question. Have you a family?
Answer. Yes, sir.
Q. What does it consist of?
A. My family consists of four, sir; wife and two children.
Q. Did any one call on you the Saturday night before the election?
A. Yes, sir.
Q. Who?
A. Mr. C. H. Chors.
Q. What does he do?
A. He is a planter, too, on Saint James Goose Creek. He called on me on a Saturday night, about the 5th of November.
Q. The Saturday night before the election?
A. Yes, sir.
Q. Did he hold any office on election day?
A. Yes, sir; he was the democratic United States supervisor.
Q. What time did he come to your house that Staturday night?
A. He came to my house between ten and eleven o'clock. I had gone to bed. That is in the city here.
Q. You were here then?
A. I was here in the city
Q. You have a house here?
A. Yes, sir; No. 13 Lion street.
Q. Did you see him?
A. I did, sir.
Q. Where did you see him?
A. On my piazza, sir. He came into the yard.
Q. Did you get up and dress?
A. I came down stairs after I heard he was there, dressed myself, and came out to see him.
Q. How long did he remain there?
A. He staid about half an hour, sir, talking with me.
Q. State what he said?
A. Well, sir, his conversation was this: He told me that he had a set of tickets that he wanted to get up in the interest of the democrats, and wanted me—knowing that I would carry that precinct—to destroy the republican ticket; that if I would use my influence in the interest of these tickets which he had I was to name the sum—whatever amount I would name he would go down Monday and have it deposited subject to my order, and I could just go there and get it.
Q. Did he describe what the ticket was?
A. The ticket was to head Wade Hampton as governor.
Q. And what electors?
A. Well, he was to put on all his men, and he would put on myself if I would use my influence for the ticket.
Q. Did he state who the electors would be?
A. Well, his electoral ticket would have been Tilden and Hendricks. I asked him over again, "Who did you say you were going to put on that ticket?" Then he said, "Hampton and Tilden and Hendricks and all the county officers," and of course he would put my name on the ticket. I told him right there and then that he mistake his man. I told him that I could not be a deceiver. And then he said to me, sir, that he thought it was a chance where I could make some money, and on that ground he thought he would give me an opportunity to do it. I told him life and liberty was more to me than all his money. He said to me, "Then if you do not propose to do it, between man and man not to make any mention of what transpired between me and him;" and I tell him, of course, I would not call his name. But I tell him I thought he would not approach a man like me to try to do a trick like that, when the people had confidence in me. I tell him that; and then that was the last conversation between him and me. I tell him good night. He tell me if I made up my mind to do it, I could see him at the Pavilion Hotel on Sunday. Of course I didn't see him until that Tuesday morning—the morning of the election. I did not see him from that Saturday night until the morning of the election.
Q. Who of your family saw him on that night beside yourself?
A. My mother-in-law and my wife. My mother-in-law came up-stairs and told me some one wanted to see me.
Q. How long have you known Mr. Chors?
A. Well, I have known him before the war and during the war.
Q. Did he mention any sum of money?
A. No, sir; he wanted me to state what I would do it for.
Q. Did he state where the money was?
A. He even told me that the executive committee—that I would not have to go to the executive committee, but all I was to do was to say what I would do it for, and he would have it done.
Q. Was anything of that kind ever said by him to you or you to him before that?
A. No, sir. That was the first time he ever approached me on that subject.
Q. He knew what your politics were?
A. O, he knew, sir; that is the reason he approached me.
Q. You have always been a republican?
A. Always, sir.
Q. Were you a slave?
A. Yes, sir.
Q. When were you released from slavery; when the slaves were freed?
A. Yes, sir.
Q. You were released by the emancipation proclamation?
A. I was, sir.
Q. Had you any education at that time?
A. No, sir.
Q. What means have you had for getting an education since?
A. Well, sir, in the night-time, sir.
Q. You have acquired what knowledge you have by your own effort; you never attended any public school?
A. No, sir.

This evidence was not controverted. The witness Ford also gave a full account of the events at the polls on election day, a part of which is as follows:

By Mr. LAPHAM:

Question. What time did you go to the election?
Answer. I got there about five o'clock in the morning.
Q. Did any one go with you?
A. Yes, sir; William Singleton and a young fellow by the name of Graves, who was acting as clerk at the poll that day.
Q. What position did Singleton hold?
A. Singleton was the republican supervisor.
Q. What time did you see Chors?
A. He came there about seven o'clock, or thereabouts.
Q. Did you have any conversation with him?
A. When he came he sent to call me, and I sent I hadn't time to see him.
Q. Did you have any conversation with him that day?
A. Well, sir, I had, about ten o'clock. There was a report made there that one Devoe was buying votes, and in that time there was some little excitement got up that this man was bribing the men by buying votes. This William Singleton he was supervisor, and he went, according to the statement that was made, to arrest Mr. Devoe; and after he was arrested Mr. Chors came to me and spoke to me in regard to it, that he didn't think Devoe was buying votes, and if I would not ask Singleton to let Devoe go.
Q. Mr. Chors said he didn't think Devoe was buying votes?
A. That is what Mr. Chors said. Then I told him that this man Singleton was an officer, and that I didn't like to interfere with it.
Q. Was anything more said?
A. In the course of about an hour or so Devoe went away in a buggy where he came from, and everything went on quietly after that.
Q. Had there been any disturbance that morning up to the time Devoe was arrested?
A. No, sir; not a word. They were more friends than anything else.
Q. How was the election conducted after Devoe went away?
A. I state on my honor that everything I seen went on quiet. I state that on my honor, sir; it was quiet, sir; it was quiet from that time until the polls were closed in the afternoon at six o'clock.
Q. Was there a person there about whom there was something said for voting the democratic ticket?
A. Away in the afternoon, about five o'clock—the polling-precinct is about one hundred yards from the State road—a young fellow was going off, and they said that he voted the democratic ticket, and he said he didn't care a damn about who liked it or not; and I seen the men going to talk, and I went to them myself, and I said, "It has been peaceable all day; don't let us have any fuss."
Q. What was this person's name?
A. Mitchell.
Q. He was boasting that he had voted the democratic ticket?
A. He was boasting, sir.
Q. Repeat what he said.
A. I heard him damning and cursing. His word was, "By God, he would vote as he damned please, and who in the hell can better it?" I heard that word.
Q. What did the men do?
A. Then I seen the men commenced to go toward him, and I went at once and said, "Now, we have had a quiet day; now, don't let us have any interruption at all." And every man stopped.
Q. Do you remember at about what time the poll closed?
A. Precisely at six o'clock. When it closed it was six o'clock by Mr. Hard's watch.
Q. Did he make the announcement?
A. Exactly; he did, sir.
Q. Was it yet dark?
A. Yes, sir; it was pretty dark. It was a clear day; I think it was a little darker than it is now.
Q. Getting dusk?
A. Yes, sir.
Q. How many votes were there polled there?
A. Six hundred.
Q. How many republican and how many democratic?
A. Five hundred and eighty-two republican votes and 18 democratic, sir.
Q. Did Mr. Chors say anything to you after the poll closed, or about the time it closed?
A. Yes, sir; after the poll was closed Mr. Chors came and took me by the hand, and he says——

By Mr. EDEN:

Q. Was this conversation after the polls had been closed?
A. Yes, sir.

By Mr. LAPHAM:

Q. How soon after?
A. Right away after.
(Mr. PHILIPS objected to the admission of the testimony.)
The WITNESS. After the poll closed, Mr. Chors grasped my hand and said to me, "Ford, let me congratulate you on the manly way you conducted the poll this day. We could not have had a fairer election in the State."
Q. What did you do then?
A. I raised the tune, "Hold the fort."
Q. You proposed that?
A. Yes, sir; I was singing, "Hold the fort."
He also stated that after the song was finished, and as the men started for home, some of them fired off their guns, They had shot-guns and muskets, which they are accustomed to take in going to and from the election to shoot game in the woods. He said there was no use of the guns made during the day. There were no rifles there. He also testified that about nine o'clock he discovered a ticket like that mentioned by Chors Saturday night, and that six of them were voted that day. That Chors sent to him requesting an interview after he came to the polls, and he (Ford) refused to see him; but other white men requested him not to make a noise about that ticket, when he held up his ticket and said, "There is the republican ticket, and the other is bogus."
Another witness confirmed the statement of Ford as to the time of the singing and when the guns were fired.
It is of this precinct the majority say, in the first page of their report: "The conduct of the colored republican voters is indefensible, and on principle ought to vitiate the entire vote." They snuff intimidation afar off, but have no word of condemnation of the admitted infamy of a democratic official (Chors) to procure by BRIBERY and FRAUD the whole vote of the precinct for the candidates of his party, with one or two exceptions. The fact that the ballots were scrutinized and required to be shown, to prevent the consummation of the attempted fraud when discovered on the day of election, is dwelt upon as a violation of the election law and of the sacred right to vote "a concealed ballot." The undersigned can see in the facts thus narrated abundant cause for all the watchfulness and excitement proven, and in answer to all complaints of the majority about this first chapter of intimidation and wrong will employ the language of the guilty author of all the disturbance:
"After the polls closed, Mr. Chors came and took me by the hand and said, 'Ford, let me congratulate you on the *manly way* you conducted the poll this day. We could not have had a fairer election in the State.' "

BIGONS CHURCH.

The next precinct about which evidence was given was Bigons Church. It was shown that the whites, about twenty-five in number, went armed with rifles, and stacked their guns a part of the time in the room back of the polls and part of the time had them in their hands. There were only five or six white persons in Bigons Church precinct; the rest were sent there by "influential men," as one of the witnesses stated, because the "negroes would intimidate democratic negroes, and they wanted as many whites as possible." The first white peace-maker thus commissioned and the first witness examined stated that he went with a *rifle and a pistol*. Others who went were armed in the same way. A part of the colored men had guns, and the rest common walking-sticks, which the colored people always carry. The colored men left their guns a hundred and fifty yards from the polls, and came up separately and singly to vote.
No violence was used; no threats made that day; no complaint made of the fairness of the election; all the officers signed the returns. Among the witnesses called was Tony Scott, of this precinct, who confessed that he attended a meeting at Strawberry, where he was announced as one of the republican speakers, and consented to act as such, but intended all the time to make a democratic speech, and did attempt to do so, but the republicans compelled him to leave the stand, and he was *"afraid after that."*

STRAWBERRY FERRY.

At Strawberry Ferry, another precinct, both white and colored voters had guns, the latter the greater number, as their numbers were treble those of the whites. "Nobody was hurt;" the managers all signed the returns, agreed as to the count, but the white men made a protest "*that the clerk was not sworn; that the polls were not opened at the usual hour; that democrats were prevented from voting the democratic ticket,*" and other grounds not remembered. Mr. Colcock, president of the democratic club, drew up the protest. All who came to the polls voted. All the challenges made were sustained but two, in which persons challenged as minors swore they were of age.
The remaining evidence as to other precincts in Charleston County, and as to the events at a Hampton meeting in Charleston City, is not of sufficient importance as affecting the canvass to deserve extended comment or consideration.

HILTON HEAD.

Evidence was given as to a disturbance which occurred at Mitchelville precinct, on Hilton Head Island.
It was proven that of sixteen white voters ten were democrats and six republicans. There were four hundred and fifty-odd colored republican votes. A white man named McFall, who worked land on the island, had been a slave-holder, and claimed to be on good terms with the colored people and their professed friend, was engaged in peddling ballots among the voters. About ten o'clock a disturbance arose. McFall complained to Mr. Drayton, one of the managers, that the colored people had ordered him from the polls, and he appealed for protection. Drayton read the United States law, but the colored men became more violent. They drove McFall from the polls. The colored people were not armed. McFall stated they took all his tickets away from him and told him if he would leave the ground and not come back till after six o'clock, they would not kill him; that he agreed to go, but before starting he said "he would come back after six and give three cheers for Tilden and Hampton, our next rulers." Upon these statements it would appear that the treatment of McFall was without provocation. It was proven, however, later in the investigation, by evidence uncontradicted, that McFall had attempted to circulate a fraudulent democratic ticket, in imitation of the republican ticket in both the heading and color of the ink, and, being detected in it, was driven from the polls as above stated. Complaints were open and vehement about his conduct. McFall admitted to Dr. Wilder that day that he had circulated the tickets, but denied that he represented them as republican tickets. The ticket was as follows:

UNION REPUBLICAN TICKET.

VICTORY.

[Cut of an eagle.]

For President—Samuel J. Tilden.
For Vice-President—Thomas A. Hendricks.
For presidential electors—At large, Theo. G. Barker, Samuel McGowan; first district, John W. Harrington; second district, John Isaac Ingram; third district, William Wallace; fourth district, John B. Irwin; fifth district, Robert Aldrich.
For governor—Wade Hampton.
For lieutenant-governor—W. D. Simpson.
For secretary of state—R. M. Sims.
For comptroller-general—Johnson Hagood.
For State treasurer—S. L. Leapheart.
For attorney-general—James Conner.
For State superintendent of education—H. S. Thompson.
For adjutant and inspector-general—E. W. Moise.
For Forty-fifth Congress—fifth district, G. D. Tillman.
For solicitor, second circuit—F. Hay Gantt.
For State senator—William Elliott.
For house of representatives—James W. Moore, John Lawton, C. J. C. Hutson, Daniel Washington, Abram P. Jenkins, William J. Gooding.
Sheriff—Owen F. Duke.
For clerk of court—H. G. Judd.
For judge of probate—Charles E. Bell.
For school commissioner—B. F. Buckner.
For county commissioners—Henry R. Williams, William Russell, Cupid Heyward.
For coroner—W. S. Washington.
Constitutional amendment—Yes.
[All printed with red ink.]
One or two of these ballots were found in the box.
The following is the regular ballot of the republicans at said election:

UNION REPUBLICAN TICKET.

VICTORY.

[Cut of an eagle.]

For President—Rutherford B. Hayes.
For Vice-President—William A. Wheeler.
For presidential electors—At large, Christopher C. Bowen, John Winsmith; first district, Thomas B. Johnson; second district, Timothy Hurley; third district, William B. Nash; fourth district, Wilson Cook; fifth district, William F. Myers.
For governor—Daniel H. Chamberlain.
For lieutenant-governor—Richard H. Gleaves.
For secretary of state—Henry E. Hayne.
For comptroller-general—Thomas C. Dunn.
For State treasurer—Francis L. Cardozo.
For attorney-general—Robert B. Elliott.
For State superintendent of education—John R. Tolbert.
For adjutant and inspector general—James Kennedy.
For Forty-fifth Congress, fifth district—Robert Smalls.
For solicitor, second circuit—Samuel J. Lee.
For State senate—Samuel Green.
For house of representatives—Thomas Hamilton, Hastings Gantt, Joseph Robinson, George A. Reed, Nathaniel B. Myers, Thomas E. Miller.
For sheriff—William Wilson.
For clerk of court—Samuel J. Bampfield.
For judge of probate—A. B. Addison.
For school commissioner—Thomas H. Wheeler.
For county commissioners—Robert J. Martin, Renty F. Graves, Vincent S. Scott.
For coroner—Allen W. Muckenfuss.
Constitutional amendment—Yes.
[All printed with red ink.]
No other disturbance took place at this poll, except a sailor by the name of Lightburn offered his vote, at which there was excitement; but he refused to swear in his vote, being challenged, and the election was quiet the rest of the day. All the managers signed the returns without protest or complaint.

GRAY'S HILL.

At Gray's Hill precinct a similar attempt at imposition was made by Mr. Porteus, the democratic supervisor. He and Mr. Van Ness, the democratic manager, went there together from Beaufort. There were four hundred and seventy-six colored voters. Van Ness handed a package of tickets to Porteus, who, as he states, put them on the window where the voters could see them and said, "Here, men, are the tickets for you to vote." After a while Porteus went out among the voters, and one of them asked him what he meant by bringing out those democratic votes. Porteus said he came with the man who brought them. They drove him into the room where the ballot-boxes were, told him that was his place, and threatened him if he came out again. Before he reached the room they snatched from him his instructions, which he attempted to read. It was proven that the tickets Porteus thus attempted to put in circulation and palm off upon the uneducated colored voters were the same kind circulated by McFall at Hilton Head, and above given, and the excitement arose from the discovery of that attempt. Porteus was compelled to admit that he voted the same ticket himself, and Van Ness says the managers signed the returns without protest. Porteus tried to get a colored man, his former slave, to electioneer for the red ticket he was trying to circulate, of which a witness named Hayward gives the following account:

Question. What was he doing?
Answer. He was around the poll electioneering.
Q. Did he have any ballots?
A. Yes, sir.
Q. What occurred there? If there was any disturbance about his ballots, state what it was.
A. There was no disturbment at all, sir.
Q. Was there anything said about the ballots he was circulating?
A. Yes, sir; he called to me and asked me to go and electioneer for the Hampton ticket.
Q. Mr. Porteus requested you?
A. Yes, sir.
Q. What did you tell him?
A. I told him I could not do it.
Q. What further did he say?
A. About the time that I and him commenced talking, we was talking to ourselves privately, and then all the boys begin to come around him and asked him to pay them what he owe them for chopping wood for him; and I told him then—he used to be my old boss, and I didn't want to get into no fuss—I told him his business was in the house, and he had better go back in the house, and he went as far as the door; and he called me again and hand me a bunch of tickets, and asked me to go around and electioneer again, and I told him I couldn't. He told me if I would electioneer the Hampton ticket that I would be a man if Hampton get in power.
Q. What did you say to that?
A. I told him that if I had to be a man by electioneering for General Hampton, that I didn't think I would. Then he asked me why I would be so foolish, and my reply to him be, that if I had my hand in the rattlesnake's mouth, and somebody would be good enough to open his mouth and let me get my hand out, I don't think I would be fool enough to put it in again; and then Mr. Porteus went in again in the house.
Q. What became of the ballots he gave you?
A. I didn't take them out of his hand at all.
Q. What further occurred?
A. After that he came out again and tried to electioneer again, and found he could not do any good, and he didn't say any more about it.

Q. Where did he go to then?
A. He went back in the house again, sir.

This witness also testified that he had been manager and supervisor at every election which had been held at that precinct, and it was as fair an election as they ever had. Porteus said he was perfectly satisfied with the election at the time and of the quietness observed. Some of the fraudulent tickets were found in the ballot-box.

ATTEMPTS AT FRAUD.

It was proved that the same kind of ticket was attempted to be put in circulation in other parts of Beaufort County; but by the timely vigilance of General Smalls, who made the discovery at Beaufort, the success of the attempt was prevented. It thus appears that at the various precincts where the claim of the greatest violence is made deliberate efforts to bribe and cheat the electors and managers were made. To a people conscious of their want of education and smarting under the charge of their alleged inferiority, such attempts cause more intense feeling and excitement than with electors differently surrounded. They explain all the worse features of the evidence taken. That such persons should be jealous of their rights and indignant at such attempts to violate them is natural.

The evidence fails to disclose the fact that any material change in the vote was the result. Evidence was also given of a violent personal assault by a colored barber named Barnes, *alias* Polite, residing at Beaufort, upon one Jenkins, another colored man. Only the account of the affair given by Jenkins was heard; but it appeared that the trial justice before whom complaint was made turned the matter over to a United States commissioner, by whom the barber was held to bail as for a political offense, and that the grand inquest at the district court at Charleston dismissed the case and presented no bill, thus demonstrating it was not a political offense, as charged and sought to be proved.

It was also shown that one Peter Jones, who had been in some manner involved by his refusal to join in a laborers' strike in July last, and who was punished for not acting with the strikers, was interfered with on election day at Gardner's Corner, or near there. His horse was taken and left with a person in the neighborhood—a friend of Jones—but he stated he voted the democratic ticket. He was foreman, and had $20 per month, while laborers only had twelve, and the feeling against him did not appear to partake of a political character. He states electors, from fear, did not vote that day, but did not give names or particulars.

LAWTONVILLE AND LAWTON CHURCH.

Evidence somewhat conflicting was given as to the occurrences at Lawtonville and Lawton Church election day, but the returns were signed by all the managers, and without protest.

There was an after-election occurrence, as stated in the report of the majority, an assault on one Peter Johnson, an attempt to resist the officers in arresting the perpetrators, and all parties concerned are now under arrest. The affair, much as it is to be regretted, does not seem to have any special connection with the canvass.

THOMAS E. MILLER.

The report of the majority as to the circumstances under which Mr. Thomas E. Miller was compelled to leave his home is not, in the judgment of the undersigned, a fair representation of the case. I prefer to let Mr. Miller, whose statement I believe to be the truth, speak for himself, rather than to use language of my own.

After stating he was a resident of Lawtonville up to July last; that he is a native of the State; that he was educated at Lincoln University, Pennsylvania, and admitted to practice law in 1874 by the present judges of the supreme court; that he is a republican, and was called to defend a man by the name of Mix—a colored man—on a charge of malicious trespass on the property of one Nathaniel Ellis, he gave the following account of the trial and subsequent events:

By Mr. LAPHAM:

Q. Was he a democrat?
A. O, yes, sir. And for his being a money-lender he owns pretty near every poor white man in that section of the country financially. Upon the day of trial he had from twenty to forty white men summoned there, because he knew he had no case at all.

The CHAIRMAN. Confine yourself to statement of facts.

The WITNESS. He had from thirty to forty white men summoned upon the day of trial, armed with revolvers, and some of them with shot-guns. When I got up to address the trial justice, for I would not have a jury, I denounced the procedure as a malignant persecution.

Q. You claimed that as counsel?
A. Yes, sir, as counsel; and I used the word that it was conceived in fraud, and that I would so prove it before I was through. That is the height of the language I used against the Ellis family. The old man sprung to his feet, with knife in hand, in court, and demanded that I should retract. I modified my statement, and his son, an ex-trial justice, whom I had removed for his damnable procedure against the negroes in that section of the country—there is where the political spite comes in—appeared as attorney for his father. He accepted my modification. The old man was kept in his seat by his son, Madicus Ellis, who is now in town here. As soon as a decision was given in favor of my client, I walked out of court, mounted my horse, and started away from the crowd. As I mounted about fifteen white men mounted also, but remained where they had mounted in their saddles. As soon as I got into the road, so I could see before me, I saw five young white men on foot, with clubs in their hands and revolvers in their belts. As I approached them, Jeff Ellis, the son of old Nat Ellis, said to me, "You mulatto son of a bitch, you, stop!" And as he said that, young John Joe Schueman, jr., who has been killed since in a riot, caught my horse by the rein, and as he caught it, Ellis dealt me a blow along here [indicating] with a spoke out of a Jersey wagon, which felled me from the saddle; and as I fell to the ground—my senses had not yet left me—Ellis repeated the blow. I was picked up, I suppose, for I did not know who did it, by the men, and carried to the trial justice's house, for when my senses returned I was in his piazza, and was bleeding. Old man Ellis, as soon as I arose upon my feet, said, "It will cost as much for a half-dead nigger as a whole one. Let us kill the nigger son of a bitch, for this is a white man's country, and no damn nigger lawyer shall remain here." As soon as he said that, an elderly white man, by the name of Bill Cuyler Johnston, threw himself in the small gate that led into the flower-garden, and which would give them access to where I was, and said, "For God's sake, men, let us not have another Hamburgh affair." Ellis said, "Move, Bill, and let us kill the nigger." Mr. Johnston said, "No, I will not, for the eyes of the nation are now on us; let us act as men." After much persuasion he got the men to retire from the smaller gate out to the large gate into the road. He then came into the piazza and said to me, "Miller, I knew you and all your parents, both white and black, from the days of boyhood," and he said, "Won't you go home and let these Ellises alone?" I told him I would not make any such promise; that I would sue them. Then he said, "Miller, you are excited now, and mad. Won't you defer this matter until Thursday of next week?" That was on Saturday. I told him, "Mr. Johnston, there is no delay with me; I mean what I say." "Well," he says, "you will not go home if you mean it. These men will not allow you to go home alive unless you promise to defer the matter." Then after he told me that I would not be allowed to go home alive unless I postponed the matter and to give him an answer on Thursday, I made him a promise that I would wait until Thursday. Upon Thursday morning, the day promised by me to give an answer, about sixty men, armed with revolvers and shot-guns and pistols, assembled before my door and stacked their guns against a log that lay parallel with my fence. About nine o'clock Mr. Johnston came. They awaited Mr. Johnston's arrival—Bill Cuyler Johnston. He came in a buggy with young Jeff Ellis, the man that dealt the blow upon the Saturday before. I admitted him into my house, and refused to let any other white man come through the gate, but kept the crowd back, and he came in. After a conference of about one hour, I concluded, for my safety as a republican, that I would have to leave that country, and I left and went down to Grahamville, from information coming from democrats themselves, and not from republicans.

The CHAIRMAN. What do you propose to prove?

Mr. LAPHAM. I offer to show the advice that Johnston gave the witness in this interview as an inducement for him to go away.

(Offer overruled.)

By Mr. LAPHAM:

Q. Who is Mr. Johnston?
A. He is a large farmer, sir; an ex-slaveholder, and a South Carolinian.
Q. Is he a democrat also?
A. Yes, sir.
Q. A friend of the Ellises?
A. A friend of the Ellises; they were boys together.

This witness further stated that he had been active in politics as a republican since 1872; had often addressed political meetings in Beaufort County; that he was elected to the Legislature in 1874, and again at the last election; and that he had procured the removal of a son of Mr. Ellis in 1864 from the office of trial justice, and the criticisms upon his evidence in the majority report are, in the opinion of the undersigned, unwarranted by the testimony taken.

DANGER OF NEGRO RULE.

The slur upon him and his race, as "unfit and incompetent for such an important trust" as that of managers and officers of election; that they are accustomed to act "without propriety and heedless of responsibility," which is contained in the report of the majority, is also unwarranted by the evidence.

They are quite as safely to be trusted with an honest and fair franchise as white men who first try to scare and then endeavor to bribe and cheat them by reason of their supposed weakness and imputed ignorance. It is not the ignorant colored men who are looked upon in the State as objects of danger, but rather the educated and intelligent, who are able to defend themselves and to expose all attempts to coerce, cheat, defraud, or purchase them.

Mr. Hurd, who was captured with the electoral returns in Abbeville County by armed white men and carried into Georgia, his life threatened, and finally released on his promise never to return to the State, gives the real feeling of the white South Carolinians about "smart colored men" in the following incident in his testimony:

"About dark Stark and Bradley and a man named Kelley—they had gone back to the house and they came up to me with a pistol at this time, and he said, 'Well, Hurd, it's night now and darkness hides all crimes.' I begged them not to kill me, and I said, 'I am willing for anything if you just don't kill me.' Says he, 'O, by God! it's no use; that is what we have been waiting for;' and they asked which I would rather, be hung or shot. I told him *I had never been killed, and I didn't know which*, but I hoped they would not kill me at all. I told them I was not ready to die. They asked me if I could get ready in fifteen minutes. I told them I didn't think I could. This man Kelley had his shot-gun, and he told them to let him shoot me, that he would do it, no matter what I said. Stark said my life was in his hands, and, says he, 'You know, Hurd, that I hate you as I do the devil; you are just as if you were hanging over hell.' Says he, 'I would rather kill you than twenty common niggers, because you have some sense, and you would do more harm than twenty common niggers.'"

It would seem as though a bright, educated, intelligent man as Mr. Miller appeared to be, of whom Johnson said, (as Miller himself stated it,) "I knew you and all your parents, both white and black, from the days of boyhood," might escape the ostracism of South Carolinians and the censure and criticism of a congressional committee; but he "has some sense, and can do more harm" to South Carolina democrats "than twenty common niggers," and hence his selection as the object of reproach in the report of the majority.

Considerable evidence was taken tending to show that colored voters gave assurances to their employers before the election that they would vote the Hampton ticket, and it was also testified to by one witness that a number of colored men went to Charleston to attend a Hampton meeting and from fear staid away from the place of meeting. The negroes feared they would be discharged on one hand, and the reproaches of their race for political infidelity on the other, added to which their natural inclination to vote the republican ticket, if left free to act, doubtless induced them to some extent to dissemble as to their real purposes and to resort to excuses for a seeming violation of assurances given in voting the republican ticket. Such are by no means uncommon occurrences in the States where electors claim more independence and intelligence and are left free to exercise their choice.

The undersigned has answered the report of the majority as to the claim boastingly made in the report of the majority that there was no violence by democrats on election day in Charleston and Beaufort Counties. The few whites were armed, and carried in many instances their arms to the polls, but, finding the colored people prepared to meet them and greatly outnumbering them at each precinct, wisely concluded that "discretion was the better part of valor," and resorted to the *peaceable remedies* of attempts at bribery and cheating in the form and color of the ballots.

The pacific purposes of the white democrats is illustrated by the fact, proved without controversy, that on Monday of the same week the committee reached Columbia several thousand of the white rifle clubs, armed with rifles, assembled in Columbia. No other object can be imagined than the forcible inauguration of Hampton for governor. It was published about that time that Hampton said "he held the life of Governor Chamberlain in his hands." On Tuesday evening these men were addressed by Hampton in the street, to whom he said, "Gentlemen, I do not know what you are here for; you have come to attend the fair; but, if so, you come one day too soon." The next evening they were addressed, at the same place, by Mr. Moise, a candidate on the democratic ticket, who said, "Gentlemen, I want you all to go home. The congressional committee are coming here to-morrow, and we want to see no demonstrations of such crowds while they are here."

Had the law been enforced, it is claimed by the majority, "Charleston and Beaufort Counties would have destroyed the majority in the State for Hayes and Wheeler."

CHARLESTON COUNTY.

The vote in Charleston in 1870 was 13,411 for the republican candidate and 6,980 for the democratic, giving a republican majority of 6,431, and a total of 20,391. In 1876, the vote was 14,952 for the republican ticket and 8,653 for the democratic ticket, giving a republican majority of 6,199, and a total of 23,605. While the vote was increased over that of 1870 over three thousand, the republican majority was not a large as in 1870. By the census of 1875, the voting population of the county was, whites, 7,398, and colored, 17,787; total, 25,085. This exceeds the actual vote by 1,480. The republican vote was nearly three thousand less than the colored voters, and the democratic vote over 1,300 more than the white voters.

BEAUFORT COUNTY.

In Beaufort County, the republican vote in 1870 was 4,125, and the democratic vote 1,016, giving a republican majority of 5,109, and a total vote of 7,141.

In 1876 the republican vote was 7,570, and the democratic vote 2,250, giving a republican majority of 5,320, and a total of 9,820. Although the vote was over twenty-five hundred greater than in 1870, the republican majority is nearly the same. By the census of 1875, the voting population of the county was, whites 1,760, and colored 8,241; total, 10,001. This exceeds the actual vote by over a hundred. The republican vote is over six hundred less than the colored voters, and the democratic vote is five hundred greater than the number of the entire white voters of the county.

EDGEFIELD COUNTY.

In Edgefield County, where the violence of the campaign is proven as above stated, a similar comparison shows the following results:

In 1870 the republican vote was 4,547, and the democratic vote 3,704, giving a republican majority of 843, and a total of 8,251.

In 1876 the republican vote was 3,123, and the democratic vote 6,257, giving a democratic majority of 3,134, and a total of 9,380.

By the census of 1875 the voting population was 2,722 whites and 4,400 colored, making a total of 7,122.

The vote of 1876 exceeded the entire voting population by 2,258. While the republican vote was 1,267 less than the colored voters, the democratic vote was 3,535 more than the white voters. The whole excess is in the democratic vote.

A similar comparison would show like results in other counties, and conclusively establish the frauds practiced by the democrats in the election.

CONCLUSION.

The undersigned can find no reason to doubt that if the canvass in the State had been free from violence and fraud the republican majority would have been sufficiently large to elect all the candidates for State officers and to have largely increased the majority for the Hayes and Wheeler electors, as shown by the face of the returns.

E. G. LAPHAM.

The committee appointed by the House of Representatives to inquire into and report upon the condition of political affairs in South Carolina, having held its first sessions in the city of Columbia for the investigation of facts connected with the appointment of presidential electors, was divided into three subcommittees, of which two were directed to proceed to the city and county of Charleston, and to investigate and report upon the political condition of the seaboard counties. The undersigned, a member of one of these committees, of which Hon. A. G. COCHRANE was chairman, presents the following observations upon the subjects brought before that committee, with his reasons for dissenting from some of the conclusions of the majority of its members.

THE CITY OF CHARLESTON.

From the foundation of the Republic, as well as during the earlier period of colonial history, Charleston was an important social, financial, and political center of the Southern States. It was for a long period one of the most important cities of North America. The founders of its industries developed the capacities of soil and climate, and enlarged the agricultural products of the country by the addition of staples that held out to them for a time a flattering prospect for the control of the industrial pursuits of all civilized nations. Its commerce extended to every sea. It was a center of art and fashion. The first artists of Europe and America were proud of its approval and grateful for its patronage.

Josiah Quincy, jr., of Boston, said, in his journal of a visit in 1773, that in grandeur, splendor of buildings, decorations, equipages, shipping, and commerce, it surpassed all he had seen or ever expected to see in America. And a nobleman of France said, a few years later, (1796,) of its society, that whatever might be said of European gentility, in no part of the globe was hospitality so much practiced as in America, and nowhere with more refinement, sincerity, and grace than in Charleston, South Carolina.

Its churches were unsurpassed in utility and elegance by any public buildings of that day, and now, after the lapse of a century and a half, they are not inferior to the best architectural structures of the present time. Its public journals, in their day, were counted among the most enlightened and influential organs of opinion. Its advocates stood at the head of the legal profession of the country. Its orators and statesmen exerted a powerful influence upon the Government, and for a considerable period may be said to have been its masters. Indifferent to office themselves they were able to bring aspirants for political favor to their feet, and to destroy those who had the courage to resist their demands, just as a seal hunter, by a tap on the nose, disables his game in the waters of Alaska. Only one man—the greatest of the earlier presidents except the first—was recognized by them as superior or even an equal in political power, and he was a native of South Carolina.

The city did not present to the committee of the House of Representatives the brilliant aspect which has been ascribed to its earlier history. Its glory had departed, and the mourners went in silence about the streets. Despondency rested upon the faces of men, and grief for what had passed was suppressed by apprehension of the future. When a man reaches the summit of a hill, his immediate danger is a descent on the other side. A surfeit of the necessaries of life is often the immediate cause of sudden death. The people of South Carolina suffered from excess of prosperity and happiness, and the continual submission of those who sought their favor to their constantly increasing demands, tempted them to heights from which they were sure to fall. Such an extraordinary and sudden change necessarily became a subject of contemplation for every thoughtful visitor. That which the committee saw in 1876 was the natural effect of this transformation, and what it heard were the muffled chimes that mark the inevitable change which occurs in a life attended in its course with nothing but songs of joy. An investigation and explanation of the causes of this change would be too much to expect of an average committee of the House of Representatives. The proper consideration of these important events that led to the prostration of a State once so powerful and prosperous, opens an almost limitless field for conscientious speculation and inquiry. It presents a subject of investigation upon which the best interests of the country and the possibility of a republican form of government may ultimately depend. The resolution of the House may have contemplated, if it did not direct, an inquiry of this extended character; but neither the time nor the occasion for the performance of such a duty was within the reach of the committee. The widest scope open to its members was the consideration of the actual, honest, and legal results of the appointment of presidential electors, and the character and integrity of the incidents that attended such an exciting contest in the much-disturbed State of South Carolina.

During the late presidential election political excitement ran high, especially in that part of South Carolina bordering upon the sea, or what is usually denominated the lower tier of counties, as distinguished from the central and upper, or mountainous portions of the State. The public disturbances consequent upon the violent conflict of politics and passions attracted the attention of the whole country. Among the most striking and prominent of these events, which affected the political character of the State, and indirectly that of the country, were—

I. The riot in King street, of the city of Charleston, the 6th of September, 1876.

II. The Cainhoy riot the 16th of October.

III. The riot in Broad street the 8th of November, the day following the presidential election.

These incidents in the history of the city and county are not only indications of the temper of the times and the character of the people, but they must be considered as having, in a material degree, affected the measures and policy adopted by all parties in the management of political affairs.

To these subjects, and an infinite number of minor and subsidiary topics incident to the excited condition of the public mind and the importance of the contest, the committee gave such attention as the limited time allowed for the investigation permitted. The occasion was not propitious for judicial investigation. The events were so recent and party passion ran so high that it was impossible to obtain and unreasonable to expect a perfectly calm, dispassionate, or truthful relation of the history of these social and political convulsions in which the witnesses must necessarily have been prominent and responsible actors.

Up to the late presidential election there had been, for a long period, a very general fusion of parties and opinions in political affairs. For eight years there had been, it is said, no strict division of parties in the State of South Carolina.

In 1870, it is stated, the democrats voted largely for the Union reform candidate for governor, who was a republican. The present mayor of the city, Mr. George I. Cunningham, a native of Tennessee, and a citizen of South Carolina for nearly thirty years, was elected in 1873 by the co-operation of prominent men of all political parties, and re-elected in 1875 by a similar movement of men of different views, strengthened by the public satisfaction with which his administration had been regarded. Governor Chamberlain, the chief executive officer of the State, who had assumed a political position somewhat independent of existing organizations and endeavored to reform the abuses and correct the errors of the administration that then existed, had received unreserved and liberal commendation of many of the leaders and journals of both parties, and was supported and indorsed in those efforts by the conservative and democratic as well as the republican organs of the State. This manifestation of public favor had reached such a point as to lead to a demand for his renomination to the office of governor by the conservative and democratic convention which was to be held at Columbia in October, 1876. To the action of that convention is to be traced, in a great degree, the present condition of political affairs in that city and the State and the convulsions which attended the late election. Instead of being the leader of the South, as before, South Carolina had become a follower of other States. Mississippi and Georgia, especially, exerted a powerful and controlling influence over her political policy, and those States may be said to have produced the change which occurred in the constitution of parties and the course of political events during the last year.

THE DEMOCRATIC CONVENTION—A SECRET SESSION.

Vigorous and determined efforts were made by the most influential men of the State to organize the government upon a democratic basis and in support of the nominations of the democratic national convention at Saint Louis. The convention for nomination of governor, held at Columbia, was used, not altogether with the concurrence of the people of the State, for that purpose. This convention, unlike other political organizations of this character, transacted its important business in secret session. The evidence printed on page 141 of the second part of the testimony taken by the committee shows that immediately after its organization reporters of the public journals and all other persons not recognized as members of the convention were excluded and the convention transacted its business in secret with closed doors. When the doors of the convention were opened the nomination of governor was made in public. It was little more than a formal recognition of the policy recognized and approved in secret session. No report of the proceedings of this secret session has been made public; but it was in that session, doubtless, that the course to be pursued in the presidential contest, the means to be used, the machinery to be applied to the work in hand, and the probable chances of success were proposed, supported by argument, and finally agreed upon. It was made a straight-out democratic convention. The two candidates before the convention were Governor Chamberlain and General Wade Hampton. By a strict party vote the new and revolutionary policy prevailed.

The straight-outs carried the convention by a meager majority of 5 votes, and Hampton was nominated. Governor Chamberlain was subsequently nominated by the republicans as their candidate for the same office. Complete electoral tickets of the republican and democratic parties for President and Vice-President were placed before the people. It is to the policy established by this Bourbon democratic convention, in contravention of the wishes of a large portion of those acting with the democratic party and an overwhelming majority of the people, that are to be traced the turbulence, convulsion, riot, and murder which occurred during that sanguinary campaign, alike destructive of the best interests of the State and discreditable to republican government. The contest thus forced upon the people of South Carolina compelled a re-organization of political parties and forces on this new partisan basis. The success of the democrats made it necessary for them to change by violent measures, the constituent elements of political power in the city and county of Charleston, as in other parts of that State. In no other way and by no other method could the coveted political triumph be won. In such a contest the true interests and honor of the city and the honest opinions of large portions of the people of the State and of the Union were of course disregarded, and no efforts were spared to secure an unalloyed, unreserved party triumph.

No other secret convention for the nomination of State tickets or presidential electors was held during the centennial year within the territory or in connection with the Government of the United States. What policy was to be advocated, into what questionable practices were the people to be initiated, and what new machinery was to be introduced that made a secret conclave of partisan leaders necessary in South Carolina? What was there in the principles and policy of the new democracy of that State that could not be promulgated with the freedom that distinguished every other democratic convention held within the limits of the Union? Why were the democratic reporters of the democratic press of the State and Union excluded? Was it because new principles were to be proclaimed or new methods of canvassing devised and imparted, or were the interpreters and instructors of the new tactics too little known and too strongly identified with other States to be acceptable to the people of South Carolina?

THE RIFLE CLUBS.

One of the results of the policy initiated in that secret convention was the organization of rifle clubs, or professed social clubs in other forms, whose object was to influence, in various ways, individual and public opinion, and control the State and presidential canvass by means which had been successfully practiced in other States. The strength and character of these clubs in the city and county of Charleston are clearly set forth in the testimony of Hon. George I. Cunningham, mayor of the city. (Pages 184 to 195.)

In the city of Charleston several of the rifle clubs were a revival of pre-existing military organizations chartered before the war. Some were organized in 1869, when the city was in a disturbed condition and the police insufficient for the preservation of order, and others were formed during the campaign. There were twenty-seven in number.

The leaders of the movement asserted that the colored people were anxious for reform in county and state administration, if not in the administration of the General Government. There were a few prominent colored men of position and influence who had generally voted with the conservative or democratic party, and who had at first met with some harshness on this account from their own race. But this annoyance had ceased, and a large number of colored republicans, it was claimed, were ready to enroll themselves in the democratic clubs, but they demanded personal protection, and these clubs were created for that purpose. The proclamation of Governor Chamberlain, October 7, and that of the President, October 17, ordering them to disband, and treating all who publicly bore arms as violators of the law, was the first public act that militated against the success of the democratic experiment in "getting" the colored vote.

The white people, as they believed, had begun to gain the ear and win the confidence of the colored people. There were but two active agents at work against

them—an apprehension on the part of the negroes that if the democrats came into power they would enact laws more intolerable than slavery, and the influence exerted by the churches and the women. It was necessary to counteract these and other agents by some direct and powerful agency, and the system of the rifle clubs was universally and joyfully accepted and used as a legitimate and proper means to accomplish the object constantly kept in view.

THE GOVERNMENT OF THE CITY.

George I. Cunningham, the present mayor of the city, is a native of Monroe County, Tennessee, and has resided in Charleston twenty-three years. He has held that office since 1873, and is now serving his second term. He received the republican nomination at the late election, but was in fact chosen by democrats, having received their support on account of the good order that had been maintained in the city during the first two years of his service as mayor. The News and Courier and the leading citizens of Charleston supported him at the election in 1875.

During the late presidential canvass an editorial was published in the News and Courier in which it was declared that "the rifle clubs were the only effective custodians of the public peace in Charleston." It was, in other words, a proclamation that the clubs had assumed and were considered to be the only efficient government of the city.

This publication was made on the 9th October. The next day the mayor published a card denying the statement, and making an official report of the condition of the city. No complaint had been made of the inefficiency of the government or of the disturbance of public peace until the commencement of the political campaign of 1876, and no trouble had occurred of any kind to affect the peace of the city or alarm its citizens until the meeting called on the 25th August to ratify the nomination of Tilden, Hendricks, and Hampton. It was announced in the morning papers of that day that the commanding officer of the rifle clubs had detailed a sufficient number of mounted men to patrol every part of the city to keep order during the night, and that during the continuance of the procession and the meeting every portion of the city would be thoroughly patrolled by mounted men, to protect the remote parts of the town from the depredations of thieves and vagabonds, and to enable people of all classes to take part in the political demonstration. The next morning it was stated that the good order of the city on the night of the 25th was in consequence of the detail of men from the rifle-clubs. This patrol and the speeches made on Citadel Green by General Ferguson and others were unprecedented events in that city, and created much excitement. Until then no material disturbance of the peace had occurred.

That meeting was really the commencement of trouble. The rifle clubs had not interfered with public affairs until the democratic meetings were called to support nominations. On the assumption that there was likely to be a riot, they marched through the city and made a great deal of trouble, by threats and otherwise. If they had kept off the streets, to use the language of his honor the mayor, from whose testimony this view of the condition of the city is substantially taken, there would have been no trouble at all. They continued to patrol the streets in that way up to the period of the President's proclamation. The riot of the 6th September, the first serious disturbance of the public peace, was the result of those proceedings. The mayor had called the attention of the leading men of the democratic party to the unnecessary excitement that had been occasioned by these unauthorized movements of military organizations and to the consequences which were likely to ensue. They were, in fact, in possession of the city, and in a condition successfully to resist the civil authorities.

General Conner told the mayor that if there was any disturbance in the city they, the democrats, would put it down; they intended to protect themselves, and, if collision was to come, the sooner it came the better it would be; that he thought it could not be long kept off, and the sooner it occurred the better. They assumed this authority not only without any invitation on the part of the mayor, but against his wishes and orders; and, but for this intervention of these political clubs, the mayor, in his testimony, (pp. 184 to 195,) states positively there would have been no trouble, and no violence would have occurred in the city. The colored people in Charleston were absolutely under control. There was no danger of any outbreak from any quarter, and the only peril that existed was from the action of the rifle clubs. He notified their officers that the police force was large enough to keep order if it was not for the presence of the rifle clubs. The assumption that the people could not be controlled without the presence of the rifle clubs was without any foundation in fact, and their co-operation in keeping the public peace was wholly unnecessary.

Up to the 6th September there had been no discrimination on the part of the government as to the political character of public meetings. Whenever notice of a meeting was received by the mayor a guard was sent for its protection. A sufficient force of policemen was immediately sent to keep the peace, and no trouble occurred. As to the meeting the 6th of September, he says that the city authorities were not notified and had no knowledge of the meeting. If it had been known there would have been a sufficient police force to keep the peace, and there would have been no trouble. The police force of the city was large enough to prevent disorder, if it had not been for the armed organizations patrolling the city; and the mayor stated that if he had had a police force large enough he would have kept them off the streets; but the organizations were too powerful for him to attempt to do anything with them. Any unarmed organization would have given no trouble whatever. The pretended patrol of the city consisted of mounted men organized as cavalry. They reported, from time to time, to the officers who had command of the rifle clubs during the night.

These armed organizations were accustomed to attend the political meetings. On one occasion the Butler Guards, named in honor of General Butler, of Edgeworth, were at a meeting in ward 8, which the mayor, apprehending danger, attended. He was called by them as he passed them, while within hearing of their words, "A damned radical son of a bitch." These clubs generally remained in the streets until after twelve o'clock, and a portion of them all night. From 25th August to 15th October there was a regular patrol from the clubs during the night. They rode through the back streets and in every part of the city. On several occasions they rode past his residence during the night with such demonstrations as to disturb the city. A good many of those who were members of the club were brought before the mayor's court, fined, punished, and their arms taken from them.

Most of the white people of the city belonged to these organizations. Nearly all the young men were members. The police force consisted of about equal proportions of whites and blacks. It was the purpose of the Government to maintain this equality. Some of those called black were nearly as white as other citizens. The police force consisted of eighty or ninety men. A portion of the officers voted the democratic ticket. The mayor offered, if they were dissatisfied with the police force, to appoint such men as should be named to him by the democrats. No complaint was made of the police organization until after the election. The colored people were organized as militia companies under the militia laws of the State. They had no other armed organization. The democratic rifle clubs were organized without authority and against the laws of the State. They declared that they were kept up for the purpose of defending themselves, if occasion should arise. In the absence of this or any other armed force, the mayor states that he would have been able to have maintained the peace of the city at all times. He said to General Hunt, who commanded the United States troops during the riot of the 8th October, that if his troops would keep these military organizations off the street, he (the mayor) would maintain the peace of the city, and would not ask the aid of the United States troops for that purpose. The only occasion for the support of those troops was to put down the rifle clubs in case of difficulty.

After the President's proclamation, the 17th of October, the clubs continued to assemble in their armories with arms. The mayor says that he saw them every evening for weeks with guns in their hands drilling in the armories. The riot of the 6th September excited great terror throughout the city, and business was practically suspended for several days. After the mayor's proclamation no negroes were on the streets with guns. At the conference held between the mayor and gentlemen connected with the rifle clubs, the mayor was told that if the police attempted to make any arrest of members of the clubs they would shoot them. This declaration, it is stated, was repeated to the mayor in person several times.

After the President's proclamation the clubs kept their armories until the day after the presidential election, and then they appeared on the streets again. At the time of the November riot, the day after the election, nearly a thousand men in arms were assembled on one of the principal streets within three-quarters of an hour.

It was stated by Mr. R. J. Magill, (page 237,) that he did not believe that there was a young man in the city of Charleston that did not belong to a rifle club. He, himself belonged to the Palmetto Club. And this might be said with equal truth of every other part of the State.

It will readily be seen that this armed occupation and control of the city in the manner described by the mayor gave to the democrats an immense and apparently irresistible influence upon public opinion. It can scarcely be doubted that this was one of the results contemplated in the original organization of the clubs.

PROSCRIPTION OF LABORERS.

Another method for the control of voters, calculated to secure the success of the new policy, was the assertion of the right and the constantly expressed determination of employers to direct and control the political action of those who were employed by them, by whatever means should be necessary. Various methods, which cannot here be enumerated, were adopted to secure that object, among others, the most effective were resolutions passed at public meetings asserting the right and determination to control the action of laboring men in that way. It was claimed by democrats that their trade and patronage belonged to themselves, and they were under no obligation to give them to persons whose political action did not accord with their views. "We insist," is the language of one of these resolutions, "that democrats shall no longer patronize republicans in trade or retain them in employment." Mechanics and workingmen, in consequence of this policy, it was supposed, would follow their employers in political action.

"The mechanics and workingmen of Charleston," it was said at one of these meetings, "are true as steel, and will follow the standard of Hampton *wherever it shall lead them.*" They asserted that many democrats had been compelled for months to remain unemployed, while they were ready and able to fill such positions as teamster, porter, and every other position requiring muscle and brain, and that they were better able to fill those positions than most of the republicans that were then filling them. Resolutions were passed at public meetings in different parts of the city and county of this character, some of which are presented herewith, (see page —.)* Persons were appointed to give certificates of membership of democratic clubs, countersigned by the president, in order that the holders might be recognized and receive employment and patronage of democrats. Certificates of a similar character were also given to democrats recommending their employment by democrats, and to republicans recommending their employment by republicans, if they were in need of the services of such men. (Page 228.)

WITHHOLDING OFFICIAL BONDS FROM PUBLIC OFFICERS.

Another method was adopted with considerable success to discredit republican officers, State and national, by depriving them of the means of getting bondsmen, required by the Government as the condition of their appointment.

A general and public effort was made to prevent any citizen of South Carolina from becoming bondsman for any republican officers of the national or State governments. Resolutions were passed denouncing the persons who had given bonds heretofore for republican officers, and calling on them to withdraw them, and they did withdraw them. The postmaster of the city of Charleston, appointed by the President and confirmed by the Senate, is in that position. After his bond had been made and sent to Washington the persons who signed it withdrew their names. A new blank was furnished, and those who signed the first bond declined to sign it, on account of ostracism and threats by the democrats. There are many instances of this kind. The resolutions of one of the public meetings on this subject, published in the News and Courier, September 9, 1876, is printed herewith. The only result of this policy was that many county officers are holding commissions either without bonds or with insufficient bonds, to the detriment of the Government rather than that of the office-holders.

THE DEMOCRATIC MEETING IN WARD 8—FREE SPEECH SECURED AND PEACE PRESERVED.

* * * * * * *

The secretary here stated that he had been handed a set of resolutions by a resident of the ward, which he would read, and hoped that the meeting would give it their unanimous support. He then placed before the meeting the following

"RESOLUTIONS:

"Let us know who are the rich men in this city and State, be they democrats 'nominally' or 'black-hearted republicans,' who for money are aiding radical republican officials in waging war against our race and property, and who are responsible for every riot that occurs in our political campaign.

"*Resolved*, That this meeting, in behalf of the honest white voting population of South Carolina, ask the democratic papers of Charleston to arrange and publish in their columns an honest and exact directory of all the bonded officials in this State, their names, nativity, politics, office, official bond; the name of the bondsman, his nativity, politics, business, place of business, and the amount for which he bonds himself, and the consideration received by him, if the latter information is obtainable.

"*Resolved*, That it is the honest conviction of this meeting, and we believe of every honest citizen of the South, that no true and honorable democrat could sign his name as the bondsman and guarantee of any radical republican official in this State, he having been a resident in South Carolina since R. K. Scott was elected governor by the said republican party in 1868."

The resolutions were then placed before the meeting and adopted unanimously. (Page 165, part 2.)

A portion of the proceedings of that meeting was ruled out by the committee as incompetent testimony, but is here presented:

Mr. T. Barker Jones said in support of the resolutions that, as they said in ward 4, "Let every man show his hand." If you will take the trouble to ventilate this matter you will find upon the official bonds of those we are fighting against in this State men who claim to be democrats, and yet, as these resolutions fittingly express it, they are deep-dyed radicals. Those that are not with us are against us,

* The following is a copy of a printed certificate given to democrats seeking employment, (page 101:)

FIRE-INSURANCE AGENCY, REPRESENTING $30,000,000 CAPITAL.

OFFICE OF S. S. FRASER, COMMISSION MERCHANT,
Georgetown, S. C., November 11, 1876.

This is to certify that the bearer, Alex. Lewis, is a good worker in the democratic cause, and gave us valuable assistance in the late canvass.

S. S. FRASER,
Chairman Democratic Executive Committee.

and there are now so-called democrats upon the bonds of men like Worthington, Wallace, Bosemon, and others who should be required to show their hands. If they are democrats let them say so and act upon it. This matter has been brought up by the attempt of Bowen's pet, Birney, to take possession of the post-office, and it is a matter that should be thoroughly ventilated. These so-called democrats, by going on the bonds of radical officials, are countenancing the very men we are fighting to defeat and replace by honest citizens. These radicals were fire-brands in the community, and, if the truth were known, the very men who incited the poor ignorant colored people to create a riot on Wednesday night. Gentlemen, the crisis has come. We are fighting in a struggle which means life or death with us, and every man should show his hand. A revolution is at hand. We have seen the first of it, and we are now prepared to meet any other outbreak. If we are to have this pushed upon us by democrats, I say let us know who they are. We say to them, come off of these bonds. The radical office-holders cannot get bonds in their own party, and the offices will be left vacant for decent, honest men to fill the positions they are entitled to. [Cheers.]

[Editorial article from the News and Courier of September 12, 1876.]

DEMOCRATIC BONDSMEN OF RADICAL OFFICE-HOLDERS.

Any citizen of Charleston who now becomes a bondsman for a radical official is a worse foe to the cause of good government than if he boldly voted the rascally radical ticket at every election. In voting with the radicals he would do no more than any negro who will pass muster as of full age can do equally well, and more frequently; but in becoming, in these days, a surety upon the official bond of a radical appointee, the responsible citizen brings property and position to the rescue of such fellows as Birney, and gives to the public enemy the means of securing office-holders who will faithfully do their dirty work and hinder the success of the democracy.

"For eight years there had been no strict division of political parties in South Carolina. In 1870 the democrats generally voted for the Union reform candidate for governor, who was a republican. Two years later there were two radical candidates in the field, and democratic ballots were cast for both of them. In 1874 the democrats, with few exceptions, voted the independent republican ticket. There was, therefore, no political reason, from 1868 to 1876, why democrats should not, if so inclined, and if their personal interests lay in that direction, go upon the official bonds of State and Federal officials. No political principle was compromised by such a course; and while any act that made it practicable for incompetent or unprincipled persons to hold public office cannot be justified, the doing of that act was not, under the circumstances, such a breach of faith as would call for public reprobation. But since the meeting of the State democratic convention and the nomination of Hampton and Simpson, the conditions are changed. What was excusable a few months ago is, if done to-day, an offense against the community.

"The democratic canvass in South Carolina is broad in its aspect and liberal in its punishment of the radical rioters. Nothing short of that will satisfy them. Until that is done they will not abate a tittle of their vigilance; and until then, executive proclamations, so far as they contemplate the disarming of the whites and the disbanding of their forces, will be no more regarded than so many sheets of blank paper."

THE KING-STREET RIOT.

As soon as General Hampton was nominated, meetings were called to advocate his election. Some of the colored republicans went over to the democratic party. One of them, Isaac B. Rivers, was a man of talent, and had been active in support of the independent republican ticket, and from that went to the democrats. Another colored man, named Sawyer, went with him. Their speeches excited much opposition, and they declined to attend other meetings unless they were assured protection, which was promised them.

The 6th of September, 1876, a democratic meeting was held at Archer's Hall, corner of King and Green streets, which Rivers and Sawyer attended. There were about twenty-five to thirty colored men and seventy-five white men present. The colored men were democrats. During the evening, colored men who had been at republican meetings, on their way home, stopped about the door of Archer's Hall. There were in all about twenty or thirty of them. Some went into the hall. Rivers, Sawyer, Riley, and Jenkins, colored democrats, made speeches. When the colored republicans reached the hall Sawyer was speaking, and when he finished, Jenkins, who presided, made some remarks, and then proposed a resolution, that all the colored women employed as cooks by the white people should be dismissed, because they fed their republican friends from the cook-pots. They took the first cuts from the steaks, and coffee and other things for their husbands, who stuck to the republican party. If the women were dismissed, he said, they could not feed their husbands, who would then vote the democratic ticket.

Grant, Chamberlain, and Bowen were denounced as thieves. These remarks excited opposition. The lie was given to the speaker. Efforts were made to put out the intruders. A row commenced, the lights were put out, and the meeting adjourned. When Jenkins came out, the men whose wives had been assailed by him endeavored to call him to an account for what he had said. The white men who protected them thought it necessary to prevent that, and the two bodies of men moved up Green street in irregular parallel columns or crowds, from fifty to seventy-five men in each body. Various complimentary remarks passed between them, and some missiles were thrown, and a few pistol-shots were heard. The police arrived, and the crowds increased on all sides. Attempts were made to arrest the man who was said to have fired the first shot, and after much violence and disorder one of the police officers was killed. He was shot by Mr. Barnwell, a white democrat, the witness from whose testimony this statement is mostly taken.

The disturbance began about ten o'clock in the evening, and continued for several hours with violence. The people of the city were panic-stricken, and business was suspended the next day. There was undoubtedly much political excitement and angry partisanship, but not more than often occurs in populous cities when parties are engaged, as these were, "in a life and death struggle for supremacy." That men should have resented such aspersions as were cast at this meeting upon their own wives and daughters, with acrimonious retort and denunciation, or sought an explanation from the speakers of the defamatory charges made against them, ought to have been anticipated and cannot be unreservedly condemned.

The leader of the democrats, and a witness against the republicans, Mr. Joseph Barnwell, a white man, who assisted in getting up the meeting at Archer's Hall, made a speech there himself, encouraged Rivers, Jenkins, and Sawyer to make speeches, and, although he knew that disturbance had occurred at previous meetings where these men had spoken, gave no notice to the city authorities and called for no policemen to maintain order, but went down to ask the assistance of a democratic club meeting in case of trouble. When the meeting adjourned he appears to have taken charge of the assembly until the close of the riot. Upon his own statement, he shot a policeman who came to aid in suppressing the disorder and who gave no provocation for the deadly assault made upon him. Buckner, a white democrat, who was killed by a pistol-shot, declared at the moment of his death that Barnwell shot him, and a third man, who was wounded in the leg, it was alleged, was also shot by Barnwell. These were the only persons who were seriously injured.

These facts prove conclusively that the managers of the meeting were not equal to the responsibilities they assumed and were incompetent to direct or control the assembly they had brought together. The mayor of the city said that if the authorities had been informed that the meeting was to take place, no disorder would have occurred. The republicans who attended the meeting, and those who sought an explanation of the charges made against them and their wives, with one exception, testified that they were unarmed and did not wish to create any disturbance. The exception was a witness who volunteered his testimony and was unknown to the committee and the other witnesses. He presented himself at the headquarters of the democracy, where the committee held its sessions, and gave his testimony under circumstances which excited a suspicion that his presence and his testimony might have been intended to serve some personal interest of his own. There were several unsuccessful attempts at imposition of this character. It is unjust to assume, in the presence of these facts, that the disorders of the 6th of September can be justly charged to republicans or the republican party.

MEETINGS FOR JOINT DISCUSSION.

Joint discussions were also solicited by democrats for democratic and republican speakers at republican meetings. Hon. C. C. Bowen, chairman of the republican executive committee of the county, whose testimony is printed on page 153, states that he canvassed the city and county thoroughly and called several public meetings during the presidential campaign. They were called by himself, as county chairman of the republican party. They were advertised in the papers, naming the persons who would speak and the days when they would be held. The first meeting was at Biggin Church, soon after the nomination of General Hampton. Between three hundred and four hundred persons were present, nearly all republicans. A few democrats were there, who took no part in the meeting. That was the first republican meeting at which democrats had presented themselves. The next republican meeting was at Strawberry Ferry, a week or ten days later. Some days before the meeting took place the democrats solicited the republicans to allow a joint discussion of the political questions of the day, the democrats to have one-half the time. Their request was agreed to.

When the day of the meeting arrived some excitement occurred among the republicans by an advertisement in the city journals that a steamer was to leave with a number of democrats on board for the meeting at Strawberry Ferry. This fact produced a great deal of excitement at the meeting, and a fear that somebody was going to be killed that day. The democrats who came by the steamer numbered about one hundred and fifty men, all armed with Winchester rifles. They stopped at the landing-place, two or three hundred yards from the meeting, and sent a committee to make arrangements in regard to speeches. The republicans objected to calling the meeting to order. They had heard that threats had been made through the country, and believed that the democratic party meant mischief. On the assurance that no difficulty should occur, the arrangement for the meeting proceeded. A few minutes later a company of horsemen from Mount Pleasant came up They were thirty or forty in number, and had ridden fifty-five miles the night before to attend the meeting. A little later another company of fifty men made its appearance from Summerville. They had ridden fifty miles to attend the meeting. There was a great deal of angry talk at this meeting, and they got through with much difficulty.

At this meeting General Ferguson, of Mississippi, was one of the speakers. He was a red-hot democrat. One of the speakers censured the republicans for having caused a strike among laborers on the rice plantations on Cooper River, and denounced the republicans as liars and thieves, which created great excitement. General Ferguson's speech was of a different character. He had come down, as he said, to instruct the white people in what he called "the Mississippi plan of carrying the State." He repeated a great many times that they were going to do it peaceably if they could, and, if not, then forcibly. They would do it anyhow; the present state of things could not exist any longer. His speech was violent and bitter. All the democratic speakers assumed that the colored people had been told that they were to be put back into slavery if the democratic party succeeded. They said the colored people could not expect white people to employ them if they continued to vote against the interests of the white men. The republicans made replies, during the meeting, to the statements made by the democratic speakers. The meeting was attended with great excitement, and the least disturbance would have caused a riot that none could have controlled. The democrat who had proposed the joint discussion at the Strawberry meeting, when it was consented to, went directly to a hardware store and purchased twenty-four Army revolvers, (page 156.)

Other meetings were held at Mount Pleasant the 6th October, a second meeting at Strawberry Ferry the 7th, at Red-top Church the 9th, at Whaley's Church the 10th, at John's Island the 11th, at Wadmelaw Island the 12th, at the lower end of John's Island the 13th, and at Edisto Island the 14th, and the 16th a meeting was held at Cainhoy. No arrangement had been made for joint discussion of any kind at this meeting. The democrats solicited the privilege of joint discussion at the meeting at Mount Pleasant, which was objected to on account of the manner in which the republicans had been treated at Strawberry Ferry meeting. After an assurance that order should be maintained and that the incidents of Biggin Church meeting should not be repeated, the republicans consented to the joint discussion at Mount Pleasant. No serious trouble occurred, though the speakers were interrupted, and the lie was passed very frequently from some of the democrats to the republican speakers. It was with the utmost difficulty that a fight was prevented. There were no arms on either side except pistols. Most of them, the democrats especially, had pistols.

At the second meeting at Strawberry Ferry, the democrats sent up a boat from the city, and insisted on a joint discussion. There had been no agreement to that effect, and no one had proposed it. Objections were made by the republicans to a joint discussion, but, as the democrats had come, they consented to give them part of the time. The meeting was less violent than the first one at that place; but the men were all armed with pistols, their rifles having been left on board the boat. No trouble occurred at the Red-top church meeting. The democrats did not attend, nor did they attend the Whaley's church meeting. The next meeting was at John's Island. Written propositions were made by the democratic executive committee to the chairman of the republican committee suggesting that both parties unite in holding their meeting at places and times selected by the republicans for joint discussion of the question at issue. This proposition was assented to on condition that such meetings should not be attended by armed men, which was agreed to.

It was also stipulated by the republicans that another class of people from the city should not be allowed to attend any of these meetings. This had reference to an organization called the Butler Guards. It was agreed that no members of this organization should attend any of these meetings. About thirty democrats attended a meeting at John's Island, beside their speakers. They had one-half the time, but made no converts. No trouble occurred at this meeting, and none at Wadmalaw. Late in the afternoon about seventy-five democrats arrived, and two of the democratic speakers closed the meeting. About thirty democrats attended the second meeting at John's Island. It was a quiet meeting. At Edisto, a steamer came from the city with from seventy-five to a hundred democrats. They brought a German band. There were six hundred or seven hundred persons at the meeting. All the democrats present were from the city of Charleston. At the second meeting at John's Island one colored man announced himself as a democrat. At the close of the meeting at Edisto the democrats gave three cheers for the republicans, and the republicans gave three cheers for the democrats, but the democrats admitted they had made no converts.

THE RIOT AT CAINHOY.

The next meeting was at Cainhoy, Monday, the 16th of October, which terminated in a riot, and was the last of the joint discussions in the county. At this meeting, as at others, the democrats were admitted to the discussion on the express

condition that they should not go there armed, and that the members of the Butler Guards should not be permitted to attend, for reasons which were stated and were perfectly well understood between the parties. About two hundred and fifty democrats left Charleston by the steamer on the day appointed for the meeting. There were no more than fifteen or twenty republicans on board; among them was Mr. Bowen. The leaders of the democrats, who had attended other meetings, were absent at this, and no one appeared to be in charge of the party, or to know anything about the arrangements for the meeting. A considerable number of the persons whose attendance had been objected to were on board the steamer. Some of them were offensive in their conversation. On the voyage they fired their pistols at objects they saw in the water. Nearly all the democrats of the parish, about seventy-four in number, were at the landing to meet them.

The arrangements for the meeting were satisfactory, and made without delay. A democratic chairman was chosen to preside for the democrats, Mr. Samuel Sanders, and a republican, a colored man named Stewart, to represent the republican party. Mr. Jervey, a democrat, was the first speaker. He spoke the time allotted to him in perfect silence, without interruption. The stand on which the speakers stood was a table, about ten feet long, under an oak tree. They were facing the east. The democrats and republicans occupied different sides of the space around and in front of the table, the crowds meeting each other a little to the right of the center. On the left, from 20 to 40 feet from the stand, a little to the rear of it, was an old weather-house, with a wide opening, without doors in the north and south ends, intended as a protection for carriages and teams in rough weather. There was an old chimney in the north wall. In front, and a little to the right of the stand, was a church, and a small building occupied as a vestry still farther in front and to the right. In the rear of the stand was a small pine wood, running down to a kind of swamp.

The speakers faced the east, the weather-house on the left, the church in front, a little to the right, and the vestry still farther to the right and front. When Mr. Jervey concluded his speech he was followed by Mr. McKinley, a colored republican. He had spoken but one or two sentences when he was interrupted by a noise to the left, on the republican side. Supposing that this interruption was caused by an opponent, and feeling that he had a right to be heard with the same attention paid to Mr. Jervey, he turned in the direction of the noise and said, "I am here in your interest," and asked them to be silent. Some one then exclaimed, "Look out, McKinley, they are going to shoot." He turned to the left, in the same direction, and saw several young white men with guns in their hands, directly turned toward the stand, in the old weather-house. They stood in the door-way nearest to the platform, about ten or twelve in number. McKinley jumped off the stand, and drew the attention of Mr. Jervey, Mr. O'Connor, the democratic nominee for Congress in that district, and some other democrats, saying, "Look! these are your men with guns in their hands, and to-morrow it will be said that we (meaning the republican party) started this row."

No person was on the platform when McKinley was speaking except Mr. Sanders, the democratic chairman, and himself. Mr. McKinley jumped on the platform again, and asked the people to hear him. At that moment he heard a discharge from some fire-arm, and shortly afterward the firing became general. The shot came from the left, from the direction of the old weather-house but whether from within or outside he did not know. He did not see the person from whom it came. He endeavored to quell the riot so far as he could. He left the ground about ten minutes after he heard the shots. He says (page 246) that the guns in the hands of the white men were "smooth-bores, single-barreled guns, old-time muskets." McKinley says there was no one in the rear of the house. Up to the time of the interruption there was no bad blood or ill-feeling manifested. Mr. Bowen says, (page 161,) "When the interruption occurred and attention was called to the men in the weather-house who had guns, the crowd separated, and the space between the stand and the house was immediately cleared," and he saw ten or a dozen white men standing with guns in their hands. Their actions indicated mischief. Their guns were raised in the position for firing, the muzzles of the guns depressed.

Some of the men who went up on the boat were the men who had been objected to. Bowen immediately went to O'Connor, put his hand on his shoulder, and said, "Those are your men with guns; make them stop at once." O'Connor called out, "What are you doing with those guns?" They made no reply, but commenced backing off to the rear of the building and falling in line. As soon as they got out and into line the first shot was fired. Mr. Bowen says he saw an old man fall, and in ten or fifteen seconds after he saw the man that fired the shot fall. The firing became general in the rear of the old building. The white men discharged their guns, threw them on the ground, and drew their pistols. The main body of the democrats took no part in it. Some one asked Bowen to intercede with the republicans to stop firing, and he replied that he would do it if a democrat would go with him to protect him from fire in the rear. Mr. George Rivers Walker accompanied him.

The firing was suppressed until Mr. Walker retired. Mr. Bowen says that if he had remained the fight would have stopped there. The fight was continued until the democrats retreated. This riot occurred after the proclamation of the governor and the President against rifle-clubs.

Abram Smith (colored) says (page 253) he was at the Cainhoy meeting; that McKinley was introduced on the republican side. He spoke about four or five words, when three women ran out from an old building to the left, that appeared like a place to drive carriages in, and said, "The democrats has those republican guns!" "I heard some one say, 'Look out!' then bang, bang, from a gun; then I saw an old man fall right in the road about ten or fifteen feet from the back of the building, and looking toward the place from where I heard the firing, there was fifteen democrats, each man having a musket in his hand." Question (page 253) by Mr. BANKS: "Where were you standing when this colored man who was shot fell?—Answer. I was standing on the left of the stand, and could see right through the building. Question. Where was the colored man standing who fell?—Answer. About ten or fifteen feet the other side of the building. Question. To the rear or beyond it?—Answer. Beyond it. Question. Did you see where the shot came from?—Answer. The shot came from just a little to the right of the rear of the building. This man, Cyrus Galliard, had been speaking to the man, and had just left him, leaning on his stick. Question. Did you see the man that shot the gun?—Answer. Yes; it was a white man. Question. Where did he stand?—Answer. At and beyond the building, and fired at the man who stood in the rear of the building. Question. Did you see any other man shot?—Answer. No, sir; I did not know anything about it, until next morning I read it in the paper." (Page 254.) Question by Mr. COCHRANE, (page 255:) "Just as quick as you heard the women run out and tell about these guns, and heard some voice cry, 'Look out!' you saw the shot, and saw the old man fall?—Answer. I didn't say 'saw the shot;' I say, heard the report of the gun. Then I looked. Question. Then you looked to where you heard the report, and you saw fifteen white men with muskets; each one had a gun; they were looking to the platform, and pointing their guns in that direction?—Answer. Yes, sir."

Here is the testimony of Smith and other witnesses upon this point:

ABRAM SMITH (colored) sworn and examined, (pages 253, 254.)

By Mr. BANKS:

Question. Where do you reside?
Answer. At Mount Pleasant, Charleston County.
Q. What is your business?
A. I am a trial justice, sir.
Q. What is your age?
A. Forty-three.
Q. Do you know anything of the affair that happened at Cainhoy at a republican meeting there about the middle of October?
A. I was there, sir.
Q. What time did you get there?
A. I went there on the steamer Pocosin. I arrived at the village of Cainhoy between one and half past one o'clock.
Q. What time did you get to the meeting?
A. We got to the meeting about two o'clock. * * *
Q. Was the meeting called to order before the whites came?
A. No, sir. Mr. Stewart was chairman on the republican side and Mr. Sanders on the democratic side. Then Mr. St. Julian Jervey was introduced as the first speaker on the democrat side; he spoke his time out.
Q. What was his time?
A. Half an hour. It was to be half an hour to each. As soon as Mr. Jervey got through the band struck up the music. The band stopped and Mr. William McKinley was introduced on the republican side. Mr. McKinley spoke about four or five words. There was three women in an old building to the left that appeared like it was a place some time back to drive carriages in.
Q. Where was the building with reference to the platform?
A. To the left. The women ran out and says, "The democrats has those republicans' guns." I hear, "Look out!" I hear bang, bang from a gun; then I saw an old man fall right in the road, just about ten or fifteen feet from the back part of the building, and looking toward the place from where I hear the firing there was fifteen democrats, each man having a musket in his hand.
Q. Well, sir, what did they do?
A. They were standing with the guns in their hands like to the platform. Mr. Bowen said to Mr. O'Connor, "Those mens with guns in their hands is your mens." Mr. O'Conner says, "Where did you get those guns?" The answer was, "We captured them." Some one say, "Hold on to them." I don't know whether it was Mr. O'Conner who said it. Then the crowd of colored men rushed to this old building to make up to those men and appear like each man lay hold to a man and they commenced tusseling with the guns, and some of the white men dropped the guns and run.
Q. Were the men they laid hold of white men?
A. Yes, sir; and while they were tussling with the guns, the guns fired off, but no one didn't get shot at the time. Then I saw colored men coming from different parts of the bushes with guns, and after they came out of the bushes, I think there was ten or fifteen men was coming up with guns toward where the democrats were standing in a crowd together. Some of the democrats said: "Mr. Bowen, for God's sake, protect us." Mr. Bowen then was standing with the democrats. Mr. Bowen says: "I am not going to face those muskets and leave my back in the rear. If some of you democrats will go along with me I will go and speak to stop those mens." Mr. George Walker stepped from the crowd of democrats right behind Mr. Bowen, and Mr. Bowen and Mr. Walker went and spoke to them, the colored mens with guns in their hands, and the mens with the guns in their hands dispersed, and by the time Mr. Walker returned back to the democrat crowd, the democrat crowd began to run back toward Cainhoy village, and I heard firing of guns. And I heard firing of guns after the crowd leaved the church, but I don't know what was done after that. I staid there until the last.

* * * * * * *

By Mr. COCHRANE, (page 255:)

Question. Well, what was the first thing that you heard after McKinley got up?
Answer. After McKinley got up on the stand and spoke about four or five words——
Q. Then you heard the first thing?
A. The first thing I heard was these three women came out of the building and said, "The democrats have those men's guns."
Q. The republicans' guns?
A. Yes, sir; the republicans' guns.
Q. They ran out, if I correcly understand, and said, "The democrats have the republicans' guns." Then you heard some one say, "Look out!" Then you heard the report of a gun, and then saw an old black man, ten or fifteen feet away from the building, fall?
A. Yes, sir.
Q. Just as quick as you heard the women run out and tell about these guns, and heard some voice cry, "look out," you saw the shot and saw the old man fall?
A. I didn't say, "saw the shot;" I say heard the report of the gun; then I looked.
Q. Then you looked to where you heard the report, and you saw fifteen white men with muskets; each one had a gun; they were looking to the platform, and pointing their guns in that direction? That was the next step in the programme?
A. Yes, sir.

JAMES H. MONTMOLIN (colored) sworn and examined, (pages 256, 257.)

By Mr. BANKS:

Question. What is your business?
Answer. At present I am boating on the Santee River, about fifty-one miles from here.
Q. Where do you reside?
A. Well, I have been there for the last fifteen or eighteen days. I belonged to Savannah. Formerly I've lived in Charleston for four years, more or less.
Q. What is your age?
A. I was born the 23d of September, 1844; that makes me thirty-two years old.
Q. Were you at the meeting at Cainhoy in October?
A. I was, sir; on the 16th of October.
Q. What time did you get there?
A. I left the city about nine o'clock in the morning on the boat, and I got there, I suppose, about eleven o'clock.
Q. Do you refer to arriving at the landing?
A. Yes, sir; to the landing at Cainhoy village.
Q. What time did you get to the meeting?
A. I don't think we got there till about a few minutes of twelve.
Q. Well, sir, tell us what you saw or what you know of your own knowledge as to the transactions of that meeting.
A. There was a joint discussion betwcen the republicans and democrats at Cainhoy on the 16th of October. It was agreed upon here in the city to have a joint discussing. There is where they met. The meeting was called to order shortly after I got there and all parties had arrived, by the republican chairman, C. C. Bowen. He then announced to the democratic party that he was ready to open the meeting. They sent forth their chairman to the stand and introduced to the audience Mr. Jervey; I don't know his other name. Mr. Jervey I suppose spoke about half an hour, not interrupted at all by neither party. He was notified by Mr. O'Connor that his time was up. They had limited each speaker to half an hour. When he was notified that his time was up they brought forth a man by the name of McKinley as a republican speaker and introduced him the same, and he mounted the stand, and while he did that the band of music commenced to play. While McKinley was getting ready to speak some one of the colored people said, "Stop the music, and let's hear what our side has to say." The music stopped. McKinley had spoken about a half a minute when some one hollered out, "Look out, McKinley, you're goin' to be killed." I then turned my face towards an old weather-house, or carriage-house, as it is called, which was formerly used to keep horses and carriages out of the wet when they came to the church, and there I saw about

fifteen or sixteen white men with old muskets in their hands. I could look right through the doors. There was two doors to it, and it opened right facing to the stand, and you could look right through it. Three of them was on the inside and the balance was in the rear of the door of the building. The three men that were inside looked as though they wanted to shoot some one; they had their pieces in position as if they were wanting to use them. The whole thing was inside of a half a minute. At that moment the crowd broke from the speakers' stand, running both toward the swamp and toward the church—I mean to say that the entire crowd around the speakers' stand. As the crowd broke there was a shot fired from the rear of the building, and it killed an old man about ten feet from where Bowen stood. He was going toward the swamp. Then there was three or four more shots fired from the rear of the building, which was returned.

Q. Do you know from whence the first shot came?

A. I don't know, sir; I couldn't identify anybody.

Q. Did you see the man that fired?

A. No, sir; I didn't see the man that fired the shot, but I saw the men who had the guns in their hands; and as the crowd broke the old man was shot in my sight. I heard the report and saw the man when he fell, but didn't go to him to see where he was shot and by whom he was shot, because I was going up toward the church. On my way to the church I met Mr. Bowen and Mr. O'Conner about ten feet from the speakers' stand. Mr. Bowen said to Mr. O'Conner, "Those are your men with those guns in their hands; go and stop them." But I didn't stay to hear the reply; I kept on, and met Mr. Walker, who was standing right in front of the church, who cried out two or three times, "White men, hold the ground!" He had in his hands what looked to be an English navy revolver. He had it right across the barrel, in his right hand. In that time the firing became general. The firing then was from both sides; but I got away from it; I didn't stay to see any more of it.

Q. Did you see the man that fired that first shot?

A. No, sir; I don't know who it was. I only know where the shot came from, because I was at one end of the building myself.

Q. Was there any disturbance in the meeting before this cry was made that they were going to shoot?

A. No, sir; they were just as quiet as they could be.

Q. Are you a republican yourself?

A. Yes, sir.

Q. Do you know whether the colored men expected any trouble that day?

A. No, sir; I don't think so, sir, because heretofore at meetings there had been men coming from ten, fifteen, or twenty miles, bringing their arms, and they stacked them right at the stand; but on this occasion they had been advised not to bring arms. On this occasion there was no arms seen by me at all.

Q. Had you any arms yourself—pistol, knife, club, or anything of that sort?

A. No, sir; nothing of the kind.

The testimony above given is substantially all that was taken on the part of the republicans. The point of interest in the inquiry was, what caused the conflict, and who fired the first shot? There is no conflict in the testimony on either part as to the fact that the men in the weather-house, who were seen with guns in their hands, pointing to the stand, when McKinley was interrupted by the cry, "Look out, they are going to shoot," were white men and democrats who had come up in the steamer from the city. Mr. Thomas S. Grimke, a democrat, a conservative, whose father-in-law, Mr. Simmons, was one of the persons killed, says that after the first disturbance occurred and a pistol had been discharged, upon looking through the windows of the old house he saw a number of white men in there with guns. This surprised him, he said, "because they had gone up entirely unarmed, in accordance with their agreement with the radicals." Before the colored man was killed "there was a contest between a young man and a negro having a gun. I saw," he says, "the negro stoop down and try to pick up a brick to strike him with, and the young man try to draw his pistol, but don't know whether he drew it or not," (page 229.) These were undoubtedly the same men that were seen by Bowen, Smith, and Montmolin, and the contest is probably that described by Smith, (page 253.) Mr. Grimke says the democrats were armed with pistols. Their agreement was not to bear arms. When he said the agreement was not to carry arms, he meant "guns." (Page 231.)

Mr. George Rivers Walker, an earnest and much excited witness, explains in his testimony (pages 215, 216) how the young white men (democrats) came to be in possession of the guns, and who they were. "Intelligence was brought to me," he says, "by a party of young men immediately upon my arrival on the ground that there were a number of guns hidden in a chimney in the old house. They came to me, accustomed to take my advice in other matters, for advice as to what they should do in regard to these guns. I instructed them to closely watch the guns, but not to touch them unless there was an attack or direct signs of treachery.

"An ex-officer of an organization known as the Butler Guards was present with these young men, and evidently had them under his command—when I say under his command, I mean that they obeyed him—and the men on the ground informed me that he followed my advice rigidly, and gave no order for the seizure of the guns, nor were they seized until the negroes were advancing upon the squad of white men on a bayonet-charge."

But there is other testimony, given by eye-witnesses of this affair the day after it occurred, which will aid those who desire to know the truth. The laws of South Carolina require an inquest to be held by properly appointed officers in the case of every person who suffers death by violence. Such an inquiry was made concerning those killed in the riot at Cainhoy. The testimony of the coroner's inquest, properly certified, was offered to the committee, but was not regarded as competent testimony. It is, however, appended to this report, on the part of the minority, as important testimony, given under oath, in pursuance of judicial inquiry required by law, by officers appointed for that purpose, and comes from men who participated in the meeting and the scenes that followed the day after the transaction, and all of whom, with the exception of Abram Smith, Montmolin, and perhaps one other, were democrats

This testimony confirms that given by the republicans in the investigation intrusted to the committee of the House.

NOTES FROM OFFICIAL COPY OF TESTIMONY TAKEN BY CORONER ON THE RIOT AT CAINHOY, OCTOBER 16, 1876.

Thomas S. Grimke said he did not know who caused the death of W. E. Simmons, nor whether the wound was from the shot of a musket or pistol. When he came to the ground he went to the left of the stand about ten feet, and fifteen feet in the rear of the weather-house, to ascertain the temper of the colored people; found them quiet, good-natured, and willing to listen. McKinley had spoken but a few minutes when some one on the right of the stand cried, "Look out!" A pistol was fired, by whom he did not know, but from the right of the speakers' stand, the open building or weather-house being on the left. It was followed by a gun in the woods at the rear of the stand, and then, hearing the sound of rushing men, he looked up, and directly through the weather-house he saw a number of armed white men. The crowd in his neighborhood—he was among the colored men—began to move to the south. A number of shots were fired in the mean time. The men who had the guns rushed out of the south end of the building across the road, and the firing became general. He moved to the edge of the road running north and south, and feeling a pressure against him, turned and saw a white-headed negro fall to the ground, the blood spouting in a stream from his chest. Don't know who shot him. After the death of the negro he gave up all hope of stopping the riot, and retreated to the rear of the vestry. The negro was the first one killed, but he was not killed by the first shot. There were one hundred and fifty to two hundred passengers on the steamer. Saw nothing indicating hostility between white and colored people. It was one of the most peaceable meetings he ever attended.

R. C. McClure was present at the meeting, when John Lachicotti, a colored man, was killed. He was killed by the first shot fired. Would have heard it if any other shot had been fired. Saw guns in the hands of white and colored men. Whites took no guns with them, but got them from a small building where the speaking was going on. Cannot swear positively that the first shot killed Lachicotti.

Abram Smith was at the meeting ten or fifteen minutes before the democrats arrived. He told the colored people, by request of Mr. Bowen, to be orderly, and listen to both sides. When McKinley had spoken a few words he heard some one sing out, "Look out, McKinley, you are going to be shot." He looked at the old building, and saw twelve or fifteen men with guns in their hands; heard a shot from the same direction, and saw an old colored man fall dead. Some one on the democratic side asked where they got the guns. They said they captured them. The colored men said, "They are our guns;" and endeavored to get them. Some of the colored men went to the woods and came back with their guns. Some one on the democratic side said to the white men who had the guns, "Hold on to your arms." The firing then commenced and soon became general. Some of those who seized the guns fired them and threw them on the ground. Bowen and Walker endeavored to stop the firing. Those Bowen spoke to stopped, and the democrats ceased firing while Bowen and Walker were with the colored men.

William L. Venning resides at Cainhoy. He was on the west side of stand at meeting. The first indication of difficulty was in the movement of men back and forth on the stand and men and women running from the old building—both white and colored men. The colored men ran down the hill. Some of the whites had arms. The colored men who ran down the hill got their guns. Don't know where the white men with guns went. I then went to the vestry, when the firing became general on all sides. I went out again to look for my mules, left with the teamsters, and returned to vestry. There were several persons there; among them Mr. Simmons. The vestry was surrounded by negroes. A colored man put his head out of the window of the vestry and said, "We are all friends, and unarmed." All that were in the building then left, except Mr. Simmons. Don't know whether he followed or not. Don't know that we were fired at when we left the building; we might have been. Don't know who hurt Mr. Simmons. *I think the first shot was fired from the farther end of the weather-house.*"

I. B. Douan resides in Charleston. Was at meeting by invitation of public advertisement.* Went with a pocket-pistol (a revolver, with seven chambers) like the size of a duck-shot pistol. Saw a black man with gash on the side of his jaw; a terrible big gash. Was retreating when he heard shooting in the window of the vestry, and heard some one say, "O, God!" I said to a man in front of me some one must have been hurt in the vestry. All had left but Mr. Simmons; I was the last man, in the rear of the others; had a gun that I captured on my shoulder.

William J. McKinley is register of deeds. Was at meeting; spoke from the stand one or two minutes; heard a little confusion to the left where the republicans were standing, when some one cried out, "Look out, McKinley, they are going to shoot." Looking to the left, saw in the building known as the weather-house several white men with guns in their hands pointing toward the stand. I jumped from the stand and said to O'Connor, Feeken, and Jervey, "Look, these are your men with guns in their hands, and to-morrow it will be said the republicans started this." Then heard a discharge of some weapon, and the confusion became general. Democrats went to south; republicans north. When disturbance began, I was facing the church; weather-house on right, vestry on left, and my back to woods.

Martin R. Delany resides at Charleston. He was at Cainhoy, October 16. When the firing was going on a number of persons were dodging, and he told them they had better go into the vestry if they did not want to be hit. A squad of colored men came down the hill with guns in position of charge bayonets; and he told them all were friends in the vestry and without arms. We all left, then, except Mr. Simmons, who was alive when I left the ground.

M. P. O'Connor was the democratic nominee for Congress. He resides in Charleston. He went to Cainhoy on Potocsin steamer; rode to meeting with Jervey, Ficken, and Sanders. Some of the Palmetto and Butler Guards were on board. Both companies are military organizations. The colored people were packed around the table when we came up. The democrats, when they came up from the boat, gathered between the colored people and the vestry. The table (or stand) was situated in front of the church; in the rear of the table a bench; on the left of the table a building called the weather-house; on the right of the table, and oblique to the left, a small vestry-room. He sat on the right of the bench while Dervey was speaking. The audience was very quiet, attentive, and serious. McKinley followed, and when he had spoken a few sentences the witness saw a number of colored men running away around the weather-house down the hill. He looked to see what had started them supposing a horse had got loose; and turning again to the front he saw the whole crowd scattering, and cried, "Order! order!" and in an instant heard the sound of a musket, the sound of which appeared to come from the rear of the weather-house, and between it and the bushes where the negroes were running to.

As soon as he heard the musket-shot he looked to the left, through the weather-house, and saw outside eight or nine white men with muskets in their hands. They were in a cluster. Seeing that he became alarmed, and cried out, "What are you doing with those arms?" Before he could get to the corner of the weather-house where the white men were who had arms in their hands, I saw colored men approaching from the bushes with guns. Before he could reach the corner of the weather-house heard a fusillade of musketry, and pistol-shots also. He took shelter from the bullets; doesn't know what became of the white men who had arms. The fusillade of muskets and pistols which he heard at this time proceeded—some of it—*from the rear of the weather-house*, and *much of it in the direction of the vestry.* Hurried across the space to the vestry; saw in the rear of it fifteen or twenty men, principally white, and a number of whites flying down the road to Cainhoy. While McKinley was on the stand he called my attention to the white men with arms in their hands; doesn't know whether the white men had arms before or after the first shot. Heard no threats or insults offered on the ground; doesn't know what caused the death of Mr. Simmons.

Samuel Sanders, chairman of the meeting and of the democratic party of the parish, said he was at Cainhoy; rode up with O'Connor, Dervey, and Ficken. Doesn't know who it was that hurt or caused the death of Mr. Simmons, *unless it was done by the general riot.* Was chairman of meeting on democratic side. When Dervey was nearly through his speech a parcel of lads, sixteen to eighteen years old, about ten or twelve in number, that came from Charleston on the steamer, *left our side of the meeting*, (that is, the democratic side,) went around to the rear of the colored men, toward the carriage or weather-house. McKinley followed Dervey, and had said a dozen words or more, when he saw the colored people in a commotion, and looking into the weather-house he saw the lads who left the democratic side and went around to the weather-house taking guns from the chimney or near it. They had no guns when they went there. Several of the colored people rushed into the building and struggled to get the guns away from them. In the struggle one of the white boys fell to the ground, *and at that instant a fire-arm went off.* The shot was near the chimney; doesn't know whether it was a gun or pistol,

*One of the methods of calling attention of democrats to republican meetings is exhibited in the following notice taken from the editorial columns of the News and Courier, Charleston, October 9, 1876:

"LOOK OUT!—There is to be a big radical meeting in Kingstree on Thursday. Efforts have been made to prevent the democrats from knowing anything about it. Now, they are forewarned."

nor whether it was inside or outside the building. This was the first shot that was fired. It was not more than ten feet from where the struggle for the guns occurred.

As soon as the shot was fired some of the colored people started to run, other colored men cried, "Get your guns! Get your guns! They are shooting!" They ran southwestward from the building to the bushes and got their guns. The men who were struggling for the guns went out of the north end of the building. Two or three shots were fired by the crowd from that end of the building, and after a while five or six shots from different directions. Then he saw the old colored man (Uncle John) fall about forty or fifty yards from the weather-house. Up to this time he had remained on the stand. He then started for the vestry-room, and met Mr. Bowen coming from the democratic side, and said, "You can stop this riot, and, for God's sake, do so." Bowen said he would do anything in his power to stop it. He went with another gentleman (Mr. Walker) toward the colored people, and appeared to be using every exertion to stop the riot. Sanders then went toward the democratic party, and meeting some of them coming back toward the vestry with pistols, said, "For God's sake, get away from here; we did not come here for fighting; it is time for us to retreat; and they all went down to the village. *He (Sanders) does not believe the riot was a premeditated affair by either party, but was brought about by the young men who seized the guns of the colored men in the building.*

W. S. Elfe.—Before the meeting opened some of the colored men said they would not hear Major Melany (a colored democrat) speak. While Jervey was speaking some one interrupted him, and several colored men rose up and ordered that all should keep quiet and be polite. Elfe was not in a position to see the men in the weather-house who seized the guns there. When returning home, after having gone to within a quarter of a mile of the steamer, he met some white men on the road with guns, and asked where they got them, and they said, "At the Brick church." No one but himself had a gun at the church. "*I took a gun to hunt on the way.*" Did not fire a gun during the riot. "Three or four of us were deer-hunting on our way to the meeting." One was a colored man and the others white men. *They all took their guns to the meeting.* Elfe's gun was loaded with buckshot.

M. I. Murray was at the meeting. In addition to the free ride, he was paid $1. He took it because the rest of the members of his company took it, with some exceptions. It was paid by B. E. Robinson. He formerly belonged to the Montgomery Guards, but at the time of the riot to the Butler Guards. He took no part in the riot. He was crippled by an ulcer on the hand. Murray said he was a straight-out democrat.

George Rivers Walker was at the meeting. Had a pistol that would not shoot. He said he *knew nothing of his own knowledge* of the cause of the firing.

The coroner's jury, on their oaths, found a verdict that the said Simmons came to his death by a gunshot wound and other wounds received in the riot which occurred at the joint discussion of a political meeting held near Cainhoy, *by some person or persons unknown.* Nine of the witnesses before the coroner's jury were democrats, only Smith and McKinley were republicans.

HOW CAME THESE ARMS AT CAINHOY.

One of the witnesses at the coroner's inquests growing out of the Cainhoy riot, Mr. W. S. Elfe, a democrat, said no one but himself had a gun at the Brick Church. He took a gun to hunt on the way. "Three or four of us," he said, "were deer-hunting on our way to the meeting; one was a colored man; the others were white men. They all took their guns to the meeting." This was the general custom of the people, white or colored, democrats or republicans.

James H. Montmolin, page 257, said: "The republicans came ten, fifteen, and twenty miles to the meeting, bringing their guns with them, and stacking them at the stand." This was the general practice of all persons living in the country parishes.

At the Cainhoy meeting fewer persons brought arms than usual, because they had been advised not to do so. Those from a distance, uninformed as to the agreement under which the meeting was held, like Mr. Elfe and his democratic companions, followed their usual custom. The republicans who brought guns, arriving at an early hour, deposited their arms in the chimney of the old weather-house, and covered them so that they should not attract attention during the progress of the meeting. It was there that, according to the testimony of Mr. Walker and the democratic chairman of the meeting, Mr. Sanders, the young white men, who had left the democratic side and gone over to the republican position, found them. Hence the riot and its fatal conclusion. Six white men it is said were killed and several severely wounded. No reliable information was received as to the injuries of the colored men, except as to the first man who was killed.

A careful review of the testimony on all sides, in this case, proves conclusively that at a moment when perfect order existed at the meeting, when all persons, white or colored, were occupied listening in breathless silence, with serious and eager attention, inconsiderate or mischievous young men of the democratic party, after consultation with at least one of its leaders, [Mr. Walker,] by imprudent, if not criminal, conduct, brought on a collision between excited partisans of different races that terminated with the slaughter of innocent and unoffending persons of both parties and races. However much the occasion and its consequences are to be regretted, the responsibility cannot be charged upon the republicans. They were engaged in the exercise of a public right and duty, according to their usual custom, seeking no intercourse or co-operation with democrats, and yielding only to the earnest solicitations of their leaders to be permitted, for the advantage of the democratic party, to participate in the discussion, upon equal terms with republicans, of the important issues of the presidential canvass.

The judgment of every impartial and just man must concur in the conclusion and declaration made under oath, by Mr. Samuel Sanders, the democratic chairman of the Cainhoy meeting, before the coroner's inquest the day after the tragedy: "*Witness does not believe that this riot was a premeditated affair of either party, but that it was brought about by the young men already spoken of seizing the colored men's guns in the building.*"

REPORT OF UNITED STATES MARSHAL UPON RIOT OF CAINHOY.

Mr. Robert M. Wallace, the United States marshal for the district of South Carolina, a native-born citizen of the State, whose official duty it was to keep the peace within the district, was requested by the high sheriff of the county, as soon as the news of the riot reached the city of Charleston, to call for the assistance of the Federal troops to prevent further fighting. In pursuance of this call, which was regarded as an official request, measures were taken to obtain military assistance, and a company of troops was ordered from Columbia, by General Ruger, to proceed at once to Cainhoy, reporting to the United States marshal at Charleston. The riot occurred Monday, the 16th of October, and the troops arrived at Cainhoy the Thursday following, where they remained until after the election. On the 18th October a report of his action was made to the Attorney-General of the United States, at Washington, with a statement of the facts connected with the riot, so far as they could be obtained from persons who were on the ground at the time it occurred.

His report set forth the grounds upon which he thought it his duty to move in the matter, with his view of the cause, history, and results of the riot. The report was ruled out by the committee, but it is regarded as an important part of the history of the affair, and its conclusions are herewith briefly stated, and the paper in full is appended to this report. The marshal first obtained all the information from democrats and then from republicans, and from affidavits of other persons who were present. The greater part of his information was obtained from democrats. A similar report of the commanding officer of the Federal troops at Charleston, General Hunt, to the Adjutant-General of the Army, concerning the riot of the 8th of November, was received by the committee and ordered to be printed with the testimony.

This was, the marshal says, a legitimate result of the intimidation policy or Mississippi plan, adopted by the democratic party at the opening of the campaign for the purpose of breaking down the republican majorities in that State. The republicans had been disturbed by the appearance of armed men at some of the earlier meetings. The meeting at Cainhoy was largely attended by republicans who were present at the first meeting, but had not attended any of the joint discussions. Their suspicions having been excited by the disorders of the first meetings, they took with them such weapons as they had at their homes, old muskets, shot-guns, and fowling-pieces. No militiamen went with State arms, as democrats have represented. They were informed at the place of meeting of the agreement that no person should bear arms, and directed to deposit their guns away from the grounds. They did so. Some fifteen of the guns were hidden in the old weather-house, about fifty rods from the stand, and others carried across the ravine into the woods.

The first speaker was the democratic candidate for the office of prosecuting attorney, who was followed by W. I. McKinley. He had spoken but a few words when a commotion was observed on the left of the stand, and McKinley said, "Those white men have guns and are going to shoot." The colored men shouted, "The white men have seized our guns," and made a rush for those on the other side of the ravine in the woods. The white men had secretly slipped into the old house, seized the guns, and the first shot fired killed an old colored man about seventy years of age. The colored men soon returned with their guns, attacked the democrats in the old house, and then began to fire upon the democrats, who were armed with pistols generally, and retired toward the boats under a heavy fire. This is substantially the statement of Mr. Wallace. His report is printed at page —, and his testimony at page 250, second part of the general testimony.

INTIMIDATION OF VOTERS.

Several instances were presented by the majority of the committee of what was alleged to be the intimidation of colored democrats by republicans of that race. These allegations were sustained by testimony of various witnesses taken at great length. The limits of this report will not admit an examination of all the cases referred to by them. Two of the most important and best supported by evidence are here briefly referred to. The first is the case of

JAMES GRANT AND PETER LUCAS, (pages 18 and 20.)

Grant and Lucas were colored men who desired to vote the democratic ticket at the Red-Top Church precinct, in Saint Andrew's Parish. Grant voted the independent or conservative ticket at the previous election and the democratic ticket in the late presidential election. After he had voted he left the polls with Simon Bennett, a colored democrat, and a crowd of colored men following. When at some distance from the church he was attacked and severely beaten. This, it was alleged by himself and other witnesses, was because he was a democrat. Lucas was a colored democrat who had voted the democratic ticket since 1868, eight years. He went to the polls at the late election at nine o'clock and voted at quarter after nine. He voted the democratic ticket. Leaving the church, he was followed by a crowd and assaulted about fifty yards distant and severely beaten. Later in the day he was again beaten because, it was claimed, he had voted the democratic ticket.

The testimony speaks for itself. If all the witnesses lie "they lie like the truth." They are sufficiently numerous to make it wholly improbable that they spoke by concert or agreement. Their story is natural and probable, and in one respect it accords singularly well with the pregnant and important fact of this election. In the fight between Small and Grant and Small and Lucas, all the witnesses agree that there were enough of the friends of both Grant and Lucas "to fight Small off." The respective crowds must have been at least equally divided in numbers; and if either had an advantage in that respect, it was on the side of the colored democrats, Grant and Lucas. This division could not have been made on political grounds. There were but thirteen or fifteen colored democrats voting at the Red-Top precinct. The enraged partisans must, therefore, have divided upon some other ground, and that was the personal sympathy they might have felt for the contending parties, nearly all of whom must have been of the same political party. There was no panic among them.

The witnesses on the other side were panic-stricken from the moment they reached the polls until they were safely housed at home. They saw everywhere "gorgons and chimeras dire." Even the women that "sold biscuits to the mens" appalled them. Mr. Latham, the proprietor of the phosphate mines, did not dare to challenge a boy who claimed the right to vote. An infant in swaddling clothes, if of the proper color, would have frightened them. April Small was of other stuff. He would fight a republican or a democrat if either called him "a disgraced name—a thief—and he was willing to die for his ticket. He didn't know how other republicans felt about it; he could only speak for himself." It is not difficult to find the truth in this case, and we rest the decision upon the testimony.

Several witnesses swore strongly that this trouble was wholly on account of politics. Everybody at the polls they said was armed with weapons of different kinds. Militia companies paraded during election day at the church, and a general panic was excited among the democrats, and continued until the polls closed, and some hours later. These were the strongest cases of intimidation that were presented, and were backed up by what appeared to be most positive testimony.

But there was another side to this history, and the testimony was equally conclusive. The first witness called was the precinct chairman of the election that day. His examination-in-chief is given entire, as follows, (page 120.)

JAMES H. ROBERTSON (colored) sworn and examined.

By Mr. BANKS, (page 101:)

Question. What precinct do you vote at?
Answer. I vote at the Red-Top Church, in Saint Andrew's Parish.
Q. Did you have anything to do with the election in this State this year?
A. I did, sir.
Q. Are you a republican?
A. I am a republican by principle.
Q. Did you hold any position?
A. I was precinct chairman for the republican party in Saint Andrew's Parish.
Q. What was the character of the election as regards order and decorum?
A. Very good. I was there from the dawn of day until, I suppose, between the hours of seven and eight, or eight and nine o'clock. So far as that part was concerned, I had the papers, and I was interested in the election, and I staid right about the polls. I didn't come away from the polls. There was loud talking, &c., going on, and at one time I did hear a controversy between two men. I understood that they were quarreling about a check or something, and I told them not to make any noise around the door, and they went away.
Q. Were there any people armed there, and, if so, how many, and what were the arms?
A. There were no persons armed, except in this way: I saw no ammunition. I saw persons with home-pieces, such as they carry to shoot bears with. There were no guns there at all. In fact, I went with Mr. J. D. Murphy to the door, and asked him to show me anything of that kind, if he saw it.
Q. Did you see revolvers?
A. There was only two pistols that I saw there in the course of the day. Murphy had one and I had one. I had mine out and showed it to him to let him see that it could not possibly be used, because it was broken.
Q. Who was Mr. Murphy?
A. He was an interested party on the democratic part there; as spectator only.
Q. Were there people there who had clubs, and, if so, what sort of clubs were they?

A. I saw no clubs except what the people termed walking-sticks. They cut walking-sticks, such as you see people come in from the country walking with.
Q. Where were they cut?
A. In the woods.
Q. What sort of sticks did these people cut?
A. Sticks about an inch through, just the length for a man to walk with.
Q. Were there any women about there?
A. There were.
Q. Were they armed in any way?
A. There was not one on the ground armed in any way that I saw.
Q. You felt interested, as chairman of the committee, to see what was going on?
A. I did, sir; and also pledged myself to keep order in every way.
Q. In regard to this controversy that you heard between two men, of which you have spoken, will you tell us who those men were?
A. One of the parties I was not acquainted with; they all lived up there, and I have often seen him before; his name was James Grant. April Small was another man, a man that belongs to our company.
Q. What is your company?
A. The militia company.
Q. Was the militia company on parade that day?
A. They wasn't; they came there as citizens.
Q. Tell us about this dispute between Small and the man you did not know, and what time in the morning it was?
A. It was between eight and nine o'clock. I heard them talking, and I went up to where they was and told them if anything occurred in the way of violence, or riot, that our work would be of no avail, and that our attempt would be lost for nothing, that all our energies would be for nothing. They were quarreling about a check, and I begged them to disperse from the place, and they did.
Q. What was the check about?
A. I didn't see it. I don't know anything about them kind of checks. I heard them say "phosphate checks." I never seen one of them, and I don't know anything about it. I heard Small saying, "You accused me of stealing that phosphate check," and I don't know anything more about it.
Q. Did they go away?
A. They went off at my command.
Q. Did you see any trouble, or do you know of any trouble, of your own knowledge, between those two men afterward at any time in the day?
A. I didn't, sir. Mr. Murphy, Captain Latham, and others said to me that they heard that they had beat James Grant, and asked me if it was so; and I says, "Mr. Murphy, if it is so, it is beyond my knowledge."
Q. There was no quarrel or fight between them on the ground at the poll?
A. No, sir; never.
Q. At this poll was there more disturbance or less disturbance and confusion than occurs ordinarily at polls?
A. We all concluded that it was the most peaceable election we had ever seen since the war was over.
Q. Do you know whether anybody was prevented from voting by violence; did you hear any complaint of that kind?
A. There was no one prevented from voting as they chose. They went in and voted just as they chose. Of course, there was talk among both parties. Some republicans said democrats shouldn't vote; some democrats said republicans shouldn't vote; but, nevertheless, they went in and voted.
Q. Was the conversation you heard outside of the building very violent?
A. It was just as usually occurs at such places.

JAMES H. ROBERTSON (colored) recalled, (page 107.)

By Mr. BANKS:

Question. You said you were discharged by the railroad company?
Answer. Yes, sir.
Q. How long did you say you had been employed by the company?
A. I suppose about eight or nine years.
Q. Why were you discharged?
A. Well, sir, Mr. Boylston and Mr. Gadsden told me that I could not support the democratic party they would have to put some one else in my place.

HENRY DRAYTON (colored) sworn and examined, (page 104.)

By Mr. BANKS:

Question. How old are you?
Answer. I guess about twenty-nine years old.
Q. Where do you live?
A. In Saint Andrew's Parish.
Q. How long have you lived there?
A. I have been living there, now, sir, about six years.
Q. What is your business?
A. I am a farmer.
Q. Do you own your own land?
A. Not yet, sir.
A. You are working on a plantation?
A. Yes, sir; a little farm there.
Q. Where do you vote?
A. I vote at the Red-Top church, in Saint Andrew's Parish.
Q. Were you there at the last presidential election?
A. I was, sir.
Q. Did you hold any office or have any particular duty to perform
A. I was appointed a deputy United States marshal.
Q. Let me ask you, then, if your were about there all day?
A. All day, sir.
Q. What time did you arrive?
A. I arrived there a little before six o'clock in the morning?
Q. How late did you stay?
A. I staid there until after eight o'clock that night, sir; after the ballot-box was closed.
Q. Did you come away from there during that time?
A. No, sir; I was there all day.
Q. Did you take notice of what was going on?
A. I did, sir.
Q. State to the gentlemen of the committee how it was during the day regarding order and peace; whether there was any riot or general disturbance.
A. It was quite noisy all day until about half past nine or ten o'clock in the day. I heard a little contradiction between Small and James Grant, something that he was saying about the stealing of a phosphate-check. I didn't even wait for any further conversation from them, seeing they was very near the poll. I went up to them and I said, "Gentlemen, I want you to understand that I am appointed here as marshal, to see justice and peace around this poll to-day, and I ask you not to have any disturbance or fuss around this poll, and those that haven't any business here must disperse and go home;" and then they walked off, and I went and turned my back and stood upon the step. Afterward I heard that there was some trouble.
Q. Was there anything said about voting between Grant and Small?
A. Not a word that I heard on that day; nothing except what Captain Latham said to me, that they was after Grant about his voting. I said, "No, that was not what the fellow was after."
Q. In regard to the general behavior of the people in and out, tell us how it was.
A. Well they were quite quiet, only when they came up some of them was talking and talking, and saying some was a democrat and some a republican.
Q. Was any man prevented from voting on either side?
A. Not a living man, sir.
Q. Did you observe that the people were armed?
A. Yes, sir; I did.
Q. What did you see?
A. The first thing in the morning, after the people gathered there pretty thick, I saw one or two men that had their guns—I believe one double-barrel gun and an old musket—and I said to them same two men, as I thought it was part of my business, that they must carry their guns away just as quick as they could; and I seen one man deposit his gun in the hands of another man till he was done voting. After he was done voting he took his gun and went off down the road.
Q. Was there any militia company about there during the day on parade?
A. No, sir; no parade at all.
Q. Do you know anything about the militia company in that neighborhood?
A. I am an officer in that militia.
Q. What is your rank as an officer?
A. Second lieutenant.
Q. Was there any order for them to parade that day?
A. No, sir.
Q. And you didn't parade?
A. No, sir.
Q. Was there any music, drums, or anything of that sort?
A. I believe there was some boys with an old drum out there, but it didn't make any disturbance; the people were not paying any attention to it at all, sir.
Q. How long have you been a voter?
A. The first time I voted was about eight years ago.
Q. You have been at other elections besides this?
A. I have, sir.
Q. Will you tell the committee how this compared, in the behavior of the people as to order or disorder, with what you have seen before?
A. In my judgment, sir, this has been the quietest election we have ever had, as far as I have ever seen.

SAMUEL FISHBURNE (colored) sworn and examined, (page 107.)

By Mr. BANKS:

Question. Where do you live?
Answer. On Mrs. Mills's plantation, in Saint Andrew's Parish.
Q. How old are you?
A. Twenty-four years of age.
Q. How long have you lived in Saint Andrew's Parish.
A. I was born and raised there.
Q. What is your business?
A. Planting.
Q. Where do you vote?
A. At Red-Top Church precinct.
Q. Were you there at the last presidential election?
A. Yes, sir.
Q. What time did you get there?
A. I got there in the morning about half past six o'clock.
Q. Were you there all day?
A. Yes, sir; all day, until the polls closed.
Q. Will you tell the gentlemen of the committee if you saw any disturbance there during the day, and, if so, what it was?
A. A little disturbance commenced in the morning about half past nine o'clock. This was light talking. After that they went up the road. The marshal asked them to go up the road from the polls. Mr. Jeems Grant accused Abram Small of stealing a phosphate check. So when they went up the road Grant said to Abram Small, "You have taken my phosphate check," and Small said, "No, sir; I have no phosphate check that belongs to you," and with that Grant drew his revolver to shoot Small.
Q. Where was this?
A. It was a mile from the polls.
Q. Where were they when you first heard the conversation? Had they gone off this distance from the polls?
A. Yes, sir; and then after that, as I afore said, Grant drew his pistol to shoot Small, and the cap snapped, and Small did not have anything but a little cane stick about an inch large. After that Small threw him down. After that the boys ran up and whipped Small off of Grant.
Q. What happened when these men went in?
A. When these men went in some of the other men went in and parted them. That is all I saw of the row. As for there being any row around the polls, they did not have any at all.
Q. Did you see any military company at the polls?
A. No, sir; there was no such thing.
Q. Did you belong to the militia company?
A. Yes, sir.
Q. Did you see anybody who belonged to the militia company who had a musket?
A. Yes, sir; but they laid them all to one side of the drays before they went up to vote. There was an old dray there with some hay on it, and they laid them under that.
Q. How many muskets were there there?
A. I saw two of them.
Q. How many times have you voted?
A. Once; this is the first time.

APRIL SMALLS sworn and examined, (page 111.)

By Mr. BANKS:

Question. How old are you?
Answer. Twenty-seven.
Q. Where do you live?
A. I live on Mrs. Mills's plantation, about a mile from John's Island Ferry.
Q. Where is Mrs. Mills's plantation?
A. In Saint Andrew's Parish, across the new bridge.
Q. What is your business?
A. Farming.
Q. Were you at the polls at Red-Top Church precinct on last election day?
A. Yes, sir.
Q. At what time did you get there?
A. I got there that morning about six o'clock, just before the box opened.
Q. Do you know a man by the name of James Grant?
A. Yes, sir.
Q. Did you see him there?
A. Yes, sir.
Q. Was there any difficulty between you and him?
A. Yes, sir; there was.
Q. Will you please tell the gentlemen of the committee about it just as it occurred?
A. Me and James Grant come into a fuss about he accusing of me stealing a phosphate check from him, and I wouldn't say nothing to him until I got through putting my vote in the ballot-box. About an hour after I went up the road about

a mile from the polls, and I asked him how about his accusing me about the check, and before he gave me any satisfaction he hauled out his pistol and made fire at me, and the cap snapped, and the same time as the cap snapped I had a small walking-stick in my hand, and I struck him in the head with it.

Q. How large was the stick?

A. It was a small oak stick, about an inch thick. Then me and him got into a fight, and we bind one another, and I threw him down, and at the same time his crowd ran up and grabbed me; then my party of boys had to run up for to help me; then, at the same time, this man Peter Lucas, he was one of James Grant's party, and he came up and stroke me across my shoulders with a club about an inch thick; after he stroked me with the club I went at him, and me and him got into a fuss.

Q. At the same place?

A. No, sir; at the next place.

Q. What happened after Lucas struck you?

A. When Lucas stroke me where Grant was?

Q. Yes.

A. After the fuss between me and Grant we parted, and I went off.

Q. Where did you go to?

A. I went off up to the polls, and me and Grant did not have any more fuss, and me and Peter Lucas got into a fuss about his stroking me.

Q. Where did you see Lucas afterward?

A. I never seen Lucas for about an hour and a half after me and Grant got through. When I seen him I was gwine up the road home, and I and him had a fuss.

Q. Well, what happened when you met Lucas?

A. Then we started a fight right there in the road, and the folks came up again and parted us. And after the folks parted us I went on home. That is all I know about it.

Q. Was there any trouble between Grant and you about politics?

A. No, sir; nothing like that.

Q. Was there anything said about politics in the morning when you first had the conversation near the polls?

A. No, sir; nothing like that.

Q. Are you a republican or democrat?

A. A republican, sir.

Q. Was there anything said about politics at the time you had the fight with him?

A. No, sir.

Q. It was about the phosphate check?

A. Yes, sir.

Q. What is a phosphate check?

A. After you cut a pit they give you a check, it might be for one dollar or seventy-five cents, and you keep that check until pay-day and you turn it in and get the money.

Q. When he accused you of stealing his check, were there more than one?

A. There wasn't but one. He had it in his pocket, and he said I was the one that stole it from him.

Q. At the time you had this fight was there anything said about politics between you?

A. No, sir; we had nothing to do with politics at that time.

Q. Did all the colored people carry sticks or clubs?

A. No, sir.

Q. Did you see any other affair that day?

A. No, sir.

Q. Did you go back to the polls and stay there?

A. After I and Grant had a fuss, and Peter Lucas?

Q. Yes.

A. No, sir; I went on home.

Q. What time was it that you and Lucas had this trouble?

A. Between two and three o'clock.

Q. Do you belong to the militia company?

A. Yes, sir.

Q. Was the militia company parading that day?

A. No, sir.

Q. There was no order for a meeting of the company that day?

A. No, sir.

Q. Did you see any of the militia company there with muskets?

A. No, sir.

Q. Did you see any muskets or arms on the ground?

A. No, sir; I did not see any, but some folks that stood close around there had a few old guns, but they did not carry them to the polls.

By Mr. COCHRANE:

Q. What ticket did Grant vote?

A. I couldn't tell you what ticket he voted; I don't know whether he voted the democrat or republican ticket.

Q. Were you in the church when he voted?

A. No, sir.

Q. What ticket did the colored people tell you he voted?

A. They didn't tell me what ticket he voted.

Q. Do you mean to say that the colored people did not tell you what ticket he voted?

A. No, sir; because I had nothing to do with it: all I had to do was to put my ticket in, and I have nothing else to do with anybody else's business.

Q. But you followed Grant down the road?

A. Yes, because he called me a disgraced name; he called me a thief.

Q. When you got through with this fuss you went back to the polls?

A. Yes, sir.

By Mr. BANKS:

Q. Suppose a republican had called you a thief, would you have been satisfied with it?

A. If he had called me a thief, me and him would have got into a fuss just the same as Grant.

FRANK RICHARDSON (colored) sworn and examined, (page 122.)

By Mr. BANKS:

Question. Where do you live?

Answer. In Saint Andrew's Parish.

Q. How long have you lived there?

A. About ten years. I moved into Saint Andrew's Parish in 1865.

Q. At what precinct do you vote?

A. I vote at the Red-Top church.

Q. What is the Red-Top church?

A. It is a building with a red top.

Q. How old are you?

A. Thirty-two years of age.

Q. What is your business?

A. Planting, sir.

Q. Had you any office or special duty to perform at the last election?

A. No, sir.

Q. Will you please to state to the committee what you know about any fracas or quarrel or trouble that occurred at the Red-Top church poll during that day?

A. I was there at the time when April Small and Grant had some trouble.

Q. What time did you get to the polls?

A. At the times the polls opened.

Q. What time did this trouble occur between Grant and Small?

A. Early in the day.

Q. Tell us what it was.

A. As far as I knew about it, Grant was accusing Small of stealing a check from him, and they had a contradiction of that till they got to fussing, and after that Drayton told them they must go off; and so they went off talking, and talking, and talking; after that they commenced to talk very loud, and he thought they would have a fuss, and he said that was no place to have a fuss, and so they went away.

Q. What was Drayton?

A. I believe he was deputy marshal there at the poll.

Q. What else do you know about it?

A. After they got away from the poll they got on to short talking, and after ward Grant drawed a revolver on Small.

Q. Did you see this?

A. Yes, sir; I see that myself, sir.

Q. How far did they have to go away?

A. As near as I can guess, about three-quarters of a mile; then when Grant drawed his revolver on Small, Small closed on Grant, and in the time when he first closed on him then the row commenced.

Q. Was either Grant or Small thrown?

A. Both of them binded and went down, and then the crowd collected quite big; after the crowd gathered there one crowd was standing for Small and the other one was standing for Grant, and they commenced to mix up and had a general row.

Q. At the time that this difficulty began, near the polls, was there anything said about any other subject besides the check?

A. No other subject, sir.

Q. Nothing said about politics?

A. Nothing on political affairs at all.

Q. Nothing said about "you are a democrat, or a republican?"

A. No, sir.

Q. How was it when they met three-quarters of a mile from the poll; were there no politics talked there?

A. No, sir; it was about the check.

Q. Were you at the polls during the whole day?

A. I was at the polls twice that day.

Q. How much of the time were you away, do you think?

A. I was away about an hour.

Q. What was the behavior of the voters at that poll?

A. The people didn't have no fuss at all round about the poll, sir.

Q. Did you see anybody assaulted because he was going to vote the democratic ticket?

A. No, sir.

Q. Did you see any people there with arms—muskets, guns, clubs, or sticks?

A. I saw them with walking-sticks.

Q. What do you call a walking-stick?

A. A common stick about the size of my thumb. Some of them mens has got to walk with a stick as a balance, like.

Q. Were there any women there?

A. A few womens was there. They had some biscuits to sell to the men.

Q. Was there any military company there?

A. No, sir.

JACOB MOULTRIE (colored) sworn and examined.

By Mr. BANKS:

Question. Where do you live?

Answer. In Red-Top church, Saint Andrew's Parish.

Q. What is your age?

A. About thirty-four, sir.

Q. How long have you lived in Saint Andrew's Parish

A. Over ten years, sir.

Q. What is your business?

A. School-teacher, sir.

Q. Were you present at the election?

A. Yes, sir.

Q. Had you any office there?

A. Yes, sir.

Q. What was it?

A. Manager, sir.

Q. Are you a republican?

A. Yes, sir.

Q. What time did you get to the polls in the morning?

A. About five o'clock.

Q. Did you stay all day?

A. Yes, sir.

Q. Will you be kind enough to state to the committee whether there was any disturbance there during the day; and, if so, who made it, men or women, republicans or democrats, and what sort of a disturbance it was?

A. No, sir; there was no disturbance at the poll at all all day.

Q. There was no quarreling about politics—about a man's being a democrat or a republican?

A. Not in my presence at the poll.

Q. Was it generally a peaceful assembly of people?

A. Yes, sir. I was manager there, and I think that everything went on the peaceablest out of all I been to.

Q. Did you know anything about a disturbance between Small and Grant?

A. No, sir; I never knew anything about it—the way of it.

Q. Was there any military company about there during the day?

A. No, sir; I never seen any about there all day. I was inside, and never had a chance to come out.

Q. Do you belong to the military company in that precinct?

A. Yes, sir.

Q. Do you know of any parade?

A. The captain of the company ordered them not to take out any arms that day.

Q. Were there any men or women, republicans or democrats, armed that day with shot-guns or pistols, there at that poll?

A. No, sir; not in my presence. I never seen any such thing.

Q. Any clubs or sticks that were unusual for men to carry?

A. Not in the presence of the poll, sir.

By Mr. COCHRANE:

Q. Do you know Captain Latham?

A. I am well acquainted with him. He was to the box that day with me.

Q. He was pretty badly scared?

A. I don't know. He didn't seem so. He told me that he was satisfied; that he didn't have no dread of nothing.

Q. When did he tell you that?

A. To the box.

Q. How did he come to tell you that he "didn't have no dread of nothing?"

A. He told me that when the box was closed; he told me that he was well pleased at how the election went along.

Q. You have said that Captain Latham, when you and he were standing at the box, "didn't have no dread of nothing?"
A. I didn't state what time it was, so I tell you now, when the box was closed he said everything was done all right.
Q. Did he say to you that he "didn't have no dread of nothing?"
A. No, sir; he told me that he was satisfied.
Q. Then he did not say to you that he "didn't have no dread of nothing?"
A. The way how he spoke to me was that he didn't have no dread of anything. He told that he was satisfied.
Q. Did he tell you that he "didn't have no dread of anything?"
A. He didn't tell me that he had no dread, but the way he spoke——
Q. Then when you told me a few moments ago that "Captain Latham said he had no dread of nothing," you did not tell me what was true?
A. I was correct so far as that when the box was closed he was satisfied.

ARCHIE MANIGAULT (colored) sworn and examined.

By Mr. BANKS:

Question. How old are you?
Answer. About thirty.
Q. Do you live at Red-Top Church precinct?
A. Yes, sir.
Q. How long have you lived there?
A. About six years, now.
Q. What is your business?
A. Farming.
Q. Do you belong to the militia company?
A. Yes, sir.
Q. Have you any office in it?
A. Yes, sir.
Q. What is it?
A. Captain.
Q. Were you at the polls on election day?
A. Yes, sir.
Q. What time did you go there?
A. I got there about half past six o'clock in the morning.
Q. Did you stay there all day?
A. Yes, sir.
Q. Will you have the kindness to state to the committee whether you saw any disturbance there?
A. Not at the polls.
Q. Or about there?
A. Yes, sir; I saw something about there. It was a fuss about three-quarters of a mile from the poll. I saw no fuss right about the voting place.
Q. Were there any armed men about there—either white or colored, republicans or democrats?
A. No, sir.
Q. Did the militia company, of which you are captain, turn out that day?
A. No, sir.
Q. Did they have orders not to turn out?
A. No, sir.
Q. Did you give them any orders not to turn out?
A. Yes, sir; I told my men not to turn out on that day.
Q. Does the law allow any military parade on election day?
A. No, sir; it does not allow it.
Q. Were any colored men prevented from voting just as they pleased, so far as you know, that day?
A. No, sir; they voted just as they pleased.
Q. Were there any colored democrats who voted?
A. Yes, sir.
Q. Nobody quarreled with them?
A. No, sir.
Q. Or swore at them?
A. No, sir.
Q. Or fought them?
A. No, sir.
Q. Well, now, about the disturbance that occurred three-quarters of a mile off, was it between Grant and Small?
A. Yes, sir.
Q. Did you see it?
A. Yes, sir.
Q. Tell us what you saw, if you please.
A. Grant accused Small about a check that he said he stole, and Small attacked Grant in the road about a quarter of an hour after he had done voting, and he told him to give him satisfaction for accusing him of stealing the check; and Grant drew a pistol and snapped it twice on him; and Small knocked him down with a stick that he had in his hand, and Lucas and a crowd of men rushed together where the fight was, and the rest of the party of boys that went up with him they went there to assist Small for fear Lucas would crowd on him for Jeemes Grant. After we got there and they commenced to fight, the marshal went there to put a stop to it; but I didn't go there right off where the fight was. I thought the marshal had stopped the fuss, and some one called on me to tell me it was best to put a voice in there to stop the fuss. So I went up and hollered after them and told them to stop this fuss, and for all the mens and womens to leave and go back down the road, and get through voting and go back home; and they all fell back from where the fuss was, and voted and went home.
Q. Was there any woman there?
A. Yes, sir.
Q. Who was she?
A. I don't know who she was. She sitting on the ground at the time I went up there and told these men to go off.
Q. Was there anything said about politics in this fight?
A. No, sir.
Q. Do you know whether Grant was a democrat or a republican?
A. No, sir; I don't know what he was.

LABOR STRIKE.

There was another alleged case of "intimidation" for political purposes that is entitled to consideration. It occurred in Colleton County, on the Combahee River. A rice-planter was the sufferer. Mr. J. B. Bissell's manifold afflictions are printed on page 85 of the second part of the testimony, as viewed by himself. He had eight plantations, and employed eight hundred negroes. "*The republican negroes were outspoken*," he said, "*they would not allow a democratic negro to vote at the polls.*" They were willing and ready to "murder them, on account of their politics." They did whip them. Twenty-five of the negroes who had joined the democratic club in Colleton County were whipped for this reason. He had the proof with him—the best proof—"the whipped negroes themselves." He not only had the negroes, but he had what was better, a photograph—"a likeness of one taken just after he was whipped." He did intend to send it to Frank Leslie's to show the condition of political affairs in South Carolina, but he did not. The negro was produced and he outdid his likeness. The photograph could not falsify the facts. He admitted—Mr. Tony Coker was his name—that he had been whipped, about fifteen miles from home.

"The Dr."—Bissell—he said "had sent up to Hendersonville to get men to cut rice. The colored people down there"—at Colleton—"wouldn't let any of the rest of them work; the doctor sent up *for all the democrats to come down.*" Nine went down, Coker, his son, three other colored men, and four white men, "*all democrats but two.*" Four of these men were whipped—himself, his son, Alonso Ellison, and Moses Desseaux. The two last were radicals and they did not whip them so much. The rest ran away. The crowd that did the whipping numbered about one hundred and seventy men and women. They were mostly republicans. "One out of eleven might have been a democrat." They said, "No damn democrat should come down there to work; that they didn't get enough to cut that rice, and no democrat should come there to cut it; that *they planted the rice and they would cut it*," (page 91.) Coker said he had been a democrat ever since 1865, all his life, and he gloried in it. He had voted the democratic ticket every year since 1865, and had never had any trouble before. "Their talk about the democratic ticket didn't alarm him, because he had always voted the democratic ticket before."
Richard Coker, the son, says (p. 95) he got twenty-five lashes. "They whipped Alonzo Elliott. He was a democrat." "They whipped Tobe Desseaux. He was a radical. They whipped him because he went into the field to work with us. They told him the rice was theirs, and nobody should go there to work, and they drove him off. They says, 'We have a rule to work at;' that their rule was a dollar and a half an acre. I told them every man was free to work where he pleased; I was satisfied with fifty cents a day myself."

By Mr. BANKS, (page 96:)

Question. Had you heard anything about a strike on the plantation before that?
Answer. They said that they had stopped striking.
Q. Had they gone to work?
A. The strikers?
Q. Yes.
A. No, sir; they hadn't gone.
Q. Well, then, the strike had not stopped?
A. It hadn't stopped then.
Q. Well, what did they strike for?
A. They struck for higher wages.
Q. Well, how much did they get when they were at work before they struck?
A. Fifty cents a day.
Q. Fifty cents a day, and they struck for higher wages?
A. Yes, sir.
Q. And you got $2 a day?
A. I got $2 a day.
Q. How did you know that they got fifty cents a day?
A. They said so themselves.
Q. Did they say so at the time of the whipping?
A. They said, "I have been working for fifty cents a day, but I am striking now for higher wages."
Q. How much did they strike for?
A. A dollar and a half a day.
Q. Did they get it?
A. Yes, sir.
Q. Did they go to work?
A. Yes, sir; they went to work afterward.
Q. How long did they work?
A. They worked until the harvest was up.
Q. Are you sure of that?
A. Yes, sir.
Q. All of these people that were in the crowd that whipped you and your father worked?
A. So they said, but I don't know whether they worked or not.
Q. Then the trouble was about the price?
A. Yes, sir.
Q. And then you do not know, only what they told you, how much they had; and they told you they worked for fifty cents?
A. Yes, sir; they told me that, and that they were striking for higher wages.
Q. Were these full-grown men?
A. Yes, sir; womens, mens, and some childrens.
Q. Did the full-grown men work for fifty cents a day in that neighborhood?
A. Yes, sir.
Q. And you got $2?
A. Yes, sir.
Q. How would it be that they would work for fifty cents a day and you got $2?
A. That was before the strike; that is what they told me when they had me up whipping me.
Q. Who was the leader of the strikers?
A. That same man I was telling you about.
Q. Wineglass was the leader?
A. Him and a man by the name of Joe Butler.
Q. Who was Hamilton?
A. He was the man who took them away from me.
Q. Where did he belong?
A. He came from Ashepoo.
Q. Did you vote this year?
A. Yes, sir; I voted.
Q. Did you vote the democratic ticket?
A. Yes, sir.
Q. Where did they whip you?
A. They whipped me all about.
Q. At what place?
A. At Combahee Ferry.
Q. Who whipped you?
A. Some strikers done it.
Q. How many were there there?
A. There were about ten whipped me.
Q. What day was that?
A. That was on the 19th of September.
Q. That was the day your father was whipped?
A. The same day, sir.
Q. You had not voted then?
A. No, sir; I hadn't voted then.

By Mr. JONES:

Q. You said awhile ago that they whipped you for voting?
A. I didn't mean to say that.

By Mr. BANKS:

Q. Well, did anybody trouble you when you were voting?
A. No, sir.
Q. Were there any colored democrats that voted?
A. Yes, sir.
Q. Did they have any trouble?
A. Not there, sir.
Q. You had trouble when you came into the field that these men sowed?
A. Yes.
Q. When you were out of that you had no trouble?

A. They never bothered me when I was out, and they said I must keep away from the field.

This is the statement of the witnesses introduced to prove violent assaults upon themselves because of their political opinions; they lived fifteen miles from the rice plantations. The people who had planted the rice and thought they were entitled to the job of cutting it, were working for fifty cents a task—that is, cutting one acre. They struck through the county for higher wages. They demanded a dollar and a half a task. The planters sent into the country for men to underwork them, and they were driven away from the fields. They had no trouble about voting; other colored democrats voted and had no trouble. They had trouble when they came into the field. When they were out of that they had no trouble. "They never bothered me," Coker says, "when I was out, and they said I must keep away from the field." (Page 97.)

Now, the facts are that the working people were paid by Bissell fifty cents an acre for cutting rice. They received for their labor checks signed by Bissell, payable in 1880, which might be previously redeemed at Bissell's store for Bissell's goods at Bissell's prices. They refused to work longer for such checks or for such wages. They asked one dollar and a half for cutting an acre of rice, and demanded pay in money. Bissell called in a rifle club, which was composed, the people said, of rebel officers and soldiers, *to drive them back into the field, to work at the old prices, for checks payable in* 1880, *in store goods, and they resisted.* Bissell then sent into the country for men who would work for his prices, republicans or democrats, it made no difference to him. And the working people, republicans and democrats, as Coker says they were, who was whipped, drove from the fields of rice they had planted the republicans and the democrats alike who were underworking them. This is the case and these are the facts; and this history is brought up to the House of Representatives as a proof of political intimidation.

The testimony of Hon. ROBERT SMALLS, a member of the House from South Carolina, for whom the planters and the officers of the rifle-club sent to release them from imprisonment in which they were held by one hundred and seventy negro women and men, gives a full history of the whole affair, which is worthy the attention of every member of the House. The genius of Dickens never conceived anything richer or racier than this unvarnished tale of the working people and the planters of South Carolina.

Hon. ROBERT SMALLS (colored) sworn and examined, (page 210.)

By Mr. BANKS:

Question. You are a member of Congress, Mr. SMALLS?
Answer. I am, sir.
Q. From what district?
A. The fifth congressional district.
Q. Are you a member-elect?
A. I am, sir.
Q. Where do you reside?
A. In the town of Beaufort, sir.
Q. How long have you resided there?
A. I was born and have resided there all my life, with the exception of about eleven years' absence, before the war, in Charleston.
Q. What is your age?
A. Thirty-eight the 5th of next April.
Q. Do you know anything about the labor strikes on the rice plantations in Colleton County?
A. Yes, sir, in both Colleton and Beaufort.
Q. Tell us what you know of the strike, if you please, in Colleton County.
A. I went to Colleton County, to Walterborough, to attend a meeting. While attending the meeting, a gentleman came up from what is called Bluesville, which is about twenty miles off. He got up there about twelve o'clock at night with a letter from Captain Elliott—the captain of one of the democratic clubs—asking me to come down to Bluesville at once, stating that they had been penned up in a house for over twelve hours and not allowed to come out to get even a drink of water. At one o'clock the same night myself and Colonel Schaffer, the county treasurer of Walterborough, started for Bluesville in a buggy. Colonel Schaffer was then acting as sheriff, the sheriff being sick. Driving very rapidly, we arrived in Bluesville at a quarter past four o'clock. When I got there, I found between two and three hundred folks all sitting upon the road right in front of Mr. Bissell's store door and gate.

By the CHAIRMAN, (Mr. COCHRANE:)

Q. Colored men?
A. Colored men, boys, and women. As soon as I drove up, the crowd, of course, left the gate and gathered around the buggy. I asked them "What's the matter here? What are you doing here?" They said they had struck for wages, and demanded a dollar and a half an acre for cutting rice; that they had been compelled to work; and they made threats of vengeance; they also stated that they wanted their pay in money and not in checks. I said "Let me see the checks that you are working for," and a large number of them pulled out a quantity of checks signed J. B. Bissell; "I promise to pay John Jones," or whoever the man was, "or bearer under contract —— cents, payable on the 1st day of January, 1880." They said they wanted money and not that kind of a check, and that they could not spend it anywhere else except in Bissell's store. They also said they wanted Remley; that he had beaten one of their men and they intended to get satisfaction. I told them that they had no right to interfere with any man, and that if Mr. Remley had abused one of them their course was to go before a trial justice and take out a warrant for his arrest; that they must not take the law into their own hands, and that if they did they would get themselves into a difficulty in which neither I nor any of their friends could assist them. I told them then to wait, that I would go and see Mr. Elliott, and that they must be perfectly peaceful until I returned to the yard. I then went into Mr. Bissell's yard and into the house, which was situated perhaps a hundred feet from the fence in the rear of the store. There I found Mr. Elliott, with between fifty and sixty white men all armed with sixteen or eighteen shooters; I think they were Winchesters.

By Mr. BANKS:

Q. You mean rifles that carried sixteen or eighteen cartridges?
A. Yes, sir; I told Mr. Elliott that I had received his letter and asked him what was the trouble. He said that the deputy sheriff was endeavoring to make an arrest of some parties for whipping their man in the field; that the deputy sheriff had called upon his club as a posse to assist in making the arrest, and that the people resisted the arrest and had driven them up into the store and had had them penned up there for the last twelve hours; that there were four men to be arrested; that they wanted to come out and could not come out, as the women were so violent they were afraid; that these women had sworn to take the life of Mr. Remley. I asked him why they were more violent against Mr. Remley than any of the rest of the men. He said that the deputy could tell better than he could, and pointed me to the deputy, who was in their house, penned up with him, saying, "That is the man who has the warrant for their arrests." I then asked the sheriff what was the difficulty, and he said that he had a warrant for four colored men, and he had taken Mr. Remley along with him to assist in the arrest, and that the people were very violent against him, (Remley.) I asked him if Mr. Remley had struck any of the parties after they were arrested. He said that Mr. Remley and some of the prisoners did have some altercation. I asked him if he still had the warrant for these men's arrest, and he said he had. I told him to come out with me and if these men were in the crowd I would assist him to make the arrest if he was afraid to do it himself. He said he was afraid of his life.

By Mr. JONES:

Q. Had he arrested these men previously, and had they broken away from him?
A. It seems that they had. He said to me that he could not come out unless the club should come out with their arms to protect him. I told him that there was not a particle of danger; that he could come out and arrest every man down there. Then we opened the door and came out, and the club followed out, and they all took a seat in the piazza next to the door. The sheriff and myself went right into the road and into the crowd, and by that time Colonel Schaffer, who was outside, came up, and he called the names of four colored men, and they came out of the crowd, and Schaffer got a cart that was there, put them into it, and he and his deputy sheriff started for Walterborough.

By the CHAIRMAN, (Mr. COCHRANE:)

Q. Who was the deputy?
A. I do not know, sir.
Q. It was not Remley?
A. No, sir. By that time there were two or three women there. One of them was the wife of the man who was said to have been beaten by Remley. She was very violent to Remley, and I told her then she must stop with these threats; and I told the colored people if they had any complaint to make they must go to the trial justice. Then I went back into the yard and told him he could come out into the road. He was afraid to come out, and I told him not to be afraid, that if any one interfered with him I would protect him, even if I had to call upon every man there who belonged to the State militia to do so. At this time the club were all in the yard ordering their horses and refreshing themselves generally. Then Mr. Remley and myself came right out into the road in the crowd. The crowd appeared to have grown to between five and six hundred. I then came out, and the same woman was rather violent in her language toward Mr. Remley. I spoke to the crowd and told them that Mr. Remley was a citizen and had all the rights that they had, and that they had no right to interfere with him; but that if he had outraged a citizen to go and get out a warrant for him; that I was called there for the protection of this crowd and I intended to give it.

By Mr. BANKS:

Q. Did they acquiesce in your appeal?
A. Yes, sir; and all the clubs, one by one and two by two, came out and rode off in different directions to their homes.
Q. Were they in carriages or mounted?
A. They were all on horseback.
Q. Did Remley leave?
A. No, sir; he staid there until after twelve o'clock. Very nearly all the men went before he did.
Q. Have you any knowledge or belief that a labor society was organized in this vicinity?
A. I have, sir; I have their constitution.
Q. Will you state what was done by this people?
A. I made it a point to attend one of their meetings on the Beaufort side of the Combahee River. The Combahee River is the dividing line, and the riot was just on that river, on one side or the other. They organized a society not to work for checks, nor to cut rice for less than a dollar and a half an acre, and further not to allow one of their race to work for checks or for less than a dollar and a half an acre.

By Mr. JONES:

Q. They went outside of the society, then, did they?
A. Yes, sir.

By Mr. BANKS:

Q. What occurred at this meeting?
A. I spoke to them against that clause in their constitution in regard to not allowing any one to work for checks or to cut rice for less than a dollar and a half an acre. I then told them they had no right to interfere with men who might work for any price, that they had a right to organize as many societies as they pleased and to fix the price at whatever price they chose, but that if anybody chose to work for ten cents a day they had no right to take the law into their own hands or to interfere with them in any way. After giving them this advice, about a quarter of twelve o'clock that day they all formed in line and marched away. I told them that inasmuch as they claimed the right to work for high wages other men had the right to work for smaller wages or for nothing, if they pleased; that other men were as free as they were.
Q. Did you return to Beaufort then?
A. Then everybody left the meeting, and I took the train and came on to Charleston.

By the CHAIRMAN, [Mr. COCHRANE:]

Q. Do you know of some colored men being able to cut two acres of rice in a day?
A. I do not to my knowledge.
Q. Do you know of women being able to do it?
A. I only know what I have heard them say themselves. I have never worked on a rice plantation, or had anything to do with one.

By Mr. JONES:

Q. Were these colored men at Bissell's Store a militia company?
A. No, sir; I did not see an arm in the hands of a single individual; they all had short clubs.
Q. You said a while ago in your examination-in-chief that if it was necessary to protect this man Remley you would summon the militia; was there a militia company on the ground?
A. I met men on the ground that belonged to the militia.
Q. Was there a militia company in that parish?
A. Yes, sir; that is the way I came to be sent for. When Captain Fuller's crowd was surrounded in a building about three weeks before, I went and released them in the same way.

Mr. BANKS. I ask, Mr. Chairman, that the facts stated by Mr. Smalls in the beginning of his testimony, and which the reporter was directed not to take down; that the people told him that on the previous day Mr. Bissell had had the rifle clubs called out to drive these people back into the field and compel them to work, be inserted.

The CHAIRMAN, (Mr. COCHRANE.) The witness having detailed his conversation with the white men within the building, and having given what they said in reference to occurrences of the previous day, the Chair thinks it but fair that the statement of the colored people, although in his judgment hearsay, should be also admitted, and the same is admitted.

Mr. BANKS. I will not ask for this to be admitted as a charity, but claim it as a right, and I withdraw it on that ground.

The CHAIRMAN (Mr. COCHRANE.) The testimony will be admitted if desired by General BANKS; the question is not one of charity at all.

Mr. BANKS. Never mind; I will not press it.

Q. (To the witness.) State what you know about the strikes in Beaufort County.
A. I will state that I was on my way to attend a political meeting in Barnwell County. While I was at the depot at Buford, Mr. Davenport, the telegraph-oper-

ator, handed me a telegram from Governor Chamberlain, also one from Attorney-General Stone, ordering me to Gardner's Corner, in Beaufort County, to disperse the rioters at that place, and stating if I could not do it without the militia of the State to order them out and disperse the rioters.

By Mr. JONES:

Q. In what capacity were you acting then?

A. I am major-general commanding the militia troops in this section of the State. All the militia troops in Charleston, Colleton, and Beaufort are under my command, five regiments; two in Charleston, one in Colleton, and two in Beaufort. Myself and Lieutenant-Governor Gleaves, who was on the train, got out at Sheldon Station and proceeded to Gardner's Corner. At Sheldon Mill, which is at Gardner's Corners, we found sixty-three armed white men, headed by Captain Elliott, in Mr. Fuller's store, and about a hundred colored men and women outside the gate in the road. We went up and asked them about the same questions: "What are you doing here?" And they replied, "These rebels here are trying to drive us into the field." I went into the yard, and *Captain Elliott was sitting on the steps with his rifle in his hand at the back door of the store.*

By the CHAIRMAN, (Mr. COCHRANE:)

Q. Is this the same Captain Elliott?

A. The same one; but this affair took place before the affair at Colleton. I asked him what he was doing there, and he said he was summoned there as a posse to assist the sheriff in making arrests. I told him that I did not think it was necessary. I asked him if he was in charge of the men and he said he was. I then handed him my telegram and said, "Read this; I have been ordered here by the governor to make all the arrests that are necessary, and to restore peace," and told him I could do so, and did not need the rifle clubs to assist me in doing it.

By Mr. BANKS:

Q. Did he read the telegram?

A. He read the telegram, sir. By that time, Mr. Sams, the sheriff, came up, and I asked him if he had summoned these men as a posse, and he said no, that he did not; that he could not make arrests with them. Then Mr. Elliott said that he was there to protect Mr. Fuller's property, which was the mill and the store. Then myself and Mr. Sams went out, got a horse, and rode down the road about two miles from Gardner's Corner towards Combahee Ferry, and there we found in the road from two to three hundred colored men and women. In this crowd were the seven men that Mr. Sams had warrants issued for by Mr. Henry Fuller, as trial justice. These men were charged with the whipping of one Bobien, who was accused of working for checks. I went into the crowd, and they seemed to be very furious when we went among them first. I spoke to them and told Mr. Sams to read the names. I told these seven men to answer to their names and hold up their hands as their names were called, and they held up their hands; and I told them to come out of the crowd, and they came out and went to Mr. Sams. Mr. Sams then took them up to Mr. Fuller's office, which was in the same store. Mr. Fuller having gone to Yamasee and the nearest trial justice being fourteen miles distant in Beaufort, they were taken there. Mr. Sams told them to go right on there, and they went in by themselves. The next morning they had a hearing, at which Bobien himself withdrew the charges against them, acknowledging that the whipping was the rule agreed upon in their society; and the trial justice discharged them all. I have got a little ahead of my story. The whole crowd followed me up to Fuller's store, and I invited Mr. Colcock to speak to them and he refused to do so, but stood there and listened to both myself and Governor Gleaves addressing the crowd. When we got through the crowd disbanded and went home.

Q. Do you know whether or not these labor-societies were organized with reference to the laboring people alone?

A. All I know about it is what I have stated before and what they stated to me.

Q. You saw the constitution and read it?

A. Yes, sir.

Q. Was there anything in it about politics?

A. Nothing whatsoever, sir.

Q. Was there anything in it about the interests of the laborers?

A. It was altogether about the labor subject. The constitution was written on a small piece of paper, and read this way: "We shall not cut rice for less than one dollar and a half an acre, nor we shall not work for a check."

Q. And it had no reference to political matters whatever?

A. Nothing that I know of. I never heard that it had before until I heard it in this committee-room to-day.

Q. Was there anything said about politics at the meeting at which you attended and spoke?

A. No, sir; it was completely upon the labor question—the right to strike—and had no reference to interfering with any person as to his vote, or who would work for less than they did.

Q. And in your speech you did not refer to politics?

A. In no shape or form. The week after there was to be a political meeting at Eustace plantation, and I will say that I asked Mr. Fuller and Mr. Colcock if they would not come out and address the meeting. On that day the Charleston News and Courier sent a reporter from Charleston to report the meeting.

Q. Did you hear from Captain Elliott who it was that ordered him to come there and protect Mr. Fuller's property?

A. He said first that he was there on a posse to assist the sheriff; but when the sheriff said that he did not want them, he then said he was there to protect Mr. Fuller's property.

THE BROAD-STREET RIOT, CHARLESTON, NOVEMBER 8, 1876.

The election of the 7th November was a remarkably quiet one in the city and the adjoining precincts. The full republican vote was polled as early as ten or eleven o'clock in the morning. Every voter of both parties was brought out. The election in other parts of the county passed off without disorders of any kind, and gave no occasion for the actual interposition of the troops in any case; but their presence, it is conceded, was productive of beneficial results. General Hunt, who commanded the troops, reported to the Government at Washington that he had visited the voting-places and found everywhere that up to near the close of the day good order prevailed. In the evening one or two noisy partisan crowds gathered at the polls and marched through some of the streets; but as a whole the city was quiet and peaceful through the night. Nothing unusual occurred on Wednesday morning, the 8th November, and the troops were ordered to their camp at Summerville. The United States marshal, Mr. Wallace, reported at noon that everything was perfectly quiet. The city authorities made the same report. The principal business-houses, where inquiry was made by the officer in command of the troops, represented the city to be perfectly quiet and peaceful. There were large crowds gathered about the bulletins of the newspaper offices, but nothing was said or done to indicate or cause disturbance.

Dispatches were received indicating the triumph of the democratic party in both State and national elections. More or less excitement occurred, and soon afterward a fight occurred near the Charleston Hotel, but it was soon suppressed by the police, who made some arrests. Later a fight occurred in Broad street, near the News and Courier office, and the troops were recalled. In both cases fire-arms were brought into use. White citizens, with arms, began rapidly to make their appearance. Notice was sent to the officer in command of the Federal troops that the police was unable to suppress the riot, and a force of twenty soldiers were sent, under a competent officer, to clear the streets and disperse the rioters. This was done without difficulty. Assemblages, more or less threatening, gathered in different parts of the city. The mayor, with General Conner, went through the streets together, and directed all persons, white and black, to go to their homes, which was readily and promptly done. The officer in command of the troops, when this was accomplished, proposed to send patrols of soldiers through the streets, to which the mayor objected decidedly, saying he wanted no patrols of soldiers in the streets. The troops then returned to their quarters at the citadel, and the city remained perfectly quiet during the night.

Early the next morning, the 9th November, there was a large meeting of 'longshoremen, or stevedores, who had assembled to enforce some agreement or orders in regard to their work. The men were excited and determined, but no disturbance occurred. At noon the city was quiet, but threatening. The white men were at their business, mostly armed. The colored people had withdrawn to the public buildings, which were places of common resort for them. Persons were seen going to or from their places of business with arms. The rifle clubs were assembled at their armories. The whites and blacks were both armed, and a conflict, which to all parties seemed to be approaching, must have been violent and bloody. Some differences of opinion occurred between the mayor and the officer in command of the troops concerning the policy to be pursued. The mayor telegraphed to Governor Chamberlain that the clubs had assembled, the white people were armed, and the city was in peril. Orders were received by the commanding officer from General Ruger, at Columbia, "to do what was necessary to preserve the peace." The mayor requested the colored people to disperse and repair to their homes and remain quiet, and assured them of protection. General Conner made the same request of the white men, and accompanied his request with the same assurances. All parties were in perfect accord, the city was again perfectly quiet, and the people resumed their ordinary vocations. This ended the riot of the 8th November, 1876.

OTHER FORMS OF COERCION.

The social influences that were largely brought into use during the campaign for the improper control of voters did not admit of proof in the manner in which other forms of coercion were presented. But they were, nevertheless, applied with unflinching severity, and upon the highest as well as the humblest members of society, and upon natives of the State as well as those who became citizens by choice. Cultivated Christian women, for many years communicants of good standing with Christian churches, though recognized when in communion, were constantly disregarded in the most offensive manner when encountered in society by members and pastors of religious congregations to which they belonged. Many instances of this are within the knowledge of members of the committee, but no one desired to receive or produce proof of the facts. Testimony of this character was taken in relation to the religious intercourse of colored people, but not in respect to white persons; but further the inquiry was not proposed. Numerous witnesses were present to show that direct efforts were made to control the political action of citizens by threatening them with loss of employment or the withholding of gratuities, privileges, and courtesies usual between employers and the persons in their employ.

Some cases of this kind are reported, and numerous advertisements of traders of all kinds soliciting patronage on political grounds, but these inquiries were not pressed at length. As an illustration of the spirit that prevailed in the social circles and in the common intercourse of life attention is invited to the testimony of one of the most respectable citizens of Charleston, in a large degree withdrawn from the excitement of political contests, in which his own estimate is expressed, and that of the community at large, as to the standing and character of republicans, or radicals, as their opponents prefer to call them. Mr. Thomas S. Grimké, one of the most respectable citizens of Charleston, having said, "There are no respectable radicals about here," several questions were put to the witness by Mr. BANKS, by the permission of the committee, which are presented with the answers as printed in the second part of the testimony, page ——.

By Mr. BANKS:

Question. Is it a fact that the respectable portion of the radicals or republicans do not attend these meetings?

Answer. There are no respectable radicals about here; that is my opinion.

Q. What is your standard of respectability?

A. The good opinion of all who are held as respectable in this city; that is what makes a man respectable here.

Q. You mean the good opinion of all respectable people?

A. Yes, sir.

Q. Please state to the committee whose opinion is respectable and whose good opinion it is that makes another man respectable?

A. I mean to say that a man must make himself respectable; no man's good opinion can make him respectable.

Q. What class of people do you refer to?

A. Well, such class as is found in all places, in New York City or in other places; I mean to say that such people as you respect at your home we respect here.

Q. You have stated as a fact that the respectable portion of the republican party does not attend these meetings; that there are no respectable people that belong to the radical party; that that portion of the people whose respect gives character or social standing does not confer respectability upon the meeting; now I want to know what class of people it is that has this standing; is that the test of respectability?

A. No, sir; it is the opinion of all men who are striving for decency and honesty, no matter to what party they belong, but the people who are making such a struggle here do not happen to belong to the republican party here.

Q. And is it upon such considerations of respectability that you make large parties of men responsible for such massacres as you have described? Has it anything to do with respectability or want of respectability in society?

A. Well, I should say that education, training, and everything else should be connected with it. In reply to your question I would say that no person who had respect for himself or respect for the community would be a party to such a thing as that; that is all I mean to say.

Q. Do you know, or do you not know, that such killing of people at political meetings is a common thing in this State?

A. Only by the republicans, or radicals; they have killed the democrats.

Q. You have no means of knowing, or you do not know, that the democrats kill the republicans?

A. No, sir.

Q. Have you given attention to it so far as to form a conclusion in your own mind that democrats do not do these things?

A. I have, sir.

Q. And have you determined in your own mind, upon the best knowledge and consideration of the subject, that radicals do kill their opponents?

A. I know they do, sir.

Q. And for political reasons?

A. Nothing else actuates them. These people know nothing about politics or anything else; they do it simply from the hatred that is engendered by these people that stir them up. They are made to believe that they would be placed in slavery if the democrats should succeed here.

Q. As it is a question of great import to the people of the United States, and to

solve which by the direction of one of the Houses of Congress we are sent here to make inquiry from what source these crimes proceed which threaten the destruction of the Government, will you state what a radical is; what is the condition of mind which makes a radical, where a massacre of this kind can be an affair of ordinary experience?

A. It is simply this: that they are willing to sacrifice everything both in the State and in the country to accomplish their ends, which is nothing less than holding office and getting money. That is my definition of a radical.

Q. Is seeking office a necessary part?

A. Well, they seem to do it all the time; they all do it.

Q. What proportion of the people of the city of Charleston and South Carolina entertain this opinion that you entertain with regard to the radicals?

A. That is the general opinion in this community and in all communities.

CONCLUSION.

This is a brief statement of the principal events connected with the presidential canvass of the last year in South Carolina. It is intended as a narrative of facts rather than a judgment upon the motives of the parties engaged therein. It was a contest for supremacy between different races of men, representing different interests and aspirations. The contest has been so close and so determined that neither of the contestants can be said to have gained a complete triumph, and an indefinite prolongation of the struggle would probably end in the disappointment and possibly in the destruction of the best interests of both parties. The result shows that there must at some time be a reconciliation of these conflicting interests. How it can be effected it is not easy to say. Possibly it may come through a better acquaintance with the capacities and characters of those engaged and a clearer and wiser estimate of the solemn duties of citizens and the vital necessities of the State.

The immediate and most important purpose that animated the white people or democrats, as against the colored people or republicans, was to diminish the great preponderance of republican majorities in the city and county of Charleston and other counties of the seaboard section of the State. The republican majority of 8,000 votes in the city and county of Charleston, if maintained, would probably give to the candidates of that party in the State, and possibly in the Union, a new lease of power. The reduction of that majority in the county to 2,500, as the democrats hoped, would have re-established their party in power in the State and might give them the control of the General Government. It was to secure this result that the measures adopted and the candidates at the convention were directed. The failure was a signal one. The republicans maintained their numerical and political strength at every point. The democratic orators made no converts at the meetings for joint discussion. Proscription produced no effect upon laborers. Intimidation proved worthless, considered as an intimidator merely, and good for nothing for any other purpose. The organization of rifle clubs was counterbalanced by detachments of Federal troops. The purchase of party leaders did not diminish the strength of the rank and file. The introduction of revolvers and rifles at political meeting produced no panic; and, where the equality of numbers permitted it, it was found, to the utter astonishment of the best-informed persons, that colored men could fight white men, and republicans stand their ground in any form of contest against democrats.

The campaign projected with so much careful study and supported by such astute counsel from other States proved a total failure. Every expectation was disappointed, every promise repudiated, every appeal disregarded, every bribe rejected, and every threat defied. Amid the wreck of so many sanguine hopes, it was difficult to account for such failure. The cause was at length discovered. It was a duplicate or triplicate treachery that defeated them. Negro deception, intimidation, and Federal invasion, for which they had not been prepared, had done the work. Men who had promised to vote for them did not do it. Persons of wholly inferior position and character, who were expected to yield to menace and violence, not only confronted their opponents, but resisted and defeated them; and the last card—one which had been played with so much success in adjoining States, upon which in fact every expectation of success depended—the shot-gun and rifle—that had been carefully dealt out, according to the rules of the game as practiced in the best political society, to each member of the clubs organized for intellectual and social pleasures only—was, as they say, unexpectedly and scandalously trumped by a Federal bayonet.

There was one other method that might have been tried, which was, in fact, approved by a large majority of the people most interested in the result of this struggle and in the restoration of justice, peace, and prosperity, but which was not acceptable to some persons that assumed to control the direction of affairs they wanted to: the union of moderate men, the recognition of constitutional obligations which everybody had sworn to perform, and the guarantee to others of the same rights which they themselves enjoyed. But this was not approved. "It was *caviare* to the" generals. The result was that the popular vote, very much to the surprise of some of the committee of the House, was found to have given a clear, unquestioned majority for the republican electoral ticket, and, as the undersigned believes, would have given and did give, when purged of the processes and results of violence, and restricted, as it ought to be, to the ballot of the citizens of the State, for the republican State ticket a majority sufficient for all useful purposes.

In truth the democratic party of South Carolina is a minority of the people, and there is no just method known to modern governments by which we can expect or even hope, in the long run, to make a minor equal to a major number. Would it not be better, after so many fiascos, so much bitter disappointment, so many battles fought, so much blood sacrificed, so many "good tall fellows destroyed," to try another method in which there may be more justice than violence, more amenity than insolence, more truth than falsehood, and more of desert than demand? Ideas are better than blows, brains better than blood. Success, to be assured, must be deserved; laws, to be obeyed, must be equitable; counsel, to be serviceable, must be sound; and authority, to be respected, must represent a higher power than him that uses it. Men that are indifferent to the preservation of governments ought to think of the sacrifices that have been made to create them.

Tantæ molis erat Romanum condere gentem.

"How much rude labor it cost to build imperial Rome."

There are no people that have less of the consideration of mankind than those that inherit liberty and lose it. South Carolina is less dependent on her own strength than on the general judgment of men; and in that eternal court where detectives are not judges, and counselors not confederates, and jurors are not idiots, upon her present record she must stand condemned. Her policy is provincial and vulgar; her ambition sullen, sordid, and degenerate; and her theory of duty trifling, temporary, and time-serving. There is nothing in the position or purposes of the superior race that challenges sympathy or commands respect; nothing in the measures they propose that promises peace to the people or security and rest to the Republic; nothing in the legislation they recommend or the theory of government they advocate that inspires or promotes the spirit and power that Lord Bacon attributes to every code of just laws and every administration of wise men. "OUR LAWS ARE DEEP, NOT VULGAR; NOT PROMPTED BY THE SPUR OF A PARTICULAR OCCASION FOR THE PRESENT, BUT OUT OF PROVIDENCE FOR THE FUTURE, THAT THE ESTATE OF THE PEOPLE MAY BE MORE AND MORE WISE AFTER THE MANNER OF LEGISLATORS IN ANCIENT AND HEROICAL TIMES."

N. P. BANKS,
Member of the Committee.

The Electoral Count.

SPEECH OF HON. A. T. WALLING,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

March 1, 1877.

The House having under consideration the electoral vote of Wisconsin—

Mr. WALLING said:

Mr. SPEAKER: In the ten minutes allotted to me to close the debate on the last State to which objection can be made, I do not intend to discuss the proposition contained in the resolution of the gentleman from Wisconsin, [Mr. LYNDE,] as that has been fully done by the honorable gentleman himself, but I desire first to send to the Clerk's desk to be read a communication I have received from the city of New York since the gentleman from that city [Mr. WOOD] has become the leader of the republican party on this floor, [laughter,] to show that not all, at least, of the business men of that city, the men who are interested in this contest, have agreed to this transfer of the democracy to the other party to save their ducats.

The Clerk read as follows:

NEW YORK, *February* 26, 1877.

DEAR SIR: We wish to indorse the request made by Peter Duffy, of Perry County, Ohio, that you "Thwart the thieves at all hazards," and prevent the outrageous counting in of a usurper as President. We consider it the duty of every American citizen to himself, and above all to his country, to use every effort to prevent such a result.

With great respect, yours, &c.,

ELTON JORDAN, 285 Broadway, New York.
J. C. SCHAUBER, 120 Broadway, New York.
THEO. H. BABCOCK, 285 Broadway, New York.
HENRY ATTERBURY, 460 Pearl street, New York.
JNO. A. DUPREE, 224 West Twenty-sixth street, New York.
ROBT. B. ATTERBURY, 209 Dean street, Brooklyn.
R. S. HAWXHURST, 347 Pacific street, Brooklyn.
J. W. BOND, 320 West Eighteenth street, New York.
L. FRIDLANDER, 213 West Thirty-sixth street, New York.
M. BERGMANN, 116 West Forty-fourth street.

Hon. A. T. WALLING,
House of Representatives, Washington, D. C.

Mr. WALLING. As a further part of my remarks, I send up two telegraphic dispatches which I desire to have read.

The Clerk read as follows:

[Dated Philadelphia, November 10, 1876. Received at Washington, D. C., November 10, 1876, 2.16 p. m.]

To Gen. W. T. SHERMAN,
Washington, D. C.:

Instruct General Augur in Louisiana and General Ruger in Florida to be vigilant with the force at their command, to preserve peace and good order, and to see that the proper and legal boards of canvassers are unmolested in the performance of their duties. Should there be any grounds of suspicion of fraudulent counting on either side, it should be reported and denounced at once. No man worthy of the office of President would be willing to hold the office if counted in, placed there by fraud. Either party can afford to be disappointed in the result, but the country cannot afford to have the result tainted by the suspicion of illegal or false returns.

U. S. GRANT.

[Dated Centennial Grounds, Philadelphia, November 10, 1876. Received at War Department, November 10, 1876, 2.12 p. m.]

General SHERMAN,
Washington, D. C.:

Send all the troops to General Augur he may deem necessary to insure entire quiet and a peaceable count of the ballots actually cast. They may be taken from South Carolina unless there is reason to suspect an outbreak there. The presence of citizens from other States, I understand, is requested in Louisiana, to see that the board of canvassers make a fair count of the votes actually cast. It is to be hoped that representatives and fair men of both parties will go.

U. S. GRANT.

Mr. WALLING. I present those telegrams for the purpose of extending the assurance they convey to our southern brethren, who seem to have abandoned the northern and western democracy on this occasion, that all their expectations, all their hopes will be fulfilled. There cannot be a possibility of doubt that if Nicholls is governor of Louisiana, Tilden is President of the United States. Packard received several hundred more votes for governor than did Hayes for President. He was counted in by the same returning board that counted the State for the Hayes electors. If Hayes be President, how much more certainly is Packard governor. To suppose otherwise—to suppose that Hayes can recognize the Nicholls government—is to assume that the President about to be counted in will act as absurdly as a man who having purchased an estate should burn his deed, the only muniments of his title, before the same was recorded.

As for myself I can only say, that I have done all I could; have as I think performed my whole duty in trying to prevent the consummation of what I believe to be a fraud upon the solemnly declared verdict of the American people, committed by a commission appointed under a law of this House, with three judges at its head, who, forgetting the high duty they owed to themselves and to their country and to right and justice, permitted themselves to be made partisans of, and voted in that condition as they would vote at the polls for the election of a constable. I can only say that I disclaim their acts. I was one of those who voted for the bill under protest. I also voted at the election in November last, under the election law of my State which permitted me to vote, but in doing it I did not bind myself not to disclose any frauds in my own State; and in vot-

ing for this bill I did it in the full faith that these judges, the highest judicial officers in the land, when evidence of the frauds was tendered to them, would hear the testimony and decide upon it. That would have been becoming their position. I have been disappointed in that, and finally the time has come when a man who has not had a majority of votes, who was defeated by more than one-quarter of a million, is to be counted in by a national returning board through the action of a majority of its members.

Yes, sir, this great wrong will be consummated. A man repudiated by the people will be elevated to the most enviable position on this earth by a national returning board. It may be deemed offensive to speak of the electoral commission as a returning board. I concede that the infamies perpetrated in Louisiana, South Carolina, and Florida by the men who composed the returning boards in those States have brought the term into merited ill-repute. It has become offensive to all honest men, and is used in ridicule of justice. It is synonymous with mockery. With a full appreciation of the acts which have made the expression disreputable, the electoral commission can be called little else than a national returning board. Wherein has it met the public expectations? Wherein has it sought to discover fraud or unearth villainy? Wherein has it answered the purposes of its creation? What act has it done which justice sanctions or truth approbates? Not one. With a blindness close akin to madness, with obdurate wickedness and intent to perpetrate wrong, step by step it has proceeded to the consummation of a fraud which had its conception in deliberate malice against the laws, the Constitution, and the verdict of the people.

Wherein does its action differ from those of the returning boards of the enslaved States. Has right been more respected or justice more observed? Have the promises which were given in the discussion of the measure which created it been fulfilled? Has the faith which was born of the special pleadings of those republican Senators and Congressmen who urged the adoption of what they were pleased to term the great measure of pacification been kept? No, sir; the promises were delusive. The faith has been violated. As I walked through the Rotunda to-day I was impressed with the thought that underneath my feet were imprisoned the men who had stolen the vote of a State. Wells and Anderson, Casanave and Kenner, reprobates, so lost to every sense of shame, so guilty of corrupt practices, that their condition brought no sense of degradation to themselves, nor elicited sympathy from those who were reaping and appropriating the fruits of their villainy. One set of men in close confinement; another set using the labors of the former, but not abashed nor dispirited, walking with heads erect, receiving the congratulations of their fellows, while they carried to completeness the venal intents of the wretches who were sighing behind prison bars. What a contrast!

Proceed, as I feel assured you will, to the consummation of this political ravishment. Elevate to the highest office a man who has been repudiated by the people; carry to fruition the most stupendous fraud that has ever amazedthe lovers of freedom and constitutional government, but rest assured of one thing, you will not be permitted to go blameless. To an accountability strict as though the laws of the Medes and Persians did judge your acts will the people hold you. Public opinion, violated and outraged, is righteously incensed, and with pitiless justice will hurl you from the power you have stolen. Do not flatter yourselves that when the people submit to this outrage they also give it sanction. It is true that a most vital thrust has been made at republican institutions. It is not cowardice, however, that will move the people to submission; it is only patience. Rich as have been the baptisms liberty has demanded, it is not improbable that she will demand still more. If her preservation can be secured alone by another libation, the sooner it is contributed the better. Of all the ocean of blood shed in her name not one drop has been wasted. There is no soil so sterile wherein it will not take root. There is no tyranny so secure as to be safe against its influence. There is no corruption which can resist its cleansing power. This land liberty has made her refuge, and here she will remain forever. Her protection and perpetuation are confided to the democracy. The sacred trust is recognized and will be guarded with jealous care. Whatever sacrifices are necessary, they will be made. Whatever demands are exacted, they will be met.

Appropriations.

SPEECH OF HON. W. S. HOLMAN,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

March 3, 1877,

On the sundry civil appropriation bill.

Mr. HOLMAN. Mr. Speaker, in the closing hour of the Forty-fourth Congress, a period in which the subject of reform in public expenditure has risen above all other questions, except, during the present session, that of the presidential succession, a brief review of what has been accomplished will not be deemed inappropriate.

In the ordinary course of legislation the eleven great appropriation bills, based upon the estimates of the various Departments and reported to the House by the Committee on Appropriations, will embrace all of the necessary expenditure of the Government for the current and succeeding fiscal year, and these, with the miscellaneous and private bills that may be passed, will embrace the entire expenditure authorized by each successive session of Congress. The eleven great bills are those making appropriations in detail for pensions, Post-Office Department, fortifications, consular and diplomatic, legislative, Military Academy, Indian service, deficiencies, naval, sundry civil, and Army, to which occasionally, but not uniformly, has been added a bill prepared by the House Committee on Commerce known as the "river and harbor bill." The House during the present session has declined to pass a bill making appropriations for rivers and harbors, believing in view of the appropriations made at the last session for those purposes the public interests do not require for the present any further appropriation. But in addition to the eleven bills, the expense incident to the contest over the presidential election, expenses of committees of the House and Senate visiting the States of the South, the fees of vast numbers of witnesses called before committees from every section of the Union, the printing of great volumes of testimony and innumerable reports, and the expense incident to the electoral commission, expenses outside of the ordinary expenditure of Government, have occasioned the passage of two bills in addition to the eleven regular appropriation bills, being for deficiencies the present fiscal year, one for expenditure of the House and Senate for $139,254.98 and the other for the public printing, of $350,000.

With this explanation, I present the following table showing the state of each of these bills from the time they were reported to the House by the Committee on Appropriations until their final passage and the amount finally appropriated by each, in comparison with the amount appropriated by each corresponding bill at the first session of the present Congress, except as to the Army appropriation bill, which failed to pass.

Summary of the regular appropriation laws, second session Forty-fourth Congress.

	Date.	As reported.	Date.	As passed House.	Date.	As passed Senate.	Date.	Forty-fourth Congress, second session, law 1877–'78.	Date.	Forty-fourth Congress, first session, law 1876–'77.	Total Forty-fourth Congress.
	1876.	*Amount.*	1876.	*Amount.*	1876.	*Amount.*	1877.	*Amount.*	1876.	*Amount.*	*Amount.*
Pensions	Dec. 7	$28,533,500 00	Dec. —	$28,533,500 00	Dec. 20. 1877.	$28,533 500 00	Jan. 19.	$28,533,500 00	Mar. 23.	$29,533,500 00	$58,067,000 00
Post-Office	Dec. 12	32,983,625 00	Dec. 16	32,221,618 00	Feb. 21.	34,993,590 00	Mar. 3	33,584,143 00	July 12	34,585,701 00	68,169,844 00
Fortifications	Dec. 13	250,000 00	Dec. 19. 1877.	250,000 00	Jan. 27.	350,000 00	Mar. 3	275,000 00	June 20	315,000 00	590,000 00
Consular and diplomatic.	Dec. 19 1877.	1,137,085 00	Jan. 11.	1,137,085 00	Jan. 19.	1,138,097 50	Feb. 26.	1,136,847 50	Aug. 15	1,187,197 50	2,324,045 00
Legislative	Jan. 19	14,266,655 50	Feb. 13	14,523,935 50	Feb. 4	16,311,986 89	Mar. 3	15,341,345 50	Aug. 15	15,373,960 00	30,715,305 50
Military Academy	Jan. 4	265,161 00	Jan. 11	265,161 00	Jan. 27.	299,505 00	Mar. 3	286,604 00	Aug. 7	290,065 00	576,669 00
Indian	Jan. 17	4,448,699 12	Jan. 27	4,439,499 12	Feb. 8.	5,154,935 69	Mar. 3	4,771,079 20	Aug. 15	4,572,762 01	9,343,821 41
Deficiency	Feb. 1	1,427,197 28	Feb. 9	1,246,377 58	Feb. 22	3,315,054 42	Mar. 3	2,398,950 53	May 1.	2,908,177 09	5,307,127 62
River and harbor									Aug. 14	5,015,000 00	5,015,000 00
Naval	Feb. 7	12,492,952 40	Feb. 1.	12,497,952 40	Feb. 23.	17,049,452 40	Mar. 3	13,549,952 40	June 30.	12,742,155 40	26,292,107 80
Sundry civil	Feb. 21	14,948,595 46	Feb. 28.	15,446,807 35	Mar. 2.	18,968,947 77	Mar. 3	17,079,757 70	July 31.	16,351,474 58	33,431,232 28
Army	Feb. 24	21,993,749 00	Mar. 2	21,993,749 00	Mar. 3	26,188,870 50			July 24	25,987,167 90	25,987,167 90
House deficiency	Jan. 4	54,279 11	Jan. 5	54,279 11	Jan. 11.	139,254 98		139,254 98			139,254 98
Printing deficiency.	Feb. 6	350,000 00		350,000 00		350,000 00		350,000 00			350,000 00
Miscellaneous											6,329,414 10
Total		133,151,498 87		132,960,564 06		152,793,195 15		117,446,434 81		148,862,160 48	272,637,989 59

It will be seen from this table that all of the appropriations of the present session, including the Army appropriation bill, involved appropriations in the aggregate in their various stages, as follows:

As reported to the House	$133,151,498 87
As passed by the House	132,960,564 06
As passed by the Senate	152,793,195 15
As finally passed both Houses, Army bill omitted	117,446,434 81
Amount appropriated by the corresponding bills of last session, including $25,987,167.90 for the Army	148,862,160 48

It is apparent from this statement that if the Army appropriation bill had passed, even appropriating the same sum that was at the last session appropriated for the present fiscal year, namely, $25,987,167.90, the entire appropriations by these bills would have been $143,433,602.71, being $5,428,557.77 less than was appropriated by the corresponding bills and for corresponding purposes in the first session of this Congress, being the current annual expenses of Government.

The miscellaneous appropriations, including the appropriations made by private bills during the first session of this Congress, were large, including several unusual appropriations, such as the $1,500,000 for the centennial exposition; $1,634,700 for an increased number of troops to be employed during the Indian war; $200,000 for the Washington Monument; $200,000 for military posts on the Yellowstone, and the like; and while the miscellaneous appropriations, including those made by private bills, are less this session than for many years past, the miscellaneous appropriations for the two sessions of this Congress, for the reasons above named, exceed the corresponding appropriations made during the Forty-third Congress, as will appear in the table which I will hereafter submit.

The appropriations made by the regular appropriation bills of the last session were only $148,862,160.48, but the miscellaneous and private bills increased that sum to $154,551,039.62, being the entire appropriations of the last session, while the miscellaneous appropriations and private bills of this session do not exceed $700,000, being in the main allowances made ($464,058.13) by the southern claims commission under the act of March 3, 1871, so that the entire sum appropriated for all purposes during this session by all bills, public and private, is $118,128,347.11, and if the Army bill had passed and had even appropriated the same sum that was appropriated last session, namely, $25,987,167.90, the appropriations made this session for all purposes would have been $144,115,515.01, as against $154,551,039.62 made at the last session, and as against $179,166,209.90 made at the preceding session, being the last session of the Forty-third Congress.

During the presidential campaign of last year it was charged that the heavy reductions made in the appropriations during the first session of this Congress were not *bona fide* reductions in the expenditures of Government, *but mere temporary partisan expedients*, and that at this session the appropriations for deficiencies would run the aggregate sum up to the former appropriations. To show how groundless this charge was, and because the appropriations made by an entire Congress, the one session before and the other session after the congressional election, is the fairest test of real increase or reduction of expenditure, I have had the following table prepared showing the appropriations made for all purposes during the two sessions of the Forty-third Congress and the two sessions of the present Congress. It has been carefully prepared by a gentleman perfectly familiar with the appropriations for many years. I have examined it carefully and believe it to be perfectly correct. It is made from the official figures in all respects except as to the miscellaneous appropriations of the present session, and these have been carefully examined. I deem this statement proper in view of the very great reduction shown in the appropriations made by this Congress in comparison with those made by the last.

I here present the table:

Comparative exhibit of the appropriations made by the Forty-third and Forty-fourth Congresses, respectively, for the following purposes:

For—	Forty-third Congress—1874-1876.	Forty-fourth Congress—1876-1878.
Pensions	$59,980,000 00	$58,067,000 00
Legislative, executive, and judicial expenses	39,686,137 79	30,715,305 50
Post-Office	73,280,452 00	68,169,844 00
Consular and diplomatic	4,779,789 00	2,324,045 00
Military Academy	704,575 00	576,669 00
Indian	11,041,206 51	9,343,821 41
Deficiencies	8,787,613 44	†5,796,382 60
Rivers and harbors	11,861,517 50	5,015,000 00
Naval	*37,814,952 60	26,292,107 80
Army	55,722,330 00	‡25,987,167 90
Fortification	1,754,000 00	590,000 00
Sundry civil	53,654,094 90	33,431,232 28
Miscellaneous	3,784,543 32	§6,329,414 10
Total	362,851,212 06	272,637,989 59

* Includes $4,000,000 extraordinary appropriation in the Cuban matter. Act of December 31, 1873.

† Includes $2,362,456.89. Re-appropriations under act of June 20, 1874.

‡ No amount included for Army law for the Forty-fourth Congress, second session.

§ Of the miscellaneous $300,000 is to be re-imbursed from sale of lands belonging to the Pawnee Indians. Act of April 10, 1876.

It will be seen from this table that the appropriations made by the Forty-third Congress, first and second sessions, were in the aggregate $362,851,212.06, while the appropriations made by the present Congress, first and second sessions, not including the Army appropriations for the second session, amount in the aggregate to $272,537,989.59; adding to this sum the Army appropriations on the basis of the appropriations of last session, namely, $25,987,167.90, we have the sum of $298,525,157.49, which would include all of the appropriations required for the coming fiscal year and embrace every appropriation necessary for the administration of the Government; showing in favor of the present Congress as against the last the enormous sum of $64,326,054.57, being a reduction of $32,163,027.28½ for each year of this Congress below the appropriations made for the two years by the preceding Congress.

I may be told that at this session no appropriations have been made for river and harbor improvements. That is true, but it is also true that the lavish appropriations made on pretense of improving rivers and harbors of late years have been a fruitful source of corruption. The sums appropriated for purely local improvements and for the benefit of individuals, for the pretended improvement of unknown creeks and rivulets, and to give gentlemen advantages in political contests, have very greatly exceeded the sums appropriated for works of general importance. While it is proper and within the scope of the constitutional powers of Congress to appropriate money for works of national importance, improving the facilities for the general commerce of the country, it is better that no such appropriations should be made at all than that under their shelter millions should be squandered for individual aggrandizement and in the fraudulent control of political results. During the war and for many years before the war no appropriations for river and harbor improvements were made. After the war, beginning with two millions a year, the lobby, by a most corrupt system of legislative log-rolling, soon ran the appropriations up to $6,600,000, a large portion of which was the spoils of the lobby. Of the five millions appropriated last session less than one-half, under the wise policy of the Chief of Engineers, has been expended; there is, therefore, no possible excuse for appropriating any more at this session. The Army appropriation bill is alone to be taken into the account, the House wisely defeated the other bill and repulsed the corrupt lobby that always gathers around it.

Then, sir, the fact remains that after making every appropriation required for the honest administration of the Government, and after the House, in both sessions of this Congress, in a spirit of compromise, made concession to the views of the Senate as to many millions of dollars in the several Departments, the amount saved to the Treasury in these two years, in comparison with the appropriations made during the two preceding years, is the sum of $64,326,045.57; full appropriations for the Army, *even if not reduced in numbers*, being taken into the account. The magnitude of this sum is seen when we remember that the sum saved to the people in these two years is equal to the entire annual expenses of the Government seventeen years ago. Many months have elapsed since this system of retrenchment took effect, and it is now perfectly safe to assert that this retrenchment has not in the least degree embarrassed the public work in any department of Government, but has positively promoted the efficiency of the Departments and honesty in their administration; and it is equally safe to assert that large additional retrenchments will greatly promote the same valuable results.

It will be seen by the table I have first submitted that the bills of the present session have made reductions on the appropriations of the last session in every instance except for the Indian service, Navy, and sundry civil. There is a slight increase in the Indian appropriations, growing out of the proposed surrender of the Black Hills country and the removal of the northern Sioux to the Upper Missouri. It was found that until some system can be adopted to reduce the large body of unemployed officers in the Navy, a slight increase over the appropriations made by the last session was inevitable, unless the number of vessels in commission could be reduced and the unsettled condition of affairs in Europe seemed to justify a considerable naval force in the Mediterranean. The slight increase in the sundry civil bill grew out of the increased appropriations for the palatial and extravagant buildings commenced years ago in Boston, Philadelphia, Cincinnati, Chicago, and Saint Louis, and for the State, War, and Navy Departments in this city. There was no excuse for commencing most of these great buildings. It was a fraud upon the country to commence any of them upon the extravagant and profligate estimate of expenditure upon which they were commenced. The meretricious and lavish decorations of these buildings, so in contrast with the grand simplicity of our public architecture in former years, and adding immensely to their cost, insult the republican tastes of our people; but they are upon our hands, and a reasonable economy requires their early completion. If the policy of this Congress is adhered to, this lavish source of expenditure will soon be at an end. No new building has been authorized.

While in the three instances I have named there has been a moderate increase of the appropriations in comparison with those of last year, in every other branch of the appropriations large reductions have been made.

In the closing hours of the last session it was predicted by gentlemen in this Hall and in the other end of the Capitol, and repeated on

every stump in the country, that the deficiencies appropriated this session would make up for the pretended retrenchment in the last session. We denied this, and the result shows the untruthfulness of the prediction. The deficiencies appropriated for this year are less than for any year since the war. The appropriations for deficiencies during the last session of the Forty-third Congress and for the first and present sessions of this Congress are as follows:

Last session Forty-third Congress, deficiencies	$4,703,699 18
First session Forty-fourth Congress, deficiencies	2,908,177 09
Present session Forty-fourth Congress, deficiencies	2,398,950 53

I must add that these appropriations made the last session and the present session grew out of the difficulty of stopping at once the pernicious practice so long indulged in of granting deficiency appropriations without question; but now, sir, with the full notice given to the Departments, if Congress is true to the country, this vicious system of deficiencies, except in time of war, will cease.

In my comparisons of the appropriations of this session with those of former years I have assumed that the Army appropriations for the next fiscal year, when made, will be the same as the appropriations of the last session, namely, $25,987,167.90. The retrenchment I have shown cannot be affected by this bill when it shall pass, for it is impossible, unless war should intervene—and that no one can possibly contemplate—that the appropriations for the Army should exceed that sum. It is based upon an Army of 25,000 men, while the bill as it passed the House appropriated $21,993,749, and proposed to reduce the Army to 17,000 men, providing that all enlistments should cease until the Army was reduced to that number. Now, while I cannot assert that the bill, when it shall finally pass—for its failure at this session is now inevitable—will only appropriate the $21,993,749, for a compromise between the two Houses will require mutual concessions, I can very safely assert that it will not appropriate more than was appropriated last session.

The bill as it passed the Senate restored the Army to its old number, 25,000 men, and fixed the appropriations at $26,188,870.50, a slight increase on the appropriations of last session. The reduction of the Army is a measure from which the House cannot recede. It may not be reduced to 17,000, but I am confident it will not be kept up to 25,000. Patient as our people have been in view of the employment of the Army to override the civil authority and control elections in the interest of party, it is very clear that under no circumstances will the people peaceably contemplate such a spectacle again. An Army of 17,000 men is all and more than is required for the only purposes for which we require an Army, an organized force around which to rally the volunteer forces—the true army of a republic—in case of public danger, and overawing the savage tribes in the West, keeping them upon their reservations and protecting the borders. The extension of our railroad system into and through the Territories justifies a large reduction of our military. Seventeen thousand men are more than will be legitimately employed; even during the late Sioux Indian war not one-half of the Army was employed west of the Mississippi. It may be said that occasionally and unfortunately some force is necessary to aid even in our cities the revenue officers at times. In my judgment, the civil power is and always has been sufficient for this purpose. I shrink from the thought that our people are to become accustomed to the employment of the military power in the civil affairs of Government; but even if this argument were a good one, we have stationed everywhere upon the eastern coast, well paid and never employed, the marine force, fifteen hundred strong, a larger force than has ever been employed since the war in such a service; not a very martial corps, I admit, but sufficiently so for any civil employment. The Army can be reduced, and it ought to be reduced. An army of volunteers, citizen soldiers, is the only army that should be tolerated in a republic. A people jealous of their liberties cannot contemplate with composure a standing army having no employment except watching the course of civil government.

As a nucleus for a volunteer army in case of public danger and to preserve peace upon our frontiers, and among the Indian tribes, 17,000 men is enough and more than enough, and this heavy item of $25,987,167.90 ought to be and must be reduced. I am very safe in saying it will not be increased whatever may be the temper of the next Congress.

I therefore, sir, feel perfectly safe in saying that when the Army appropriation bill shall pass, the appropriations for the next fiscal year will not exceed in all $144,115,515.01, and the aggregate appropriations for all purposes of the two sessions of the present Congress will not exceed $298,525,157.49 as against $362,851,212.06 made during the two sessions of the preceding Congress.

This showing is encouraging and yet I feel more regret for what we have failed to accomplish than satisfaction with what has been done. It is true that no one could hope to bring down the extravagant and reckless expenditures inspired by the irresponsible period of the war, heavy inflation, and the struggles of a great party to maintain its ascendency at once. Even earnest and honest men at the head of departments could not adapt their service immediately to a frugal and simply necessary expenditure. The army of supernumeraries cannot be disposed of at once. The great army of men valuable in the field of partisan politics, and valuable nowhere else, would for the time hold their own against men simply competent for official duty. Every material retrenchment affects so many men and women accustomed to live off of the public Treasury, with incomes enormously in excess of the compensation paid for similar services in private life, that however necessary and proper it is certain to encounter resolute resistance.

No department ever recommends a reduction of the number of employés or the rate of salaries, but almost uniformly demands in the estimates an increase of both, and the most extraordinary expedients are at times resorted to to increase or retain employés, and especially to increase salaries. No man will ever fully appreciate the power of patronage until he has carefully considered the stubborn resistance with which the party in power meet every measure of retrenchment. I need not say that the sum of $143,433,602.01 exceeds greatly the sum really necessary to meet the proper current expenses of this Government during the coming fiscal year. That is apparent to all men who have examined into the details of our expenditure. A very heavy reduction from that sum would positively and greatly increase the efficiency and integrity of every branch of the public administration.

But retrenchment even to that extent has been effected under the most favorable circumstances. The men in power, it is true, have in the main stubbornly resisted every effort at reform, but the movement that elected this House was a reform movement of unusual earnestness and vigor. It demanded, in view of the prostrate condition then as now of every branch of industry, that searching reforms should be inaugurated and the most positive economy enforced. Thus commissioned and sustained by the general voice, this House has, at least moderately, well executed its trust. But I fear that already the public vigilance is relaxed. I hope I am mistaken, but I am certain that so soon as the general voice shall cease to demand economy in government and the public vigilance shall be withdrawn, Congress and the administrative power will settle back into the old ruts and every session will close, as in the past, with new officers and enlarged salaries.

The fierce struggle for new offices and higher salaries, for new fields of expenditure by which ambitious gentlemen may live and accumulate fortunes out of the labor of their fellow-citizens, can only be resisted by a positive and persistent public sentiment in favor of frugal government. When the public vigilance is relaxed, the pressure upon Congress becomes irresistible.

A civil service reform that adjusts the salaries of officers and employés of the Government to the compensation received by citizens in private employments requiring corresponding attainments and integrity and the utter repudiation of the doctrine that public employments shall be conferred as reward for partisan services, as corrupting and dishonorable, is absolutely necessary if our system of government is to be long maintained. Every successive year makes this the more apparent; with lavish appropriations, which the interest of party is constantly demanding, the patronage of the Federal Government is an almost irresistible power. It is even now the prize that greatly and mainly inspires and intensifies the fierceness, intolerance, and vindictiveness of party spirit. The promise of larger rewards in public than in private employments opens up unworthy and venal motives in the struggle for office, while honorable ambition for public trust and confidence disappears. The decay of public virtue and the prevalence of venal motives in public affairs are the natural outgrowth of lavish expenditure, while the measure of purity in government will be found in the degree of frugality that pervades its administration.

Before our people, sir, can feel that their Government is administered in the interest and for the common benefit of all, and not largely for the benefits of the great army of employés, who, without any just return, live upon the Treasury and take "from the mouth of labor the bread it has earned," the expenses of this Government must be reduced very greatly below the appropriations made even by the present Congress.

Mr. Speaker, in reviewing this work of retrenchment, I would be very unmindful of the agencies by which it has been accomplished if I did not recall the fact that to your inexhaustible industry and thorough knowledge of the wants of the public service, as chairman of the House Committee on Appropriations during the first session of this Congress, the country is very largely indebted for the reforms that have been effected and the millions that have been saved to the Treasury.

Mr. Speaker, in the closing moments of the Forty-fourth Congress it can be safely said that during its existence the lobby has not achieved a single victory. No scheme of public plunder has been successful, no "rebel war claim" has reached the Treasury, no new offices have been created, but a multitude have been abolished; no salaries have been increased, but a large number have been diminished; no new scheme of public expenditure has been inaugurated, while many have been discontinued. The general expenditures have been immensely reduced, promoting the integrity and efficiency of every department; and those partial reforms may at least inspire the hope that the people who bear the burdens of government will see to it that the work of reform shall not falter, that their Government shall no longer be administered in the interest of favored classes or as the mere dispenser of lavish patronage, but for the common and equal benefit of all.

The Electoral Vote of Louisiana.

SPEECH OF HON. REZIN A. DE BOLT,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

February 20, 1877,

On the decision of the electoral commission in relation to the electoral vote of the State of Louisiana.

Mr. DE BOLT. Mr. Speaker, I gave my voice for the electoral bill because I felt that its passage would bring about a peaceable solution of our presidential difficulty. Prior to and during its discussion the country was in a feverish state of excitement; anxiety and alarm filled the mind of the people; business was depressed; your workshops were silent, commerce stagnant; poverty and destitution were abroad in the land in search of work or bread. Many of the leading and patriotic men, representing all classes, irrespective of party, in all sections of the country assembled in their various commmunities, and in the most forcible terms gave evidence of their alarm and existing distress, *indorsed* this measure, and demanded of their Representatives to give it their support. To allay this anxiety, to insure peace and fairness in the count, objections to the bill were waived by many who would not otherwise have yielded.

Again, there were thousands who believed that civil war was imminent, and, unless some measure was adopted whereby it could be averted, that bloodshed would surely follow. This feeling was intensified by the concentration of troops and warlike preparations in and around headquarters.

In addition to this, there was a wide-spread feeling throughout the country that a conspiracy existed to count in Hayes at any hazard; and from recent developments we are forced to admit that this feeling was not without foundation. Others were induced to support the measure because they believed that some members of the commission would not be governed by mere partisan feeling, mere party ties, but decide the questions submitted upon purely legal grounds.

The people half expected and were ready to excuse partizan action upon the part of those members taken from the political branch of the Government, but it is with humiliation and shame that they view the action of those members taken from the judiciary, the Supreme Court of the United States, that exalted position, that ought to place men above and beyond the motive that might prompt the action of the aspiring politician. The country looked to them for protection against fraud, outrage, forgery, and perjury; to them they turned from every section with longing eyes and hearts filled with hope and confidence that justice would be done though the heavens should fall.

How has this hope been realized, this confidence sustained? Eight to seven is the reply. Trace the proceeding of this commission from beginning to end, and those numbers rise up before you like Banquo's ghost, and "will not down at the bidding." Even on the trivial question of extending for a few minutes the time of counsel to discuss a matter of the greatest magnitude ever presented to the Ameriean people the same figures appear. Perhaps their appearance in so small a matter can be explained when we understand that this *little* favor, this *mere* courtesy, was asked by democratic counsel. If they could not rise above the mere partisan in a matter comparatively so unimportant, tell me not that they did not besmirch their judicial robes with the mud deep down in the cess-pool of party politics.

Ah, sir, the immortal eight may live and be held in high esteem by the administration forced upon us through the most damning frauds and villainy ever perpetrated upon a free people; but methinks that whenever through life they hear that combination of figures mentioned they will turn quickly and involuntarily to see if the blow is not aimed at them. By their action they have legalized fraud and made it respectable.

If an amount of money, however small, had been involved, instead of the success or defeat of a political party, with fraud charged upon the one side, denied upon the other, and an offer to prove the same had been made, does any living man suppose that the immortal eight would have listened to argument for three long, weary days in order to determine whether or not the evidence should be received? They would have answered, "No. Away with your argument! The doctrine has been settled so far back that the mind of man runneth not to the contrary that fraud vitiates every transaction into which it enters. Bring on your witnesses; we will hear the testimony." But when the Chief Executive of the nation is counted in through fraud and alterations of returns; when the electoral vote of a State has been absolutely stolen by political thieves; when five and forty millions of people are about to be robbed of the man of their choice, these judges tell us they cannot hear testimony in regard to it. What a monstrous proposition!

Mr. Speaker, we had reason to hope for something better from the honorable gentlemen from this House, and also from the other end of the Capitol, who were members of that commission. They gave us good words of cheer, of encouragement, ay, almost solemn pledges of honor, during the discussion of this measure, that the commission would sink the partisan into the patriot; they would rise above party ties and decide as becometh judges.

Let me read from a speech made upon the floor of this House:

But it is charged that this commisson is in the end to be made up of seven men who of course will decide for one party and seven men who of course will decide for the other, and who must call in an umpire by lot, and that therefore you are in substance and effect putting the decision of this whole matter upon chance. If this be true, never was a fact so humiliating to the Republic expressed since it was inaugurated. Of the members of our National Assembly, wisest and best selected for the gravest judicial duty ever imposed upon man, under the constraint of this solemn oath can there be found in all this Sodom not ten, not one to obey any other mandate but that of party?

Eight beats seven is the answer.

The gentleman especially repudiates the imputation that the judicial ermine will be soiled by being brought into contact with the questions involved in this case.

Again I quote from his speech:

But I especially repudiate this imputation when it rests upon those members of the commission who are to come from the Supreme Court. It is true there is a possibility of bias arising from old political opinions even there, and this, however minute, the bill seeks to place in exact equilibrium But this small inclination, if any, will in my judgment be overweighted a hundred-fold by the bias pressing them to preserve the dignity, honor, and weight of their judicial office before their countrymen and before posterity. They will not consent by a party division to have themselves or their court go down in history as incapable of the judicial function in the presence of the disturbing elements of partisan desire for power, in regard to the greatest cause ever brought into judgment.

"Not one to obey any other mandate but that of party." Not one "to preserve the dignity, honor, and weight of their judicial office before their countrymen and before posterity."

Now, sir; what is the result of this doctrine? Will it encourage honesty and fairness in elections? No, sir. Let it be understood that this is to be the rule hereafter, and little attention need be paid as to how the people vote, for whom they vote, or what the majority may be; but the effort will be to buy up the returning boards, influence them by any means, fair or foul, it matters not how, only so we obtain the certificate, we are safe, for it is now settled that fraud cannot be inquired into. Shame on such a proposition; it is not, it cannot be the law, and the man, party, or country that indorses it will be held in scorn and contempt by the civilized world.

The Electoral Vote of Louisiana.

SPEECH OF HON. C. W. MILLIKEN,

OF KENTUCKY.

IN THE HOUSE OF REPRESENTATIVES,

February 20, 1877,

On the decision of the electoral commission in relation to the electoral vote of the State of Louisiana.

Mr. MILLIKEN. Mr. Speaker, in the short period allowed me I can but give an idea of my views upon this great question involving the election of a President of the United States. When the bill was presented to the two Houses for their consideration and adoption or rejection, I confess that serious apprehensions crowded themselves upon my mind as to what was the true line of duty to be pursued by me in casting my vote. It was my earnest desire that a peaceful solution of what seemed at that time to be a question freighted with the most fearful consequences should be attained if possible. To reach my duty satisfactorily to myself I sought all the means of information in my reach, and gave them all the powers of thought and deliberation I could command. And while I sought really and earnestly to give the bill the sanction of my support, I found it impossible to do so upon purely constitutional grounds. I was then and am now unable to discover where the authority is found in the Constitution or any part of it authorizing Congress to bring to its assistance or add to its numbers other persons than its own members to ascertain or count the true and lawfully elected electors of the several States.

To my mind, the Senate and House of Representatives, in joint session assembled, have the power, and the duty devolves upon them, and them alone, to count the vote. A power conferred or a duty obligatory upon Congress to be performed by it, as I construe the twelfth amendment, does not carry with it the correlative power or obligations to give to another those conferred or obligatory powers. But without attempting to give my reasons for opposing the measure upon constitutional grounds, for I have not time, the policy, from my political stand-point, was most objectionable.

To me it appeared that the commission would be composed, of necessity, of a majority of republicans. The commissioners selected by the two Houses, in political complexion, were equal, and those designated by the bill of the Supreme Court stood two and two, the fifth, and odd one of the same body, to be selected by these four. In this selection it occurred to me that he, the fifth one, would, as a matter of course, have to be a republican or no choice would be made. And therefore, as a matter of policy alone, I would have opposed the bill, for I am not of those who believe that human nature can divest itself of its prejudices, biases, and partialities. A man on the Supreme Bench is still human nature, however exalted may be that position. Standing within the sound of the crack of the whip of the leaders

and officials of his party, as well as within the reach of the public journals of that party, I did not believe that that fifth man could withstand the party pressure that would be brought to bear upon him, supreme judge though he be.

But, sir, I have no word of censure for those who saw proper to differ with me in casting their votes on this question. I believe they acted in the matter with the purest and best motives. I believe that they believed at the time they cast their votes that this commission would go down into the *débris* of the corruptions, villainies, and frauds that had been perpetrated in the elections in each and all of these States, and extricate truth, justice, right, and honesty from among them, and bring it unstained and untarnished before the two Houses, that equity between man and man, party and party, and State and State might be meted out to every citizen of this Union.

But this had been denied and refused, and those who hoped for the purity of the ballot-box have been willfully and deliberately deceived. The sable mantle worn by some at least is a fit emblem of the conscience it covers; and whatever may be the opinion of some as to their course in this great and vital matter, posterity will learn from its history that this is the darkest day of the American judiciary, nor will the rains of a thousand years wash the stain away.

And, sir, one of the most remarkable features developed in all of this discussion, and the action of the republican members of the commission is their sudden conversion to, and advocacy of, the doctrine of State rights. So tenacious are they at this time, and in this particular crisis, to the doctrine of State rights that they have wholly forgotten and ignored the rights of the people in the several States. I, sir, am as thoroughly satisfied of the reserved rights of the States and the recognition of those rights by our fathers who framed and adopted the Constitution of the United States as I am of the existence of the great God of the universe. And I believe in their absolute sovereignty in all things not reserved by the people or granted to the Federal Government by the Constitution of the United States. But, sir, with the firm conviction of these opinions, I am not prepared to believe or assent to the doctrine that the corporal existence of a State is superior and above the vital existence of the people in their aggregate capacity constituting the living, tangible existence of the State or corporate body. Such an idea carries with it, sir, the power of a few villainous and corrupt officials representing a State, to defeat the expressed will of the people of the State, the very object of government itself.

Sir, in conclusion, I beg men of all parties to turn away from partisan stand-points and look these issues squarely in the face. Turn your backs upon fraud, and lift justice, truth, and right from the cess-pool of infamy, corruption, and fraud, that honest government and the purity of the ballot-box may be preserved and transmitted to posterity as pure as it was delivered to us. Remember that our actions will go to posterity and perhaps followed—as we too often do—as a precedent to be repeated rather than as an experiment to be adopted if right or rejected if wrong.

In framing the Federal Government the States and the people of the States gave to the Federal Government the powers of providing the ways and means of electing a Chief Magistrate to preside in that capacity over all the States. The Federal Government in turn demands of the States that they shall appoint electors in their own way for the election of this Chief Magistrate. When the Federal Government conferred this power upon the States and demanded the appointment of electors, is it not the height of fallacious reasoning to suppose that it gave this authority so thoroughly and absolutely that no power was left it to protect itself from fraud? If the Government is powerless to prevent fraud in the election of its officers, then indeed is it a failure and a farce.

If fraud and corruption shall rise superior to truth and justice now, I will not despair, but put my faith in the goodness and purity of God to deliver us from these evil times.

While I voted against the bill creating this commission, and while I believe it to be a fraud and a swindle, having gotton into the snare, I intend in good faith to stand by the result, leaving the future to right the wrongs we now suffer.

Pennsylvania's Vote—The Electoral Commission.

SPEECH OF HON. JAMES H. HOPKINS,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

February 26, 1877,

On the objections to the vote of one of the presidential electors of Pennsylvania.

Mr. HOPKINS. Mr. Speaker, the popular voice of Pennsylvania declared in favor of Governor Hayes. Deeply as I regret that fact, I would be unwilling to stifle that voice in any degree except upon the clear and imperative mandate of the Constitution. I know that our opponents have set examples which would justify us in resorting to any means, no matter how desperate, to secure a party triumph. I know that we have seen two States throttled by highwaymen in the broad daylight of Christian and republican civilization and robbed of their votes; and the crime has found apologists and defenders on the other side of this Chamber. But, sir, I do not propose to learn private virtue or public morality or political expediency in any such school as that.

I am too unwell to argue the question of Mr. Morrell's eligibility or the substitution of Mr. Boggs as a presidential elector. I can only say that I am constrained to believe that the twenty-nine electoral votes of Pennsylvania should be counted for Hayes and Wheeler.

But, Mr. Speaker, I desire to say a word upon another subject. The electoral bill was passed through this House by deception and trickery, and it is time that we should know and that the country should know upon whom the responsibility, the odium, the infamy should rest.

Letters and telegrams from my constituents urged me to support the bill. So far as there was any expression from those I represent, there was a unanimous and earnest desire that the bill should be passed. Under these circumstances I reluctantly voted for a measure I did not approve. At the same time we were assured by the framers of the bill that the commission to be created under it, would thoroughly and honestly investigate, ascertain, and declare the very truth and justice in each disputed State. Now, sir, some of those who prepared that bill and who thus construed it are serving upon the commission, and upon every opportunity have violated the trust upon which they were chosen.

The gentleman from New York, [Mr. HEWITT,] the gentleman from Virginia, [Mr. HUNTON,] the gentleman from Illinois, [Mr. SPRINGER,] and I think the chairman of the House committee [Mr. PAYNE] gave us the assurance that the general understanding of those who prepared and presented this bill, both democrats and republicans, was that under its provisions the paper certificates would not be permitted to shut out the truth; that the electoral votes of a State should not be cast in accordance with false and currupt returns; but only as justice unfettered by technicalities should decide. But we have been deceived, shamefully, fatally deceived. The commission have

> "Wriggled in and wriggled out,
> Leaving the people still in doubt,
> Whether the *snake* that made the track
> Was going South or coming back."

I read in the RECORD of Saturday's proceedings that the gentleman from New York [Mr. HEWITT] boldly charged duplicity and bad faith upon the gentleman from Massachusetts [Mr. HOAR] who served with him upon the select committee which prepared the electoral bill and who now sits upon the commission created by it. The gentleman from Massachusetts did not meet this allegation with his characteristic frankness, but by a weak evasion sought to turn attention to what he considers the foibles of another gentleman. It is true he claims that the bill does not declare that the commission may go behind the returns. But that is a subterfuge. The question is, did Representative Hoar construe the powers and duties of the commission one way in order to secure the passage of the bill; and did Mr. Commissioner Hoar construe it a different way in order to serve the ends of party? Did he "palter in a double sense?" "Did this gentleman, so learned, so honored, and thought to be so fair, aid in the jugglery by which the House was tricked out of its prerogatives and the people out of their choice for President?

We have a right to call upon the other members of the joint committee to know the understanding that committee had of the scope of this bill. It was that understanding which influenced votes and secured the passage of the bill, and each member of the committee owes it to himself and to the House to disclaim an intentional cheat, or deserves to be branded for shameful bad faith to those who confided in his honor.

One of my colleagues [Mr. TOWNSEND] has defended the members of the committee against the charge of duplicity and argues that our side of the House did not understand the bill to give authority to look beyond the certificates and action of the returning boards. And he refers to an amendment to the bill offered by me to confirm his argument. But that is a lame and impotent conclusion. The bill was carefully and, it seems, most craftily drawn. The interpretation put upon it by the Senators from Vermont [Mr. EDMUNDS] and from New York [Mr. CONKLING] and by the Representatives from Massachusetts, [Mr. HOAR,] from Iowa, [Mr. MCCRARY,] and from Michigan, [Mr. WILLARD,] as reported to us, was entirely satisfactory. And, notwithstanding it was thought the fullest faith and confidence could be reposed in those gentlemen, there was no certainty that they or any of them would be upon the commission. No one here then supposed either of those gentlemen capable of treachery; no one ever dreamed that under the party lash their convictions of justice and honor would change. But others whose views of the powers about to be given to the commission were not known might become the interpreters of the law, and it was to guide and control such and to compel them, however unwilling, to examine the disputed facts and decide for the right that I proposed the amendment referred to, carrying before the commission all of the testimony taken by the various committees of either House of Congress.

The adoption of that amendment would have spared us the humiliating and disgraceful spectacle of to-day. It would have brought

before the commission proof of such monstrous villainy, proof so clear and unquestioned, that itself would have been

A whip in every honest hand
To lash the rascals naked through the world.

Its adoption would have saved the temple of justice from pollution. It would have snatched two States from the grip of their despoilers. It would have spared the chair of state from the hated presence of a usurper; and it would have spared some consciences from the gnawings of remorse. But the failure to pass it did not absolve those gentlemen from the obligations of good faith, which required them as true and honest men to construe the law when presented in the chamber of the Supreme Court precisely as they construed it in the committee-room and in this Hall.

There are those upon the commission of whom nothing just or fair or honest was expected when their party would be injured thereby. But it is due to history that the power of party spirit should be written, that coming generations may see how it pervaded great men's souls, until, like those possessed in earlier ages, they fell down and wallowed in the mire.

Senator MORTON was a member of the joint committee. Here was his construction of the powers it conferred and the duties it imposed:

They are required to find, for example, under that provision, whether the electors were eligible or ineligible as to their qualifications.

This bill requires this commission to find the facts whether these electors were dully appointed. They are not required to find whether they have been duly certified by the State authorities as having been elected. No, sir; but they are required to find the fact were they duly appointed or elected.

In finding the fact as to who was duly elected they are authorized to take into consideration petitions, unsworn evidence, depositions, papers of all kinds, reports, everything that may be put in for the information of Congress. (RECORD, January 23, pages 22, 23.)

What I maintain is that this commission cannot carry out this part of the bill without going behind the returns from a State, and that is what our democratic friends understand by it. (RECORD, January 26, page 99.)

These declarations, followed by his oath to act as a commissioner in executing this law, and that followed by his action as such commissioner, are a fitting commentary upon the fairness and honesty of the tribunal which is counting a defeated man into the Presidency.

Two of the commissioners vigorously opposed the electoral bill, declaring it to be glaringly unconstitutional. But when it became a law they voluntarily and eagerly sought position under it, either to execute a law they deemed absolutely void; or to pervert a law which honor required them to execute. They had hurried before the people as the defenders and eulogists of the infamous returning board of Louisiana; and then with equal haste and equal sincerity solemnly swore that they would "*impartially* examine and consider all questions submitted to the commission and a *true* judgment give thereon." With opinions already formed and convictions publicly declared, they swore to act impartially! If not a party to the Louisiana frauds, these men were fully cognizant of them. And we may well stand amazed at their anxiety to occupy positions from which most men, under like circumstances, would have shrunk with an honest fear of even unconscious bias.

Mr. Speaker, the consummation is almost reached. Fraud and force, forgery and perjury have done their work. A great nation, which has just celebrated its centennial anniversary with so much pomp and pride, lies helpless. The Republic, powerful and majestic, cowers before her assassins. Popular government lies bleeding and in chains, while "ballot-stuffers," knavish returning boards, and a *high joint electoral commission* smile complacently. The witnesses are at the door clamoring to prove the stupendous crime; but it is

Ordered, That the evidence offered be not received.

And the man without a title prepares to seize upon the state!

ELECTION IN NORTHERN CITIES.

Report of the Committee to Investigate Alleged Frauds in the Cities of New York, Jersey City, Brooklyn, and Philadelphia.

Mr. COX, from the committee appointed to investigate into alleged frauds in the cities of New York, Jersey City, Brooklyn, and Philadelphia, submits the following report:

They have visited the several cities named and have been restricted by the resolution as nearly as possible to the examination of complaints and charges of fraud at the last election of Congressmen and presidential electors. The committee have examined hundreds of witnesses in the several cities and have found what is incidental to all great cities, instances here and there of fraud, but those instances have generally been with reference to local elections, like those of aldermen, and not to matters connected with Federal politics. This remark is not applicable to Philadelphia. That city, as will be seen, is and has been for many years, as well as this year, a monstrous exception, inasmuch as there seems to be a system, fixed and chrystallized, for bad franchise.

The committee have discarded all inquiry as to matters that do not pertain to Federal affairs.

"NEW LOTS."

Much time was spent, or misspent, in the examination of an outside borough, called "New Lots," which was adjacent to Brooklyn, but not within the jurisdiction of the committee. Some evidence was given which would lead to one practical suggestion, and that is that a registry would be useful for voting-districts near large cities. Nothing of much consequence, however, was elicited which should cast any reproach on the election of any member of Congress within the cities of New York, Jersey City, and Brooklyn, much less change any result as to the electors for President.

CREDIT TO BOTH PARTIES.

The bulk of the testimony taken in the cities of New York, Jersey City, and Brooklyn shows beyond a doubt that there was an unusually fair conduct of each election, which does credit to the virtue, intelligence, and citizenship of those cities. In the city of New York, the commissioners of police, who have certain functions in an election, were equally divided between the two parties, though the local organization, outside of the Federal officers, was democratic. It is unnecessary to discuss to whom should be distributed the honor of making this election so unusually prudent and just.

The committee are of opinion that both parties contributed to that result. In Jersey City and Brooklyn the democrats succeeded by large majorities, even with a republican local government. The percentage of fraud was very small in those cities, because of providence, care, and unity for honesty among men of all parties. The committee take pleasure in commending the action of the United States officers, especially the supervisors of election in those cities; and the more especially because the Federal election law has not heretofore been administered with much satisfaction in those cities. The Federal officers seem, however, this year, to have worked harmoniously not only with the local organisms, but with each other.

CREDIT TO OFFICIALS.

Whatever may be said about the United States law as to elections or their supervision by United States authority; whatever may be said as to the right of a State to regulate in all ways such elections, this must be said, that the administration of the law by Commissioners Davenport, Muirhead, and Allen, the United States functionaries and their subordinates, was eminently just and wise and conducive to a fair public expression in a presidential year of unusual excitement and great temptation. The testimony of Mr. Davenport, the United States commissioner for the southern district of New York, is a remarkable statement, which the committee would adopt as the basis of their report as to the three cities.

COMMISSIONER DAVENPORT'S PLAN.

Step by step he developed to the committee his action from the first applications made to the circuit court under the Federal election law for the appointment of supervisors of registration and election down to the last moment when he arrested those who had violated the law. Both political organizations presented applications for the appointment of supervisors. The court, following the decision of Judge Woodruff in 1872, recognized the lists which were indorsed by the State and national committees. Objections were made and heard, so as to purge the lists, and in the whole five hundred and sixty-nine electoral districts two supervisors of different parties were on hand to supervise the registry and aid the local or State officials. The books were sent to the United States supervisor and were compared. The name, the number of the house, the number of rooms or floors, and other descriptions as to nativity, color, length of residence in the assembly district, county, and State of the voter were promptly made. Naturalization was inquired into and other qualifications, and if disqualified, why disqualified; instructions were then issued and printed in the books delivered to the supervisors. They are found in the testimony of Mr. Davenport. The same care was pursued in the cities adjacent to New York. There never was an election where such thorough preliminary investigation was required or had as to the registration or as to the ballots, or the poll-lists, tallies, check-books, certificates, statements, and returns by the State and other officers. No interference was allowed so as to defraud the honest voter of his right, except in a few instances, and no fraudulent votes were given except on very rare occasions.

DETAILS OF THE SYSTEM.

The instructions referred to went down to the remotest and smallest detail. The supervisor himself had the names before him of men who had before voted and who had not moved within two years. He knew all about every one of that class of voters and checked them as correct in all such cases. After deducting the names of those who had registered in the preceding two years, and who had moved since 1872, he eliminated with the aid of the list from that time, 90,000 names from a registry of 183,000. This examination satisfied the committee that the proportion of people who do not move between an election of one year and the election of next year is about 50 or 55 per cent. Many of those, it will be remembered, do not move out of the election district, but simply change their residence from a given house. After causing a strict and vigilant examination to be made as to the names of those who were on the registry, another list was made and handed to the Federal supervisors. These men were men of intelligence, required to be so by law, and better fitted than deputy marshals for a work of such importance and delicacy. This work was done a second time, by men who went from house to house with the lists, for the age of a voter, his residence, and other matters, so as to identify him and estop fraud. Then the names of those who could not be found were marked. The two reports are then compared by the supervisor. Sometimes these reports have been made by different men. These precautions were taken, it is said, so as to avoid the issuance of warrants on the simple statement of any one that the party did not reside at a house where he had sworn he did reside. When all the reports agreed that the man did not live at the place, it was then considered a *prima facie* case and arrests were ordered. For certain reasons policemen are not always the best agents to make such inquiries. In certain districts he does not get correct answers. The persons fear that he has a warrant and are cautious. A deputy marshal with a badge is in the same predicament. The internal-revenue officer is looked upon with still more suspicion. The letter-carriers, however, are used with better effect, so as to ascertain, even to the very tops of the tenement buildings, whether such and such a man resided where he professed to reside. Letters were addressed to all persons who were suspected. These letter-carriers are bound by law to state on the back of the envelope why the letter is not delivered, either that the party is dead, or has removed, or cannot be found, or never resided at the place.

PRECAUTIONS TO PREVENT HONEST VOTERS FROM LOSING THEIR VOTES.

The United States commissioner, along with the mayor of the city, and the president of the board of police, General Smith, had a meeting to allay any excitement occasioned by rumors which always precede an election. The United States marshal, district attorney, and the counsel of the corporation of New York were called in. They were men of various politics. They came to an agreement, which was signed, so as to execute the law without straining it, and so as to adjudicate without irritation or impediment, the questions which might arise during the day of election. Throughout the whole length of New York, sixteen and a quarter miles, arrangements were made to prevent bringing men any distance from their homes or the polling-place. The commissioners were distributed over the city, and from early morning until after the polls closed cases were taken before them, and information given by them as to voting. Four lawyers were selected, General Barlow, Mr. Alderman Billings, Mr. Marbury, and Mr. Olney. They, too, were equally divided as to politics, and the rule was adopted that whenever they found a reasonable and well-founded doubt as to a person being a legal voter, the voter should get the benefit of the doubt, so that he could take an oath under challenge, and have applied to him by the inspectors the test of the law. It was intended to provide not only against fraudulent votes, but that no person really entitled to a vote should be refused. The political organizations concurred with Mr. Davenport in this arrangement. It proved a decided success, and the result was, what all who have any knowledge of this New York election have concurred in confirming, that there was comparatively no fraud, and the attempts made to repress it were welcomed by both parties and carried out in good faith.

The committee beg to state, with some degree of pride, and to repel all statements to the contrary, that the first report only showed four thousand cases of attempts at fraudulent registration during the first two days of the registration, and some seven or eight thousand in all. This is in remarkable contrast with the registration in Philadelphia. In the latter city of less population and fewer votes, the baseness of the registration is simply monstrous. Not only was the fraudulent registration greatly in excess in the smaller city, but the precautions taken in New York for honest registration were so consummate and pure that New York shines, like a "good deed in a naughty world," compared with Philadelphia and other communities farther South!

ARRESTS, AND WHY.

To proceed with the details of the New York plan: Then, after learning all th particulars respecting the fraudulent persons, only two thousand doubtful case were left, and this out of a registry of 183,000. It seemed necessary, however, to issue only about fifteen hundred warrants. The moment the man appeared to vote against whose name the word "warrant" was written, he was challenged; but of all that great number on the island of Manhattan, there were not more than three thousand who were found to have moved before the first day of the registry and election day. Those names were stricken off without arrest. It is unnecesary to state in full all the precautions taken to guard against fraud at the various points. They are fully recounted in the testimony of Mr. Whitney, Mr. Bliss, Mr. Davenport, and the accomplished and dutiful officers of the adjacent cities, Messrs. Muirhead and Allen.

Of course the United States marshal had his deputies to execute the warrants. There was one marshal for each election district. Extracts from the United States statutes were sent out in circulars, together with directions to supervisors and deputy marshals. More care could not have been taken, in the judgment of the committee, for the verification of the registry and the purity of the election.

A PATTERN FOR IMITATION.

The committee would commend to other portions of the country and to other cities this remarkable system, developed through the agency of both local and Federal authorities acting in harmony for an honest purpose. In no portion of the world and in no era of time, where there has been an expression of the popular will through the forms of law, has there ever been a more complete and thorough illustration of republican institutions. Whatever may have been the previous habit or conduct of elections in those cities, or howsoever they may conduct themselves in the future, this election of 1876 will stand as a monument of what good faith, honest endeavor, legal forms, and just authority may do for the protection of the electoral franchise.

From the moment the supervisors are appointed, from the moment that the lists are purged, from the moment that the applications are examined, to the very last return of the popular expression, this election shows the calm mastery of prudence. For this due credit should be given to men of both parties, and especially to the corporation counsel, Mr. Whitney, and United States supervisors.

Mr. Commissioner Davenport had maps of every house and building in the city. These maps were corrected regularly every thirty days. You cannot build a wing to your house, or change its number, or add to its stories or rooms, or change the character or quality of the dwelling, without its being registered by the supervisor. All the doubtful, or suspected, or bad houses are registered and known. When these changes are made that fact is brought to the attention of the functionaries in charge of the trust, and all trouble appeased and all wrong rectified.

ONLY THIRTY ASCERTAINED ILLEGAL VOTERS IN NEW YORK.

So that, as a compendious statement resulting from these prudential measures, it may be said that out of 183,000 registered votes only fifteen hundred warrants were required against those suspected of fraud; and out of those fifteen hundred for whom warrants were issued only three hundred came to the polls. Those three hundred were arrested, but they were generally of a class which has a right to vote. The rascals are frightened and kept away by the advertisement of their names as fraudulently registered. Of those three hundred arrested, 90 per cent. were allowed to vote as legal voters, after trial.

Of course mistakes here and there occurred. Errors were made in consequence of mistakes of voters themselves as to registering their residence, but those mistakes were, as far as could be, remedied; and it would be wrong to hold the system pursued by State and Federal officers responsible for a few flecks and specks. The committee does not mean to justify the publication of the names of those who are thus advised that they will be arrested, for there may be many honest men in the list, who, apprehending arrest, may lose their honest votes. But in spite of these harsh measures which may deprive some of the franchise, the committee are decided in the opinion that the result is an astounding one where out of 183,000 registered only about three hundred men were arrested, and only thirty of them were held. Mr. Davenport says that in the cases of many of the arrests "the fault was with the inspector and supervisor, and not with the man himself, and this will show how heedful the examination was, that of all who were discharged I think there was hardly one man who could not have voted. There were some who were committed and did not vote; but I should say 90 per cent. of them were allowed to vote." As in New York, so in Jersey City and Brooklyn, the commissioners were busy and critical, but at the same time liberal toward those who had a right to vote.

NATURALIZATION FRAUDS, FEW IF ANY.

The committee was abundantly satisfied from the testimony of the various officers of the courts, State and Federal, that little or no fraud was committed as to naturalization. There was a less number of persons naturalized this year than there has been before for years at any presidential election save 1872, and the number was then a little below that of this year. The United States detectives were in all the courts to watch with vigilance any attempts of fraudulent naturalization. Scarcely a mistake was made. The committee would refer to the various statements of witnesses as to the number naturalized in the three cities.

In 1876 there were 10,832 naturalized in New York, which is 900 more than 1872, and about 1,400 less than any presidential year save 1872. This was as to the State courts. About the same ratio occurs in the other courts. Only some twelve or fifteen men were arrested for fraudulent naturalization in the city of New York. The judges were men of absolute integrity, and no man who knows anything of the New York bench as now organized, suspects for a moment that there was any considerable fraudulent practice.

CALCULATIONS ON POPULATION, VOTERS, REGISTRY, ETC.

The United States commissioner has confirmed the statement of other officers which the committee has before referred to, that that was as fair an election as he had ever known in the city of New York, and his demonstration seems literally irrefragable. He begins with the year 1835 for his calculations. Then New York had 43,091 voters. The increase since then in the voting population was 4.42 per cent. From 1835 to 1845 it was 4.83; from 1845 to 1855 it was 4.09; from 1855 to 1865 it was 4.42; and from 1865 to 1875 it was 4.45, making a total of 177 per cent. in forty years or 4.42 per cent. per year. The commissioner, taking the voting population of 1835 and the increase per cent. shows *a priori* that we should have had in 1845, 62,947; the State census returns 63,927—being a very small difference in the decade. From 1845 to 1855 the per cent. of increase, by a law almost as exact as science, would give 89,601; the State census returned 88,877, or a difference of 724 only in twenty years. Going to the third decade we find the per cent. of increase would give 129,201. The State census returned 128,975, or a difference of only 226 in thirty years. Taking the same per cent. from 1865 to 1875 and the year 1876, we would have 194,545; yet the vote cast was only 173,681, and the registry about 183,000. There can be no logical dissent from figures of this kind. It would be well to observe the ratio of voters to population in the several years. Calculations of this kind are much more useful and reliable than mere sporadic cases of fraud, growing out of personal or local ambitions. In 1840 the ratio of votes cast to population was 1 to 7.26. In the next presidential year, 1844, it was 1 to 6.56; in 1848, 1 to 9.46; in 1852, 1 to 9.75; in 1856, 1 to 8.57; in 1860, 1 to 8.51; in 1864, 1 to 6.74; in 1868, 1 to 5.49; in 1872, on a very light vote, it was 1 to 7.33; and in 1876, it was 1 to 6.21. This shows a difference between 1876 and 1864 of only .53 per cent. This calculation might be made more elaborate. In the testimony of Mr. Davenport there is an elaboration of it, the logic of which is unassailable. The ratios of various years prove each other, not only as to the proportion between voters and population, but as to the proportion of votes actually cast to voters. By the table thus prepared it is almost an absolute certainty as to where or in what years fraud predominates. In 1848 the proportion of votes cast to voters was 69 to 100; in 1852, 71; in 1856, 85; in 1860, 87.40; in 1864, 88; in 1868, 108, when the proportion should have been 88; in 1872, 79.40; in 1876, 78.40. All the elements of growth belonging to a large city like New York, including the southern element which has come in since the war, and the immigration which has been running down in the last two years, confirm the fact and furnish the reason why the proportion of voters to population is greater than heretofore. They also show that 1876 was not a year of excess or fraud, whatever may be affirmed of other years.

It will also be remembered that the ratio of the voters to the population has always been much greater in the State and in many other localities than in the city of New York. There is no doubt that the ratio of votes cast in New York State is a fair average for the city as shown by the statistics of other years when no fraud was charged, and that the vote was not inordinate in 1876 and should not be charged as excessive or fraudulent. The closeness of the vote to the registry is not much greater than it has been or will be at any election of a presidential character. In 1871, known as an "honest year," the vote was but 6⅜ per cent. below the registry. This year with a presidential election of much excitement it was 6 per cent. below.

One conclusion beyond any doubt is that New York City had over 194,000 voters, while her registry was about ten thousand less; but the registration bears a fair ratio with that of former years.

CO-OPERATION OF OFFICERS AND PARTIES.

This happy result was the consequence of co-operation between the official advises of the city and United States officers. The party organizations, by their regulations and orders, made the city police one in action along with the United States marshals. Mr. Kelly himself, a conspicuous leader from the leading organization of the city, issued his orders that there should be no collision between the Federal and State authorities; inasmuch as he was satisfied that all were intent on an honest vote. The city police were unusually vigilant in their orders and in their subordinates. They were in constant communication with the United States authorities, and gave full lists of all persons who had offered themselves as inspectors. They reported to the police captains as to the character, habits, &c., of inspectors. It is the opinion of the United States commissioner, Mr. Davenport, who is a republican, that the republicans held their own by reason of many accessions from the democrats; but the increase was not as large proportionately in the republican wards as in the democratic wards. In truth there was no motive on the part of any organization, for reasons not necessary to discuss in an official report, why fraud should have been committed. The democratic party had harmonized its difficulties, and the motive for fraud which occurs in all parties between rivals, was absent.

It ought also to be remembered by those who are critical as to New York that since 1872 two new wards have been added to the city with 5,000 votes.

All cases of fraud which were brought to the attention of the committee were thoroughly examined, and the committee went so far as to find out that no more vigilance could have been exercised by any arrangement known to the law to prevent fraudulent voting. The telegraph, post-office, and police, and all the legal and police paraphernalia were in constant requisition and use to avoid any bad registry or voting. Conferences among the best men, irrespective of party, and the co-operation among men of all parties, and the watchfulness on both sides of the Hudson and East Rivers, counsel given and received from all classes of officials, all with the one main object, effectually estopped a fraudulent presentment of the popular wish.

Whether this work, which is unexampled, should be accounted a republican work, through their Federal election law, or the work of the local authorities and organisms, inspired by a desire for an honest vote among the people, who were especially jealous of it on account of what was occurring elsewhere, one thing the committee must report, that it approximated as near to perfection as it was possible to do. There were no riots, no fights, no bayonets, no disturbance, no conflicts of authority, and none of the concomitants which accompany fraud and endanger free institutions.

The people of the country owe a tribute of respect to the police of a city of more than a million, and to the United States officers who numbered thousands, for the harmony of action between the various officers, so as to illustrate to all the world how the imperial island city can conduct herself under great excitement and in view of startling events!

COMPARISON WITH OTHER CITIES.

There is a special felicity in the fact that neither party can claim the entire credit of this grand result, inasmuch as in New York City the republicans had the Federal control and the democrats the local control, and inasmuch as the cities were democratic; while in Jersey City and Brooklyn, where the local governments were republican, the same happy results were obtained. It afforded not merely the opportunity but the illustration of an election so much needed in a country where there is so much competition and collision. It is no part of our purpose to commend the economy of the last election as to mere expenditures, or to praise one class of officers beyond their desert or more than another class, but in comparison with the shackling and dishonest system of voting prevalent for many years in other cities, and especially in Philadelphia, the city of New York is as Hyperion to a satyr. Her example should be an example to the City of Brotherly Love, and should encourage her to be rid of her tortuous, troublesome, and dishonest system. Had the system of registration and vigilance and scrutiny prevailed in Philadelphia which was exercised in New York, other results pertaining to prosperity and contentment would have been the consequence.

The committee, therefore, dismiss all the small spots on the surface of the body which attract the attention of the superficial, in order to attest, as they have endeavored to attest, the thorough health of the constitution of the body-politic of the great metropolis in so far as the last expression of her suffragans is an index of such health.

They would, therefore, beg leave to report to the House, that having listened to all that was necessary under the resolution from all parties, and all the complaints that are incidental to a large city, little, if any odium, this year, can be laid on the cities of New York, Jersey City, and Brooklyn, which seem to be bound up in a trinity of honest, fair electoral dealing.

The principal part of the examination as to Philadelphia election frauds was taken by a subcommittee, consisting of Messrs. RICE, WADDELL, and WELLS. A majority of that subcommittee has digested the facts as to the

PHILADELPHIA ELECTION,

and submit the following report:

The subcommittee met at the Continental Hotel, Philadelphia, on 5th January, and daily thereafter until 15th January, examining witnesses and taking testimony on the subject-matter of the investigation.

It appears from the evidence taken that the system of registration in Philadelphia is open to grave and serious objections, and that the whole machinery of registration and election is peculiar to that city and State. The provisions of the new constitution of Pennsylvania in regard to the subject of suffrage and election are, we think, well adapted to secure the purity of the ballot, but the registration and election laws do not seem to us to reflect the spirit of the constitution.

The system of registration under the law requires the assessors to take the registration of voters in their respective election precincts in the first week of June of each year, and for that purpose they take the transcript of the next preceding assessment, as given them by the city or county commissioners, and proceed to revise the same by visiting every house or dwelling in their respective divisions, and making careful inquiry as to any person whose name is on the list, whether or not he has died or removed from the division, and if so, to erase the same therefrom; or whether any qualified voter resides therein whose name is not on the list, and if so, to add the same thereto; and to inquire whether or not the person so added has the legitimate right to be a voter in the division.

The assessors are presumed to be appointed or elected because of their knowledge of the divisions in which their services are to be performed, and, under the law, the voters of any division are not to exceed two hundred and fifty. If they do, the division, before the next election ensuing, has to be subdivided.

EXCESSIVE AND FRAUDULENT REGISTRATION.

It appears that the whole system of registration, true or fraudulent, is to a great extent in the hands of the assessors, and if they perform their duty faithfully and well but little correction would be required in their returns; but from the evidence this is not the case, for frequently persons holding other offices are elected as assessors; and it does seem that very frequently men have been selected for the purpose of making excessive registrations rather than true and correct ones.

At the last election in Philadelphia, it appears from the testimony, the registration was from twenty-five to thirty thousand excessive. In the city of Philadelphia, with a population of about eight hundred thousand, the registration of last year was over 186,000, while in the city of New York, with a population nearly 50 per cent. greater, the registration was but 183,000. It is observable that the number of votes cast in Philadelphia in November last was about 47,000 less than the number of votes previously registered.

TWENTY THOUSAND WITH A RED CROSS.

The fact of the excessive registration in Philadelphia becomes more apparent when it is known that over twenty thousand of the names registered were successfully attacked, and the names stricken off or marked with a red cross. And it is a matter of no little surprise that over nine-tenths of the names thus attacked in court were so attacked by democratic petitions. According to the evidence the courts to which those petitions were returned were engaged for a month previous to the election in trying those cases alone; and but for want of time very many more names would have been stricken off, ninety petitions which had been returned not having been reached in the investigation by the courts.

According to the testimony of Mr. Thomas Fahy, one of the commissioners of the city of Philadelphia, there were eighty-two hundred and eighty-two names stricken absolutely from the list, and twelve thousand or thirteen thousand marked with a red cross under order of the courts, they being in doubt as to whether to draw a red line through them and strike them off absolutely, or to put a red cross opposite them, which would signify that they were dead, or removed from the division within sixty days of the election, and consequently not proper names to be on the registration-list. A large majority of those eighty-two hundred and eighty-two were myths, people who had no existence in fact: and the same with a large proportion of the twelve thousand or thirteen thousand marked with a red cross, though many of them had doubtless died or moved from the division in which their names appeared. The evil of this matter, and the bad use to which this system is put, is in this: that names appearing on the registration-list could be used on the day of election by repeaters and personators almost without possibility of detection; and the system of personating and repeating appears to be largely in vogue in that city. Under the law a man by merely giving a name appearing on the registration-list is permitted to vote on the production of his tax receipt or on his swearing that he has paid his taxes within two years. Hence the purpose of leaving improper and mythical names on the list in order that they may be used by repeaters or personators.

The testimony of Charles Henry Jones, esq., attorney, corroborates entirely the evidence of Mr. Fahy in regard to the fact above alluded to.

The evidence shows that in very many instances there were large and excessive registration-lists, in some cases having double the number of names that legitimately ought to have been registered, and it cannot be accidental that in a great number of republican divisions the list was largely excessive. It therefore appears to your committee that the assessors, in very many instances, committed a great breach of duty in certifying names to the county commissioners which were not those of *bona fide* residents of their divisions, but under the law the assessors can protect themselves from detection, to a great degree, by leaving improper names, or names of those removed or dead on their lists; thereby making a false registration, when they could not do so by adding false or fictitious names; but the first means would answer the fraudulent end as well or better than the last, because it would seem to have the form of law. That the party in power in Philadelphia, since the adoption of the new constitution, has pursued this course, thereby causing an excessive and illegal registration, on which to vote by repeaters or personators, there can be but little doubt.

DEMOCRATIC EFFORTS TO PURIFY.

From the evidence taken it appears that all the substantial efforts to purify and purge the registration were made by the democratic party or the attorneys of the democratic committee; and on the other hand it is equally evident that all obstacles possible to prevent this purgation of the registration-lists were interposed by the party in opposition. In other words, it seemed to be the object of the attorneys of the democratic party to purge and purify the registration-lists, while it seemed to be the object of the opposition to leave them as large as possible.

Your committee would call particular attention to the fact that the chief supervisor of elections for the city of Philadelphia (a Federal officer) failed to do his duty in this, that he did not instruct the supervisors under him to canvass and purge the registration-lists in order to find who were *bona fide* citizens and voters, as was done in the cities of New York, Brooklyn, and Jersey City. And further, that he instructed his supervisors that the pay would not be sufficient to compensate them for time spent in performing their duty. It seems to us that if proper effort had been made in that direction an amount of money sufficient to have compensated them for their duties could have been secured without difficulty. A large amount was devoted to that purpose in the city of New York. Why could it not have been secured for Philadelphia as well?

It is established by the testimony that the office holders and appointees, Federal, State and municipal, in Philadelphia are from twelve thousand to fifteen thousand in number, and that they are almost entirely republicans, every one of whom, according to the testimony of Mr. Welsh, is appointed and holds his place for partisan purposes. In reaching a conclusion in reference to the management of political affairs in Philadelphia the committee have relied much on the testimony of this gentleman, a venerable and well-known citizen of that community and a republican. According to his testimony it has long been the custom in Philadelphia to swell the list of employés in the various departments of the city government enormously, just previous to an election, and he unhesitatingly asserted that the increased number of employés was appointed not only that their own votes might be, as they were, controlled by those who gave them their places, but because they were supposed to control a certain additional number of votes. This gentleman has for some time been ardently enlisted in the cause of municipal reform in that city, and some idea of the necessity of it may be formed from a statement which he made in these words: (to be found in his testimony accompanying this report)

"Things have not yet got quite bad enough for me. I should like to have anarchy for a couple of months, and then we could have things right. Times would then be so bad as to produce a reaction."

AN HONEST VOTE WOULD HAVE GIVEN A DIFFERENT RESULT.

In conclusion your committee deem it proper to say that in the election held in Philadelphia on the 7th of November last for Congressmen and presidential electors, and especially in the registration preceding it, there were very great irregularities and numerous attempts to perpetrate fraud by the party in power, and but for which the result would probably have been different; the remedy for which, in a great degree, might be found in an amendment of the election and registration laws in that State.

For want of time the subcommittee did not go into the investigation of frauds in detail at the last election in Philadelphia, but on the 15th of January adjourned subject to the call of the chairman of the whole committee. The subcommittee deem it due to themselves to say that this report has not been sooner presented, and is now put in this imperfect manner, for the reason that, owing to the large accumulation of matter to be printed coming from the various other investigating committees, it has been impossible to have the testimony taken by us printed. In making this report the committee has been compelled to resort to the manuscript evidence, of which there is quite a large volume.

S. S. COX, *Chairman.*
A. V. RICE.
A. M. WADDELL.

MINORITY REPORT.

Report of the minority of the committee to investigate alleged election frauds in the cities of New York, Brooklyn, Jersey City, and Philadelphia, at the November election in 1876.

The minority of the committe report to the House as follows:

The committee met at the Saint Nicholas Hotel, in the city of New York, on the 18th day of December, 1876, in accordance with the following resolution of December 11, 1876:

Mr. COX moved that the rules be suspended, so as to enable him to submit, and the House to agree to, the following resolution, viz:

"'*Resolved*, That a committee of five be appointed to proceed to the cities of New York, Philadelphia, Brooklyn, and Jersey City, to examine into any alleged fraudulent registration and fraudulent voting for presidential electors and Representatives in Congress at the late election in each of said cities.'

"And the question being put, the rules were suspended (two-thirds voting in favor thereof) and the said resolution was agreed to."

As soon as the committee organized, Mr. MACDOUGALL offered a resolution calling upon the president of the Western Union Telegraph Company to furnish, under a *subpœna duces tecum*, copies of all telegrams sent and received during the autumn campaign by Samuel J. Tilden, Abram S. Hewitt, Colonel W. T. Pelton, John Morrissey, and John Kelly which might bear upon the elections in the cities of New York, Philadelphia, Jersey City, and Brooklyn.

Objection was made by the majority on the ground that the resolution under which the committee were appointed did not authorize them to send for persons and papers, the chairman (Mr. COX) claiming that he copied the language of the resolution offered the same day in the House by Mr. MACDOUGALL; whereupon Mr. MACDOUGALL produced his resolution, which is as follows:

[From House Journal, December 11, 1876.]

Mr. MACDOUGALL moved that the rules be suspended so as to enable him to submit, and the House to agree to, the following resolution, viz:

Resolved, That a committee of nine be appointed to proceed to the cities of New York, Brooklyn, and Jersey City, to examine into the alleged fraudulent registration and fraudulent voting for presidential electors and Representatives in Congress at the late election in each of said cities; also, a committee of five to proceed to the State of Virginia to examine and report whether election frauds have been committed, or intimidation of voters used, in the second and fourth congressional districts of said State at the recent election for presidential electors and Representatives in Congress; also, a committee of nine to proceed to the State of Mississippi to examine and report whether any frauds have been committed, or intimidation of voters used, in the recent election for presidential electors and Representatives in Congress: also, that a committee of five be appointed to proceed to the city of Philadelphia, to examine into and report whether there was fraudulent registration and voting in said city previous to and at the recent election for presidential electors and Representatives in Congress; also, a committee of three to proceed to the State of Alabama to examine into and report whether any intimidation was used, or illegal votes cast, at the recent election for presidential electors and Representatives in Congress in the fourth congressional district of said State; *and that each of said committees have power to send for persons and papers*, to employ a stenographer, and be attended by a deputy sergeant-at-arms, and that they have the privilege to report at any time.

And the question being put,

Will the House agree to the motion to suspend the rules?

It was decided in the negative, { Yeas ..... 124 / Nays ..... 88 / Not voting 78

(two-thirds not voting in favor thereof.)

The yeas and nays being desired by one-fifth of the members present, those who voted in the affirmative are—

Messrs. Charles H. Adams, Lucien L. Ainsworth, William B. Anderson, John C. Bagby, George A. Bagley, John H. Bagley, jr., John H. Baker, William H. Baker, Latimer W. Ballou, Henry W. Blair, Nathan B. Bradley, Aylett H. Buckner, Horatio C. Burchard, John H. Burleigh, William P. Caldwell, Alexander Campbell, Thomas J. Cason, Simeon B. Chittenden, Hiester Clymer, Omar D. Conger, Philip Cook, Samuel S. Cox, Lorenzo Crounse, Augustus W. Cutler, Chester B. Darrall, John M. Davy, Dudley C. Denison, Beverly B. Douglas, George H. Durand, Benjamin T. Eames, James L. Evans, William H. Felton, Jesse J. Finley, Greenbury L. Fort, Charles Foster, Chapman Freeman, William P. Frye, James A. Garfield, John Goode, jr., John R. Goodin, Benjamin W. Harris, John T. Harris, Julian Hartridge, William Hartzell, Henry H. Hathorn, George F. Hoar, William S. Holman, Charles E. Hooker, George G. Hoskins, Andrew Humphreys, Morton C. Hunter, John A. Hyman, William D. Kelley, Alanson M. Kimball, Franklin Landers, E. W. Leavenworth, Scott Lord, John K. Luttrell, John R. Lynch, Henry S. Magoon, C. D. MacDougall, George W. McCrary, Henry B. Metcalfe, Samuel F. Miller, James Monroe, Charles H. Morgan, William Mutchler, Charles E. Nash, Lawrence T. Neal, Nelson I. Norton, Charles O'Neill, John B. Packer, Horace F. Page, William A. Phillips, Henry L. Pierce, Thomas C. Platt, Earley F. Poppleton, Allen Potter, David Rea, John Reilly, James B. Reilly, Charles B Roberts, Sobieski Ross, Jeremiah M. Rusk, John S. Savage, Julius H. Seelye, C. H. Sinnickson, William F.

Slemons, A. Herr Smith, William H. Stanton, Horace B. Strait, William S. Stenger, Adlai E. Stevenson, William H. Stone, William H. H. Stowell, Jacob M. Thornburgh, Martin I. Townsend, John R. Tucker, John Q. Tufts, Jacob Turney, Nelson H Van Vorhes, Robert B. Vance, Alfred M. Waddell, John T Wait, Henry Waldron, Alexander S. Wallace, John W. Wallace, Levi Warner, William W. Warren, Henry Watterson, G. Wiley Wells, John D. White, Richard H. Whiting, George Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, William B. Williams, Benjamin A. Willis, Benjamin Wilson, James Wilson, Alan Wood, jr., L. D. Woodworth.

Those who voted in the negative are—

Messrs. Thomas S. Ashe, John D. C. Atkins, Henry B. Banning, Richard P. Bland, James H. Blount, Andrew R. Boone, Taul Bradford, John Young Brown, Samuel D. Burchard, George C. Cabell, John H. Caldwell, Milton A. Candler, George W. Cate, Bernard G. Caulfield, John B. Clarke, John B. Clark, jr., Jacob P. Cowan, David B. Culberson, Joseph J. Davis, George G. Dibrell, Milton J. Durham, Charles J. Faulkner, William H. Forney, Benjamin J. Franklin, Benoni S. Fuller, Lucien C. Gause, Randall L. Gibson, John M. Glover, Thomas M. Gunter, Andrew H. Hamilton, John Hancock, Aug. A. Hardenbergh, Henry R. Harris, Carter H. Harrison, Robert A. Hatcher, Eli J. Henkle, Frank Hereford, Goldsmith W. Hewitt, Benjamin H. Hill, Eppa Hunton, Frank H. Hurd, Edward C. Kehr, J. Proctor Knott, Lucius Q. C. Lamar, George M. Landers, Lafayette Lane, J. V. Le Moyne, William M. Levy, Burwell B. Lewis, William P. Lynde, L. A. Mackey, Levi Maish, William McFarland, Charles W. Milliken, Roger Q. Mills, Hernando D. Money, William J. O'Brien, N. Holmes Odell, Henry B. Payne, William A. Piper, Joseph Powell, John H. Reagan, Americus V. Rice, Haywood Y. Riddle, John Robbins, William M Robbins, Alfred M. Scales, Gustave Schleicher, John G. Schumaker, James Sheakley, Otho R. Singleton, Milton I. Southard, William A. J. Sparks, William B. Spencer, William M. Springer, John K. Tarbox, William Terry, J. W. Throckmorton, John L. Vance, Gilbert C. Walker, William Walsh, Erastus Wells, W. C. Whitthorne, James Williams, Jere N. Williams, William W. Wilshire, Fernando Wood, Jesse J. Yeates, Casey Young.

Those not voting are—

Messrs. Josiah G. Abbott, Nathaniel P. Banks, Lyman K. Bass, George M. Beebe, Samuel Bell, Jos. C. S. Blackburn, Archibald M. Bliss, John M Bright, William R. Brown, Joseph G. Cannon, Nathan T. Carr, Lucien B. Caswell, Chester W. Chapin, Alex. G. Cochrane, Francis D. Collins, William W. Crapo, Lorenzo Danford, Rezin A. De Bolt, Samuel A. Dobbins, Mark H. Dunnell, John R. Eden, Albert G. Egbert, E. John Ellis, Smith Ely, jr., Edwin Flye, Eugene Hale, Robert Hamilton, Jere Haralson, William S. Haymond, Charles Hays, George W. Hendee, Thomas J. Henderson, Abram S. Hewitt, Solomon L. Hoge, James H. Hopkins, John F. House, Jay A. Hubbell, Stephen A. Hurlbut, George A. Jenks, Frank Jones, Thomas L. Jones, Charles H. Joyce, John A. Kasson, William S. King, Elbridge G. Lapham, William Lawrence, James W. McDill, John A. McMahon, Edwin R. Meade, William R. Morrison, Jephtha D. New, Addison Oliver, James Phelps, John F. Philips, Harris M. Plaisted, Henry O. Pratt, William J. Purman, Joseph H. Rainey, Milton S. Robinson, Miles Ross, Ezekiel S. Sampson, Milton Sayler, Robert Smalls, William E. Smith, Alex. H. Stephens, Thomas Swann, Frederick H. Teese, Charles P. Thompson, Philip F. Thomas, Washington Townsend, Charles C. B. Walker, Ansel T. Walling, Elijah Ward, William A. Wheeler, John O. Whitehouse, Peter D. Wigginton, Scott Wike, William Woodburn.

So the rules were not suspended, and the resolution was not agreed to.

It will be observed that the resolution under which the committee acted is far from the same as the one offered in the House previously by Mr. MACDOUGALL, inasmuch as it omits any allusion to intimidation and fraud in any of the Southern States, and fails to empower them to send for persons and papers.

Mr. WADDELL then presented the following:

"*Resolved*, That inasmuch as the power to issue *subpœna duces tecum* was not conferred by the House of Representatives on this committee, further action on the matter be indefinitely postponed."

Mr. MACDOUGALL offered the following as a substitute:

"Whereas the original resolution offered by Mr. COX, under which this committee was appointed, fails to empower the committee to send for persons and papers; therefore,

"*Resolved*, That the committee ask the House of Representatives to empower them to send for persons and papers and to enforce *subpœnas duces tecum*."

Mr. WADDELL accepted the substitute, and it was adopted.

So far as known, the House was never asked by the majority to so empower the committee, and, although frequently asked by the minority to do so, no action was ever taken on the resolution.

The committee commenced the investigation by the examination of witnesses relative to the election in the village of New Lots, or East New York, which is a part of the third congressional district. A great amount of testimony was taken, showing that men who were known to reside in Brooklyn had voted at the election in New Lots. In one instance it was shown that *a whole block* of houses were *tenanted* a few days before the election and *deserted* the *day* after; that a large number of men voted from this block. It is but due to the Representative from this district to state that nothing was shown to in any way implicate him in any of these transactions and not enough illegal voting was proven to in any way affect his election.

A registry-law in the towns adjacent to New York, Brooklyn, and Jersey City would prevent much illegal voting. One witness testified that at the spring election men were brought out from Brooklyn in wagon-loads, and their votes offered at fifty cents each. According to the opinion of the best informed citizens who do, as well as those who do not, take an active interest in political matters, the vote was an excessive one in New Lots, and many fraudulent votes were cast.

COLONIZATION IN DIFFERENT WARDS.

The system of colonization shown to exist in Brooklyn, whereby voters are transferred from one ward to another just previous to the day of election, cannot be too severely condemned. The minority showed clearly that this system was carried on to an alarming extent; and while it does not affect the presidential vote, it is very clearly shown that it can and does affect the congressional vote; and in many of the close districts might have changed the result.

The majority tried to show that this was done out of purely local strife, and solely for the purpose of influencing the aldermanic elections in close wards; but if colonization took place from one congressional district to another, it is as clear that it would affect the congressional as the aldermanic election.

At the time the committee so arbitrarily adjourned in New York, on the 27th of December, the minority of the committee had the books and witnesses in the committee-room at the Saint Nicholas Hotel to show that 250 votes had been colonized into one ward in Brooklyn, and that they had removed from the ward the day after the election. All such propositions were wholly disregarded by the majority, and no sooner made than voted down, the whole aim of the majority being to prevent rather than to ascertain whether frauds had been committed.

THE ELECTION IN JERSEY CITY.

The election in Jersey City, so far as the committee's investigation was permitted to go, was conducted very much the same as that in Brooklyn. Persons of the highest character and respectability, old citizens who had lived for years in Jersey City, swore positively that persons voted at the different polling-places who were utter strangers; that they came to the locality a few days before the election, and were never seen after election-day. That many of these were properly registered there can be no doubt, but they come clearly under the same category as the parties who are transferred from one ward to another in Brooklyn. They are usually young men, without families. There is nothing to prevent a man from registering in Brooklyn, New York, and Jersey City, and voting in all three of these places on the day of election by a system of collusion with boarding-house keepers and political "*bummers*" who are engaged in that sort of business, and the system so ably advocated by Commissioners Davenport, Muirhead, and Allen be powerless to prevent them; in fact, the system itself, while no doubt productive of much good, is so thoroughly understood as to aid those disposed to colonize men from place to place under assumed names for the purposes of illegal voting. Men appeared at the polling-places in Jersey City, that the officers of the election had never seen and did not know, voted upon names upon the registry-list and then disappeared, no one ever seeing them again. These men, it was shown, all voted the democratic ticket. The increase from 1875 to 1876 in Jersey City was over three-fourths democratic.

The shameless fact was shown that a gentleman who lived himself at Irvington in the summer and New York in the winter, but who was engaged in the business of sugar-refining in Jersey City, was at the polls all day in that city, and had his employés marched up in squads and ordered to vote as he directed. He visited all the polling-places in the city, and so directed the votes of the men in his employ, said to be about two thousand in number.

In one election-district in Jersey City it was estimated that 300 to 350 voters were colonized. The vote was about 1,000 more than ever polled in that district before, even in the most hotly-contested election.

The very intelligent testimony of Mr. F. H. Snyder shows that upon inquiry at houses in which voters were supposed to be colonized they (the inmates) would answer that all names upon the registry-lists resided there; and when asked about fictitious names, they would also answer that such people resided there, showing clearly that an understanding existed with these people. Mr. Snyder swears positively that with a full knowledge of the system as carried out by Supervisor Muirhead in Jersey City, sharp men, who were usually engaged in such transactions, could colonize 5,000 voters in Jersey City, and Mr. Muirhead and his assistants be powerless to find it out. Mr. Muirhead bears testimony to the infallibility of his system, and thinks he performed his duties in such manner that few, if any, illegal votes were cast. Mr. Muirhead undoubtedly went through the routine of the different modes adopted by them for purging the registry; but it appears that not sufficient time was allowed to accomplish a thorough purging of the registry-lists. There is a great amount of testimony bearing upon this point, and the vote in Jersey City may be put down as excessive, and to a more or less degree fraudulent.

THE ELECTION IN NEW YORK.

The committee spent but comparatively little time in investigating the elections in the city of New York, the majority apparently being satisfied with the assertion of the chairman, made in the House of Representatives prior to the committee's departure, *that there were no frauds in New York*, and the testimony of a few witnesses whose duty it was to see that no frauds were committed.

The testimony of Henry J. Ottarson, for forty years a journalist and statistician, for many years the compiler of the Whig or Tribune Almanac, goes far to show, and he gives facts and figures to show, that there was both an excessive registration and an excessive vote in the city of New York. The testimony of George Bliss shows that there was much fraudulent naturalization, and that with all the precaution taken, not one-tenth of it was detected. Some persons would appear as witnesses for a dozen different persons who were afterward ascertained to be naturalized fraudulently. He adds, "*The judges must have sat upon the bench and known that perjury was being committed before them right along, and they were powerless to prevent it.*"

The testimony shows that of all the arrests and complaints made, *none were against republicans*; one man was arrested who had been concerned in fifty-two fraudulent naturalizations, although it was not within the city limits. *All the men arrested had the Tammany Hall naturalization tickets*; one of them was *president of a democratic club, another was the sergeant-at-arms of a democratic club.* It will be seen by the testimony that paupers from Bellevue Hospital were taken to the polls and voted.

The election in the seventh congressional district attracted the attention of the committee, from the fact that in 1874 the republican candidate for Representative in Congress, Mr. Charles Spencer, received 6,000 votes; the democratic candidate, Mr. Smith Ely, jr., 7,400; while at the last election the republican candidate, Wallace P. Groom, received 6,050, the democratic candidate, Mr Anthony Eickhoff, received over 13,000.

From all the testimony taken, it was shown that the population of this district had remained almost unchanged for the past two years, yet 6,000 more votes were polled in 1876 for the democratic candidate for Representative than were polled for Mr. Ely in 1874, although it was admitted that Mr. Ely was very popular and ran fully up to, if not ahead of, his ticket.

In the eleventh congressional district it is alleged that about two hundred paupers (having no vote) were brought from Blackwell's Island and voted the democratic ticket. The minority had witnesses who would swear to these facts, but were not permitted to call them on account of the arbitrary adjournment.

It seemed to be pretty generally conceded by the best informed persons, editors of prominent public journals, lawyers, and merchants, with whom the minority consulted, that, notwithstanding all the precaution and vigilance used, at least 20,000 fraudulent votes were cast in the city of New York alone.

The limited time allowed by the majority for the examination of witnesses, and examination into the elections in the cities of New York, Brooklyn, and Jersey City, did not admit of as thorough a search into the merits and demerits of Mr. Davenport's system as was desirable.

The majority, after a very long and tedious direct examination, based solely upon the assumption that the ballot in New York was better guarded and purer than any place on earth, turned the witness over to the minority only half an hour previous to the time when they had by a strict party vote decided to adjourn to meet in Philadelphia. The minority objected to proceed with the cross-examination of Mr. Davenport, as scarcely sufficient time remained to commence it, certainly not to finish, and filed the following protest:

"The minority protest against the action of the majority of this committee in summarily adjourning to meet in Philadelphia on Thursday, the 4th day of January, inasmuch as we have no time to cross-examine Mr. John I. Davenport and to proceed with the examination of witnesses, many of whom are now present in the committee-room, by whom we propose to show that there was a large number of fraudulent naturalizations and fraudulent registrations previous to, and a large number of fraudulent votes cast at, the last election in the cities of New York, Brooklyn, and Jersey City."

This apparently not being what the majority of the committee cared to have shown, the question was put to vote, and decided against the wishes of the minority by a strict party vote.

THE ELECTION IN PHILADELPHIA.

The committee met at the Continental Hotel in Philadelphia on the 5th of January, and remained in session daily until January 15, a portion of the time a subcommittee, consisting of Messrs. Rice, Waddell, and Wells, being detailed to take testimony.

The minority of the committee do not agree with the report of the majority as to the registration and election in Philadelphia. It appears from the evidence that the most perfect system of registration is adopted for the city of Philadelphia. The provisions of the new constitution of Pennsylvania in regard to the subject of

suffrage and election in that State and city are, we think, adapted to secure the purity of the ballot. The Legislature has provided with the greatest care by the enactment of most stringent election laws to govern the registration and the depositing of the ballot so as to secure a pure, free, and full ballot.

The system of registration under the law requires the assessors to take a registration of the voters in the first week in June in each year, and for that purpose they take a transcript of the next preceeding registration or assessment as given them by the city or county commissioners, and proceed to visit every house and dwelling in their respective divisions, and to make a careful inquiry as to any person whose name is on the list, whether or not he has died or removed from the division, and, if so, they erase the same therefrom; also, whether any qualified voter resides there whose name is not on the list; and if any are found they add the same thereto, and at the same time inquire whether the person so added has a right to vote in the division. The assessor is then required, prior to the first Monday in August in each year, to put one copy of the registration-list on the door of the house where the election in the respective district is required to be held, and to retain a copy in his possession for inspection of each and every person who shall desire to see the same. It is furthermore made his duty to add from time to time the name of such claimant who shall ask to be placed on the list, and mark opposite the name C. V., and immediately assess him, noting his occupation, residence, whether a boarder or a housekeeper, and whether naturalized or designing to be, and to mark in all cases opposite the name the letters N. D. I. or I. N., as the case may be.

It is also made the duty of the assessor to be present at the election-house in the said election-district during *the two days next preceding the day fixed for returning the lists to the county commissioners, from ten a. m. to three p. m. and from six p. m. to nine p. m. of each of said days, for hearing applications that may be made under the provisions of such section relating to the names on said list, or sought to be placed thereon or struck therefrom; and it is made his duty to correct the said list by adding thereto the names of persons entitled to vote, and not already thereon, and by striking therefrom fictitious names or names of persons who have died or removed from said district; and the said lists shall be open for inspection by any qualified elector of the county or ward in which the election-district is situated, as well as by the person claiming to be registered, at any time before the day of election.*

We set forth the election-law in full in order to show that the charge made by the majority of the committee, that the system of registration in Philadelphia is open to grave objections, is not founded in fact.

From the evidence it will appear that the majority of the committee called a large number of assessors as witnesses, and in every instance they were found to be gentlemen of character and ability, understanding fully the law, and that in all cases they endeavored to carry out the very letter of the law.

Each division is not to exceed two hundred and fifty voters; if they do the division has to be subdivided before the next election ensuing. These assessors, so called, swore that they visited each and every house, inquired for each and every person residing in those houses, within their particular divisions, and that they erased all persons who were found to have removed or to have died since the last registration was taken, and that they added to their lists according to law all voters who were found to be residents within their divisions, whose names were not previously on the lists; that they posted their lists upon the election-house door, as required by law, and were at their posts of duty upon the days named in the law; *that no persons appeared either to challenge any name upon the lists or to make any complaints whatever in regard to the persons appearing as registered voters on the lists so posted upon the election-house door.*

This certainly is a singular circumstance when it is understood that the evidence shows that the democratic executive committee were actively at work for the purpose of carrying the election in that city; that no complaint was made, but that they waited until the middle of October and then flooded the court with petitions containing names charged to be improperly on the lists. The minority are of the opinion that this delay was for a partisan purpose, namely, to create suspicion through the country that frauds were contemplated by the republicans, as great care was taken to publish the number of names contained in these petitions a few days prior to the election. The evidence shows that every care was taken to make the registered list as complete and correct as human skill, attention, and honesty could make it. There is no evidence which will warrant the majority in stating that the assessors were frequently men selected for the purpose of making excessive registrations rather than true and correct ones; for in no single instance was it found that the assessors had been remiss in their duty, nor is there any evidence tending to show any fraudulent intent on the part of a single assessor in the whole city, nor was the character of any assessor impeached or any attempt made to so impeach. The assessors are elected by the voters of each and every election-division. James Penn McCain, prothonotary of the court of common pleas for the county of Philadelphia, furnished a certified record, under the seal of the court, giving the total number of petitions filed, the total number of names ordered stricken off by the court, and the total number of names marked with a cross; which is as follows:

Democratic petitions acted on	395
Republican petitions acted on	78
Total	473
Number of names stricken off on democratic petitions	6,490
On republican petitions	1,539
Making a total of names stricken from registered lists of persons found to have died and removed from the division	8,029
The court marked with a red cross	3,606
Of these on democratic petitions	3,091
On republican petitions	515
Total number of petitions presented	571
Number disposed of	473
Leaving undisposed of	98

The court commenced its first session to act upon these petitions October 10, and held its final session November 4, 1876. The evidence shows that out of the ninety-eight petitions unacted on, nearly all, or quite all, were republican petitions. The reason of their not being acted upon was that the time of the court had been occupied by the democratic executive committee until there was no time left to finish the remaining petitions.

It will be seen by this statement that the majority of the committee have fallen into a very grave error in stating that some twelve thousand or thirteen thousand were marked with a red cross, and that some "eighty-two hundred and eighty-two were stricken off absolutely from the lists," when in fact and in truth the evidence shows that the total number of names absolutely stricken off and marked with a cross was 11,636. When it is understood that the registration is made in the first week in June, and that the revision of these lists took place between October 10 and November 4, of necessity a large number of persons must have died and removed during the four months intervening. The evidence shows that the court refused to strike off the thirty-six hundred and six names and simply marked them with a red cross, for the reason that there was no evidence tending to prove that these persons were not properly on the lists and entitled to vote in the divisions where they were registered. But because petitions had been filed charging that they were fraudulently upon the lists, the court deemed it its duty to so mark them, furnishing lists to authorized individuals of both parties, in order that a complete supervision could be had at the various polls on election-day by challenging persons who were so marked. Nowhere in the evidence taken in Philadelphia was there a single fraudulent vote proven as having been cast at the last election, with one exception, and we cite the evidence relative thereto:

By Mr. WELLS:

Question. Do you know of any fraudulent votes cast at the last election, or of any attempt made to cast such votes?

Answer. I know of but one attempt to vote fraudulently, and that was in the division in which I live.

Q. What division is that?

A. The second division of the thirty-first ward.

Q. What was the nature of that attempt?

A. A gentleman came to vote on a tax-receipt which was a fraudulent one, and acknowledged to be such; he was naturalized at this election, and held a tax-receipt for last year; he was prevented from voting.

Q. Do you know the politics of that individual?

A. Yes, sir.

Q. What was his politics?

A. He was going to vote the democratic ticket.

Q. By what means was he prevented?

A. By means of a challenge.

The census of 1876 of Philadelphia shows that of males over twenty-one years old there were 226,070; females, 246,634; males under twenty-one, 171,998; females, 172,476—giving a total population of 817,448. The vote in November, 1876, for electors was:

Hoffman, republican	77,088
Stief, democrat	62,138
Making a total of	139,226
The total registration of 1876	186,201
Total number stricken off was	8,282
Leaving a total of registered voters on the list entitled to vote	174,313
This will show an excess of registration over votes cast of	38,693
Taking from this all those marked with a red cross	3,606
And it will leave an excess of the number of votes cast	35,037
In 1875 Hartranft, republican, received	65,262
Pershing, democrat, received	47,800
Brown, temperance	647
Scattering	2
Showing a total of	113,891
The registration in 1875 was	175,072
From which there were stricken off	12,397
Which left a registration of	159,675
Deduct the number of actual votes cast from the number registered, and it will leave an excess of	45,794
Deduct the registered vote of 1875, 159,685, from the registered vote of 1876, 174,313, and we find an excess of registration in 1876 over registration in 1875 of	14,628
Deduct the vote of 1875, 113,891, from the vote of 1876, 139,226, and we find that the excess of 1876 over 1875 is	25,335

When it is remembered that 1876 was the centennial year, and that the Centennial Exposition took place in the city of Philadelphia, it will not be considered surprising that the registration increased 14,628, and especially when it is understood that the evidence shows that over five thousand new buildings were erected during the year, and ten thousand vacant buildings were occupied. The votes of the different presidential years in Philadelphia are as follows:

1860.	
Lincoln	39,240
Breckenridge	30,882
Bell	7,134
Douglas	9,274
	86,530
1864.	
Lincoln	55,798
McClellan	44,032
	99,830
1868.	
Grant	60,987
Seymour	55,173
	116,160
1872.	
Grant	68,878
Greeley	23,500
	93,378
1876.	
Hayes	77,088
Tilden	62,138
	139,226

It will be seen by this statement that the increase between each presidential year is about the same. The ratio of registered voters to the population in Philadelphia averages about one to a fraction over five, while it will be discovered that at the election of 1876 the registered voters averaged one to four and six-tenths. The majority of the committee state in their report that the "fact of excessive registration in Philadelphia becomes more apparent when it is known that over twenty-thousand of the names registered were successfully attacked and the names stricken off or marked with a red cross." It is certainly strange that the majority of the committee could have been led into such a blunder as this statement. For if they had examined the evidence they would have found, as stated above, that only 11,636 names were successfully attacked, and 3,606 of this number were simply removals from one division to another between the time when they were registered and the time when the list was revised, a period of nearly four months.

Mr. Thomas Fahy, to whose evidence the majority of the committee refer, was certainly very unfortunate in his testimony, and no doubt the majority of the committee were misled by having omitted to examine other testimony. Fahy tes-

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tified that he counted the names on certain petitions handed him in the democratic committee-room, and that the total number so counted amounted to 20,000, and that this aggregate was made up for the purpose of publishing in the partisan newspapers a few days before the election; that he did not know whether these names were contained in the petitions filed in the court or not; and in fact his whole testimony was simply that of an extreme partisan willing and ready to give such data and statement as would be essential in sustaining the charge against his opponents of fraud. He swore he was an active politician and an ardent partisan, and was employed by the democratic executive committee during the whole period between the registration and the election in looking after the interest of the democratic candidate; and yet he was unable to testify to a single instance of fraud or attempt at fraud coming under his own *personal observation*. In fact his evidence consists of *suspicion, surmises, guesses, and "don't recollects."*

The evidence further shows that besides the United States supervisors selected from each party there were also State supervisors selected from each party, and that the committees of each party selected a person known as a challenger, giving three persons to each poll from different parties to supervise the election and to challenge all fraudulent votes; and yet, after an investigation of days and the taking of a large amount of testimony not a single fraudulent vote was proven.

Nor was there any evidence elicited tending to prove any conspiracy or intent on the part of office-holders in the city of Philadelphia to perpetrate any fraud at the election; but, on the contrary, the evidence clearly establishes the fact that the party in power in that city used every effort and means at their command to prevent fraud and fraudulent votes. The mayor and chief of police and all the subordinate officers of the city labored arduously to secure to the citizens of Philadelphia a fair, free, and honest ballot, and through their efforts and the Federal officers and the United States supervisor of elections the same was secured. The minority of the committee feel it is due to the country to state that if the same diligence had been exercised by the city officials of the neighboring city of New York the amount of fraud would have been much lessened and the democratic vote much smaller at the last election in that city.

We would recommend to the city officials of New York the practice of the city officials of Philadelphia in trying to secure to all a fair ballot and an honest count. The evidence discloses that the same form of abuses appertaining to New York City were sought to be introduced in Philadelphia, but through the vigilance of the officials of Philadelphia the fraud attempted was prevented in its incipiency, as it appeared by the evidence that during the registration a member of the democratic executive committee was arrested, having in his possession a large quantity of water-lined paper, such as was used in printing tax-receipts, which were issued to the tax-payers of Philadelphia, and upon which they were entitled to vote.

The minority also express very great surprise at and call attention to the statement of the majority in their report as to the chief supervisor of elections of the city of Philadelphia, (a Federal officer,) whom they charge as having failed to do his duty. The majority say:

"Your committee would call particular attention to the fact that the chief supervisor of elections for the city of Philadelphia (a Federal officer) failed to do his duty, in this, that he did not instruct the supervisors under him to canvass and purge the registration-lists in order to find who were *bona fide* citizens and voters, as was done in the cities of New York, Brooklyn, and Jersey City. And further, that he instructed his supervisors that the pay would not be sufficient to compensate them for time spent in performing their duty. It seems to us that if proper effort had been made in that direction an amount of money sufficient to have compensated them for their duties could have been secured without difficulty. A large amount was devoted to that purpose in the city of New York. Why could it not have been secured for Philadelphia as well?"

The minority have only to say that this is an extreme partisan statement. The evidence shows that the chief supervisor took particular pains to see that a fair election was held, and to so supervise the registration and election as to prevent any frauds upon the ballot-boxes. He is regarded by the citizens of Philadelphia, irrespective of party, as a gentleman of culture, integrity, and ability. When the time arrives that in Philadelphia the politicians become so skillful in the art of fraudulent practices upon the ballot-boxes as is now and has been the case in the city of New York, the minority think the same system which is now used by Mr. Davenport in preventing attempted frauds in that city would of necessity have to be adopted to prevent like fraudulent practices in Philadelphia. The minority is of the opinion that the city of Philadelphia is to be congratulated, as well as the whole country, that the Federal Government is not put to an expense of from $60,000 to $70,000 in preparing books, hiring clerks, paying detectives, &c., as is the case in New York, for the purpose of securing a fair election to the people of the city of Philadelphia.

The majority of the committee also state that—

"It is established by the testimony that the office-holders and appointees, Federal, State, and municipal, in Philadelphia are from twelve thousand to fifteen thousand in number, and that they are almost entirely republicans, every one of whom, according to the testimony of Mr. Welsh, is appointed and holds his place for partisan purposes. In reaching a conclusion in reference to the management of political affairs in Philadelphia the committee have relied much on the testimony of this gentleman, a venerable and well-known citizen of that community and a republican. According to his testimony it has long been the custom in Philadelphia to swell the list of employés in the various departments of the city government enormously just previous to an election, and he unhesitatingly asserted that the increased number of employés was appointed not only that their own votes might be, as they were, controlled by those who gave them their places, but because they were supposed to control a certain additional number of votes. This gentleman has for some time been ardently enlisted in the cause of municipal reform in that city."

The minority have nothing to say in disparagement of Mr. Welsh as a gentleman, but it is certainly very remarkable that the majority of the committee have placed so much importance on the testimony of Mr. Welsh, who, it is true, testifies as if he was thoroughly disgusted with a republican form of government and tired of all kinds of government, unless it should be one under his own management, control, and supervision, and without interference on the behalf of any one; or in other words, he seemed to be of the opinion that *a despotic form* of government would be best for all people, providing *he* was the *despot*. His testimony will disclose the fact that he testified on his examination-in-chief to things of which he had no personal knowledge, and, on the cross-examination, after having a detailed account of the management of affairs in Philadelphia by the municipal authorities, was obliged to admit that he did not know the mayor's name of the city of Philadelphia, did not know how the work on the public streets was performed, whether by contract, or whether by immediate hiring, or by commissioners. He also stated that the police force was increased just prior to the election for political purposes. On cross-examination, he admitted that he did not know how many policemen were employed, never made any inquiry, did not know of his own personal knowledge that any additional were employed just prior to the election; while the chief of police testified that there were not as many policemen employed just prior to the election as there had been some two months previous, and the authorities having the supervision of the streets testified that there were not as many men employed on the streets during the two months immediately preceding the election as prior thereto by some five hundred; also, that all the work upon the streets is done by contract with the lowest bidders, all of whom are obliged to submit their bids in writing; that a large number of the contracts were held by prominent democrats, who employed the men who worked upon the streets without influence from any official of the city.

The minority are of the opinion that the majority of the committee are exceedingly unfortunate when they cite Mr. Welsh as their authority for making so remarkable a statement as is contained in their report; and it is only deemed necessary for the minority, in order that it may be fully understood what must be the condition of mind possessed by Mr. Welsh, to quote the following from him, which is also cited by the majority:

"Things have not yet got quite bad enough for me. I should like to have anarchy for a couple of months, and then we could have things right."

In conclusion, the minority report that in the election held in Philadelphia November 7, 1876, for Congressmen and presidential electors, and especially in the registration preceding it, there were no irregularities proven; and while there were attempts by members of the democratic party to perpetrate frauds, they were prevented through the vigilance of the party in power, and but for which the result would probably have been different.

The minority deem it due to themselves to say that this report has not been sooner prepared, and is now presented in this imperfect manner, for the reason that owing to the large accumulation of matter to be examined coming from various other investigating committees, it has been impossible to have the testimony taken by the committee printed. Besides, the majority of the committee have had in their possession and under their control the entire manuscript, and no meeting of the committee was called or report read at which the minority was present, until the day before the adjournment of Congress, when the majority submitted their report, and it was agreed that the minority should make their report and the same should be printed with the majority. For this reason the minority is unable to make as satisfactory and perfect a report as they would like to do. They have only to add that the entire investigation in Philadelphia proves the fact that, with a corps of officers determined to have a fair and honest election, it can always be accomplished even in large cities, and was accomplished in the city of Philadelphia at the election held on November 7, 1876, for the election of presidential electors and members of Congress.

Respectfully submitted.

C. D. MACDOUGALL.
G. WILEY WELLS.

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